

Multistate Transactions - Cap on New York Mortgage - Form 1

**A. Maximum Amount of Indebtedness.**

Notwithstanding anything to the contrary in this Mortgage, the maximum aggregate principal amount of indebtedness that is, or under any contingency may be, secured by this Mortgage (including Borrower's obligation to reimburse advances made by Lender), either at execution or any time thereafter (the "Secured Amount"), is \$ \_\_\_\_\_, plus amounts that Lender expends after a declaration of default under the Mortgage to the extent that any such amounts shall constitute payment of (i) taxes, charges or assessments that may be imposed by law upon any Mortgage Property; (ii) premiums on insurance policies covering any Mortgaged Property; (iii) expenses incurred in upholding the lien of this Mortgage, including the expenses of any litigation to prosecute or defend the rights and lien created by this Mortgage; or (iv) any amount, cost or charge to which Lender becomes subrogated, upon payment, whether under recognized principles of law or equity, or under express statutory authority; then, in each such event, such amounts or costs, together with interest thereon, shall be added to the indebtedness secured hereby and shall be secured by this Mortgage.

**B. Treatment of Borrowings and Repayments.**

Pursuant to the Credit Agreement, the amount of the Secured Obligations may increase and decrease from time to time as Lender advances, Borrower repays, and Lender readvances sums on account of the Loan, as more fully described in the Credit Agreement. For purposes of this Mortgage, the amount of the Loan secured by this Mortgage shall at all times equal the Secured Amount as more fully described in Section \_\_\_\_\_ and shall at no time equal more or less than the Secured Amount. Such Secured Amount represents only a portion of the first sums advanced by the Lender with respect to the Loan. Such Secured Amount shall be reduced only by the last and final sums that Borrower repays with respect to the Loan and shall not be reduced by any intervening repayments of the Loan by borrower. As of the Closing Date, the total amount of the Loan exceeds the Secured Amount, so that the Secured Amount represents only a portion of the Secured Obligations actually outstanding. So long as the balance of the Loan exceeds the Secured Amount, any payments and repayments of the Loan by Borrower shall not be deemed to be applied against, or to reduce, the portion of the Secured Obligations secured by this Mortgage, as more fully described in Section \_\_\_\_\_. Such payments shall instead be deemed to reduce only such portions of the Secured Obligations as are secured by mortgages encumbering real property located outside of the State of New York. Lenders shall be entitled, but not required, to prohibit Borrower from partially prepaying the Loan to such an extent that the balance of the Loan would otherwise become less than the Secured Amount.

Nothing in this paragraph shall be construed to (i) prevent Borrower from fully prepaying the Loan in accordance with the Credit Agreement; (ii) prevent Borrower from obtaining the release of the Mortgaged Property to the extent otherwise provided for in the Loan Documents; or (iii) limit or impair any Lender's Remedies, including Lender's right to require immediate repayment of the Loan (as more fully described in the Credit Agreement) upon an Event of Default.



***First American Title***<sup>™</sup>