

Section 8.07. *Conflicting Interests.* (a) The powers and duties of trustees conferred or imposed by Section 126 of the Real Property Law of the State of New York, which powers and duties are incorporated by reference herein, shall be in addition to those conferred or imposed by this Mortgage and in case of a conflict the provisions of said Section 126 shall prevail, provided that if said Section 126 should at any time be repealed, or cease to apply to this Mortgage, or be construed by judicial decision to be inapplicable, this sentence shall cease to have any further force and effect.

If the Individual Trustee or the Trustee (either of which is hereinafter in this Section 8.07 sometimes termed the "trustee") has or shall acquire any conflicting interest as hereinafter defined,

(1) such trustee shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign, such resignation to become effective upon the appointment of a successor trustee and such successor's acceptance of such appointment; and the Company shall take prompt steps to have a successor appointed in the manner provided in this Mortgage;

(2) in the event that such trustee shall fail to comply with the provisions of subparagraph (1), such trustee shall, within ten days after the expiration of such ninety-day period, transmit notice of such failure by mail (i) to each payee of a Note who shall not have notified the Trustee in writing of the transfer thereof, (ii) to such holders of Notes as have, within the two years preceding such transmission, filed their names and addresses with the Trustee for the purpose of receiving notices or reports to holders of Notes, and (iii) to all holders of Notes whose names and addresses are contained in information currently preserved by the Trustee for such purpose in accordance with provisions of paragraph (g) of this Section 8.07; and

(3) any holder of Notes who has been a bona fide holder of Notes for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of such trustee, and the appointment of a successor, if such trustee fails, after written request therefor by such holder, to comply with the provisions of subparagraph (1).

(b) For purposes of paragraph (a), the trustee shall be deemed to have a conflicting interest if—

(1) such trustee is trustee under another mortgage, deed of trust, trust indenture or other similar instrument (hereinafter in this Section termed an "indenture") under which any other securities, or certificates of interest or participation in any other securities, of an obligor upon the Notes are outstanding unless (A) such other indenture is a collateral trust indenture under which the only collateral consists of Notes, or (B) such obligor has no substantial unmortgaged assets and is engaged primarily in the business of owning, or of owning and developing and/or operating, real estate, and this Mortgage and such other indenture are secured by wholly separate and distinct parcels of real estate: provided, that there shall be excluded from the operation of this subparagraph any other indenture or indentures which shall have been qualified with the United States Securities and Exchange Commission pursuant to the provisions of the Trust Indenture Act of 1939, as from time to time amended and in force;

(2) such trustee or any of its directors or executive officers is an obligor upon the Notes or an underwriter for such an obligor;

(3) such trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with an obligor upon the Notes or an underwriter for such an obligor;

(4) such trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee, or representative of an obligor upon the Notes, or of an underwriter (other than the trustee itself) for such an obligor who is currently engaged in the business of underwriting, except that (A) one individual may be a director and/or an executive officer of the Trustee and a director and/or an executive officer of such obligor, but may not be at the same time an executive officer of both the Trustee and of such obligor, and (B) if and so long as the number of directors of the Trustee in office is more than nine, one additional individual may be a director and/or an executive officer of the Trustee and a director of such obligor, and (C) the Trustee may be designated by any such obligor or by any underwriter for any such obligor, to act in the capacity of transfer agent,