

Inst # 1997-41983

**MORTGAGE, ASSIGNMENT OF RENTS AND LEASES,
SECURITY AGREEMENT AND FIXTURE FILING
(ALABAMA)**

made from

PRIME HOSPITALITY CORP.
"Mortgagor"

to

BANKERS TRUST COMPANY, AS AGENT
"Mortgagee"

Date: As of December 17, 1997

**PREPARED BY, RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:**

O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, California 90071
Attention: Robin L. Gohlke, Esq.
File #045,710-720¹

¹NOTE: If this Mortgage or the Note which this Mortgage secures are in your possession, DO NOT DESTROY THEM. State law may require presentation of this Mortgage and/or the Notes in order to obtain a termination or release of this Mortgage upon satisfaction of the indebtedness secured hereby. The termination or release must be recorded in the city, town, county or parish records for the jurisdiction in which the land described in the Exhibit A is located.

NY1-557886.V1
PRIME IV ALABAMA MORTGAGE
SHELBY COUNTY

Land Title

12/29/1997-41983
11:48 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
056 HCD 147.00

12/15/97

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THIS MORTGAGE COVERS GOODS WHICH ARE OR ARE TO BECOME AFFIXED TO OR FIXTURES ON THE LAND DESCRIBED IN EXHIBIT A HERETO. THIS MORTGAGE IS ALSO A FINANCING STATEMENT FILED AS A FIXTURE FILING PURSUANT TO CODE OF ALABAMA (1975) SECTION 7-9-402 (6), AND IS TO BE INDEXED, AMONG OTHER PLACES, IN THE FINANCING STATEMENT RECORDS OF EACH COUNTY (OR, TO THE EXTENT SIMILAR RECORDS ARE MAINTAINED AT THE CITY OR TOWN LEVEL INSTEAD OF THE COUNTY LEVEL, EACH SUCH CITY OR TOWN) IN WHICH SAID LAND OR ANY PORTION THEREOF IS LOCATED.

**MORTGAGE, ASSIGNMENT OF RENTS AND
LEASES, SECURITY AGREEMENT AND FIXTURE FILING (ALABAMA)**

THIS MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING (ALABAMA) (this "Mortgage") is dated as of December 17, 1997, from **PRIME HOSPITALITY CORP.**, a Delaware corporation ("Mortgagor"), whose address is 700 Route 46 East, Fairfield, New Jersey, 07007-2700, to **BANKERS TRUST COMPANY**, a New York banking corporation, as Agent (in such capacity, "Agent") for the Lenders listed in the Credit Agreement (as hereinafter defined), having an address at 130 Liberty Street, 25th Floor, New York, New York 10006 (Agent, together with its successors and assigns, "Mortgagee").

All capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Credit Agreement.

MORTGAGOR IS THE OWNER OF THE RECORD INTEREST IN THE PARCELS OF LAND AS INDICATED IN EXHIBIT A HERETO.

RECITALS

A. Mortgagor is the record owner of the Premises (defined below).

B. Agent and the Lenders named on the signature pages thereof (each individually referred to herein as a "Lender" and collectively as the "Lenders") together with Mortgagor, as borrower, are parties to that certain Amended and Restated Senior Secured Revolving Credit Agreement dated as of the date hereof (such Amended and Restated Senior Secured Revolving Credit Agreement and any and all amendments, modifications, supplements, restatements, extensions, renewals or replacements thereof are collectively referred to herein as the "Credit Agreement").

C. It is a condition to the effectiveness of the transactions contemplated by the Credit Agreement that Mortgagor execute and deliver this Mortgage to and for the benefit of Mortgagee.

NOW, THEREFORE, for good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, and the mutual covenants herein contained, in order to secure the Obligations (as hereinafter defined). **MORTGAGOR HEREBY COVENANTS AND AGREES WITH AND REPRESENTS AND WARRANTS TO MORTGAGEE AS FOLLOWS:**

A. GRANTING CLAUSES. Mortgagor hereby:

(i) grants, bargains, sells, assigns, pledges, transfers, mortgages and conveys, as security for the Obligations, those portions of the following described Mortgaged Property (as hereinafter defined) that constitute real property under the laws of the State wherein located to Mortgagee, but subject to the rights of Mortgagee under the Security Agreement (as hereinafter defined) and the assignment made in paragraph (iii) below, and subject to the Permitted Encumbrances, **TO HAVE AND TO HOLD** such portions of the Mortgaged Property, to Mortgagee forever, subject to all of the terms, conditions, covenants and agreements herein set forth, for the security and benefit of Mortgagee; and

(ii) grants, as security for the Obligations, a security interest to Mortgagee in that portion of the Mortgaged Property constituting fixtures or personal property; and

(iii) assigns and transfers to Mortgagee, as security for the Obligations, all of the Leases (as hereinafter defined) and all of the Rents (as hereinafter defined) and other benefits derived from any Leases, whether now existing or hereafter created.

All of Mortgagor's right, title and interest in and to the following described property now or hereafter located upon the Premises, or appurtenant thereto, or usable in connection with the present or future use, construction upon, leasing, sale, operation or occupancy of the Premises is herein collectively referred to as the "**Mortgaged Property**":

GRANTING CLAUSE FIRST

Land

1. The parcel(s) of land described in Exhibit A attached hereto and by this reference incorporated herein, together with all strips and gores within or adjoining such property, all estate, right, title, interest, claim or demand whatsoever of Mortgagor in the streets, roads, sidewalks, alleys, and ways adjacent thereto (whether or not vacated and whether public or private and whether open or proposed), all vaults or chutes adjoining such

land, all of the tenements, hereditaments, easements, reciprocal easement agreements, rights pursuant to any trackage agreement, rights to the use of common drive entries, rights-of-way and other rights, privileges and appurtenances thereunto belonging or in any way pertaining thereto (all of the foregoing being referred to herein collectively, as the "**Land**"), all reversions, remainders, dower and right of dower, curtesy and right of curtesy, all of the air space and right to use said air space above the Land or any part thereof, all transferable development rights arising therefrom or transferred thereto, all water and water rights (whether riparian, appropriative or otherwise, and whether or not appurtenant) and shares of stock evidencing the same, all mineral, mining, gravel, oil, gas, hydrocarbon substances and other rights to produce or share in the production of anything related to the Land or any part thereof, all drainage, crop, timber, agricultural, and horticultural rights with respect to the Land or any part thereof, and all other appurtenances appurtenant to the Land or any part thereof, including without limitation, any now or hereafter belonging or in any way appertaining thereto, and all claims or demands of Mortgagor, either at law or in equity, in possession or expectancy, now or hereafter acquired, of, in or to the same (collectively, the "**Ancillary Rights**");

GRANTING CLAUSE SECOND **Improvements**

2. The Improvements described in Exhibit B attached hereto and by this reference incorporated herein. The Land, the Ancillary Rights and the Improvements are referred to herein, collectively, as the "**Premises**";

GRANTING CLAUSE THIRD **Rents, Leases and Lease Provisions**

3. The Rents, Leases and Lease Provisions described in Exhibit B attached hereto and by this reference incorporated herein, subject to the terms and provisions of that certain Amended and Restated Pledge and Security Agreement dated as of the date hereof from Mortgagor, as debtor, to Mortgagee, as secured party, as the same may hereafter be amended, modified, supplemented, restated, extended or renewed (such Pledge and Security Agreement, together with any and all amendments, modifications, supplements, restatements, extensions, renewals or replacements thereof are collectively referred to herein as the "**Security Agreement**");

GRANTING CLAUSE FOURTH **Various Collateral**

4. The Equipment, Materials, Specifications, Security Deposits, Inventory, Negotiable Documents of Title, Rolling Stock, Payment Rights, Accounts, Related Contracts, Assigned Agreements, Deposit Accounts, Deposit Account Collateral and General Intangibles described in Exhibit B attached hereto and by this reference incorporated herein and any other property described in Exhibit B and not described in any other Granting

Clause (collectively, the "Various Collateral"), subject to the terms and provisions of the Security Agreement and the Credit Agreement;

GRANTING CLAUSE FIFTH
Refunds

5. The Refunds described in Exhibit B attached hereto and by this reference incorporated herein, subject to the terms and provisions of the Security Agreement;

GRANTING CLAUSE SIXTH
Insurance/Condemnation Proceeds

6. The Insurance/Condemnation Proceeds described in Exhibit B attached hereto and by this reference incorporated herein, subject to the terms and provisions of the Security Agreement and the Credit Agreement;

GRANTING CLAUSE SEVENTH
Records And Permits

7. The Records and Permits described in Exhibit B attached hereto and by this reference incorporated herein, subject to the terms and provisions of the Security Agreement;

GRANTING CLAUSE EIGHTH
Options

8. The Options described in Exhibit B attached hereto and by this reference incorporated herein, subject to the terms and provisions of the Security Agreement;

GRANTING CLAUSE NINTH
Proceeding Rights

9. The Proceeding Rights described in Exhibit B attached hereto and by this reference incorporated herein, subject to the terms and provisions of the Security Agreement;

GRANTING CLAUSE TENTH
Encumbrance Rights

10. The Encumbrance Rights described in Exhibit B attached hereto and by this reference incorporated herein, subject to the terms and provisions of the Security Agreement;

GRANTING CLAUSE ELEVENTH
Greater Estate Rights

11. The Greater Estate Rights described in Exhibit B attached hereto and by this reference incorporated herein, subject to the terms and provisions of the Security Agreement;

GRANTING CLAUSE TWELFTH
After Acquired Property

12. All property hereafter acquired or constructed by Mortgagor of the type described in the foregoing Granting Clauses and located upon the Premises, or appurtenant thereto, or usable in connection with the present or future use, construction upon, leasing, sale, operation or occupancy of the Premises, which shall forthwith, upon acquisition or construction thereof by Mortgagor and without any act or deed by Mortgagor or Mortgagee, become subject to the lien and security interest of this Mortgage as if such property were now owned by Mortgagor and were specifically described in this Mortgage and were specifically conveyed or encumbered hereby; and

GRANTING CLAUSE THIRTEENTH
Accessions And Proceeds

13. All accessions, additions, replacements, substitutions, renewals or attachments to, and proceeds of, any of the foregoing,

TO HAVE AND TO HOLD the Mortgaged Property unto Mortgagee, and its successors and assigns, for the uses and purposes on terms and conditions set forth herein, forever.

PROVIDED HOWEVER, these presents are upon the express condition that, if Mortgagor shall well and truly pay and perform the Obligations at the time and in the manner provided in the Loan Documents, these presents and the estate hereby granted shall cease, terminate and be void.

B. OBLIGATIONS.

This Mortgage is given to secure ratably and equally the payment and performance of the following obligations without duplication (collectively referred to as the "Obligations"):

1. Payment of and performance of all of Mortgagor's obligations (a) under, with respect to, arising in connection with and defined as the "Obligations" in the Credit Agreement, including, without limitation the due and punctual payment of the indebtedness, together with interest thereon and

other amounts payable with respect thereto, owed under the Notes (including, without limitation, all obligations thereunder in respect of the Notes) up to the maximum aggregate principal amount set forth in subsection 2.2A of the Credit Agreement; and (b) under, with respect to or arising in connection with this Mortgage, including, without limitation, all obligations to Mortgagee for fees, costs and expenses (including attorneys' fees and disbursements) as provided therein and herein;

2. Payment and performance of all obligations of Mortgagor to the Lenders and/or Mortgagee for fees, costs and expenses required to be paid by Mortgagor under the other Loan Documents, including, without limitation, fees, costs and expenses (including attorneys' fees and disbursements) and sums advanced and costs and expenses incurred by Mortgagee and/or the Lenders in accordance with the terms of the Loan Documents in connection with the Obligations or any part thereof, any renewal, extension or change of or substitution for the Obligations or any part thereof, or the acquisition or perfection of the security therefor, whether such advances, costs and expenses were made or incurred at the request of Mortgagor or Mortgagee;

3. Payment of all sums advanced by Mortgagee or the Lenders in accordance with the provisions of this Mortgage or the other Loan Documents to protect the Mortgaged Property, with interest thereon at the rate specified in subsection 2.3.E of the Credit Agreement (the "Agreed Rate");

4. Payment of all other sums, with interest thereon, which may hereafter be loaned to Mortgagor, or its successors or assigns, by Mortgagee, the Lenders, or their respective successors or assigns, or by the holder of any of the Notes, pursuant to an agreement that recites that the repayment of such sums and Mortgagor's other obligations under such agreement are secured by this Mortgage;

5. Payment of all sums with respect to the Obligations that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a), including, without limitation, interest, fees and other charges that, but for the filing of a petition in bankruptcy with respect to Mortgagor would accrue on the Obligations, whether or not a claim is alleged against Mortgagor for such sums in any such bankruptcy proceeding;

6. Due, prompt and complete performance of every obligation, covenant and agreement of Mortgagor contained in any agreement now or hereafter executed by Mortgagor which recites that the obligations thereunder are secured by this Mortgage from and after the date on which all mortgage

recording taxes, general intangible taxes or other taxes payable in respect of obligations have been paid; and

7. All renewals, extensions, amendments, modifications and changes and supplements of, or substitutions or replacements for, all or any part of the items described in Paragraphs 1 through 6 above.

