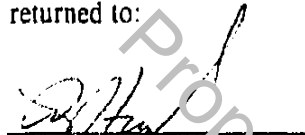


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This instrument was prepared by the attorney referenced below in consultation with counsel admitted to practice in the state in which the property is located, and when recorded, counterparts should be returned to:

DEPT-01 RECORDING \$215.00
T#0009 TRAN 1546 03/04/98 11:30:00
#1720 #CG #98-169215
COOK COUNTY RECORDER



Richard J. Hoagland Esq.
Shearman & Sterling
599 Lexington Avenue
New York, New York 10022
(212) 848-8760

Location: Cook County, Illinois

215.10
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By 11002640240F 7

This instrument is a Mortgage, Open-End Mortgage, Advance Money Mortgage, Credit Line Mortgage, Deed of Trust, Deed to Secure Debt, Credit Line Deed of Trust, Assignment, Assignment of Rents of real property, including fixtures, Security Agreement and Financing Statement. This instrument encumbers property located in one or more of Alabama, Arizona, California, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, North Carolina, Ohio, Oregon, and Texas. Notwithstanding anything to the contrary herein contained, (a) as to any property located in the States of Arizona, California, Mississippi, Missouri, North Carolina and Texas, this instrument is, inter alia, a deed of trust; (b) as to any property located in the States of Alabama, Colorado, Illinois, Indiana and Kentucky, this instrument is, inter alia, a mortgage; (c) as to any property located in the State of Ohio, for purposes of Section 5301.232 of the Ohio Revised Code, this instrument is, inter alia, an open-end mortgage; (d) as to any property located in the State of Georgia, this instrument is, inter alia, a deed to secure debt; and (e) as to any property located in the State of Oregon, this instrument is, inter alia, a line of credit deed of trust. The total outstanding principal amount of indebtedness secured by this instrument shall not exceed Sixty-Nine Million Eight Hundred Thousand Six Hundred Twenty-Nine and No/100 Dollars (\$69,800,629.00). The maturity date for the indebtedness secured by this instrument is December 1, 2017. This instrument contains after-acquired property provisions and secures obligations containing provisions for changes in interest rates, extensions of time for payment and other modifications in the terms of the obligations. To the extent that this instrument is recorded within the State of Georgia, this instrument is to be filed and indexed in the Real Estate Records.

The mailing address of Mortgagee (as hereinafter defined) is

1301 Avenue of the Americas
New York, New York County, New York 10019

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BOY 215-CTI

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MORTGAGE, OPEN-END MORTGAGE, ADVANCE MONEY MORTGAGE,
CREDIT LINE MORTGAGE, DEED OF TRUST, DEED TO SECURE DEBT,
CREDIT LINE DEED OF TRUST, ASSIGNMENT, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FINANCING STATEMENT

Dated as of January 29, 1998

STATE STREET BANK AND TRUST COMPANY
OF CONNECTICUT, N.A., as Owner Trustee
under that certain Trust Agreement (PMCC Trust No. 1998 M6 II),

Grantor

and

M6 REMAINDER II LLC,

Remainderman

to

Douglas C. Draper (Missouri) OR
Gaylene Rogers (Texas), or Public Trustee (Colorado),
Chicago Title Insurance Company
(Arizona, California, Mississippi, North Carolina,
and Oregon)
Trustee

and

CREDIT LYONNAIS, NEW YORK BRANCH
Mortgagee, Grantee, Beneficiary

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THIS MORTGAGE, OPEN-END MORTGAGE, ADVANCE MONEY MORTGAGE, CREDIT LINE MORTGAGE, DEED OF TRUST, DEED TO SECURE DEBT, CREDIT LINE DEED OF TRUST, ASSIGNMENT, ASSIGNMENT OF RENTS, SECURITY AGREEMENT, FINANCING STATEMENT AND REQUEST FOR NOTICES (as the same may from time to time be extended, spread, split, consolidated, modified, restated and renewed, this "Mortgage") made as of January 29, 1998 by STATE STREET BANK AND TRUST COMPANY OF CONNECTICUT, N.A., a national banking association, having an address at 225 Asylum Street, Hartford, Connecticut 06103, not in its individual capacity, but solely as Owner Trustee under that certain Trust Agreement (PMCC Trust No. 1998 M6 II), dated as of January 29, 1998, between General Foods Capital Corporation as Owner Participant and State Street Bank and Trust Company of Connecticut, N.A., as Owner Trustee ("Owner Trustee") or STEVEN CIMALORE, an individual having an address c/o State Street Bank And Trust Company of Connecticut, N.A., 225 Asylum Street, Hartford, Connecticut 06103, not in his individual capacity, but solely as an Individual Co-Trustee under that certain Trust Agreement, dated as of January 29, 1998 (PMCC Trust No. 1998 M6 II) ("Individual Co-Trustee") or STEVEN CIMALORE, an individual having an address c/o State Street Bank And Trust Company of Connecticut, N.A., 225 Asylum Street, Hartford, Connecticut 06103, not in his individual capacity, but solely as as Louisiana Owner Trustee under that certain Louisiana Trust Agreement, dated as of January 29, 1998 (PMCC Trust No. 1998 M6 II (LA)) ("Louisiana Owner Trustee") (Owner Trustee, Individual Co-Trustee or Louisiana Owner Trustee, as applicable, are herein referred to as "Grantor"), and M6 Remainder II LLC a Delaware limited liability company (the "Remainderman"), and to the extent the Mortgaged Property (as hereinafter defined) is located in the State of Missouri, to Douglas C. Draper, a Missouri resident having an address at c/o Hillsboro Title, P.O. Box 500, Hillsboro, Missouri 63050, and, to the extent that the Mortgaged Property is located in the State of Colorado, to the Public Trustee of the County of _____, and to the extent the Mortgaged Property is located in the State of Texas, to Gaylene Rogers, a Texas resident, having an address at c/o Chicago Title Insurance Company, 7616 LBJ Freeway, Suite 300, Dallas, Texas 75251, and, to the extent that the Mortgaged Property is located in the States of Arizona, California, Mississippi, North Carolina, and Oregon, to Chicago Title Insurance Company, having an address at 7616 LBJ Freeway, Suite 300, Dallas, Texas 75251, the applicable trustee hereunder to the extent that this Mortgage operates as a deed of trust or credit line deed of trust (collectively, "Trustee") and to CREDIT LYONNAIS, a French banking organization acting by and through its New York Branch, having an address at 1301 Avenue of the Americas, New York, New York County, New York 10019, being the mortgagee hereunder to the extent that this Mortgage operates as a mortgage, open-end mortgage, advance money mortgage, or credit line mortgage, the grantee hereunder to the extent that this Mortgage operates as a deed to secure debt and the beneficiaries hereunder to the extent that this Mortgage operates as a deed of trust, or credit line deed of trust ("Mortgage").

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WITNESSETH:

WHEREAS, Grantor has entered into that certain Participation Agreement (PMCC Trust No. 1998 M6 II), dated as of the date hereof (as the same may be modified, amended or restated from time to time as and to the extent permitted thereby, the "Participation Agreement"), with the Mortgagee, Motel 6 Operating L.P., as Seller thereunder, Universal Commercial Credit Leasing II, Inc., a Delaware corporation (the "Lessee"), the owner and participant named therein (the "Owner Participant"), and the Remainderman, providing, among other things, for the commitment of the Mortgagee to issue the Note; and

WHEREAS, Owner Trustee has entered into that certain Trust Agreement (PMCC Trust No. 1998 M6 II) with Owner Participant, dated the date hereof (PMCC Trust No. 1998 M6 II), which permits the appointment of the Individual Co-Trustee; and

WHEREAS, Individual Co-Trustee has entered into that certain Trust Agreement Supplement with Owner Participant and Owner Trustee, dated the date hereof (PMCC Trust No. 1998 M6 II), providing for Individual Co-Trustee to act on behalf of the Owner Participant and Owner Trustee, not in his individual capacity but solely as an Individual Co-Trustee; and

WHEREAS, to the extent the Mortgaged Property is in the State of Louisiana, Louisiana Owner Trustee has entered into that certain Trust Agreement (PMCC Trust No. 1998 M6 II (LA)) with Owner Trustee, as settlor-beneficiary, and Individual Co-Trustee, as trustee (for the purposes herein, the terms Louisiana Owner Trustee and Owner Trustee shall each mean the same);

WHEREAS, Grantor has leased the hotel located on the real property described in Annex A (the "Hotel") to the Lessee pursuant to the terms of that certain Lease Agreement (PMCC Trust No. 1998 M6 II), dated as of the date hereof (as the same may be modified, amended or restated from time to time as and to the extent permitted by the Operative Documents, the "Lease"); and

WHEREAS, pursuant to the Loan Agreement and the Operative Documents and subject to the terms and conditions therein set forth, Mortgagee has agreed to make a loan to Grantor in a principal amount of Sixty-Nine Million Eight Hundred Thousand Six Hundred Twenty-Nine and No/100 Dollars (\$69,800,629.00) (the "Loan"); and

WHEREAS, to evidence such indebtedness Grantor has executed and delivered the Loan Agreement and will execute and deliver a note (PMCC Trust No. 1998 M6 II) of even

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date herewith (the "Note") to the order of Mortgagee in an aggregate principal amount equal to the amount of the Loan, and issued pursuant to the Loan Agreement; and

WHEREAS, Grantor is duly authorized under all applicable provisions of the Trust Agreement to issue the Note, to enter into and deliver this Mortgage and all corporate action and all consents, approvals and other authorizations and all other acts and things necessary to make this Mortgage the valid, binding and legal instrument for the security of the Note have been done and performed; and

WHEREAS, the Remainderman is duly authorized under all applicable provisions of law and its certificate of formation and limited liability company agreement to execute and deliver this Mortgage and to mortgage, convey and assign all of its right, title and interest in the Mortgaged Property to the Mortgagee as security for the Note and the Indebtedness Hereby Secured and all corporate action, all consents, approvals and other authorization and other acts and things necessary to make this Mortgage the valid, binding and legal instrument for the security of the Note have been done and performed; and

WHEREAS, Grantor and the Remainderman acknowledge and agree that it is in the best interest of Grantor and the Remainderman that Mortgagee make the Loan and thereby permit the consummation of the transactions contemplated by the Participation Agreement, including, without limitation, the financing of the purchase price with respect to the Hotel by Grantor; and

WHEREAS, the total indebtedness and liabilities to be secured by this Mortgage are as follows (all such indebtedness and liabilities or the instruments evidencing same, as applicable, being herein collectively called the "Indebtedness Hereby Secured"):

(i) the aggregate principal amount of Sixty-Nine Million Eight Hundred Thousand Six Hundred Twenty-Nine and No/100 Dollars (\$69,800,629.00) evidenced by the Note, with a maturity date of December 1, 2017; plus

(ii) interest on the principal amount, as evidenced by the Note and as provided in the Loan Agreement; plus

(iii) all other amounts payable and all other obligations of Grantor under the Loan Agreement, the Note, this Mortgage (as the same may be amended, modified, extended, renewed, or supplemented from time to time, all of the foregoing being herein collectively called the "Loan Documents") and all amounts and other sums at any time due and owing to Mortgagee and/or the Loan Participants under the Participation Agreement;

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and, to the extent that the Mortgaged Property is located in the States of Illinois, Louisiana, Michigan and Ohio, all up to a maximum amount outstanding at any time from time to time of \$1,000,000,000.00 (the "Maximum Amount"); and

Notwithstanding the foregoing, in the following states, the principal amount of indebtedness secured by this Mortgage (and with respect to the State of Florida, the recovery under this Mortgage) shall be limited to the amounts set forth opposite such state:

Alabama	\$0.00
Florida	\$2,232,413.00
Georgia	\$2,553,394.00
Oregon	\$4,115,521.00

In the foregoing states, the security for such indebtedness shall not be reduced by any prepayment or repayment thereof until the amount of the indebtedness Outstanding shall be reduced below the respective limits set forth above for the applicable state and that portion of such indebtedness last remaining unpaid shall be secured hereby.

To the extent the Mortgaged Property is located in the States of Indiana, Illinois and Michigan, Grantor hereby acknowledges and agrees that the Indebtedness Hereby Secured includes, and that this Mortgage is given to secure, advances that may be made and obligations that may be incurred after the execution of this Mortgage ("future advances") and that this Mortgage shall secure all future advances of every kind and whenever occurring, which, with respect to the State of Illinois are made within twenty (20) years of the date hereof, *provided, however,* that the maximum amount of unpaid future advances outstanding at any one time shall not exceed the Maximum Amount, such maximum amount being stated herein pursuant to and in accordance with (i) Indiana Code §32-8-11-9 and (ii) Michigan Compiled Laws § 565.901 *et seq.*, and not being a commitment by Lender to make future advances, and *provided, further,* that the maximum amount of the indebtedness secured by this Mortgage at any one time in all events shall not exceed the Maximum Amount; and

WHEREAS, it has been agreed that the payment and performance of the Indebtedness Hereby Secured shall be secured by a mortgage, open-end mortgage, advance money mortgage, credit line mortgage, deed of trust, deed to secure debt, credit line deed of trust, assignment, assignment of rents, security agreement, financing statement, and request for notices, as applicable, of certain property as hereinafter identified.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, to secure the punctual payment by Grantor when due, whether at stated maturity, by acceleration or otherwise, of the Indebtedness Hereby Secured and the performance and observance of all

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other covenants, obligations and liabilities of Grantor under this Mortgage, as the same may be extended, modified or renewed or repledged, Grantor and the Remainderman do hereby each grant, bargain, sell, mortgage, warrant, alienate, remise, release, assign, transfer, set over, deliver, confirm and convey unto Mortgagee and Trustee, as applicable, and their respective successors and assigns, in trust, upon the terms and conditions of this Mortgage, with power of sale and right of entry as provided herein below, each and all of the properties and real properties described in the Granting Clauses herein and, to the extent that the Mortgaged Property is located in the State of Louisiana, by these presents specifically mortgage, collaterally assign, affect and hypothecate unto and in favor of Mortgagee, any and all of Grantor's and Remainderman's present and future rights, title and interest in and to the following immovable (real) property (which, together with all other property located therein or described in the Granting Clauses herein, is hereinafter collectively called the "Mortgaged Property").

