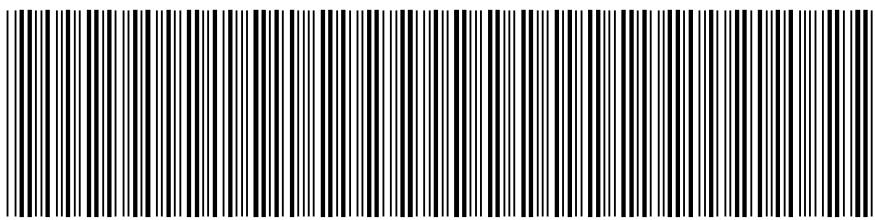


**NYC DEPARTMENT OF FINANCE  
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**RECORDING AND ENDORSEMENT COVER PAGE**

**PAGE 1 OF 39**

**Document ID: 2012090501110004**

Document Date: 08-30-2012

Preparation Date: 09-05-2012

Document Type: AGREEMENT

Document Page Count: 37

**PRESENTER:**

FIDELITY NATIONAL TITLE INS. COMPANY  
PICK UP SOPHIA  
485 LEXINGTON AVENUE, 18TH FLOOR  
NEW YORK, NY 10017  
212-481-5858  
kat.lam@fnf.com /title no. 12-26255-NYM

**RETURN TO:**

DLA PIPER LLP  
1251 AVENUE OF THE AMERICAS  
NEW YORK, NY 10020  
Attn.: Jeffrey B. Steiner, Esq.

<b>PROPERTY DATA</b>				
<b>Borough</b>	<b>Block</b>	<b>Lot</b>	<b>Unit</b>	<b>Address</b>
MANHATTAN	1292	1001	Entire Lot	C1 721 FIFTH AVENUE
<b>Property Type:</b> COMMERCIAL CONDO UNIT(S)				

**CROSS REFERENCE DATA**  
MANHATTAN Year: 1998 Reel: 2620 Page: 1454  
x Additional Cross References on Continuation Page

**PARTIES**

**PARTY 1:**

TRUMP TOWER COMMERCIAL LLC  
C/O THE TRUMP ORGANIZATION, 725 FIFTH  
AVENUE  
NEW YORK, NY 10154

**PARTY 2:**

LADDER CAPITAL FINANCIAL LLC  
345 PARK AVENUE, 8TH FLOOR  
NEW YORK, NY 10154

**FEES AND TAXES**

<b>Mortgage</b>			Filing Fee:	
Mortgage Amount:	\$	100,000,000.00		\$ 0.00
Taxable Mortgage Amount:	\$	0.00	NYC Real Property Transfer Tax:	
Exemption:		255		\$ 0.00
TAXES: County (Basic):	\$	0.00	NYS Real Estate Transfer Tax:	
City (Additional):	\$	0.00		\$ 0.00
Spec (Additional):	\$	0.00		
TASF:	\$	0.00		
MTA:	\$	0.00		
NYCTA:	\$	0.00		
Additional MRT:	\$	0.00		
<b>TOTAL:</b>	\$	0.00		
Recording Fee:	\$	222.00		
Affidavit Fee:	\$	8.00		



**RECORDED OR FILED IN THE OFFICE  
OF THE CITY REGISTER OF THE  
CITY OF NEW YORK**

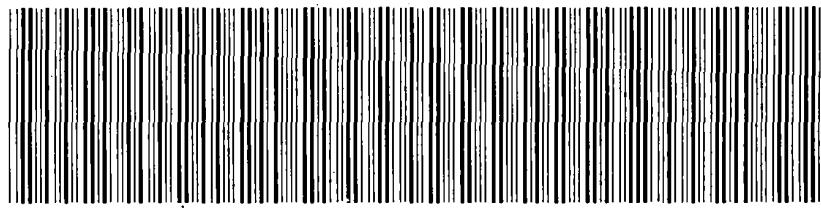
Recorded/Filed 09-17-2012 10:48

City Register File No.(CRFN):

2012000367225

*Annette M. Hill*  
**City Register Official Signature**

**NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER**



**201209050110004001C1767**

**RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 2 OF 39**

**Document ID: 201209050110004**

Document Date: 08-30-2012

Preparation Date: 09-05-2012

Document Type: AGREEMENT

**CROSS REFERENCE DATA**

**Document ID: 201209050110003**

**CONSOLIDATED, AMENDED AND RESTATED MORTGAGE,  
ASSIGNMENT OF LEASES AND RENTS  
AND SECURITY AGREEMENT**

**THIS CONSOLIDATED, AMENDED AND RESTATED MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, AND SECURITY AGREEMENT** (as the same may be consolidated, amended, restated, replaced, supplemented or otherwise modified, from time to time, this “**Mortgage**”) is made as of this 30th day of August, 2012, by **TRUMP TOWER COMMERCIAL LLC**, a New York limited liability company, having an address at c/o The Trump Organization, 725 Fifth Avenue, New York, New York 10022, as mortgagor (together with its permitted successors and assigns, collectively, “**Borrower**”) for the benefit of **LADDER CAPITAL FINANCE LLC**, a Delaware limited liability company, having an address at 345 Park Avenue, 8th Floor, New York, New York 10154, as mortgagee (together with its successors and assigns, collectively, “**Lender**”).

**W I T N E S S E T H:**

A. This Mortgage is given to secure a loan (the “**Loan**”) in the principal sum of ONE HUNDRED MILLION AND 00/100 DOLLARS (\$100,000,000.00) which has been advanced pursuant to that certain Loan Agreement dated as of the date hereof by and between Borrower and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Loan Agreement**”) and which amount secured is evidenced by the Note (hereinafter defined). Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Agreement.

B. Lender, by assignment, is the lawful owner and holder of certain mortgages, encumbering the fee estate of Borrower in the Condominium Unit (as hereinafter defined), as more particularly described on Schedule I attached hereto and made a part hereof (collectively, the “**Existing Mortgages**”), and of the notes and other obligations secured thereby as more particularly described in the Existing Mortgages (collectively, the “**Existing Notes**”). The aggregate outstanding principal indebtedness evidenced by the Existing Notes as of the date hereof is \$100,000,000.00.

C. Pursuant to that certain Consolidated, Amended and Restated Promissory Note dated the date hereof (such Consolidated, Amended and Restated Promissory Note, together with all extensions, renewals, replacements, restatements or modifications thereof, being hereinafter referred to as, the “**Note**”), executed by Borrower and made payable to the order of Lender in the principal amount of \$100,000,000.00, the terms and conditions of the Existing Notes were consolidated, amended and restated in their entirety, so that the Note constitutes the restatement of the Existing Notes and evidences but one debt of Borrower to Lender.

D. To induce Lender to make the Loan to Borrower and to secure (i) the payment of the outstanding principal amount of the Loan together with all interest accrued and unpaid thereon and all other sums (including any Yield Maintenance Premium) due to Lender in respect of the Loan and the Loan Documents (the “**Debt**”), and (ii) the performance of Borrower’s obligations under the Note, and as to the amount secured hereby under the Note, the Loan Agreement and the other Loan Documents, Borrower and Lender desire to consolidate, modify

and restate the terms and provisions of the Existing Mortgages in their entirety in the manner hereinafter set forth and as set forth in the Loan Agreement (a) so that all of the terms and provisions contained in this Mortgage and the Loan Agreement shall supersede and control the terms and provisions of the Existing Mortgages (it being agreed that the execution of this Mortgage shall not impair the liens created by the Existing Mortgages), and (b) so as to create solely one mortgage and one consolidated lien encumbering the Property (hereinafter defined) in the original principal amount of \$100,000,000.00.

E. This Mortgage is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Borrower of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Mortgage.

F. Borrower and Lender intend these Recitals to be a material part of this Mortgage.

**NOW THEREFORE**, in consideration of the making of the Loan by Lender and the covenants, agreements, representations and warranties set forth in this Mortgage, the parties hereto covenant and agree as follows:

THAT, this Mortgage constitutes a mortgage and security agreement encumbering the Property (as hereinafter defined) upon the terms and conditions set forth herein to secure the outstanding principal amount of the Note and all other amounts due thereunder and the Other Obligations, it being understood and agreed that the Property secures the repayment of the Debt; and

THAT, the liens of the Existing Mortgages are hereby spread to encumber all portions of the Property, if not already encumbered by the Existing Mortgages, and are hereby merged and consolidated, without priority one over the other, and to the same extent and as fully as if the amounts secured hereby had been originally advanced at the time of the making, execution, delivery and recordation of the Existing Mortgages, as if the Existing Mortgages at the time of their making, execution, delivery and recordation had been made to secure an indebtedness to Lender in the aggregate amount of the outstanding principal amount of the Note and all other amounts due thereunder and as such encumber the Property; and

THAT, the indebtedness evidenced by the Existing Notes, as consolidated pursuant to the Note, constitutes a single indebtedness in the principal amount of the Debt as evidenced by the Note, and that the Existing Mortgages, as consolidated, constitutes a single valid first priority lien upon the Property securing the Debt; and

THAT, from and after the date hereof, all of the terms, covenants and provisions of the Existing Mortgages are hereby modified, amended and restated in their entirety as provided herein, so that henceforth the terms, covenants and provisions of this Mortgage and the Loan Agreement shall supersede the terms, covenants and provisions of the Existing Mortgages; and

THAT, neither this Mortgage nor anything contained herein shall be construed as a substitution or novation of the indebtedness evidenced by the Existing Notes or of the Existing

Mortgages, which shall remain in full force and effect, as hereby confirmed, modified, consolidated, restated and superseded, or in any way impair the priority of the liens and security evidenced by the Existing Mortgages.

