



Except for the willful malfeasance or gross negligence of Assignee, the Assignee shall not be liable for any act or omission but shall only be liable to account for moneys received by Assignee. Notwithstanding the foregoing, nothing herein contained shall be deemed to prejudice Assignee's rights to institute and prosecute the foreclosure of the Mortgage or to enforce any lien on other collateral which the Assignee has or to prejudice any other right of Assignee which may arise due to Assignor's default under the Loan Documents.

## **5. ASSIGNMENT OF LEASES UPON DEFAULT**

In the event of a default under the Loan Documents, Assignor hereby assigns and transfers to Assignee all the leases and subleases, if any, made to the occupants of the Premises and all of its right, title and interest to the security stated in those leases and subleases and the Assignor further authorizes and empowers Assignee to honor the terms, conditions and provisions of the leases and subleases or to rent any one or more of the units in the Premises upon such terms, conditions and provisions as Assignee, in its sole discretion deems prudent and to execute any and all documents necessary to accomplish that end. Assignee shall have the full power and authority to do any and all acts with respect to the Premises as the Assignor might or be permitted to do, with full power and substitution and Assignor hereby expressly ratifies and confirms those acts which might be done by Assignee.

## **6. LEASE MODIFICATION**

Assignor will not, except if expressly permitted in the Loan Documents, without the prior written consent of Assignee cancel, modify or surrender any lease now or in the future existing with respect to any unit in the Premises; abate or reduce any rent due under any lease; modify, alter or amend any of the terms, provisions and conditions of any lease; and/or execute any new lease for any unit in the Premises.

## **7. ACCOUNTABILITY**

Assignee, except for its acts of gross negligence or willful misconduct, shall not be liable or responsible in any way for the failure to account or fraud or defalcation of rents received by Assignee's agent designated to manage the Premises or collect the rents. Assignee shall in no way be liable for its failure or refusal to make repairs to the Premises nor for any debt incurred in connection with the operation of the Premises.

## **8. DEFAULT**

Notwithstanding anything to the contrary contained in this Collateral Assignment of Leases and Rents, the default provisions contained in the Loan Documents shall in no way be affected by the terms, provisions and conditions contained in this document.

## **9. ASSIGNEE'S RIGHT IN THE COLLATERAL**

This Collateral Assignment of Leases and Rents supplements the Loan Documents. It is expressly agreed by the parties hereto that the rights and powers given to Assignee contained in this document shall in no way prejudice or estop the Assignee in the exercise of the rights afforded to it in the Loan Documents or against any other collateral of Assignor that Assignee may have.

## **10. SURPLUS**

Except as required by law, Assignee may but shall be under no obligation to do so, turn over to the Assignor any surplus moneys which the Assignee may have after paying all expenses incurred in connection with the operation of the Premises and establishing a reserve fund necessary for the payment of fixed charges due or to become due for such time as Assignee, in its sole discretion deems reasonable. The tender by Assignee to Assignor of surplus moneys on one occasion shall not obligate Assignee to tender surplus moneys thereafter.

## **11. FURTHER ASSIGNMENT BY ASSIGNEE**

The Assignee may assign all of its right, title and interest in and to this Collateral Assignment of Leases and Rents to any person or entity to whom the Loan Documents are assigned and upon such assignment, the holder of the Loan Documents shall have all the rights and powers contained herein as if an original party hereto.

## **12. CONSENT**

Should the Assignor be a corporation, the Assignor hereby expressly certifies that this Assignment was approved and authorized by the board of directors of such corporation and that there is no requirement under the corporation's certificate of incorporation or by-laws that require the consent of the shareholders.

Should the Assignor be a partnership, the execution and delivery of this Collateral Assignment of Lease and Rents have been duly approved by its partners.

Should the Assignor be a limited liability company, the execution and delivery of this Collateral Assignment of Leases and Rents have been duly approved pursuant to its operating agreement, or if none, by its managing member.

**13. DESCRIPTION OF PREMISES**

The Premises are more particularly described on Schedule A which is attached hereto and made a part hereof.

**14. SATISFACTION OF UNDERLYING DEBT**

Upon the payment in full of all indebtedness secured by the Loan Documents, Assignee shall execute and deliver, in recordable form, a release of this Collateral Assignment of Leases and Rents.

**15. ASSIGNOR'S COLLECTION OF RENTS**

Provided that Assignor is not in default under the Loan Documents, Assignor shall have the right to collect, but not more than thirty (30) days prior to accrual, all rents, issues and profits from the Premises and to retain, use and enjoy same.

**16. AGREEMENT BINDING**

This Collateral Assignment of Leases and Rents shall be binding on the Assignor and its successors and assigns and shall inure to the benefit of Assignee, its successors and assigns. This Collateral Assignment of Leases and Rents may not be changed orally but only by an agreement in writing signed by the parties hereto.

**17. LAW GOVERNING**

The terms, conditions and provisions of this Collateral Assignment of Leases and Rents shall be governed by the laws of the State of New York.

**18. PRIOR ASSIGNMENT**

Assignor represents and warrants that it is the owner in fee of the Premises and has not executed any prior assignment or pledge of any of its rights, nor are its rights encumbered, with respect to the leases assigned hereunder, or any of the rents, income or profits due or to become due from the Premises, except as are encumbered by the Loan Documents. Assignor further represents and warrants that it shall not assign, pledge or encumber the leases to any party or entity during the terms of this Collateral Assignment of Leases and Rents,

**19. LEASES**

Annexed hereto and made a part hereof as Exhibit B are the existing leases for the Premises.

**IN WITNESS WHEREOF**, the Assignor has executed this Collateral Assignment of Leases and Rents the date and year first written above.

ASSIGNOR:

By: \_\_\_\_\_

**ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE**

State of New York, County of \_\_\_\_\_, ss:  
On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me the undersigned, personally appeared

\_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public Seal:

**ACKNOWLEDGEMENT BY SUBSCRIBING WITNESS TAKEN IN NEW YORK STATE**

State of New York, County of \_\_\_\_\_, ss:  
On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, personally appeared

\_\_\_\_\_, the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in

(if the place of residence is in a city, include the street and street number if any, thereof); that he/she/they know(s)

to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said

execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto

**Title No.**

**TO**

**DISTRIBUTED BY**

**ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE**

State of New York, County of \_\_\_\_\_, ss:  
On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me the undersigned personally appeared

\_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public Seal:

**ACKNOWLEDGEMENT TAKEN OUTSIDE NEW YORK STATE**

State of \_\_\_\_\_, County of \_\_\_\_\_, ss:  
\*(Or insert District of Columbia, Territory, Possession or Foreign County)

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, the undersigned personally appeared

Personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual make such appearance before the undersigned in the

(add the city or political subdivision and the state or country or other place the acknowledgement was taken).

SECTION:  
BLOCK:  
LOT:  
COUNTY OR TOWN:

**RETURN BY MAIL TO:**

**SCHEDULE A**

**SCHEDULE B**