GRANTING CLAUSES

GRANTING CLAUSE FIRST

The parcel of land described in Annex A attached hereto and made a part hereof, together with (a) the Improvements (as defined in Appendix A hereto) located thereon, (b) any and all reversions, remainder or remainders, in and to said land, and together with all and singular the tenements, hereditaments, easements, rights of way, rights, privileges and appurtenances to said land, belonging or in anyway appertaining thereto, including, without limitation, the entire right, title and interest of the Grantor and the Remainderman in, to and under any streets, ways, alleys, gores or strips of land adjoining said land, and all claims or demands whatsoever of the Grantor and the Remainderman either in law or in equity, in possession or expectancy, of, in and to said land, it being the intention of the parties hereto that, so far as may be permitted by law, all property of the character hereinabove described, which is now owned or is hereafter acquired by the Grantor or the Remainderman and is affixed or attached or annexed to said land, shall be and remain or become and constitute a portion of said land and the security covered by and subject to the Lien of this Mortgage (collectively, the "Land"), together with (i) all accessions, parts and appurtenances appertaining or attached thereto, (ii) all substitutions, renewals or replacements of and additions, improvements, accessions and accumulations to any and all thereof, (iii) all rents, subrents, income, revenues, awards, issues and profits therefrom (including, without limitation, all deposits of money as advanced Rent or for security) and (iv) the present and continuing right, if any, to make claim for, collect, receive and receipt for any and all of such rents, income, revenues, awards, issues and profits arising therefrom or in connection therewith;

GRANTING CLAUSE SECOND

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All judgments, awards of damages, settlements and other compensation heretofore or hereafter made resulting from condemnation proceedings or the taking of the property described in Granting Clause First or any part thereof or any improvements now or at any time hereafter located thereon or any easement or other appurtenance thereto under the power of eminent domain, or any similar power or right (including any award from a Governmental Authority at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for the payment thereof), whether permanent or temporary, or for any damage (whether caused by such taking or otherwise) to said property or any part thereof or the improvements thereon or any part thereof, or to any rights appurtenant thereto, including severance and consequential damage, and any award for change of grade of streets (collectively, "Condemnation Awards");

GRANTING CLAUSE THIRD

All property and rights, if any, which are by the express provisions of this instrument required to be subjected to the Lien hereof and any additional property and rights that may from time to time hereafter, by writing of any kind, be subjected to the Lien hereof by Grantor, the Remainderman or by anyone acting at the direction or as an agent of Grantor or the Remainderman;

GRANTING CLAUSE FOURTH

All rights in and to common areas and access roads on adjacent properties heretofore or as of the time granted, hereafter granted, to the Grantor or Remainderman and any after-acquired title (as of the time so acquired) or reversion (as of the time so acquired) in and to the beds of any ways, roads, streets, avenues and alleys adjoining the property described in Granting Clause First or any part thereof;

GRANTING CLAUSE FIFTH

All present and future right, title, interest and estate of Grantor or Remainderman in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Article 9 of the UCC) now or in the future located at, upon or about, or affixed or attached to or installed in, the Improvements, or used or to be used in connection with or otherwise relating to the Improvements or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Improvements, including, without limitation, the Personalty;

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GRANTING CLAUSE SIXTH

The Lease and the Guaranty (as defined in Appendix A hereto), and all of Grantor's estate, right, title, interest, claim and demand as lessor or obligee, as the case may be, in, to and under the Lease and the Guaranty, including all extensions and renewals of the term thereof, and all existing or future amendments, supplements or modifications of the Lease and the Guaranty (and to any short form memorandum of the Lease executed for recording purposes), together with all rights, powers, privileges, options and other benefits of Grantor as lessor under the Lease and as obligee under the Guaranty, including, without limitation, but excluding, in each case, Excepted Rights and Payments (and further excluding the Lease and the Guaranty to the extent necessary for the Grantor to obtain the benefits of and enforce the Excepted Rights and Payments), (a) the immediate and continuing right (whether or not a Loan Event of Default (as defined in Appendix A hereto) shall have occurred and be continuing) to receive and collect all Rent (whether as Basic Rent, payments pursuant to Article VI, XIV and XVII of the Lease, Supplemental Rent or otherwise), income, revenues, royalties, issues, profits, insurance proceeds, Condemnation Awards, bankruptcy claims, liquidated damages, purchase price proceeds and other payments, tenders and security payable to or receivable by the Grantor as lessor under the Lease (but, in the case of condemnation awards and insurance proceeds, subject to the rights of Lessee under the Lease); (b) if Lessee exercises any right, or shall be required, to purchase the Deed of Trust Estate or Grantor's interest therein, or any portion thereof, the right and power (such power and right being coupled with an interest) to execute and deliver as agent and attorney-in-fact of Grantor, as lessor under the Lease, an appropriate deed or other instruments of transfer necessary or appropriate for the conveyance and transfer to the purchaser of the Mortgaged Property or the portion thereof being so purchased, and all interest of the lessor therein and to perform in the name and for and on behalf of the lessor, as such agent and attorney-in-fact, any and all other necessary or appropriate acts with respect to any such purchase, conveyance and transfer; (c) the right of Grantor to give and withhold all waivers, consents, modifications, amendments and agreements under or with respect to the Lease and the Guaranty; (d) the right of Grantor to give and receive copies of all notices and other instruments or communications under or with respect to the Lease and the Guaranty; (e) the right of Grantor to take such action under the Lease upon the occurrence of a Lease Event of Default, including the commencement, conduct and consummation of legal, administrative or other proceedings as shall be permitted by the Lease or by law; (f) the right to do any and all other things whatsoever which Grantor or any lessor or tenant is or may be entitled to do under the Lease and (g) the immediate and continuing right (whether or not a Loan Event of Default shall have occurred and be continuing) to receive and collect any and all payments receivable by Grantor under the Guaranty;

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GRANTING CLAUSE SEVENTH

All right, title, interest, powers, privileges, options, claims, demands and other benefits of the Grantor and of the Remainderman in, to and under Lessor's Deed, the Option and Estate for Years Agreement and the Three Party Agreement related to the Mortgaged Property, all including, without limitation, but excluding, in each case, Excepted Rights and Payments (and further excluding the Lease and the Guaranty to the extent necessary for the Grantor to obtain the benefits of and enforce the Excepted Rights and Payments), (a) the right of Grantor and the Remainderman to give and withhold all waivers, consents, modifications, amendments and agreements thereunder; (b) the right of Grantor and the Remainderman to exercise all rights thereunder; (c) the right of Grantor and the Remainderman to give and receive copies of all notices and other instruments or communications thereunder; (d) the right of Grantor and the Remainderman to take such action upon the occurrence of a default thereunder, including the commencement, conduct and consummation of legal, administrative or other proceedings as shall be permitted thereby or by law or in equity; (e) the right of Grantor and the Remainderman to do any and all other things whatsoever which Grantor is or may be entitled to do thereunder; and (f) to the extent the Mortgaged Property is located in the State of Louisiana, all rights in and to the predial servitude affecting the Land created by Lessor's Deed;

GRANTING CLAUSE EIGHTH

Any and all moneys not held for distribution to Lessee under the Lease and other property (including each amendment or supplement to any and all instruments included in the Mortgaged Property) which may from time to time, by delivery to Mortgagee or by any instrument, including this Mortgage, be subjected to the Lien hereof by Grantor or by anyone on behalf of Grantor or with the consent of Grantor or which may come into the possession or be subject to the control of Mortgagee pursuant to this Mortgage, or pursuant to any instrument included in the Mortgaged Property, it being the intention of Grantor and Mortgagee and it being hereby agreed by them that all other property hereafter acquired by Grantor and required to be subjected to the Lien of this Mortgage by the Operative Documents or intended so to be shall, subject to applicable law, forthwith upon the acquisition thereof by Grantor be as fully embraced within the Lien of this Mortgage as if such property were now owned by Grantor and were specifically described in this Mortgage and granted hereby or pursuant hereto;

GRANTING CLAUSE NINTH

All other property of every kind and description, real, personal and mixed, including all equipment, inventory, fixtures, component parts and goods, and all interests therein, now owned or hereafter acquired by Grantor and the Remainderman pursuant to the

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provisions of the Operative Documents, including any right in the title and interest of the Grantor in and to the Land, whether currently existing or hereafter arising, including but not limited to the Grantor's rights under the Ground Lease (as defined in the Option and Estate for Years Agreement);

GRANTING CLAUSE TENTH

To the extent assignable, all of Grantor's right, title and interest in and to all licenses (including, but not limited to, any operating licenses, liquor licenses or similar licenses), contracts, management contracts or agreements, guaranties, warranties, franchise agreements, permits, authorities or certificates required or relating to the ownership, use, operation or maintenance of the Improvements; and

GRANTING CLAUSE ELEVENTH

Any and all proceeds, products and profits derived or converted, voluntarily or involuntarily, from or relating to the foregoing property listed above in Granting Clauses First through Tenth, inclusive, into cash or other liquidated claims, including, without limitation, all proceeds and payments of insurance.

PROVIDED, HOWEVER, ALL PROPERTY, RIGHTS, INTERESTS, MONEYS AND PRIVILEGES COMPRISING EXCEPTED RIGHTS AND PAYMENTS ARE EXPRESSLY EXCEPTED AND EXCLUDED FROM THE LIEN AND OPERATION OF THIS MORTGAGE.

TO HAVE AND TO HOLD the Mortgaged Property unto Trustee and its successors and assigns in trust for the benefit of Mortgagee and its successors and assigns, to the extent the document is a Deed of Trust, and unto Mortgagee and its successors and assigns forever to the extent the document is a Mortgage for the purpose of securing performance of each agreement, covenant and warranty of Grantor and the Remainderman contained herein and in the Note, and payment of the Indebtedness Hereby Secured and the performance of each agreement, covenant and warranty of Lessee in favor of Mortgagee and/or the Loan Participant contained in the Participation Agreement. It is understood and agreed that this Mortgage is, among other things, to secure the obligation of Grantor to repay the Note executed and delivered pursuant to the Loan Agreement, and all other Indebtedness Hereby Secured.

PROVIDED, NEVERTHELESS, that these presents are subject to Section 6.6 hereof and the terms, provisions, conditions and limitations set forth in the Loan Agreement.

It is agreed and understood by the parties hereto that:

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1. It is the intention of the parties hereto that this Mortgage shall constitute a security agreement within the meaning of the UCC with respect to the interests of Grantor, as debtor, in the Mortgaged Property that is covered by the UCC, and that a security interest shall attach thereto for the benefit of Mortgagee, as secured party, as security for the payment of the Indebtedness Hereby Secured and the obligations of Grantor herein. This instrument shall also be effective as a financing statement filed as a fixture filing with respect to all fixtures included in the Mortgaged Property, and Grantor shall be the "debtor" and Mortgagee shall be the "secured party" with respect thereto, and the addresses of each such party shall be as set forth in this Mortgage. Grantor hereby authorizes Mortgagee to file financing and continuation statements with respect to such security interests, without the signature of Grantor whenever lawful and, upon request, Grantor shall promptly execute financing and continuation statements to further evidence and secure Mortgagee's interest therein.

2. Any part of the security herein described, and any security described in any other instrument now or hereafter given to secure the Indebtedness Hereby Secured, may be released by Mortgagee without affecting the Lien hereof as to any part of the security not released from the Lien hereof.

3. Grantor and all who may claim through or under Grantor waive any and all right to have the property comprising the Mortgaged Property marshaled upon any foreclosure of the Lien hereof and agrees that any court having jurisdiction to foreclose such Lien may order the Mortgaged Property sold.

4. Upon the occurrence of a Loan Event of Default (as hereinafter defined), Mortgagee has, among other things, the right to institute a judicial action to foreclose on the Mortgaged Property and dispose of the same.

Notwithstanding anything to the contrary herein contained,

(i) to the extent the Mortgaged Property is located in any of the following states, this Mortgage shall be deemed to be and shall be enforceable as a mortgage, assignment, assignment of rents, security agreement and financing statement: the states of Alabama, Colorado, Florida, Illinois and Indiana, and the Commonwealth of Kentucky;

(ii) to the extent that the Mortgaged Property is located in any of the following states, this Mortgage shall be deemed to be and shall be enforceable as a deed of trust, line of credit trust deed, assignment, assignment of rents, security agreement, financing statement and request for notice: the states of Arizona, California, Mississippi, Missouri, North Carolina, Oregon or Texas;

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(iii) to the extent that the Mortgaged Property is located in the following states, this Mortgage shall be deemed to be and shall be enforceable as an open-end mortgage, assignment, assignment of rents and financing statement: the state of Ohio;

(iv) to the extent that the Mortgaged Property is located in the State of Georgia, this Mortgage shall be deemed to be and shall be enforceable as a deed to secure debt. To the extent the Mortgaged Property is located in the State of Georgia, this Mortgage is intended to operate and be construed as a deed passing title to the Mortgaged Property to Mortgagee and is made under those provisions of the laws of the State of Georgia existing on the date hereof relating to deeds to secure debt, and not as a mortgage. To the extent the Mortgaged Property is located in the State of Georgia, title is conveyed hereby, and the interest of Mortgagee hereunder is a holder of a deed to secure debt and not a lien; and

(v) to the extent that the Mortgaged Property is located in the State of Arizona, this Mortgage is a construction Deed of Trust and is entitled to the benefits under Arizona Revised Statutes § 47-9313(f).

