

28. That "Gross Income", as used herein and in the notes, shall mean all gross receipts, computed on a cash/~~accrual~~ basis and in accordance with sound accounting practice, produced by or from the premises, whether by virtue of operation of any activity thereon by the mortgagor, or by anyone else, and shall include, without limitation, (a) gross rental receipts, computed on an unfurnished basis, inclusive of fixed, minimum, percentage and additional rentals, from tenants and other occupants of the premises, (b) gross receipts produced by or from the premises from (i) the letting or licensing of parking spaces, (ii) operations of any clubhouses, swimming pools, and other social and athletic facilities, (iii) laundry machines, drying machines, coin telephones and vending machines, (iv) supplying electricity, other utilities, and janitorial services, (v) performance of work for any tenant or occupant at such tenant's or occupant's expense and at a profit to the mortgagor or operator, and (vi) payments from tenants and occupants on account of: real estate taxes, operating expenses, cost of maintenance of common areas and malls, and dues to Merchants' or similar Associations, and (c) all other receipts of any nature whatsoever produced by or from the premises, all without deduction of any expenses whatsoever; that "Calculation Year" shall mean the 12 months period commencing April 1 and ending on the next ensuing MARCH 31, except that the first Calculation Year shall commence on the date of assignment of those certain notes of even date herewith executed by the mortgagor herein in favor of W. Ashley Verlander, Judson S. Whorton, George D. Auchter, Jr., Roger L. Main, Brice R. Smith, Jr., Charles K. Cross and Clifford A. Cutchins, III, not individually, but as Trustees of AMERICAN CENTURY MORTGAGE INVESTORS, a Massachusetts Business Trust under Declaration of Trust dated May 14, 1969, as amended, and their respective successor Trustees under said Declaration of Trust, in the aggregate principal sum of \$2,100,000.00 referred to hereinafter by the holder thereof to The Equitable Life Assurance Society of the United States and Thomas F. Murray, Donald R. Waugh, Jr., Howard E. Thomas, Charles F. Adams, Frank H. Briggs, Trammell Crow, J. Frank Forster, Grant Keehn, Thomas M. Macioce, Robert C. Tyson and John C. Whitehead, as Trustees of a Massachusetts business trust under a Declaration of Trust, dated September 15, 1970, as amended, having an office at 75 Federal Street, Boston, Massachusetts, and designated in said Trust as "The Equitable Life Mortgage and Realty Investors", and except that the last Calculation Year shall commence on the January 1 next preceding the earlier of (x) the date of payment in full of the principal indebtedness and the interest then remaining unpaid or (y) the date which is the last day on which the interest rate specified in the notes effectively determines the rate of interest for the principal indebtedness, whether because of the entry of a judgment in foreclosure or otherwise (such first occurring date being hereinafter called the "Expiry Date"), and shall end on the Expiry Date; that "interest" is used in this mortgage as defined in the notes; that if any audit or examination by or on behalf of the mortgagee of any books, records, statements or data of the mortgagor shall disclose a liability for additional interest in an amount which is 5% or more in excess of the amount of additional interest theretofore computed or paid by the mortgagor for any Calculation Year, the mortgagor shall promptly pay to the mortgagee the cost of such examination or audit, as well as the further amount of additional interest due as revealed thereby; that nothing contained in this mortgage or in the notes or in any other instrument further securing the notes shall create a partnership or joint venture between the mortgagee and the mortgagor or between the mortgagee and any other party, or cause the mortgagee to be liable in any way for the debts or obligations of the mortgagor or any other party; and that, with respect to the premises and the mortgagor's operations thereof, (A) the mortgagor will keep proper books of record and account in accordance with sound accounting practice, which shall reflect and disclose in reasonable detail the data required to determine Gross Income, (B) the mortgagee shall have the right to examine and audit the books of account of the mortgagor and the statements furnished by the mortgagor pursuant to this Article (and which books, records and statements, and the data used as a basis for their preparation, shall be kept and preserved for at least five years) and to discuss the affairs, finances and accounts of the mortgagor and to be informed as to the same by its officers, all at such reasonable times and intervals as the mortgagee may desire, and (C) the mortgagor will furnish to the mortgagee within 60 days after the end of each Calculation Year, copies of the statement of income and surplus of the mortgagor for such Calculation Year, in reasonable detail and stating in comparative form the figures as of the end of and for the previous Calculation Year, with each such statement showing