The total amount secured by this Mortgage shall not exceed Two Hundred Million Dollars (\$200,000,000).

C. REVOLVING LOAN. Pursuant to the Credit Agreement, the amount of Mortgagor's Indebtedness (which term is defined in the Credit Agreement and relates to the total indebtedness incurred by Mortgagee thereunder, which Indebtedness is secured by real property in multiple jurisdictions) may increase and decrease from time to time as the Lenders advance, Mortgagor repays, and the Lenders readvance sums on account of the Loans, all as more fully described in the Credit Agreement. For purposes of this Mortgage, however, the Indebtedness secured hereby shall not increase to an amount in excess of \$200,000,000.

D. DEFINITIONS AND INTERPRETATION.

The definitions set forth in subsection 1.1 of the Credit Agreement and the provisions with respect to interpretation and construction of the Loan Documents as set forth in subsections 1.3 through 1.12 of the Credit Agreement are hereby incorporated by reference into this Mortgage with the same effect as if set forth in full herein.

SECTION 1
[Intentionally Omitted]

SECTION 2
COVENANTS AND AGREEMENTS OF MORTGAGOR

2.1 Payment and Performance of Obligations.

Mortgagor shall pay when due and perform the Obligations, including, without limitation, the principal of, and the interest on and other amounts payable with respect to the indebtedness evidenced by the Notes; all charges, fees and other sums (including, without limitation, attorneys' fees and disbursements, late charges, prepayment charges and other amounts and all costs of collection) to be paid by Mortgagor as provided in this Mortgage or in the other Loan Documents; the principal and interest on any future advances secured by this Mortgage; and the principal of and interest on any other indebtedness secured by this Mortgage in accordance with the terms hereof.

2.2 Assignment of Policies Upon Foreclosure.

In the event of foreclosure of this Mortgage or other transfer of title or assignment of the Mortgaged Property, the acceptance by Mortgagee (or a nominee of Mortgagee) of a deed to any part of the Mortgaged Property in lieu of foreclosure of this Mortgage or in connection with a plan of reorganization filed under Chapter 11 of the Bankruptcy Code, or the exercise by Mortgagee of any remedy set forth herein, in extinguishment, in whole or in part, of the debt secured hereby or upon the acceptance by Mortgagee (or a nominee of Mortgagee) of a deed to any part of the Mortgaged Property in lieu of foreclosure of this Mortgage but not in extinguishment, in whole or in part, of the debt secured hereby, all right, title and interest of Mortgagor in and to all policies of insurance required pursuant to subsection 5.10 of the Credit Agreement, to the extent permitted by Applicable Law, shall inure to the benefit of and pass to the successor in interest to Mortgagor or the purchaser or grantee of the Mortgaged Property.

2.3 Inspections.

Mortgagee or its agents, representatives and employees are authorized to enter, at any reasonable time and upon reasonable prior notice to Mortgagor, upon or in any part of the Mortgaged Property as set forth in the Credit Agreement or that certain Amended and Restated Environmental Indemnity dated as of the date hereof, by Mortgagor in favor of Mortgagee and the "Indemnified Parties" described therein, as the same may hereafter be amended, modified, supplemented, restated, extended, renewed or replaced (such Amended and Restated Environmental Indemnity, together with any and all amendments, modifications, supplements, restatements, extensions, renewals or replacements thereof, are collectively referred to herein as the "**Environmental Indemnity**") and for the purpose of inspecting the same and for the purpose of performing any of the acts they are authorized to perform under the terms of the Environmental Indemnity or the Credit Agreement. Mortgagor hereby grants Mortgagee and its employees and agents an irrevocable and non-exclusive license, to enter the Mortgaged Property in accordance with the terms of the Environmental Indemnity. The costs of any investigation, inspection, monitoring, studying, sampling, testing, boring, reporting, clean-up, containment, remediation and/or removal shall be paid as provided in the Environmental Indemnity, and any amounts owed by Mortgagor as provided therein shall be secured by this Mortgage.

2.4 Actions by Mortgagee To Preserve Mortgaged Property.

Subject to the terms of the Credit Agreement, if Mortgagor fails to make any payment or to do any act as and in the manner provided in any of the Loan Documents, and such failure (a) constitutes an Event of Default, or (b) constitutes or results in an emergency as reasonably determined by Mortgagee, then Mortgagee may, without obligation so to do and without releasing Mortgagor from any Obligation, make or do the same in such manner and to such extent as Mortgagee may deem necessary or proper to protect the security hereof. In connection therewith (without limiting its general and other powers, whether

conferred herein, in any other Loan Document or by law), Mortgagee shall have and is hereby given the right, but not the obligation, after Mortgagor's failure to cure within the period described above, and upon the occurrence and during the continuance of an Event of Default: (a) to enter upon and take possession of the Mortgaged Property; (b) to make additions, alterations, repairs and improvements to the Mortgaged Property which Mortgagee may reasonably consider necessary or proper to keep the Mortgaged Property in good condition and repair; (c) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Mortgagee; (d) to pay, purchase, contest, compromise or settle any claim, charge, Lien or debt which in the reasonable judgment of Mortgagee may affect or appear to affect the security of this Mortgage or to be prior or superior hereto except for any claims, charges, Liens or debts being diligently contested in good faith by Mortgagor in appropriate proceedings in accordance with the terms of subsection 5.4 of the Credit Agreement; (e) to pay any Impositions except those Impositions being diligently contested in good faith by Mortgagor in appropriate proceedings in accordance with the terms of subsection 5.4 of the Credit Agreement and to procure, maintain and pay premiums on the insurance policies referred to herein; and (f) in exercising such powers, to pay necessary expenses, including employment of counsel or other necessary or desirable consultants. No such advance or performance shall be deemed to have cured such Event of Default. Mortgagor shall, within ten (10) days after Mortgagee's written demand therefor, pay to Mortgagee, as applicable, an amount equal to all respective costs and expenses actually incurred by Mortgagee in accordance with the provisions set forth herein and in the Credit Agreement in connection with the exercise by Mortgagee of the foregoing rights including, without limitation, costs of evidence of title and of endorsements to the Title Policies, court costs, architectural or engineering studies, appraisals, surveys and architect's, engineer's, accountant's, receiver's, trustee's and attorneys' fees, together with interest thereon from the date of such expenditures at the Agreed Rate. All sums advanced and all expenses incurred by Mortgagee in accordance with the provisions set forth herein and in the other Loan Documents in connection with such advances or actions and all other sums advanced or expenses incurred by Mortgagee hereunder in accordance with the provisions set forth herein and in the other Loan Documents or under Applicable Law (whether required or optional and whether indemnified hereunder or not) shall be deemed Obligations owing by Mortgagor and shall bear interest from the date incurred or paid by Mortgagee until paid by Mortgagor at the Agreed Rate. All such amounts advanced or incurred, and all such interest thereon, shall be a part of the Obligations and shall be secured by this Mortgage. Mortgagee, upon making such advance, shall be subrogated to all of the rights of the person receiving such advance.

2.5 Action by Mortgagee to Protect Interests; Subrogation; Waiver of Offset.

A. Action by Mortgagee to Protect Interests. If the title, interest or Lien, as the case may be, of Mortgagor or of Mortgagee in and to the Mortgaged Property or any part thereof, or the security of this Mortgage, or the rights or powers of Mortgagee or Mortgagor hereunder, shall be attacked, either directly or indirectly, or if any legal proceedings are commenced involving Mortgagee or the Mortgaged Property, Mortgagor shall promptly give written notice thereof to Mortgagee and at Mortgagor's own expense shall take all reasonable steps diligently to defend against any such attack or proceedings, employing attorneys reasonably acceptable to Mortgagee; and Mortgagee may take such independent action in connection therewith as it may in its discretion deem advisable, and all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, actually incurred by Mortgagee in connection therewith shall be an Obligation owing by Mortgagor and payable to Mortgagee, as applicable, within ten (10) days of Mortgagee's written demand for payment together with evidence of such expense, and shall bear interest at the Agreed Rate. Mortgagor agrees that, if Mortgagor fails to perform any act which Mortgagor is required to perform under this Section 2.5A, Mortgagee may (after ten (10) days' written notice to Mortgagor), but neither shall be obligated to, perform or cause to be performed such act, and any expense actually incurred by Mortgagee in connection therewith shall be an Obligation owing by Mortgagor and payable to Mortgagee, as applicable, within ten (10) days of Mortgagee's written demand for payment together with evidence of such expense, and shall bear interest at the Agreed Rate, and shall be secured by this Mortgage, and Mortgagee shall be subrogated to all of the rights of the party receiving such payment. The liabilities of Mortgagor as set forth in this Section 2.5 shall survive the termination of this Mortgage or of any other Loan Document.

B. Subrogation. Mortgagor waives any and all right to claim or recover against Mortgagee, and its officers, employees, agents and representatives, for loss of or damage to Mortgagor, the Mortgaged Property, Mortgagor's other property or the property of others under Mortgagor's control from any cause insured against or required to be insured against by the provisions of this Mortgage.

C. Waiver of Offset. All sums payable by Mortgagor pursuant to this Mortgage shall be paid (except as otherwise expressly provided herein) without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the Obligations of Mortgagor hereunder shall in no way be released, discharged or otherwise affected (except as otherwise expressly provided herein or in the Credit Agreement) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Mortgaged Property or any part thereof; (ii) any restriction or prevention of or interference by any third party with any use of the Mortgaged Property or any part thereof; (iii) any title defect or encumbrance or any eviction from the Premises or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Mortgagee, or any action taken with respect to this Mortgage by any

trustee or receiver of Mortgagee, or by any court, in any such proceeding; (v) any claim which Mortgagor has or might have against Mortgagee; (vi) any default or failure on the part of Mortgagee to perform or comply with any of the terms hereof or of any other agreement with Mortgagor; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, whether or not Mortgagor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, to the extent permitted by Applicable Law, Mortgagor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Mortgagor.

2.6 Restrictions on Transfer of Mortgaged Property by Mortgagor.

The financial stability and managerial and operational ability of Mortgagor are substantial and material considerations to Mortgagee and the Lenders in their agreement to accept the Notes and other Loan Documents from Mortgagor and to enter into the transactions contemplated thereby. Mortgagor understands and acknowledges that a Transfer of the Mortgaged Property may significantly and materially alter and reduce Mortgagee's security for the Obligations. Therefore, in order to induce Mortgagee to make the loan secured hereby, Mortgagor agrees that, except as expressly permitted under the terms of the Credit Agreement, Mortgagor will not Transfer the Mortgaged Property, or any portion thereof, without the prior written consent of Mortgagee. **IN THE EVENT OF ANY TRANSFER OF THE MORTGAGED PROPERTY, OR ANY PORTION THEREOF, THAT IS NOT EXPRESSLY PERMITTED UNDER THE TERMS OF THE CREDIT AGREEMENT OR CONSENTED TO BY MORTGAGEE IN WRITING, MORTGAGEE SHALL HAVE THE ABSOLUTE RIGHT AT ITS OPTION, WITHOUT PRIOR DEMAND OR NOTICE, TO DECLARE ALL OF THE OBLIGATIONS IMMEDIATELY DUE AND PAYABLE.** Consent to one such Transfer shall not be deemed to be a waiver of the right to require consent to future or successive Transfers. If consent should be given to a Transfer and if this Mortgage is not released to the extent of the transferred portion of the Mortgaged Property by a writing signed by Mortgagee, as required by Applicable Law, and recorded in the proper city, town, county or parish records, then (unless otherwise provided in the Credit Agreement) any such Transfer shall be subject to this Mortgage and any such transferee shall assume all obligations hereunder and agree to be bound by all provisions contained herein. Any such assumption shall not, however, release Mortgagor or any maker or guarantor of the Obligations from any liability thereunder without the prior written consent of Mortgagee. This covenant shall run with the land and remain in full force and effect until all of the Obligations are fully paid (or this Mortgage is released of record), and Mortgagee may, without notice to Mortgagor, deal with any transferees with reference to the Obligations in the same manner as Mortgagor, without in any way altering or discharging Mortgagor's liability or the liability of any guarantor of Mortgagor with respect thereto. The provisions of this Section 2.6 shall apply to each and every Transfer of the Mortgaged Property or any portion thereof, regardless of whether or not Mortgagee has consented to or waived, by its action or inaction, its rights with respect to any previous Transfer.

2.7 Incorporation by Reference; Full Performance Required; Survival of Warranties.

Mortgagor hereby makes to Mortgagee all of the affirmative and negative covenants relating to the Mortgaged Property that are set forth in Sections 5 and 6 of the Credit Agreement, which affirmative and negative covenants are incorporated herein by reference as of the date hereof. All covenants of Mortgagor made to Mortgagee in connection with the Obligations secured hereby or contained in the Loan Documents or incorporated by reference therein shall run to the benefit of Mortgagee, shall survive the execution and delivery of this Mortgage and shall remain continuing obligations, of Mortgagor so long as any portion of the Obligations remains outstanding and Mortgagor shall fully and faithfully satisfy and perform all such Obligations and covenants as required by the terms of the Loan Documents, each subject to the terms of the Credit Agreement. In the event of a conflict between the provisions of this Mortgage and the Credit Agreement, it is the intention of Mortgagor and Mortgagee that both such documents shall be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of a conflict that cannot be resolved as aforesaid, the provisions of the Credit Agreement shall control and govern and Mortgagor shall comply therewith.