Wherever herein contained, the phrase "Trustee and/or Mortgagee" or any similar phrase (1) shall be deemed to refer to Trustee for the benefit of Mortgagee, as beneficiary, to the extent the Mortgaged Property is located in any of the states listed in subsection (ii) above and (2) shall be deemed to refer to Mortgagee (and, in the case of Georgia, to Mortgagee, as grantee) to the extent the Mortgaged Property is located in any of the states listed in subsection (i), (iii) and (iv) above and Trustee shall have no rights, powers or obligations in those states. To the extent the Mortgaged Property is located in any of the states listed in subsection (ii) above, references to Mortgagee shall, if the context so requires, be deemed to be references to Mortgagee, as beneficiary. To the extent that the Premises are located in the State of Georgia, Mortgagee shall mean in each case the grantee of a deed to secure debt and Mortgagee shall have all the rights and powers of such a grantee.

TO HAVE AND TO HOLD the Mortgaged Property unto Trustee, Mortgagee, and their respective successors and assigns, forever.

AND TO THE EXTENT THAT THE MORTGAGED PROPERTY IS LOCATED IN THE STATE OF GEORGIA, TO HAVE AND TO HOLD the Mortgaged Property, and all parts, rights, members and appurtenances thereof, to the use, benefit and behalf of Mortgagee and the successors and assigns of Mortgagee.

AND TO THE EXTENT THAT THE MORTGAGED PROPERTY IS LOCATED IN THE STATE OF LOUISIANA: (i) without limiting the terms of the Mortgage, it is the intent of Grantor and Remainderman that Grantor and Remainderman do each by these

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presents specifically mortgage, affect and hypothecate, collaterally assign, pledge and grant a continuing security interest upon, unto and in favor of Mortgagee any and all of the Mortgaged Property that is susceptible of mortgage under the Louisiana Civil Code, and do further affect, hypothecate, and grant a continuing security interest in favor of Mortgagee, as secured party, in all the Mortgaged Property that is susceptible of a security interest under Chapter 9 of the Louisiana Commercial Laws (La. R.S. 10:9-101 *et seq.*), and do further affect, hypothecate, assign, and pledge, and grant a continuing security interest unto and in favor of Mortgagee, as assignee, all the present and future Leases and Rents that are susceptible of assignment under La. R.S. 9:4401, all for the purposes of securing the Indebtedness Hereby Secured up to the Maximum Amount;

(ii) this Mortgage has been executed by Grantor and Remainderman pursuant to Article 3298 of the Louisiana Civil Code for the purpose of securing the Indebtedness Hereby Secured that may now be existing and/or that may arise in the future as provided herein, with the preferences and priorities provided under applicable Louisiana law. However, nothing under this Mortgage shall be construed as limiting the duration of this Mortgage or the purpose or purposes for which the Indebtedness Hereby Secured may be requested or extended;

(iii) no Note has been delivered to the undersigned Notary Public for purposes of paraphing it for identification with this Mortgage; and

(iv) as used in this Mortgage: the terms "real property" and "real estate" shall be deemed to include immovable property; the term "fee estate" shall include full ownership; the term "personal property" shall be deemed to include movable property; the term "tangible property" shall be deemed to include corporeal property; the term "intangible property" shall be deemed to include incorporeal property; the term "easements" shall be deemed to include servitudes; the term "buildings" shall be deemed to include other constructions; the phrase "covenant running with the land" and other words of similar import shall be deemed to include a real right or a recorded lease of immovable property; the term "country" shall be deemed to mean parish; the term "joint and several liability" shall be deemed to include *in solido* liability; the terms "deed in lieu of foreclosure," "conveyance in lieu of foreclosure" and words of similar import shall include a dation en paiement; and terms "UCC", "Uniform Commercial Code", or "Code" and words of similar import shall include the Louisiana Commercial Laws, La. R.S. §§ 10:1-101 *et seq.*

AND TO THE EXTENT THAT THE MORTGAGED PROPERTY IS LOCATED IN THE STATE OF NORTH CAROLINA, TO HAVE AND TO HOLD the Mortgaged Property unto Trustee, its successors and assigns forever in FEE SIMPLE, upon the trusts and for the uses and purposes hereinafter set forth.

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NOTWITHSTANDING ANY OTHER PROVISION OF THIS MORTGAGE, THE MAXIMUM AMOUNT OF THE INDEBTEDNESS HEREBY SECURED AT ANY TIME FROM TIME TO TIME SHALL BE LIMITED TO THE MAXIMUM AMOUNT.

SECTION 1. DEFINITIONS.

Capitalized terms not otherwise defined herein shall have the respective meanings specified in Appendix A attached hereto and made a part hereof.

SECTION 2. GENERAL COVENANTS AND WARRANTIES.

The Grantor covenants, warrants and agrees as follows:

Section 2.1. Grantor's Duties. The Grantor does hereby covenant and agree well and truly to abide by and perform each and all of the covenants of the Grantor contained in the Loan Agreement, the Note and, subject to the terms and conditions thereof, each and all of the covenants of the Grantor contained in the other Security Documents and each of the warranties of the Grantor in the Loan Agreement is hereby restated to the same extent and with the same force and effect as if each and all of said terms, provisions, restrictions, covenants and agreements so incorporated herein by reference were set out and repeated herein at length.

Section 2.2. [Reserved].

Section 2.3. [Reserved].

Section 2.4. [Reserved].

Section 2.5. Covenants Concerning the Lease. Grantor hereby covenants that it shall not, without the prior consent of Mortgagee, terminate, modify, waive, supplement or surrender the Lease, except to the extent permitted for in the definition of "Excepted Rights and Payments," or to the extent Excepted Rights and Payments are concerned or except as maybe permitted by the Lease.

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SECTION 3. POSSESSION, USE AND RELEASE OF PROPERTY, AND ASSIGNMENT OF RENTS.

Section 3.1. Grantor's Right of Possession. Subject to Section 5.1 hereof, provided no Loan Event of Default has occurred and is continuing, Grantor shall be suffered and permitted to remain in full possession, enjoyment and control of the Mortgaged Property subject always to the observance and performance of the terms of this Mortgage and of the Participation Agreement and the other Operative Documents to which Grantor is a party. It is expressly understood that the use and possession of the Improvements and the Land by the Lessee or any of its permitted sublessees and assignees under and subject to the Lease shall not constitute a violation of this Section 3.1.

Section 3.2. Release of Mortgaged Property. The Lien and security interest of this Mortgage shall be released upon the terms and subject to the conditions set forth in Articles 3 and 4 of the Loan Agreement and Section 6.6 of this Mortgage.

Section 3.3. Assignment of Rents. (a) Grantor hereby absolutely and presently bargains, sells, transfers, assigns and sets over to Mortgagee, as further security for the payment of the Indebtedness Hereby Secured, all of its right, title and interest in and to the Lease and the Rent and Supplemental Rent payable thereunder and all rights of Grantor thereunder, whether before or after foreclosure or during the full period of redemption, excluding, in all cases, Excepted Rights and Payments. The assignment of the Lease, Rent and Supplemental Rent, and of the aforesaid rights with respect thereto, is intended to be and is an absolute present assignment from Grantor to Mortgagee and not merely the passing of a security interest. Notwithstanding the foregoing, however, Grantor shall have the revocable right and license to receive, collect and enjoy the Rent and Supplement Rent, until there is a Loan Event of Default. Upon a Loan Event of Default, such license shall cease automatically, without notice, possession, foreclosure, or any other act or procedure, and all of the Rent and Supplemental Rent, assigned hereby shall thereafter be payable directly to Mortgagee; except that such license shall be reinstated automatically by acceptance by Mortgagee of any cure of any such Loan Event of Default by Grantor, unless Mortgagee shall notify Grantor that acceptance of such cure shall not reinstate such license. Such assignment and grant shall continue in effect until the Indebtedness Hereby Secured is paid, the execution of this Mortgage constituting and evidencing the irrevocable consent of Grantor to the entry upon and taking possession of the Land and the Improvements by Mortgagee pursuant to such grant, whether foreclosure has been instituted or not and without applying for a receiver. Nothing contained in this Section 3.3(a) shall be construed to bind Mortgagee to the performance of any of the covenants, conditions or provisions contained in any Lease or otherwise to impose any obligation on Mortgagee (including any liability under the covenant of quiet enjoyment contained in the Lease or under any Applicable Law in the event that any tenant shall have been joined as a party defendant in any action to foreclose this Mortgage and shall have been barred and foreclosed thereby of all right, title and interest and equity of redemption in the

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Land and the Improvements), except that Mortgagee shall be accountable for any money actually received pursuant to such assignment. Grantor hereby further grants to Mortgagee the right to notify the Lessee of the assignment thereof and, after the occurrence of a Loan Event of Default hereunder (i) to enter upon and take possession of the Land and the Improvements for the purpose of collecting the Rent and the Supplemental Rent, (ii) to dispossess by the usual summary proceedings any tenant defaulting in the payment thereof, (iii) to let the Land and the Improvements, or any part thereof, and (iv) to apply the Rent and the Supplemental Rent pursuant to Section 4.4 of the Loan Agreement.

(b) Grantor will, as and when requested from time to time by Mortgagee, execute, acknowledge and deliver to Mortgagee, in form approved by Mortgagee, one or more general or specific assignments of the Lessor's Interest under the Lease. Grantor will, on demand, pay to Mortgagee, or reimburse Mortgagee for the payment of, any costs or expenses incurred in connection with the preparation or recording of any such assignment.

SECTION 4. APPLICATION OF INSURANCE AND CERTAIN OTHER MONEYS RECEIVED BY MORTGAGEE.

Section 4.1. Application of Monies. As more fully set forth in the granting clauses hereof, Grantor has hereby granted to Mortgagee a Lien on and security interest in (a) Basic Rent, Supplemental Rent, payments pursuant to Articles VI, XIV and XVII of the Lease, insurance proceeds, Condemnation Awards, issues, profits, purchase proceeds, income and other sums due and to become due under the Lease (subject to the rights of Lessee under the Lease, including, without limitation, Lessee's rights to insurance proceeds and condemnation proceeds as provided in Article XI thereof, and excluding amounts constituting Excepted Rights and Payments) and (b) any and all payments receivable by Grantor under the Guaranty (excluding Excepted Rights and Payments) as security for the payment of the Note and the performance of the obligations of Grantor under the Security Documents. All of such monies shall be paid and applied in accordance with the terms and provisions of Article 4 of the Loan Agreement.

Section 4.2. Mortgage Title Insurance. Any moneys received by Mortgagee as payment for any loss under any policy of mortgage title insurance which was delivered by Lessee shall become part of the Mortgaged Property and shall be paid and applied in the same manner as net proceeds of an Event of Loss as provided in Article XIV of the Lease.

SECTION 5. DEFAULTS AND REMEDIES.

Section 5.1. Events of Default. Subject to Sections 7.4 and 9.7 of the Loan Agreement, Section 6.1 hereof and the limitations set forth in this Section 5.1, if a Loan Event of Default that arises out of a Lease Event of Default shall have occurred and be continuing,

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then in every such case Trustee, for the benefit of Mortgagee, as assignee and grantee or secured party hereunder or otherwise, may, to the extent permitted by Applicable Laws and Regulations, exercise any or all of the rights and powers and pursue any or all of the remedies set forth in Section 5.2 hereof; *provided, however*, that, notwithstanding any provision herein to the contrary, Trustee and/or Mortgagee shall not exercise any remedies against the Mortgaged Property seeking to deprive the Grantor or the Remainderman of its interests therein unless the Note shall have been accelerated in accordance with Section 7.1 of the Loan Agreement. Any provision of the Lease, the Loan Agreement, or any other Operative Document to the contrary notwithstanding, the Trustee and/or Mortgagee shall not foreclose the lien of this Mortgage or otherwise exercise remedies which would result in the exclusion of the Grantor or the Remainderman from the Mortgaged Property or any part thereof as a result of any Loan Event of Default that arises by reason of one or more events or circumstances that constitute an Event of Default under the Lease unless Mortgagee has (a) accelerated the Note in accordance with Section 7.1 of the Loan Agreement and Section 5.2 hereof, (b) terminated the Lease, (c) commenced and is diligently prosecuting appropriate proceedings seeking the dispossession of the Lessee from the Mortgaged Property, (d) commenced and is diligently prosecuting suit against the Guarantor to enforce and collect under the Guaranty or, if such a suit is stayed or prevented because the Guarantor is subject to bankruptcy proceedings, filed and is diligently prosecuting a claim against the Guarantor in such proceedings and (e) commenced and is diligently prosecuting suit against the Guarantor to enforce and collect under the Guaranty or, if such a suit is stayed or prevented because of an extension of time granted to the Guarantor under Article 1244-1 of the French Civil Code, is diligently pursuing a claim against the Guarantor under the Guaranty. The reference to "bankruptcy proceedings" in clause (d) in the preceding sentence shall include any *redressement judiciaire* (reorganization proceedings), *liquidation judiciaire* (liquidation proceedings) or other similar proceedings under French law. Anything to the contrary provided in this Mortgage or the Loan Agreement notwithstanding, the Trustee shall not exercise any remedy hereunder against Grantor's interest in the Mortgaged Property unless the Mortgagee shall either (i) simultaneously and in conjunction with the exercise of such remedy, commence and pursue an action for judicial foreclosure or judicial trustee's sale of the lien of this Mortgage or (ii) deliver to Grantor an Opinion of Counsel in form and from counsel reasonably satisfactory to Grantor that the exercise of such remedy in the absence of a concurrent action for judicial foreclosure will not impair the exercise of any rights or remedies reserved to Grantor pursuant to clause (vi), (vii) or (viii) of the definition of "Excepted Rights and Payments."

