

16.4. Application of Insurance Proceeds. All insurance proceeds received by or payable to the Mortgagee on account of any damage to or destruction of all or any part of any Property (less the actual costs, fees and expenses incurred in the collection thereof) shall, so long as no Event of Default shall have occurred and be continuing, be applied or dealt with by the Mortgagee as follows:

(a) All such proceeds actually received on account of any such damage or destruction other than a Total Destruction shall, unless Lessee is in default under the Lease, be paid over to Lessee or as it may direct from time to time as the repair or rebuilding progresses to pay (or reimburse Lessee for) the cost thereof, but only upon the written request of Lessee, accompanied by evidence satisfactory to the Mortgagee that the sum requested has been paid or is then due and payable and is a proper item of such cost. Upon receipt by the Mortgagee of evidence satisfactory to it that the repair or rebuilding has been completed and the cost thereof paid in full²⁰ and that there are no mechanic's or similar liens for labor or materials supplied in connection therewith, the balance, if any, of such proceeds shall, unless Lessee is in default under the Lease, be paid over or assigned to Lessee or as it may direct.

(b) All such proceeds received or payable on account of a Total Destruction of any Property shall, upon substitution of other service station premises or payment of the purchase price for such Property, as the case may be, and unless Lessee is in default under the Lease, be paid over or assigned to Lessee or as it may direct.

17. Taking of Property. 17.1. The Company to Give Notice; Assignment of Awards, etc. In case of any condemnation or taking of all or any part of any Property by any public or quasi-public authority or any re-routing of, or diversion of traffic on, any public highway adjoining any Property by any such authority or any change of grade affecting any Property or any sale to any such authority under threat of or in lieu of any of the foregoing (any such occurrence being herein called a "Taking") or the commencement of any proceedings or negotiations which might result in a Taking, the Company will promptly give, or cause Lessee to give, written notice thereof to the Mortgagee and each Beneficiary, specifying the particulars of the same in reasonable detail. The Company hereby irrevocably assigns, transfers and sets over to the Mortgagee all rights of the Company to any award or payment on account of any Taking. The Company will in good faith and with due diligence file or prosecute what would otherwise be the Company's claim for any such