Sample "Exculpatory" Provision for Inclusion in Mortgage

Section _____. Mortgagee agrees that it will not look to Mortgagor or any principal or partner of Mortgagor, either disclosed or undisclosed or any of their heirs, administrators, executors, personal representatives, successors or assigns, with respect to the indebtedness secured by the Mortgage and that in enforcing its rights and the remedies under the Mortgage, Mortgagee will look solely to the Premises for the payment of the indebtedness secured by the Mortgage and for the performance of the provisions hereof, and that Mortgagee will not seek, enter or enforce a deficiency or other money judgment against Mortgagor or any principal or partner of Mortgagor or any of their heirs, administrators, executors, personal representatives, successors or assigns, and will not institute any separate action against Mortgagor or any principal or partner of Mortgagor or any of their heirs, administrators, executors, personal representatives, successors, or assigns by reason of any default which may occur in the performance of any of the terms and conditions of the Mortgage or the Note, provided, however, that the foregoing shall not (i) constitute a waiver of any obligations evidenced by the Mortgage, Note or any other document delivered in connection therewith, (ii) limit in any manner the right of the holder of the Note and the Mortgage to name Mortgagor as a party defendant in any action or suit for judicial foreclosure and sale under the Mortgage or any action or proceeding hereunder or under the Note so long as no judgment in the nature of a deficiency or monetary judgment shall be asked for or taken against Mortgagor or any principal or partner of Mortgagor or any of their heirs, administrators, executors, personal representatives, successors or assigns, (iii) affect in any way the validity of any guaranty from any person or entity of all or any of the obligations evidenced and secured by the Note and the Mortgage, (iv) release or impair the Note or the lien of the Mortgage, (v) prevent or in any way hinder Mortgagee from exercising, by way of claim, defense, affirmative defense, or counterclaim, or other basis for relief in respect of the exercise of, any other remedy (consistent with the nonrecourse nature of the obligations of Mortgagor under the Note or the Mortgage) against the Mortgaged Property or any other instrument securing the Note or as prescribed by law or in equity in case of default (vi) prevent or in any way hinder Mortgagee from exercising, by way of claim, defense, affirmative defense, or counterclaim, or other basis for relief in respect of the exercise of, Mortgagee's remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral securing the Note, (vii) if successful in a foreclosure action based on this Mortgage, limit the right of the purchaser of the property at a foreclosure sale from obtaining a judgment against Mortgagor or any of its principals, partners, heirs, successors, assigns or personal representatives awarding possession of the Premises and reasonable use and occupancy after the date of entry of a judgment of foreclosure, and to have execution thereof (by way of writ of assistance, summary proceeding or otherwise); (viii) limit the right of the holder of this Mortgage to name Mortgagor any principal or partner thereof or any of their respective heirs, administrators, successors or assigns for or on account of making any false representation of material fact in connection with the making of the Note or Mortgage or the obtaining of the loan evidenced thereby, and if successful, to have execution on any judgment rendered thereon; or (ix) limit anyone's liability in connection with the Environmental Certificate and Indemnity Agreement of even date herewith; provided, however, that the Mortgagor shall not be exonerated or exculpated from the payment of any deficiency, loss or damage suffered by the Mortgagee as a result of (i) the misappropriation of any rent, or the use of any rent other than in connection with the Premises; or (ii) misappropriation of the proceeds of insurance or condemnation other than as required by this Mortgage; or (iii) the misappropriation of security deposits held by the

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Mortgagor pursuant to leases; or (iv) any fraud or misrepresentation by the Mortgagor; or (v) the cost, if any, incurred by the Mortgagee for the removal of any asbestos, hydrocarbons or other hazardous or unlawful materials, which under existing law are or under future law may be required to be removed from the Premises.

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