## PART I - GENERAL PROVISIONS

### ARTICLE 1 GRANTS OF SECURITY

Section 1.1 Property Mortgaged. Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Lender and its successors and assigns all of Borrower's right, title and interest in and to the following property, rights, interests and estates now owned, or hereafter acquired by Borrower, if any (whether owned individually or jointly with others, and, if owned jointly, to the extent of Borrower's interest therein), including to the extent they form a part of, are appurtenant to, or benefit, the Condominium Unit (collectively, the "Property"):

(a) Condominium. The condominium unit designated and described as the Commercial Unit as set forth on Exhibit A attached hereto and by this reference made a part hereof (together with the "Commercial Limited Common Elements" (as such term is defined in the Declaration) appurtenant thereto, collectively, the "**Condominium Unit**"), in the building (the "**Building**") known as the Trump Tower Condominium (the "**Condominium**"), and by street number 721-725 Fifth Avenue, Borough of Manhattan, County, City and State of New York, said Condominium Unit being designated and described as set forth in that certain Declaration made by the Trump-Equitable Fifth Avenue Company under Article 9-B of the Real Property Law of the State of New York, dated as of February 24, 1983 and recorded in Reel 674 Page 848 in the Office of the Register of the City of New York, County of New York (as amended as set forth on Schedule II attached hereto and by this reference made a part hereof and as may be further amended, restated, replaced, supplemented or otherwise modified from time to time, collectively, the "**Declaration**"), and as further described in all other documents necessary for the operation of the Condominium Unit as a condominium, including, without limitation, the offering plan, subdivision maps, By-laws, rules and regulations, management agreement (if applicable) and all other documents relating to the creation of a valid condominium on the Land, the establishment of a plan for a condominium regime of ownership and the regulation and administration thereof (the "**Condominium Documents**") with respect to the Building and situate on the land upon which the Building is situated (the "**Land**") (which Land is also more particularly described in Exhibit A annexed hereto and by this reference made a part hereof), together with (i) Borrower's undivided percentage interest in the "Commercial Limited Common Elements" and the "General Common Elements" (as each such term is defined in the Declaration) appurtenant to such Condominium Unit; (ii) the appurtenances and all the estate and rights of Borrower in and to the Condominium Unit; and (iii) the rights, obligations, easements, restrictions and other provisions relating to the Condominium Unit set forth in the Condominium Documents, as each of the same may be amended from time to time, all of which shall constitute covenants running with the Land and shall bind any Person having at any time any interest or estate in the Condominium Unit, as though recited and stipulated at length herein;

(b) Additional Land. All additional lands, estates and development rights hereafter acquired for use in connection with the Condominium Unit and/or the Improvements the development of the Condominium Unit and/or the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Mortgage;

(c) Improvements. The buildings, structures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located in or comprising part of the Condominium Unit (collectively, the "**Improvements**");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Condominium Unit and/or the Improvements and the reversion and reversions, remainder and remainders, and all the estates, rights, titles, interests, dower and rights of dower, courtesy and rights of courtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Condominium Unit and/or the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Equipment. To the extent used at, a part of or located in the Condominium Unit and/or the Improvements, all "equipment," as such term is defined in Article 9 of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "**Equipment**"). Notwithstanding the foregoing, "Equipment" shall not include any property belonging to Tenants under Leases except to the extent that Borrower shall have any right or interest therein;

(f) Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, which is so related to the Condominium Unit and/or the Improvements that it is deemed fixtures or real property under the Legal Requirements of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation upon the Condominium Unit and/or the Improvements, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) the Condominium Unit and/or the Improvements, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, plumbing, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others,

and, if owned jointly, to the extent of Borrower's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "**Fixtures**"). Notwithstanding the foregoing, "Fixtures" shall not include any property which Tenants are entitled to remove pursuant to Leases except to the extent that Borrower shall have any right or interest therein;

(g) **Personal Property.** All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights, accounts, accounts receivable, franchises, licenses, certificates and permits, and all other personal property of any kind or character whatsoever (as defined in and subject to the provisions of the Uniform Commercial Code as hereinafter defined), whether tangible or intangible, other than Fixtures, which are now or hereafter owned and which are located within or appurtenant to the Condominium Unit and/or the Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "**Personal Property**"), and the right, title and interest of Borrower in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Personal Property is located (the "**Uniform Commercial Code**"), superior in lien to the lien of this Mortgage and all proceeds and products of any of the above. Notwithstanding the foregoing, "Personal Property" shall not include any property which Tenants are entitled to remove pursuant to Leases except to the extent that Borrower shall have any right or interest therein;

(h) **Leases and Rents.** All leases, subleases or subsubleases, lettings, licenses, concessions or other agreements (whether written or oral) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of any space in the Condominium Unit and/or the Improvements, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into (collectively, the "**Leases**"), whether before or after the filing by or against Borrower of any petition for relief under 11 U.S.C. §101 *et seq.*, as the same may be amended from time to time (the "**Bankruptcy Code**") and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, cash, letters of credit or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses), income, fees, receivables, deposits, and accounts from the Condominium Unit and/or the Improvements whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code (collectively, the "**Rents**") and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt and the performance of the Other Obligations;

(i) **Condemnation Awards.** All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Condominium Unit, the Land (to the extent allocated to the Condominium Unit) and/or the Improvements, whether from

the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of such right), or for a change of grade, or for any other injury to or decrease in the value of the Condominium Unit, the Land (to the extent allocated to the Condominium Unit) and/or the Improvements, as applicable;

(j) Insurance Proceeds. All proceeds in respect of any Property under any insurance policies covering such Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to such Property;

(k) Tax Certiorari. All refunds, rebates or credits in connection with any reduction in real estate taxes and assessments charged against the Condominium Unit, the Land (to the extent allocated to the Condominium Unit) and/or the Improvements as a result of tax certiorari proceedings or any other applications or proceedings for reduction of same, in each case, irrespective of the time period to which they relate;

(l) Rights. The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Condominium Unit, the Land (to the extent allocated to the Condominium Unit) and/or the Improvements and to commence any action or proceeding to protect the interest of Lender in the Condominium Unit, the Land (to the extent allocated to the Condominium Unit) and/or the Improvements;

(m) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Condominium Unit and/or the Improvements and/or any part of any of the foregoing or respecting any business or activity conducted in the Condominium Unit and/or the Improvements and/or any part of any of the foregoing and all right, title and interest of Borrower therein and thereunder, including, without limitation, the right, upon the occurrence and during the continuance of any Event of Default, to receive and collect any sums payable to Borrower thereunder;

(n) Trademarks. All trade names, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Condominium Unit and/or the Improvements;

(o) Accounts. All reserves, escrows and deposit accounts maintained by Borrower with respect to the Condominium Unit and/or the Improvements, including, without limitation, all accounts established or maintained pursuant to the Loan Agreement, the Cash Management Agreement, the Clearing Account Agreement or any other Loan Document, together with all deposits or wire transfers made to such accounts, and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time, and all proceeds, products, distributions, dividends and/or substitutions thereon and thereof;

(p) Uniform Commercial Code Property. All documents, instruments, chattel paper and intangibles, as the foregoing terms are defined in the Uniform Commercial Code, and general intangibles relating to the Condominium Unit and/or the Improvements;

(q) Proceeds. All proceeds of any of the foregoing, including, without limitation, proceeds of insurance and condemnation awards, whether in cash, or in liquidation or other claims or otherwise; provided, however, that Proceeds shall not include any proceeds belonging to Tenants under Leases; and

(r) Other Rights. Any and all other rights of Borrower in and to the items set forth in Subsections (a) through (q) above.

AND without limiting any of the other provisions of this Mortgage, to the extent permitted by applicable Legal Requirements, Borrower expressly grants to Lender, as secured party, a security interest in the portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Condominium Unit (the Condominium Unit, the Improvements and the Fixtures collectively being referred to as the "**Real Property**") appropriated to the use thereof and, whether affixed or annexed to the Real Property or not, shall for the purposes of this Mortgage be deemed conclusively to be real estate and mortgaged hereby.

Section 1.2 Assignment of Rents. Borrower hereby absolutely and unconditionally assigns to Lender all of Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of the Assignment of Leases and Section 7.1(h) of this Mortgage, Lender hereby grants to Borrower a revocable exclusive license to collect, receive, retain, use and enjoy the Rents and, subject to the terms of the Loan Agreement, to take any and all action with respect to the Leases. Upon the occurrence and during the continuance of any Event of Default, Borrower shall hold the Rents, or a portion thereof sufficient to discharge all current sums due in respect of operating expenses for the Property and on the Debt, for use in the payment of such sums in accordance with the terms of the Loan Agreement and the other Loan Documents.

