

after to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by the "Lender" any and all such other and further mortgages, instruments of further assurance, certificates and other documents as may, in the opinion of the "Lender", be necessary or desirable in order to effectuate, complete, enlarge or perfect, or to continue and preserve (a) the obligation of the "Borrower" under the note and this mortgage, and (b) the lien of this mortgage as a first and prior lien upon all of the Mortgaged Property, whether now owned or hereafter acquired by the "Borrower". Upon any failure by the "Borrower" so to do, the "Lender" may make, execute, record, file, re-record and/or refile any and all such mortgages, instruments, certificates, and documents for and in the name of the "Borrower", and the "Borrower" hereby irrevocably appoints the "Lender" the agent and attorney-in-fact of the "Borrower" so to do. The lien hereof will automatically attach, without further act, to all after acquired property attached to and/or used in the operation of the Mortgaged Property or any part thereof.

1.10. **Leases Affecting Mortgaged Property.** The "Borrower" will comply with and observe its obligations as landlord under all leases affecting the Mortgaged Property or any part thereof. "Borrower" will furnish "Lender" with executed copies of all leases now or hereafter created on said premises; and all leases now or hereafter entered into will be in form and substance subject to the approval of "Lender". "Borrower" will not, without the express written consent of the "Lender", modify, surrender or terminate, either orally or in writing, any lease now existing or hereafter created upon the premises described herein, nor will the "Borrower" permit an assignment or sub-lease without the express written consent of the "Lender". "Borrower" will not accept payment of rent more than two (2) months in advance without the express written consent of "Lender". If requested by the "Lender", the "Borrower" will assign to the "Lender" as additional security any and all such leases whether now existing or hereafter created, including, without limitation, all rents, royalties, issues and profits of the premises from time to time accruing.

~~1.11 Expenses. The "Borrower" will pay or reimburse the "Lender" for all reasonable attorney's fees, costs and expenses incurred by the "Lender" in any action, proceeding or dispute of any kind in which the "Lender" is made a party, or appears as party plaintiff or defendant, affecting the note, mortgage, borrower or mortgaged property, including but not limited to the foreclosure of this mortgage, any condemnation action involving the mortgaged premises, or any action to protect the security hereof; and any such amounts paid by the "Lender" shall be added to the indebtedness and secured by the lien of this mortgage.~~

1.12 **"Lender's" Performance of Defaults.** If the "Borrower" shall default in the payment of any tax or other imposition, in its obligation to furnish insurance hereunder or performance or observance of any other covenant, condition or term in this mortgage, the "Lender" may perform or observe the same, and all payments made or costs or expenses incurred by the "Lender" in connection therewith, shall be secured hereby and shall be immediately repaid by the "Borrower" to the "Lender" with interest thereon at twelve per cent (12%) per annum. The "Lender" is hereby empowered to enter, and to authorize others to enter upon the Mortgaged Property or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to the "Borrower" or any person in possession holding under the "Borrower".

~~1.13 Books, Records and Accounts. The "Borrower" will keep and maintain or will cause to be kept and maintained proper and accurate books, records and accounts reflecting all items of income and expense in connection with the operation of the premises or in connection with any services, equipment or furnishings provided in connection with the operation of the premises, whether such income or expenses be realized by the "Borrower" or by any other person or entity whatsoever excepting successors unrelated to and unaffiliated with the "Borrower" and who leave from the "Borrower" portions of the premises for the purposes of occupying the same. "Lender" or its designee shall have the right from time to time at all times during normal business hours to examine such books, records and accounts at the office of the "Borrower" or other person or entity maintaining such books, records and accounts and to make copies or extracts thereof as "Lender" shall desire. The "Borrower" will furnish to the "Lender" within 30 days after the end of each calendar year a balance sheet and an income and expense statement as to the property encumbered hereby, both in detail satisfactory to the "Lender" and certified by a Certified Public Accountant, such balance sheet and income and expense statement to include income from all sources as to the said mortgaged property.~~

1.14 **Estoppel Affidavits.** The "Borrower", within ten (10) days after written request from the "Lender" shall furnish a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the note and whether or not any offsets or defenses exist against such principal and interest.

ARTICLE TWO
Defaults

2.01 **Event of Default.** The term Event of Default, wherever used in the mortgage, shall mean any one or more of the following events:

- (a) Failure by the "Borrower" to pay as and when due and payable any installments of principal, interest or tax deposits ("tax deposits") as required in Paragraph 1.03 of Article I), or
- (b) Failure by the "Borrower" to duly observe any other covenant, condition or agreement of this mortgage for thirty (30) days after written notice specifying such failure shall have been given to "Borrower" by "Lender"; or
- (c) The filing by the "Borrower" of a voluntary petition in bankruptcy or the "Borrower's" adjudication as a bankrupt or insolvent, or the filing by the "Borrower" of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the "Borrower's" seeking or consenting to or acquiescence in the appointment of any trustee, receiver or liquidator of the "Borrower" or of all or any substantial part of the Mortgaged Property or of any or all of the rents, revenues, issues, earnings, profits or income thereof, or the making of any general assignment for the benefit of creditors, or the admission in writing of its inability to pay its debts generally as they become due; or
- (d) The entry by a court of competent jurisdiction of an order, judgment, or decree approving a petition filed against the "Borrower" seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other statute law or regulation relating to bankruptcy, insolvency or other relief for debtors, which order, judgment or decree remains unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or the appointment of any trustee, receiver or liquidator of the "Borrower" or of all or any substantial part of the Mortgaged Property or of any or all of the rents, revenues, issues, earnings, profits or income thereof without the consent or acquiescence of the "Borrower" which appointment shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive).

2.02 **Acceleration of Maturity.** If an Event of Default shall have occurred and be continuing, the "Lender" may declare the entire principal amount of the note then unpaid and the interest accrued thereon to be due and payable immediately, and upon such declaration such principal and interest shall forthwith become and be due and payable, as fully and to the same effect as if the date of such declaration were the date originally specified for the maturity of the unpaid balance of the note.

2.03 **"Lender's" Right to Enter and Take Possession, Operate and Apply Income.**

- (a) If an Event of Default shall have occurred and be continuing, the "Borrower", upon demand of the "Lender", shall forthwith surrender to the "Lender" the actual possession, and if and to the extent permitted by law, the "Lender" itself, or by such officers or agents as it may appoint, may enter and take possession of all the Mortgaged Property, and may exclude the "Borrower" and its agents and employees wholly therefrom, and may have joint access with the "Borrower" to the books, papers and accounts of the "Borrower".
- (b) If the "Borrower" shall for any reason fail to surrender or deliver any such Mortgaged Property or any part thereof after such demand by the "Mortgagee", the "Lender" may obtain a judgment or decree conferring on the "Lender" the right to immediate possession or requiring the "Borrower" to deliver immediate possession of all or part of such Mortgaged Property to the "Lender", to the entry of which judgment or decree the "Borrower" hereby specifically consents.

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