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THIS SECOND MORTGAGE AND SECURITY AGREEMENT (the "Security Instrument") is made as of the 31st day of July 1998, by **TRUMP 767 FIFTH AVENUE, LLC**, a Delaware limited liability company, having an office c/o The Trump Organization, 725 Fifth Avenue, New York, New York 10022 (hereinafter referred to as the "Borrower"), to **LEHMAN BROTHERS HOLDINGS INC.**, doing business as Lehman Capital, a division of Lehman Brothers Holdings Inc., a Delaware corporation, with offices at 3 World Financial Center, New York, New York 10285 (hereinafter referred to as the "Lender").

RECITALS:

1. Borrower by its Secured Note of even date herewith given to Lender (the "Note") is indebted to Lender in the principal sum of Two Hundred Million Dollars (\$200,000,000.00) with interest from the date thereof at the rates set forth in the Note, principal and interest to be payable in accordance with the terms and conditions provided in the Note.
2. Borrower desires to secure the payment of the Debt (as defined in Article 2) and the performance of all of its obligations under the Note and the Other Obligations (as defined in Article 2).

Article 1 - GRANTS OF SECURITY

Section 1.1 PROPERTY MORTGAGED. Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Lender, and grant a security interest to Lender in, all of Borrower's right, title and interest in and to the following property, rights, interests and estates now owned, or hereafter acquired by Borrower (collectively, the "Property"):

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (the "Land");

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Borrower for use in connection with the Land and the development of the Land, including but not limited to, any condominium conversion plan promulgated with respect to the Property, for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Security Instrument;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (the "Improvements");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and

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powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, courtesy and rights of courtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Fixtures and Personal Property. All machinery, equipment, fixtures (including, but not limited to, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures) and other property of every kind and nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest (to the extent of Borrower's interest therein), now or hereafter located upon the Land and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Land and the Improvements and all building equipment, materials and supplies of any nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Land and the Improvements (collectively, the "Personal Property"), and all proceeds and products of the above;

(f) Leases and Rents. All leases and other agreements affecting the use, enjoyment or occupancy of the Land and the Improvements heretofore or hereafter entered into, whether before or after the filing by or against Borrower of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the "Bankruptcy Code") (the "Leases") and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code (the "Rents") and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(g) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(h) Insurance Proceeds. All proceeds of and any unearned premiums on any insurance policies covering the Property, including, without limitation, the right to

receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

(i) **Tax Certiorari.** All refunds, rebates or credits in connection with a reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(j) **Conversion.** All proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, proceeds of insurance and condemnation awards, into cash or liquidation claims;

(k) **Rights.** The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(l) **Agreements.** All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into by or on behalf of Borrower, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or respecting any business or activity conducted on the Land by or on behalf of Borrower and any part thereof and all right, title and interest of Borrower therein and thereunder, including, without limitation, the right, upon the occurrence and during the continuance of an Event of Default hereunder, to receive and collect any sums payable to Borrower thereunder;

(m) **Trademarks.** All trade names, trademarks, service marks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used by or on behalf of Borrower in connection with the operation of the Property; and

(n) **Other Rights.** Any and all other rights of Borrower in and to the items set forth in Subsections (a) through (m) above.

Section 1.2 ASSIGNMENT OF RENTS. Borrower hereby absolutely and unconditionally assigns Borrower's right, title and interest in and to all current and future Leases and Rents to Lender with a license to collect such Rents (subject to Lockbox Agreement) to Borrower pursuant to the terms of a Second Assignment of Leases and Rents of even date herewith from Borrower to Lender ; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. The Rents are to be deposited into the Lockbox Account (hereafter defined), as more particularly set forth in Section 4.5 hereof and in the Lockbox Agreement (hereafter defined).

Section 1.3 SECURITY AGREEMENT. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests,

whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Security Instrument, Borrower hereby grants to Lender, as security for the Obligations (defined in Section 2.3), a security interest in the Personal Property to the full extent that the Personal Property may be subject to the Uniform Commercial Code.

Section 1.4 PLEDGE OF MONIES HELD. Borrower hereby pledges to Lender any and all monies now or hereafter held by Lender, including, without limitation, any sums deposited in the Escrow Fund (as defined in Section 3.5), Net Proceeds (as defined in Section 4.4), the Lockbox Account (as defined in Section 4.5), condemnation awards or payments described in Section 3.6, and the Reserve Account (as established pursuant to that certain Reserve Escrow Pledge and Security Agreement between Borrower and Lender of even date herewith), as additional security for the Obligations until expended or applied as provided in this Security Instrument.

CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Lender, and the successors and assigns of Lender, forever;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall well and truly pay to Lender the Debt at the time and in the manner provided in the Note and this Security Instrument, these presents and the estate hereby granted shall cease, terminate and be void.

Article 2 - DEBT AND OBLIGATIONS SECURED

Section 2.1 DEBT. This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the following, in such order of priority as Lender may determine in its sole discretion (the "Debt"):

- (a) the payment of the indebtedness evidenced by the Note in lawful money of the United States of America;
- (b) the payment of interest, default interest, late charges and other sums, as provided in the Note, this Security Instrument or the Other Security Documents (defined below);
- (c) Prepayment Amount (as defined in that certain \$200,000,000.00 Credit Agreement (the "Credit Agreement") between Borrower and Lender dated of even date herewith);

(d) the payment of all other moneys agreed or provided to be paid by Borrower in the Note, this Security Instrument or the Other Security Documents;

(e) the payment of all sums advanced pursuant to this Security Instrument to protect and preserve the Property and the lien and the security interest created hereby; and

(f) the payment of all sums advanced and costs and expenses incurred by Lender in connection with the Debt or any part thereof, any renewal, extension, or change of or substitution for the Debt or any part thereof, the acquisition or perfection of the security therefor or the foreclosure of this Security Instrument, whether made or incurred at the request of Borrower or Lender.

Section 2.2 OTHER OBLIGATIONS. This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the following (the "Other Obligations"):

(a) the performance of all other obligations of Borrower contained herein;

(b) the performance of each obligation of Borrower contained in any other agreement given by Borrower to Lender which is for the purpose of further securing the obligations secured hereby, and any amendments, modifications and changes thereto; and

(c) the performance of each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, this Security Instrument or the Other Security Documents.

Section 2.3 DEBT AND OTHER OBLIGATIONS. Borrower's obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively below as the "Obligations."

Section 2.4 PAYMENTS. Unless payments are made in the required amount in immediately available funds at the place where the Note is payable, remittances in payment of all or any part of the Debt shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by Lender in funds immediately available at the place where the Note is payable (or any other place as Lender, in Lender's sole discretion, may have established by delivery of written notice thereof to Borrower) and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by Lender of any payment in an amount less than the amount then due shall be deemed an acceptance on account

only, and the failure to pay the entire amount then due shall be and continue to be an Event of Default (defined below).

Article 3 - BORROWER COVENANTS

Borrower covenants and agrees that:

Section 3.1 PAYMENT OF DEBT. Borrower will pay the Debt at the time and in the manner provided in the Note and in this Security Instrument.

Section 3.2 INCORPORATION BY REFERENCE. All the covenants, conditions and agreements contained in (a) the Note and (b) all and any of the documents other than the Note or this Security Instrument now or hereafter executed by Borrower and/or others and by or in favor of Lender, which wholly or partially secure or guaranty payment of the Note or were given in connection with the transaction, including, but not limited to, the Credit Agreement, Membership Pledge and Security Agreements, the Pledge and Security Agreement (Member Notes), a Limited Guaranty and the Mortgage Loan Cooperation Agreement (the "Other Security Documents"), are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

Section 3.3 INSURANCE.

(a) Borrower shall obtain and maintain, or cause to be maintained, insurance for Borrower and the Property providing at least the following coverages (or such other coverages and amounts approved in writing by Lender):

(i) comprehensive all risk insurance on the Improvements and the Personal Property, including contingent liability from Operation of Building Laws, Demolition Costs and Increased Cost of Construction Endorsements, in each case (A) in an amount equal to 100% of the "Full Replacement Cost," which for purposes of this Security Instrument shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation, but the amount shall in no event be less than the outstanding aggregate principal balance of the Note and the First Note; (B) containing an agreed amount endorsement with respect to the Improvements and Personal Property waiving all co-insurance provisions; (C) providing for no deductible in excess of \$10,000.00; and (D) containing an "Ordinance or Law Coverage" or "Enforcement" endorsement if any of the Improvements or the use of the Property shall at any time constitute legal non-conforming structures or uses. The Full Replacement Cost shall be redetermined from time to time (but not more frequently than once in any twelve (12) calendar months) at the request of Lender by an appraiser or

contractor designated and paid by Borrower and approved by Lender, or by an engineer or appraiser in the regular employ of the insurer. After the first appraisal, additional appraisals may be based on construction cost indices customarily employed in the trade. No omission on the part of Lender to request any such ascertainment shall relieve Borrower of any of its obligations under this Subsection. In addition, Borrower shall obtain (y) flood hazard insurance if any portion of the Improvements is currently or at any time in the future located in a federally designated "special flood hazard area", flood hazard insurance in an amount equal to the lesser of (a) the outstanding principal balance of the Note or (b) the maximum amount of such insurance available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as each may be amended or such greater amount as Lender shall require; and (z) earthquake insurance in amounts and in form and substance satisfactory to Lender in the event the Property is located in an area with a high degree of seismic activity, provided that the insurance pursuant to clauses (y) and (z) hereof is available and such insurance shall be on terms consistent with the comprehensive all risk insurance policy required under this Subsection 3.3(a)(i) except that the deductible on such insurance shall not be in excess of five percent (5%) of the appraised value of the Property;

(ii) commercial general liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Property, such insurance (A) to be on the so-called "occurrence" form with a combined single limit of not less than \$1,000,000.00; (B) to continue at not less than the aforesaid limit until required to be changed by Lender in writing by reason of changed economic conditions making such protection inadequate; and (C) to cover at least the following hazards: (1) premises and operations; (2) products and completed operations on an "if any" basis; (3) independent contractors; (4) blanket contractual liability for all written and oral contracts; and (5) contractual liability covering the indemnities contained in Article 13 hereof to the extent the same is available;

(iii) business income insurance (A) with loss payable to Lender; (B) covering all risks required to be covered by the insurance provided for in Subsection 3.3(a)(i); (C) containing an extended period of indemnity endorsement which provides that after the physical loss to the Improvements and Personal Property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of twelve (12) months from the date of the loss, whichever first occurs, and notwithstanding that

the policy may expire prior to the end of such period; and (D) in an amount equal to 100% of the projected gross income from the Property for a period of twelve (12) months. The amount of such business income insurance shall be determined prior to the date hereof and at least once each year thereafter based on Borrower's reasonable estimate of the gross income from the Property for the succeeding twelve (12) month period. All insurance proceeds payable to Lender pursuant to this Subsection shall be held by Lender and shall be applied to the obligations secured hereunder from time to time due and payable hereunder and under the Note; provided, however, that nothing herein contained shall be deemed to relieve Borrower of its obligations to pay the obligations secured hereunder on the respective dates of payment provided for in the Note except to the extent such amounts are actually paid out of the proceeds of such business income insurance;

(iv) at all times during which structural construction, repairs or alterations are being made with respect to the Improvements (A) owner's contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above mentioned commercial general liability insurance policy; and (B) the insurance provided for in Subsection 3.3(a)(i) written in a so-called builder's risk completed value form (1) on a non-reporting basis, (2) against all risks insured against pursuant to Subsection 3.3(a)(i), (3) including permission to occupy the Property, and (4) with an agreed amount endorsement waiving co-insurance provisions;

(v) workers' compensation, subject to the statutory limits of the state in which the Property is located, and employer's liability insurance with a floor amount of at least \$1,000,000.00 per accident and per disease per employee, and \$5,000,000.00 for disease aggregate in respect of any work or operations on or about the Property, or in connection with the Property or its operation (if applicable);

(vi) comprehensive boiler and machinery insurance, if applicable, in amounts as shall be reasonably required by Lender on terms consistent with the commercial general liability insurance policy required under Subsection 3.3(a)(ii);

(vii) umbrella liability insurance in an amount not less than \$100,000,000.00 per occurrence on terms consistent with the commercial general liability insurance policy required under Subsection 3.3(a)(ii);

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(viii) motor vehicle liability coverage for all owned and non-owned vehicles, including rented and leased vehicles containing minimum limits per occurrence of \$5,000,000.00; and

(ix) such other insurance and in such amounts as Lender from time to time may reasonably request against such other insurable hazards which at the time are commonly insured against for property similar to the Property located in the region in which the Property is located.

(b) All insurance provided for in Subsection 3.3(a) hereof shall be obtained under valid and enforceable policies (the "Policies" or in the singular, the "Policy"), and shall be subject to the approval of Lender as to insurance companies, amounts, forms, deductibles, loss payees and insureds. The Policies shall be issued by financially sound and responsible insurance companies authorized to do business in the state in which the Property is located and approved by Lender. The insurance companies must have an investment grade rating for claims paying ability assigned by Moody's Investors Service, Inc. and Standard & Poor's Corporation, and in the event such insurance companies are rated by Fitch Investors Service, Inc. and Duff & Phelps Credit Rating Company, by Fitch Investors Service, Inc. and Duff & Phelps Credit Rating Company equivalent to at least an S&P rating of "AA" or better, and if there are any Securities (defined in Section 19.1 below) issued which have been assigned a rating by a credit rating agency approved by Lender (a "Rating Agency"), the insurance company shall have a claims paying ability rating by such Rating Agency equal to or greater than the rating of the highest class of the Securities (each such insurer shall be referred to below as a "Qualified Insurer"). The Policies described in Subsections 3.3(a)(i), (iii), (iv)(B) and (vi) shall designate Lender as loss payee. Not less than thirty (30) days prior to the expiration dates of the Policies theretofore furnished to Lender pursuant to Subsection 3.3(a), certified copies of the Policies marked "premium paid" or accompanied by evidence satisfactory to Lender of payment of the premiums due thereunder (the "Insurance Premiums"), shall be delivered by Borrower to Lender; provided, however, that in the case of renewal Policies, Borrower may furnish Lender with binders therefor to be followed by the original Policies when issued.

