

proceeds arising out of such damage, destruction, taking or purchase, and received by the Mortgagee, shall be paid to the Company.

Upon and after the consummation of a substitution of a building hereunder, the principal amount of Notes attributable to the substitute property shall be the amount that would have been so attributable in respect of the damaged restaurant.

(5.6) **UNECONOMIC LOCATION; SUBSTITUTION OF PROPERTY.** If any building, after it has been in operation for at least two years as a restaurant, shall not have Gross Sales Revenues in excess of Gross Expenses for the two most recent years taken as one period (herein called an "unprofitable restaurant"), the Company, by written notice to the Mortgagee, may substitute a tract or parcel of land located in any state of the United States together with the structures and improvements thereon not then subject to the lien of the Indenture (herein also called "substitute property") for the unprofitable restaurant, and the Mortgagee shall release the unprofitable restaurant from the lien of the Indenture (the date of such release by the Mortgagee being herein also called a "release date") upon receipt by the Mortgagee of (i) a Certificate of the Company stating that the character and occupancy of the substitute property are the same as those of the unprofitable restaurant, (ii) a supplemental indenture conveying the substitute property to the Mortgagee to be held as part of the Mortgaged Property, (iii) a certificate of an Independent appraiser satisfactory to the Mortgagee certifying (x) the fair value of the substitute property and that such fair value is not less than the fair value of the unprofitable restaurant, (y) the total cost of the substitute property and that such total cost is not less than the unamortized portion of the original principal amount of the Notes attributable to the unprofitable restaurant immediately prior to the release date, as set forth in Schedule B and (z) the ratio of the total cost (determined in accordance with the definition of total cost in respect of any building) to the total cost (determined as aforesaid) of all structures and improvements thereon is not less than the same ratio calculated with respect to the unprofitable restaurant, (iv) a title policy in favor of the Mortgagee in standard ALTA form, in substance and issued by a title insurance company satisfactory to the Mortgagee, with respect to the substitute property, insuring the interest of the Mortgagee in the substitute property in an amount at least equal to the greater of the total cost or the fair