

greater of Default Interest Rate or the highest rate payable under any indebtedness of obligor from the date of expenditure until said sums have been paid. Mortgagee shall be entitled to bid, at the sale of the Mortgaged Property held pursuant to the power of sale granted herein or pursuant to any judicial foreclosure of this instrument, the amount of said costs, expenses and interest in addition to the amount of the other indebtedness and obligations as a credit bid, the equivalent of cash.

17. Waiver. Any failure by Mortgagee to insist on strict performance by Mortgagor of any of the terms and provisions of any security documents or of the Note shall not be deemed to be a waiver of any of the terms or provisions of any security documents, the Note and Mortgagee shall have the right to insist on strict performance by Mortgagor of any and all of them. A waiver in one or more instances of any of the terms, covenants, conditions or provisions hereof or of the Note shall apply only to the particular instance or instances at the particular time or times. No such waiver shall be deemed to be a continuing waiver.

18. Severability. In case any one or more of the obligations shall be invalid, illegal or unenforceable in any respect, the validity of the Note, this Mortgage, and Other Security Documents and remaining obligations shall be in no way affected, prejudiced or disturbed.

19. Modification. This Mortgage the Other Security Documents and Note and the terms of each of them may not be changed, waived, discharged or terminated orally, but only by an instrument or instruments in writing, signed by the party against which enforcement of the change, waiver, discharge or termination is asserted.

20. Security Interest in Leases and Rents. Mortgagor hereby grants to Mortgagee a security interest under the UCC in the Leases and Rents arising from operation of the real estate secured hereby, and all of Mortgagor's right, title and interest in and under the Leases, and Mortgagee shall have all rights with respect thereto afforded to it by the UCC, in addition to, but not in limitation of, the other rights afforded to Mortgagee by the Security Documents.

21. Assignment of Leases and Rents and Contracts. In order to further secure payment of the Indebtedness and the observance, performance and discharge of the Obligation,

(a) Mortgagor hereby absolutely and irrevocably assigns and transfers to Mortgagee, all of Mortgagor's right, title and interest in and to the Leases and Rents. Mortgagor hereby appoints Mortgagee its true and lawful attorney-in-fact with the right, at Mortgagee's option at any time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, either in Mortgagor's or Mortgagee's name, for all Rents. Notwithstanding the foregoing assignment of Lease and Rents, so long as no Event of Default has occurred which remains uncured, Mortgagor shall have the right and license to collect, retain and enjoy all Rents. This Assignment shall not be deemed or construed to constitute Mortgagee as a mortgagee-in-possession nor obligate Mortgagee to take any action or to incur expenses or perform or discharge any obligations, duty or liability. In addition, nothing herein shall prevent Mortgagee from terminating, through foreclosure, the Lease of any tenant subordinate to this Mortgage.

(b) Mortgagee shall be entitled to collect rents with or without appointment of a receiver, pursuant to the laws of the State of Kansas.

(c) In the event of a conflict between the terms, covenants and conditions of this Mortgage and those of the Assignment, the terms, covenants and conditions of the document which shall enlarge the interest of Mortgagee in the Mortgaged Property, afford the Mortgagee greater financial security in the Mortgaged Property and/or assure payment of the indebtedness in full, shall control.

22. Construction with Other Documents. The provisions hereof are not intended to supersede the provisions of the Note or Construction Loan Agreement or any other documents executed at any time in connection with this loan and the Mortgage, but merely to supplement them. In the event of any inconsistency between the terms of this Agreement and any other document executed in connection with this Mortgage loan, the terms of the document affording Mortgagee the most security or the greater right shall govern.

23. Additional Agreements.

(a) The parties hereto acknowledge that title to the real estate secured hereby shall, at some time during pendency of the loan secured hereby, be conveyed to a Kansas limited partnership which shall have the Mortgagor hereunder as its general partner.