(c) Borrower shall not obtain (i) any umbrella or blanket liability or casualty Policy unless, in each case, such Policy is approved in advance in writing by Lender and Lender's interest is included therein as provided in this Security Instrument and such Policy is issued by a Qualified Insurer, or (ii) separate insurance concurrent in form or contributing in the event of loss with that required in Subsection 3.3(a) to be furnished by, or which may be reasonably required to be furnished by, Borrower. In the event Borrower obtains separate insurance or an umbrella or a blanket Policy, Borrower shall notify Lender of the same and shall cause certified copies of each Policy to be delivered as required in Subsection 3.3(a). Any blanket insurance Policy shall allocate to the Property the amount of coverage from time to time required hereunder and shall otherwise provide the same protection as would a separate Policy insuring only the Property in compliance with the provisions of Subsection 3.3(a).

(d) All Policies of insurance provided for or contemplated by Subsection 3.3(a), except for the Policy referenced in Subsection 3.3(a)(v), shall name Lender and Borrower as the insured or additional insured, as their respective interests may appear, and in the case of property damage, boiler and machinery, flood and earthquake insurance, shall contain a so-called New York standard non-contributing mortgagee clause in favor of Lender providing that the loss thereunder shall be payable to Lender.

(e) All Policies of insurance provided for in Subsection 3.3(a) shall contain clauses or endorsements to the effect that:

(i) no act or negligence of Borrower, or anyone acting for Borrower, or of any tenant under any Lease or other occupant, or failure to comply with the provisions of any Policy which might otherwise result in a forfeiture of the insurance or any part thereof, shall in any way affect the validity or enforceability of the insurance insofar as Lender is concerned;

(ii) the Policy shall not be materially changed (other than to increase the coverage provided thereby) or canceled without at least 30 days' written notice to Lender and any other party named therein as an insured;

(iii) each Policy shall provide that the issuers thereof shall give written notice to Lender if the Policy has not been renewed thirty (30) days prior to its expiration; and

(iv) Lender shall not be liable for any Insurance Premiums thereon or subject to any assessments thereunder.

(f) Borrower shall furnish to Lender, on or before thirty (30) days after the close of each of Borrower's fiscal years, a statement certified by Borrower or a duly authorized officer of Borrower of the amounts of insurance maintained in compliance herewith, of the risks covered by such insurance and of the insurance company or companies which carry such insurance and, if requested by Lender, verification of the adequacy of such insurance by an independent insurance broker or appraiser acceptable to Lender.

(g) If at any time Lender is not in receipt of written evidence that all insurance required hereunder is in full force and effect in accordance with this Security Instrument, Lender shall have the right, without notice to Borrower to take such action as Lender deems necessary to protect its interest in the Property, including, without limitation, the obtaining of such insurance coverage as Lender in its sole discretion deems appropriate, and all reasonable expenses incurred by Lender in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by Borrower to Lender upon demand and until

paid shall be secured by this Security Instrument and shall bear interest in accordance with Section 10.3 hereof.

(h) If the Property shall be damaged or destroyed, in whole or in part, by fire or other casualty, Borrower shall give prompt notice of such damage to Lender and shall promptly commence and diligently prosecute the completion of the repair and restoration of the Property as nearly as possible to the condition the Property was in immediately prior to such fire or other casualty, if insurance proceeds have been made available for Borrower to do so, with such alterations as may be approved by Lender pursuant to Section 4.4 hereof (the "Restoration") and otherwise in accordance with Section 4.4 of this Security Instrument. Borrower shall pay all costs of such Restoration whether or not such costs are covered by insurance. Lender may, but shall not be obligated to make proof of loss if not made promptly by Borrower.

(i) In the event of foreclosure of this Security Instrument, or other transfer of title to the Property in extinguishment in whole or in part of the Debt all right, title and interest of Borrower in and to such policies then in force concerning the Property and all proceeds payable thereunder shall thereupon vest in the purchaser at such foreclosure or Lender or other transferee in the event of such other transfer of title.

(j) The provisions of Section 254(4) of the Real Property Law of New York shall not apply to this Security Instrument.

Section 3.4 PAYMENT OF TAXES, ETC. Borrower shall, unless paid by Lender's loan servicer through administration of the Lockbox Account (as defined herein), promptly pay all taxes, assessments, water rates, sewer rents, governmental impositions, and other charges, including without limitation vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Land, now or hereafter levied or assessed or imposed against the Property or any part thereof (the "Taxes"), maintenance charges and similar charges, now or hereafter levied or assessed or imposed against the Property or any part thereof (the "Other Charges"), and all charges for utility services provided to the Property prior to the same becoming delinquent. Borrower will deliver to Lender evidence satisfactory to Lender that the Taxes, Other Charges and utility service charges have been so paid or are not then delinquent if such amounts have been paid by Borrower and not by Lender's loan servicer. Lender's shall cause its loan servicer to provided Borrower with any cancelled checks or receipts from the taxing authorities if received, or such other evidence reasonably obtainable by Servicer to evidence such payment having been made. Borrower shall not suffer and shall promptly cause to be paid and discharged any lien or charge whatsoever which may be or become a lien or charge against the Property. Except to the extent sums sufficient to pay all Taxes and Other Charges have been deposited with Lender in accordance with the terms of this Security Instrument, Borrower shall furnish to Lender paid receipts for the payment of the Taxes and Other Charges prior to the date the same shall become delinquent.

REL-2663 PG 1216

Section 3.5 ESCROW FUND. In addition to the initial deposits with respect to Taxes and Insurance Premiums made by Borrower to Lender on the date hereof to be held by Lender in escrow, Borrower shall pay to Lender on the first day of each calendar month (a) one-twelfth of an amount which would be sufficient to pay the Taxes and Other Charges payable, or estimated by Lender (based on historic factors) to be payable, during the next ensuing twelve (12) months and (b) one-twelfth of an amount which would be sufficient to pay the Insurance Premiums due for the renewal of the coverage afforded by the Policies upon the expiration thereof (the amounts in (a) and (b) above shall be called the "Escrow Fund") which Escrow Fund, absent an Event of Default, shall be used by Lender or its loan servicer to pay Taxes, Other Charges and Insurance Premiums. Borrower agrees to notify Lender immediately of any changes to the amounts, schedules and instructions for payment of any Taxes and Insurance Premiums of which it has obtained knowledge and authorizes Lender or its agent to obtain the bills for Taxes and Other Charges directly from the appropriate authority. The Escrow Fund and the payments of interest or principal or both, payable pursuant to the Note shall be added together and shall be paid as an aggregate sum by Borrower to Lender. Lender will apply the Escrow Fund to payments of Taxes and Other Charges and Insurance Premiums required to be made by Borrower pursuant to Sections 3.3 and 3.4 hereof and as more particularly provided in the Lockbox Agreement (hereafter defined in Section 4.5 hereof). Subject to the provisions of the Lockbox Agreement, if the amount of the Escrow Fund shall exceed the amounts due for Taxes and Insurance Premiums pursuant to Sections 3.3 and 3.4 hereof, Lender shall cause its loan servicer to reanalyze the monthly deposits required to be made by Borrower to the Escrow Fund, but not more often than twice in any 12 month period. If the Escrow Fund is not sufficient to pay the items set forth in (a) and (b) above, Borrower shall promptly pay to Lender, upon demand, an amount which Lender shall reasonably estimate as sufficient to make up the deficiency. The Escrow Fund shall be held in a segregated, interest bearing account or sub-account, and will not be commingled with other monies held by Lender. Interest on the Escrow Fund will become part of the Escrow Fund.

Section 3.6 CONDEMNATION. Borrower shall promptly give Lender notice of the actual or threatened commencement of any condemnation or eminent domain proceeding and shall deliver to Lender copies of any and all papers served upon Borrower in connection with such proceedings. Lender may participate in any such proceedings, and Borrower shall from time to time deliver to Lender all instruments reasonably requested by it to permit such participation. Borrower shall, at its expense, diligently prosecute any such proceedings, and shall consult with Lender, its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings. Notwithstanding any taking by any public or quasi-public authority through eminent domain or otherwise (including but not limited to any transfer made in lieu of or in anticipation of the exercise of such taking), Borrower shall continue to pay the Debt at the time and in the manner provided for its payment in the Note and in this Security Instrument and the Debt shall not be reduced until any award or payment therefor shall have been actually received and applied by Lender, after the deduction of expenses of collection, to the reduction or discharge of the Debt. Lender shall not be limited to the interest paid on the award by the condemning authority but shall be entitled to receive out of the award interest at the rate or rates

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provided herein or in the Note. If the Property or any portion thereof is taken by a condemning authority, Borrower shall promptly commence and diligently prosecute the Restoration of the Property, and otherwise comply with the provisions of Section 4.4 of this Security Instrument. If the Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of the award or payment, Lender shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive the award or payment, or a portion thereof sufficient to pay the Debt.

Section 3.7 LEASES AND RENTS.

(a) Except as otherwise reasonably consented to by Lender, all Leases shall be written on the standard form of lease which shall have been approved by Lender. No material change other than prudent business changes may be made to such standard form of lease without Lender's prior written consent not to be unreasonably withheld. Upon request, Borrower shall furnish Lender with executed copies of all Leases. All renewals of Leases and all proposed leases shall provide for rental rates and terms for the applicable tenancy comparable to existing local market rates and terms and shall be arms-length transactions with bona fide, independent third party tenants. All proposed leases and renewals (unless contemplated and expressly provided for by the Lease being renewed) of existing Leases other than Minor Leases (hereinafter defined) shall be subject to the prior approval of Lender (in its commercially reasonable discretion) and its counsel, at Borrower's expense. All Leases entered into after the date of this Security Instrument shall provide that they are subordinate to this Security Instrument and that the lessee agrees to attorn to Lender. If Lender has approved such lease, if requested by lessee, Lender will offer its form of Subordination, Non Disturbance and Attornment Agreement to such lessee for execution. Borrower (i) shall observe and perform all the obligations imposed upon the lessor under the Leases and shall not do or permit to be done anything to impair the value of the Leases as security for the Debt; (ii) shall promptly send copies to Lender of all notices of default which Borrower shall send or receive thereunder; (iii) shall enforce in a commercially prudent manner all of the terms, covenants and conditions contained in the Leases upon the part of the lessee thereunder to be observed or performed, short of termination thereof; Borrower may terminate, however, Minor Leases as the result of a default by lessee thereunder; (iv) shall not collect any of the Rents more than one (1) month in advance; (v) shall not execute any other assignment of the lessor's interest in the Leases or the Rents; (vi) shall not alter, modify or change the terms of the Leases other than Minor Leases in any material respect without the prior written consent of Lender, or cancel or terminate the Leases except as permitted above in connection with a default by the lessee thereunder or accept a surrender thereof or convey or transfer or suffer or permit a conveyance or transfer of the Land or of any interest therein so as to effect a merger of the estates and rights of, or a termination or diminution of the obligations of, lessees thereunder; (vii) shall not alter, modify or change the terms of any guaranty, letter of credit or other credit support with respect to the Leases (the "Lease Guaranty") other than Minor Leases or cancel or terminate such Lease Guaranty without the prior written consent of Lender; and (viii) shall not consent to any assignment of or subletting under the Leases except in accordance with the terms of the Leases other than Minor Leases, without the prior written

consent of Lender; provided, however, that Lender's approval rights under this clause (ix) shall not exceed (and shall comply with) the right of the lessor under the lease in question. Lender shall have all of the benefits accorded to lenders under Section 291-f of the Real Property Law of New York.

(b) Notwithstanding the provisions of Subsection 3.7(a) above, renewals of existing Leases for office and other non-retail uses and proposed leases for office and other non-retail uses shall not be subject to the prior approval of Lender provided (i) the renewal Lease or series of leases or proposed lease or series of leases covers one floor plate or less (approximately 33,000 square feet, in the aggregate) (any such lease or series of leases demising less than that amount being herein referred to as a "Minor Lease"), (ii) the Lease shall be written on the standard form of Lease which shall have been approved by Lender, (iii) no rent credits, free rents or concessions have been granted under the renewal Lease or series of leases or proposed lease or series of leases in excess of the amounts contemplated in a leasing budget approved by Lender in writing, (iv) the renewal Lease or series of leases or proposed lease or series of leases shall provide for rental rates and terms consistent with a leasing budget which shall have been previously approved in writing by Lender consistent with existing local market rates and terms for similar quality properties, and (v) the renewal Lease or series of leases or proposed lease or series of leases shall be an arms-length transaction with a bona fide, independent third party tenant. Borrower shall deliver to Lender copies of all Leases which are entered into pursuant to the preceding sentence together with Borrower's certification that it has satisfied all of the conditions of the preceding sentence within thirty (30) days after the execution of the Lease.

(c) Borrower shall promptly deposit with Lender or the servicer for deposit to the Security Deposit Account any and all monies representing security deposits under the Leases, as more particularly provided in the Lockbox Agreement.