2.8 Additional Security.

No other security now existing, or hereafter taken, to secure the Obligations shall be impaired or affected by the execution of this Mortgage; and all additional security shall be taken, considered and held as cumulative. The taking of additional security, execution of partial releases of the security, or any extension of the time of payment or performance of the Obligations shall not diminish the force, effect or Lien of this Mortgage and shall not affect or impair the liability of any maker, surety, guarantor or endorser for the payment or performance of the Obligations. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained shall prejudice or in any manner affect Mortgagee's right, to realize upon or enforce any other security now or hereafter held by Mortgagee, it being agreed that Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by Mortgagee in such order and manner as it may in its absolute discretion determine during the continuance of an Event of Default.

2.9 Further Acts.

Mortgagor shall do and perform all acts as required under subsection 5.18 of the Credit Agreement or as necessary to keep valid and effective the Lien hereof and to carry into effect its objective and purposes, in order to protect the lawful owner and holder of this Mortgage and the other Obligations. Promptly upon request, from time to time, of Mortgagee and at Mortgagor's expense, Mortgagor shall execute, acknowledge and deliver to Mortgagee such other and further instruments and do such other reasonable acts as in the reasonable opinion of Mortgagee may be necessary or desirable to (a) grant for the benefit of Mortgagee a first priority perfected Lien on all of the Mortgaged Property, subject

to Permitted Encumbrances to secure all of the Obligations, (b) grant to Mortgagee, as applicable, to the fullest extent permitted by Applicable Laws, the right to foreclose on the Mortgaged Property nonjudicially, upon the occurrence and during the continuance of an Event of Default, (c) correct any defect, error or omission which may be discovered in the contents of this Mortgage (including, without limitation, all exhibits and/or schedules hereto) or any other Loan Document, (d) identify more fully and subject to the Liens created hereby and by the other Loan Documents any property intended by the terms hereof and of the other Loan Documents to be covered hereby and thereby (including any renewals, additions, substitutions, replacements or appurtenances to the Mortgaged Property), and (e) otherwise effectuate the intent of this Mortgage. Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact, coupled with an interest and with full power of substitution, to take the above actions and to perform such obligations on behalf of Mortgagor, at Mortgagor's sole expense, (i) if Mortgagor fails to fully comply with Mortgagor's obligations under this Section 2.9 within five (5) days after Mortgagee's request, or (ii) upon the occurrence and during the continuance of an Event of Default, or (iii) if necessary, in the reasonable judgment of Mortgagee, to protect the interests of the Lenders. Mortgagee shall deliver to Mortgagor copies of any documents or instruments executed by Mortgagee pursuant to the foregoing power of attorney promptly after the execution of the same. Without limiting the generality of the foregoing, Mortgagor shall promptly and, insofar as not contrary to Applicable Laws, at Mortgagor's own expense, record, rerecord, file and refile in such offices, at such times and as often as may be necessary, this Mortgage, additional mortgages, deeds of trust and deeds to secure debt, and every other instrument in addition or supplemental hereto, including applicable financing statements, as may be reasonably necessary to create, perfect, maintain and preserve the Liens (and priority thereof) intended to be created hereby and by the other Loan Documents and the rights and remedies of Mortgagee hereunder and thereunder. Upon request by Mortgagee, Mortgagor shall supply evidence of fulfillment of each of the covenants herein contained concerning which a request for such evidence has been made.

2.10 Offsite Improvements.

Except as expressly permitted in the Credit Agreement, Mortgagor shall not construct or install Improvements or Equipment (each as defined in Exhibit B hereto) necessary or desirable for the operation of the Premises on real property or any interest in real property (for example, an easement, license or lease) that is not subject to the Lien of this Mortgage without the prior written consent of Mortgagee, which may be withheld in Mortgagee's sole discretion, and only to the extent that: (a) the construction or installation of such Improvements or Equipment on such other real property is commercially reasonable when compared to, and commercially preferable to, construction or installation on the real property that is subject to the Lien of this Mortgage; and (b) Mortgagor grants Mortgagee rights (including, but not limited to, easements or reciprocal easement agreements) with respect to such improvement, Equipment and land that are appurtenant to the Land encumbered by this Mortgage and are sufficient in Mortgagee's judgment to enable Mortgagee and any future owner or holder of Mortgagor's interest in the Premises to enjoy

the full and unrestricted use of such Improvements and Equipment. Mortgagor's obligations under this Section 2.10 shall be full recourse obligations of Mortgagor and shall survive any termination, satisfaction, assignment or foreclosure of this Mortgage, the acceptance by Mortgagee (or a nominee of Mortgagee) of a deed to any part of the Mortgaged Property in lieu of foreclosure or in connection with a plan of reorganization filed under Chapter 11 of the Bankruptcy Code, or the exercise by Mortgagee of any remedy set forth herein.

2.11 Utilities.

Mortgagor shall pay or cause to be paid when due all utility charges which are incurred for the benefit of the Mortgaged Property or which may become a Lien against the Mortgaged Property for gas, steam, electricity, telephone, water, sewer services and all other utilities furnished to the Mortgaged Property and all other assessments or charges of a similar nature, whether public or private, affecting or related to the Mortgaged Property or any portion thereof, whether or not such assessments or charges are or may become Liens thereon.

2.12 Warranty of Title.

With respect to the Premises located within the State of Alabama, Mortgagor covenants and warrants that Mortgagor has good and absolute title to the Premises and has good right, full power and lawful authority to convey, mortgage and encumber the same as provided herein; that Mortgagee may at all times peaceably and quietly enter upon, hold, occupy and enjoy the Premises and other real property hereby mortgaged and every part thereof; that the Premises hereby mortgaged or made subject to the security interest hereby created is free and clear of all liens, security interests, charges and encumbrances whatsoever, except for the lien of this Mortgage and the Permitted Encumbrances. Mortgagor shall make such further assurances to perfect Mortgagee's title and security interest in and to the Premises as may reasonably be required by Mortgagee. Mortgagor fully warrants the title to the Premises hereby mortgaged or made subject to the security interest hereby created and every part thereof, and will forever defend the same against the claims of all persons whomsoever.

SECTION 3 ASSIGNMENT OF RENTS AND LEASES

3.1 Assignment of Rents and Leases.

In furtherance of and in addition to the assignment made by Mortgagor in Granting Clause Third of this Mortgage, Mortgagor hereby absolutely and unconditionally assigns, sells, transfers and conveys to Mortgagee all of its right, title and interest in and to all Leases, whether now existing or hereafter entered into, and all of its right, title and interest in and to all Rents. It is the intention of Mortgagor and Mortgagee that this assignment be

treated and construed as an absolute assignment and not an assignment for additional security only. Subject to the conditional limitation that no Event of Default shall have occurred and be continuing, Mortgagor shall, subject to the terms of the Credit Agreement, have a revocable license from Mortgagee to exercise all rights extended to the landlord under the Leases, including the right to observe, perform, comply with and discharge all of the obligations of the landlord thereunder, the right to demand and receive performance under the Leases, the right to enforce all rights and exercise all remedies under the Leases, the right to terminate or amend any Lease and the right to receive and collect all Rents and to hold the Rents in trust for use in the payment and performance of the Obligations and to otherwise use the same; provided, however, that such rights may be exercised by Mortgagor only to the extent they are permitted under the Credit Agreement, including, without limitation, subsections 6.8 and 6.16 thereof. Mortgagor represents and warrants that Mortgagor has the right, power and authority to sell, assign, transfer, set over and deliver all of its right, title and interest in and to the Leases and the Rents thereunder and no other Persons (other than the other parties to such Leases (each such other party, a "Tenant", and collectively, the "Tenants")) have any right, title or interest therein. Upon the occurrence and during the continuance of an Event of Default, whether or not legal proceedings have commenced, and without regard to waste, adequacy of security for the Obligations or solvency of Mortgagor, the license herein granted shall automatically expire and terminate, without notice by Mortgagee (any such notice being hereby expressly waived by Mortgagor). Mortgagor hereby irrevocably authorizes and directs each Tenant of the Mortgaged Property, upon receipt of notice from Mortgagee of the existence of an Event of Default, to pay all Rents due or to become due under its Lease to Mortgagee or to any appointed receiver of the Mortgaged Property. Each such Tenant shall have the right to rely upon any such notice of Mortgagee directing the payment of all Rents to Mortgagee, without any obligation to inquire as to the actual existence of the Event of Default, notwithstanding any claim of Mortgagor to the contrary. Each Tenant is hereby expressly authorized and directed, upon demand by Mortgagee (in any form of notice as provided herein) and without the necessity of any further consent by, or notice from, Mortgagor, to attorn to Mortgagee as the owner of the Leases and to pay any and all Rents due to Mortgagor pursuant to such Tenant's Lease directly to Mortgagee or to any appointed receiver, and to observe and perform such Tenant's obligations under the Tenant's Lease to or for Mortgagee and to accept performance of the landlord's obligations under the Lease from Mortgagee. Each Tenant is hereby expressly relieved of any and all duty, liability or obligation to Mortgagor in respect of all payments so made. The provisions of this Section 3.1 are intended solely for the benefit of each Tenant and shall never inure to the benefit of Mortgagor or any person claiming by, through or under Mortgagor (except for Mortgagee's agreement to exercise its rights under this Section 3.1 only after the occurrence and during the continuance of an Event of Default and following revocation of Mortgagor's license pursuant to this Section 3.1, and Mortgagee's agreement that the provisions of this Section 3.1 shall be reinstated under the conditions set forth in the following sentence hereof, which agreements shall also inure to the benefit of Mortgagor). If Mortgagee has elected to allow Mortgagor to cure all continuing Events of Default and Mortgagee in its sole discretion deems Mortgagor's cure of all such Events of Default satisfactory, then upon receipt of

written notice from Mortgagee that all Events of Default have been satisfactorily cured, Mortgagor may thereafter execute a written notice to each Tenant under the Leases directing each Tenant to pay Rent payable under its respective Lease to the order of Mortgagor.

3.2 No Limitation of Rights.

The assignment of Rents and Leases herein made shall not be construed to limit in any way Mortgagee's other rights hereunder, including the right to accelerate the Obligations during the continuance of an Event of Default. Monies received under the assignments herein made shall not be deemed to have been applied in payment of any portion of the Obligations unless and until such monies are received by Mortgagee and actually are applied thereto by Mortgagee.

3.3 Sale of Mortgaged Property.

A. **Free and Clear of Assignments.** Upon any sale of any of the Mortgaged Property by or for the benefit of Mortgagee pursuant to Section 5 hereof, the Rents attributable to the part of the Mortgaged Property so sold shall be included in such sale and shall pass to the purchaser free and clear of (i) the assignment by Mortgagor in Granting Clause Third of this Mortgage and (ii) the provisions of this Section 3. Neither Mortgagee nor other assignee pursuant to Section 5 shall be liable to account to Mortgagor for the rents thereafter accruing.

B. **No Obligations on Mortgagee.** It is neither the intent nor the effect of this Mortgage nor the other Loan Documents to impose any obligation on Mortgagee, including any liability under the covenant of quiet enjoyment contained in any Lease or contained in any Applicable Laws, in the event of a sale of the Mortgaged Property or any part thereof pursuant to this Mortgage or any liability arising from the naming of any Tenant as a party defendant in any action to foreclose this Mortgage, or to sell the Mortgaged Property pursuant to the power of sale reserved to Mortgagee herein, causing such Tenant to be barred and foreclosed of all right, title, interest and equity of redemption in the Mortgaged Property. Notwithstanding anything herein to the contrary, under no circumstances shall Mortgagee be subject to any offsets, claims or defenses which a Tenant might have against Mortgagor or any prior landlord with respect to any Lease, whether or not Mortgagee shall have succeeded to the interests of landlord under any such Lease.

3.4 Term of Assignment.

The assignment and grant made in Granting Clause Third of this Mortgage and in this Section 3 shall continue in effect until release of this Mortgage and the Assignment of Rents of record or indefeasible payment in full of the Obligations. The execution of this Mortgage constitutes and evidences the irrevocable consent of Mortgagor to the entry upon and the taking possession of the Premises, or any part thereof in compliance with Applicable

Law, by Mortgagee pursuant to such grant and the terms hereof whether by foreclosure or other remedy and at Mortgagee's option and election, with or without application for a receiver. Mortgagor represents and warrants to and covenants with Mortgagee that Mortgagee has taken all actions necessary to obtain, and Mortgagee shall (upon recordation of this Mortgage) have, as and to the extent permitted under Applicable Law, a valid and fully perfected, first priority, present assignment of the Rents arising out of the Leases and all security for such Leases, including cash or securities deposited as security under such Leases subject to the prior right of the Tenants making such deposits. Mortgagee has no obligation whatsoever in respect of security for any Leases except and only to the extent such security is actually delivered to Mortgagee, as the case may be, whether or not Mortgagor now has or previously had possession of such security.

