

10 Woodland Park
Commercial

County of Davis, Utah
Restaurant #235

LEASEHOLD DEED OF TRUST

2 1598530 9 2459 P 1302
SHERYL L. WHITE, DAVIS CNTY RECORDER
2000 JUN 19 4:39 PM FEE 74.00 DEP REC
REC'D FOR HERITAGE VEST TITLE INSURANCE

DATED as of February 10, 2000

from

MARIE CALLENDER PIE SHOPS, INC.

10-165-0010

to

BANKBOSTON, N.A., as Agent

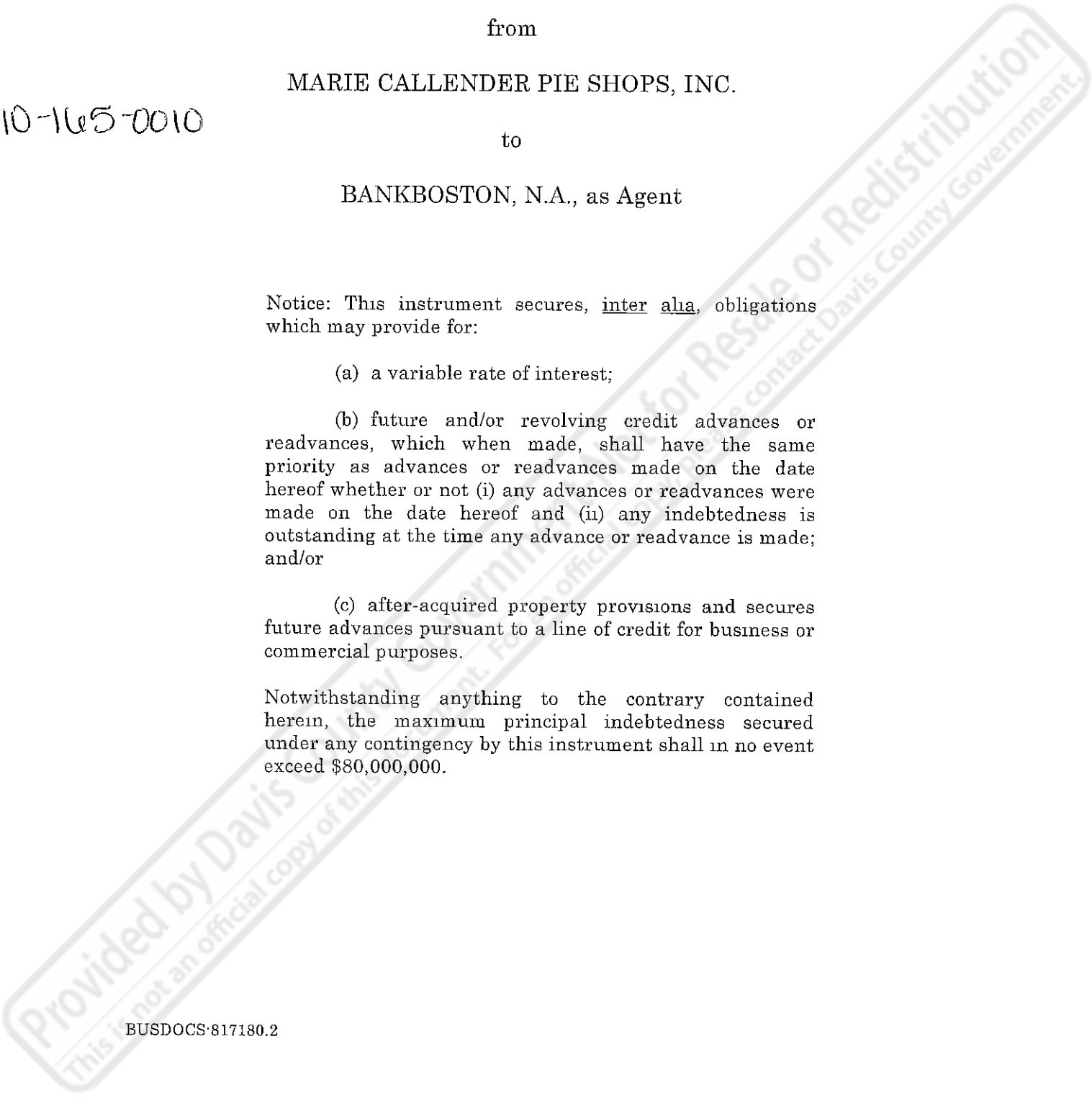
Notice: This instrument secures, inter alia, obligations which may provide for:

(a) a variable rate of interest;

(b) future and/or revolving credit advances or readvances, which when made, shall have the same priority as advances or readvances made on the date hereof whether or not (i) any advances or readvances were made on the date hereof and (ii) any indebtedness is outstanding at the time any advance or readvance is made; and/or

(c) after-acquired property provisions and secures future advances pursuant to a line of credit for business or commercial purposes.

Notwithstanding anything to the contrary contained herein, the maximum principal indebtedness secured under any contingency by this instrument shall in no event exceed \$80,000,000.



Space Above This Line For Recorder's Use

A SCOTT MARRA, ESQ
BINGHAM DANA LLP
150 FEDERAL STREET
BOSTON, MASSACHUSETTS 02110
(617) 951-8000

Leasehold Deed of Trust
(corporate acknowledgement)

THIS LEASEHOLD DEED OF TRUST is made this 10th day of February, 2000, between MARIE CALLENDER PIE SHOPS, INC., a California corporation, with an address at c/o Wilshire Restaurant Group, Inc., 1100 Town & Country Road, Suite 1300, Orange, California 92868, as grantor (the "Grantor"), Commonwealth Land Title Insurance Company, with an address at 888 West 6th Street, 4th Floor, Los Angeles, California 90017, as trustee (the "Trustee"), and BANKBOSTON, N.A., a national banking association, having its principal place of business at 100 Federal Street, Boston, Massachusetts 02110, as Agent for itself and the other Banks (as defined in the Leasehold Deed of Trust Rider attached hereto as Exhibit C) (in such capacity, hereinafter called "Beneficiary").

Grantor hereby CONVEYS AND WARRANTS TO TRUSTEE IN TRUST, WITH POWER OF SALE, the real estate described in Exhibit A attached hereto and made a part hereof, together with the other properties, rights and interests described and included in the definition of the term "Property" described in the Leasehold Deed of Trust Rider attached hereto as Exhibit C (collectively referred to herein as the "Property");

THIS CONVEYANCE is made in TRUST for the benefit of the Beneficiary and its successors and assigns to secure the payment and performance of the Obligations in the principal sum of \$80,000,000 (as defined in the Leasehold Deed of Trust Rider attached hereto as Exhibit C) of the Grantor, the Borrower and the subsidiaries of the Borrower to the Beneficiary and the Banks, including, without limitation, the performance of all obligations of Trustor under this Leasehold Deed of Trust and performance of each covenant and agreement of Trustor in this Leasehold Deed of Trust, and all modifications, amendments, replacements, extensions and renewals thereof and substitutions therefor and the payment of all sums advanced by Beneficiary to protect the security of this Leasehold Deed of Trust or the Property, with interest

thereon at the annual interest rate applicable to overdue payments under Section 6.14.1 of the Credit Agreement.