Section 3.8 MAINTENANCE OF PROPERTY

(a) Borrower shall cause the Property to be maintained in a good and safe condition and repair. The Improvements and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of the Personal Property, minor changes to the fixtures thereon intended to improve the Property and rights granted to tenants at the Property pursuant to their leases) or the character or use of the Property changed without the consent of Lender which consent may be conditioned upon Lender's review (at Borrower's cost and expense) and commercially reasonable approval of plans and specifications for such alterations. Borrower shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any casualty, or become damaged, worn or dilapidated or which may be affected by any proceeding of the character referred to in Section 3.6 hereof and shall complete and pay for any structure at any time in the process of construction or repair on the Land. Borrower shall not initiate, join in, acquiesce in, or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the

uses which may be made of the Property or any part thereof. Notwithstanding the foregoing and subject to the terms of the Credit Agreement, Borrower may, with Lender's prior consent, which consent shall be exercised on a commercially reasonable basis, take steps to convert a portion or portions of the Property to a condominium form of ownership in compliance with all Applicable Laws (as hereafter defined). If under applicable zoning provisions the use of all or any portion of the Property is or shall become a non-conforming use, Borrower will not cause or permit the nonconforming use to be discontinued or abandoned without the express written consent of Lender.

(b) Borrower shall expend certain sums on tenant improvements, leasing commissions improvements and capital work at the Property pursuant to, and as more particularly described in Section 4.1 of the Credit Agreement

Section 3.9 WASTE. Borrower shall not commit or suffer any material waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that could reasonably be expected to invalidate or give cause for cancellation of any Policy, or do or permit to be done thereon anything that impairs the value of the Property or the security of this Security Instrument. Borrower will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

Section 3.10 COMPLIANCE WITH LAWS.

(a) Borrower shall comply with all existing and future federal, state and local laws, orders, ordinances, governmental rules and regulations or court orders affecting the Property, or the use thereof including, but not limited to, the Americans with Disabilities Act ("ADA") (collectively, the "Applicable Laws"). Borrower shall continue to apply for and do all things necessary to cause the Certificate of Occupancy for the Property to be extended or renewed, as the case may be, and shall do all things reasonably necessary to have a permanent Certificate of Occupancy issued for the Property.

(b) If Lender reasonably believes there is a specific violation of an Applicable Law or Laws, Borrower shall from time to time, upon Lender's request, provide Lender with evidence reasonably satisfactory to Lender that the Property, with respect to such matter, complies with all Applicable Laws or is exempt from compliance with Applicable Laws.

(c) Lender's approval of the plans, specifications, or working drawings for alterations of the Property shall create no responsibility or liability on behalf of Lender for their completeness, design, sufficiency or their compliance with Applicable Laws. The foregoing shall apply to tenant improvements constructed by Borrower or by any of its tenants. Lender may condition any such approval upon receipt of a certificate of compliance with

1220

Applicable Laws from an independent architect, engineer, or other person reasonably acceptable to Lender.

(d) Borrower shall give prompt notice to Lender of the receipt by Borrower of any written notice of a violation of any Applicable Laws and of the commencement of any proceedings or investigations which relate to compliance with Applicable Laws.

(e) Borrower will take commercially reasonable measures to prevent and will not engage in any illegal activities at the Property.

Section 3.11 BOOKS AND RECORDS.

(a) Borrower shall keep adequate books and records of account on a cash basis, and shall furnish to Lender the financial statements and reports as required pursuant to this Security Instrument and the Credit Agreement. Borrower shall furnish copies of Borrower's and Donald J. Trump's (as Guarantor and Indemnitor) federal income tax returns within thirty (30) days of the date such returns are filed and Borrower shall furnish to Lender:

(i) for the first quarter after the date hereof, an operating statement of the Property and, after the first quarterly submittal, comparative quarterly operating statements of the Property on an accrual basis for such quarter, prepared and certified by Borrower in the form required by Lender, detailing the revenues, the expenses incurred and the net operating income before and after debt service (principal and interest), the Property balance sheet and a schedule of major capital improvements for that quarter and containing appropriate year to date information, and containing a comparison for such quarter with the annual budget delivered pursuant to Subsection 3.11(a)(v), within thirty (30) days after the end of each fiscal quarter;

(ii) monthly certified rent rolls (or updates to previous rent rolls) signed and dated by Borrower, detailing the names of all tenants of the Improvements, the portion of Improvements occupied by each tenant, the base rent and any other charges payable under each Lease and the term of each Lease, including the expiration date, and any other information as is reasonably required by Lender, within thirty (30) days after the end of each fiscal quarter;

(iii) an annual operating statement of the Property detailing the total revenues and total expenses incurred, total cost of all capital improvements, total debt service and total cash flow, and containing a comparison for such period with the annual budget delivered pursuant to Subsection 3.11(a)(v), to be prepared and certified by Borrower in the

form reasonably required by Lender, and, if required by Lender, an annual operating statement including but not limited to a balance sheet, profit and loss statement of Borrower, and statement of member accounts prepared and audited by an independent certified public accountant acceptable to Lender, within ninety (90) days after the close of each fiscal year of Borrower;

(iv) an annual financial statement (prepared on a compilation basis) of Borrower in the form previously submitted to Lender, prepared and certified by the Borrower within ninety (90) days after the close of each fiscal year of Borrower, together with tax returns of Donald J. Trump as required pursuant to Section 3.11(a), above;

(v) an annual operating budget presented on a monthly basis consistent with the quarterly and annual operating statements described above for the Property, including cash flow projections for the upcoming year, and all proposed capital replacements and improvements at least fifteen (15) days prior to the start of each calendar year; and

(vi) copies of Borrower's federal income tax returns within thirty (30) days of the date such returns are filed.

(b) Borrower shall furnish Lender with such other additional financial or management information with respect to the Property and Borrower as may, from time to time, be reasonably required by Lender in form and substance satisfactory to Lender.

(c) Upon reasonable request from Lender, Borrower shall furnish to Lender: a property management report for the Property, showing the number of inquiries made and/or rental applications received from tenants or prospective tenants and deposits received from tenants, in reasonable detail and certified by Borrower (or an officer, member, general partner or principal of Borrower if Borrower is not an individual) under penalty of perjury to be true and complete, but no more frequently than quarterly.

(d) At reasonable times and upon reasonable prior notice to Borrower, Borrower shall furnish, and shall cause, its affiliates, to furnish to Lender and its agents convenient facilities for the examination and audit of any such books and records referred to in this Section 3.11.

Section 3.12 PAYMENT FOR LABOR AND MATERIALS. Borrower will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials incurred in connection with the Property and never permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in

RE2663 PG 222

respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof, except for the Permitted Exceptions (defined below). Notwithstanding the foregoing, Borrower may, absent an Event of Default hereunder which is continuing, challenge or contest in good faith any such matter by proper proceedings, diligently pursued, with such matter bonded over to Lender's satisfaction should Lender reasonably believe that, notwithstanding such challenge or contest, enforcement of such matter by the holder of such claims is being pursued.

Section 3.13 MANAGEMENT AGREEMENTS.

(a) The Improvements are to be operated under the terms and conditions of a property management agreement (the "Management Agreement") between Borrower and a property manager (the "Manager"), with the form of the Management Agreement acceptable, and the identity of the Manager reasonably acceptable to Lender and where required, to the applicable rating agency should Securities be issued or contemplated to be issued by Lender, which Management Agreement shall be in accordance with industry standards for properties of similar character to the Property and shall provide for fees to the Manager (the "Permitted Management Fee") in an amount not to exceed 1% of gross rent collected with respect to the Property. Lender acknowledges that the Agreement entitled "Management, Sales and Leasing Agreement" dated July 31, 1998 by and between Borrower and Trump 767 Management LLC constitutes, from the Lender's perspective, an acceptable Property Management Agreement. Under no circumstances will Manager be permitted to lien the Property with respect to unpaid management fees. Borrower shall (i) diligently perform and observe in all material respects the terms, covenants and conditions of the Management Agreement on the part of Borrower to be performed and observed to the end that all things shall be done which are necessary to keep unimpaired the rights of Borrower under the Management Agreement and (ii) promptly notify Lender of the giving of any notice to Borrower of any default by Borrower in the performance or observance of any of the terms, covenants or conditions of the Management Agreement on the part of Borrower to be performed and observed and deliver to Lender a true copy of each such notice. Borrower shall not surrender the Management Agreement, consent to the assignment by the Manager of its interest under the Management Agreement, or terminate or cancel the Management Agreement or modify, change, supplement, alter or amend the Management Agreement, in any respect, either orally or in writing, without Lender's prior written consent, not to be unreasonably denied, and Borrower hereby assigns to Lender as further security for the payment of the Debt and for the performance and observance of the terms, covenants and conditions of this Security Instrument, all the rights, privileges and prerogatives of Borrower to surrender the Management Agreement or to terminate, cancel, modify, change, supplement, alter or amend the Management Agreement in any respect, and any such surrender of the Management Agreement or termination, cancellation, modification, change, supplement, alteration or amendment of the Management Agreement without the prior consent of Lender shall be void and of no force and effect. If Borrower shall default in the performance or observance of any material term, covenant or condition of the Management Agreement on the part of Borrower to be performed or observed, then, without limiting the generality of the other provisions of this

Security Instrument, and without waiving or releasing Borrower from any of its obligations hereunder, Lender shall have the right, but shall be under no obligation (i) to pay any sums and to perform any act or take any action as may be appropriate to cause all the terms, covenants and conditions of the Management Agreement on the part of Borrower to be performed or observed to be promptly performed or observed on behalf of Borrower, to the end that the rights of Borrower in, to and under the Management Agreement shall be kept unimpaired and free from default, or (ii) to terminate the Management Agreement without incurring any obligation of Lender to pay a fee, any deferred fees, penalty or any prior obligation of Borrower to Manager with respect to management of the Property. Upon a default by Borrower hereunder, under any of the Other Security Documents or the Management Agreement, Lender and any person designated by Lender shall have, and are hereby granted, the right to enter upon the Property at any time and from time to time for the purpose of taking any such action. If the Manager under the Management Agreement shall deliver to Lender a copy of any notice sent to Borrower of default under the Management Agreement, such notice shall constitute full protection to Lender for any action taken or omitted to be taken by Lender in good faith, in reliance thereon, absent Lender's gross negligence or willful misconduct. Borrower shall, from time to time, use reasonable efforts to obtain from the Manager under the Management Agreement such certificates of subordination with respect to this Agreement and certificate of estoppel with respect to compliance by Borrower with the terms of the Management Agreement as may be requested by Lender. Borrower shall timely exercise each individual option, if any, to extend or renew the term of the Management Agreement, and Borrower hereby expressly authorizes and appoints Lender its attorney-in-fact to exercise any such option in the name of and upon behalf of Borrower, which power of attorney shall be irrevocable and shall be deemed to be coupled with an interest. Any sums expended by Lender pursuant to this Section 3.13 shall bear interest at the Default Rate (as defined in the Note) from the date such cost is incurred to the date of payment to Lender, shall be deemed to constitute a portion of the Debt, shall be secured by the lien of this Security Instrument and the Other Security Documents and shall be immediately due and payable upon demand by Lender therefor. The Management Agreement and the fees payable to the Manager thereunder shall be subordinate to the Loan secured by this Security Instrument and the payment of debt service obligations pursuant to the Note and the Management Agreement shall be terminable without penalty or premium upon written notice (i) in the event of a sale, transfer or foreclosure of the Property; (ii) in the event the Lender, either directly or through its representative assumes management control of the Property; (iii) for cause, including Manager's failure to comply with the terms of the Management Agreement; or (iv) if an Event of Default pursuant to the Note, this Security Instrument or any of the Other Security Documents has occurred and the Lender has required the Management Agreement to be terminated.

(b) Without limitation of the foregoing, if (i) the Manager shall become insolvent, or (ii) an Event of Default hereunder shall occur and be continuing, then Lender, at its option, may require Borrower to engage a bona-fide, independent third party management agent approved by Lender in its sole discretion (the "New Manager") to manage the Property. The New Manager shall be engaged by Borrower pursuant to a written agreement that complies with the terms hereof and, is otherwise satisfactory to Lender in all respects.

20038031:8 20

Section 3.14 PERFORMANCE OF OTHER AGREEMENTS. Borrower shall observe and perform each and every term to be observed or performed by Borrower pursuant to the terms of any agreement or recorded instrument affecting or pertaining to the Property (except for those where failure to comply will not result in a materially adverse change to Borrower, Property or Lender's interests therein or herein), or given by Borrower to Lender for the purpose of further securing an obligation secured hereby and any amendments, modifications or changes thereto, subject to applicable cure periods thereunder.

Section 3.15 CHANGE OF NAME, IDENTITY OR STRUCTURE. Borrower will not change Borrower's name, identity (including its trade name or names) or, if not an individual, Borrower's corporate, partnership, limited liability company or other structure without notifying Lender of such change in writing at least thirty (30) days prior to the effective date of such change and, in the case of a change in Borrower's structure, without first obtaining the prior written consent of Lender. Borrower will execute and deliver to Lender, prior to or contemporaneously with the effective date of any such change, any financing statement or financing statement change required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Borrower shall execute a certificate in form satisfactory to Lender listing the trade names under which Borrower intends to operate the Property, and representing and warranting that Borrower does business under no other trade name with respect to the Property.

Section 3.16 EXISTENCE. Borrower will continuously maintain its existence and its rights to do business in the state where the Property is located together with its franchises and trade names.

Article 4 - SPECIAL COVENANTS

Borrower covenants and agrees that:

Section 4.1 PROPERTY USE. The Property shall be used only in accordance with legal requirements as a first-class commercial office building with ancillary retail space and in accordance with any use contemplated by a condominium conversion plan in accordance with the Credit Agreement.