3.5 Perfection Upon Recordation.

Mortgagor acknowledges and agrees that, upon recordation of this Mortgage, Mortgagee's interest in the Rents shall be deemed to be fully perfected, "choate" and effective as to Mortgagor and all third parties, including, without limitation, any subsequently appointed trustee in any case under the Bankruptcy Code, without the necessity of (a) commencing a foreclosure action with respect to this Mortgage, (b) furnishing notice to Mortgagor or Tenants under the Leases, (c) making formal demand for the Rents, (d) taking possession of the Premises as a lender-in-possession, (e) obtaining the appointment of a receiver of the rents and profits of the Premises, (f) sequestering or impounding the Rents or (g) taking any other affirmative action.

3.6 Bankruptcy Provisions.

Without limitation of the provisions of Section 4 hereof or the absolute nature of the assignment of the Rents hereunder, Mortgagor and Mortgagee agree that (a) this Mortgage shall constitute a "security agreement" for purposes of 11 U.S.C. Section 552(b), (b) the security interest created by this Mortgage extends to property of Mortgagor acquired before the commencement of a case in bankruptcy and to all amounts paid as Rents and (c) such security interest shall extend to all Rents acquired by the estate after the commencement of any case in bankruptcy. Without limitation of the absolute nature of the assignment of the Rents hereunder, to the extent Mortgagor (or Mortgagor's bankruptcy estate) shall be deemed to hold any interest in the Rents after the commencement of a voluntary or involuntary bankruptcy case, Mortgagor hereby acknowledges and agrees that such Rents are and shall be deemed to be "cash collateral" under Section 363 of the Bankruptcy Code. Mortgagor may not use the cash collateral without the consent of Mortgagee, and/or an order of any bankruptcy court pursuant to 11 U.S.C. 363(b)(2), and Mortgagor hereby waives any right it may have to assert that such Rents do not constitute cash collateral. No consent by Mortgagee to the use of cash collateral by Mortgagor shall be deemed to constitute Mortgagee's approval, as the case may be, of the purpose for which such cash collateral was expended.

3.7 Attorney-in-Fact.

After and during the continuance of an Event of Default, Mortgagor hereby irrevocably appoints and constitutes Mortgagee as Mortgagor's lawful attorney-in-fact, coupled with an interest and with full power of substitution, for the purpose of taking any of the actions described in this Section 3 and all acts incidental thereto. Mortgagor hereby releases, discharges and waives all claims of any kind or nature against Mortgagee arising out of any action taken or omission made by Mortgagee in exercising such authority (except for claims arising out of Mortgagee's gross negligence or wilful misconduct). The exercise by Mortgagee of any of its options or rights pursuant to this Section 3 shall not be considered a waiver by Mortgagee of any Event of Default by Mortgagor under this Mortgage, the Credit Agreement or any of the other Loan Documents.

SECTION 4 SECURITY AGREEMENT

4.1 Grant of Security.

This Mortgage shall, in addition to constituting a mortgage Lien as to those parts of the Mortgaged Property classified as real property (including fixtures to the extent they are real property), constitute a security agreement within the meaning of the Uniform Commercial Code of the State in which the Premises are located as currently constituted or hereafter amended (the "**Uniform Commercial Code**") or within the meaning of the common law with respect to those parts of the Mortgaged Property classified as personal property (including personal property which may become fixtures and fixtures to the extent they are personal property). Mortgagor hereby grants Mortgagee a security interest in and to those parts of the Mortgaged Property classified as personal property (including personal property which may become fixtures and fixtures to the extent they are personal property) (the "**Personal Property Collateral**") to further secure the payment and performance of the Obligations. Mortgagee shall have all rights granted to the Secured Party pursuant to the Security Agreement. The provisions set forth in the Security Agreement are hereby incorporated by reference into this Mortgage with the same effect as if set forth in full herein. In the event of a conflict between the provisions of Section 4 of this Mortgage and the Security Agreement, it is the intention of Mortgagor and Mortgagee that both such documents shall be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of a conflict that cannot be resolved as aforesaid, the provisions of the Security Agreement shall control and govern and Mortgagor shall comply therewith.

4.2 Fixture Filing Financing Statements.

Portions of the Mortgaged Property are goods which are or are to become fixtures, and Mortgagor expressly covenants and agrees that, to the extent permitted by Applicable

Law, the filing of this Mortgage in the real property records of the county where the Premises is located shall operate, at the time of filing therein, as a financing statement filed as a fixture filing in accordance with Section 9-401(1)(b) of the Uniform Commercial Code of the state in which the Premises is located. The address of Mortgagor (the debtor) and the address of Mortgagee (the secured party) appear in Exhibit C attached to this Mortgage. The name of the record owner of the Land appears in Exhibit A attached hereto.

4.3 Mortgagee as Secured Party.

If and to the extent that Mortgagee shall act as the secured party for any security interest created in the Mortgaged Property, Mortgagor acknowledges and agrees Mortgagee may do so. As such, Mortgagee may act in its own name, or in the name of Mortgagor, and shall have all the rights of the secured party, and shall observe all of the requirements of the secured party, contained in this Section 4 and the Security Agreement.

SECTION 5 DEFAULTS AND REMEDIES

5.1 Events of Default.

If any Event of Default under the Credit Agreement (any such "Event of Default" being an Event of Default hereunder) shall occur and be continuing then, as provided in the Credit Agreement, the principal of and accrued interest on the Notes and all other Obligations may be declared or may become, immediately due and payable, without presentment, demand, protest or other formalities of any kind, and this Mortgage and the Lien evidenced or created hereby shall be subject to foreclosure and may be foreclosed in any manner provided for herein or provided for by law and Mortgagee may exercise any and all other remedies provided for by the Loan Documents and/or Applicable Law.

5.2 Fixtures.

During the continuance of any of the Events of Default, Mortgagee may, to the extent permitted under Applicable Law, elect to treat the fixtures included in the Mortgaged Property either as real property or as personal property, or both, and proceed to exercise such rights as apply thereto.

5.3 Remedies.

A. Rights of Mortgagee; Rights of Entry. During the continuance of any Event of Default, in addition to all other powers, rights and remedies herein granted or by law or at equity conferred, Mortgagee, in its sole discretion and at its sole election and without further demand, may do any one or more of the following in any order or manner that Mortgagee elects, it being expressly understood that no remedy provided herein is intended

to be exclusive of any other remedy provided herein or in any of the other Loan Documents, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given herein or now or hereafter existing under Applicable Law (including all rights and remedies provided under the applicable provisions of the laws of the state in which the Premises is located):

(i) With respect to the Land and Improvements located within the State of Alabama, in addition to any and all other rights and remedies of Mortgagee, if an Event of Default shall have occurred, Mortgagee may, either with or without entry or taking possession as hereinafter provided or otherwise, sell the Land and Improvements or any portion thereof at public outcry, in front of the courthouse door of the county wherein the Land and Improvements are located, to the highest bidder for cash, either in person or by auctioneer, after first giving notice of the time, place and terms of such sale by publication once a week for three (3) successive weeks in some newspaper published in said county, and, upon the payment of the purchase money, Mortgagee or any person conducting said sale for it is authorized and empowered to execute and deliver to the purchaser at said sale, a deed to the property so purchased, in the name and on behalf of Mortgagor. The equity of redemption from this Mortgage may also be foreclosed by suit in any court of competent jurisdiction as now provided by law in the case of past due mortgages.

(ii) Mortgagee may foreclose upon all or any portion of the Mortgaged Property. And in addition Mortgagee shall have all of the rights and remedies of a mortgagee under a mortgage granted, conferred or permitted by Applicable Law, and shall, to the extent permitted by Applicable Law, have the right and power, but not the obligation, to enter upon and take immediate possession of the Premises or any part thereof, without interference from Mortgagor to exclude Mortgagor therefrom, to hold, use, operate, manage and control such real property, to make all such repairs, replacements, additions and improvements to the same as Mortgagee in its sole discretion deems necessary, and to demand, collect and retain the Rents as provided in Section 3 hereof.

(iii) To the extent permitted by Applicable Law, Mortgagee, with respect to any or all of the Mortgaged Property, in lieu of or in addition to exercising any other power, right or remedy herein granted or by law or equity conferred, may, without notice, demand or declaration of default, which are hereby waived by Mortgagor, and without regard to the solvency of Mortgagor and without regard to the then value of the Mortgaged Property, proceed by an action or actions in equity or at law for the seizure and sale of the Mortgaged Property or any part thereof, for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power, right or remedy herein granted or by law or equity conferred, for the foreclosure or sale of the Mortgaged Property or any part thereof under the judgment or decree of any court of competent jurisdiction, for the appointment of a receiver (without any requirement to post a receiver's bond and

without regard to the value of the Mortgaged Property or solvency of Mortgagor) pending any foreclosure hereunder or the sale of any Mortgaged Property or any part thereof or for the enforcement of any other appropriate equitable or legal remedy. Such receiver shall have the power to collect the rents, issues, profits, earnings, and income from the Mortgaged Property and shall have all other powers which may be necessary or usual in such cases for the protection, possession, control, management and operation of the Mortgaged Property. Such receiver may apply the net income from the Mortgaged Property as payment of the Obligations secured hereby in the manner and order set forth in the applicable Loan Documents. To the extent permitted by Applicable Law, Mortgagor agrees that a receiver may be appointed without any notice to Mortgagor whatsoever and hereby waives notice.

(iv) Mortgagee shall have all of the rights and remedies of an assignee and secured party granted by Applicable Law, including the Uniform Commercial Code, and shall, to the extent permitted by Applicable Law, have the right and power, but not the obligation, to take possession of the Personal Property Collateral, and for that purpose Mortgagee may enter upon any premises on which any or all of the Personal Property Collateral is located and take possession of and operate such Personal Property Collateral or remove the same therefrom. Mortgagee, pursuant to Section 9-501(4) of the Uniform Commercial Code, shall have the option of proceeding under the Uniform Commercial Code as to that portion of the Mortgaged Property constituting personal property or of proceeding as to all of the Mortgaged Property and without regard to the adequacy of Mortgagee's security for the Obligations, or any part or component thereof, including both the real and personal property, in accordance with Mortgagee's rights and remedies in respect of the real property. Mortgagee may require Mortgagor to assemble the Personal Property Collateral and make it available to Mortgagee at a place to be designated by Mortgagee which is reasonably convenient to both parties. To the extent permitted by Applicable Law, the following presumptions shall exist and shall be deemed conclusive with regard to the exercise by Mortgagee of any of its remedies with respect to the Personal Property Collateral:

(a) If notice is required by Applicable Law, ten (10) days' prior written notice of the time and place of any public sale or of the time after which any private sale or any other intended disposition thereof is to be made shall be reasonable notice to Mortgagor. No such notice is necessary if such property is perishable, threatens to decline speedily in value or is of a type customarily sold on a recognized market at a readily determinable market price.

(b) Without in any way limiting the right and authority of Mortgagee to sell or otherwise dispose of Personal Property Collateral in a commercially reasonable manner, the following, or any of them, shall be considered commercially reasonable: (1) Mortgagee may hold a public sale of

the Personal Property Collateral in New York, New York or in the city, town or county where the Personal Property Collateral is located or in the city, town or county where the Premises to which such Personal Property Collateral relates, if any, is located, after having provided Mortgagor with ten (10) days' notice of such sale and after having published notice of such sale by an advertisement not less than three inches in height and one column in width in a newspaper of general circulation where the Personal Property Collateral is located or where the Premises to which such Personal Property Collateral relates, if any, is located, as Mortgagee determines to be appropriate (which advertisement may be placed in the "classified" section), for a period of not less than five issues commencing not more than ten days prior to the sale; (2) the Personal Property Collateral may be sold for cash; and (3) Mortgagee or any other person owning, directly or indirectly, any interest in any of the Obligations may be a purchaser at such sale.

(c) If Mortgagee in good faith believes that the Securities Act of 1933 or any other state or Federal law prohibits or restricts the customary manner of sale or distribution of any of such property, Mortgagee may sell such property privately in a commercially reasonable manner or in any other commercially reasonable manner deemed advisable by Mortgagee at such price or prices as Mortgagee determines in the sole discretion of Mortgagee. Mortgagor recognizes that such prohibition or restriction may cause such property to have less value than it otherwise would have and that, consequently, such sale or disposition by Mortgagee may result in a lower sales price than if the sale were otherwise held.