Section 1.3 Security Agreement. This Mortgage is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Mortgage, Borrower hereby grants to Lender, as security for the Obligations (hereinafter defined), a security interest in the Fixtures, the Equipment, the Personal Property and other property constituting the Property to the full extent that the Fixtures, the Equipment, the Personal Property and such other property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the "**Collateral**"). If an Event of Default shall occur and be continuing, Lender, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take

possession of the Collateral or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Collateral. Any sale of the Collateral may be held as part of and in conjunction with a sale by the Lender of the Condominium Unit. Upon request or demand of Lender after the occurrence and during the continuance of an Event of Default, Borrower shall, at its expense, assemble the Collateral and make it available to Lender at a convenient place (at the Condominium Unit if tangible property) reasonably acceptable to Lender. Borrower shall pay to Lender on demand any and all reasonable out-of-pocket third party expenses, including reasonable legal expenses and attorneys' fees, incurred or paid by Lender in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral sent to Borrower in accordance with the provisions hereof at least ten (10) Business Days prior to such action, shall, except as otherwise provided by applicable Legal Requirements, constitute reasonable notice to Borrower. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable Legal Requirements, be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper. The principal place of business of Borrower (Debtor) is as set forth on page one hereof and the address of Lender (Secured Party) is as set forth on page one hereof.

**Section 1.4 Fixture Filing.** Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Condominium Unit and/or the Improvements, described or referred to in this Mortgage, and this Mortgage, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures.

**Section 1.5 Pledges of Monies Held.** Borrower hereby pledges to Lender any and all monies now or hereafter held by Lender or on behalf of Lender in connection with the Loan, including, without limitation, any sums deposited in the Accounts (as defined in the Cash Management Agreement), the Clearing Account and Net Proceeds, as additional security for the Obligations until expended or applied as provided in this Mortgage, or the other Loan Documents, as applicable.

#### **CONDITIONS TO GRANT**

**TO HAVE AND TO HOLD** the above granted and described Property unto and to the use and benefit of Lender and its successors and assigns, forever;

**PROVIDED, HOWEVER,** these presents are upon the express condition that, if Borrower shall pay to Lender the Debt at the time and in the manner provided in the Note, the Loan Agreement and this Mortgage, these presents and the estate hereby granted shall cease, terminate and be void and Lender shall promptly release this Mortgage and the lien hereof by proper instrument, as provided in Section 14.9 hereof; provided, however, that Borrower's obligation to indemnify and hold harmless Lender pursuant to the provisions hereof and any

provision herein which by its terms expressly survives prepayment or release shall survive any such payment or release.

## **ARTICLE 2** **DEBT AND OBLIGATIONS SECURED**

Section 2.1 Obligations. This Mortgage and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Obligations, including, but not limited to, the Debt.

Section 2.2 Other Obligations. This Mortgage and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the following (the “**Other Obligations**”):

- (a) the performance of all other obligations of Borrower contained herein;
- (b) the performance of each obligation of Borrower contained in the Loan Agreement and any other Loan Document; and
- (c) the performance of each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement or any other Loan Document.

Section 2.3 Debt and Other Obligations. Borrower’s obligations for the payment of the Debt and the performance of the Other Obligations may sometimes be referred to collectively herein as the “**Obligations**”.

## **ARTICLE 3** **BORROWER COVENANTS**

Borrower covenants and agrees that throughout the term of the Loan:

Section 3.1 Payment of Debt. Borrower will pay the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Mortgage.

Section 3.2 Incorporation by Reference. All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note and (c) all and any of the other Loan Documents, are hereby made a part of this Mortgage to the same extent and with the same force as if fully set forth herein.

Section 3.3 Insurance. Borrower shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Borrower and the Condominium Unit, the Land and/or the Improvements as required pursuant to the Loan Agreement.

Section 3.4 Maintenance of Property. Borrower shall cause the Property to be maintained in a good and safe condition and repair as required pursuant to the Loan Agreement. To the extent provided in the Loan Agreement, the Improvements, the Fixtures, the Equipment and the Personal Property shall not be removed, demolished or materially altered (except for

normal replacement of the Fixtures, the Equipment or the Personal Property, tenant finish and refurbishment of the Improvements) without the consent of Lender, which consent shall not be unreasonably withheld or delayed. To the extent provided in the Loan Agreement, Borrower shall promptly repair, replace or rebuild any part of the Condominium Unit and/or Improvements which may be destroyed by any Casualty or become damaged, worn or dilapidated or which may be affected by any Condemnation, and shall complete and pay for any structure at any time in the process of construction or repair in the Condominium Unit and/or the Improvements.

**Section 3.5 Waste.** Borrower shall not commit or permit any waste of any Property or make any change in the use of any Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of such Property, or take any action that could reasonably be expected to invalidate or allow the cancellation of any Policy, or do or permit to be done in the Condominium Unit and/or the Improvements anything that could reasonably be expected to in any way materially impair the value of such Property or the security of this Mortgage.

**Section 3.6 Payment for Labor and Materials; Liens.** (a) Subject to Section 3.6(b) hereof, Borrower will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials ("Labor and Material Costs") incurred in connection with the Property and never permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest (other than Permitted Encumbrances), even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof except for the Permitted Encumbrances and for involuntary Liens Borrower is contesting in accordance with the terms of the Loan Documents.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any involuntary Lien on the Property (including the amount or validity or application in whole or in part of any judgment Lien or of the Labor and Material Costs or any lien or security interest related thereto but excluding Liens for Taxes or Other Charges which Borrower may contest pursuant to Section 4.1.3 of the Loan Agreement) or any unsecured trade payables or operational debt not evidenced by a note, provided that, (i) Borrower shall not commence any new legal proceeding without the consent of Lender if an Event of Default has occurred and is continuing (but may continue to pursue any such legal proceeding previously commenced prior to the occurrence of such Event of Default) (ii) Borrower is permitted to do so under the provisions of any other mortgage, deed of trust or deed to secure debt (other than the Debt) affecting the Property and such proceeding is conducted in accordance with the provisions of all applicable Legal Requirements, (iii) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost, (iv) Borrower shall promptly upon final determination thereof pay the amount of any such contested Lien, together with all costs, interest and penalties which may be payable in connection therewith, (v) such proceeding shall suspend the collection of the Lien from Borrower and from the Property, (vi) Borrower shall have deposited with Lender cash or other security as may be required in the proceeding, or such Permitted Security as may otherwise be reasonably requested by Lender (in an amount not to exceed 110% of the contested amount

unless a greater amount is required pursuant to applicable Legal Requirements) to ensure the payment of such contested Lien, together with all interest and penalties thereon. Lender may pay over any such cash or other security held by Lender to the claimant entitled thereto at any time when, in the reasonable judgment of Lender, the entitlement of such claimant is established.

Section 3.7 Performance of Other Agreements. Borrower shall observe and perform each and every term, covenant and provision to be observed or performed by Borrower pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

Section 3.8 Change of Name, Identity or Structure. Borrower shall not change Borrower's name, identity (including its trade name or names) or, if not an individual, Borrower's corporate, partnership or other structure without notifying Lender of such change in writing at least thirty (30) days prior to the effective date of such change and, in the case of a change in Borrower's structure, except as otherwise may be provided in the Loan Agreement, without first obtaining the prior written consent of Lender, which consent shall not be unreasonably withheld, delayed or conditioned. Borrower hereby authorizes, prior to or contemporaneously with the effective date of any such change, any financing statement or financing statement change reasonably required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the reasonable request of Lender, Borrower shall execute a certificate in a form reasonably satisfactory to Lender listing the trade names under which Borrower intends to operate the Property, and representing and warranting that Borrower does business under no other trade name with respect to the Property.

Section 3.9 Condominium Documents. Borrower shall abide by and follow in all material respects, all requirements applicable to the owner of the Condominium Unit outlined or otherwise provided in the Condominium Documents. This includes, without limitation, payment when due of all Common Charges and other expenses or charges pursuant to the Condominium Documents, applicable to the Condominium Unit or Borrower's ownership thereof.

## **ARTICLE 4** **OBLIGATIONS AND RELIANCES**

Section 4.1 Relationship of Borrower and Lender. The relationship between Borrower and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Borrower, and no term or condition of any of the Loan Agreement, the Note, this Mortgage or the other Loan Documents shall be construed so as to deem the relationship between Borrower and Lender to be other than that of debtor and creditor.

Section 4.2 No Reliance on Lender. The general partners, members, principals and (if Borrower is a trust) beneficial owners of Borrower, as applicable, are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

Section 4.3 No Lender Obligations. (a) Notwithstanding the provisions of Subsections 1.1(h) and (m) or Section 1.2, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to any other agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses or other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Mortgage, the Loan Agreement, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or the effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

Section 4.4 Reliance. Borrower recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Mortgage and the other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article 3 of the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof, that the warranties and representations are a material inducement to Lender in making the Loan; and that Lender would not be willing to make the Loan and accept this Mortgage in the absence of the warranties and representations as set forth in Article 3 of the Loan Agreement.

## **ARTICLE 5** **FURTHER ASSURANCES**

Section 5.1 Recording of Mortgage, Etc. Borrower forthwith upon the execution and delivery of this Mortgage and thereafter, from time to time, will cause this Mortgage and any of the other Loan Documents creating a Lien or security interest or evidencing the Lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future Legal Requirements in order to publish notice of and fully to protect and perfect the Lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all reasonable out-of-pocket third party expenses (including Lender's reasonable out-of-pocket legal fees) incident to the preparation, execution, acknowledgment and/or recording of the Note, this Mortgage, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any mortgage with respect to the Property and, except where the Loan Agreement provides that same is at the cost of Lender, any instrument of further assurance, and any modification or amendment of any of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any deed of trust or mortgage supplemental hereto, any mortgage with respect to the Property or any instrument of further assurance, and any modification or amendment of any of the foregoing documents, except where prohibited by Legal Requirements so to do.

