

4.8 Application of Proceeds.

If the proceeds of the insurance described in Paragraph 4.7 hereinabove are to be used for restoration, repair or replacement (hereinafter referred to as the "Work") of the Mortgaged Property, such proceeds shall be paid out by Mortgagee from time to time to Mortgagor (or, at the option of Mortgagee, jointly to Mortgagor and the persons furnishing labor and/or material incident to the Work or directly to such persons) as the Work progresses, subject to the following conditions: (a) if the cost of the Work estimated by Mortgagee shall exceed \$25,000.00, prior to the commencement thereof (other than Work to be performed on an emergency basis to protect the Mortgaged Property or prevent interference therewith), (i) an architect or engineer, approved by Mortgagee, shall be retained by Mortgagor (at Mortgagor's expense) and charged with the supervision of the Work, and (ii) Mortgagor shall have prepared, submitted to Mortgagee and secured Mortgagee's written approval (such approval not to be unreasonably withheld) of the plans and specifications for such Work; (b) each request for payment by Mortgagor shall be made on ten (10) days' prior written notice to Mortgagee and shall be accompanied by a certificate to be executed by the architect or engineer supervising the Work [if one is required pursuant to Paragraph 4.8(a) hereinabove], otherwise by Mortgagor or an executive officer of Mortgagor, stating, among such other matters as may be reasonably required by Mortgagee, that: (i) all of the Work completed has been done in compliance with the approved plans and specifications (if any be required hereinabove); (ii) the sum requested is justly required to reimburse Mortgagor for payments by Mortgagor to, or is justly due to, the contractor, subcontractors, materialmen, laborers, engineers, architects or other persons rendering services or materials for the Work (giving a brief description of such services and materials); (iii) when added to all sums previously paid out by Mortgagor, the sum requested does not exceed the value of the Work done to the date of such certificate; and (iv) the amount of insurance proceeds remaining in the hands of Mortgagee will be sufficient on completion of the Work to pay for the same in full (giving, in such reasonable detail as the Mortgagee may require, an estimate of the cost of such completion); (c) each request shall be accompanied by waivers of lien, satisfactory in form and substance to Mortgagee, covering that part of the Work for which payment or reimbursement is being requested, and by a search prepared by a title company or licensed abstractor or by other evidence satisfactory to Mortgagee that there has not been filed with respect to the Mortgaged Property any mechanic's lien or other lien, affidavit or instrument asserting any lien or any lien rights with respect to the Mortgaged Property; (d) there has not occurred any Event of Default since the hazard, casualty or contingency giving rise to payment of the insurance proceeds; (e) in the case of the request for the final disbursement, such request is accompanied by a copy of any Certificate of Occupancy or other certificate required by any Legal Requirement to render occupancy of the damaged portion of the Mortgaged Property lawful; and (f) if, in Mortgagee's judgment, the amount of such insurance proceeds will not be sufficient to complete the Work (which determination may be made prior to or during the performance of the Work), Mortgagor shall deposit with Mortgagee, immediately upon a request therefor, an amount of money which, when added to such insurance proceeds, will be sufficient, in Mortgagee's judgment, to complete the Work. If, upon completion of the Work, any portion of the insurance proceeds has not been disbursed to Mortgagor (or one or more of the other aforesaid persons)