Section 5.2. Remedies. When any Loan Event of Default has occurred and is continuing, Mortgagee may, without limiting any of the other rights and remedies available to Mortgagee at law or in equity but subject to the terms, limitations and provisions of the Loan Agreement (including, without limitation, Sections 7.4 and 9.7 thereof) and Sections 5.1 and 6.1 hereof, and the rights of the Lessee under Section 5.9 hereof, without notice to or demand

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upon Grantor and the Remainderman, which are expressly waived by Grantor and the Remainderman (except for notices or demands otherwise required by the Loan Agreement or by Applicable Law to the extent not effectively waived by Grantor), accelerate the Note in accordance with Section 7.1 of the Loan Agreement and exercise any one or more or all, and in any order, of the remedies hereinafter set forth, it being expressly understood that no remedy herein or in any of the other Security Documents conferred is intended to be exclusive of any other remedy or remedies but that each and every remedy shall be cumulative and shall be in addition to every other remedy given herein or therein or now or hereafter existing at law or in equity or by statute:

(a) Trustee for the benefit of Mortgagee personally or by agents or attorneys (i) may enter into and take possession of all or any part of the Mortgaged Property, and may forthwith use, operate, manage, insure, repair and improve the Mortgaged Property and take any other action which, in Mortgagee's reasonable judgment, is necessary or proper to conserve the value of the Mortgaged Property, (ii) may, except for Excepted Rights and Payments, collect and receive all earnings, revenues, rents, issues, profits and income from the Mortgaged Property or any part thereof (and for such purpose Grantor and the Remainderman do each hereby irrevocably constitute and appoint Trustee for the benefit of Mortgagee its true and lawful attorney-in-fact for it and in its name, place and stead to receive, collect and give receipt for all of the foregoing, Grantor and the Remainderman irrevocably acknowledging that any payment made to the Mortgagee hereunder shall be a good receipt and acquittance against Grantor and the Remainderman to the extent so made), (iii) may pay all principal charges, including taxes and assessments levied thereon and operating and maintenance expenses and all disbursements and liabilities of Grantor hereunder and (iv) shall apply the net proceeds arising from any such operation of the Mortgaged Property as provided in Section 7.5 of the Loan Agreement in respect of the proceeds of a sale of the Mortgaged Property. The right to enter and take possession of the Mortgaged Property and use any personal property therein, to manage, operate and conserve the same, and to collect the rents, issues and profits thereof, shall be in addition to all other rights or remedies of Mortgagee hereunder or under the other Security Documents or afforded by law, and may be exercised concurrently therewith or independently thereof, subject to Excepted Rights and Payments. The expenses (including any reasonable receiver's fees, counsel fees, costs and agent's compensation) incurred pursuant to the powers herein contained shall be secured hereby which Grantor promises to pay upon demand together with interest at the Overdue Rate from the date of incurrence to but not including the date of payment. The Mortgagee shall not be liable to account to Grantor or the Remainderman for any action properly taken pursuant hereto other than to account for any rents actually received by Mortgagee. Without taking possession of the Mortgaged Property, Mortgagee may, in the event the Mortgaged Property becomes vacant or is abandoned and Mortgagee is otherwise entitled to exercise remedies

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hereunder, take such steps as it deems appropriate to protect and secure the Mortgaged Property (including hiring watchmen therefor) and all costs incurred in so doing shall constitute so much additional Indebtedness Hereby Secured payable upon demand with interest thereon at the Overdue Rate from the date of incurrence to but not including the date of payment.

(b) To the extent permitted by Applicable Law and Regulations, Mortgagee may execute and deliver written declaration of default and demand for sale and written notice of default and of election to cause all or any part of the Mortgaged Property to be sold, which notice Trustee shall cause to be filed of record; and after the lapse of such time as may then be required by law following the recordation of such notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Grantor or the Remainderman, shall sell such property at the time and place fixed by it in such notice of sale, either as a whole or in separate parcels and in such order as Mortgagee may direct (Grantor hereby waiving any right to direct the order of sale), at public auction to the highest bidder for cash in lawful money of the United States (or cash equivalents acceptable to the Trustee to the extent permitted by Applicable Law and Regulations) payable at the time of sale. Trustee may postpone the sale of all or any part of the Mortgaged Property by public announcement at such time and place of sale, and from time to time after any such postponement may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser at such sale its deed conveying the property so sold, but without any covenant or warranty, express or implied, and the recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Grantor, the Remainderman, Trustee or Mortgagee, may purchase at such sale, and any bid by Mortgagee may be, in whole or in part, in the form of cancellation of all or any part of the obligations of Grantor under the Operative Documents. Any such sale shall be free and clear of (A) to the extent permitted by applicable law, any interest of the Grantor or the Remainderman and (B) any lease, encumbrance or other matter affecting the property so sold which is subject or subordinate to the Mortgaged Property, except that any such sale shall not result in the termination of any such lease (1) if and to the extent otherwise provided in any estoppel or other agreement executed by the applicable tenant and Mortgagee or (2) if the purchaser at such sale gives written notice to the tenant, within thirty (30) days after the date of sale, that the lease will continue in effect.

(c) Mortgagee may proceed to protect and enforce its rights by a suit or suits in equity or at law, or for the specific performance of any covenant or agreement contained herein or in the Note, in Section 6.2 of the Participation Agreement or in any of the other Security Documents, or in aid of the execution of any power herein or therein granted, or for the foreclosure of this Mortgage, or for the enforcement of any

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other appropriate legal or equitable remedy. Upon the bringing of any suit to foreclose this Mortgage or to enforce any other remedy available hereunder, Mortgagee shall be entitled as a matter of right, without notice and without giving bond to Grantor, the Remainderman or anyone claiming under, by or through it, and without regard to the solvency or insolvency of Grantor or the Remainderman, or the then value of the premises, to the extent permitted by applicable law, to have a receiver appointed of the Mortgaged Property and of the earnings, income, rents, issues, profits and proceeds thereof, with such power as the court making such appointment shall confer, and Grantor and the Remainderman do each hereby irrevocably consent to such appointment.

(d) Subject to Excepted Rights and Payments, Mortgagee may proceed to exercise all rights, privileges and remedies of Grantor under the Lease and the Guaranty and may exercise all such rights and remedies either in the name of Mortgagee or in the name of Grantor and the Remainderman for the use and benefit of Mortgagee.

(e) In case of any sale of the Mortgaged Property or of any part thereof pursuant to any judgment or decree of any court or otherwise in connection with the enforcement of any of the terms of this Mortgage, Mortgagee may bid and become the purchaser, and the purchaser or purchasers, for the purpose of making settlement for or payment of the purchase price, shall be entitled, subject to the terms of the Loan Agreement, to a credit towards the purchase price of any amounts payable by Grantor under the Note and the Loan Agreement or by Lessee under the Participation Agreement. If at any foreclosure proceeding the Mortgaged Property shall be sold for a sum less than the total amount of indebtedness for which judgment is therein given, the judgment creditor shall, subject always to Section 6.1 hereof, be entitled to the entry of a deficiency decree against Grantor and against the property of Grantor for the amount of such deficiency. Subject to the Excepted Rights and Payments and Section 5.1 and 6.1 hereof, nothing herein shall preclude Mortgagee from pursuing an action judicially to obtain a deficiency judgment against Grantor or any Guarantor, or any other party co-liable on the Indebtedness Hereby Secured.

(f) Subject to Excepted Rights and Payments, Mortgagee may proceed to exercise (or cause to be exercised) all rights, privileges and remedies of Grantor under the Lease and the Lessor's Deed and may exercise all such rights and remedies either in the name of Mortgagee or in the name of Grantor for the use and benefit of Mortgagee.

(g) In the event Grantor, the Remainderman or any of their Affiliates is in fact (not constructively) physically occupying the Mortgaged Property, or any part thereof, it is hereby agreed that Grantor or the Remainderman shall pay such reasonable

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rental monthly in advance as Mortgagee shall demand for the Mortgaged Property, or the part so occupied, and the use of personalty covered by this Mortgage, such amounts to be applied in accordance with Section 4.4 of the Loan Agreement.

(h) Mortgagee may apply on account of the Indebtedness Hereby Secured, all in accordance with the provisions of Section 4.4 of the Loan Agreement, any unexpended moneys (other than those included in Excepted Payments and Rights) still retained by Mortgagee that were paid to Mortgagee by Lessee pursuant to the Lease or otherwise or by Grantor for the payment of, or as security for the payment of, taxes, assessments, municipal or governmental rates, charges, liens, water or sewer rents, or insurance premiums, if any, or in order to secure the performance of some other act by or obligation of Grantor or Lessee.

(i) Mortgagee shall have any and all rights and remedies (including, without limitation, extra-judicial power of sale, to the extent permitted by applicable law) provided to a secured party by the UCC with respect to any and all parts of the Mortgaged Property which are and which are deemed to be governed by the UCC. Without limiting the generality of the foregoing, Mortgagee shall, with respect to any part of the Mortgaged Property constituting property of the type in respect of which realization on a Lien or security interest granted therein is governed by the UCC, have all the rights, options and remedies of a secured party under the UCC, including, without limitation, the right to the possession of any such property, or any part thereof, and the right to enter without legal process any premises where any such property may be found. Any requirement of the UCC for reasonable notification shall be met by mailing written notice to Grantor at its address set forth in Section 6.4 hereof at least ten days prior to the sale or other event for which such notice is required. The proceeds of any sale or realization upon any such property shall be applied as set forth in Section 7.5 of the Loan Agreement.

(j) Mortgagee shall have any and all rights and remedies provided for in any other Security Document, subject, in each case, to Excepted Rights and Payments;

(k) To the extent the Mortgaged Property is located in the State of Alabama, whether or not possession of the Mortgaged Property is taken, after notice by publication once a week for three (3) consecutive weeks of the time, place and terms of each such sale, together with a description of the Mortgaged Property, by publication in some newspaper published in the county wherein the Mortgaged Property is located, sell the Mortgaged Property (or such part or parts thereof as Mortgagee may from time to time elect to sell) during the legal hours of sale, in front of such county's main or front courthouse door, at public outcry, to the highest bidder for cash. The Grantor authorizes and empowers the Mortgagee or the auctioneer at any foreclosure sale had

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hereunder, for and in the name of Grantor, to execute and deliver to the purchaser of any of the Mortgaged Property sold at foreclosure, good and sufficient deeds of conveyance or bills of sale thereto. Mortgagee may bid at any sale or sales had under the terms of this Mortgage and may purchase the Mortgaged Property, if the highest bidder therefor. At any foreclosure sale any part or all of the Mortgaged Property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, the proceeds of any such sale en masse to be accounted for in one account without distinction between the items included therein or without assigning to them any proportion of such proceeds, Grantor hereby waiving the application of any doctrine of marshalling or like proceeding. The purchaser, at any such sale shall be under no obligation to see to the proper application of the purchase money. In case Mortgagee, in the exercise of the power of sale herein given, elects to sell the Mortgaged Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Mortgaged Property not previously sold shall have been sold or all the Indebtedness Hereby Secured shall have been paid in full, and this Mortgage shall continue as a lien and security interest on any part of the Mortgaged Property not so sold. Grantor agrees that Mortgagee may sell or dispose of both the Land and the Mortgage Property constituting collateral for which the UCC should apply, in accordance with the rights and remedies granted under this Mortgage with respect to the Land; or

(1) To the extent the Mortgaged Property is located in the State of Georgia, Mortgagee, at its option, may sell the Mortgaged Property or any part of the Mortgaged Property at public sale or sales before the door of the courthouse of the county in which the Mortgaged Property or any part of the Mortgaged Property is situated, to the highest bidder for cash, in order to pay the Indebtedness Hereby Secured and all expenses of the sale and of all proceedings in connection therewith, after advertising the time, place and terms of sale once a week for four (4) weeks immediately preceding such sale (but without regard to the number of days) in a newspaper in which Sheriff's sales are advertised in said county. At any such public sale, Mortgagee may execute and deliver to the purchaser a conveyance of the Mortgaged Property or any part of the Mortgaged Property in fee simple, with full warranties of title, and to this end, Grantor hereby constitutes and appoints Mortgagee the agent and attorney-in-fact of Grantor to make such sale and conveyance, and thereby to divest Grantor of all right, title or equity that Grantor may have in and to the Mortgaged Property and to vest the same in the purchaser or purchasers at such sale or sales, and all the acts and doings of said agent and attorney-in-fact are hereby ratified and confirmed and any recitals in said conveyance or conveyances as to the facts essential to a valid sale shall be binding upon Grantor. The aforesaid power of sale, agency and power of attorney hereby granted are coupled with an interest and are irrevocable by death or otherwise, are granted as cumulative of the other remedies provided hereby or by law for collection of the

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Indebtedness Hereby Secured and shall not be exhausted by one exercise thereof but may be exercised until full payment of the Indebtedness Hereby Secured. To the extent the Mortgaged Property is located in the State of Georgia, in the event of any sale under this Mortgage by virtue of the exercise of the powers herein granted, or pursuant to any order in any judicial proceeding or otherwise, the Mortgaged Property may be sold as an entirety or in separate parcels and in such manner or order as Mortgagee in its sole discretion may elect; or

(m) To the extent the Mortgaged Property is located in the State of Missouri, if Mortgagee invokes the power of sale described herein, Mortgagee or Trustee shall mail copies of a notice of sale in the manner prescribed by applicable law. After the lapse of such time as may be required by law following the recording of a notice of default, Lender or Trustee shall give notice of sale by public advertisement in the time and the manner prescribed by applicable law. Trustee, without demand on Borrower, shall sell the Mortgaged Property at public auction to the highest bidder for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine. Trustee may postpone the sale of all or any parcel of the Mortgaged Property to any later time on the same date by public announcement at the time and place of any previously scheduled sale. Mortgagee or Mortgagee's designee may purchase the Mortgaged Property at any sale. Trustee shall deliver to the purchaser of the Mortgaged Property a deed conveying the Mortgaged Property so sold without any covenant or warranty, expressed or implied. The recitals in the deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all costs and expenses of the sale, including but not limited to statutory foreclosure costs, Trustee's fees, attorney's fees, all costs of title evidence, and all other disbursements and allowances; (b) subject to Section 7.5 of the Loan Agreement, to all sums secured by this Mortgage; and (c) the excess, if any, to the person or persons legally entitled thereto.