The covenants, agreements, conditions, definitions, representations and warranties contained in the Leasehold Deed of Trust Rider which is annexed hereto as Exhibit C are incorporated herein by reference as if fully set out herein; and all references to covenants, agreements, conditions, definitions, representations and warranties contained in this Leasehold Deed of Trust shall be deemed to include the covenants, agreements, conditions, representations and warranties contained in said Leasehold Deed of Trust Rider.

Grantor agrees to pay all taxes and assessments on the Property, to pay all charges and assessments on water or water stock used on or with the Property, not to commit waste, to maintain adequate fire insurance on improvements on the Property, to pay all costs and expenses of collection (including Trustee's and attorney's fees) in event of default in payment of the indebtedness secured hereby and to pay reasonable Trustee's fees for any of the services performed by Trustee hereunder, including a reconveyance hereof.

The undersigned Grantor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Grantor at the address hereinbefore set forth.

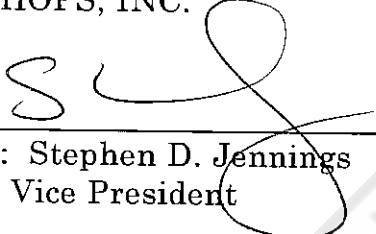
All of the Exhibits attached hereto, including Exhibits A, B and C, are made a part of this Leasehold Deed of Trust for all purposes and with the same force and effect as if set forth in the full body of this Leasehold Deed of Trust.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

The officers who sign this deed of trust hereby certify that this deed of trust and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attended by a quorum.

MARIE CALLENDER
PIE SHOPS, INC.

By: 
Secretary

By: 
Name: Stephen D. Jennings
Title: Vice President

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STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

On the 9th day of February, 2000, personally appeared before me Stephen D. Jennings and _____ who being by me duly sworn did say, each for himself, that he, the said Stephen D. Jennings is the Vice President, and he, the said _____ is the _____ of Marie Callender Pie Shops, Inc., and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors and said Stephen D. Jennings and _____ each duly acknowledged before me that he executed the same as said officer of said corporation and that said corporation executed same.

Donna Scales

My Commission Expires: Sept. 6, 2003

Notary Public _____
Residing at Orange County



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County of Davis, Utah
Restaurant #235

EXHIBIT A

The leasehold estate created under that certain Lease Agreement dated as of August 7, 1996, between Westar Group, L.L.C., a Utah limited liability company, and Layton P. Ott, as landlord, and Marie Callender Pie Shops, Inc., as tenant, a memorandum of which Lease was filed with the Clerk and Recorder's Office of Davis County, Utah on September 4, 1996 as Entry No. 1271834 in Book 2040, Page 1181, conveying the real property located in Layton, Davis County, Utah, and legally described on Schedule I, attached hereto.



Restaurant No. 235

**Schedule 1
Legal Description**

All of Lot 10, Woodland Park Commercial Subdivision, according to the official plat thereof, on file and of record in the Davis County Recorder's Office.

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EXHIBIT B

PERMITTED ENCUMBRANCES

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Those exceptions appearing in Schedule B of a certain title insurance policy issued by Commonwealth Land Title Insurance Company to Beneficiary insuring the lien of this Leasehold Deed of Trust with respect to the Premises described in Exhibit A.

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EXHIBIT C

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LEASEHOLD DEED OF TRUST RIDER

Leasehold Deed of Trust Rider attached to and made a part of that certain Leasehold Deed of Trust, dated as of February 16, 2000 (the "Leasehold Deed of Trust") from Marie Callender Pie Shops, Inc., a California corporation, having a principal office at c/o Wilshire Restaurant Group, Inc., 1100 Town and Country Road, Suite 1300, Orange, California 92868, as trustor (the "Trustor"), to Commonwealth Land Title Company having an address at 888 West Sixth Street, Fourth Floor, Los Angeles, California 90017, as trustee (the "Trustee"), for the benefit of BankBoston, N.A., a national banking association having its principal office at 100 Federal Street, Boston, MA 02110, as Agent for itself and the other Banks who are or may become parties to the Credit Agreement, as beneficiary (in such capacity, the "Beneficiary").

With intent to be legally bound, Trustor and Beneficiary agree that the following terms and conditions are herein made a part of the Leasehold Deed of Trust as an integral part thereof. The provisions of this Leasehold Deed of Trust Rider are supplementary to the provisions of the Leasehold Deed of Trust to which this Leasehold Deed of Trust Rider is attached and to the extent any provision of this Leasehold Deed of Trust Rider deals with the same subject matter as similar provisions of the Leasehold Deed of Trust, the provisions hereof are to be construed to expand such similar provisions and not to limit the general application of any general provision contained in the Leasehold Deed of Trust. To the extent any provision of this Leasehold Deed of Trust Rider conflicts with the Leasehold Deed of Trust, the language in the Leasehold Deed of Trust shall control. In case any one or more provisions of this Leasehold Deed of Trust Rider may be found to be invalid or unenforceable for any reason or in any respect, such invalidity or unenforceability shall not limit or impair enforcement of any other provisions of this Leasehold Deed of Trust Rider. Unless otherwise defined herein, capitalized terms used in the Leasehold Deed of Trust and this Leasehold Deed of Trust Rider shall have meanings ascribed to them in the Credit Agreement.

1. REPRESENTATIONS AND WARRANTIES.

The Trustor hereby represents, covenants and warrants to Beneficiary as follows.

1.1 Title to Property. The Trustor warrants that the Lease is in full force and effect, that neither Trustor, nor to Trustor's knowledge, the lessor under the Lease is in default with

the respect to its obligations under the Lease, that, to Trustor's knowledge, the lessor under the Lease has good and marketable title to the Premises, subject only to the Permitted Encumbrances, and that Trustor has good and marketable title to the leasehold estate in the Premises subject only to the Permitted Encumbrances. Trustor further warrants that Trustor is the owner of the fixtures and personal property included in the Property.

1.2. Authority; No Encumbrances. The Property is now free and clear of all encumbrances whatsoever except the Permitted Encumbrances, and the Trustor has good right and lawful authority to mortgage and convey the same in the manner and form hereby mortgaged and conveyed.

1.3. Governmental Filings. Other than the recording of this Leasehold Deed of Trust and the filing of financing statements with the appropriate recording and filing offices in the state where the Property is located, Trustor is not required to obtain any consent, approval, or authorization from or to file any declaration or statement with, any federal, state, or local commission, board or agency, under existing law in connection with the execution and delivery by Trustor of this Leasehold Deed of Trust which has not been so obtained or filed.

1.4. No Subleases. Except as set forth on Schedule 1 to this Deed of Trust Rider, there are presently in effect no subleases of the Property or any part thereof.

1.5. Absence of Litigation. Except as previously disclosed on Schedule 8.7 to the Credit Agreement, there are no actions, suits, proceedings or investigations, including, without limitation, condemnation and eminent domain proceedings, pending or, to Trustor's knowledge, threatened, against or affecting the Property, or which may involve or affect the validity of this Leasehold Deed of Trust, and Trustor is not in default with respect to any order, writ, injunction, decree or demand of any court or any administrative agency or governmental authority affecting the Property or the use thereof in any manner which could reasonably be expected to result in the imposition of substantial penalties or materially or adversely affect the financial condition, properties or business of Borrower and its Subsidiaries, taken as a whole.

