

#### **6. PRESERVATION AND MAINTENANCE OF PROPERTY: TENUREHOUSES**

If this instrument is on a leasehold, Borrower (i) shall comply with the provisions of the ground lease, (ii) shall give or cause to be written notice to Lender of any default by lessor under the ground lease or of any notice received by Borrower from such lessor of any default under the ground lease by Borrower, (iii) shall exercise any option to renew or extend the ground lease and give written confirmation thereof to Lender within thirty days after such option becomes exercisable, (iv) shall give immediate written notice to Lender of the commencement of any remedial proceedings under the ground lease by any party thereto and, if required by Lender, shall permit Lender as Borrower's attorney in fact to control and act for Borrower in any such remedial proceedings and (v) shall within thirty days after request by Lender obtain from the lessor under the ground lease and deliver to Lender the lessor's estoppel certificate required thereunder, if any. Borrower hereby expressly transfers and assigns to Lender the benefit of all covenants contained in the ground lease, whether or not such covenants run with the land, but Lender shall have no liability with respect to such covenants nor any other covenants contained in the ground lease.

Borrower shall not surrender the leasehold estate and interests herein conveyed nor terminate or cancel the ground lease creating said estate and interests, and Borrower shall not, without the express written consent of Lender, alter or amend said ground lease. Borrower covenants and agrees that there shall not be a merger of the ground lease, or of the leasehold estate created thereby, with the fee estate covered by the ground lease by reason of said leasehold estate or said fee estate, or any part of either, coming into common ownership, unless Lender shall consent in writing to such merger, if Borrower shall acquire such fee estate, then this Instrument shall be discharged, and without further action be speedily so as to become a lien on such fee estate.

**7. USE OF PROPERTY.** Unless required by applicable law or if Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property is intended at the time this instrument was executed. Borrower shall not initiate or cause, except in a change in the zoning classification of the Property without Lender's prior written consent.

**3. PROTECTION OF LENDER'S SECURITY.** If Borrower fails to perform the covenants and agreements contained in this Instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, bankruptcy, insolvency, code enforcement, or arrangements or proceedings under a bankrupt or insolvent, then Lender at Lender's option may make such appearances, file and serve such documents as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to, disbursement of attorney's fees, but entry upon the Property to make repairs, and procurement of satisfactory insurance as provided in paragraph 5 hereof, and if at this instrument is on a leasehold, exercise of any option to renew or extend the ground lease on behalf of Borrower and the curing of any default of Borrower in the terms and conditions of the ground lease.

Any amounts disbursed by Lender pursuant to this paragraph 6, with interest thereon, shall become additional indebtedness of Borrower secured by this instrument. Unless Borrower and Lender agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the rate stated in the Note unless collection from Borrower of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law. Borrower hereby covenants and agrees that Lender shall be subrogated to the loss of any amount paid or otherwise discharged, in whole or in part, by the indebtedness secured hereby. Nothing contained in this paragraph 6 shall require Lender to incur any expense in taking any action hereunder.

**2. INSPECTION.** Under this Article, unless otherwise provided, the Inspectors shall inspect and inspectors of the Properties

**19. BOOKS AND RECORDS.** When applicable Borrower shall keep and maintain at all times at Borrower's address stated below, or such other place as Lender may approve in writing, complete and accurate books, financial and records adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases and other instruments which affect the Property. Such books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender upon Lender's request. Borrower shall furnish to Lender, within one hundred and twenty days after the end of each fiscal year of Borrower, a balance sheet, a statement of income and expenses of the Property and a statement of changes in financial position, set in reasonable detail and certified by Borrower and, if Lender shall require, by an independent certified public accountant. Borrower shall furnish, together with the foregoing financial statements and at any other time upon Lender's request, a rent schedule for the Property, certified by Borrower, showing the name of tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable and the rent paid.

**II. CONDEMNATION.** Borrower shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Borrower shall agree in and prosecute any such action or proceeding unless otherwise directed by Lender in writing. However, authorizes Lender, at Lender's option, as attorney in fact for Borrower, to commence, appear in, and prosecute, in Lender's name, any action or proceeding relating to any condemnation or other taking of the Property whether direct or indirect, and to settle, or compromise any claim in connection with such a condemnation or other taking. The proceeds of any award, judgment or claim for damages, direct or consequential, shall be applied towards payment of other sums due, whether principal, interest, or the amount of any unpaid taxes, or the consequences in respect of a condemnation, and the same shall be paid to Lender subject to the Disbursement of an escrow held to the rights of lessor under the ground lease.

Borrower authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to restoration or repair of the Property or to payment of the sum required by this Instrument, whether or not then due, in the order of application set forth in paragraph 1 hereof, until the balance of amounts Borrower owes Lender and Lender's expenses are satisfied, and application of proceeds or damages shall not extend to open the books of the instrument, or settlements referred to in paragraphs 1 and 2 heretofore, but to the amount of such settlements. Borrower agrees to keep Lender fully indemnified against all costs, expenses, damages or claims arising in connection with such indemnification, including Lender's attorney fees.