(n) To the extent the Mortgaged Property is located in Texas, the provisions of this subsection (n) shall apply. Mortgagee may require Trustee to sell all or part of the Mortgaged Property, at public auction, to the highest bidder, for cash, at the door of the county courthouse of the county in Texas in which such Mortgaged Property is situated between the hours of 10:00 o'clock a.m. and 4:00 o'clock p.m., on the first Tuesday of any month, after giving notice of the time, place and terms of said sale and of the property to be sold, by posting written notice thereof at least twenty-one (21) days preceding the date of the sale at the courthouse door and by filing a copy of the notice in the office of the county clerk of the county in which the sale is to be made, and if the property to be sold is situated in more than one county, one notice shall be posted at the courthouse door and filed with the county clerk of each county in which the property to be sold is situated. In addition, Mortgagee shall, at least twenty-one (21) days preceding the date of sale, serve written notice of the proposed sale by

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certified mail on each debtor obligated to pay the debt secured hereby according to the records of Mortgagee. Service of such notice shall be completed upon deposit of the notice, enclosed in a postpaid wrapper, properly addressed to such debtor at the most recent address as shown by the records of Mortgagee, in a post office or official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was completed shall be prima facie evidence of the fact of service. Any notice that is required or permitted to be given to Grantor may be addressed to Grantor at the most recent address as shown by the records of Mortgagee. Any notice that is to be given by certified mail to any other debtor may, if no address for such other debtor is shown by the records of Mortgagee, be addressed to such other debtor at the address of Grantor as is shown by the records of Mortgagee. Notwithstanding the foregoing provisions of this paragraph, notice of such sale given in accordance with the requirements of the applicable laws of the State of Texas in effect at the time of such sale shall constitute sufficient notice of such sale. Trustee may sell all or any portion of the Mortgaged Property, together or in lots or parcels, and may execute and deliver to the purchaser or purchasers of such property, good and sufficient assignment or assignments of lease or leases or deeds of conveyance of fee simple title with covenants of general warranty made on behalf of Grantor, as applicable. In no event shall Trustee be required to exhibit, present or display at any such sale, any of the personalty described herein to be sold at such sale. Trustee making such sale shall receive the proceeds thereof and shall apply the same as follows, subject only to the requirements of Section 7.5 of the Loan Agreement: (a) first, he shall pay the reasonable expenses of Trustee and a reasonable Trustee's fee or commission; (b) second, he shall pay, so far as may be possible, the Indebtedness Hereby Secured, discharging first that portion of the Indebtedness Hereby Secured arising under the covenants or agreements herein contained and not evidenced by the Note; (c) third, he shall pay the residue, if any, to the persons legally entitled thereto. Payment of the purchase price to Trustee shall satisfy the obligation of the purchaser at such sale therefor, and such purchaser shall not be responsible for the application thereof. The sale or sales by Trustee of less than the whole of the Mortgaged Property shall not exhaust the power of sale herein granted, and Trustee is specifically empowered to make successive sale or sales under such power until the whole of the Mortgaged Property shall be sold; and if the proceeds of such sale or sales of less than the whole of the Mortgaged Property shall be less than the aggregate of the Indebtedness Hereby Secured and the expenses thereof, this Mortgage and the lien, security interest and assignment hereof shall remain in full force and effect as to the unsold portion of the Mortgaged Property just as though no sale or sales had been made; provided, however, that Grantor shall never have any right to require the sale or sales of less than the whole of the Mortgaged Property, but Mortgagee shall have the right, at its sole election, to request Trustee to sell less than the whole of the Mortgaged Property. If default is made hereunder, Mortgagee shall have the option to proceed

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with foreclosure in satisfaction of such item either through judicial proceedings or by directing Trustee to proceed as if under a full foreclosure, conducting the sale as herein provided without declaring the entire Indebtedness Hereby Secured due, and if sale is made because of default on an installment, or a part of any installment, such sale may be made subject to the unmatured part of the Indebtedness Hereby Secured; and it is agreed that such sale, if so made, shall not in any manner affect the unmatured part of the Indebtedness Hereby Secured, but as to such unmatured part, this Mortgage shall remain in full force and effect as though no sale had been made under the provisions of this paragraph. Several sales may be made hereunder without exhausting the right of sale for any unmatured part of the Indebtedness Hereby Secured. At any such sale (I) Grantor hereby agrees, in its behalf and in behalf of its heirs, executors, administrators, successors, personal representatives and assigns, that any and all recitals made in any assignment of lease or deed of conveyance given by Trustee with respect to the identity of Mortgagee, the occurrence or existence of any default, the acceleration of the maturity of any of the Indebtedness Hereby Secured, the request to sell, the notice of sale, the giving of notice to all debtors legally entitled thereto, the time, place, terms, and manner of sale, and receipt, distribution and application of the money realized therefrom, or the due and proper appointment of a substitute Trustee, and, without being limited by the foregoing, with respect to any other act or thing having been duly done by Mortgagee or by Trustee hereunder, shall be taken by all courts of law and equity as prima facie evidence that the statements or recitals are the state of facts and are without further question to be so accepted, and Grantor hereby ratifies and confirms every act that Trustee or any substitute Trustee hereunder may lawfully do in the Mortgaged Property by virtue hereof; (II) the purchaser may disaffirm any easement granted, or rental, lease or other contract made, in violation of any provision of this Mortgage, and may take immediate possession of the Mortgaged Property free from, and despite the terms of, such grant of easement and rental or lease contract; and (III) Mortgagee may bid and become the purchaser of all or any part of the Mortgaged Property at any Trustee's or foreclosure sale hereunder, and the amount of Mortgagee's successful bid may be credited on the Indebtedness Hereby Secured; or

(o) To the extent the Mortgaged Property is located in the State of North Carolina, Mortgagee may request Trustee, or his substitute or successor, to enforce this trust and sell and dispose of the Mortgaged Property at public auction, at the usual place for conducting sales at the courthouse in the county where the Mortgaged Property or any part thereof may be, to the highest bidder for cash, first advertising the time, terms and place of such sale by publishing a notice thereof as required by applicable law and mailing and filing notices as required by Section 45-21.16 of the North Carolina General Statutes, as then amended, all other notice being hereby waived by Grantor; and Trustee may thereupon execute and deliver to the purchaser at said sale a sufficient conveyance of the Mortgaged Property in fee simple, which conveyance

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may contain recitals as to the happening of the default upon which the execution of the power of sale, herein granted, depends, and said recitals shall be presumptive evidence that all preliminary acts prerequisite to said sale and deed were in all things duly complied with; and Grantor hereby constitutes and appoints Trustee, agent and attorney in fact to make such recitals, sale and conveyance, and all of the acts of such attorney in fact are hereby ratified, and Grantor agrees that such recitals shall be binding and conclusive upon Grantor and that the conveyance to be made by Trustee, on behalf of Mortgagee, or its assigns (and in the event of a deed in lieu of foreclosure, then as to such conveyance), shall be effectual to bar all right, title and interest, equity of redemption, including all statutory redemption, homestead, dower, curtesy and all other exemptions of Grantor, or its successors in interest, in and to the Mortgaged Property; and Trustee, on behalf of Mortgagee, or its assigns, shall collect the proceeds of such sale, reserving therefrom all unpaid Indebtedness Hereby Secured (subject to Section 7.5 of the Loan Agreement) with interest then due thereon, and all amounts advanced by Mortgagee for taxes, assessments, fire insurance premiums and other charges, with interest at the Overdue Rate, from date of payment, together with all costs and charges for advertising, and commissions for selling the Mortgaged Property, and reasonable attorney's fees, and pay over any surplus to Grantor (in the event of deficiency Grantor shall immediately on demand from Mortgagee pay over to Mortgagee, or its nominee, such deficiency); and Grantor agrees that possession of the Mortgaged Property during the existence of the Obligations by Grantor, or any person claiming under Grantor, shall be that of tenant under Mortgagee, or its assigns, and, in case of a sale, as herein provided, Grantor or any person in possession under Grantor shall then become the tenants holding over, and shall forthwith deliver possession to the purchaser at such sale, or be summarily dispossessed in accordance with the provisions of law applicable to tenants holding over; the power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise, and are in addition to any and all other remedies which Mortgagee may have at law or in equity. It is agreed that in the event a foreclosure hereunder should be commenced by Trustee, or his substitute or successor, Mortgagee may at any time before the sale of the Mortgaged Property direct Trustee to abandon the sale, and may then institute suit for the collection of the Indebtedness Hereby Secured, and for the judicial foreclosure of this Mortgage; it is further agreed that if Mortgagee should institute a suit for the collection thereof and for a judicial foreclosure of this Mortgage, that it may at any time before the entry of a final judgment in said suit dismiss the same, and require Trustee, his substitute or successor to sell the Mortgaged Property in accordance with the provisions of this Mortgage; or

(3) To the extent the Mortgaged Property is located in the State of Louisiana, then in addition to and not in lieu or limitation of its other remedies set out in this Section 5, but subject, in all cases, to the limitations and provisions of Section

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5.1 hereof, if a Loan Event of Default has occurred and is continuing, at any time thereafter, Mortgagee, at its option, may exercise any one or more of the following rights and remedies, in addition to any other rights and remedies provided by law:

(i) **Acceleration; Foreclosure.** Mortgagee shall have the right, at its sole option, to accelerate the maturity and demand payment in full of the Indebtedness Hereby Secured. Mortgagee shall then have the right to commence appropriate foreclosure proceedings against the Mortgaged Property as provided in this Mortgage.

(ii) **Seizure and Sale of Mortgaged Property.** In the event that Mortgagee elects to commence appropriate Louisiana foreclosure proceedings under this Mortgage, Mortgagee may cause the Mortgaged Property, or any part or parts thereof, to be immediately seized and sold, whether in term of court or in vacation, under ordinary or executory process, in accordance with applicable Louisiana law, to the highest bidder for cash, with or without appraisal, and without the necessity of making additional demand upon or notifying Grantor or Remainderman or placing Grantor or Remainderman in default, all of which are expressly waived.

(iii) **Confession of Judgment.** For purposes of foreclosure under Louisiana executory process procedures, Grantor and Remainderman confess judgment and acknowledges to be indebted unto and in favor of Mortgagee, up to the full amount of the Indebtedness Hereby Secured, in principal, interest, costs, expenses, and attorneys' fees. To the extent permitted under applicable Louisiana law, Grantor and Remainderman additionally waive: (a) the benefit of appraisal as provided in Articles 2332, 2336, 2723 and 2724 of the Louisiana Code of Civil Procedure, and all other laws with regard to appraisal upon judicial sale; (b) the demand and three (3) days' delay as provided under Articles 2639 and 2721 of the Louisiana Code of Civil Procedure; (c) the notice of seizure as provided under Articles 2293 and 2721 of the Louisiana Code of Civil Procedure; (d) the three (3) days' delay provided under Articles 2331 and 2722 of the Louisiana Code of Civil Procedure; and (e) all other benefits provided under Articles 2331, 2722 and 2723 of the Louisiana Code of Civil Procedure and all other Articles not specifically mentioned above. Grantor and Remainderman waive all homestead and other exemptions from seizure under the Constitution and laws of the State of Louisiana.

(iv) **Keeper.** Should any or all of the Mortgaged Property be seized as an incident to an action for the recognition or enforcement of this Mortgage, by executory process, sequestration, attachment, writ of fieri facias or

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otherwise, Grantor and Remainderman hereby agree that the court issuing any such order shall, if requested by Mortgagee, appoint Mortgagee, or any agent designated by Mortgagee, or any person or entity named by Mortgagee at the time such seizure is requested, or any time thereafter, as Keeper of the Mortgaged Property as provided under La. R.S. 9:5136 et seq. Such a Keeper shall be entitled to reasonable compensation. Grantor and Remainderman agree to pay the reasonable fees of such Keeper, which compensation to the Keeper shall also be secured by this Mortgage. The keeper shall have all powers and authorities that may be exercised by keepers under the laws of the State of Louisiana as now or hereafter existing. References in this Mortgage to a "receiver" or words of similar import shall include a keeper appointed pursuant to the provisions of this paragraph. Nothing herein shall be deemed to require Mortgagee to provoke the appointment of a keeper.

(v) **Declaration of Fact.** Should it become necessary for Mortgagee to foreclose under this Mortgage, all declarations of fact, which are made under an authentic act before a Notary Public in the presence of two witnesses, by a person declaring such facts to lie within his or her knowledge, shall constitute authentic evidence for purposes of executory process and also for purposes of La. R.S. 9:3509.1, La. R.S. 9:3504(D)(6) and La. R.S. 10:9-508, where applicable.

(vi) **Automatic Transfer of Rights.** In the event of foreclosure under this Mortgage, or other transfer of title or assignment of the Mortgaged Property, or any part or parts thereof, in lieu of payment of the Indebtedness Hereby Secured, whether in whole or in part, all policies of insurance and other incorporeal rights applicable to the foreclosed upon or transferred Mortgaged Property (collectively, the "Rights") shall automatically inure to the benefit of and shall pass to the purchaser(s) or transferee(s) thereof, subject to the rights of the purchaser(s) or transferee(s) to reject such insurance coverage and/or Rights at its or their sole option and election.