1.6. Compliance with Law. Except for such violations or noncompliance which could not reasonably be expected to result in the imposition of substantial penalties or materially or adversely

affect the financial condition, properties or business of Borrower and its Subsidiaries, taken as a whole, the Property is in compliance with all applicable laws and governmental regulations, including but not limited to those governing zoning, land use, subdivision control, health, safety, fire protection and protection of the environment, compliance with which are the responsibility of Trustor, as lessee, under the Lease.

2. CERTAIN COVENANTS AND CONDITIONS.

The Trustor covenants and agrees as follows:

2.1. Rent and Governmental Charges. Trustor shall pay before the same become delinquent (i) all rent, additional rent and other payments required to be paid by Trustor as lessee under the Lease, and (ii) all taxes, charges, sewer use fees, water rates and assessments of every name and nature, assessed against or payable under the Lease by Trustor and applicable or related to the Property or Trustor's interest therein, or applicable or related to any of the Obligations, which, if unpaid, might by law become a lien or charge upon all or any part of the Property; provided, however, that so long as no distraint, foreclosure sale or other levy upon or transfer with respect to the Property or any part thereof shall have been effected or threatened, Trustor shall not be required to pay any such taxes, charges, fees, rates and assessments by reason of this §2.1 if (i) the amount, applicability or validity thereof is currently being contested by the lessor under the Lease or Trustor in good faith by appropriate legal proceedings, (ii) such contest operates to suspend enforcement of compliance therewith and/or collection thereof, and (iii) the lessor under the Lease or Trustor shall have set aside on its books reserves (segregated to the extent required by sound accounting principles and practices) reasonably deemed by Beneficiary to be adequate with respect thereto.

2.2. Provision for Payment of Governmental Charges and Other Obligations. To assure the payment of all taxes, charges, sewer use fees, water rates, ground rents and assessments of every name and nature, or any other obligations of Trustor under the Lease which may have or acquire priority over this Leasehold Deed of Trust, and which are assessed or payable with respect to the Property, upon the occurrence and during the continuance of an Event of Default, Trustor, if so requested by Beneficiary, shall deposit with Beneficiary, on the first day of each month, a sum determined by Beneficiary to be sufficient to provide, in the

aggregate, a fund adequate to pay any such amounts at least ten (10) days before the same become delinquent; and whenever Beneficiary determines sums accumulated under the provisions of this §2.2 to be insufficient to meet the obligation for which such deposits were made, Trustor shall pay, on the demand of Beneficiary, any amount required to cover the deficiency therein. Every such deposit may, at the option of Beneficiary, be applied directly against the obligation with reference to which it was made, or, to the fullest extent permissible according to law, any other obligation of Trustor secured hereby. Such deposits may, to the fullest extent permitted by law, be commingled with other assets of Beneficiary and, in the discretion of Beneficiary, invested by Beneficiary for its own account, without any obligation to pay income from such investment, or interest on such deposits, to Trustor, or to account to Trustor for such income in any manner.

2.3. Maintenance of Property; Alterations. Trustor shall (i) keep and maintain that portion of the Property which constitutes personal property of Trustor in good condition, repair and working order, damage from casualty expressly not excepted, (ii) keep and maintain such portion of the Property as Trustor is required to maintain pursuant to the terms of the Lease, in the condition required under the terms of the Lease, (iii) shall make all necessary and proper repairs, replacements, additions and improvements to the Property as shall be necessary for the proper conduct of its business, and (iv) shall not permit or commit waste on the Property. Trustor shall not permit removal or alteration of anything which constitutes a part of the Property without the consent of Beneficiary except that Trustor may remove personal property or fixtures which have become obsolete, provided that Trustor shall substitute personal property or fixtures of equal utility and equal or greater value for the items so removed. Subject to the terms and conditions of the Lease, the Trustor shall have the right at all times to make or permit such alterations, improvements or new construction, structural or otherwise (herein sometimes called collectively "alterations"), of or on the Property to be made in all cases subject to the following conditions:

(a) all work done in connection with any alterations shall be done promptly and in a first-class and workmanlike manner;

(b) the cost of all alterations shall be paid promptly so as to keep the Property free of all liens;

(c) no alterations of any kind shall be made to the Property which shall change the use or reduce the value of the Property in any respect; and

(d) no alteration involving an estimated cost of materials and construction labor as estimated by a licensed architect or contractor reasonably approved by the Beneficiary in excess of \$100,000 shall be undertaken without the prior written consent of Beneficiary, which shall not be unreasonably withheld or delayed.

Trustor shall permit Beneficiary to enter the Property in accordance with the provisions of the Credit Agreement at any reasonable time to determine whether Trustor is in compliance with its obligations under this Leasehold Deed of Trust. All construction on the Property shall comply with, and each and every part of the Property shall be maintained and used in accordance with, all applicable federal, state and local laws and governmental regulations, the terms and conditions of the Lease, and any lawful private restrictions or other requirements or provisions, relating to the maintenance or use thereof.

2.4. Insurance. The Trustor agrees, at Trustor's sole cost and expense, to keep the Property insured or to cause the lessor under the Lease to keep the Property insured (in accordance with and to the extent required under the terms of the Lease), at all times throughout the term of this Leasehold Deed of Trust with policies of insurance as follows:

(a) property or physical hazard insurance on an "all risks" basis, with broad form flood and earthquake coverages where necessary or prudent based upon geographic location, and building code, valuable papers, extra expenses, extended period of indemnity and electronic data processing coverages, with a full replacement cost endorsement (including builder's risk during any period or periods of time that any construction or remodeling is being performed by Trustor on the Property) and an "agreed amount" clause, in an amount equal to 100% of the full replacement cost of all improvements (excluding only the reasonable value of footings and foundations) and Trustor's contents therein, such amount to be determined annually by an insurer or qualified appraiser selected and paid for by Trustor and acceptable to

Beneficiary, and in any event, in an amount sufficient to prevent Trustor from incurring any coinsurance liability;

(b) if at any time the Property or any portion thereof is located in a "Flood Hazard Area" pursuant to the Flood Disaster Protection Act of 1973 (or any successor thereto), flood insurance in such total amount as Beneficiary shall reasonably require from time to time (or the maximum amount available, if less); and

(c) insurance with respect to other insurable risks and coverages relating to the Property (including, without limitation, commercial general liability insurance (broad form), boiler insurance, builder's risk insurance and worker's compensation insurance) in such amounts and containing such terms and conditions as Beneficiary may reasonably require from time to time.