Section 5.2 Further Acts, Etc. Borrower will, at the cost of Borrower, and without expense to Lender, except where the Loan Agreement provides that same is at the cost of Lender,

do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage, or for complying with all Legal Requirements (subject to Section 4.1.2 of the Loan Agreement with respect to Zoning Laws), provided that each such act, deed, conveyance, deed of trust, mortgage, assignment, transfer and assurance contains or incorporates by reference, a provision substantially similar to Section 11.22 of the Loan Agreement. Borrower, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Lender to execute in the name of Borrower or to file without the signature of Borrower to the extent Lender may lawfully do so, one or more financing statements to evidence more effectively the security interest of Lender in the Property. Borrower grants to Lender, after the occurrence and during the continuance of an Event of Default, an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation such rights and remedies available to Lender pursuant to this Section 5.2.

Section 5.3 Changes in Tax, Debt, Credit and Documentary Stamp Laws. (a) If any Legal Requirement is enacted or adopted or amended after the date of this Mortgage which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury then Lender shall have the option by written notice of not less than one hundred eighty (180) days to declare the Debt immediately due and payable, without payment of any Yield Maintenance Premium or other prepayment fee, penalty or premium or delivery of any Defeasance Collateral.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Mortgage or the Debt. If such claim, credit or deduction shall be required by any Legal Requirement, Lender shall have the option, by written notice of not less than one hundred eighty (180) days, to declare the Debt immediately due and payable, without payment of any Yield Maintenance Premium or other prepayment fee, penalty or premium or delivery of any Defeasance Collateral. provided, however, if Lender is advised by counsel chosen by it that such claim, credit or deduction by Borrower would not be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury, then Borrower shall have the option to make such claim, credit or deduction and in such event the Debt shall not be immediately due and payable. Notwithstanding the foregoing, the Debt shall not be immediately due and payable in any event if Borrower shall pay the amount of any such real estate tax actually imposed on Lender and/or waive any defense of usury (to the extent permitted under applicable Legal Requirements), as applicable.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this Mortgage, or any of the other Loan Documents or shall impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

Section 5.4 Splitting of Mortgage. Subject to the terms of the Loan Agreement, this Mortgage and the Note may, at any time until the same shall be fully paid and satisfied, at the sole election of Lender, be split or divided into two or more notes and two or more mortgages, each of which shall cover all or a portion of the Property to be more particularly described therein. To that end, Borrower, upon written request of Lender, shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered by the then owner of the Property, to Lender and/or its designee or designees, at Lender's sole cost and expense if done pursuant to Section 9.3 of the Loan Agreement and at Borrower's sole cost and expense if done pursuant to Section 10.2(c) of the Loan Agreement, substitute notes and mortgages in such principal amounts, aggregating not more than the then unpaid principal amount of the Note, and containing terms, provisions and clauses similar to, and in no event less favorable to Borrower than (except to a *de minimis* extent) those contained herein and in the Note, and such other documents and instruments as may be reasonably required by Lender, provided that such mortgages, notes, documents or instruments shall comply with the provisions of Sections 9.3 or 10.2(c) of the Loan Agreement, as applicable.

Section 5.5 Replacement Documents. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Borrower will issue, in lieu thereof, at Lender's sole cost and expense, a replacement Note or a replacement of such other Loan Document, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise having the exact terms and conditions.

## **ARTICLE 6** **DUE ON SALE/ENCUMBRANCE**

Section 6.1 Lender Reliance. Borrower acknowledges that Lender has examined and relied on the experience of Borrower and, as applicable, its general partners, members, principals and (if Borrower is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Borrower's ownership of the Property as a means of maintaining the value of the Property as security for the payment and performance of the Obligations, including the repayment of the Debt. Borrower acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should Borrower default in the payment and/or performance of the Obligations, including repayment of the Debt, Lender can recover the Debt by a sale of the Property.

Section 6.2 No Transfer. Borrower shall not permit or suffer to occur any Transfer which is prohibited under the Loan Agreement, without Lender's consent, which consent may be given or withheld in Lender's sole discretion.

**ARTICLE 7**  
**RIGHTS AND REMEDIES UPON DEFAULT**

Section 7.1 **Remedies.** Upon the occurrence and during the continuance of any Event of Default, Borrower agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

- (a) declare the entire unpaid Debt to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Mortgage under any applicable Legal Requirements, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable Legal Requirements, institute proceedings for the partial foreclosure of this Mortgage for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Mortgage for the balance of the Debt or other Obligations not then due, unimpaired and without loss of priority;
- (d) to the extent permitted and pursuant to the procedures provided or permitted by applicable Legal Requirements, sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by applicable Legal Requirements and without limiting the foregoing:
  - (i) In connection with any sale or sales hereunder, Lender shall be entitled to elect to treat any of the Property which consists of (x) a right in action, or (y) property that can be severed from the Real Property covered hereby (without causing structural damage thereto), or (z) any improvements (without causing structural damage thereto), as if the same were personal property, and dispose of the same in accordance with the applicable Legal Requirements, separate and apart from the sale of the Real Property. Where the Property consists of Real Property, Personal Property, Equipment or Fixtures, whether or not such Personal Property, Equipment or Fixtures is located on or within the Real Property, Lender shall be entitled to elect to exercise its rights and remedies against any or all of the Real Property, Personal Property, Equipment and Fixtures in such order and manner as is now or hereafter permitted by applicable Legal Requirement;
  - (ii) Lender shall be entitled to elect to proceed against any or all of the Real Property, Personal Property, Equipment and Fixtures in any manner permitted under applicable Legal Requirements; and if Lender so elects pursuant to applicable Legal Requirements, the power of sale herein granted shall be exercisable with respect to all or

any of the Real Property, Personal Property, Equipment and Fixtures covered hereby, as designated by Lender and Lender is hereby authorized and empowered to conduct any such sale of any Real Property, Personal Property, Equipment and Fixtures in accordance with the procedures applicable to real property;

(iii) Should Lender elect to sell any portion of the Property which is Real Property or which is Personal Property, Equipment or Fixtures that the Lender has elected under applicable Legal Requirements to sell together with Real Property in accordance with the Legal Requirements governing a sale of the Real Property, Lender shall give such notice of the occurrence of an Event of Default, if any, and its election to sell such Property, each as may then be required by Legal Requirements. Thereafter, upon the expiration of such time and the giving of such notice of sale as may then be required by Legal Requirements, subject to the terms hereof and of the other Loan Documents, and without the necessity of any demand on Borrower, except as required (and which cannot be waived by Borrower) under applicable Legal Requirements, Lender at the time and place specified in the notice of sale, shall sell such Real Property or part thereof at public auction to the highest bidder for cash in lawful money of the United States. Lender may from time to time postpone any sale hereunder by public announcement thereof at the time and place noticed for any such sale; and

(iv) If the Property consists of several lots, parcels or items of property, Lender shall, subject to applicable Legal Requirements, (A) designate the order in which such lots, parcels or items shall be offered for sale or sold, or (B) elect to sell such lots, parcels or items through a single sale, or through two or more successive sales, or in any other manner Lender designates. Any Person, including Borrower or Lender, may purchase at any sale hereunder. Should Lender desire that more than one sale or other disposition of the Property be conducted, Lender shall, subject to applicable Legal Requirements, cause such sales or dispositions to be conducted simultaneously, or successively, on the same day, or at such different days or times and in such order as Lender may designate, and no such sale shall terminate or otherwise affect the Lien of this Mortgage on any part of the Property not sold until all the Obligations have been satisfied in full. In the event Lender elects to dispose of the Property, through more than one sale, except as otherwise provided by applicable Legal Requirements, Borrower agrees to pay the third party out-of-pocket costs and expenses of each such sale and of any judicial proceedings wherein such sale may be made;

(e) subject to the provisions of Section 11.22 of the Loan Agreement, institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, the Loan Agreement or in the other Loan Documents;

(f) subject to the provisions of Section 11.22 of the Loan Agreement, recover judgment on the Note either before, during or after any proceedings for the enforcement of this Mortgage or the other Loan Documents;

(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice (except to the extent required by any Legal Requirements) and without regard for the adequacy of the security for the Debt and without regard for the solvency

of Borrower, any guarantor, or indemnitor with respect to the Loan or any Person liable for the payment of the Debt or any part thereof;

(h) the license granted to Borrower under Section 1.2 hereof shall automatically be revoked for the period of the continuance of the Event of Default (provided nothing herein shall require Lender to accept a cure of an Event of Default) and Lender may, to the extent permitted by Legal Requirements, enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property required to be performed pursuant to the terms of any contract, Lease or Legal Requirements in such manner and form as Lender deems advisable; (iii) make all repairs and replacements to or on the Property as Lender may reasonably deem necessary; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower (or any of its Affiliates other than Affiliates occupying portions of the Property pursuant to Leases, in which event the terms of such Leases shall govern); (vi) require Borrower (and any of its Affiliates other than Affiliates occupying portions of the Property pursuant to Leases, in which event the terms of such Leases or any Subordination Non-Disturbance and Attornment Agreement then in effect shall govern) to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment and performance of the Obligations (including, without limitation, of the Debt), in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all out-of-pocket third party expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Common Charges, Other Charges, insurance and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its third-party counsel and agents;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Fixtures, the Equipment and/or the Personal Property, or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Fixtures, the Equipment and the Personal Property, and (ii) request Borrower at its sole cost and expense to assemble the Fixtures, the Equipment and the Personal Property and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Fixtures, the Equipment and/or the Personal Property sent to Borrower in accordance with the

provisions hereof at least ten (10) Business Days prior to such action, shall constitute commercially reasonable notice to Borrower;