Section 4.2 INTENTIONALLY OMITTED

Section 4.3 SINGLE PURPOSE ENTITY. It has not and shall not, for itself and its Managing Member:

(a) engage in any business or activity other than the ownership, operation and maintenance of the Property, and activities incidental thereto;

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(b) acquire or own any material assets other than (i) the Property, and (ii) such incidental Personal Property as may be necessary for the operation of the Property;

(c) merge into or consolidate with any person or entity or dissolve, terminate or liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure, without in each case Lender's consent, except as otherwise provided herein or in the Credit Agreement;

(d) fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its organization or formation, or without the prior written consent of Lender, amend, modify, terminate or fail to comply with the provisions of Borrower's Limited Liability Company Agreement, Articles or Certificate of Incorporation or Organization or similar organizational documents, as the case may be, as same may be further amended or supplemented, if such amendment, modification, termination or failure to comply would adversely affect the ability of Borrower to perform its obligations and comply with the covenants, representations and warranties hereunder, under the Note or under the Other Security Documents;

(e) own any subsidiary or make any investment in, any person or entity without the consent of Lender;

(f) commingle its assets with the assets of any of its general partners, affiliates, principals or of any other person or entity;

(g) incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the Debt and the First Loan, except in the ordinary course of its business of owning and operating the Property, provided that such debt is paid when due;

(h) become insolvent and fail to pay its debts and liabilities from its assets as the same shall become due;

(i) fail to maintain its records, books of account and bank accounts separate and apart from those of the members, general partners, principals and affiliates of Borrower, the affiliates of a member or general partner of Borrower, and any other person or entity;

(j) enter into any contract or agreement with any member, general partner, principal or affiliate of Borrower, Guarantor or Indemnitor or any member, general partner, principal or affiliate thereof, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties, other than any member, general partner, principal or affiliate of Borrower, Guarantor or Indemnitor, or any member, general partner, principal or affiliate thereof;

- Borrower;
- (k) seek the dissolution or winding up in whole, or in part, of
 - (l) maintain its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of any member, general partner, principal or affiliate of Borrower, or any member, general partner, principal or affiliate thereof or any other person;
 - (m) hold itself out to be responsible for the debts of another person;
 - (n) make any loans or advances to any third party, including any member, general partner, principal or affiliate of Borrower, or any member, general partner, principal or affiliate thereof;
 - (o) fail to file its own tax returns;
 - (p) fails to have at least one independent director or a manager who fits the definition of a single purpose entity as set forth herein;
 - (q) fail either to hold itself out to the public as a legal entity separate and distinct from any other entity or person or to conduct its business solely in its own name in order not (i) to mislead others as to the identity with which such other party is transacting business, or (ii) to suggest that Borrower is responsible for the debts of any third party (including any member, general partner, principal or affiliate of Borrower, or any member, general partner, principal or affiliate thereof);
 - (r) fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations; or
 - (s) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any applicable insolvency, bankruptcy, liquidation or reorganization statute, or make an assignment for the benefit of creditors.

Section 4.4 RESTORATION. The following provisions shall apply in connection with the Restoration of the Property:

- (a) If the Net Proceeds (hereinafter defined) shall be less than \$3,500,000.00 and the costs of completing the Restoration shall be less than \$3,500,000.00 (a "Minor Event"), then the Net Proceeds will be paid by Lender to Borrower upon receipt, provided that all of the conditions set forth in Subsection 4.4(b)(i) are met and Borrower delivers to Lender a written undertaking to expeditiously commence and to satisfactorily complete with due diligence the Restoration in accordance with the terms of this Security Instrument.

(b) If the Net Proceeds are equal to or greater than \$3,500,000.00 or the costs of completing the Restoration is equal to or greater than \$3,500,000.00 (each a "Major Event"), Lender shall make the Net Proceeds available for the Restoration in accordance with the provisions of this Subsection 4.4(b) provided such event does not occur during the last 6 months of the term of the Loan. The term "Net Proceeds" for purposes of this Section 4.4 shall mean: (i) the net amount of all insurance proceeds received by Lender pursuant to Subsections 3.3(a)(i), (iv) and (vi) of this Security Instrument as a result of such damage or destruction, after deduction of the reasonable costs and expenses of Lender (including, but not limited to, reasonable counsel fees), if any, in collecting same ("Insurance Proceeds"), or (ii) the net amount of all awards and payments received by Lender with respect to a taking referenced in Section 3.6 of this Security Instrument, after deduction of the reasonable costs and expenses of Lender and Borrower (including, but not limited to, reasonable counsel fees), if any, in collecting same ("Condemnation Proceeds"), whichever the case may be.

(i) The Net Proceeds shall be made available to Borrower for the Restoration provided that each of the following conditions are met:

(A) no Event of Default shall have occurred and be continuing under the Note, this Security Instrument or any of the Other Security Documents;

(B) the cost to restore does not exceed twenty five percent (25%) of the aggregate outstanding principal balance of the First Loan and the Second Loan;

(C) Borrower shall commence the Restoration process as soon as reasonably practicable (but in no event later than thirty (30) days after such damage or destruction or taking, whichever the case may be, occurs) and shall diligently pursue the same to satisfactory completion;

(D) Lender shall be satisfied that any operating deficits, including all scheduled payments of principal and interest under the Note which will be incurred with respect to the Property as a result of the occurrence of any such fire or other casualty or taking, whichever the case may be, will be covered out of (1) the Net Proceeds, (2) the insurance coverage referred to in Subsection 3.3(a)(iii), if applicable, or (3) by other funds of Borrower;

(E) Lender shall be satisfied that, upon the completion of the Restoration, the Debt Service Coverage Ratio (as defined in the Credit Agreement herein) shall be at least the same as existed prior to such damage, destruction or taking, as determined by

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Lender in its sole and absolute discretion with the Reserve Account continued, or to be re-established after completion of such Restoration, if necessary, in the opinion of Lender to reach such Debt Service Coverage Ratio;

(F) Lender shall be satisfied that the Restoration will be substantially completed on or before the earliest to occur of (1) twelve (12) months prior to the Maturity Date (as defined in the Note), (2) twelve (12) months after the occurrence of such fire or other casualty or taking, whichever the case may be, (3) the earliest date, if any, required for such completion under the Leases which are required in accordance with the provisions of this Subsection 4.4(b) to remain in effect subsequent to the occurrence of such fire or other casualty or taking, whichever the case may be, and the completion of the Restoration, or (4) such time as may be required under applicable zoning law, ordinance, rule or regulation in order to repair and restore the Property to at least the condition it was in immediately prior to such fire or other casualty or to as nearly as possible the condition it was in immediately prior to such taking, as applicable;

(G) the Property and the use thereof after the Restoration will be in compliance with and permitted under all applicable zoning laws, ordinances, rules and regulations;

(H) the Restoration shall be done and completed by Borrower in an expeditious and diligent fashion and in compliance with all applicable governmental laws, rules and regulations (including, without limitation, all applicable Environmental Laws) defined below; and

(I) such fire or other casualty or taking, as applicable, does not result in the permanent loss of access to the Property or the Improvements.

(ii) The Net Proceeds shall be held by Lender and, until disbursed in accordance with the provisions of this Subsection 4.4(b), shall constitute additional security for the Obligations. The Net Proceeds shall be disbursed by Lender to, or as directed by, Borrower from time to time during the course of the Restoration, upon receipt of evidence reasonably satisfactory to Lender that (A) all materials installed and work and labor performed (except to the extent that they are to be paid for out of the requested disbursement) in connection with the Restoration have been paid

for in full, and (B) there exist no notices of pendency, stop orders, mechanic's or materialman's liens or notices of intention to file same, or any other liens or encumbrances of any nature whatsoever on the Property arising out of the Restoration which have not either been fully bonded to the satisfaction of Lender and discharged of record or in the alternative fully insured to the satisfaction of Lender by the title company-insuring the lien of this Security Instrument.

(iii) All plans and specifications required in connection with the Restoration shall be subject to prior review and acceptance in all respects by Lender not to be unreasonably denied, and by an independent consulting engineer selected by Lender credentialed to the reasonable satisfaction of Borrower (the "Casualty Consultant"). The identity of the contractors, subcontractors and materialmen engaged in the Restoration, as well as the contracts under which they have been engaged, shall be subject to prior review and acceptance by Lender and the Casualty Consultant. Lender shall have the use of plans and specifications and all permits, licenses and approvals required or obtained in connection with the Restoration and all costs and expenses incurred by Lender in connection with making the Net Proceeds available for the Restoration including, without limitation, reasonable counsel fees and disbursements and the Casualty Consultant's fees, if any, shall be paid by Borrower.

(iv) In no event shall Lender be obligated to make disbursements of the Net Proceeds in excess of an amount equal to the costs actually incurred from time to time for work in place as part of the Restoration, as certified by the Casualty Consultant, minus the Casualty Retainage. The term "Casualty Retainage" as used in this Subsection 4.4(b) shall mean an amount equal to 5% of the costs actually incurred for work in place as part of the Restoration, including architects costs, filing fees and other soft costs as certified by the Casualty Consultant, until the Restoration has been completed. The Casualty Retainage shall in no event, and notwithstanding anything to the contrary set forth above in this Subsection 4.4(b), be less than the amount actually held back by Borrower from contractors, subcontractors and materialmen engaged in the Restoration. The Casualty Retainage shall not be released until the Casualty Consultant certifies to Lender that the Restoration has been completed in accordance with the provisions of this Subsection 4.4(b) and that all approvals necessary for the re-occupancy and use of the Property have been obtained from all appropriate governmental and quasi-governmental authorities, and Lender receives evidence satisfactory to Lender that the costs of the Restoration have been paid in full or will be paid in full out of the Casualty Retainage, provided, however, that Lender

will release the portion of the Casualty Retainage being held with respect to any contractor, subcontractor or materialman engaged in the Restoration as of the date upon which the Casualty Consultant certifies to Lender that the contractor, subcontractor or materialman has satisfactorily completed all work and has supplied all materials in accordance with the provisions of the contractor's, subcontractor's or materialman's contract, and the contractor, subcontractor or materialman delivers the lien waivers and evidence of payment in full of all sums due to the contractor, subcontractor or materialman as may be reasonably requested by Lender or by the title company insuring the lien of this Security Instrument. If required by Lender in its reasonable discretion, the release of any such portion of the Casualty Retainage shall be approved by the surety company, if any, which has issued a payment or performance bond with respect to the contractor, subcontractor or materialman.

(v) Lender shall not be obligated to make disbursements of the Net Proceeds more frequently than once every calendar month.

(vi) If at any time the Net Proceeds with respect to a Major Event or the undisbursed balance thereof shall not, in the opinion of Lender, be sufficient to pay in full the balance of the costs which are estimated by the Casualty Consultant to be incurred in connection with the completion of the Restoration, Borrower shall deposit the deficiency (the "Net Proceeds Deficiency") with Lender before any further disbursement of the Net Proceeds shall be made. The Net Proceeds Deficiency deposited with Lender shall be held by Lender and shall be disbursed for costs actually incurred in connection with the Restoration on the same conditions applicable to the disbursement of the Net Proceeds, and until so disbursed pursuant to this Subsection 4.4(b) shall constitute additional security for the Obligations.

(vii) The excess, if any, of the Net Proceeds and the remaining balance, if any, of the Net Proceeds Deficiency deposited with Lender after the Casualty Consultant certifies to Lender that the Restoration has been completed in accordance with the provisions of this Subsection 4.4(b), and the receipt by Lender of evidence reasonably satisfactory to Lender that all costs incurred in connection with the Restoration have been paid in full, shall be remitted by Lender to Borrower, provided no Event of Default shall have occurred and shall be continuing under the Note, this Security Instrument or any of the Other Security Documents.

(c) All Net Proceeds with respect to a Major Event not required (i) to be made available for the Restoration or (ii) to be returned to Borrower as excess Net Proceeds

pursuant to Subsection 4.4(b)(vii) may be retained and applied by Lender toward the payment of the Debt whether or not then due and payable in such order, priority and proportions as Lender in its discretion shall deem proper or, at the discretion of Lender, the same may be paid, either in whole or in part, to Borrower for such purposes as Lender shall designate, in its discretion. If Lender shall receive and retain Net Proceeds with respect to a Major Event, the lien of this Security Instrument shall be reduced only by the amount thereof received and retained by Lender and actually applied by Lender in reduction of the Debt.

Section 4.5 LOCK BOX ACCOUNT. On the date hereof, Borrower has entered into a Lockbox, Pledge and Security Agreement with Lender, Secore Financial Corporation and Hatfield Philips, Inc. (the "Lockbox Agreement"). Borrower has instructed each tenant under any Lease to make all payments under such Lease, (y) if by wire transfer, to the Lock-Box Account and (z) if by check, money order or similar manner of payment, by mail to a designated lock-box within the exclusive control of the holder of the First Loan (as hereinafter defined) and Lender, through its servicer, as provided in the Lockbox Agreement. Amounts on deposit in the accounts established pursuant to the Lockbox Agreement shall be applied as set forth in the Lockbox Agreement.

Article 5 - REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Lender that:

Section 5.1 WARRANTY OF TITLE. Borrower has good title to the Property and has the right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the same and that Borrower possesses a fee simple absolute estate in the Land and the Improvements free and clear of all liens, encumbrances and charges whatsoever except for those exceptions shown in the title insurance policy insuring the lien of this Security Instrument (the "Permitted Exceptions"). Borrower shall forever warrant, defend and preserve the title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to Lender against the claims of all persons whomsoever.

Section 5.2 AUTHORITY. Borrower (and the undersigned representative of Borrower) has full power, authority and legal right to execute this Security Instrument, and to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the Property pursuant to the terms hereof and to keep and observe all of the terms of this Security Instrument on Borrower's part to be performed.

Section 5.3 LEGAL STATUS AND AUTHORITY. Borrower (a) is duly organized, validly existing and in good standing under the laws of its state of organization or incorporation; (b) is duly qualified to transact business and is in good standing in the State where the Property is located; and (c) has all necessary approvals, governmental and otherwise, and full power and authority to own the Property and carry on its business as now conducted and proposed to be conducted. Borrower now has and shall continue to have the full right, power and authority to

operate and lease the Property, to encumber the Property as provided herein and to perform all of the other obligations to be performed by Borrower under the Note, this Security Instrument and the Other Security Documents.

Section 5.4 VALIDITY OF DOCUMENTS.