Trustor shall deposit certified copies of all insurance policies (or certificates thereof reasonably acceptable to Beneficiary) providing coverage applicable to the Property with Beneficiary forthwith after the binding thereof, and shall deliver to Beneficiary new policies (or certificates acceptable to Beneficiary) for any insurance about to expire at least thirty (30) days before such the date of such expiration. All such insurance policies (other than liability policies) shall be first payable in case of loss to Beneficiary by means of a standard non-contributory Mortgagee clause, shall be written by such companies, on such terms, in such form and for such periods and amounts as Beneficiary shall from time to time reasonably approve, shall be primary and without right of contribution from other insurance which may be available, shall waive any right of setoff, counterclaim, subrogation, or any deduction in respect of any liability of Trustor and Beneficiary, shall provide that with respect to Beneficiary, the insurance shall not be invalidated by any action or inaction by Trustor including without limitation any representations made by Trustor in the procurement of such insurance, and shall provide that such policies shall not be cancelled or amended without at least thirty (30) days prior written notice to Beneficiary. All liability insurance policies shall include Beneficiary as an additional insured. All such insurance policies shall provide that all losses thereunder shall be adjusted by (but not disbursed, except as set forth herein, to) Trustor, so long as no Event of Default has occurred and is continuing, provided, however, that in no event shall Trustor

approve or consent to any final adjustment in an amount exceeding One Hundred Thousand Dollars (\$100,000) without obtaining Beneficiary's reasonable prior written approval of the amount of such adjustment, and after an Event of Default has occurred and so long as any such Event of Default continues, Trustor shall not consent to a final adjustment in any amount without obtaining Beneficiary's prior written approval. After the occurrence of an Event of Default, upon foreclosure hereof, Trustor hereby grants Beneficiary full power and authority as irrevocable attorney-in-fact of Trustor to cancel or transfer such insurance, to collect and endorse any checks issued in the name of Trustor and to retain any premium and to apply the same to the Obligations secured hereby.

Unless the Lease provides otherwise, the proceeds of any casualty insurance described in this §2.4, in respect of any damage or loss of any of the Property shall be disbursed in accordance with §2.5.

2.5. Casualties and Takings. All proceeds of any property or hazard insurance or awards of damages on account of any taking or condemnation for public use of or injury to the Property shall be disbursed and applied by Trustor in the manner set forth in Section 4.3.4 of the Credit Agreement.

The provisions of this §2.5 shall be subject to the terms of the Lease governing the disposition of property insurance proceeds and taking awards and, in the event of a conflict between this Section 2.5 and the Lease, the provisions of the Lease shall control.

2.6. Notice of Condemnation. Trustor, immediately upon obtaining knowledge of the institution of any proceeding for the condemnation or requisition of the Property or any portion thereof, shall notify Beneficiary of the pendency of such proceeding. If and to the extent permitted under the Lease, the Beneficiary may participate in such proceedings, and Trustor from time to time shall deliver to Beneficiary all instruments reasonably requested by Beneficiary to permit such participation.

2.7. Subleases; Assignments; Subordination. Trustor shall not sublease the Property or any part thereof without the reasonable prior written consent of Beneficiary. If Trustor shall enter into a sublease with the consent of Beneficiary, Trustor shall faithfully keep, observe and satisfy all the obligations on the part of Trustor, as sublessor, to be kept, performed and satisfied under every sublease from time to time in force with reference to the

Property, and shall not alter or terminate any such sublease, or any guarantee of such sublease, except in the ordinary course of business, or accept any rentals for more than one month in advance. Trustor hereby absolutely, irrevocably and unconditionally assigns and transfers to Beneficiary all rents, issues and profits, income and other benefits derived under any and all subleases of the Property; provided, however, that Trustor shall be entitled to collect and retain such rents and profits until an Event of Default shall have occurred. Trustor hereby gives to and confers upon Beneficiary the right, power and authority to collect the rents and profits. Trustor irrevocably appoints Beneficiary as Trustor's true and lawful attorney in fact, at the option of Beneficiary at any time and from time to time, either with or without taking possession of the Property, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Trustor or Beneficiary, for all of the rents and profits and apply the same to the Obligations secured hereby. The assignment by Trustor of the rents and profits of the Property in this Leasehold Deed of Trust is intended to be a present and absolute assignment from Trustor to Beneficiary and not merely the creation of a security interest. Beneficiary's right to collect the rents and profits is not contingent upon Beneficiary's taking possession of the Property. Upon the occurrence of an Event of Default, and as long as any such Event of Default exists, Trustor's license to collect the rents and profits shall terminate and Beneficiary shall have the right, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the value of the Property or the adequacy of the security for the Obligations, to enter upon and take possession of the Property, or any part thereof, in its own name sue for or otherwise collect the rents and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, upon the Obligations, and in such order as Beneficiary may determine. The collection of the rents and profits, or the entering upon and taking possession of the Property, or the application thereof as aforesaid, shall not cure or waive any Default or Event of Default or notice of default hereunder or invalidate any act done in response to such Default or Event of Default or pursuant to such notice of default. At any time on notice from Beneficiary, Trustor shall submit to Beneficiary for examination all such subleases, or an accounting of the rents and profits obtained by Trustor thereunder, in form reasonably satisfactory to Beneficiary. The Beneficiary shall have the right, by the execution of suitable written instruments from time to time, to subordinate this

Leasehold Deed of Trust, and the rights of Beneficiary hereunder, to any sublease or subleases from time to time in force with reference to the Property, and, on the execution of any such instrument, this Leasehold Deed of Trust shall be subordinate to the sublease for which such subordination is applicable with the same force and effect as if such sublease had been executed and delivered, and a notice thereof recorded to the extent required to give notice to third persons, prior to the execution, delivery and recording of this Leasehold Deed of Trust.

2.8. Prior Mortgages. If this Leasehold Deed of Trust, by its terms, is now, or any time hereafter, becomes subject or subordinate to a prior leasehold deed of trust or mortgage, Trustor shall fully perform its obligations under such prior leasehold deed of trust or mortgage and shall not, without the consent of Beneficiary, agree to the modification, amendment or extension of the terms or conditions of such prior leasehold deed of trust or mortgage. Nothing contained in this §2.8 is intended, nor shall it be deemed, to constitute consent by Beneficiary to a subordination of the lien of this Leasehold Deed of Trust.

2.9. Encumbrances. Trustor shall not create or permit to be created or permit to exist any encumbrance on the Property (other than any lien for property taxes not yet due and payable and the other Permitted Encumbrances) even if such encumbrance is inferior to this Leasehold Deed of Trust, without the prior written consent of Beneficiary.

2.10. Transfers of Ownership. Trustor shall not sell or permit any transfer of any interest in the Property, or any part thereof, without the prior written consent of Beneficiary, except as expressly permitted by the Credit Agreement.

2.11. Priority of Lien; After-Acquired Property; No Merger of Estates. This Leasehold Deed of Trust is and will be maintained as a valid leasehold mortgage lien on the Property subject only to the Permitted Encumbrances. All property of every kind acquired by Trustor after the date hereof which, by the terms hereof, is required or intended to be subjected to the lien of this Leasehold Deed of Trust shall, immediately upon the acquisition thereof by Trustor, and without any further mortgage, conveyance, assignment or transfer, become subject to the lien of this Leasehold Deed of Trust. The Trustor will do, execute, acknowledge and deliver all and every such further conveyances, mortgages, and

assurances as Beneficiary shall reasonably require for accomplishing the purposes of this Leasehold Deed of Trust. If any action or proceeding shall be instituted to recover possession of the Property or for the foreclosure of any other leasehold deed of trust or for any other purpose affecting the Property or this Leasehold Deed of Trust, Trustor will immediately, upon service thereof on or by Trustor, deliver to Beneficiary a true copy of each precept, petition, summons, complaint, notice of motion, order to show cause, and all other process, pleadings and papers, however designated, served in any such action or proceeding.