(v) Mortgagee shall, subject to any mandatory requirements of Applicable Law, sell or have sold the Mortgaged Property or interests therein or any part thereof at one or more sales, as an entirety or in separate parcels, at such place or places and otherwise in such manner and upon such notice as may be required by law or by this Mortgage, or, in the absence of any such requirement, as Mortgagee may deem appropriate. Mortgagee, as applicable, shall make or effect a conveyance to the purchaser or purchasers thereof without, to the extent permitted by Applicable Law, any warranties express or implied. Subject to Applicable Laws, Mortgagee may postpone or have the sale of such Mortgaged Property or interests therein or any part thereof postponed by public announcement at the time and place of such sale, and from time to time thereafter may further postpone such sale by public announcement made at the time of sale fixed by the preceding postponement. Sale of a part of the Mortgaged Property or interests therein or any defective or irregular sale hereunder will not exhaust the Mortgagee's right to have the Mortgaged Property or interest therein sold, and sales may be made from time to time until all such property is sold without defect or irregularity or the Obligations are paid and performed in full. Mortgagee shall have the right to appoint one or more auctioneers or attorneys-in-fact to act in conducting the foreclosure sale and executing a deed to the purchaser.

It shall not be necessary for any of the Mortgaged Property at any such sale to be physically present or constructively in the possession of Mortgagee and, subject to Applicable Law, Mortgagor shall deliver all of the Mortgaged Property to the purchaser at such sale. If it should be impossible or impracticable to take actual delivery of the Mortgaged Property, then the title and right of possession to the Mortgaged Property shall pass to the purchaser at such sale as completely as if the same had been actually present and delivered.

(vi) Mortgagee may, personally or by its agents or attorneys, take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Notes, in this Mortgage or in any of the other Loan Documents or in aid of the execution of any power herein or therein granted, or sale of the Mortgaged Property as herein permitted or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Mortgagee shall elect.

(vii) In the event Mortgagor shall fail to pay any amounts due and owing in accordance with the terms of this Mortgage, the Credit Agreement or the other Loan Documents, Mortgagee, at its right and option, may institute an action or proceeding at law or in equity for the collection of any sums due and unpaid and may prosecute any such action or proceeding to judgment or final decree. Mortgagee may enforce any such judgment or final decree against Mortgagor as provided in this Mortgage, and against any guarantor of the Obligations, as provided in any guarantee. Mortgagee may collect moneys adjudged or decreed to be payable to Mortgagee and shall be entitled to recover such judgment either before, after or during the pendency of any proceeding for the enforcement of the provisions of this Mortgage or any such guarantee. The right of Mortgagee to recover such judgment shall not be affected by any entry or sale, by the exercise of any other right, power or remedy provided by and for the enforcement of the provisions of this Mortgage or of the Loan Documents or the foreclosure of the Lien hereof or sale of the Mortgaged Property hereunder. In case of insolvency or bankruptcy proceedings against Mortgagor or any reorganization or liquidation proceedings, Mortgagee shall be entitled to prove the whole amount of Obligations due and owing under this Mortgage and any of the other Loan Documents without deducting therefrom any proceeds obtained from the sale of the whole or any part of the Mortgaged Property; provided, however, that in no instance shall Mortgagee receive a greater amount than the Obligations and any other payments, charges or costs due and owing to Mortgagee under any of the Loan Documents from the aggregate amount of the proceeds of the sale of the Mortgaged Property and the distribution from the estates of Mortgagor.

B. Right to Purchase. Mortgagee (or any other person owning, directly or indirectly, any interest in any of the Obligations) and its agents and attorneys shall have the

right to bid at any foreclosure sale and become the purchaser at any sale made pursuant to the provisions of this Section 5 and shall have the right to credit upon the amount of the bid made therefor the amount payable to it out of the net proceeds of such sale. All other sales shall be, to the extent permitted by Applicable Law, on a cash basis. Recitals contained in any conveyance to any purchaser at any sale made hereunder will conclusively establish the truth and accuracy of the matters therein stated, including without limitation nonpayment of the Obligations and advertisement and conduct of such sale in the manner provided herein or provided by law. Mortgagor does hereby ratify and confirm all legal acts that Mortgagee may do in carrying out the provisions of this Mortgage.

C. Conveyance of Title Upon Sale. Any sale of the Mortgaged Property or any part thereof in accordance with the provisions of this Section 5 will operate to divest all right, title, interest, claim and demand of Mortgagor in and to the property sold and will be a perpetual bar against Mortgagor, subject to applicable statutory rights of redemption under Applicable Law. Nevertheless, if requested by Mortgagee so to do, Mortgagor shall join in the execution, acknowledgement and delivery of all proper conveyances, assignments and transfers of the property so sold. Subject to Applicable Law, any purchaser at a foreclosure sale will receive immediate possession of the property purchased, and Mortgagor agrees that if Mortgagor retains possession of the property or any part thereof subsequent to such sale, Mortgagor will be considered a tenant at sufferance of the purchaser, and will, if Mortgagor remains in possession after demand to remove, be guilty of forcible detainer and will be subject to eviction and removal, forcible or otherwise, with or without process of law, and all damages to Mortgagor by reason thereof are hereby expressly waived by Mortgagor.

D. Waiver of Rights and Defenses. Mortgagor acknowledges that it is aware of and has had the advice of counsel of its choice with respect to its rights under Applicable Law with respect to this Mortgage, the Obligations and the Mortgaged Property. Nevertheless, Mortgagor hereby (i) waives and relinquishes (to the maximum extent permitted by Applicable Law) and (ii) agrees that Mortgagor shall not (subject to any mandatory requirements of Applicable Law) at any time hereafter have or assert, any right under any Applicable Law pertaining to: marshalling, whether of assets or Liens, the sale of property in the inverse order of alienation, the exemption of homesteads, the administration of estates of decedents, appraisal, valuation, stay, extension, redemption, statutory right of redemption, the maturing or declaring due of the whole or any part of the Obligations, notice of intention of such maturing or declaring due, other notice (whether of defaults, advances, the creation, existence, extension or renewal of any of the Obligations or otherwise, except for rights to notices expressly granted in the Credit Agreement, herein or in the other Loan Documents), subrogation, or abatement, suspension, deferment, diminution or reduction of any of the Obligations (including, without limitation, set-off), now or hereafter in force.

E. Right to Subordinate. Mortgagee, at its option, is authorized to foreclose this Mortgage to sell the Mortgaged Property or any portion thereof, subject to the rights of any tenants of the Premises, and the failure to make any such tenants parties to any such

foreclosure or sale proceedings and to foreclose their rights will not be, nor be asserted by Mortgagor to be, a defense to any proceedings instituted by Mortgagee to collect the Obligations.

F. Right to Preserve Obligations. Mortgagee shall, to the extent permitted by Applicable Laws, have the option to proceed with foreclosure and/or sale in satisfaction of any installment or part of the Obligations that has not been paid or performed without declaring the whole of the Obligations as immediately mature, and such foreclosure may be made subject to the unmatured part of the Obligations, and it is agreed that such foreclosure, if so made, shall not in any manner affect the unmatured part of the Obligations, but as to such unmatured part of the Obligations, this Mortgage and the Credit Agreement shall remain in full force and effect just as though no foreclosure or sale had been made. Several foreclosures or sales may be made without exhausting the right of foreclosure or the power of sale for any unmatured part of the Obligations, it being the purpose to provide for a foreclosure and sale of the security for any matured portion of the Obligations without exhausting the power of foreclosure and the power to sell the Mortgaged Property for any other part of the Obligations.

G. No Waiver. No delay or omission of Mortgagee to exercise any right or power accruing upon any Event of Default shall impair any such right or power, or shall be construed to be a waiver of any such right or power or any such Event of Default or an acquiescence thereto. Every power and remedy provided by this Mortgage may be exercised, from time to time, as often as may be deemed expedient by Mortgagee. Nothing in this Mortgage, the Notes or any of the other Loan Documents shall affect the obligation of Mortgagor to pay and perform the Obligations in the manner and at the time and place, respectively, expressed therein.

H. Right to Discontinue Proceedings. If Mortgagee shall have proceeded to enforce any right or remedy under this Mortgage by foreclosure, entry or otherwise and such proceedings shall have been discontinued or abandoned for any reason or such proceedings shall have resulted in a final determination adverse to Mortgagee, then and in every such case Mortgagor and Mortgagee shall be restored to their former positions and rights hereunder, and all rights, power and remedies of Mortgagee shall continue as if no such proceedings had occurred or had been taken.

I. Notices to Third Parties. Mortgagee shall have the right, but not the obligation, to notify franchisors, ground lessors or any third parties of any Event of Default or any exercise of remedies by Mortgagee hereunder, whether or not Mortgagee has agreed with any third party to provide such notice.

5.4 Costs and Expenses.

Subject to the terms of the Credit Agreement, all costs and expenses (including, without limitation, reasonable attorneys' fees, legal expenses, title premiums, title report and work charges, filing fees, general intangible taxes and mortgage, mortgage registration, transfer, stamp and other excise taxes) actually incurred by Mortgagee in perfecting, protecting, or enforcing its rights hereunder, whether or not an Event of Default shall have occurred, shall be payable by Mortgagor within ten (10) days after written demand by Mortgagee and shall bear interest at the Agreed Rate from the date such cost or expense is incurred until the date of payment. All such costs, expenses and interest, shall be part of the Obligations and shall be secured by this Mortgage. Within a reasonable time after receipt of Mortgagor's request therefor, Mortgagee shall provide Mortgagor with reasonable documentation of such costs and expenses.

5.5 Additional Rights of Mortgagee.

Mortgagee shall have the right, at its election, to exercise any and all other remedies in the Credit Agreement or in any of the Loan Documents or available at law or in equity, including, but not limited to, the additional rights, if any, set forth on Schedule I attached hereto and by this reference incorporated herein.

5.6 Application of Proceeds.

The proceeds of any sale of the Mortgaged Property or any part thereof made pursuant to this Section 5 shall be applied as follows:

- FIRST:** to the payment of all costs and expenses incident to the enforcement of this Mortgage, including, a reasonable compensation to the agents, attorneys and in-house counsel of Mortgagee;
- SECOND:** to the payment or prepayment of the Obligations, in such order as Mortgagee shall elect; and
- THIRD:** the remainder, if any, after full and final payment of the Obligations shall be paid to Mortgagor or such other person or persons as may be entitled thereto by law;

provided, however, that if Applicable Laws require such proceeds to be paid or applied in a manner other than as set forth above in this Section 5.6, then such proceeds shall be paid or applied in accordance with such Applicable Laws.

SECTION 6 INDEMNIFICATION

Pursuant to and in accordance with the provisions set forth more fully in subsection 8.3 of the Credit Agreement, Mortgagor shall defend, indemnify, pay and hold harmless Mortgagee and the other Indemnified Persons from and against any and all claims, liabilities, losses, damages, penalties, fines, forfeitures, judgments, and expenses or other Obligations of any kind or nature whatsoever (including fees and disbursements of counsel to such Indemnified Person) incurred on account of any matter or thing or alleged action or failure to act by Mortgagee, whether in suit or not, arising out of the operation, leasing, management, maintenance, repair, use or occupancy of the Premises (should Mortgagee elect to enter upon and assume the same upon an Event of Default), the construction of Improvements on or about the Premises, any accident, injury, death or damage to any Person or property occurring in, on or about the Premises or any street, drive, sidewalk, curb or passageway adjacent therefor, any misappropriation by Mortgagor of any prepayments of Rent or Security Deposits paid or payable by Mortgagor pursuant to this Mortgage, prior to payment in full of the Obligations of Mortgagor to Mortgagee or in connection therewith, except to the extent that such suit, claim or damage is caused by the gross negligence or willful misconduct of Mortgagee or the other Indemnified Persons.

SECTION 7 TERMINATION

If all of the Obligations shall be paid in full pursuant to the terms and conditions of this Mortgage and the other Loan Documents, or if this Mortgage shall be released of record in accordance with the provisions of the Credit Agreement or the other Loan Documents, then Mortgagee shall, promptly after the request of Mortgagor, execute, acknowledge and deliver to Mortgagor proper instruments evidencing the assignment, termination, reconveyance and/or release of this Mortgage. Mortgagor shall pay all reasonable legal fees and other expenses incurred by Mortgagee for preparing and reviewing such instruments and the execution and delivery thereof, and Mortgagee may require payment of the same prior to delivery of such instruments. Upon the receipt by Mortgagor of assignments, terminations or releases signed by Mortgagee, in recordable form and evidencing the assignment or termination of this Mortgage, Mortgagor shall promptly and at its own expense record or file such assignments, terminations or releases in each of the cities, towns, counties and parishes, as appropriate, in which portions of the Mortgaged Property may be located, in such a manner so as to effect an assignment or release of all of the Mortgaged Property of record. Upon the request of Mortgagee, Mortgagor shall promptly deliver to Mortgagee evidence reasonably satisfactory to Mortgagee of such recordation or filing. The obligations of Mortgagor under this Section 7 shall survive the termination of this Mortgage.

SECTION 8
MISCELLANEOUS COVENANTS AND AGREEMENTS

8.1 Cumulative Rights; Waivers; Modifications.

Each and every right, power and remedy hereby granted to Mortgagee shall be cumulative and not exclusive, and each and every right, power and remedy whether specifically hereby granted or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by Mortgagee, and the exercise of any such right, power or remedy will not be deemed a waiver of the right to exercise, at the same time or thereafter, any other right, power or remedy. No delay or omission by Mortgagee as applicable, in the exercise of any right, power or remedy will impair any such right, power or remedy or operate as a waiver thereof or of any other right, power or remedy then or thereafter existing. All changes to and modifications of this Mortgage must be in writing and signed by Mortgagor, Mortgagee and to the extent required by Applicable Law by Mortgagee.