(j) apply any sums then deposited or held in escrow or otherwise by or on behalf of Lender in accordance with the terms of the Loan Agreement, this Mortgage or any other Loan Document to the payment of the following items in any order in its sole discretion:

- (i) Taxes and Other Charges;
- (ii) Insurance Premiums;
- (iii) Common Charges;
- (iv) Interest on the unpaid principal balance of the Note;
- (v) Amortization of the unpaid principal balance of the Note; and/or

(vi) All other sums payable pursuant to the Note, the Loan Agreement, this Mortgage and the other Loan Documents, including, without limitation, the Yield Maintenance Premium, if applicable, and advances made by Lender pursuant to the terms of this Mortgage;

(k) pursue such other remedies as Lender may have under applicable Legal Requirements; and/or

(l) apply the undisbursed balance of any Net Proceeds Deficiency deposit, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Lender shall deem to be appropriate in its sole discretion.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of Property, this Mortgage shall continue as a Lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

**Section 7.2 Application of Proceeds.** The purchase money, proceeds and avails of any disposition of the Property pursuant to Section 7.1 hereof, to the extent any portion of the Obligations remains unpaid, and or any part thereof, or any other sums collected by Lender pursuant to the Note, this Mortgage or the other Loan Documents, may be applied by Lender to the payment of the Obligations in such priority and proportions as Lender in its discretion shall deem proper.

**Section 7.3 Right to Cure Defaults.** Upon the occurrence and during the continuance of any Event of Default, including any failure to make any payment or to do any act which gave rise to any such Event of Default, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, make or do the same in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Condominium Unit and/or the Improvements for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Mortgage or collect the Debt, and the cost

and expense thereof (including reasonable out-of-pocket third party attorneys' fees to the extent permitted by Legal Requirements), with interest as provided in this Section 7.3, shall constitute a portion of the Debt and shall be due and payable to Lender upon demand. All such reasonable out-of-pocket third party costs and expenses incurred by Lender in remediating such Event of Default (including the applicable failed payment or act) or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period beginning on the first day after notice from Lender that such cost or expense was incurred and continuing until the date of payment to Lender. All such out-of-pocket third party costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Mortgage and the other Loan Documents and shall be immediately due and payable upon demand by Lender therefor.

**Section 7.4 Actions and Proceedings.** Except as otherwise set forth in the Loan Agreement, upon the occurrence and during the continuance of an Event of Default, Lender shall have the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Borrower, which Lender, in its sole discretion, decides should be brought to protect its interest in the Property.

**Section 7.5 Recovery of Sums Required to be Paid.** Upon the occurrence and during the continuance of any Event of Default, Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for any Default or Event of Default by Borrower existing at the time such earlier action was commenced.

**Section 7.6 Examination of Books and Records.** At reasonable times during normal business hours and upon reasonable prior notice (which may be given verbally), Lender, its agents, accountants and attorneys shall have the right to examine the books and records of Borrower which reflect upon its financial condition, at the Condominium Unit or at any office regularly maintained by Borrower where such books and records are located. Lender and its agents shall have the right to make copies and extracts from the foregoing books and records, at Lender's sole cost. In addition, upon reasonable prior notice (which may be given verbally), Lender, its agents, accountants and attorneys shall have the right to examine and audit the books and records of Borrower pertaining to the income, expenses and operation of the Property, at Lender's sole cost (except after the occurrence of an Event of Default and which examination was commenced during the continuance thereof, in which case the reasonable, out-of-pocket third party costs and expenses incurred by Lender shall be at Borrower's sole cost), at any reasonable time during normal business hours at any office of Borrower where the books and records are located. This Section 7.6 shall apply throughout the term of the Note and without regard to whether an Event of Default has occurred or is continuing.

**Section 7.7 Other Rights, Etc.** (a) The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Mortgage. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Borrower or any guarantor or indemnitor with respect to the Loan to take any action to foreclose this Mortgage or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration,

of the whole or any part of the Property, or of any Person liable for the Obligations or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Mortgage or the other Loan Documents, except as so modified or supplemented.

(b) It is agreed that the risk of loss or damage to the Property is on Borrower, and Lender shall have no liability whatsoever for any decline in value of the Property, for failure to maintain the Policies (subject to Lender's compliance with Section 6.4.2 of the Loan Agreement), or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property or collateral not in Lender's possession.

(c) Lender may resort for the payment and performance of the Obligations (including, but not limited to, the payment of the Debt) to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Debt, or any portion thereof, or to enforce the Other Obligations or any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Mortgage. The rights of Lender under this Mortgage shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

**Section 7.8 Right to Release Any Portion of the Property.** Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the Lien or priority of this Mortgage, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the Debt shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and Lender may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Mortgage shall continue as a Lien and security interest in the remaining portion of the Property until the Debt is paid in full.

**Section 7.9 Violation of Laws.** Subject to the terms of the Loan Agreement, if the Property is not in compliance in all material respects with all Legal Requirements (subject to Section 4.1.2 of the Loan Agreement with respect to Zoning Laws), Lender may impose reasonable additional requirements upon Borrower in connection herewith including, without limitation, monetary reserves or financial equivalents, which may, at Borrower's option, be in the form of cash and/or Permitted Security.

**Section 7.10 Recourse and Choice of Remedies.** Notwithstanding any other provision of this Mortgage or the Loan Agreement, including, without limitation, Section 11.22 of the Loan Agreement, Lender and the other Lender Indemnified Parties are entitled to enforce the obligations of Borrower contained in Sections 8.1, 8.2 and 8.3 herein and Sections 9.2, 11.13 and 11.22 of the Loan Agreement (to the extent expressly set forth therein), under the Environmental Indemnity, the Assignment of Leases and any other indemnity obligation in the Loan Documents

(collectively, the “**Personal Liabilities**”) without first resorting to or exhausting any security or collateral and without first having recourse to the Note or any of the Property, through foreclosure, exercise of a power of sale or acceptance of a deed in lieu of foreclosure or otherwise, and in the event Lender commences a foreclosure action against the Property, or exercises the power of sale pursuant to this Mortgage, Lender shall be entitled to pursue a deficiency judgment with respect to such obligations against Borrower with respect to the Loan. The Personal Liabilities are exceptions to any non-recourse or exculpation provisions in the Loan Agreement, the Note, this Mortgage or the other Loan Documents, and Borrower is fully and personally liable for the Obligations set forth in the Personal Liabilities. The liability of Borrower with respect to the Obligations set forth in Sections 8.1, 8.2 and 8.3 herein and Section 9.2 of the Loan Agreement is not limited to the original principal amount of the Note. Notwithstanding the foregoing, nothing herein shall inhibit or prevent Lender from foreclosing or exercising a power of sale pursuant to this Mortgage or exercising any other rights and remedies pursuant to the Loan Agreement, the Note, this Mortgage and the other Loan Documents, whether simultaneously with foreclosure proceedings or in any other sequence. A separate action or actions may be brought and prosecuted against Borrower with respect to the Obligations set forth in the Personal Liabilities, whether or not an action is brought against any other Person and whether or not any other Person is joined in the action or actions. In addition, Lender shall have the right but not the obligation to join and participate in, as a party if it so elects, any administrative or judicial proceedings or actions initiated in connection with any matter addressed in the Environmental Indemnity, to the extent provided in accordance with the provisions of Section 5 of the Environmental Indemnity.

Section 7.11 Right of Entry. Upon reasonable prior notice to Borrower, which shall not be less than three (3) Business Days except in the case of emergencies (which may be given orally), Lender and its agents shall have the right to enter the Condominium Unit, and the Improvements and inspect the Property at all reasonable times during normal business hours, subject however, to the rights of Tenants under Leases and other occupants of the Property.

## **ARTICLE 8** **INDEMNIFICATION**

Section 8.1 General Indemnification. The provisions of Section 11.13(b) of the Loan Agreement are hereby incorporated by reference into this Mortgage to the same extent and with the same force as if fully set forth herein.

Section 8.2 Mortgage and/or Intangible Tax. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Lender Indemnified Parties from and against any and all, in each case actual, claims, suits, liabilities actions, proceedings, obligations, damages, losses, costs, expenses, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, of whatever kind or nature, provided that any such cost, fee, expense or disbursement shall be limited to out-of-pocket, reasonable third party fees and disbursements of counsel and other reasonable out-of-pocket third party costs of defense (but in no event any incidental, indirect, consequential (including, without limitation, lost profits), punitive or special damages, unless, however, any such indirect, consequential (including, without limitation, lost profits), punitive or special damages are awarded against, or otherwise actually imposed on Lender Indemnified Parties but only to the extent arising out of

any of the matters indemnified pursuant to this Section 8.2) (collectively, the “**Losses**”), in each case that are actually imposed upon any Lender Indemnified Parties and directly arising out of any tax on the making and/or recording of this Mortgage, the Note or any of the other Loan Documents, but excluding any income, franchise or other similar taxes; provided, however, that Borrower shall not have any obligation to the Lender Indemnified Parties hereunder to the extent that such Losses arise from the bad faith, gross negligence, illegal acts, fraud or willful misconduct of the Lender Indemnified Parties.