Trustor will not release, surrender or terminate the Lease without the prior written consent of Beneficiary, not to be unreasonably withheld, nor without similar consent will Trustor modify the Lease so as to reduce the term thereof, or to increase the rentals payable thereunder, or to alter those provisions relating to grace periods, notices to be given to Beneficiary, construction, use, reconstruction, or demolition of the building on the Premises, payment of governmental charges as provided in the Lease, renewal privileges or in any other manner which would impair the security of this Leasehold Deed of Trust. Trustor further covenants and agrees that there shall be no merger of the Lease, or of the leasehold estate created thereby, or of any Building Service Equipment or other property improvement now or hereafter constituting a portion of the Property, with the fee estate of the owner or owners of the Premises, by reason of the fact that the Lease or the leasehold interest created thereby, or any interest in any building, equipment or other improvements located on the Premises, may be held by or for the account of any person or persons who shall be the owner or owners of such fee estate in the Premises, unless and until all persons at the time having an interest in the fee estate in the Premises and all persons, including Beneficiary, at the time having an interest in the Lease, leasehold estate, buildings, equipment and improvements, shall join in a written instrument effecting such merger and shall duly record the same. If any action or proceeding shall be instituted to evict Trustor or recover possession of the Property or for the foreclosure of any other leasehold deed of trust or for any other purpose affecting the Lease or this Leasehold Deed of Trust, Trustor will immediately, upon service thereof on or by Trustor, deliver to Beneficiary a true copy of each precept, petition, summons, complaint, notice of motion, order to show cause, and all other process, pleadings and papers however designated, served in such action or proceeding and in any such action or proceeding.

2.12. Fixtures and Equipment; Financing

Statement. This Leasehold Deed of Trust constitutes a security agreement under the Uniform Commercial Code, and Trustor hereby grants to Beneficiary to secure the payment and performance of the Obligations and also to secure the performance of all agreements and covenants herein contained, a security interest in all fixtures, Building Service Equipment and any other property included in the Property, now owned or hereafter acquired by Trustor, which might otherwise be deemed "personal property" (and all accessions thereto and the proceeds thereof). Some of such "personal property" is now or is to become fixtures on the Premises. Trustor covenants and agrees that, upon the acquisition of fixtures, Building Service Equipment or such personal property included in the Property after the date hereof, Trustor will provide to Beneficiary such further assurances as may be required by Beneficiary to establish Beneficiary's first and prior security interest in such fixtures, Building Service Equipment and personal property. **IT IS INTENDED BY TRUSTOR AND BENEFICIARY THAT THIS LEASEHOLD DEED OF TRUST BE EFFECTIVE AS A FINANCING STATEMENT FILED WITH THE REAL ESTATE RECORDS AS A FIXTURE FILING.** The mailing address for Trustor and address of Beneficiary from which information concerning the security interest may be obtained are set forth in the introductory paragraph of this Leasehold Deed of Trust. Trustor shall execute, deliver and cause to be recorded and filed from time to time with all necessary public offices, at Trustor's sole cost and expense, continuances and such other instruments as will maintain Beneficiary's priority of security in all fixtures, Building Service Equipment and other personal property included in the Property. The remedies for any violation of the covenants, terms and conditions of the security agreement herein contained shall be (i) as prescribed herein, or (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory consequences now or hereafter enacted and specified in said Uniform Commercial Code, all at Beneficiary's sole election.

2.13. Performance of Lease. Trustor covenants that Trustor will:

- (a) diligently perform and observe all of the terms, covenants and conditions of the Lease required to be performed and observed by Trustor as lessee under the Lease unless such performance or observance shall have been waived or not required by the lessor under the Lease;

(b) promptly notify Beneficiary in writing of any material default by the lessor in the performance or observance of any of the terms, covenants or conditions on the part of lessor to be performed or observed under the Lease;

(c) promptly advise Beneficiary in writing of the giving of any notice by the lessor under the Lease to Trustor of any default by Trustor under the Lease;

(d) exercise any option to renew or extend the current term of the Lease in such manner as will cause the term of the Lease to be effectively renewed or extended for the period provided by such option if this Leasehold Deed of Trust continues beyond such Lease term, and give immediate written notice thereof to Beneficiary;

(e) promptly after the execution and delivery of this Leasehold Deed of Trust or of any instrument or agreement supplemental thereto, notify the lessor under the Lease in writing of the execution and delivery thereof and deliver to such lessor a copy of each such instrument or agreement; and

(f) within thirty (30) days after written demand by Beneficiary, upon the request of Beneficiary, use reasonable efforts to obtain from the lessor and furnish to Beneficiary the estoppel certificate of the lessor in such form as may be reasonably required by Beneficiary.

2.14. Environmental Assessments. At any time after an Event of Default shall have occurred hereunder, or, whether or not an Event of Default shall have occurred, at any time after Beneficiary shall receive notice of a Release or threatened Release of Hazardous Substances from Trustor, or shall have received notice from any other source deemed reliable by Beneficiary that a Release of Hazardous Substances may have occurred, Beneficiary may at its election after five (5) days prior notice to Trustor obtain one or more environmental assessment of the Property prepared by a qualified consultant or expert approved by Beneficiary to evaluate or confirm (i) whether any Hazardous Substances are present in the soil or water at or adjacent to the Property, and (ii) whether the use and operation of the Property comply with all applicable Environmental Laws. Such environmental assessment may include detailed visual inspections of the Property including, without limitation, any and all storage areas, storage tanks, drains, dry wells and leaching areas, and the taking of soil samples, surface water samples and

ground water samples, as well as such other investigations or analyses as Beneficiary deems appropriate. Such environmental assessment shall be at the sole cost and expense of Trustor.

3. DEFAULT AND REMEDIES.

3.1. Default; Acceleration of Obligations. If an Event of Default shall occur and be continuing then Beneficiary may exercise the remedies provided under this Leasehold Deed of Trust, under the Guaranty, under the Credit Agreement, under any and all other instruments and documents providing security for the Obligations, or under the laws of the state where the Property is situated, or any one or more of such remedies.

3.2. Remedies Cumulative. No remedy herein conferred on Beneficiary is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing. If any Event of Default occurs, and as long as any such Event of Default continues, Beneficiary shall have the right to declare all Obligations secured hereby to be immediately due and payable, and all such Obligations shall thereupon become immediately due and payable, without any presentment, demand, protest or notice of any kind, all of which are expressly waived by Trustor.