(vii) **Assignment of Leases.** Upon the occurrence of an Event of Default hereunder, then the assignment granted in Section 3.3 of this Mortgage shall automatically become absolute as provided in La. R.S. 9:4401, and Mortgagee, without in any way waiving such default, at its option, upon notice and without regard to the adequacy of the security for the Indebtedness Hereby Secured or to whether it has exercised any of its other rights or remedies hereunder, shall have the right to directly collect and receive all Rent and Supplemental Rent and any other proceeds and/or payments arising under or in any way accruing under the Lease assigned herein (but not, under any

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circumstances, Excepted Rights and Payments), as such amounts become due and payable and to pay the same to the Indebtedness Hereby Secured as provided herein.

(q) To the extent the Mortgaged Property is located in the State of Colorado, Mortgagee may foreclose this Mortgage in accordance with applicable laws and rules of court. Any sale conducted upon foreclosure of this Mortgage shall be held at the front door of the county courthouse for the County or City and County in which the Mortgaged Property is located, or on the Mortgaged Property, or at such other place as similar sales are then customarily held in such County or City and County, provided that the actual place of sale shall be specified in the notice of sale. Subject only to the requirements of Section 7.5 of the Loan Agreement, the proceeds of any sale under this section shall be applied first to the fees and expenses of the officer conducting the sale, and then to the reduction or discharge of the Indebtedness Hereby Secured in such order as Mortgagee may elect; any surplus remaining shall be paid over to Mortgagor or to such other person or persons as may be lawfully entitled to such surplus. At the conclusion of any foreclosure sale, the officer conducting the sale shall execute and deliver to the purchaser at the sale a certificate of purchase which shall describe the property sold to such purchaser and shall state that upon the expiration of the applicable periods for redemption, the holder of such certificate will be entitled to a deed to the property described in the certificate. After the expiration of all applicable periods of redemption, unless the property sold has been redeemed by Mortgagor, the officer who conducted such sale shall, upon request, execute and deliver an appropriate deed to the holder of the certificate of purchase or the last certificate of redemption, as the case may be, and such deed shall operate to divest Mortgagor and all persons claiming under Mortgagor of all right, title and interest, whether legal or equitable, in the property described in the deed. Nothing in this section dealing with foreclosure procedures or specifying particular actions to be taken by Mortgagee or by any judicial officer shall be deemed to contradict or add to the requirements and procedures now or hereafter specified by Colorado law, and any such inconsistency shall be resolved in favor of Colorado law applicable at the time of foreclosure.

(r) To the extent the Mortgaged Property is located in the State of Michigan:

(a) Notwithstanding anything to the contrary contained herein, the Mortgagee is authorized and empowered to sell or cause to be sold the Mortgaged Property and to convey the same to the purchaser thereof, pursuant to the provisions of MCL Section 600.3201 *et seq.*, as amended, pertaining to foreclosure by advertisement, which statute does not require that the Grantor be personally notified of such sale or that a judicial hearing be held before the sale is conducted. The Mortgagee may direct the sale of the Mortgaged Property be one parcel or several parcels and in any order that the Mortgagee may elect in its sole discretion.

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Grantor further agrees that Mortgagee is authorized and empowered subject to Section 7.5 of the Loan Agreement to retain out of the sale proceeds monies as are due under the terms of this Mortgage, including but not limited to costs and charges of such sale, including but not limited to attorney's fees and expenses, rendering the surplus monies, if any, to the Grantor; and

(b) Failure of the Grantor to pay any taxes, assessments or governmental charges levied or assessed against the Mortgaged Property, or any part thereof, or any installment of any such tax, assessment or charge, or any premium upon any such tax, assessment or charge, or any premium upon any policy of insurance covering any part of the Mortgaged Property, at the time or times such taxes, assessments, charges, installments thereof or insurance premiums are due and payable, shall constitute waste, and in accordance with the provisions of Act No. 236 of the Public Acts of Michigan for 1961, as amended, shall entitle the Mortgagee to exercise the remedies afforded by such Act, subject to provisions of Sections 5.1 and 6.1 hereof. Payment by the Mortgagee for and on behalf of the Grantor of any such delinquent tax or insurance premium properly payable by the Grantor under the terms of this Mortgage, shall not cure the default herein described nor shall it in any manner impair the Mortgagee's right to the appointment of a receiver on account thereof. Upon the happening of any such acts of waste and on proper application made therefore by the Mortgagee to a court of competent jurisdiction, the Mortgagee shall forthwith be entitled to the appointment of a receiver of the Mortgaged Property hereby mortgaged and of the earnings, income, issues and profits thereof, with such powers as the court making such appointment shall confer; the Grantor hereby irrevocably consents to such appointment and waives notice of any application therefor.

(s) To the extent the Mortgaged Property is located in the State of Mississippi:

(i) Trustee shall, at the request of Mortgagee, sell the Mortgaged Property conveyed, or a sufficiency thereof, to satisfy the Indebtedness Hereby Secured at public outcry to the highest bidder for cash. Sale of the Mortgaged Property shall be advertised for three consecutive weeks preceding the sale in a newspaper published in the county where the Mortgaged Property is situated, or if none is so published, then in some newspaper having a general circulation therein, and by posting a notice for the same time at the courthouse of the same county. The notice and advertisement shall disclose the names of the original debtors in this Mortgage. Mortgagor waives the provisions of Section 89-1-55 of the Mississippi Code of 1972 as amended, if any, as far as this section restricts the right of Trustee to offer at sale more than 160 acres at a time, and Trustee may offer the Mortgaged Property herein conveyed as a whole, regardless of how it is described.

(ii) If the Mortgaged Property is situated in two or more counties, or in two judicial districts of the same county, Trustee shall have full power to select in which

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county, or judicial district the sale of the Mortgaged Property is to be made, newspaper advertisement published and notice of sale posted, and Trustee's selection shall be binding upon Mortgagor and Mortgagee. Should Mortgagee be a corporation or an unincorporated association, then any officer thereof may declare Mortgagor to be in default as provided in this Mortgage and request Trustee to sell the Mortgaged Property. Mortgagee shall have the same right to purchase the Mortgaged Property at the foreclosure sale as would a purchaser who is not a party to this Mortgage.

(iii) From the proceeds of the sale Trustee shall first pay all costs of the sale including reasonable compensation to Trustee; then the Indebtedness Hereby Secured due Mortgagee by Mortgagor, including accrued interest and attorney's fees due for collection of the debt; and then, lastly any balance remaining to the persons entitled thereto, subject to Section 7.5 of the Loan Agreement.

(t) To the extent the Mortgaged Property is located in the State of Indiana, notwithstanding anything to the contrary in this Mortgage, Mortgagee shall foreclose this Mortgage in accordance with Indiana Code 32-8-11-3 and Indiana Code 32-8-16 and all Applicable Laws and Regulations.

Section 5.3. Rights Pertaining to Sales. Subject to the provisions or other requirements of law and except as otherwise provided herein, the following provisions shall apply to any sale or sales of all or any portion of the Mortgaged Property under or by virtue of this Article V, whether made under the power of sale herein granted or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale:

(a) Trustee or Mortgagee may conduct any number of sales from time to time. The power of sale set forth in Section 5.2 hereof shall not be exhausted by any one or more such sales as to any part of the Mortgaged Property which shall not have been sold, nor by any sale which is not completed or is defective in Mortgagee's opinion, until the Indebtedness Hereby Secured shall have been paid in full.

(b) Any sale may be postponed or adjourned by public announcement at the time and place appointed for such sale or for such postponed or adjourned sale without further notice; *provided, however,* (i) that to the extent the Mortgaged Property is located in the State of Alabama, whenever it becomes necessary to postpone any sale that has been advertised to occur on a certain day, the same may be postponed by announcement by the auctioneer or attorney, at the time set for sale, of the date to which said sale is postponed; and the original notice shall be published once again, with a statement at the bottom stating that said sale has been postponed and setting forth the date when it will occur, and (ii) to the extent the Mortgaged Property is located in the State of California, any postponement or adjournment of a sale shall be subject to Section 2924g of the California Civil Code. Without limiting the foregoing, in case Mortgagee shall have proceeded to enforce any right or remedy under this mortgage by receiver, entry or

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otherwise, and such proceedings, have been discontinued or abandoned for any such reason or shall have been determined adversely to Mortgagee, then in every such case Grantor, Remainderman and Mortgagee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Mortgagee shall continue as if no such proceeding had been taken.

Section 5.4. Application of Proceeds. Notwithstanding anything contained herein to the contrary, the proceeds and/or avails of any sale of the Mortgaged Property, or any part thereof and the proceeds and the avails of any remedy hereunder shall be paid to and applied as provided in Section 7.5 of the Loan Agreement.

Section 5.5. Waiver of Extension, Appraisal and Stay Laws. To the extent that such rights may then be lawfully waived, the Grantor and the Remainderman covenant that, upon the occurrence of a Loan Event of Default and the acceleration of the Note pursuant to Section 7.1 of the Loan Agreement or Section 5.2(a) hereof, it will not at any time thereafter insist upon or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension or moratorium law now or at any time hereafter in force, or claim, take or insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Property or any part thereof prior to any sale or sales thereof to be made pursuant to any provision herein contained, or to the decree, judgment or order of any court of competent jurisdiction or, after confirmation of any such sale or sales claim or exercise any right under any statute now or hereafter made or enacted by any state or otherwise to redeem the property so sold or any part thereof, and hereby expressly waives for itself and on behalf of each and every Person, except decree or judgment creditors of Grantor or the Remainderman acquiring any interest in or title to the Mortgaged Property or any part thereof, subsequent to the date of this Mortgage, all benefit and advantage of any such law or laws which would otherwise be available to any such Person in connection with the enforcement of any of Mortgagee's remedies hereunder; and covenants that it will not in connection with any such enforcement proceedings invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any power herein granted and delegated to Mortgagee but will suffer and permit the execution of every such power as though no such law or laws had been made or enacted. Grantor and the Remainderman hereby each waive to the fullest extent permitted by law, any and all rights of redemption from sale under any order or decree of foreclosure or pursuant to rights herein granted, on behalf of Grantor, the Remainderman and each and every Person claiming by, through, under or on account of Grantor or the Remainderman acquiring any interest in, or title to the Mortgaged Property described herein subsequent to the date of this Mortgage, and on behalf of all other Persons to the extent permitted by Applicable Law. Grantor, the Remainderman and all who may at any time claim through or under them, hereby waive, to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets subject to the lien of this Mortgage marshaled upon any foreclosure or sale. Notwithstanding anything to the contrary

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herein contained, (i) to the extent the Mortgaged Property is located in the State of Illinois, this waiver of the right of redemption is made pursuant to Section 15-1601 of the Illinois Mortgage Foreclosure Law; (ii) to the extent the Mortgaged Property is located in the State of California Grantor hereby waives any defense to the recovery by Trustee or Mortgagee hereunder against Grantor or the Mortgaged Property of any deficiency after a nonjudicial sale and Grantor expressly waives any defense or benefits that may be derived from California Code of Civil Procedure § 580a or § 580d or any similar statute in effect in any other jurisdiction and (iii) to the extent the Mortgaged Property is located in the State of Louisiana, the provisions of this Section 5.5 are in addition to, and not in derogation of the provisions in Section 5.2(p). Without limiting the foregoing, but subject to Section 5.1 hereof, Grantor and the Remainderman, each for itself, waives any defense arising out of any such nonjudicial sale even though such sale operates to impair or extinguish any right of reimbursement or subrogation or any other right or remedy of Grantor or the Remainderman against Lender or any subsidiary of Lender or against any collateral security. To the extent the Mortgaged Property is located in the State of Indiana, nothing in this Section 5.5 shall constitute or be deemed to constitute a waiver by the Mortgagor of the time limitations on issuance of process under a judgment or decree of foreclosure set out in Ind. Code §32-8-16-1 or any successor provision of the Indiana Code.

Any sale, whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of Grantor or the Remainderman in and to the property sold and shall be a perpetual bar, both at law and in equity, against Grantor and the Remainderman, and their successors and assigns, and against any and all Persons claiming the property sold or any part thereof under, by or through Grantor or the Remainderman, or their respective successors or assigns.

Section 5.6. Costs and Expenses of Foreclosure. In any suit to foreclose the Lien hereof there shall be allowed and included as additional Indebtedness Hereby Secured in the judgment of foreclosure all reasonable expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for Trustee's fees and expenses and for reasonable attorneys' fees, appraiser's fees, accountants' fees, outlays for documentary and expert evidence, stenographic charges, publication costs and costs (which may be estimated as the items to be expended after the entry of the decree) of procuring all such abstracts of title, title searches and examination, title insurance policies, and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute any foreclosure action or to evidence to the bidder at any sale pursuant thereto the true condition of the title to or the value of the Mortgaged Property, all of which expenditures shall become so much additional Indebtedness Hereby Secured which Grantor, subject to Section 6.1 hereof, agrees to pay and all of such shall be immediately due and payable with interest thereon from the date of expenditure until paid at the Overdue Rate.

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Section 5.7. Delay or Omission Not a Waiver. No delay, failure or omission of Mortgagee to exercise any right, power or remedy arising from any Loan Event of Default hereunder on the part of Grantor or the Remainderman shall exhaust or impair any such right, power or remedy or prevent its exercise during the continuance of such Loan Event of Default. No waiver by Mortgagee of any such Loan Event of Default, whether such waiver be full or partial, shall extend to or be taken to affect any subsequent Loan Event of Default, or to impair the rights resulting therefrom, except as may be otherwise provided herein. No right, power or remedy hereunder is intended to be exclusive of any other right, power or remedy but each and every right, power and remedy shall be cumulative and in addition to any and every other right, power and remedy given hereunder or otherwise existing. Nor shall the giving, taking or enforcement of any other or additional security, collateral or guaranty for the payment of the Indebtedness hereby Secured operate to prejudice, waive or affect the security of this Mortgage or any rights, powers or remedies hereunder; nor shall Mortgagee be required to first look to, enforce or exhaust such other or additional security, collateral or guaranties.

