

any action or proceedings shall be commenced by any person other than the Lender, to which action or proceedings the Lender is made a party or in which it shall become necessary to defend or uphold the lien of the Lender's mortgage or the provisions of this Loan Agreement, all sums paid or incurred by the Lender for such expenses, including reasonable attorney's fees, shall be paid by the Borrower, together with interest thereon at the delinquent mortgage note rate, and any such sum and the interest thereon shall be a claim upon the property described herein, and any such sums shall be deemed to be secured by the mortgage referred to herein and by the note that it secures. The sums paid or incurred by the Lender, in accordance with the terms of this paragraph, shall be paid by the Borrower to the Lender within fifteen (15) days after demand for said payment by Lender to Borrower, and the failure or omission of the Borrower to do so shall entitle the Lender to add such sums to the principal indebtedness of its mortgage and note as a proper charge against the development and/or construction Loan Fund, or, at its option, to declare its mortgage and note to be in default, thereupon maturing all of the unpaid indebtedness including the sums advanced hereunder.

7. This Agreement includes any and all development and/or construction loan mortgages and notes held by Lender, or its assigns, referring to any of the property herein described, and all extensions and modifications of said Agreement, mortgages and notes, and the terms of this Agreement shall be construed as being a part of the mortgage lien encumbering the property hereinabove described in accordance with the provisions of any and all development and/or construction loan mortgages held by Lender encumbering any of said described properties. It is understood and agreed that all parties to this Agreement and to the mortgage and note obligations hereby consent that from time to time, without notice to the undersigned, said note may be extended or renewed in whole or in part or the rate of interest thereon may be changed or fees in consideration of loan extensions may be imposed, and any related right or security therefor may be waived, exchanged, surrendered or otherwise dealt with and any of the acts mentioned in said note may be done, all without affecting the liability of the Borrower and all other obligors under said agreement, mortgages and notes. The release of any party liable upon or in respect of said note shall not release any other such party.

8. The Borrower hereby agrees that in the event said improvements are not completed in accordance with said plans and specifications on or before the date stipulated, or if work on said construction or development shall cease before completion, and said work shall remain abandoned for the period of ten days, then and in either event the entire principal sum that has been disbursed by Lender on account of said note and mortgage, less any amounts that may have been repaid by the Borrower, shall, at the option of the Lender, at once become due and payable with all accrued interest thereon at the rate provided in said note; and in the event of abandonment of work upon the construction of said improvements for a period of ten days as aforesaid, the Lender may, at its option, also enter into and upon the above described premises and complete the construction or development of said improvements, the Borrower hereby giving to the Lender full power and authority to make such entry and to enter into such contracts or arrangements as may be necessary to complete the said improvements. If, upon the happening of either event aforesaid, the Lender enters upon said premises and undertakes the completing of construction or development as aforesaid, the Lender shall be entitled to have any of the loan funds disbursed to it or under its direction in the payment of bills theretofore or thereafter contracted in connection with said construction or development work or in protection and preservation of the property. In addition it is agreed that the Lender may, at its option, expend money in completing said construction or development work and protecting and preserving the property, which shall be over and above the total amount of the funds placed in escrow to the maximum extent permitted by the law of the applicable jurisdiction, and said money when so expended shall be added to the principal of said loan and the same, together with interest thereon at the delinquent rate specified in said note shall be secured by the lien of the loan and mortgage above provided for and all principal indebtedness secured by said mortgage, whether more or less than the face amount of said note together with interest as aforesaid, shall be payable by the Borrower on demand. For this purpose, Borrower hereby constitutes and appoints Lender its true and lawful attorney-in-fact with full power of substitution to complete the project in the name of borrower or Lender, and hereby empowers said attorney or attorneys as follows: to use any funds of Borrower including any balance which may be held in escrow and any funds which may remain unadvanced hereunder for the purpose of completing the improvements in the manner called for by the Plans and to protect and preserve the property, to make such additions and changes and corrections in the Plans which shall be necessary or desirable to complete the improvements in substantially the manner contemplated by the Plans; to employ such contractors, subcontractors, agents, architects and inspectors as shall be required for said purposes; to pay, settle or compromise all existing bills and claims which are or may be liens against said premises, or as may be necessary or desirable for the completion of the work, or the clearance of title; to execute all applications and certificates in the name of Borrower or Lender which may be required by any construction contract and to do any and every act which Borrower may do in its own behalf. It is understood and agreed that this power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked. Said attorney-in-fact shall also have power to prosecute and defend all actions or proceedings in connection with the construction and/or development of the Improvements of the Premises and to take such action and require such performance as is deemed necessary. Borrower hereby assigns and quitclaims to Lender all sums advanced hereunder and all sums in escrow conditioned upon the use of said sums, if any, for the completion of the Improvements.