**Section 8.3 ERISA Indemnification**. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Lender Indemnified Parties from and against any and all actual Losses in each case that are actually imposed upon or incurred in the investigation, defense, and/or settlement of Losses incurred in correcting any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Lender’s sole but reasonable discretion, that Lender may directly incur, in each case, as a result of a default under Section 4.2.13 of the Loan Agreement; provided, however, that Borrower shall not have any obligation to the Lender Indemnified Parties hereunder to the extent that such Losses arise from the bad faith, gross negligence, illegal acts, fraud or willful misconduct of the Lender Indemnified Parties.

**Section 8.4 Duty to Defend; Attorneys’ Fees and Other Fees and Expenses**. In the event that any claim of Losses is brought against any Lender Indemnified Parties pursuant to Sections 8.2 or 8.3 above, or any claim for Indemnified Liabilities is brought against Lender Indemnified Parties under Section 11.13 of the Loan Agreement and such Lender Indemnified Parties notify Borrower of the commencement thereof, Borrower shall defend such Lender Indemnified Parties against any Losses or Indemnified Liabilities, as applicable, by counsel and other professionals selected by Borrower and reasonably satisfactory to such Lender Indemnified Parties; provided, however, if the defendants in any such action include both Lender Indemnified Parties and Borrower and the Lender Indemnified Parties shall have reasonably concluded that there are legal defenses available to it and/or other Lender Indemnified Parties that are different from or additional to those available to Borrower and that create or are reasonably likely to create an actual conflict of interest with Borrower, the Lender Indemnified Parties shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Lender Indemnified Parties at the cost of Borrower. If a bona fide settlement offer is made to any Lender Indemnified Parties with respect to Losses or Indemnified Liabilities (as applicable), and such Lender Indemnified Parties is defending such Losses or Indemnified Liabilities, Lender Indemnified Parties shall give written notice thereof to Borrower. Lender Indemnified Parties shall not, without the prior written consent of Borrower, settle or compromise any Losses or Indemnified Liabilities or consent to the entry of any judgment with respect to which indemnification is being sought under Sections 8.2 or 8.3 above or Section 11.13 of the Loan Agreement; provided, however, if at any time Lender Indemnified Parties have requested that Borrower reimburse Indemnified Parties for any Losses or Indemnified Liabilities due and payable from Borrower under Sections 8.2 or 8.3 above or Section 11.13 of the Loan Agreement, the Borrower agrees that it shall be liable for any settlement effected without its consent if (i) such settlement is entered into more than forty-five (45) days after receipt by Borrower of the aforesaid request and (ii) Borrower has not reimbursed Lender Indemnified Parties in accordance with such request prior to the date of such settlement. Borrower shall not be liable for the expenses of more than one (1) separate counsel (in addition

to local counsel) unless a Lender Indemnified Party shall have reasonably concluded that there may be legal defenses available to it that are different from or additional to those available to another Lender Indemnified Party and that create or are reasonably likely to create an actual conflict of interest with such other Lender Indemnified Party. Within ten (10) Business Days of written demand, Borrower shall pay or, in the sole and absolute discretion of the Lender Indemnified Parties, reimburse, the Lender Indemnified Parties for the payment of such Losses or Indemnified Liabilities, as applicable. Any amounts payable to Lender by reason of the application of this Article 8 shall become immediately due and payable upon written demand and shall bear interest at the Default Rate from the date of such demand for payment of such Losses or Indemnified Liabilities, as applicable, until such amounts and any applicable interest are paid. The provisions of this Section 8.4 shall survive any payment or prepayment of the Loan and any foreclosure or satisfaction of this Mortgage.

## **ARTICLE 9** **WAIVERS**

Section 9.1 Waiver of Counterclaim. To the extent permitted by applicable Legal Requirements, Borrower hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Mortgage, the Loan Agreement, the Note, any of the other Loan Documents, or the Obligations.

Section 9.2 Marshalling and Other Matters. To the extent permitted by applicable Legal Requirements, Borrower hereby waives the benefit of all appraisement, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Borrower, and on behalf of each and every Person acquiring any interest in or title to the Property subsequent to the date of this Mortgage and on behalf of all persons to the extent permitted by applicable Legal Requirements.

Section 9.3 Waiver of Notice. To the extent permitted by applicable Legal Requirements, Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Mortgage or the other Loan Documents specifically and expressly provide for the giving of notice by Lender to Borrower and except with respect to matters for which Lender is required by applicable Legal Requirements to give notice, and Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Mortgage or the other Loan Documents do not specifically and expressly provide for the giving of notice by Lender to Borrower and except with respect to matters for which Borrower is not, pursuant to applicable Legal Requirements permitted to waive the giving of notice.

Section 9.4 Waiver of Statute of Limitations. To the fullest extent permitted by applicable Legal Requirements, Borrower hereby expressly waives and releases its right to plead any statute of limitations as a defense to the payment of the Debt or performance of its Other Obligations.

Section 9.5 Waiver of Jury Trial. BORROWER AND LENDER HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE, TRIABLE OF RIGHT BY JURY, AND FOREVER WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST, WITH REGARD TO THE NOTE, THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY EACH OF BORROWER AND LENDER AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. LENDER AND BORROWER ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY THE OTHER PARTY.

Section 9.6 Survival. The indemnifications made pursuant to Article 8 hereof shall survive and in no way be impaired by any of the following: any satisfaction, release or other termination of this Mortgage, or any other Loan Document, any assignment or other transfer of all or any portion of this Mortgage, or any other Loan Document or Lender's interest in the Property (but, in such case, such indemnification shall benefit both the Lender Indemnified Parties and any such assignee or transferee), any exercise of Lender's rights and remedies pursuant hereto including, but not limited to, foreclosure or acceptance of a deed in lieu of foreclosure, any exercise of any rights and remedies pursuant to the Loan Agreement, the Note or any of the other Loan Documents, any transfer of all or any portion of the Property (whether by Borrower or by Lender following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), any amendment to this Mortgage (other than amendment to Article 8 hereof), the Loan Agreement, the Note or the other Loan Documents, and any act or omission that might otherwise be construed as a release or discharge of Borrower from such indemnifications or any portion thereof.

## **ARTICLE 10** **EXCULPATION**

The provisions of Section 11.22 of the Loan Agreement are hereby incorporated by reference into this Mortgage to the same extent and with the same force as if fully set forth herein.

## **ARTICLE 11** **NOTICES**

All notices or other written communications hereunder shall be delivered in accordance with Section 11.6 of the Loan Agreement.

## **ARTICLE 12** **APPLICABLE LAW**

Section 12.1 Governing Law. (a) THIS MORTGAGE WAS NEGOTIATED IN THE STATE OF NEW YORK, AND MADE BY BORROWER AND ACCEPTED BY LENDER IN

THE STATE OF NEW YORK, AND THE PROCEEDS OF THE NOTE SECURED HEREBY WERE DISBURSED FROM THE STATE OF NEW YORK, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS MORTGAGE AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER AND LENDER EACH HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS MORTGAGE AND THIS MORTGAGE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST LENDER OR BORROWER ARISING OUT OF OR RELATING TO THIS MORTGAGE MAY AT LENDER'S OPTION BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, COUNTY OF NEW YORK, PURSUANT TO SECTION 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW, AND BORROWER AND LENDER EACH WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND BORROWER AND LENDER EACH HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING. BORROWER DOES HEREBY DESIGNATE AND APPOINT:

JASON D. GREENBLATT, ESQ.  
C/O THE TRUMP ORGANIZATION  
725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022

AS ITS AUTHORIZED AGENT TO ACCEPT AND ACKNOWLEDGE ON ITS BEHALF SERVICE OF ANY AND ALL PROCESS WHICH MAY BE SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY FEDERAL OR STATE COURT IN NEW YORK, NEW YORK, AND BORROWER AGREES THAT SERVICE OF PROCESS UPON SAID AGENT AT SAID ADDRESS AND WRITTEN NOTICE OF SAID SERVICE MAILED OR DELIVERED TO BORROWER IN THE MANNER PROVIDED HEREIN SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON BORROWER, IN ANY SUCH SUIT, ACTION OR PROCEEDING IN THE STATE OF NEW YORK. BORROWER (I) SHALL GIVE PROMPT NOTICE TO LENDER OF ANY CHANGED ADDRESS OF ITS AUTHORIZED AGENT HEREUNDER, (II) MAY AT ANY TIME AND FROM TIME TO TIME DESIGNATE A SUBSTITUTE AUTHORIZED AGENT WITH AN OFFICE IN NEW YORK, NEW YORK (WHICH SUBSTITUTE AGENT AND OFFICE

SHALL BE DESIGNATED AS THE PERSON AND ADDRESS FOR SERVICE OF PROCESS), AND (III) SHALL PROMPTLY DESIGNATE SUCH A SUBSTITUTE IF ITS AUTHORIZED AGENT CEASES TO HAVE AN OFFICE IN NEW YORK, NEW YORK OR IS DISSOLVED WITHOUT LEAVING A SUCCESSOR.