3.3. Right of Beneficiary to Cure an Event of Default. If an Event of Default shall occur and be continuing, Beneficiary shall have the right, but without any obligation so to do, to cure such default for the account of Trustor and to make any payment or take any action necessary to effect such cure. Without limiting the generality of the foregoing, Trustor hereby authorizes Beneficiary to pay any rents, additional rents or other payments required to be paid by Trustor as lessee under the Lease; to pay all taxes, sewer use fees, water rates and assessments, with interest, costs and charges accrued thereon, which Trustor is obligated to pay, as lessee, under the Lease or which may at any time be a lien upon the Property, or any part thereof; to pay the premiums for any insurance required to be maintained by Trustor as lessee under the Lease or as otherwise required hereunder; to incur and pay reasonable expenses in protecting its rights hereunder and the security hereby granted; and to pay any balance due under any security agreement on any fixtures and equipment included as a part of the Property; and the payment of all amounts so incurred shall be secured hereby as fully and effectually as any other

obligation of Trustor secured hereby. If Beneficiary shall make any payment or take action in accordance with this §3.3, Beneficiary will give to Trustor written notice of the making of any such payment or the taking of any such action. In any such event, subject to the terms and conditions of the Lease, Beneficiary and any person designated by Beneficiary shall have, and is hereby granted, the right to enter upon the Property at reasonable times and from any time and from time to time for the purpose of taking any such action, and all monies expended by Beneficiary in connection therewith (including, but not limited to, reasonable legal expenses and disbursements), together with interest thereon at an annual rate of interest equal to the rate applicable to overdue payments under the Credit Agreement (or the highest rate permitted by law, whichever shall be less), from the date of each such expenditure, shall be paid by Trustor to Beneficiary forthwith upon demand by Beneficiary, and shall be secured by this Leasehold Deed of Trust, and Beneficiary shall have, in addition to any other right or remedy of Beneficiary, the same rights and remedies in the event of non-payment of any such sums by Trustor as in the case of a default by Trustor in the payment of any installment of principal or interest due and payable under the Credit Agreement and guaranteed by the Guaranty.

3.4. Possession of Property. Upon the occurrence and during the continuance of an Event of Default, Beneficiary shall have the right, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of the security, to enter upon and take possession of the Property, or any part thereof, in its own name or in the name of Trustee, and do any acts that Beneficiary deems necessary or desirable to preserve the value, marketability or rentability of the Property or increase the income therefrom or protect the security hereof, and, with or without taking possession of the Property, to sue for or otherwise collect the rents and profits of the Property, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, to the Obligations, all in such order as Beneficiary may determine. The entering upon and taking possession of the Property, the collection of the rents and profits, and the application thereof as aforesaid shall not cure or waive any Default or Event of Default or notice of default hereunder or invalidate any act done in response to such Default or Event of Default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Property or the collection,

receipt and application of the rents and profits, Trustee or Beneficiary shall be entitled to exercise every right or remedy provided for in any of the Loan Documents or by law upon the occurrence of any Event of Default under this Leasehold Deed of Trust, including the right to exercise the power of sale.

3.5. Operation of Property. Upon the occurrence and during the continuance of an Event of Default, to the extent permitted under and in accordance with the terms and conditions of the Lease, Beneficiary may hold, sublease, manage, operate or otherwise use or permit the use of the Property, either itself or by other persons, firms or entities, in such manner, for such time and upon such other terms as Beneficiary may deem to be prudent and reasonable under the circumstances (making such repairs, alterations, additions and improvements thereto and taking any and all other action with reference thereto, from time to time, as Beneficiary shall deem necessary or desirable), and apply all rents, profits and other amounts collected in connection therewith in accordance with the other provisions of this Leasehold Deed of Trust.

3.6. Receiver. Upon the occurrence and during the continuance of an Event of Default, or any actual or threatened waste to all or any part of the Property, or at any time while a suit is pending to foreclose or reform this Leasehold Deed of Trust or to enforce any provision hereof, Beneficiary shall have the right to apply without notice for the appointment of a receiver of all or any part of the Property and the rents and profits thereof, and such receiver shall have all the broad and effective functions and powers anywhere entrusted by a court to a receiver. Beneficiary shall be entitled to the appointment of said receiver forthwith as a matter of absolute right, without regard to the adequacy or inadequacy of the value of the Property or the solvency or insolvency of Trustor or any other defendant, and Trustor hereby waives any right to object to the appointment of such receiver and expressly consents thereto. The income, profits, rents, issues and revenues from the Property shall be applied by such receiver according to the provisions of this Leasehold Deed of Trust and the practice of the court appointing such receiver.

3.7. Other Remedies. Upon the occurrence and during the continuance of an Event of Default, in addition to any other remedies set forth herein, Beneficiary shall have the right to commence an action to

foreclose this Leasehold Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof.

3.8. Foreclosure by Power of Sale. If Beneficiary elects to foreclose this Leasehold Deed of Trust by exercise of the power of sale as provided in this Leasehold Deed of Trust, Beneficiary shall notify Trustee and shall deposit with Trustee such written notice of default and election to sell and such receipts or evidence of expenditures made and secured hereby as Trustee may require.

(a) Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such notice of default and election to sell as may then be required by law and by this Leasehold Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law after recordation of such notice of default and election to sell, and after notice of sale has been given as may then be required by law, sell the Property (including the personal property, if requested by Beneficiary, as agent for Beneficiary) at the time and place of sale fixed by Trustee in such notice of sale, either as a whole or in separate lots or parcels or items as determined solely by Beneficiary, and in such order as Beneficiary alone may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at the time of sale. Trustor waives, and relinquishes to Beneficiary, all rights to direct the order in which the Property shall be sold or to require that the Property be sold in separate lots or parcels or items. Trustee shall deliver to such purchaser or purchasers Trustee's deed or deeds (and, if applicable, bill of sale or bills of sale) conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in such deed or bill of sale of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at such sale and Trustor hereby covenants to warrant and defend the title of such purchaser or purchasers.

(b) After deducting all costs, fees and expenses of Trustee and of this trust, including costs of evidence of title in connection with any sale of the Property, Trustee shall apply the proceeds of sale to payment of: all sums expended under this Leasehold Deed of Trust, not then repaid, with interest thereon from the date of expenditure until paid at the annual interest rate applicable to overdue payments under Section 6.14.1 of the Credit Agreement; all indebtedness and other obligations secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

(c) Trustee may postpone sale of all or any portion of the Property by public announcement at the time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time and place fixed by the preceding postponement or subsequently noticed sale, and without further notice make such sale at the time and place fixed by the last postponement, or may, in its discretion, give a new notice of sale.

(d) The power of sale granted under this Leasehold Deed of Trust shall not be exhausted by any one or more sales (or attempts to sell) as to all or any portion of the Property remaining unsold, but shall continue unimpaired until all of the Property has been sold by exercise of the power of sale in this Leasehold Deed of Trust and all indebtedness and obligations secured by this Leasehold Deed of Trust have been paid and discharged in full.

3.9. Certain Terms of Foreclosure Sale. At any foreclosure sale, any combination, or all, of the Property or security given to secure the indebtedness secured hereby, may be offered for sale for one total price, and the proceeds of such sale accounted for in one account without distinction between the items of security or without assigning to them any proportion of such proceeds. Trustor hereby waives the application of any doctrine of marshaling, and, in case Beneficiary, in the exercise of the power of sale herein given, elects to sell in parts or parcels, said sales may be held from time to time, and the power shall not be fully executed until all of the property or security not previously sold shall have been sold.

3.10. Uniform Commercial Code. If the provisions of the Uniform Commercial Code are applicable to any property or security given to secure the indebtedness secured hereby which is sold in combination with or as a part of the Property, or any part thereof, at one or more foreclosure sales, any notice required under such provisions shall be fully satisfied by the notice given in execution of the power of sale or other provision in accordance with which the sale of real property pursuant to such foreclosure is held with respect to the Property or any part thereof.