(a) The execution, delivery and performance of the Note, this Security Instrument and the Other Security Documents (i) are within the corporate/partnership power of Borrower; (ii) have been authorized by all requisite corporate/partnership action; (iii) have received all necessary approvals and consents, corporate, governmental or otherwise; (iv) will not violate, conflict with, result in a breach of or constitute (with notice or lapse of time, or both) a default under any provision of law, any order or judgment of any court or governmental authority, the articles of incorporation, by-laws, partnership or trust agreement, or other governing instrument of Borrower, or any indenture, agreement or other instrument to which Borrower is a party or by which it or any of its assets or the Property is or may be bound or affected; (v) will not result in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of its assets, except the lien and security interest created hereby; and (vi) will not require any authorization or license from, or any filing with, any governmental or other body (except for the recordation of this instrument in appropriate land records in the State where the Property is located and except for Uniform Commercial Code filings relating to the security interest created hereby); and

(b) the Note, this Security Instrument and the Other Security Documents constitute the legal, valid and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms subject, in each case, to applicable bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally.

Section 5.5 LITIGATION. There is no action, suit or proceeding, judicial, administrative or otherwise (including any condemnation or similar proceeding), pending or, to the best of Borrower's knowledge, threatened or contemplated against, or affecting, Borrower, Guarantor or Indemnitor or the Property that has not been disclosed to Lender or is not adequately covered by insurance which could reasonably be expected to cause a material adverse change to the Borrower, the Guarantor, the Indemnitor or the Property.

Section 5.6 STATUS OF PROPERTY.

(a) Either (i) no portion of the Improvements is located in an area identified by the Secretary of Housing and Urban Development or any successor thereto as an area having special flood hazards pursuant to the National Flood Insurance Act of 1968 or the Flood Disaster Protection Act of 1973, as amended, or any successor law, or (ii) if located within any such area, Borrower has obtained and will maintain the insurance prescribed in Section 3.3 hereof.

MSL 2663701233

(b) To Borrower's knowledge, Borrower has obtained all materially necessary certificates, licenses and other approvals, governmental and otherwise, necessary for the operation of the Property and the conduct of its business and all required zoning, building code, land use, environmental and other similar permits or approvals, all of which are in full force and effect in all material respects as of the date hereof.

(c) The Property and the present and contemplated use and occupancy thereof are in material compliance with all Applicable Laws, including, without limitation, zoning ordinances, building codes, land use and environmental laws, laws relating to the disabled (including, but not limited to, the ADA) and other similar laws.

(d) The Property is served by all utilities required for the current or contemplated use thereof. All utility service is provided by public utilities and the Property has accepted or is equipped to accept such utility service.

(e) All public roads and streets necessary for service of and access to the Property for the current or contemplated use thereof have been completed, are serviceable and all-weather and are physically and legally open for use by the public.

(f) The Property is served by public water and sewer systems.

(g) The Property is free from damage caused by fire or other casualty.

(h) All costs and expenses of any and all labor, materials, supplies and equipment used in the construction of the Improvements at the behest of Borrower have been paid in full to the extent due and payable.

(i) Borrower has paid in full for, and is the owner of, all furnishings, fixtures and equipment (other than tenants' property) used in connection with the operation of the Property, free and clear of any and all security interests, liens or encumbrances, except the lien and security interest created hereby.

(j) All liquid and solid waste disposal, septic and sewer systems located on the Property are in a good and safe condition and repair and in material compliance with all Applicable Laws.

(k) All Improvements lie within the boundary of the Land.

Section 5.7 NO FOREIGN PERSON. Borrower is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended and the related Treasury Department regulations, including temporary regulations.

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Section 5.8 SEPARATE TAX LOT. The Property is assessed for real estate tax purposes as one or more wholly independent tax lot or lots, separate from any adjoining land or improvements not constituting a part of such lot or lots, and no other land or improvements is assessed and taxed together with the Property or any portion thereof.

Section 5.9 ERISA COMPLIANCE.

(a) As of the date hereof and throughout the term of this Security Instrument, (i) Borrower is not and will not be an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, and (ii) the assets of Borrower do not and will not constitute "plan assets" of one or more such plans for purposes of Title I of ERISA; and

(b) As of the date hereof and throughout the term of this Security Instrument (i) Borrower is not and will not be a "governmental plan" within the meaning of Section 3(32) of ERISA and (ii) transactions by or with Borrower are not and will not be subject to state statutes applicable to Borrower regulating investments of and fiduciary obligations with respect to governmental plans.

Section 5.10 LEASES. Borrower represents and warrants to Lender that (a) there are no Leases affecting the Property or any part thereof presently in effect other than those Leases described in the certified rent roll delivered to Lender on the date hereof and no person or entity has any possessory interest in, or right to occupy the Property, except pursuant to a Lease indicated on such rent roll, (b) each of said Leases is in all material respects a valid and existing lease of the property therein described and purported to be demised thereby for the term therein set forth and is in full force and effect on the date hereof in accordance with its terms and, except as may otherwise be indicated on said rent roll, has not been modified or amended in any material respect from the date of its execution to the date hereof, (c) Borrower has duly and punctually performed all of its covenants and obligations under each of said Leases in all material respects, (d) neither Borrower nor to the actual knowledge of Borrower, any of the tenants under said Leases is in default in any material respect in the performance or observance of any of their respective material covenants or obligations under said Leases, (e) to Borrower's knowledge, there are no rights of off-set, abatement or reduction of Rent presently accruing to any tenant under any of said Leases except as set forth in the Leases and as shown in the rent roll delivered to Lender contemporaneously herewith, (f) none of said Leases contains an option to purchase all or any part of the Property, (g) Borrower has not sold, assigned, transferred, mortgaged, pledged or otherwise encumbered any of the Rents which may be or become due, or to which Borrower may now or hereafter become entitled, arising or issuing out of any of said Leases or from or out of the Premises or any part thereof except as set forth in the Loan Documents, (h) no Rents from any of said Leases becoming due more than one (1) month subsequent to the date hereof have been collected, nor has payment of the same been waived, released, discounted or otherwise discharged or compromised except any "free rent" periods explicitly set forth in such Leases, and (i) all of said Leases are by their terms subject and subordinate to this Security Instrument subject, in certain cases, to Lender's compliance with

REC-2563701235

non-disturbance provisions in such Leases. The Borrower's representations and warranties made pursuant to this Section 5.10 are qualified, to the extent applicable, by the content of any tenant estoppel certificate delivered to Lender on or prior to the date hereof and Section 8.14 of the Credit Agreement (as defined herein).

Section 5.11 **FINANCIAL CONDITION.** Borrower (a) is solvent, and no bankruptcy, reorganization, insolvency or similar proceeding with respect to Borrower has been initiated, and (b) has received reasonably equivalent value for the granting of this Security Instrument.

Section 5.12 **BUSINESS PURPOSES.** The loan evidenced by the Note is solely for the business purpose of Borrower, and is not for personal, family, household, or agricultural purposes.

Section 5.13 **TAXES.** Borrower and, to the best of Borrower's knowledge, Guarantor and Indemnitor, has filed or has validly extended all federal, state, county, municipal, and city income and other tax returns required to have been filed by such party and has paid all taxes and related liabilities which have become due pursuant to such returns or pursuant to any assessments received by such party. Borrower does not know of any basis for any additional assessment in respect of any such taxes and related liabilities for prior years.

Section 5.14 **MAILING ADDRESS.** Borrower's mailing address, as set forth in the opening paragraph hereof or as changed in accordance with the provisions hereof, is true and correct.

Section 5.15 **NO CHANGE IN FACTS OR CIRCUMSTANCES.** Each of the representations and warranties made by Borrower in connection with the Loan or in satisfaction of the conditions precedent thereto, are, as of the date hereof, accurate, complete and correct in all material respects. There has been no material adverse change in any condition, fact, circumstance or event that would make any such information inaccurate, incomplete or otherwise misleading.

Section 5.16 **DISCLOSURE.** Borrower has disclosed to Lender all material facts with respect to Borrower and the Property and has not failed to disclose any material fact that would cause any representation or warranty made herein to be materially misleading.

Section 5.17 **THIRD PARTY REPRESENTATIONS.** Each of the representations and the warranties made by or relating to the Guarantor and Indemnitor herein or in any Other Security Document(s) is true and correct in all material respects.

Section 5.18 **ILLEGAL ACTIVITY.** No portion of the Property has been or will be purchased by Borrower with proceeds of any illegal activity.

Article 6 - OBLIGATIONS AND RELIANCES

Section 6.1 RELATIONSHIP OF BORROWER AND LENDER. The relationship between Borrower and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Borrower, and no term or condition of any of the Note, this Security Instrument and the Other Security Documents shall be construed so as to deem the relationship between Borrower and Lender to be other than that of debtor and creditor.

Section 6.2 NO RELIANCE ON LENDER. The members, general partners, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

Section 6.3 NO LENDER OBLIGATIONS.

(a) Notwithstanding the provisions of Subsections 1.1(f) and (l) or Section 1.2, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Security Instrument, the Note or the Other Security Documents, including without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

Section 6.4 RELIANCE. Borrower recognizes and acknowledges that in accepting the Note, this Security Instrument and the Other Security Documents, Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article 5 without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof; that the warranties and representations are a material inducement to Lender in accepting the Note, this Security Instrument and the Other Security Documents; and that Lender would not be willing to make the loan evidenced by the Note, this Security Instrument and the Other Security Documents and accept this Security Instrument in the absence of the warranties and representations as set forth in Article 5.

Article 7 - FURTHER ASSURANCES

Section 7.1 RECORDING OF SECURITY INSTRUMENT, ETC. Borrower forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the Other Security Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Security Instrument, the Other Security Documents, any note or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, any mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

Section 7.2 FURTHER ACTS, ETC. Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, deem reasonably necessary in order to assure, convey, assign, transfer and confirm unto Lender the property and rights hereby mortgaged, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or recording this Security Instrument, or for complying with all Applicable Laws. Borrower, on demand, will execute and deliver and, if Lender reasonably deems an urgency to exist (or otherwise if Borrower fails to so execute within ten (10) Business Days after written request), hereby authorizes Lender to execute in the name of Borrower or without the signature of Borrower to the extent Lender may lawfully do so, one or more financing statements, chattel mortgages or other instruments, to evidence more effectively the security interest of Lender in the Property. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity in connection with this Security Instrument, including without limitation such rights and remedies available to Lender pursuant to this Section 7.2.

Section 7.3 CHANGES IN TAX, DEBT, CREDIT AND DOCUMENTARY STAMP

LAW.

(a) If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation and which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury, then Lender shall have the option by written notice of not less than ninety (90) days to declare the Debt immediately due and payable.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, by written notice of not less than ninety (90) days, to declare the Debt immediately due and payable.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this Security Instrument, or any of the Other Security Documents or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

Section 7.4 ESTOPPEL CERTIFICATES.

(a) After written request by Lender, Borrower, within ten (10) Business Days, shall furnish Lender or any proposed assignee with a statement, duly acknowledged and certified, setting forth (i) the amount of the original principal amount of the Note, (ii) the unpaid principal amount of the Note, (iii) the rate of interest of the Note, (iv) the terms of payment and maturity date of the Note, (v) the date installments of interest and/or principal were last paid, (vi) that, to the best of Borrower's knowledge except as provided in such statement, there are no defaults or events which with the passage of time or the giving of notice or both, would constitute an event of default under the Note or the Security Instrument, (vii) that the Note and this Security Instrument are valid, legal and binding obligations and have not been modified or if modified, giving particulars of such modification, (viii) whether any offsets or defenses exist against the obligations secured hereby and, if any are alleged to exist, a detailed description thereof, and (ix) as to any other matters reasonably requested by Lender and reasonably related to the Leases, the obligations secured hereby, the Property or this Security Instrument.

(b) Upon Lender's request, Borrower shall from time to time use all commercially reasonable efforts to request, and, when received to deliver to Lender, duly executed estoppel certificates from any one or more lessees as required by Lender attesting to such facts regarding the Lease as Lender may require, including but not limited to attestations that each Lease covered thereby is in full force and effect with no defaults thereunder on the part of any party, that none of the Rents have been paid more than one month in advance, and that the lessee claims no defense or offset against the full and timely performance of its obligations under the Lease.

(c) Upon any transfer or proposed transfer contemplated by Section 19.1 hereof, at Lender's request, Borrower and Indemnitor shall provide an estoppel certificate to the Investor (defined in Section 19.1) or any prospective Investor in such form, substance and detail as Lender, such Investor or prospective Investor may customarily require in similar circumstances.

Section 7.5 SPLITTING OF SECURITY INSTRUMENT. This Security Instrument and the Note shall, at any time until the same shall be fully paid and satisfied, at the sole election of Lender, be split or divided into two or more notes and two or more security instruments, each of which shall cover all or a portion of the Property to be more particularly described therein. To that end, Borrower, upon written request of Lender, shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered by the then owner of the Property, to Lender and/or its designee or designees substitute notes and security instruments in such principal amounts, aggregating not more than the then unpaid principal amount of this Security Instrument, and otherwise containing the same terms, provisions and clauses contained herein and in the Note, and such other documents and instruments as may be reasonably required by Lender. Notwithstanding the foregoing, no modification to the documents or instruments as a result of a split will alter the economics of the transaction, impose a material new obligation on Borrower or reduce a material right of Borrower. The costs associated with such Loan split or securitization shall be at Lender's sole cost and expense and Lender shall reimburse Borrower for its actual out-of-pocket costs paid to third parties reasonably incurred by Borrower in connection with the cooperation requested of Borrower pursuant to this section.