Section 5.8. Restoration of Positions. If Mortgagee or any Holder of the Note has instituted any proceeding to enforce any right or remedy under this Mortgage by foreclosure, entry or otherwise and such proceeding has been discontinued or abandoned for any reason or has been determined adversely to Mortgagee or to such Holder of the Note, then and in every such case Grantor, Guarantor, Mortgagee and the Holders of the Note shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of Mortgagee and the Holders of the Note shall continue as though no such proceedings had been instituted.

Section 5.9. No Action Contrary to Lessee's Rights Under the Lease. Notwithstanding any provision of this Mortgage or any other Operative Document to the contrary, Mortgagee warrants, covenants and agrees that, unless a Lease Event of Default shall have occurred and be continuing, Mortgagee (i) shall not name the Lessee as a party in any action or procedures to foreclose the lien of this Mortgage, unless such joinder shall be required under Applicable Law, and in which case Mortgagee shall not seek affirmative relief from Lessee in such action nor shall the Lease be cut-off or terminated nor Lessee's possession thereunder be disturbed in any such action or proceeding and (ii) subject to the next succeeding sentence of this Section 5.9, will recognize the Lease and Lessee's rights thereunder. Without in any way limiting the provisions of Section 5.10, upon any acquisition by Mortgagee or any purchaser at foreclosure or trustee's sale or transferee pursuant to a plan of reorganization under Chapter 11 of the Bankruptcy Code (collectively, a "Successor Landlord") of Grantor's interest in the Lease, the Lease shall continue as a direct Lease between the Successor Landlord and Lessee upon all terms, covenants and conditions set forth in the Lease, except that the Successor Landlord shall not be (A) liable for any previous act or omission of Grantor under the Lease including, without limitation, with respect to any Landlord Liens arising from any action or inaction of Grantor, (B) subject to any offsets, claims, defenses or counterclaims

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the Lessee may have against Grantor, (C) bound by any prepayment of Rent not actually received by the Successor Landlord or (D) bound by any amendment to the Lease requiring Mortgagee's consent unless such consent was obtained.

Section 5.10. Right of the Mortgagee to Perform. Subject to the rights of Lessee and the limitations and provisions of Section 5.1 hereto, if Grantor shall fail to make any payment required to be made or to perform any act required to be performed by it hereunder or under the Lease, Mortgagee, without notice to or demand upon Grantor and without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of the Mortgaged Property. All sums so paid by Mortgagee and all costs and expenses (including, without limitation, reasonable fees and expenses of legal counsel and other professionals) so incurred together with interest thereon from the date of payment or occurrence, shall (to the extent required to be paid by Lessee under the Lease) constitute additional Indebtedness Hereby Secured and shall be paid from the Mortgaged Property to Mortgagee on demand. Mortgagee shall not be liable for any damages resulting from any such payment or action unless such damages shall be a consequence of willful misconduct or gross negligence on the part of Mortgagee.

Section 5.11. Actions with Respect to Mortgaged Property. Except with respect to Excepted Rights and Payments and subject to Section 7.4 of the Loan Agreement, Grantor will not without the prior written consent of Mortgagee:

(a) exercise any claims, rights, or remedies under the Lease or the Guaranty, or terminate, modify, amend, waive or accept a surrender of, or offer or agree to any termination, modification, consent, amendment, waiver or surrender of, or give or withhold any consent with respect to, or exercise any right or option, or take any other action (other than affirmative obligations expressly required by the terms of the Lease) contemplated by the Lease or the Guaranty, or any term or provision of any thereof, or consent to the creation or exercise of any Lien (other than the Lien of the Security Documents) to secure the payment of indebtedness upon the leasehold estate created by the Lease or any part thereof; or

(b) receive or collect or permit the receipt or collection of any payment of Rent, including, without limitation, Basic Rent, Stipulated Loss Value payments, Termination Value payments, Supplemental Rent, purchase proceeds or avails, insurance proceeds or condemnation awards or of any amounts under the Guaranty prior to the date for the payment thereof provided by the Lease or the Guaranty, as the case may be, or assign, transfer or hypothecate (other than to the Mortgagee hereunder) any payment of Rent, including, without limitation, Basic Rent, Stipulated Loss Value payments, Termination Value payments, Supplemental Rent, purchase proceeds or

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avails, insurance proceeds or condemnation awards, then due or to accrue in the future under the Lease or any payment under the Guaranty.

Section 5.12. Power of Attorney. Except with respect to Excepted Rights and Payments and subject to Section 7.4 of the Loan Agreement, Grantor does hereby irrevocably constitute and appoint the Mortgagee its true and lawful attorney, so long as the Indebtedness Hereby Secured remains Outstanding, with an interest and full power of substitution, for it and in its name, place and stead, after the occurrence and during the continuance of a Loan Event of Default to (i) ask, demand, collect, receive and receipt for Rent, including, without limitation, any and all Basic Rent, Stipulated Loss Value payments, Termination Value payments, purchase proceeds or avails, income, insurance proceeds, condemnation awards and other sums paid or payable to Grantor pursuant to the Lease and other sums which are assigned under the granting clauses of this Mortgage (it being understood and agreed that any sum included within the definition of "Excepted Rights and Payments" is not so assigned) and to endorse the name of Grantor on all commercial paper given in payment or in part payment thereof, and (ii) without limiting the provisions of the foregoing clause (i) hereof, during the continuance of any Loan Event of Default, sue for, any and all such Basic Rent, Stipulated Loss Value payments, Termination Value payments, purchase proceeds or avails, income, insurance proceeds, condemnation awards and other sums (other than sums included within the definition of "Excepted Rights and Payments") as fully as Grantor could itself do, to accept any Rejectable Offer, as provided in the Lease and upon acceptance of such Rejectable Offer, to execute and deliver in the name of and on behalf of Grantor an appropriate deed and/or bill of sale and other instruments of transfer relating to the Mortgaged Property, when purchased by the Lessee with respect to such Rejectable Offer, and in its discretion, to file any claim or take any other action or proceedings, either in its own name or in the name of Grantor or otherwise, which Mortgagee may deem necessary or appropriate to protect and preserve the right, title and interest of Mortgagee in and to such Rent and other sums and the security intended to be afforded hereby. To the extent the Mortgaged Property is located in the State of Louisiana, this appointment is made pursuant to La.R.S. § 9:5388.

Section 5.13. Transfer of Mortgaged Property. Subject to the proviso hereof, neither Grantor nor the Remainderman shall sell, convey, transfer, lease or encumber any of its right, title or interest in or to any part of the Mortgaged Property, nor shall a voluntary sale, lease, pledge or other transfer of Grantor's or the Remainderman's interest in the Mortgaged Property or any part or portion thereof be effected by Grantor or the Remainderman, without the prior written consent of Mortgagee having been obtained to such sale, transfer, conveyance, encumbrance, lease or pledge, to the purchaser, transferee, lessee or pledgee and to the form and substance of any instrument evidencing such purchase, transfer, lease or pledge; provided that nothing contained in this Section 5.13 shall be deemed or construed to limit the rights of Grantor to transfer its interest in the Mortgaged Property in accordance with

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Articles VI, XIII, XIV, XVII, XXI or XXII, of the Lease or to replace the Owner Trustee in accordance with the terms, provisions and conditions of the Operative Documents.

Section 5.14. Enforcement of Excepted Rights and Payments. Any provision of the Lease, this Mortgage or any of the Security Documents to the contrary notwithstanding, if Lessee shall fail to pay any sums within the definition of Excepted Rights and Payments to any Person entitled thereto as and when due, such Person shall have the right at all times to the exclusion of Mortgagee, to proceed by appropriate court action or actions, either at law or in equity, to enforce performance by Lessee of the applicable covenants and terms of the Lease or the Guaranty, as the case may be, with respect to the payment of such Excepted Rights and Payments, or to recover damages for the breach thereof, *provided* that the rights referred to in this Section 5.14 shall in no event be deemed to include the exercise of any remedy relating to, constituting or resulting in the termination of the Lease, Section 7.2 of the Participation Agreement or any other dispossession remedy provided for in Article XVII of the Lease.

Section 5.15. Sale in Separate Parcels. In the event of any sale made under or by virtue of this Mortgage or any of the other Security Documents, whether made under the power of sale herein or therein granted or under or by virtue of judicial proceedings or decree of foreclosure and sale, the whole of the Mortgaged Property may be sold in one parcel and as an entirety, or in separate parcels or lots, as Mortgagee may reasonably determine.

Section 5.16. Trustee May Execute Conveyances and Deliver Possession; Sale a Bar. Upon the completion of any sale or sales made under or by virtue of this Mortgage or any of the other Security Documents, Trustee shall execute and deliver to the accepted purchaser or purchasers a good and sufficient deed, or good and sufficient deeds, and other instruments conveying, assigning and transferring all its estate, right, title and interest in and to the Mortgaged Property or portion thereof so sold as permitted by Applicable Law and Regulations. Trustee is hereby appointed during the occurrence and continuance of a Loan Event of Default as the true and lawful irrevocable attorney of Grantor, in its name and stead or in the name of Trustee, to make all necessary conveyances, assignments, transfers and deliveries of the Mortgaged Property or portion thereof so sold and for that purpose Trustee may execute all necessary deeds and instruments of assignment and transfer, and may substitute one or more Persons with like power, Grantor hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, Grantor, if so requested in writing by Mortgagee and permitted by Applicable Law and Regulations, shall ratify and confirm any such sale or sales by executing and delivering to the Trustee or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of the Mortgagee, for the purpose and as may be designated in such request.

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Any such sale or sales made under or by virtue of this Mortgage or any of the other Security Documents, whether made under the power of sale herein or therein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall, subject always to Section 5.8 hereof operate to divest all estate, right, title, interest, claim or demand whatsoever, whether at law or in equity, of Grantor, in and to the Mortgaged Property or part thereof so sold, and shall be a perpetual bar both at law and in equity against Grantor, its successors and assigns, and against any and all Persons claiming or who may claim the same, or any part thereof from, through or under Grantor, its successors or assigns.

Section 5.17. Receipt Sufficient Discharge for Purchaser. The receipt of Mortgagee or of the court officer conducting any such sale for the purchase money paid at any such sale shall be a sufficient discharge therefor to any purchaser of the Mortgaged Property, or any part thereof, sold as aforesaid, and no such purchaser or his representatives, grantees or assigns, after paying such purchase money and receiving such receipt, shall be bound to see the application of such purchase money upon or for any trust or purpose of this Mortgage, or shall be answerable in any manner whatsoever for any loss, misapplication or non-application of any such purchase money or any part thereof, nor shall any such purchaser be bound to inquire as to the necessity or expediency of any such sale.

Section 5.18. Mortgagee May Enforce Rights Without Note. All rights of action under this Mortgage or under the Note may be enforced by Mortgagee without the possession of the Note and without the production thereof at any trial or other proceedings relative thereto, to the extent permitted by applicable law.

SECTION 6. MISCELLANEOUS.

Section 6.1. Limitation of Liability. (a) *Grantor.* Except in the case of (i) the representations, warranties and covenants of Grantor made in its individual capacity in Sections 4.3 and 6.2 of the Participation Agreement or (ii) the gross negligence or willful misconduct of Grantor (other than gross negligence or willful misconduct imputed to Grantor solely by virtue of Grantor's ownership of the Mortgaged Property), notwithstanding any other provision in the Note, the Loan Agreement or this Mortgage to the contrary, all amounts payable by Grantor under the Note, the Loan Agreement and this Mortgage shall be made only from the income and proceeds of the Mortgaged Property and Mortgagee, and the Loan Participants and their respective successors and assigns each agree that (a) it will look solely to the income and proceeds of the Mortgaged Property for the payment of such amounts to the extent available for distribution to it as provided herein and in the Loan Agreement, (b) neither Grantor nor the Owner Participant is or shall be personally liable to Mortgagee or any Loan Participant nor the successors or assigns of said Persons for any amount payable under the Note, the Loan Agreement or this Mortgage or for any liability thereunder or hereunder and (c) Mortgagee acknowledges and agrees that Grantor is (except as otherwise expressly provided herein or in

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the other Operative Documents) entering into this Mortgage and the other Operative Documents to which it is a party (other than the Trust Agreement), solely in its capacity as trustee or co-trustee, as the case may be, under the Trust Agreement and not in its or his, as the case may be, individual capacity and that neither the Owner Trustee nor the Individual Co-Trustee shall be liable or accountable under any circumstances whatsoever in its or his, as the case may be, individual capacity for or on account of any statements, representations, warranties, covenants or obligations stated to be those of Grantor, except for its or his, as the case may be, own gross negligence or willful misconduct or as otherwise expressly provided herein or in the other Operative Documents; *provided, however*, that nothing contained in this Section 6.1 shall limit, restrict or impair the rights of the Mortgagee to accelerate the maturity of the Note upon a Loan Event of Default or, subject to the limitations hereinabove described, to bring suit and obtain a judgment against the Grantor on the Note or to exercise all rights and remedies provided under this Mortgage or otherwise realize upon the Mortgaged Property and the other collateral securing the Indebtedness Hereby Secured.