3.11. Other Mortgage Instruments. The Obligations secured by this Leasehold Deed of Trust may also be secured by various other deeds of trust or mortgages or both (collectively, including this Leasehold Deed of Trust, the "Mortgage Instruments") conveying or encumbering real estate in the state in which the Property is situated and in other jurisdictions. An Event

of Default under the Credit Agreement shall be an Event of Default under all Mortgage Instruments. Except as may be expressly stated in this Leasehold Deed of Trust or in such other Mortgage Instruments, all the property conveyed or encumbered by the Mortgage Instruments is security for the Obligations secured by the Mortgage Instruments without allocation of any one or more of the parcels or properties serving as security under the Mortgage Instruments to any part of the Obligations. The Beneficiary may act at the same time or at different times to pursue a remedy or remedies under the Mortgage Instruments or under any of them by proceedings appropriate to the state in which the property serving as security lies, and no such action shall stay or bar enforcement, or be construed as a waiver of, any remedy of Beneficiary under any other instrument in the same state or jurisdiction or in any other state or jurisdiction.

3.12. Rights Cumulative. Each right, power and remedy conferred upon Beneficiary by this Leasehold Deed of Trust, the Guaranty, the Credit Agreement and by all other documents evidencing or securing the Obligations and conferred by law or in equity is cumulative and in addition to every other right, power and remedy herein or therein set forth or otherwise so existing, may be exercised from time to time, as often, and in such order, as may be deemed expedient by Beneficiary, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of, or discontinuance by, Beneficiary in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein. To constitute a waiver, there must be a writing signed by an officer of Beneficiary and directed to Trustor, specifying the waiver.

In case Beneficiary shall have proceeded to enforce any right or remedy under this Leasehold Deed of Trust, the Guaranty or the Credit Agreement by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Beneficiary, then and in every such case Trustor and Beneficiary shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Beneficiary shall continue as if no such proceeding had been taken. In the event of a breach or default under this Leasehold Deed of Trust, the Guaranty or under the

Credit Agreement or any other document evidencing or securing the Obligations, Trustor agrees to pay and to indemnify and hold harmless Beneficiary and the Banks for all reasonable expenses, attorneys' fees, taxes and other court costs occasioned by such breach or default.

4. DEFINITIONS.

The following terms as used herein shall have the following meanings:

"Bank(s)" shall mean BankBoston, N.A. and such other lending institutions or other lenders which are or may become parties to the Credit Agreement.

"Beneficiary" shall mean the Beneficiary named at the beginning of this instrument, any subsequent holder or holders of this Leasehold Deed of Trust or the indebtedness secured hereby and their respective successors and assigns.

"Borrower" shall mean Wilshire Restaurant Group, Inc., a Delaware corporation.

"Building Service Equipment" shall mean all apparatus, fixtures and articles of personal property owned by Trustor now or hereafter attached to or used or procured for use in connection with the operation or maintenance of any building, structure or other improvement located on or included in the Property (except apparatus, fixtures or articles of personal property belonging to sublessees or other occupants of such building or to persons other than Trustor unless the same be abandoned by any such lessee or other occupant or person), together with any and all replacements thereof and additions thereto.

"Credit Agreement" shall mean that certain Revolving Credit and Term Loan Agreement dated as of November 12, 1999, by and among the Borrower, the Banks and the Beneficiary, as Agent for itself and the other Banks pursuant to which the Banks have agreed (a) to make revolving credit loans to the Borrower, and to issue letters of credit for the account of the Borrower, in an aggregate outstanding principal amount of up to \$20,000,000, and (b) to make two (2) term loans to the Borrower in an aggregate principal amount of \$60,000,000, as such Revolving Credit and Term Loan Agreement is originally executed, or if varied, supplemented, amended or restated from time to time, as so varied, supplemented, amended or restated.

"Default" shall mean any Default under the Credit Agreement (as therein defined).

"Environmental Laws" shall have the meaning assigned to it in the Credit Agreement.

"Event of Default" shall mean any Event of Default under the Credit Agreement (as therein defined).

"Guaranty" shall mean that certain Guaranty, dated as of November 12, 1999, made by Trustor and certain other subsidiaries of Borrower in favor of the Beneficiary and the Banks, as the same may be varied, supplemented, amended or restated from time to time, pursuant to which Trustor and such other subsidiaries have jointly and severally guaranteed the Obligations of Borrower under the Credit Agreement and the other Loan Documents.

"Hazardous Substances" shall have the meaning assigned to it in §8.17(b) of the Credit Agreement.

"Lease" shall mean the Lease referred to and described in Exhibit A to this Leasehold Deed of Trust.

"Leasehold Deed of Trust" shall have the meaning assigned to it in the recitals to this Leasehold Deed of Trust Rider.

"Letter of Credit" shall mean a standby or documentary letter of credit in such form as may be requested from time to time by the Borrower and agreed to by the Beneficiary, all as further defined in §5.1 of the Credit Agreement.

"Letter of Credit Application" shall have the meaning assigned to it in the Credit Agreement.

"Loan Documents" shall mean the Credit Agreement, the Notes, the Letter of Credit Applications, the Letters of Credit, the Fee Letter (as defined in the Credit Agreement), the Guaranty and the other Security Documents (as defined in the Credit Agreement).

"Loans" shall mean the Revolving Credit Loans (as defined in the Credit Agreement) and the Term Loans (as defined in the Credit Agreement).

"Mortgage Instruments" shall have the meaning assigned to it in §3.8 hereof.

"Note(s)" shall mean the Revolving Credit Notes (as defined in the Credit Agreement) and the Term Notes (as defined in the Credit Agreement).

"Obligations" shall mean all indebtedness, obligations and liabilities of any of the Borrower, the Trustor and other Subsidiaries (as defined in the Credit Agreement) to any of the Banks and Beneficiary, individually or collectively, existing or arising on the date of the Credit Agreement or arising thereafter, direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise, arising or incurred under the Credit Agreement, the Guaranty or any of the other Loan Documents or in respect of any of the Loans made or Reimbursement Obligations incurred or any of the Notes, Letter of Credit Applications, Letters of Credit, or other instruments at any time evidencing any thereof or arising or incurred under any interest rate protection arrangements, including the Hedging Agreements (as defined in the Credit Agreement) entered into by any of the Borrower or its Subsidiaries with any of the Banks.

"Permitted Encumbrances" shall mean the encumbrances listed on Exhibit B to this Leasehold Deed of Trust and incorporated herein by reference as if fully set out herein and any other encumbrances which are permitted within the definition of Permitted Liens (as defined in the Credit Agreement).

"Premises" shall mean all that certain tract or parcel of land more particularly described and set forth in Exhibit A attached to this Leasehold Deed of Trust and made a part hereof.

