

9 3 1 7

acceptance by a landlord on the first day of each month of the rent for the ensuing month). Borrower shall faithfully keep and perform all obligations to be kept and performed by landlord under each of such instruments, and under each other instrument in which Borrower's interest is assigned to Lender pursuant to the terms hereof. At the request of Lender, Borrower shall furnish to Lender copies of any of such instruments. Lender shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Borrower under any lease; and Borrower hereby agrees to indemnify Lender and to save Lender harmless from, any and all liability arising from any leases, or this assignment thereof and this assignment shall not place the responsibility for the control, care, management or repair of the property upon the Lender, nor make the Lender liable for any negligence in the management, operation, upkeep, repair or control of the trust property resulting in loss or injury or death to any lessee, agent or stranger.

1.08 Expenses. The Borrower will pay or reimburse the Lender for all reasonable attorney's fees, costs and expenses incurred by the Lender in any proceedings involving the estate of a decedent or an insolvent, or in any action, legal proceeding or dispute of any kind in which the Lender is made a party, or appears as party plaintiff or defendant, affecting the indebtedness secured hereby, this deed or the interest created herein, or the premises, including but not limited to the exercise of the power of sale of this deed, any condemnation action involving the premises or any action to protect the security hereof; and any such amounts paid by the Lender shall be added to the indebtedness secured by this deed.

1.09 Estoppel Affidavits. The borrower, upon ten (10) days' prior written notice, shall furnish the Lender a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the indebtedness secured hereby and whether or not any off-sets or defenses exist against such principal and interest.

1.10 Subrogation. The Lender shall be subrogated to the claims and liens of all parties whose claims or liens are discharged or paid with the proceeds of the indebtedness secured hereby.

1.11 Performance by Lender of Defaults by Borrower. If the Borrower shall default in the payment of any tax, lien, assessment or charge levied or assessed against the premises; in the payment of any utility charge, whether public or private; in the payment of any insurance premium; in the procurement of insurance coverage and the delivery of the insurance policies required hereunder or in the performance or observance of any other covenant, condition or term of this Deed to Secure Debt and Security Agreement, then the Lender, at its option, may perform or observe the same, and all payments made for costs or incurred by the Lender in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by the Borrower to the Lender with interest thereon at the rate which shall be 5% plus the higher of the prime rate of interest charged by Chemical Bank, New York, New York, or the commercial paper (dealer, 90 day) rate as published daily in the Wall Street Journal as said rates are more fully described and defined in the Note secured hereby. The Lender shall be the sole judge of the legality, validity and priority of any such tax, lien, assessment, charge, claim and premium; of the necessity for any such actions and of the amount necessary to be paid in satisfaction thereof. The Lender is hereby empowered to enter and to authorize others to enter upon the premises or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to the Borrower or any other person in possession holding under the Borrower.

1.12 Borrower shall provide competent and responsible management, maintenance and operation of the premises. Borrower shall keep true books of record and account in which full, true and correct entries in accordance with sound accounting practice applied on a consistent basis shall be made of all dealings or transactions with respect to the property. Borrower shall submit to Lender in form and detail satisfactory to Lender, within one hundred twenty days of the end of each of Borrower's fiscal years, an operating statement showing