(b) *Remainderman*. Notwithstanding anything herein to the contrary, the Remainderman is executing and delivering this Mortgage solely for the purpose of specifically subjecting all of the Remainderman's right, title and interest in and to the Remainder Interests to the Lien and security interest of this Mortgage as security for the payment of the Indebtedness Hereby Secured but only to the maximum amount of the Indebtedness Hereby Secured. The Remainderman assumes no personal liability for the payment or the performance by the Mortgagor of its obligations under the Note, the Loan Agreement or this Mortgage or under any of the Operative Documents herein mentioned and the Mortgagee by its acceptance of this Mortgage, waives any such personal liability on the part of the Remainderman and agrees to look solely to the security of this Mortgage and any other instrument of security heretofore or hereafter given by the Grantor for the purpose of securing the obligations of the Grantor under or in respect of the Note, the Loan Agreement, and this Mortgage and any agreements herein mentioned and to the remedies respectively set forth and prescribed herein and in any other instrument of security herein mentioned. Nothing contained herein shall be construed to impose upon the Remainderman or its successors and assigns, any duty to do any act or thing, or any obligation or liability for the payment of money, whether upon the obligations secured by this Mortgage or by reason of any other provision of this Mortgage or any other documents evidencing or securing the Indebtedness Hereby Secured. The Mortgagee hereby acknowledges and agrees that all of the statements, representations, warranties, covenants and agreements, if any, made by the Remainderman contained in this Mortgage are made and intended only for the purpose of binding the Remainder Interests and establishing the existence of rights and remedies which can be exercised and enforced against the Remainder Interests. Therefore, anything contained in this Mortgage to the contrary notwithstanding, no recourse or personal liability shall be had with respect to this Mortgage against the Remainderman, any partner or against any successor, assign, officer, director, trustee, manager, member, custodian, beneficiary, partner, agent, servant or direct or indirect parent or controlling Person or Persons or any affiliate thereof or any of them; *provided, however*, that nothing in this paragraph shall be construed to limit the exercise and

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enforcement, in accordance with the terms of this Mortgage, of rights and remedies against the Remainder Interests.

Section 6.2. Successors and Assigns. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Mortgage contained by or on behalf of Grantor, or by or on behalf of Mortgagee, shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

Section 6.3. Severability. The unenforceability or invalidity of any provision or provisions of this Mortgage shall not render any other provision or provisions herein contained unenforceable or invalid.

Section 6.4. Addresses for Notices and Demands. (a) All communications provided for herein shall be in writing, promptly mailed by means of telex, telegraph, telecopy or other means of recorded electronic communication (with a copy of any such communication promptly mailed by registered or certified mail or prepaid overnight air courier) or by prepaid overnight air courier, addressed as follows:

If to Grantor: Goodwin Square
225 Asylum Street
Hartford, Connecticut 06103
Attention: Corporate Trust Administration
Facsimile: (860) 244-1397

If to Mortgagee: 1301 Avenue of the Americas
New York, New York 10019
Attention:
Facsimile:

If to Remainderman: M6 Remainder II LLC
c/o Winthrop Financial Advisors, L.L.C.
5 Cambridge Center, 9th Floor
Cambridge, Massachusetts 02142
Fax: (617) 868-5095
Attention: George Herbolsheimer

If to Trustee: At the applicable address specified on Page 1 hereof.

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or as to any party at such other address as such party may designate by notice duly given in accordance with this Section to the other party and shall be effective when recorded.

(b) For the purposes of California Civil Code Section 3097:

(i) The name and address of Mortgagee is Credit Lyonnais at the address specified in Section 6.4(a).

(ii) The name and address of the owner of the Mortgaged Property is STEVEN CIMALORE, not in his individual capacity, but solely as Individual Co-Trustee under the Trust Agreement (PMCC Trust No. 1998 M6 III (CA)) and the address of Grantor is specified in Section 6.4(a).

(iii) The legal description of the Real Property and the street address, if known, are set forth in Annex A attached hereto and made a part hereof.

Section 6.5. Headings and Table of Contents. The headings of the sections of this Mortgage and the table of contents are inserted for purposes of convenience only and shall not be construed to affect the meaning or construction of any of the provisions hereof.

Section 6.6. Release. Upon payment in full of all Indebtedness Hereby Secured and performance of all other obligations hereby secured, this Mortgage and the Lien created hereby (i) shall terminate and be of no further force or effect and all property, rights and interests hereby conveyed, assigned or pledged shall revert to Grantor and the Remainderman or (ii) to the extent the Mortgaged Property is located in the State of Georgia, this Mortgage shall be canceled and surrendered; and Mortgagee and/or Trustee shall, at Lessee's expense, do, execute, acknowledge and deliver each and every deed, conveyance, transfer, discharge and release, in recordable form, necessary or proper to evidence the release, satisfaction and discharge of this Mortgage. Without limiting the foregoing, if the Lease shall be terminated with respect to the Hotel as and to the extent contemplated by, and in accordance with the provisions of, Article 3 of the Loan Agreement with respect to the Hotel, this Mortgage and the Lien created hereby shall automatically terminate and be of no further force or effect and Mortgagee shall, at Lessee's expense, do, execute, acknowledge and deliver each and every deed, conveyance, transfer, discharge and release, in recordable form, necessary or proper to evidence the release, satisfaction and discharge of this Mortgage.

Section 6.7. Counterparts. This Mortgage may be executed, acknowledged and delivered in any number of counterparts, each of such counterparts constituting an original but all together only one Mortgage.

Section 6.8. Governing Law. This Mortgage shall be construed in accordance with and governed by the laws of the State of in which the Land is located applicable to contracts made and to be performed entirely within said State.

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Section 6.9. Mortgage. Subject to Section 5.8 hereof, notwithstanding anything to the contrary set forth herein, in the event of any conflict between any provision of this Mortgage and the Loan Agreement, the terms and provisions of the Loan Agreement shall control.

Section 6.10. No Oral Modification. This Mortgage may not be modified except in a writing signed by all the parties hereto.

Section 6.11. Trustee. Trustee may resign by an instrument in writing addressed to Mortgagee, or Trustee may be removed at any time with or without cause by an instrument in writing executed by Mortgagee. In case of the death, resignation, removal or disqualification of Trustee or if for any reason Mortgagee shall deem it desirable to appoint a substitute or successor to Trustee to act instead of Trustee herein named or any substitute or successor to Trustee, then Mortgagee shall have the right and is hereby authorized and empowered to appoint a successor to Trustee, or a substitute to Trustee, without other formality than appointment and designation in writing executed by Mortgagee and compliance with the requirements of applicable law.

Section 6.12. Usury Savings Clause. It is the intention of the parties hereto to conform strictly to applicable usury laws. Accordingly, if the transactions contemplated hereby would be usurious under applicable law, then notwithstanding anything to the contrary in the Note or any other evidence of the Indebtedness Hereby Secured or any agreement entered into in connection with or as security for the Indebtedness Hereby Secured, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under the applicable law that is contracted for, charged or received under the Indebtedness Hereby Secured or under any of the other aforesaid agreements or otherwise in connection with the Indebtedness Hereby Secured shall under no circumstances exceed the maximum amount of interest permitted by applicable law, and any excess shall be credited on the Indebtedness Hereby Secured by the holder thereof (or, if the Indebtedness Hereby Secured shall have been paid in full, refunded to the Grantor); and (ii) in the event that the maturity of the Indebtedness Hereby Secured is accelerated by reason of an election of the holder thereof resulting from any Loan Event of Default or otherwise, or in the event of any required or permitted prepayment, then such consideration that constitutes interest may never include more than the maximum amount permitted by Applicable Law and Regulations, and excess interest, if any, provided for in this Mortgage or otherwise shall be canceled automatically as of the date of such acceleration or prepayment and, if theretofore paid, shall be credited on the Indebtedness Hereby Secured (or, if the Indebtedness Hereby Secured shall have been paid in full, refunded to Grantor).

The Grantor and the Remainderman each hereby declare and acknowledge that it has received, without charge, a true copy of this Mortgage.

SECTION 7. NOTICES OF DEFAULT.

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Section 7.1. Notices of Default. To the extent that the Mortgaged Property is located in the State of California, Grantor hereby requests that a copy of any Notice of Default and/or Notice of Sale be sent to Grantor at Grantor's address set forth in Section 6.4 hereof.

SECTION 8. MECHANICS' LIENS AND CONSTRUCTION MORTGAGE LAW.

Section 8.1. Mechanics' Liens and Construction Mortgage Law. To the extent that the Mortgaged Property is located in the State of Ohio and if Mortgagee shall consent to or authorize Grantor to construct improvements on the Mortgaged Property, Mortgagee is hereby authorized and empowered to do all things provided for a mortgagee to do pursuant to §§ 1311.14, 5301.232 and 5301.233 of the Ohio Revised Code and any amendments, supplements or successor legislation thereto.

SECTION 9. FIXTURE FILING.

Section 9.1. Fixture Filing. A portion of the Mortgaged Property is or is to become fixtures upon the Land and the Improvements. To the extent permitted by applicable law, Grantor covenants and agrees that the filing of this Mortgage in the real estate records of the county in which the Mortgaged Property is located shall also operate from the time of filing as a fixture filing with respect to all goods constituting part of the Mortgaged Property which are or are to become fixtures related to the real estate described herein. For such purpose, the following information is set forth:

- (a) Name and Address of Debtor:

STATE STREET BANK AND TRUST COMPANY OF CONNECTICUT, N.A., not in its individual capacity, but solely as Owner Trustee under that certain Trust Agreement (PMCC Trust No. 1998 M6 II), having an address at Goodwin Square, 225 Asylum Street, Hartford, Connecticut 06103.

M6 REMAINDER II LLC, having an address c/o Winthrop Financial Advisors, L.L.C., 5 Cambridge Center, 9th Floor, Cambridge, MA 02142

- (b) Name and Address of Secured Party:

CREDIT LYONNAIS, having an address at 1301 Avenue of the Americas, New York, New York 10019.

- (c) This document covers goods which are or are to become fixtures.

- (d) The name of the record owner is shown on Annex B attached hereto and made a part hereof.

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- (e) The Goods are described by items or type in the Granting Clauses.
- (f) The real estate to which the good are or are to be affixed is described in Annex A hereto.
- (g) This Mortgage is to be filed for record in the real estate records where the Mortgaged Property is located.

SECTION 10. STATES.

Section 10.1. California Provisions. To the extent the Mortgaged Property is located in the State of California: (i) all references herein to other states shall be considered inapplicable; and (ii) the parties hereby agree that this Mortgage shall not be cross-defaulted or cross-collateralized with any other properties located outside the State of California.

Section 10.2. Arizona Provisions. This Mortgage only encumbers property located in the State of Arizona. The name and address of the beneficiary of the trust referred to herein is: General Foods Credit Corporation, c/o Phillip Morris Corporation, 200 First Stamford Place, Suite 400, Stamford, Connecticut 06902.

Section 10.3. Missouri Provisions. Trustee leases the Mortgaged Property to Grantor, until either this Mortgage is released or the Mortgaged Property is sold under the provisions contained herein, on the following terms and conditions: Grantor and every and all person(s) claiming or possessing the Mortgaged Property or any part thereof by, through, or under Grantor shall pay rent during the term at the rate of one cent per month, payable monthly upon demand, and shall without demand surrender peaceable possession of the Mortgaged Property to the Trustee, his successors, assignees, or purchasers of the Mortgaged Property under any foreclosure sale, within three (3) days after the sale date without notice or demand.

* * *

[SIGNATURES ON NEXT PAGE]

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IN WITNESS WHEREOF, the parties hereto have caused this Mortgage to be duly executed, under seal, to be effective as of the day and year first above written.

WITNESSES:

GRANTOR:

STATE STREET BANK AND TRUST COMPANY OF CONNECTICUT, N.A., not in its individual capacity, but solely as Owner Trustee

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Name: Benno Raebber

Name: PC Kane, Jr.

By: _____
Name: Steven Cimalore
Title: Vice President

Name: Benno Raebber

Name: PC Kane, Jr.

REMAINDERMAN:

M6 REMAINDER I LLC
By: M6 Corporation, Manager

Name: George Herbolsheimer
Title: President

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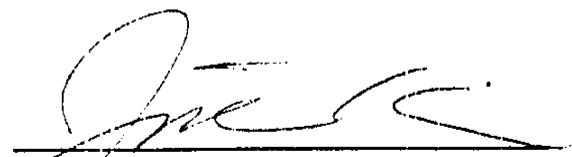
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State of New York)
 : SS.:
County of New York)

On this 29 day of January, 1998, before me, the undersigned officer, personally appeared Steven Cinalore (residing in Hartford, Connecticut), personally known and acknowledged himself to me (or proved to me on the basis of satisfactory evidence) to be the Vice-President of State Street Bank and Trust Company of Connecticut, N.A., the entity named in the within instrument; that the execution as well as the making of the within instrument by STATE STREET BANK AND TRUST COMPANY OF CONNECTICUT, N.A., has been duly authorized by the board of directors of said entity; that the within instrument was signed and delivered by the Vice-President as his free and voluntary act and the voluntary act and deed of said entity; and acknowledged that he executed the within instrument.

IN WITNESS WHEREOF, I herewith set my hand and official seal.

(Seal)



Notary Public

Name:

My commission expires:

JIMDOON KIM
NOTARY PUBLIC, State of New York
No. 01110666173
Qualified in New York County
Commission Expires Sept. 23, 1998

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STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this 29th day of January, 1998, before me, the undersigned officer, personally appeared George Herbolsheimer (residing at 336 Old Littleton Road, Harvard, MA 01451), personally known and acknowledged to me (or proved to me on the basis of satisfactory evidence) to be the President of M6 Corporation, a Delaware corporation, the manager of M6 Remainder II LLC, and the same person who executed the foregoing instrument, and that as such officer, being duly authorized to do so pursuant to its bylaws or a resolution of its board of directors, executed, subscribed and acknowledged the foregoing instrument for the purposes therein contained to enter into the foregoing instrument as the manager of M6 Remainder II LLC, by signing the name of M6 Corporation by himself in his authorized capacity as such officer as his free and voluntary act and deed, the free and voluntary act and deed of M6 Corporation and the free and voluntary act and deed of M6 Remainder II LLC.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

NOTARIAL SEAL

My Commission Expires:
MARCELA CUADRADO
Notary Public, State of New York
No. 01205083058
Qualified in Queens County
Commission Expires Aug-4, 1999

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COOK COUNTY

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