"Property" shall mean all of the described property, rights, privileges, interests and franchises more particularly described in paragraphs (a) through (i) below:

(a) The leasehold estate created pursuant to the Lease with respect to the land described in Exhibit A annexed hereto, together with all of Trustor's rights, title and interest in and to all buildings and other improvements new or hereafter erected or placed on the land, and all fixtures attached to the improvements or the land, and renewals or replacements thereof or articles in substitution therefor;

(b) All of Trustor's right, title and interest in and to the Lease; together with the appurtenances and all the estate and rights of the Trustor of, in and to the Premises which are subject to

the Lease; all and each of the tenements, hereditaments and appurtenances of the Trustor belonging or in anywise appertaining to said Premises, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof;

(c) All Building Service Equipment, and all renewals or replacements thereof or articles in substitution therefor;

(d) All modifications, extensions and renewals of the Lease and all rights to renew or extend the term of the Lease; all credits, deposits, options, privileges and rights of the Trustor as lessee under the Lease; and to the extent not prohibited by or inconsistent with the terms of the Lease, Trustor's interest in all awards heretofore made or hereafter to be made for the taking by eminent domain of the whole or any part of the Premises, or any estate or easement therein, including any awards for change of grade of streets, all of which awards are hereby assigned to Beneficiary;

(e) All present and future subleases and licenses of space in the Premises which are subject to the Lease or any other portion of said Premises, and the rents, issues and profits payable thereunder subject, however, to the right of Trustor to receive and use the same and to exercise all rights and privileges as sublessor under all of the subleases until an Event of Default shall have occurred and be continuing under this Leasehold Deed of Trust, together with all rights and privileges of the Trustor as sublessor thereunder;

(f) All unearned premiums accrued, accruing or to accrue under any and all insurance policies now or hereafter obtained by the Trustor pursuant to the provisions of this Leasehold Deed of Trust;

(g) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including any proceeds of insurance and proceeds of condemnation awards;

(h) All transferable building service, building maintenance, construction, management and other similar agreements and contracts, written or oral, express or implied, now or hereafter entered into by Trustor in connection with, arising or in any manner related to the construction, design, improvement, use, operation, occupation, enjoyment, sale, conversion or other disposition (voluntary or involuntary) of the Premises, or the buildings and improvements now or hereafter located thereon, or any other interest of Trustor in said Premises, or any combination

thereof, including all property management agreements, sales contracts, contract deposits, earnest money deposits, prepaid items and payments due and to become due thereunder, and further including all payment and performance bonds, construction guaranties, warranties, construction contracts, architects agreements, general contract agreements, design agreements, engineering agreements, technical service agreements, architectural plans and specifications, sewer and water and other utility agreements, permits, approvals, licenses, building permits, service contracts, advertising contracts, purchase orders and equipment leases; and

(i) All proceeds and products of the foregoing of every type.

"Reimbursement Obligation" shall mean the Borrower's obligation to reimburse the Beneficiary and the Banks on account of any drawing under any Letter of Credit as provided in §5.2 of the Credit Agreement.

"Release" shall have the meaning specified in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 et seq. ("CERCLA") and the term "Disposal" (or "disposed") shall have the meaning specified in the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq. ("RCRA") and regulations promulgated thereunder; provided, in the event either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply as of the effective date of such amendment and provided further, to the extent that the laws of the state where the Property is located establish a meaning for "release" or "disposal" which is broader than specified in either CERCLA or RCRA, such broader meaning shall apply.

"Trustor" shall mean the person or persons named at the beginning of this instrument as Trustor, and any subsequent owner or owners of the Property.

5. MISCELLANEOUS.

5.1. Notices. All notices, requests and other communications hereunder shall be made in writing and shall be given in the manner set forth in the Credit Agreement.

5.2. Successors and Assigns; Partial Invalidity. All the covenants and agreements of Trustor herein contained shall be binding upon Trustor and the successors and assigns of Trustor. In case any one or more of the provisions of this Leasehold Deed of

Trust may be found to be invalid, or unenforceable for any reason or in any respect, such invalidity or unenforceability shall not limit or impair enforcement of any other provision thereof.

5.3. Future Advances; Revolving Credit Advances. This Leasehold Deed of Trust shall secure, and constitute a lien upon the Property for, all future advances and revolving credit advances or readvances made by the Beneficiary or any of the Banks under the Credit Agreement at any time or times hereafter, whether or not any reference is made to this Leasehold Deed of Trust at the time such advances are made, and all such sums shall be equally secured with and, to the extent permitted by law, have the same priority as the Obligations outstanding as of the date hereof. A portion of the indebtedness evidenced by the Notes is revolving credit indebtedness. The Credit Agreement provides that the principal sum of \$20,000,000 may be advanced, repaid and readvanced from time to time in accordance with the terms and provisions of the Credit Agreement. Accordingly, the aggregate principal advances during the term of the Credit Agreement may exceed \$80,000,000; provided, however, at no time shall the aggregate outstanding principal balance exceed \$80,000,000, except for advances made to protect the lien of this Leasehold Deed of Trust as hereinabove provided. Trustor agrees that if the outstanding balance of the Credit Agreement, principal and interest, is ever repaid to zero (despite any express prohibition to the contrary contained in the Credit Agreement), the lien and security interest of this Leasehold Deed of Trust shall not be deemed released or extinguished by operation of law or implied intent of the parties. This Leasehold Deed of Trust shall remain in full force and effect as to any further advances or readvances under the Credit Agreement made after any such zero balance until the Obligations are paid in full, all agreements to make further advances and readvances have been terminated and this Leasehold Deed of Trust has been canceled of record. Trustor waives the operation of any applicable statute, case law or regulation having a contrary effect. The outstanding principal amount of the indebtedness under the Credit Agreement will bear interest at a variable rate or rates calculated in accordance with the terms and conditions of the Credit Agreement. The Credit Agreement is hereby incorporated into this Leasehold Deed of Trust with regard to and to the extent of all references made to it in this Leasehold Deed of Trust.

5.4. Modification. No change, amendment, modification, cancellation or discharge of this Leasehold Deed of Trust, or any

part hereof, shall be valid unless in writing and signed by the parties hereto or their respective successors and assigns.

5.5. Captions. Section headings are inserted for convenience of reference only, do not form part of this Leasehold Deed of Trust and shall be disregarded for purposes of the interpretation of the terms of this Leasehold Deed of Trust.

5.6. Governing Law. The Credit Agreement and the Guaranty shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, but this Leasehold Deed of Trust and the perfection and enforcement of the lien and security interest hereunder (and any financing statement filed in connection herewith) shall be governed by and construed and enforced in accordance with the laws of the state in which the Property is situated.

5.7. Deed of Trust - Replacement of Trustee. Beneficiary may remove the Trustee at any time or from time to time and select a successor trustee. In the event of the death, removal, resignation, refusal to act or inability to act of such Trustee, or, in its sole discretion, for any reason whatsoever, such Beneficiary may, without notice and without specifying any reason therefor and without applying to any court, select and appoint a successor trustee, and all the powers, rights, duties and authority of such Trustee, as aforesaid, shall thereupon become vested in such successor.

5.8. Additional Security. If Beneficiary at any time holds additional security for any of the Obligations secured hereby, Beneficiary may enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently herewith or after a sale of all or any portion of the Property is made hereunder.

5.9. Request for Notice. Trustor hereby requests that a copy of any notice of a Default or an Event of Default and of any notice of sale under this Leasehold Deed of Trust be mailed to Trustor at the address of Trustor set forth in this Leasehold Deed of Trust as required by applicable law.

5.10. Beneficiary Statements. Trustor agrees to pay Beneficiary for each statement of Beneficiary regarding the obligations secured hereby the maximum fee allowed by law or, if there is no maximum fee, such reasonable fee as is then charged by Beneficiary for such statement.