Section 7.6 REPLACEMENT DOCUMENTS. Upon receipt of an affidavit of an officer of Lender and an indemnification from Lender reasonably acceptable to Borrower as to the loss, theft, destruction or mutilation of the Note or any Other Security Document which is not of public record, upon surrender and cancellation of such Note or Other Security Document, Borrower will issue, in lieu thereof, a replacement Note or Other Security Document, dated the date of such lost, stolen, destroyed or mutilated Note or Other Security Document in the same principal amount thereof and otherwise of like tenor.

Article 8 - DUE ON SALE/ENCUMBRANCE

Section 8.1 LENDER RELIANCE. Borrower acknowledges that Lender has examined and relied on the experience of Borrower and its constituents in owning and operating properties such as the Property in agreeing to make the loan secured hereby, and will continue to rely on Borrower's and such constituents' control and management of the owner of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Borrower acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should Borrower default in the repayment of the Debt or the performance of the Other Obligations, Lender can recover the Debt by a sale of the Property.

Section 8.2 NO SALE/ENCUMBRANCE. Except (i) as permitted pursuant to Section 8.3 below and in Section 10.5 of the Credit Agreement, (ii) for the pledge and security interests given by members of Borrower's parent to the holder hereof, (iii) for any additional loan which may be made by the holder hereof to Borrower, and (iv) for a first priority mortgage loan in the amount of \$500,000,000.00 (the "First Loan") evidenced by a Consolidated Secured Note in the amount of \$500,000,000.00 of even date herewith ("First Note") and secured by a Mortgage, Consolidation, Modification and Security Agreement of even date herewith ("First Mortgage"), both executed by Borrower in favor of the holder thereof. Borrower agrees that Borrower shall not, without the prior written consent of Lender, sell, convey, mortgage, grant, bargain, encumber, pledge, assign, or otherwise transfer the Property or any part thereof or permit the Property or any part thereof or any interest therein to be sold, conveyed, mortgaged, granted, bargained, encumbered, pledged, assigned, or otherwise transferred.

Section 8.3 SALE/ENCUMBRANCE DEFINED. A sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer within the meaning of this Article 8 shall be deemed to include, but not limited to, (a) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments; (b) an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a space tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's right, title and interest in and to any Leases or any Rents; and (c) if Borrower, or any general partner or managing member of Borrower is a corporation, the voluntary or involuntary sale, conveyance, transfer or pledge of such corporation's stock (or the stock of any corporation directly or indirectly controlling such corporation by operation of law or otherwise) or the creation or issuance of new stock by which an aggregate of more than 10% of such corporation's stock shall be vested in a party or parties who are not now stockholders. Notwithstanding the foregoing, transfer by devise or descent or by operation of law upon the death of a member or stockholder of Borrower, of Guarantor or of Indemnitor or any general partner or managing member thereof shall not be deemed to be a sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer within the meaning of this Article 8. In addition, Borrower may transfer membership interests in the Borrower provided the Lender is satisfied in its commercially reasonable discretion that (i) as a result of such transfer The Trump

Organization, Inc. (or an affiliate of Donald J. Trump) and Consecro, Inc. (or its affiliate) jointly maintain, directly or indirectly, a majority interest in Borrower and jointly maintain control over all major decisions affecting the Borrower and the Property, with The Trump Organization, Inc. or an affiliate of Donald J. Trump maintaining management control (subject to the Borrower's organizational documents) over the daily operations of the Borrower; (ii) the transferee has acknowledged and confirmed to Lender in a writing acceptable to Lender, such transferee's recognition of the pledge of the membership and debt interests in 767, LLC (Borrower's parent LLC) held by Lender; and (iii) if required by the applicable rating agency, Borrower shall have delivered to the holder of the First Note and Mortgage and such rating agency a new non-consolidation opinion (or an appropriate updating of one previously delivered and accepted by the holder of the First Note and Mortgage) in form and substance satisfactory to the holder of the First Note and Mortgage and such rating agency regarding the reconstituted Borrower. Management control over the Borrower shall, subject to the rights granted in Borrower's organizational documents, be maintained by the Trump Organization, Inc. or an affiliate of Donald J. Trump and may not be transferred to any other person or entity (other than Consecro, Inc. or a wholly owned subsidiary thereof, which transfer does not require Lender consent) without Lender's prior written consent, which consent may be conditioned upon, among other things, execution and delivery to Lender by a person or entity acceptable to Lender, of a Guaranty in form previously delivered by Donald J. Trump, as Guarantor.

Section 8.4 LENDER'S RIGHTS. In connection with a sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment or transfer not otherwise permitted hereunder, Lender reserves the right to condition the consent required hereunder upon one or more of the following: (i) a modification of the terms hereof, and on assumption of the Note, this Security Instrument and the Other Security Documents as so modified by the proposed transferee, (ii) if required by Lender, execution of a Guaranty from a party acceptable to Lender in the form previously delivered to Lender by Donald J. Trump to the extent management control over daily operation of the Borrower is proposed to be transferred to or assumed by a party other than The Trump Organization, Inc. or Consecro, Inc., (iii) payment of all of Lender's reasonable expenses incurred in connection with such transfer, (iv) the approval by the applicable Rating Agency of the proposed transferee, (v) the proposed transferee's continued compliance with the covenants set forth in Sections 4.2 and 4.3 hereof, and (vi) such other conditions as Lender shall determine in its sole discretion to be in the interest of Lender. Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon Borrower's sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer of the Property not otherwise permitted under the Loan Documents without Lender's consent. This provision shall apply to every sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer of the Property not otherwise permitted under the Loan Documents regardless of whether voluntary or not, or whether or not Lender has consented to any previous sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer of the Property.

Article 9 - PREPAYMENT

Section 9.1 PREPAYMENT BEFORE EVENT OF DEFAULT. The Debt may be prepaid only in strict accordance with the express terms and conditions of the Note and the Credit Agreement.

Section 9.2 PREPAYMENT ON CASUALTY AND CONDEMNATION; SALE OF CONDOMINIUM UNITS. Provided no Event of Default exists under the Note, this Security Instrument or the Other Security Documents, in the event of any prepayment of the Debt pursuant to the terms of Sections 3.3, 3.6 or 4.4 hereof, no prepayment premiums shall be due in connection therewith, but Borrower shall be responsible for all other amounts due under the Note, this Security Instrument and the Other Security Documents. Upon sale of condominium units, prepayments of the Debt shall be made in accordance with Section 10.5(b) of the Credit Agreement.

Article 10 - DEFAULT

Section 10.1 EVENTS OF DEFAULT. The Events of Default are as set forth in the Credit Agreement.

Article 11 - RIGHTS AND REMEDIES

Section 11.1 REMEDIES. Upon the occurrence and during the continuance of any Event of Default, Borrower agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including those actions as contained in the Credit Agreement (including, but not limited to declaring the entire unpaid Debt to be immediately due and payable), and taking any one or more of the actions listed below, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

(a) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;

(b) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;

(c) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entity or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;

(d) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note or in the Other Security Documents;

(e) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the Other Security Documents;

(f) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower, Guarantor, Indemnitor or of any person, firm or other entity liable for the payment of the Debt;

(g) subject to any applicable law, the license granted to Borrower under Section 1.2 shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower; (vi) require Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(h) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Personal Property or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Personal Property, and (ii) request Borrower at its expense to assemble the Personal Property and make it available to Lender at a convenient place in New York City reasonably acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Personal Property sent to Borrower in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Borrower;

(i) apply any sums then deposited in the Escrow Fund and any other sums held in escrow or otherwise by Lender in accordance with the terms of this Security Instrument, the Lockbox Agreement, the Reserve Escrow Pledge and Security Agreement or any Other Security Document to the payment of the following items in any order in its uncontrolled discretion:

- (i) Taxes and Other Charges;
- (ii) Insurance Premiums;
- (iii) Interest on the unpaid principal balance of the Note;
- (iv) Amortization of the unpaid principal balance of the Note;
- (v) All other sums payable pursuant to the Note, this Security Instrument and the Other Security Documents, including without limitation advances made by Lender pursuant to the terms of this Security Instrument;

(j) surrender the Policies maintained pursuant to Article 3 hereof, collect the unearned Insurance Premiums and apply such sums as a credit on the Debt in such priority and proportion as Lender in its discretion shall deem proper, and in connection therewith, Borrower hereby appoints Lender as agent and attorney-in-fact for the term of the Loan only (which is coupled with an interest and is therefore irrevocable) for Borrower to collect such Insurance Premiums;

(k) pursue such other remedies as Lender may have under applicable law; or

(l) apply the undisbursed balance of any Net Proceeds Deficiency deposit, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Lender shall deem to be appropriate in its discretion

In the event of a sale, by foreclosure, power of sale, or otherwise, of less than all of the Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority. Notwithstanding the provisions of this Section 11.1 to the contrary, if any Bankruptcy Event of Default as described in the Credit Agreement shall occur, the entire unpaid Debt shall be automatically due and payable, without any further notice, demand or other action by Lender.

Section 11.2 APPLICATION OF PROCEEDS. The purchase money, proceeds and avails of any disposition of the Property, or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument or the Other Security Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

Section 11.3 RIGHT TO CURE DEFAULTS. Upon the occurrence of any Event of Default or if Borrower fails to make any payment or to do any act as herein provided and such failure shall continue after the giving of any required notice and the expiration of any applicable grace period, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, make or do the same in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 11.3, shall constitute a portion of the Debt and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the Other Security Documents and shall be immediately due and payable upon demand by Lender therefor or may be evidenced, at Lender's sole discretion, by a subordinate mortgage if agreed to by Borrower in its sole discretion.

Section 11.4 ACTIONS AND PROCEEDINGS. Lender has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding which Lender, in its discretion, deems necessary to protect its interest in the Property.

Section 11.5 RECOVERY OF SUMS REQUIRED TO BE PAID. Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due and payable in accordance with the provisions of the Note, the Credit Agreement and the other Loan Documents, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action

of foreclosure, or any other action, for a default or defaults by Borrower existing at the time such earlier action was commenced.

Section 11.6 EXAMINATION OF BOOKS AND RECORDS. Lender, its agents, accountants and attorneys shall have the right to examine the records, books, management and other papers of Borrower, Guarantor or Indemnitor as provided herein and in the Credit Agreement. In addition, Lender, its agents, accountants and attorneys shall have the right to examine and audit the books and records of Borrower and its affiliates or of Indemnitor pertaining to the income, expenses and operation of the Property during reasonable business hours at any office of Borrower in New York City where the books and records are located. This Section 11.6 shall apply throughout the term of the Note and without regard to whether an Event of Default has occurred or is continuing. Notwithstanding the foregoing, Lender agrees, absent an Event of Default hereunder or under any Guaranty or Indemnity, to limit its review with respect to the financial condition of Donald J. Trump as the Guarantor, to the annual tax returns of Donald J. Trump delivered in accordance with Section 3.11 hereof, which Lender agrees to keep confidential.

Section 11.7 OTHER RIGHTS, ETC.

(a) The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Borrower or Indemnitor to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the Other Security Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Security Instrument or the Other Security Documents except to the extent specifically set forth in such agreement or stipulation.

(b) It is agreed that the risk of loss or damage to the Property is on Borrower, and Lender shall have no liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property or collateral not in Lender's possession.

(c) Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as

an election to proceed under any one provision herein to the exclusion of any other provision. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

Section 11.8 RIGHT TO RELEASE ANY PORTION OF THE PROPERTY. Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

Section 11.9 RECOURSE AND CHOICE OF REMEDIES. Notwithstanding any other provision of this Security Instrument, including but not limited to Article 15 hereof, Lender and other Indemnified Parties (defined in Section 13.1 below) are entitled to enforce the obligations of Borrower and, where applicable, the Guarantor or Indemnitor, contained in Article 13 and the limited recourse provisions of the Credit Agreement without first resorting to or exhausting any security or collateral and without first having recourse to the Note or any of the Property, through foreclosure or acceptance of a deed in lieu of foreclosure or otherwise, and in the event Lender commences a foreclosure action against the Property, Lender is entitled to pursue a deficiency judgment with respect to such obligations against Borrower and, if applicable, the Guarantor or Indemnitor. The provisions of Article 13 and the limited recourse provisions of the Credit Agreement are exceptions to any non-recourse or exculpation provisions in the Note, this Security Instrument or the Other Security Documents, and Borrower and, where applicable, the Guarantor and Indemnitor, are fully and personally liable for the obligations pursuant thereto. The liability of Borrower and, where applicable, the Guarantor and Indemnitor are not limited to the original principal amount of the Note. Notwithstanding the foregoing, nothing herein shall inhibit or prevent Lender from foreclosing pursuant to this Security Instrument or exercising any other rights and remedies pursuant to the Note, this Security Instrument and the Other Security Documents, whether simultaneously with foreclosure proceedings or in any other sequence. A separate action or actions may be brought and prosecuted against Borrower, whether or not action is brought against any other person or entity or whether or not any other person or entity is joined in the action or actions. In addition, Lender shall have the right but not the obligation to join and participate in, as a party if it so elects, any administrative or judicial proceedings or actions initiated in connection with any matter addressed in Article 12 or Section 13.4.

Section 11.10 RIGHT OF ENTRY. Lender and its agents shall have the right to enter and inspect the Property at all reasonable times.

Article 12 - ENVIRONMENTAL HAZARDS

The Borrower and Donald J. Trump as Indemnitor have entered into an Environmental Indemnity Agreement of even date herewith (the "Indemnity") relating to, among other matters, environmental representations, warranties and covenants and indemnification for Lender's losses related thereto.