Section 12.2 Usury Laws. Notwithstanding anything to the contrary, (a) all agreements and communications between Borrower and Lender are hereby and shall automatically be limited so that, after taking into account all amounts deemed to constitute interest, the interest contracted for, charged or received by Lender shall never exceed the Maximum Legal Rate or amount, (b) in calculating whether any interest exceeds the Maximum Legal Rate, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal indebtedness of Borrower to Lender, and (c) if through any contingency or event, Lender receives or is deemed to receive interest in excess of the Maximum Legal Rate, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Borrower to Lender, or if there is no such indebtedness, shall immediately be returned to Borrower.

Section 12.3 Provisions Subject to Applicable Law. All rights, powers and remedies provided in this Mortgage may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of Legal Requirements and are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable Legal Requirement. If any term of this Mortgage or any application thereof shall be invalid or unenforceable, the remainder of this Mortgage and any other application of the term shall not be affected thereby.

## **ARTICLE 13** **DEFINITIONS**

Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage may be used interchangeably in the singular or plural form and the word "**Borrower**" shall mean "each Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "**Lender**" shall mean "Lender and any subsequent holder of the Note," the word "**Note**" shall mean "the Note and any other evidence of indebtedness secured by this Mortgage, as amended, restated or otherwise modified, from time to time," the word "**Property**" shall include any portion of the Property and any interest therein, and the phrases "**attorneys' fees**", "**legal fees**" and "**counsel fees**" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels actually incurred or paid by Lender in protecting its interest in the Property, the Leases and/or the Rents and/or enforcing its rights hereunder, and whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms.

## **ARTICLE 14** **MISCELLANEOUS PROVISIONS**

Section 14.1 No Oral Change. This Mortgage, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or

failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

**Section 14.2 Successors and Assigns.** This Mortgage shall be binding upon, and shall inure to the benefit of, Borrower and Lender and their respective successors and permitted assigns. Subject to Sections 9.1, 11.1 and 11.24 of the Loan Agreement, Lender shall have the right to sell, assign, pledge, participate, transfer or delegate its rights and obligations under this Mortgage in connection with any assignment of the Loan and the Loan Documents to any Person. Subject to Sections 9.1 and 11.1 of the Loan Agreement, any assignee or transferee of Lender shall be entitled to all the benefits afforded to Lender under this Mortgage. Except as otherwise expressly provided in the Loan Agreement, Borrower shall not have the right to assign, delegate or transfer its rights or obligations under this Mortgage without the prior written consent of Lender, and any such prohibited attempted assignment, delegation or transfer without such consent shall be null and void.

**Section 14.3 Inapplicable Provisions.** If any provision of this Mortgage is held to be illegal, invalid or unenforceable under present or future Legal Requirements effective during the term of this Mortgage, such provision shall be fully severable and this Mortgage shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Mortgage, and the remaining provisions of this Mortgage shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Mortgage, unless such continued effectiveness of this Mortgage, as modified, would be contrary to the basic understandings and intentions of the parties as expressed herein.

**Section 14.4 Headings, Etc.** The headings and captions of the various Sections of this Mortgage are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

**Section 14.5 Subrogation.** If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the payment performance and discharge of the Obligations (including, but not limited to, the payment of the Debt).

**Section 14.6 Entire Agreement.** The Note, the Loan Agreement, this Mortgage and the other Loan Documents constitute the entire understanding and agreement between Borrower and Lender with respect to the transactions arising in connection with the Obligations and supersede all prior written or oral understandings and agreements between Borrower and Lender with respect thereto. Borrower hereby acknowledges that, except as incorporated in writing in the Note, the Loan Agreement, this Mortgage and the other Loan Documents, there are not, and were not, and no Persons are or were authorized by Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the

transaction which is the subject of the Note, the Loan Agreement, this Mortgage and the other Loan Documents.

Section 14.7 Limitation on Lender's Responsibility. No provision of this Mortgage shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the Tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any Tenant, licensee, employee or stranger, unless resulting from the gross negligence, willful misconduct or bad faith of Lender or unless the facts and circumstances giving rise to which first occurred after either (a) Lender or its nominee becomes a mortgagee in possession of the Property, or (b) Lender or its nominee acquires title to the Property, whether by exercise of the power of sale, acceptance of a deed in lieu of foreclosure, foreclosure sale or otherwise. Nothing herein contained shall, in and of itself, be construed as constituting Lender a "mortgagee in possession."

Section 14.8 Conflicts. Wherever there is any conflict or inconsistency between any terms or provisions of this Mortgage and the Loan Agreement, the terms and provisions of the Loan Agreement shall control.

Section 14.9 Release or Assignment. Provided no Event of Default then exists, if Borrower shall fully pay the Debt at the time and in the manner provided in the Note, the Loan Agreement and this Mortgage, then Lender shall promptly execute and deliver to Borrower such documents as may be required to release this Mortgage of record (or give an assignment thereof without recourse to Lender in accordance with the Loan Agreement, if requested by Borrower), so long as Borrower shall pay any filing fees and reasonable third party out-of-pocket expenses of Lender in connection with such release or assignment, as applicable.

## PART II

### ARTICLE 15 STATE-SPECIFIC PROVISIONS

Section 15.1 Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Article 15 and the other terms and conditions of this Mortgage, the terms and conditions of this Article 15 shall control and be binding.

Section 15.2 Commercial Property. Borrower represents that this Mortgage does not encumber real property principally improved or to be improved by one or more structures containing in the aggregate not more than six (6) residential dwelling units, each having its own separate cooking facilities.

Section 15.3 Maximum Debt Secured. Notwithstanding anything contained herein to the contrary, the maximum amount of principal indebtedness secured by this Mortgage at execution or which under any contingency may become secured hereby at any time hereafter is \$100,000,000 plus all amounts expended by Lender, after default by the Borrower hereunder, to enforce, defend and/or maintain the lien of this Mortgage or to protect the property encumbered by this Mortgage, or the value thereof, including, without limitation, all amounts expended by

Lender in respect of insurance premiums and all real estates taxes, charges or assessments imposed by Legal Requirements upon said premises, or any other amount, cost or charge to which the Lender may become subrogated upon payment as a result of Borrower's failure to pay as required by the terms of this Mortgage plus all accrued but unpaid interest, as applicable, on the obligations secured hereby.

**Section 15.4 Insurance Proceeds.** In the event of any conflict, inconsistency or ambiguity between the provisions of Section 3.3 hereof and the provisions of subsection 4 of Section 254 of the Real Property Law of New York covering the insurance of buildings against loss by fire, the provisions of Section 3.3 hereof shall control.

**Section 15.5 Trust Fund.** Pursuant to Section 13 of the Lien Law of New York, Borrower shall receive the advances secured hereby and shall hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of any improvement and shall apply such advances first to the payment of the cost of any such improvement on the Property before using any part of the total of the same for any other purpose.

**Section 15.6 Section 291-f Agreement.** (a) Borrower hereby covenants and agrees with the Lender that, to the extent expressly prohibited in Section 4.1.10 of the Loan Agreement, without the written consent of the Lender first had and obtained, the Borrower will not (i) accept surrender, cancellation, abridgment or modification of any of the terms, covenants and conditions of any Lease, and (ii) accept prepayments of installments of rent to become due thereunder for more than one (1) month in advance, except to the extent that such cancellation, abridgment, modification or prepayment is presently expressly permitted to a Tenant under the provisions of its respective Lease.

(b) This Mortgage is intended to be, and shall operate as, the agreement described in Section 291-f of the Real Property Law of the State of New York and shall be entitled to the benefits afforded thereby. Borrower shall (unless such notice is contained in the applicable Tenant's Lease) deliver notice of this Mortgage in form and substance reasonably acceptable to Lender, to all present and future Tenants under any Lease, by assignment or otherwise, and shall take such other action as may now or hereafter be reasonably required to afford Lender the full protections and benefits of Section 291-f. Upon request by Lender, Borrower shall deliver to Lender proof of delivery of such notice to Tenants.

**Section 15.7 Power of Sale.** In addition to any other remedies provided to Lender hereunder, pursuant to the Loan Agreement or the other Loan Documents, upon the occurrence and during the continuance of an Event of Default, and subject to Section 11.22 of the Loan Agreement, to the extent permitted by applicable Legal Requirements, Lender or the agent or successor of Lender may sell or offer for sale the Property in such portions, order and parcels as Lender may determine, with or without having first taken possession of same, in accordance with the terms and provisions of the New York Real Property Actions and Proceedings Law.

**Section 15.8 Continuation of Leases.** Subject to any subordination and non-disturbance agreement executed by a lessee, upon the foreclosure of the lien or liens created or consolidated by this Mortgage on the Property as herein provided, any Leases then existing shall not be

destroyed or terminated as a result of such foreclosure unless Lender or any purchaser at a foreclosure sale shall so elect by notice to the lessee.

**[NO FURTHER TEXT ON THIS PAGE]**

IN WITNESS WHEREOF, this Consolidated, Amended and Restated Mortgage, Assignment of Leases and Rents, and Security Agreement has been executed by Borrower and Lender as of the day and year first above written.