8.2 Partial Releases.

No release from the Lien of this Mortgage of any part of the Mortgaged Property by Mortgagee shall in any way alter, vary, or diminish the force or effect of this Mortgage on the balance of the Mortgaged Property or the priority of the Lien of this Mortgage on the balance of the Mortgaged Property.

8.3 Severability.

In case any provision in or obligation under this Mortgage shall be invalid, illegal or unenforceable in any jurisdiction or under any set of circumstances, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction or under any other set of circumstances, shall not in any way be affected or impaired thereby. If any Lien evidenced or created by this Mortgage is invalid or unenforceable, in whole or in part, as to any part of the Obligations, or is invalid or unenforceable, in whole or in part, as to any part of the Mortgaged Property, such portion, if any, of the Obligations as is not secured by all of the Mortgaged Property hereunder shall be paid prior to the payment of the portion of the Obligations secured by all of the Mortgaged Property, and all payments made on the Obligations (including, without limitation, cash and/or property received in connection with sales of Mortgaged Property pursuant to Section 5 hereof) shall, unless prohibited by Applicable Laws or unless Mortgagee, in its sole and absolute discretion, otherwise elects, be deemed to have been first paid on and applied to payment in full of the unsecured or partially secured portion of the Obligations, and the remainder to the secured portion of the Obligations.

8.4 Subrogation.

This Mortgage is made with full substitution and subrogation of Mortgagee, as applicable, in and to all covenants and warranties by others heretofore given or made in respect of the Mortgaged Property or any part thereof. If any or all of the proceeds of the indebtedness secured hereby have been used to extinguish, extend or renew any indebtedness heretofore existing against all or any portion of the Mortgaged Property or to satisfy any indebtedness or obligation secured by a Lien of any kind (including Liens securing the payment of any taxes), such proceeds have been advanced by Mortgagee at Mortgagor's request and, to the extent of such funds so used, the indebtedness and obligations in this Mortgage shall be subrogated to and extend to all of the rights, claim, Liens, titles and interests heretofore existing against the Mortgaged Property (or such portion thereof) to secure the indebtedness or obligation so extinguished, paid, extended or renewed, and the former rights, claims, Liens, titles and interests, if any, shall not be waived but rather shall be continued in full force and effect and in favor of Mortgagee and shall be merged with the Lien created herein as cumulative security for the repayment of the indebtedness and satisfaction of the Obligations, but the terms of the Loan Documents shall govern and control the relationship between Mortgagor and Mortgagee.

8.5 Mortgagee's Powers.

Without affecting the liability of any other Person liable for the payment of any obligations herein mentioned and without affecting the Lien of this Mortgage upon any portion of the Mortgaged Property not then or theretofore released as security for the full amount of all unpaid Obligations, from time to time, regardless of consideration and without notice to or consent by the holder of any subordinate Lien, right, title or interest in or to the Mortgaged Property, Mortgagee may, (a) release any persons liable, (b) extend the maturity or alter any of the terms of any such Obligation, (c) modify the interest rate payable on the principal balance of the Obligations, (d) grant other indulgences, (e) release or reconvey, or cause to be released or reconveyed at any time at Mortgagee's option any parcel, portion or all of the Mortgaged Property, (f) take or release any other or additional security for any obligations herein mentioned, or (g) make compositions or other arrangements with debtors in relation thereto.

8.6 Enforceability of Mortgage.

This Mortgage is deemed to be and may be enforced from time to time as an assignment, chattel mortgage, contract, financing statement, real estate mortgage, or security agreement, and from time to time as any one or more thereof, as is appropriate under Applicable Laws. A carbon, photographic or other reproduction of this Mortgage or any financing statement in connection herewith shall be sufficient as a financing statement for any and all purposes.

8.7 Interest.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE AMOUNT OF INTEREST REQUIRED HEREUNDER OR UNDER THE CREDIT AGREEMENT, THE NOTES OR ANY OF THE OTHER LOAN DOCUMENTS SHALL BE LIMITED TO THE MAXIMUM AMOUNT IN ACCORDANCE WITH SUBSECTION 8.14 OF THE CREDIT AGREEMENT. ONE OF THE PURPOSES OF THIS PARAGRAPH IS TO PROVIDE RECORD NOTICE OF THE RIGHT OF MORTGAGEE TO INCREASE OR DECREASE THE INTEREST RATE ON ANY OF THE OBLIGATIONS IN ACCORDANCE WITH THE TERMS OF THE CREDIT AGREEMENT WHERE THE TERMS AND PROVISIONS OF THE CREDIT AGREEMENT PROVIDE FOR A VARIABLE INTEREST RATE.

8.8 Choice of Law.

Insofar as permitted by otherwise Applicable Law, this Mortgage and the Obligations shall be and the other Loan Documents provide that they are to be construed under and governed by the laws of the State of New York without regard to conflict of law rules and principles; provided, however, that the laws of the place in which the Mortgaged Property is located shall apply to the extent, and only to the extent, necessary to permit Mortgagor to create the Lien of this Mortgage and to permit Mortgagee to perfect the Lien of this Mortgage and to enforce or realize upon its rights and remedies hereunder with respect to such Mortgaged Property.

8.9 Counterparts.

This Mortgage and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed and acknowledged in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature and acknowledgement pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature and acknowledgement pages are physically attached to the same document. Mortgagee shall also have the option to exercise all rights and remedies available to Mortgagee hereunder and under Applicable Laws as though each counterpart hereof were a separate mortgage, chattel mortgage or other security instrument covering only the portions of the Mortgaged Property located in the city, town, county or parish wherein such counterpart is recorded.

8.10 Recording References.

Unless otherwise specified in Exhibit A hereto, all recording references in Exhibit A are to the official real property records of the city, town, county or parish, as appropriate, in which the Land is located.

8.11 Notices.

All notices, requests and demands to be made hereunder shall be made in accordance with subsection 8.8 of the Credit Agreement.

8.12 Successors and Assigns.

This Mortgage shall be binding upon Mortgagor and its successors and assigns, including successors in interest of Mortgagor in and to any part of the Mortgaged Property, and all references in this Mortgage to Mortgagor shall be deemed to include all of the foregoing Persons. This Mortgage shall be assignable by Mortgagee in accordance with the provisions for assignment of the Loans set forth in the Credit Agreement and shall inure to the benefit of Mortgagee, and all of its heirs, successors, substitutes and assigns including, without limitation, (a) any other Eligible Assignee under the terms of the Credit Agreement, and (b) any and all other banks, lending institutions and parties which may participate in the indebtedness evidenced by the Notes or any of them (all such banks, lending institutions and parties who participate in the indebtedness evidenced by the Notes or any of them being referred to herein as the "**Participants**"). The Participants may, by agreement among them, provide for and regulate the exercise of their rights and remedies hereunder, but, unless and until modified to the contrary in writing executed by the Participants and recorded in the same cities, towns, counties, parishes or offices as this Mortgage is recorded, Mortgagor and all others shall be entitled to rely on the releases, waivers, consents, approvals, notifications and other acts of Mortgagee, without inquiry into any such agreements or the existence of required consents or approvals of the Participants therefor. As used herein, the term "**Mortgagee**" shall mean, at any particular time, any Person holding any interest of Mortgagee hereunder at that time including, without limitation, any Eligible Assignee. Any waiver, consent, approval, notification or other action required or permitted to be obtained from or taken by Mortgagee may be obtained from or taken by the agent or agents of Mortgagee appointed from time to time for that purpose. Mortgagee, if more than one Person, may, by agreement among such Persons, provide for and regulate the exercise of their rights and remedies hereunder, but, unless and until modified to the contrary in writing by such Persons, Mortgagor and all others shall be entitled to rely on the waivers, consents, approvals, notifications and other acts of such agent, without inquiry into any such agreements or the existence of required consents or approvals of Mortgagee therefor. As of the date of this Mortgage, Mortgagee is the Person identified as Mortgagee in the introductory paragraph of this Mortgage. Notwithstanding any other provision contained herein, if any property interest granted by this Mortgage does not vest on the execution and delivery of this Mortgage, it shall vest, if at all, no later than 20 years and 364 days after the death of the last surviving descendant of Joseph P. Kennedy (the late father of the former President of the United States) who is alive on the execution and delivery of this Mortgage.

8.13 Expenses.

The provisions set forth in subsection 8.2 of the Credit Agreement are incorporated herein by this reference and shall apply with the same force and effect as if the terms of such section was set forth herein in full.

8.14 Nonforeign Entity.

Section 1445 of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code") provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform Mortgagee that the withholding of tax will not be required in the event of the disposition of the Premises, or any portion thereof, pursuant to the terms of this Mortgage, Mortgagor hereby certifies, under penalty of perjury, that:

(i) Mortgagor is not a foreign corporation, foreign partnership, foreign trust or foreign estate, as those terms are defined in the Internal Revenue Code and the regulations promulgated thereunder; and

(ii) Mortgagor's U.S. employer identification number is 22-2640625;
and

(iii) Mortgagor's principal place of business is 700 Route 46 East, Fairfield, New Jersey, 07007-2700.

It is understood that Mortgagee may disclose the contents of this certification to the Internal Revenue Service and that any false statement contained herein could be punished by fine, imprisonment or both. Mortgagor covenants and agrees to execute such further certificates, which shall be signed under penalty of perjury, as Mortgagee shall reasonably require. The covenant set forth herein shall survive the foreclosure of the Lien of this Mortgage or acceptance of a deed in lieu thereof.

8.15 Purpose of the Loans.

Mortgagor hereby represents and agrees that the Loans evidenced or guaranteed by the Loan Documents and secured by this Mortgage are being obtained for business or commercial purposes, and the proceeds thereof will not be used for personal, family, residential, household or agricultural purposes.

8.16 No Joint Venture or Partnership.

The provisions set forth in subsection 8.4 of the Credit Agreement are incorporated herein by this reference and shall apply with the same force and effect as if the terms of such section was set forth herein in full.

8.17 [Intentionally omitted]

8.18 Amendments and Waivers.

No amendment, modification, termination or waiver of any provision of this Mortgage or consent to any departure by any Loan Party therefrom, shall in any event be effective without the written concurrence of Mortgagee. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on Mortgagor in any case shall entitle Mortgagor to any other or further notice or demand in similar or other circumstances.

8.19 Covenants and Agreements Run with Land.

All of Mortgagor's covenants and agreements hereunder shall run with the land.

8.20 Statements by Mortgagor.

Mortgagor shall, within ten (10) Business Days after written notice thereof from Mortgagee, deliver to Mortgagee a written statement stating the unpaid principal of and interest on the Notes and any other amounts secured by this Mortgage and stating whether any offset or defense exists against such principal and interest.

8.21 Non-Waiver.

A. Certain Actions Not a Release of Mortgagor. Mortgagor shall not be relieved of Mortgagor's obligation to pay and perform the Obligations at the time and in the manner provided in the Credit Agreement and the other Loan Documents by reason of, and the rights of Mortgagee hereunder shall not be affected by, (i) any failure of Mortgagee to comply with any request of Mortgagor or any guarantor to take any action to foreclose this Mortgage or otherwise enforce any of the provisions of the Credit Agreement or any other Loan Document, (ii) any release, regardless of consideration, of the whole or any part of the Mortgaged Property or any other security for the Obligations, (iii) any alteration, extension, renewal, change, modification, release, amendment, compromise or cancellation, in whole or in part, of any term, covenant or provision of any of the Loan Documents, including any increase or decrease in the principal amount of the Obligations or any increase or decrease in the rate of interest applicable thereto or any extension of time for payment thereof, or (iv) any agreement or stipulation between Mortgagee and any subsequent owner or owners of the Mortgaged Property or other Person extending the time of payment or otherwise modifying or supplementing the terms of this Mortgage, the Credit Agreement or any other Loan Document, without first having obtained the consent of Mortgagor, and in the latter event, Mortgagor shall continue to be obligated to pay and perform the Obligations at the time and in the manner provided in the Credit Agreement and the other Loan Documents, as so extended, modified and supplemented, unless expressly released and discharged from such obligation by Mortgagee in writing.

B. Priority Over Subordinate Liens. Without affecting the liability of any other Person liable for the payment and performance of the Obligations and without affecting the Lien of this Mortgage or of any other Loan Document upon any portion of the Mortgaged Property not then or theretofore released as security for the payment and performance in full of all of the Obligations, from time to time, regardless of consideration and without notice to or consent by the holder of any subordinate Lien, encumbrance, right, title or interest in or to the Mortgaged Property, Mortgagee may, (i) release any persons liable for the payment or performance of the Obligations, (ii) extend the maturity or alter any of the terms of any of the Obligations as provided in the Loan Documents, (iii) modify the interest rate payable on the principal balance of the Obligations as provided in the Loan Documents, (iv) grant other indulgences, (v) release or reconvey, or cause to be released or reconveyed at any time at Mortgagee's option any parcel, portion or all of the Mortgaged Property, (vi) take or release any other or additional security for the Obligations herein mentioned, or (vii) make compositions or other arrangements with debtors in relation thereto.