Article 13 - INDEMNIFICATION

Section 13.1 GENERAL INDEMNIFICATION. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, punitive damages, foreseeable and unforeseeable consequential damages, of whatever kind or nature (including but not limited to reasonable attorneys' fees and other costs of defense) (the "Losses") imposed upon or incurred by or asserted against any Indemnified Parties (unless occasioned by such Indemnified Parties' gross negligence or willful misconduct) and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) ownership of this Security Instrument, the Property or any interest therein or receipt of any Rents; (b) any amendment to, or restructuring of, the Debt, and the Note, this Security Instrument, or any Other Security Documents; (c) any and all lawful action that may be taken by Lender in connection with the enforcement of the provisions of this Security Instrument or the Note or any of the Other Security Documents, including, without limitation, any transfer taxes, fees or costs incurred as a result of foreclosure of the lien hereof or the taking of a deed-in-lieu of foreclosure whether or not suit is filed in connection with same, or in connection with Borrower, Guarantor or Indemnitor and/or any partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (e) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (f) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (g) the failure of any person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with the Security Instrument, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Security Instrument is made; (h) any failure of the Property to be in compliance with any Applicable Laws; (i) the enforcement by any Indemnified Party of the provisions of this Article 13; (j) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (k) the payment of any commission, charge or

brokerage fee to anyone which may be payable in connection with the funding of the loan evidenced by the Note and secured by this Security Instrument; or (l) any misrepresentation made by Borrower in this Security Instrument or any Other Security Document. Any amounts payable to Lender by reason of the application of this Section 13.1 shall become immediately due and payable upon notice from Indemnified Party to Borrower and shall bear interest at the Default Rate from the date loss or damage is sustained by Lender until paid. For purposes of this Article 13, the term "Indemnified Parties" means Lender and any person or entity who is or will have been involved in the origination of the loan secured hereby, any person or entity who is or will have been involved in the servicing of the loan secured hereby, any person or entity in whose name the encumbrance created by this Security Instrument is or will have been recorded, persons and entities who may hold or acquire or will have held a full or partial interest in the loan secured hereby (including, but not limited to, Investors or prospective Investors in the Securities, as well as custodians, trustees and other fiduciaries who hold or have held a full or partial interest in the loan secured hereby for the benefit of third parties) as well as the respective directors, officers, shareholders, partners, employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of any and all of the foregoing (including but not limited to any other person or entity who holds or acquires or will have held a participation or other full or partial interest in the loan secured hereby or the Property, whether during the term of the loan secured hereby or as a part of or following a foreclosure of the loan secured hereby and including, but not limited to, any successors by merger, consolidation or acquisition of all or a substantial portion of Lender's assets and business).

Section 13.2 MORTGAGE AND/OR INTANGIBLE TAX. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Security Instrument, the Note or any of the Other Security Documents.

Section 13.3 ERISA INDEMNIFICATION. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses (including, without limitation, attorneys' fees and costs incurred in the investigation, defense, and settlement of Losses incurred in correcting any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Lender's sole discretion) that Lender may incur, directly or indirectly, as a result of a default under Section 5.9.

Section 13.4 DUTY TO DEFEND: ATTORNEYS' FEES AND OTHER FEES AND EXPENSES. Upon written request by any Indemnified Party, Borrower shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and professionals selected by Borrower and reasonably approved by the Indemnified Parties or selected by Borrower's insurance carrier. Upon demand, Borrower shall pay or, in the

sole and absolute discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees and disbursements of engineers, environmental consultants, laboratories and other professionals selected by Indemnified Parties in connection therewith. At the option of the Indemnified Parties prior to an Event of Default their attorneys may participate, at Lender's expense, in the resolution of the claim or proceeding, and, subsequent to an Event of Default, their attorneys shall (at the option of the Indemnified Parties) control such resolution of the claim or proceeding relating to the Indemnified Parties.

Article 14 - WAIVERS

Section 14.1 WAIVER OF COUNTERCLAIM. Borrower hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Security Instrument, the Note, any of the Other Security Documents, or the Obligations.

Section 14.2 MARSHALLING AND OTHER MATTERS. Borrower hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by applicable law.

Section 14.3 WAIVER OF NOTICE. Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Security Instrument specifically and expressly provides for the giving of notice by Lender to Borrower and except with respect to matters for which Lender is required by applicable law to give notice, and Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Borrower.

Section 14.4 WAIVER OF STATUTE OF LIMITATIONS. Borrower hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

Section 14.5 SOLE DISCRETION OF LENDER. Wherever pursuant to this Security Instrument (a) Lender exercises any right given to it to approve or disapprove, (b) any arrangement or term is to be satisfactory to Lender, or (c) any other decision or determination is to be made by Lender, the decision of Lender to approve or disapprove, all decisions that arrangements or terms are satisfactory or not satisfactory and all other decisions and determinations made by Lender, shall be in the sole and absolute discretion of Lender and shall be final and conclusive, except as may be otherwise expressly and specifically provided herein.

Section 14.6 SURVIVAL. The indemnifications made pursuant to Article 13 and the representations, warranties and covenants and other obligations arising under Article 12 shall continue in full force and effect and shall survive and shall in no way be impaired by: any satisfaction or other termination of this Security Instrument, any assignment or other transfer of all or any portion of this Security Instrument or Lender's interest in the Property (but, in such case, shall benefit both Indemnified Parties and any assignee or transferee of which Borrower has received actual notice), any exercise of Lender's rights and remedies pursuant hereto including but not limited to foreclosure or acceptance of a deed in lieu of foreclosure, any exercise of any rights and remedies pursuant to the Note or any of the Other Security Documents, any transfer of all or any portion of the Property (whether by Borrower or by Lender following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), any amendment to this Security Instrument, the Note or the Other Security Documents, and any act or omission that might otherwise be construed as a release or discharge of Borrower from the obligations pursuant hereto.

SECTION 14.7 WAIVER OF TRIAL BY JURY. BORROWER AND LENDER HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, OTHER THAN COMPULSORY CLAIMS, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN EVIDENCED BY THE NOTE, THE APPLICATION FOR THE LOAN EVIDENCED BY THE NOTE, THE NOTE, THIS SECURITY INSTRUMENT OR THE OTHER SECURITY DOCUMENTS OR ANY ACTS OR OMISSIONS OF BORROWER OR LENDER, AS THE CASE MAY BE, AND THEIR RESPECTIVE ITS OFFICERS, EMPLOYEES, DIRECTORS OR AGENTS IN CONNECTION THEREWITH.

Article 15 - EXCULPATION

Section 15.1 EXCULPATION. The liability and obligation of Borrower to perform and observe the obligations contained in the Note, the Security Instrument and the Credit Agreement is limited as set forth in the Note and in Section 13.9 of the Credit Agreement, the provisions of which are incorporated herein by reference.

Notwithstanding the provisions of this Article to the contrary, Borrower shall be personally liable to Lender for certain amounts upon the occurrence of certain enumerated circumstances as set forth in Section 13.9 of the Credit Agreement.

Section 15.2 BANKRUPTCY CLAIMS. Nothing herein shall be deemed to be a waiver of any right which Lender may have under Sections 506(a), 506(b), 1111(b) or any other provisions of the Bankruptcy Code to file a claim for the full amount of the Debt secured by this Security Instrument or to require that all collateral shall continue to secure all of the Debt owing to Lender in accordance with the Note, this Security Instrument and the Other Security Documents.

Article 16 - NOTICES

Section 16.1 NOTICES. Unless otherwise specified herein, all notices, requests, consents, approvals, demands or other communications to or from the parties hereto shall be in writing and shall be sent by Federal Express or other nationally recognized courier, expenses prepaid or charged to the sender, or by telecopier provided such telecopied material is also sent by mail or courier in the manner set forth herein) or by mail, postage prepaid. All such communications shall be deemed delivered when received; provided that telecopied messages shall not be effective unless such messages are also sent by mail or courier as set forth herein and; provided further, that mail sent via certified mail - return receipt requested, certified fee and normal postage prepaid, shall be deemed to have been received on the earlier of actual receipt thereof or the third day after the postmarked date indicated on the Receipt for Certified Mail (PS Form 3800, March 1993 or any successor form). Any such notice, request, demand or other communication shall be delivered or addressed as follows:

If to Borrower: c/o The Trump Organization
725 5TH Avenue
New York, NY 10022
Attention: Donald J. Trump
Facsimile No. (212) 935-0141
Telephone No. (212) 832-2000

With a copy to: The Trump Organization
725 5th Avenue
New York, New York 10022
Attention: Bernard R. Diamond, Esq., General Counsel
Facsimile No. (212) 317-0037
Telephone No. (212) 715-7288

With a copy to: Conseco, Inc.
745 5th Avenue, Suite 2700
New York, New York 10151
Attention: Ngaire E. Cuneo, Executive Vice President
Facsimile No. (212) 750-2639
Telephone No. (212) 705-9700

With a copy to: Conseco, Inc.
11825 North Pennsylvania Street
Carmel, IN 46032
Attention: John J. Sabl, Esq.
Executive Vice President and General Counsel
Facsimile No. (317) 817-6327
Telephone No. (317) 817-6092

With a copy to: **Weil, Gotshal & Manges LLP.**
 767 5th Avenue
 New York, New York 10153
 Attention: Elliot L. Hurwitz
 Facsimile No. (212) 310-8007
 Telephone No. (212) 310-8176

If to Lender: **Lehman Brothers Holdings Inc.**
 3 World Financial Center
 200 Vesey Street, 12th Floor
 New York, New York 10285
 Attention: Mr. Mark Walsh
 Facsimile No. (212) 528-6680
 Telephone No. (212) 526-2158

With a copy to: **Windels, Marx, Davies & Ives**
 156 West 56th Street
 New York, New York 10019
 Attention: James J. Thomas, Esq.
 Facsimile No. (212) 459-1712
 Telephone No. (212) 237-1000

or addressed as such party may from time to time designate by written notice to the other parties.

Either party by notice to the other may designate additional or different addresses for subsequent notices or communications.

Article 17 - SERVICE OF PROCESS

Section 17.1 CONSENT TO SERVICE. Borrower will maintain a place of business or an agent for service of process in New York, New York and give prompt notice to Lender of the address of such place of business and of the name and address of any new agent appointed by it, as appropriate. Borrower further agrees that the failure of its agent for service of process to give it notice of any service of process will not impair or affect the validity of such service or of any judgment based thereon. If, despite the foregoing, there is for any reason no agent for service of process of Borrower available to be served, and if it at that time has no place of business in New York, New York, then Borrower irrevocably consents to service of process by registered or certified mail, postage prepaid, to it at its address given in the Credit Agreement.

Section 17.2 CONSENT TO JURISDICTION. Borrower and Lender hereby irrevocably submit to the jurisdiction of any court of the State of New York or federal court sitting in the City and State of New York in any action or proceeding arising out of or relating to this Credit Agreement or any other Loan Document which is stated to be governed by the laws of

the State of New York. Borrower and Lender hereby irrevocably agrees that all claims in respect of such action or proceeding must be heard and determined in such court of the State of New York or, to the extent permitted by law, in such federal court. Borrower and Lender hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. Borrower agrees that a final and non-appealable judgment (or a judgment whose time to appeal has expired) in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. This consent to jurisdiction is made pursuant to General Obligations Law Section 5-1402.

Section 17.3 JURISDICTION NOT EXCLUSIVE. Nothing in this Security Instrument will be deemed to preclude Lender from bringing an action or proceeding with respect hereto in any other jurisdiction.

Article 18 - APPLICABLE LAW

Section 18.1 CHOICE OF LAW. This Security Instrument shall be governed, construed, applied and enforced in accordance with the laws of the state in which the Property is located and the applicable laws of the United States of America.

Section 18.2 USURY LAWS. This Security Instrument and the Note are subject to the express condition that at no time shall Borrower be obligated or required to pay interest on the Debt at a rate which could subject the holder of the Note to either civil or criminal liability as a result of being in excess of the maximum interest rate which Borrower is permitted by applicable law to contract or agree to pay. If by the terms of this Security Instrument or the Note, Borrower is at any time required or obligated to pay interest on the Debt at a rate in excess of such maximum rate, the rate of interest under the Security Instrument and the Note shall be deemed to be immediately reduced to such maximum rate and the interest payable shall be computed at such maximum rate and all prior interest payments in excess of such maximum rate shall be applied and shall be deemed to have been payments in reduction of the principal balance of the Note. All sums paid or agreed to be paid to Lender for the use, forbearance, or detention of the Debt shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Note until payment in full so that the rate or amount of interest on account of the Debt does not exceed the maximum lawful rate of interest from time to time in effect and applicable to the Debt for so long as the Debt is outstanding.

Section 18.3 PROVISIONS SUBJECT TO APPLICABLE LAW. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Security Instrument or any application thereof shall be invalid

or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

Article 19 - SECONDARY MARKET

Section 19.1 TRANSFER OF LOAN. Lender may, at any time and at its sole cost and expense, sell, transfer or assign the Note, this Security Instrument and the Other Security Documents, and any or all servicing rights with respect thereto, or grant participations therein or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement (the "Securities"). Lender may forward to each purchaser, transferee, assignee, servicer, participant, investor in such Securities or any Rating Agency rating such Securities (all of the foregoing entities collectively referred to as the "Investor") and each prospective Investor, all documents and information which Lender now has or may hereafter acquire relating to the Debt, the Borrower and the Property, furnished by Borrower or otherwise, as Lender determines necessary or desirable, except for the financial statement of Donald J. Trump, which Lender agrees not to disclose. Borrower has agreed to cooperate with Lender in connection with any transfer made or any Securities created pursuant to this Section, including, without limitation, the delivery of an estoppel certificate required in accordance with Subsection 7.4(c) hereof and such other documents as may be reasonably requested by Lender. Borrower shall also furnish and Borrower consents to Lender furnishing to such Investors or such prospective Investors or Rating Agency any and all information concerning the Property, the Leases, and the financial condition of Borrower as may be requested by Lender, any Investor or any prospective Investor or Rating Agency in connection with any sale, transfer or participation interest. Lender shall reimburse Borrower for its actual, out-of-pocket costs to third parties reasonably incurred by Borrower in connection with its cooperation pursuant to this Section 19.1.