9. In the event any of the parties singularly or collectively referred to herein as the Borrower, or any of the parties specified in the permanent loan commitment as mortgagors or endorsers, die, change their marital status or become under legal disability before the closing of the permanent mortgage with the Long Term Lender, the Lender shall have the right, at its option, not to make further disbursements of the construction and/or development loan proceeds until a new permanent mortgage commitment, based upon the changed status of said parties, is obtained.

10. It shall be an event of default under this Agreement, if without Lender's written consent, Borrower executes any conditional bill of sale, chattel mortgage or other security instrument covering any materials, fixtures or articles used in the construction of the Improvements or appurtenant thereto, or articles of personal property placed in the Improvements, or if any of such materials, fixtures or articles be not purchased so that the ownership thereof will vest unconditionally in Borrower, free from encumbrance, on delivery at the Premises, or if Borrower does not produce to Lender upon demand the contracts, bills of sale, statements, receipted vouchers or agreements, or any of them, under which Borrower claims title to such materials, fixtures and articles.

11. Should the Borrower default, violate, breach, or fail to comply with and perform each or any one or more of the express covenants, conditions, and provisions of this Agreement, (including any and all Development and/or Construction Loan Mortgages and notes referring to any of the properties herein described) then the Lender shall have the absolute right, at its option and election, to (1) cancel this Agreement by written notice to Borrower; (2) institute appropriate proceedings to specifically enforce performance hereof; (3) withhold further advances hereunder; (4) take immediate possession of the property encumbered by the development and/or construction mortgage, as well as all other property to which title is held by Borrower as is necessary to fully complete all on-site and off-site improvements contemplated to be developed and/or constructed under this Agreement; (5) appoint a Receiver, as a matter of strict right without regard to the solvency of Borrower, for the purpose of preserving the property above described, preventing waste, and to protect all rights accruing to Lender by virtue of this Agreement and of the development and/or construction loan mortgage executed in connection with this Agreement and construction and/or development project, and expressly to make any and all further improvements, whether on-site or off-site, as may be determined by Lender for the purpose of completing the development in accordance with this Agreement. All expenses incurred in connection with the appointment of said Receiver, or in protecting, preserving, or improving the subject property, shall be chargeable against the Borrower and shall be enforced as a lien against Borrower's property; (6) accelerate maturity of said Development and/or Construction Mortgage and Note and demand payment of the principal sums due thereunder, with interest, advances, and costs, and in default of said payment or any part thereof, to foreclose and enforce collection of such payment by foreclosure and/or other appropriate action in any court of competent jurisdiction. The said remedies and rights of Lender shall be cumulative and not exclusive, the Lender to be privileged and have the absolute right to resort to any one or more, or all of said remedies, neither to the limited exclusion of the other in the event of any such default or breach of said agreement or provisions by the Borrower. The Lender shall have the absolute right to apply any balance of development and/or construction loan funds as a payment toward the Development and/or Construction Loan Mortgage and Note, and no other party, whether contractor, materialmen, laborer, sub-contractor, or supplier, shall have any interest in the development and/or construction loan funds so applied and shall not have any right to garnishee, require, or compel payment thereof toward discharge or satisfaction of any claim or item which they or any of them have or may have for work performed or materials supplied to the development and/or construction project. Any additional funds