8.22 Survival of Obligations.

This Mortgage shall continue to secure the entire Obligations until the entire Obligations are paid in full or until this Mortgage has been released of record by Mortgagee pursuant to the terms of the Credit Agreement or any of the other Loan Documents.

8.23 Consent to Jurisdiction and Service of Process.

ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST MORTGAGOR ARISING OUT OF OR RELATING TO THE CREDIT AGREEMENT, THIS MORTGAGE OR ANY OTHER LOAN DOCUMENT, OR ANY OBLIGATIONS THEREUNDER, MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE, COUNTY AND CITY OF NEW YORK. BY EXECUTING AND DELIVERING THIS MORTGAGE, MORTGAGOR, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, IRREVOCABLY:

(i) **ACCEPTS GENERALLY AND UNCONDITIONALLY THE NONEXCLUSIVE JURISDICTION AND VENUE OF SUCH COURTS;**

(ii) **WAIVES ANY DEFENSE OF *FORUM NON CONVENIENS*;**

(iii) **AGREES THAT SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDING IN ANY SUCH COURT MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO MORTGAGOR AT ITS ADDRESS PROVIDED IN ACCORDANCE WITH SUBSECTION 8.8 OF THE CREDIT AGREEMENT;**

(iv) AGREES THAT SERVICE AS PROVIDED IN CLAUSE (III) ABOVE IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER MORTGAGOR IN ANY SUCH PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT;

(v) AGREES THAT MORTGAGEE RETAINS THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST MORTGAGOR IN THE COURTS OF ANY OTHER JURISDICTION; AND

(vi) AGREES THAT THE PROVISIONS OF THIS SECTION 8.23 RELATING TO JURISDICTION AND VENUE SHALL BE BINDING AND ENFORCEABLE TO THE FULLEST EXTENT PERMISSIBLE UNDER NEW YORK GENERAL OBLIGATIONS LAW SECTION 5-1402 OR OTHERWISE.

8.24 Waiver of Jury Trial.

EACH OF THE PARTIES TO THIS MORTGAGE HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THE CREDIT AGREEMENT, THIS MORTGAGE OR ANY OTHER LOAN DOCUMENT OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS LOAN TRANSACTION OR THE LENDER/BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED HEREBY AND THEREBY. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including contract claims, tort claims, breach of duty claims and all other common law and statutory claims. Each party hereto acknowledges that this waiver is a material inducement to enter into a business relationship, that each has already relied on this waiver in entering into this Mortgage and the other Loan Documents, and that each will continue to rely on this waiver in their related future dealings. Each party hereto further warrants and represents that it has reviewed this waiver with its legal counsel and that it knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. **THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 8.24 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS MORTGAGE OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE UNDER THE CREDIT AGREEMENT.** In the event of litigation, this Mortgage may be filed as a written consent to a trial by the court.

8.25 No Mortgagee-in-Possession.


Nothing herein contained, no entry by Mortgagee upon the Mortgaged Property under the terms of this Mortgage and no action caused by Mortgagee with respect to the Leases shall make Mortgagee a "mortgagee-in-possession" except insofar as Mortgagee elects by giving written notice thereof to Mortgagor.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, Mortgagor has on the date set forth in the acknowledgement hereto, effective as of the date first above written, caused this instrument to be duly EXECUTED UNDER SEAL AND DELIVERED.

Mortgagor:

PRIME HOSPITALITY CORP.,
a Delaware corporation

By:  (SEAL)
Douglas W. Vicari
Vice President

STATE OF NEW YORK)
 :
COUNTY OF NEW YORK)

I, the undersigned authority, a Notary Public in and for the said County in said State, hereby certify that Douglas W. Vicari, whose name as Vice President of Prime Hospitality Corp., a Delaware corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 16th day of December,
1997.

Rem Adegbile

Notary Public

My Commission Expires: _____

REMI ADEGBILE
Notary Public, State of New York
No. [REDACTED]
Qualified in Kings County
Certificate Filed in New York County
Commission Expires Dec. 28, 1991

EXHIBIT A

LEGAL DESCRIPTION OF LAND

The name of the record owner of the Land is Prime Hospitality Corp.

See Attached Page(s) for Legal Description

LEGAL DESCRIPTION

Property A-1

Birmingham/Inverness AmeriSuites
4686 Highway 280 East
Birmingham, Alabama 35242-5094

Shelby County
Property Tax I.D. No. 027360001029015

Commence at the Southeast corner of the Southwest 1/4 of Section 36, Township 18 South, range 2 West, Shelby County, Alabama and run North along the East line of same 2,513.59 feet to a point on the Southwesterly Right-of-Way of U.S. Highway #280; thence a deflection angle to the left of $60^{\circ}54'50''$ and run in a Northwesterly direction along said Right-of-Way 49.82 feet to the point of curve of a curve to the right, said curve having a radius of 2,915.42 feet and a central angle of $12^{\circ}02'54''$; thence run in a Northwesterly direction along the arc of said curve and Right-of-Way 613.06 feet to a point on said curve; thence turn a deflection angle left of $90^{\circ}00'00''$ to the tangent of said point on curve and run in a Southwesterly direction 340.00 feet to a point; thence a deflection angle left of $90^{\circ}00'00''$ and run in a Southeasterly direction 35.00 feet to the POINT OF BEGINNING of herein described Site 24-B; thence a deflection angle left of $90^{\circ}00'00''$ and run in Northeasterly direction 66.50 feet; thence an interior angle of $90^{\circ}00'00''$ and run to the right in a Southeasterly direction 215.83 feet; thence an interior angle of $164^{\circ}00'02''$ and run in a Southeasterly direction 63.80 feet; thence an interior angle of $147^{\circ}28'00''$ and run in a Southeasterly direction 20.93 feet to a point on a curve to the left, said curve having a radius of 25.00 feet and a central angle of $57^{\circ}01'48''$; thence an interior angle of $90^{\circ}00'00''$ to the tangent of said point on curve and run to the right in a Southwesterly direction along the arc of said curve 24.88 feet to a point of reverse curve of a curve to the right, said curve having a radius of 448.70 feet and a central angle of $34^{\circ}17'04''$; thence continue in a Southwesterly direction along the arc of said curve 268.49 feet to the point of tangent; thence run Southwesterly along said tangent 8.88 feet to the point of curve of a curve to the left, said curve having a radius of 25.00 feet and a central angle of $98^{\circ}06'56''$; thence run in a Southwesterly to Southeasterly direction along the arc of said curve 42.81 feet to a point of compound curve of a curve to the right, said curve having a radius of 243.22 feet and a central angle of $08^{\circ}06'56''$; thence turn an interior angle of $00^{\circ}00'00''$ to the tangent of said point on curve and run to the reverse in a Northwesterly direction along the arc of said curve 34.45 feet to the point of tangent; thence continue in a Northwesterly direction along said tangent 49.27 feet to a point of curve of a curve to the left, said curve having a radius of 528.00 feet and a central angle of $37^{\circ}44'16''$; thence continue in a Northwesterly direction along the arc of said curve 347.77 feet to a point on said curve; thence an interior angle of $78^{\circ}03'00''$ from the tangent of said point on curve and run to the right in a Northeasterly direction 180.67 feet; thence an interior angle of $132^{\circ}58'03''$ and run to the right in a Northeasterly direction 58.50 feet to a point on a curve of a curve to the left said curve having a radius of 275.00 feet and a central angle of $7^{\circ}42'04''$; thence an interior angle of $129^{\circ}19'52''$ to the tangent of said point on curve and run to the right in a Southeasterly direction along the arc of said curve 36.96 feet to the point of tangent; thence continue in a Southeasterly direction along said tangent 81.57 feet to the POINT OF BEGINNING.

Contains 2.7095 acres.

Together with rights of use over certain non-exclusive access easements set forth in Instrument 1996-23103 and Instrument 1996-23105.

EXHIBIT B

DESCRIPTION OF ADDITIONAL MORTGAGED PROPERTY

All of Mortgagor's right, title and interest in and to the following, in each case whether now or hereafter existing or in which Mortgagor now has or hereafter acquires an interest and wherever the same may be located:

(a) all machinery, apparatus, equipment, fittings, fixtures, furniture, furnishings and articles of personal property of every kind and nature whatsoever owned or leased now or in the future by Mortgagor, which are either located upon the Premises (defined below), or any part thereof, or used in connection with the present use, maintenance, operation or occupancy of the Improvements as a hotel or motel or any other future occupancy or use of the Improvements, including all heating, lighting, laundry, incinerating, loading, unloading, swimming pool, landscaping, garage and power equipment and supplies, engines, pipes, pumps, tanks, motors, conduits, switchboards, plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, and communications apparatus, luggage or food carts, dollies, air cooling and air conditioning apparatus, elevators, escalators, shades, awnings, screens, storm doors and windows, stoves, freezers, refrigerators, cabinets, dressers, cooking utensils, dishes, silverware, kitchen appliances and restaurant equipment and supplies, computers, computer systems, reservation systems, software, cash registers, card keys, telephone switchboards, partitions, ducts and compressors, carpets, rugs, bed frames, springs, mattresses, sheets, pillow cases, pillows, blankets, bed spreads, stationery, tables, desks, chairs, sofas, bureaus, dressers, benches, window curtains, telephones, telephone systems, televisions, radios, lamps, mirrors, paintings, wall hangings, decorations, clothes hangers, bathroom fixtures, shower curtains, towels, medicine cabinets, and hotel cleaning equipment and supplies, and all additions, substitutions and replacements thereof, wherever located, together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto and all of Mortgagor's present and future "goods", "equipment" and "fixtures" (as such terms are defined in the Uniform Commercial Code) and other personal property, including without limitation any such personal property and fixtures which are leased, and all repairs, attachments, betterments, renewals, replacements, substitutions and accessions thereof and thereto (all of the foregoing being referred to herein, collectively, as the **"Equipment"**);

(b) all supplies and materials in which Mortgagor has an interest arising in conjunction with Mortgagor's ownership or operation of the Premises, including any supplies or materials intended for incorporation or installation in the Improvements, prior to the time the same are so incorporated or installed, including building materials and components (all of the foregoing being referred to herein, collectively, as the **"Materials"**);

(c) all right, title and interest of Mortgagor in and to all buildings, structures, fixtures, tenant improvements and other improvements of every kind and description now or hereafter located in or on the Premises, including all Materials, water, sanitary and storm sewers, drainage, electricity, steam, gas, telephone and other utility facilities, parking areas, roads, driveways, walks and other site improvements; and all additions and betterments thereto and all renewals, substitutions and replacements thereof, owned or to be owned by Mortgagor or in which Mortgagor has or shall acquire an interest, to the extent of Mortgagor's interest therein (all of the foregoing being referred to herein, collectively, as the **"Improvements"**);

(d) at such times and to the extent the granting of a security interest therein is permitted by Applicable Law, all liquor licenses, alcoholic beverage licenses, privilege licenses, other licenses relating to the sale or consumption of alcoholic beverages, alcoholic beverage permits, mixed beverage permits, beer permits, Sunday sales permits, private club late hours permits, mixed beverage late hours permits, other late hours permits, private club registration permits, other registration permits, beverage cartage permits, other permits relating to the sale or consumption of alcoholic beverages, consumption on premises resolutions and other resolutions relating to the sale or consumption of alcoholic beverages, all of the foregoing as heretofore or hereafter issued to or for the benefit of Mortgagor or its agents or representatives for use in connection with the Premises, and all renewals thereof and substitutions for all of the foregoing, and all similar future liquor or alcoholic beverage licenses, permits and resolutions and all proceeds of the foregoing (all of the foregoing being referred to, collectively, as the **"Liquor Licenses"**);

(e) at such times and to the extent the granting of a security interest therein is permitted by Applicable Law, all approvals, authorizations, building permits, certifications, entitlements, exemptions, franchises, licenses, orders, variances, plat plan approvals, environmental approvals (including, without limitation, an environmental impact statement or report if required under Applicable Laws), air pollution authorities to construct and permits to operate, sewer and waste discharge permits, national pollutant discharge elimination system permits, water permits, zoning and land use entitlements and all other permits, whether now existing or hereafter issued to or obtained by or on behalf of Mortgagor, that relate to or concern in any way the Premises and are given or issued by any governmental or quasi-governmental authority, whether now existing or hereafter created (as the same may be amended, modified, renewed or extended from time to time, and including all substitutions and replacements therefor) (collectively, the **"Permits"**);

(f) all abstracts of title, plans, specifications, operating manuals, computer programs, computer data, maps, surveys, studies, reports, appraisals, architectural, engineering and construction drawings and contracts, or whatever kind or character, whether now or hereafter existing, relating to the Premises (all of the foregoing being referred to herein as the **"Specifications"**);

(g) all right, title and interest now owned or hereafter acquired by Mortgagor in and to all options and rights of first refusal to purchase or lease any Mortgaged Property or any portion thereof or interest therein, and in and to any greater estate in the Premises or any other part of any Mortgaged Property (all of the foregoing being referred to herein as the **"Options"**);