Article 20 - COSTS

Section 20.1 PERFORMANCE AT BORROWER'S EXPENSE. Borrower acknowledges and confirms that Lender shall impose certain administrative processing and/or other fees in connection with obtaining certain consents, waivers and approvals with respect to the Property, the review of any Lease or proposed lease, the preparation or review of any subordination, non-disturbance and attornment agreement, the review of plans and specifications with respect to potential improvements to the Property, the review of any condominium conversion plan and the preparation of release documentation with regard thereto (the occurrence of any of the above shall be called an "Event"). Borrower hereby acknowledges and agrees to pay, immediately, with or without demand, all such fees (as the same may be increased or decreased from time to time), and any additional fees of a similar type or nature which may be imposed by Lender from time to time, upon the occurrence of any Event or otherwise. Wherever it is provided for herein that Borrower pay any costs and expenses, such costs and expenses shall include, but not be

REC-2663 001255

limited to, all reasonable legal fees and disbursements of Lender, whether of retained firms, the reimbursement for the expenses of in-house staff or otherwise.

Section 20.2 ATTORNEY'S FEES FOR ENFORCEMENT.

(a) Borrower shall pay all legal fees incurred by Lender in connection with (i) the preparation of the Note, this Security Instrument and the Other Security Documents and (ii) the items set forth in Section 20.1 above, and

(b) Borrower shall pay to Lender upon demand any and all reasonable expenses, including reasonable legal expenses and reasonable attorneys' fees, incurred or paid by Lender in protecting its interest in the Property or Personal Property or in collecting any amount payable hereunder or in enforcing its rights hereunder with respect to the Property or Personal Property, whether or not any legal proceeding is commenced hereunder or thereunder and whether or not any default or Event of Default shall have occurred and is continuing, together with interest thereon at the Default Rate from the date paid or incurred by Lender until such expenses are paid by Borrower (provided, however, that such interest will be calculated at the Interest Rate if an Event of Default is not in existence).

Article 21 - DEFINITIONS

Section 21.1 GENERAL DEFINITIONS. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "Borrower" shall mean "each Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Lender" shall mean "Lender and any subsequent holder of the Note," the word "Note" shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument," the word "person" shall include an individual, corporation, partnership, trust, unincorporated association, government, governmental authority, and any other entity, the word "Property" shall include any portion of the Property and any interest therein, and the phrases "attorneys' fees", "legal fees" and "counsel fees" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the Credit Agreement.

Article 22 - MISCELLANEOUS PROVISIONS

Section 22.1 NO ORAL CHANGE. No provision of this Security Instrument may be modified orally but only by an agreement in writing signed by Borrower and Lender. No provision of this Security Instrument may be waived, or the discharge thereof acknowledged orally, but only by an agreement in writing signed by the party against whom the enforcement of

any waiver or discharge is sought and then such waiver or discharge shall only be effective in the specific instances and for the specific purpose for which it was given.

Section 22.2 LIABILITY. If Borrower consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several. This Security Instrument shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever.

Section 22.3 INAPPLICABLE PROVISIONS. If any term, covenant or condition of the Note or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the Note and this Security Instrument shall be construed without such provision.

Section 22.4 HEADINGS, ETC. The headings and captions of various Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 22.5 DUPLICATE ORIGINALS; COUNTERPARTS. This Security Instrument may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Security Instrument may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Security Instrument. The failure of any party hereto to execute this Security Instrument, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

Section 22.6 NUMBER AND GENDER. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 22.7 SUBROGATION. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of Borrower's obligations hereunder, under the Note and the Other Security Documents and the performance and discharge of the Other Obligations.

Section 22.8 ENTIRE AGREEMENT. The Note, this Security Instrument and the Other Security Documents constitute the entire understanding and agreement between Borrower and Lender with respect to the transactions arising in connection with the Debt and supersede all prior written or oral understandings and agreements between Borrower and Lender with respect thereto. Borrower hereby acknowledges that, except as incorporated in writing in the Note, this

Security Instrument and the Other Security Documents, there are not, and were not, and no persons are or were authorized by Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Note, this Security Instrument and the Other Security Documents.

Section 22.9 TRUST FUND. Pursuant to Section 13 of the Lien Law of New York, Borrower shall receive the advances secured hereby and shall hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of any improvement and shall apply such advances first to the payment of the cost of any such improvement on the Property before using any part of the total of the same for any other purpose.

Section 22.10 PROPERTY ENCUMBERED. This Security Instrument does not cover real property principally improved by one or more structures containing in the aggregate six (6) or less residential dwelling units having their own separate cooking facilities.

Section 22.11 INSURANCE. The provisions of subsection 4 of Section 254 of the New York Real Property Law covering the insurance of buildings against loss by fire shall not apply to this Security Instrument. In the event of any conflict, inconsistency or ambiguity between the provisions of Section 3.3 hereof and the provisions of subsection 4 of Section 254 of the New York Real Property Law covering the insurance of buildings against loss by fire, the provisions of Section 3.3 shall control.

Section 22.12 LEASES. Lender shall have all of the rights against lessees of the Property set forth in Section 291-f of the Real Property Law of New York.

Section 22.13 STATUTORY CONSTRUCTION. The clauses and covenants contained in this Security Instrument that are construed by Section 254 of the New York Real Property Law shall be construed as provided in those sections (except as provided in Section 23.4). The additional clauses and covenants contained in this Security Instrument shall afford rights supplemental to and not exclusive of the rights conferred by the clauses and covenants construed by Section 254 and shall not impair, modify, alter or defeat such rights (except as provided in Section 23.4), notwithstanding that such additional clauses and covenants may relate to the same subject matter or provide for different or additional rights in the same or similar contingencies as the clauses and covenants construed by Section 254. The rights of Lender arising under the clauses and covenants contained in this Security Instrument shall be separate, distinct and cumulative and none of them shall be in exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding. In the event of any inconsistencies between the provisions of Section 254 and the provisions of this Security Instrument, the provisions of this Security Instrument shall prevail.

Section 22.14 MAXIMUM AMOUNT SECURED. Notwithstanding anything contained herein to the contrary, the maximum amount of indebtedness secured by this Security

Instrument at execution or which under any contingency may become secured hereby at any time hereafter is the amount set forth in the recitals herein, together with:

- (I) Interest thereon to be computed from the date hereof at the rate or rates specified in the Note;
- (II) Real estate taxes, charges or assessments which are imposed by law upon the Property upon failure of Borrower to do so;
- (III) The amounts paid by Lender for insurance premiums covering the Property upon failure by Borrower to do so; and
- (IV) Any amount, cost or charge to which Lender becomes subrogated upon payment, provided such payment is made as a result of Borrower's failure to pay the same.
- (V) Expenses incurred in upholding or enforcing the lien of this Security Instrument including, but not limited to, the expenses of any litigation to prosecute or defend the rights and lien created by this Security Instrument.

Section 22.15 CONSENTS. Notwithstanding anything contained herein to the contrary, in any provision of this Security Instrument requiring consent or approval of Lender, Lender agrees to be bound by the decisions made, and consents or approvals granted or denied, by the holder of the First Loan and Lender shall give its consent or approval when such approval or consent has been granted in writing by the holder of the First Loan or its authorized loan servicer. Borrower shall deliver to Lender hereunder concurrent with delivery to the holder of the First Loan copies of any requests made to the holder of the First Loan or its loan servicer. Notwithstanding the foregoing in the event that the holder of the First Loan shall grant any waiver of default or enter into any amendment of the First Loan documents, the holder hereof shall not be required to do likewise and any such amendment or waiver granted by the holder of the First Loan shall not affect the terms of this Security Instrument, provided that Lender agrees that it will not unreasonably withhold (in the exercise of its commercially reasonable judgement and not capriciously or maliciously) its accession to any such waiver or amendment. No consent given by the holder of the First Loan to a sale of the Property or release of collateral except in accordance with Section 10.5(b) of a \$500,000,000.00 Credit Agreement of even date herewith between Borrower and the holder of the First Loan (and payment to Lender of its share of the Release Price Prepayment pursuant thereto and delivery to Lender of the documents and instruments to be delivered to Lender pursuant to Section 10.5 thereof) shall be binding on the Lender hereunder unless specifically consented to by the Lender in writing.

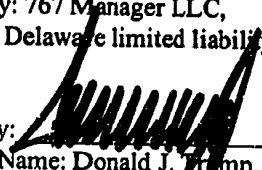
IN WITNESS WHEREOF, THIS SECURITY INSTRUMENT has been executed
by Borrower as of the day and year first above written.

Trump 767 Fifth Avenue, LLC,
a Delaware limited liability company

By: 767 Intermediate LLC,
a Delaware limited liability company

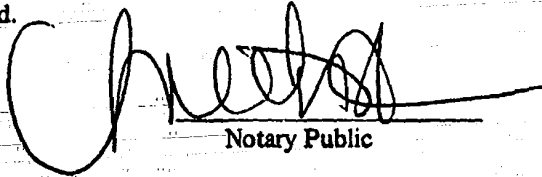
By: 767 LLC,
a Delaware limited liability company

By: 767 Manager LLC,
a Delaware limited liability company

By: 
Name: Donald J. Trump,
Title: Managing Member

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

On this 36 day of July, 1998, before me personally came Donald J. Trump, to me known to be the person who executed the foregoing instrument, and who, being duly sworn by me did depose and say he is the Managing Member of 767 Manager LLC, the Managing Member of 767 LLC, the Managing Member of 767 Intermediate LLC, which is the Managing Member of Trump 767 Fifth Avenue, LLC and that he executed the foregoing instrument on behalf of 767 Manager LLC, as such Managing Member and that he had the authority to sign the same, and he acknowledged to me that he executed the same for the uses and purposes therein mentioned.


 Notary Public

MEREDITH H. RUBIN
 Notary Public, State of New York
 No. 01R44804022
 Qualified in Nassau County
 Commission Expires December 31, 1998

EXHIBIT A

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, County of New York, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the easterly side of Fifth Avenue with the southerly side of 59th Street;

THENCE Easterly along the southerly side of 59th Street, 420 feet to the corner formed by the intersection of the westerly side of Madison Avenue with the southerly side of 59th Street;

THENCE Southerly along the westerly side of Madison Avenue, 200 feet 10 inches to the corner formed by the intersection of the said westerly side of Madison Avenue and the northerly side of 58th Street;

THENCE Westerly along the said northerly side of 58th Street, 420 feet to the corner formed by the intersection of the northerly side of 58th Street with the easterly side of Fifth Avenue;

THENCE Northerly along the easterly side of Fifth Avenue, 200 feet 10 inches to the point or place of BEGINNING.

REF 12663 PG 1263

TRUMP 767 FIFTH AVENUE, LLC
(Borrower)

to

**LEHMAN BROTHERS HOLDINGS INC., doing business
as Lehman Capital, a division of
Lehman Brothers Holdings Inc., as mortgagee
(Lender)**

**SECOND MORTGAGE
AND SECURITY AGREEMENT**

Dated: July 31, 1998
Location: 767 Fifth Avenue
New York, New York
Section: 5
Block: 1294
Lots: 1
County: New York

**PREPARED BY AND UPON
RECORDATION RETURN TO:**

**Windels, Marx, Davies & Ives
156 West 56th Street
New York, New York 10019
Attention: James J. Thomas, Esq.**

**File No.: 00700-417
Title No.:**

10038631.8

761-775 Fifth Ave

**CITY REGISTER RECORDING AND ENDORSEMENT PAGE
- NEW YORK COUNTY -**

(This page forms part of the instrument)

Block(s) <u>1294</u>	Record & Return to: <u>Winkels, Maxx, Davies & Ives</u> <u>156 West 56th St NY NY 10019</u>
Lot(s) <u>1</u>	
Title/Agent Company name: <u>Chicago Title</u>	
Title Company number: <u>980-00386</u>	

DO NOT WRITE BELOW THIS LINE

THE FOREGOING INSTRUMENT WAS ENDORSED FOR THE RECORD AS FOLLOWS:

Examined by (s): <u>[Signature]</u>		City Register Serial Number 041513
Mile Tax Serial No. <u>CP 6187</u>	Mile Amount <u>\$20,000.00</u>	Indexed By (s): <u>[Signature]</u>
Taxable Amount <u>\$</u>	Exemption (s) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Verified By (s): <u>[Signature]</u>
Type: <input checked="" type="checkbox"/> [3000] <input type="checkbox"/> [250] <input type="checkbox"/> [OTHER]	Block(s) and Lot(s) verified by (s): <u>[Signature]</u>	Address <input checked="" type="checkbox"/> Tax Map <input type="checkbox"/>
Recording Type: [1=2] [3] [4=5] <u>over 6</u>	Extra Block(s) <u></u> Lot(s) <u></u>	
TAX RECEIVED ON ROVE MORTGAGE ▼	Recording Fee <u>D</u> \$ <u>317</u>	Alldevt Fee (C) \$
County (basic) \$ <u>1,000,000</u>	TP-584/582 Fee (Y) \$	RPTT Fee (R) \$
City (Addtl) \$ <u>2250,000</u>	HPD-A <input type="checkbox"/> HPD-C <input type="checkbox"/>	
Spec Addtl \$ <u>500,000</u>	New York State Real Estate Transfer Tax ▼	
TASF \$	\$	Serial Number ➡
MTA \$ <u>500,000</u>		New York City Real Property Transfer Tax
NYCTA \$ <u>1249,500</u>		Serial Number ➡
TOTAL TAX \$ <u>5,500,000</u>		New York State
Apportionment (s) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		Gains Tax
<u>[Signature]</u>		Serial Number ➡

**RECORDED IN NEW YORK COUNTY
OFFICE OF THE CITY REGISTER**

1998 AUG 11 P 12:12

Witness My Hand and Official Seal



[Signature]
City Register

REC-2663781264

55151 005130 0000 00556 00550
00515 00520

1998-08-11 0000 00556 00550
00515 00520