(h) all the right, in the name and on behalf of Mortgagor, to appear in and defend any action or proceeding brought with respect to any Mortgaged Property, and to commence any action or proceeding to protect the interest of Mortgagor in any Mortgaged Property (collectively, the **"Proceeding Rights"**);

(i) all of Mortgagor's right and power to encumber further any Mortgaged Property or any part thereof (the **"Encumbrance Rights"**);

(j) all rights, titles, interests, estates or other claims, both in law and in equity, which Mortgagor now has or may hereafter acquire in the Premises or in and to any greater estate in the Premises or in and to any greater estate in any Mortgaged Property (the **"Greater Estate Rights"**);

(k) all prepaid rent and security deposits and all other security which the lessor under any ground lease may hold now or later for the performance of Mortgagor's obligations as the lessee under such ground lease (**"Security Deposits"**);

(l) all insurance policies and the proceeds thereof, now or hereafter in effect with respect to the Premises or any other Mortgaged Property, including, without limitation, any and all title insurance proceeds, and all unearned premiums and premium refunds, accrued, accruing or to accrue under such insurance policies, and all awards made for any taking of or damage to all or any part of the Premises or any other Mortgaged Property by eminent domain, or by any purchase in lieu thereof, and all awards resulting from a change of grade of streets or for severance damages, and all other proceeds of the conversion, voluntary or involuntary, of any Mortgaged Property into cash or other liquidated claims, and all judgments, damages, awards, settlements and compensation (including interest thereon) heretofore or hereafter made to the present and all subsequent owners of any Mortgaged Property or any part thereof for any injury to or decrease in the value thereof for any reason (collectively, the **"Insurance/Condemnation Proceeds"**);

(m) all right, title and interest of Mortgagor as landlord in and to all leaseholds and all leases, subleases, licenses, concessions, franchises or other agreements relating to the use or occupancy of the Premises (or any other part of any Mortgaged Property) or any part thereof whether now or hereafter existing or entered into, (including any use or occupancy arrangements created pursuant to Section 365(d) of the Bankruptcy Code or otherwise in connection with the commencement or continuance of any bankruptcy, reorganization, arrangement, insolvency, dissolution, receivership or similar

proceedings, or any assignment for the benefit of creditors, in respect of any tenant or occupant of any portion of the Premises (or any other part of any Mortgaged Property)) and all amendments, modifications, supplements, extensions or renewals thereof, and all guaranties thereof or of leasing commissions, whether now or hereafter existing and all amendments, modifications, supplements, extensions or renewals thereof, (all of the foregoing being collectively referred to as the "**Leases**"), and all rents, issues, profits, royalties (including all oil and gas or other hydrocarbon substances, earnings, receipts, revenues, accounts, accounts receivable, security deposits and other deposits (subject to the prior right of the tenants making such deposits) and income, including, without limitation, fixed, additional and percentage rents, occupancy and room charges, room receipts, rack charges, vending machine receipts, concession fees and charges, public assembly room receipts, operating expense reimbursements, reimbursements for increases in taxes, sums paid by tenants to Mortgagor to reimburse Mortgagor for amounts originally paid or to be paid by Mortgagor or Mortgagor's agents or affiliates for which such tenants were liable, as, for example, tenant improvements costs in excess of any work letter, lease takeover costs, moving expenses and tax and operating expense pass-throughs for which a tenant is solely liable, parking, maintenance, common area, tax, insurance, utility and service charges and contributions, proceeds of sale of electricity, gas, heating, air-conditioning and other utilities and services, deficiency rents and liquidated damages, and other benefits now or hereafter derived from any portion of the Premises or the use or occupancy thereof (including any payments received pursuant to Section 502(b) of the Bankruptcy Code or otherwise in connection with the commencement or continuance of any bankruptcy, reorganization, arrangement, insolvency, dissolution, receivership or similar proceedings, or any assignment for the benefit of creditors, in respect of any tenant or other occupants of any portion of the Premises and all claims as a creditor in connection with any of the foregoing) and all cash or security deposits, advance rentals, and all deposits or payments of a similar nature relating thereto, now or hereafter, including during any period of redemption, derived from the Premises or any other portion of any Mortgaged Property and all proceeds from the cancellation, surrender, sale or other disposition of the Leases (all of the foregoing being referred to collectively, as the "**Rents**") and the right to receive and apply the Rents to the payment of the Obligations, subject to the right hereinafter given to Mortgagor to collect the Rents;

(n) the right to enforce, whether at law or in equity or by any other means, all terms, covenants and provisions of the Leases (collectively, the "**Lease Provisions**");

(o) all impounds paid by Mortgagor pursuant to the provisions of the Mortgage and all refunds or rebates of real and personal property taxes or charges in lieu of taxes, heretofore or now or hereafter assessed or levied against the Premises or any other part of any Mortgaged Property, including interest thereon, and the right to receive the same, whether such refunds or rebates relate to fiscal periods before or during the term hereof (collectively, the "**Refunds**");

(p) all inventory located on any Mortgaged Property in all of its forms (including, but not limited to, (i) all goods held by Mortgagor for sale or lease (including without limitation all alcoholic beverage inventory) or to be furnished under contracts of service or so leased or furnished, (ii) all raw materials, work in process, finished goods, and materials used or consumed in the manufacture, packing, shipping, advertising, selling, leasing, furnishing or production of such inventory or otherwise used or consumed in Mortgagor's business, (iii) all goods in which Mortgagor has an interest in mass or a joint or other interest or right of any kind, (iv) all goods which are returned to or repossessed by Mortgagor, and (v) all accessions thereto and products thereof (all such inventory, accessions and products being the **"Inventory"**) and all negotiable documents of title (including without limitation warehouse receipts, dock receipts and bills of lading) issued by any Person covering any Inventory (any such negotiable document of title being a **"Negotiable Document of Title"**);

(q) all motor vehicle equipment in all of its forms used at or in connection with the operation, management, repair or maintenance of the Premises, wherever located, now or hereafter existing (including, but not limited to, all trucks, tractors, trailers and automobiles), and all parts thereof (whether or not at any time of determination incorporated or installed therein or attached thereto, and including, without limitation, spare parts and tires), and all additions and accessions to, and replacements for, any of the foregoing Mortgaged Property (any and all such motor vehicle equipment, parts, additions, accessions and replacements being the **"Rolling Stock"**);

(r) any and all accounts receivable and rights to payment for use or occupancy of hotel rooms, motel rooms or other space or for goods sold or leased or for services rendered, whether or not yet earned by performance, arising from the operation of the Improvements (including the use or occupancy thereof) or any other facility on the Premises, including (a) all accounts arising from the operation of any Improvements (specifically including any accounts receivable), and (b) all rights to payment or accounts receivable from any consumer credit, debit or other charge card organization or entity, including payments arising from the use of the American Express Card, the Visa Card, the Carte Blanche Card, the MasterCard, the Discover Card or any other credit or debit card, including those now existing or hereafter created, substitutions therefor, proceeds thereof (whether cash or non-cash, movable or immovable, tangible or intangible) received upon the sale, exchange, transfer, collection or other disposition or substitution thereof and any and all of the foregoing and proceeds therefrom (all of the foregoing being referred to herein, collectively, as the **"Payment Rights"**);

(s) all accounts, contract rights, chattel paper, documents, instruments, general intangibles (other than Intellectual Property) and other rights and obligations of any kind arising from the operation of the Improvements (including the use or occupancy thereof) or any other facility on any Mortgaged Property and all rights in, to and under all security agreements, leases and other contracts securing or otherwise relating to any such accounts, contract rights, chattel paper, documents, instruments, general

intangibles or other obligations (any and all such accounts, contract rights, chattel paper, documents, instruments, general intangibles and other obligations, together with the Payment Rights being the "**Accounts**", and any and all such security agreements, leases and other contracts being the "**Related Contracts**");

(t) all franchise agreements, management agreements, agreements for the acquisition of any Mortgaged Property and license agreements, in each case relating to any Mortgaged Property, including the agreements listed in Schedule A-1 to the Security Agreement and all similar future agreements, as each such agreement may be amended, restated, supplemented, replaced or otherwise modified from time to time (said agreements, as so amended, restated, supplemented, replaced or otherwise modified, being referred to herein individually as an "**Assigned Agreement**" and collectively as the "**Assigned Agreements**"), including without limitation (i) all rights of Mortgagor to receive moneys due or to become due under or pursuant to the Assigned Agreements, (ii) all rights of Mortgagor to receive proceeds of any insurance, indemnity, warranty or guaranty with respect to the Assigned Agreements, (iii) all claims of Mortgagor for damages arising out of any breach of or default under the Assigned Agreements, and (iv) all rights of Mortgagor to terminate, amend, supplement, modify or exercise rights or options under the Assigned Agreements, to perform thereunder and to compel performance and otherwise exercise all remedies thereunder;

(u) all cash, money, currency, and all demand, time, savings, passbook or like accounts with a bank, savings and loan association, credit union or like organization, including, without limitation, all of the following (the "**Deposit Account Collateral**"):

(1) the Concentration Account, all funds held therein, and all certificates of deposit and instruments, if any, from time to time representing or evidencing such funds or the Concentration Account;

(2) all Deposit Accounts and post office boxes, mail stops or like mechanisms for the receipt of Accounts (collectively, the "**Local Deposit Accounts**"), all funds held therein, and all proceeds thereof, and all certificates and instruments, if any, from time to time representing or evidencing such funds or Local Deposit Accounts;

(3) all notes, certificates of deposit and other instruments from time to time hereafter delivered to or otherwise possessed by Mortgagee for and on behalf of Mortgagor in substitution for or in addition to any of the then existing Deposit Account Collateral;

(4) all investments from time to time credited to any Deposit Account and all certificates and instruments, if any, from time to time representing or evidencing such investments; and

(5) all interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any and all of the then existing Deposit Account Collateral;

(v) to the extent not otherwise included in any other paragraph hereof, all other general intangibles (including without limitation tax refunds, rights to payment or performance, choses in action and judgments taken on any rights or claims included in the Mortgaged Property) arising from the operation of any Improvements (including the use or occupancy thereof) or any other facility on any Mortgaged Property (the "General Intangibles"); provided, however, that General Intangibles do not include patents, trademarks, tradenames, copyrights, technology, know-how and processes used in or necessary for the conduct of the business of Mortgagor that are material to the financial condition, business or operations of Mortgagor (collectively, "Intellectual Property").

(w) all books, records, ledger cards, files, correspondence, computer programs, tapes, disks and related data processing software that at any time evidence or contain information relating to any of the Mortgaged Property or are otherwise necessary or helpful in the collection thereof or realization thereupon (collectively, the "Records"); and

(x) all proceeds, products, rents and profits of or from any and all of the foregoing Mortgaged Property and, to the extent not otherwise included, all payments under insurance (whether or not the Mortgagee is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing Mortgaged Property. For purposes hereof, the term "proceeds" includes whatever is receivable or received when Mortgaged Property or proceeds are sold, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary;

provided, however, that in no event shall the Mortgaged Property include, and no Mortgagor shall be deemed to have granted a security interest in, any of Mortgagor's rights or interests in any agreement to which Mortgagor is a party or any of its rights or interests thereunder to the extent but only to the extent that such a grant would result in a breach of the terms of, or constitute a default under, any such agreement, and the other party to such agreement has not consented to the granting of such security interest in such agreement (other than to the extent that any such term would be rendered ineffective pursuant to Section 9-318(4) of the Uniform Commercial Code of any relevant jurisdiction or any other Applicable Law (including the Bankruptcy Code) or principles of equity); and provided further, that immediately upon the ineffectiveness, lapse, waiver or termination of any such provision, the Mortgaged Property shall include and Mortgagor shall be deemed to have granted a security interest in, all such rights or interests in the applicable Mortgaged Property as if such provision had never been in effect.

The "Premises" means the Premises described in the Mortgage to which this Exhibit B is attached.

EXHIBIT C

UCC INFORMATION

Debtor:

Prime Hospitality Corp.

Corporate Structure: Delaware corporation

Notice Address: 700 Route 46 East, Fairfield, New Jersey, 07007-2700

Principal Place of Business: 700 Route 46 East, Fairfield, New Jersey, 07007-2700

Secured Party:

Bankers Trust Company, as Agent

130 Liberty Street

25th Floor

New York, New York 10006

Secured Party acts as Agent for the Lenders (the "Lenders") party from time to time to the Amended and Restated Senior Secured Revolving Credit Agreement dated as even date herewith among Secured Party, the Lenders and Debtor, as it may hereafter be amended, restated, replaced, supplemented or otherwise modified from time to time. Information regarding the security interest held by the Lenders, for which Secured Party acts as Agent, may be obtained by contacting Secured Party at the address set forth above.

SCHEDULE I

MORTGAGEE'S ADDITIONAL RIGHTS

None

Inst # 1997-41983

Inst # 1997-41983

NY1-557886.V1
PRIME IV ALABAMA MORTGAGE

12/29/1997-41983
Sch 1-18 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
056 MCD 147.00

12/15/97