**BORROWER:**

**TRUMP TOWER COMMERCIAL LLC,  
a New York limited liability company**

By: **TRUMP TOWER MANAGING  
MEMBER INC.**, a New York corporation,  
its sole managing member

By: Donald J. Trump  
Name: Donald J. Trump  
Title: President

## ACKNOWLEDGMENT

STATE OF NEW YORK )  
 )ss.:  
COUNTY OF NEW YORK )

On the 23rd day of August in the year 2012, before me, the undersigned, personally appeared Donald J. Trump, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Shawn Thyne  
Signature and Office of individual  
taking acknowledgment

**SHARON HWANG**  
**Notary Public, State of New York**  
**No. 02HW6106147**  
**Qualified in New York County**  
**Commission Expires May 21, 2016**



LENDER:

**LADDER CAPITAL FINANCE LLC,  
a Delaware limited liability company**

By:

Name: David Traitel

Title: Managing Director

## **ACKNOWLEDGMENT**

STATE OF NEW YORK )  
 )ss.:  
COUNTY OF NEW YORK )

On the 28 day of August in the year 2012, before me, the undersigned, personally appeared David Traitel, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument. 

Signature and Office of individual taking acknowledgment

SARAH S. GOCHBERG  
Notary Public, State of New York  
No. 01GO6059332  
Qualified in New York County  
Commission Expires July 31, 2011



**EXHIBIT A**

**LEGAL DESCRIPTION**

The Condominium Unit (the "Unit") known as the Commercial Unit in the premises known as Trump Tower Condominium and by the street number 721-725 Fifth Avenue Borough of Manhattan, City, County and State of New York, said Unit being designated and described as the Commercial Unit in the Declaration ("Declaration") establishing a plan for condominium ownership of said premises under Article 9-B of the Real Property Law of the State of New York (the "New York Condominium Act"), dated February 24, 1983, and recorded in the New York County Office of the Register of The City of New York (the "City Register's Office") on March 23, 1983 in Reel 674 page 848, and also designated as Tax Lot 1001 in Block 1292 of Section 5 of the Borough of Manhattan on the Tax Map of the Real Property Assessment Department of The City of New York and on the floor plans of said building, certified by Swanke Hayden Connell & Partners, Architects, on February 2, 1983, and filed in the City Register's Office on March 23, 1983, as Condominium Plan No. 86.

Together with an undivided 33.9736228% interest respectively in the Common Elements (as such term is defined in the Declaration)

The premises within which the Unit is located are more particularly described as follows:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of East 56th Street with the easterly side of Fifth Avenue;

RUNNING THENCE easterly along the said northerly side of East 56th Street, 175 feet;

THENCE northerly and parallel with the easterly side of Fifth Avenue and part of the distance through a party wall, 100 feet 5 inches to the center line of the block;

THENCE westerly along said center line of the block, 50 feet;

THENCE northerly parallel with the easterly side of Fifth Avenue, 15 feet;

THENCE westerly and parallel with the northerly side of East 56th Street, 125 feet to the easterly side of Fifth Avenue; and

THENCE southerly along the easterly side of Fifth Avenue, 115 feet 5 inches to the point or place of BEGINNING.

TOGETHER WITH the benefits of the easements contained in the Easement Agreement between Leonard S. Kandell and Florence Kandell and The Trump-Equitable Fifth Avenue Company dated as of April 21, 1980, and recorded May 20, 1980 in Reel 524 page 1274, subject, however, to the limitations, constraints and burdens thereof.

**SCHEDULE 1**

**EXISTING MORTGAGES**

1. Mortgage and Security Agreement made by Trump Tower Commercial LLC to GMAC Commercial Mortgage Corporation in the amount of \$35,000,000.00, dated January 29, 1998, and recorded July 14, 1998 in the Office of the Register of the City of New York, County and State of New York, in Reel 2620, Page 1454.

Assignment of Mortgage and Security Agreement dated as of July 23, 1999, made by GMAC Commercial Mortgage Corporation to LaSalle National Bank, as trustee for the registered holders of GMAC Commercial Mortgage Securities, Inc. Mortgage Pass-Through Certificates Series 1998 C-1, and recorded in the Office of the Register of the City of New York, County and State of New York, on April 11, 2001, in Reel 3270, Page 1590; as corrected by Correction Assignment of Mortgage and Security Agreement dated as of August 14, 2012, made by Capmark Finance LLC, f/k/a Capmark Finance Inc., f/k/a GMAC Commercial Mortgage Corporation to U.S. Bank National Association, as trustee, as successor-in-interest to Bank of America, N.A., as successor by merger to LaSalle Bank National Association (f/k/a LaSalle National Bank), as trustee for the registered holders of GMAC Commercial Mortgage Securities, Inc. Mortgage Pass-Through Certificates Series 1998 C-1, being duly recorded prior hereto in the Office of the Register of the City of New York, County and State of New York. (Assigns Mortgage No. 1)

Assignment of Mortgage dated as of August 20, 2012, made by U.S. Bank National Association, as trustee, as successor-in-interest to Bank of America, N.A., as successor by merger to LaSalle Bank National Association (f/k/a LaSalle National Bank), as trustee for the registered holders of GMAC Commercial Mortgage Securities, Inc. Mortgage Pass-Through Certificates Series 1998 C-1 to Ladder Capital Finance LLC, being duly recorded prior hereto in the Office of the Register of the City of New York, County and State of New York. (Assigns Mortgage No. 1)

2. Gap Mortgage dated as of August 30, 2012, made by Trump Tower Commercial LLC to Ladder Capital Finance LLC in the amount of \$73,265,168.90, being duly recorded prior hereto in the Office of the Register of the City of New York, County and State of New York.

## **SCHEDULE I**

### **AMENDMENTS TO CONDOMINIUM DECLARATION**

1. First Amendment to Declaration dated as of October 11, 1994 and recorded December 1, 1994 in Reel 2159 page 333.
2. Second Amendment to Declaration dated as of April 4, 1997 and recorded June 11, 1997 in Reel 2465 page 950.
3. Third Amendment to Declaration dated as of July 15, 1997 and recorded December 16, 1997 in Reel 2523 page 880.
4. Fourth Amendment to Declaration dated as of August 30, 2000 and recorded March 19, 2001 in Reel 3254 page 1209.
5. Fifth Amendment to Declaration dated as of June 1, 2003 and recorded June 30, 2003 as CRFN 2003000203071.
6. Sixth Amendment to Declaration dated as of August 19, 2003 and recorded September 18, 2003 as CRFN 2003000369076.
7. Seventh Amendment to Declaration dated as of January 12, 2004 and recorded April 27, 2004 as CRFN 2004000257231.
8. Eighth Amendment to Declaration dated as of March 10, 2004 and recorded May 4, 2004 as CRFN 2004000277096.
9. Ninth Amendment to Declaration dated as of March 31, 2005 and recorded May 26, 2005 as CRFN 2005000309119.
10. Tenth Amendment to Declaration dated as of November 29, 2005 and recorded April 19, 2006 as CRFN 2006000215713.
11. Eleventh Amendment to Declaration dated as of August 15, 2006 and recorded October 3, 2006 as CRFN 2006000555495.
12. Twelfth Amendment to Declaration dated as of August 15, 2006 and recorded November 1, 2006 as CRFN 2006000609602.
13. Thirteenth Amendment to Declaration dated as of July 24, 2007 and recorded December 19, 2007 as CRFN 2007000620213.
14. Fourteenth Amendment to Declaration dated as of March 19, 2008 and recorded November 24, 2008 as CRFN 2008000453989.

15. Fifteenth Amendment to Declaration dated as of July 25, 2008 and recorded December 4, 2008 as CRFN 2008000463978.
16. Sixteenth Amendment to Declaration dated as of December 5, 2008 and recorded February 19, 2009 as CRFN 2009000049562.
17. Seventeenth Amendment to Declaration dated as of February 11, 2010 and recorded February 19, 2010 as CRFN 2010000057727.
18. Eighteenth Amendment to Declaration dated as of April 11, 2010 and recorded May 27, 2010 as CRFN 2010000177583.
19. Nineteenth Amendment to Declaration dated as of May 5, 2010 and recorded June 17, 2010 as CRFN 2010000202528.
20. Twentieth Amendment to Declaration dated as of December 19, 2011 and recorded June 7, 2012 as CRFN 2012000222251.

**TRUMP TOWER COMMERCIAL LLC,**  
as mortgagor

(Borrower)

to

**LADDER CAPITAL FINANCE LLC,**  
as mortgagee

(Lender)

**CONSOLIDATED, AMENDED AND RESTATED MORTGAGE,  
ASSIGNMENT OF LEASES AND RENTS,  
AND SECURITY AGREEMENT**

Dated: As of August 30, 2012

Location: 725 Fifth Avenue  
New York, New York

County: New York County

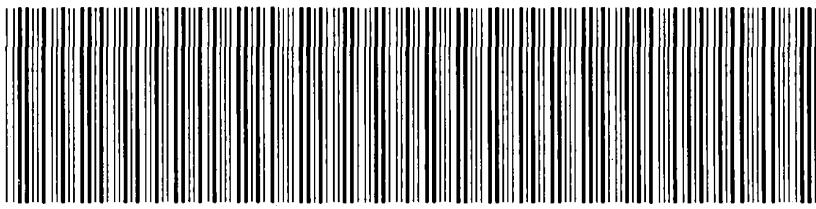
Block: 1292

Lot: 1001

PREPARED BY AND UPON  
RECORDATION RETURN TO:

DLA Piper LLP (US)  
1251 Avenue of the Americas  
New York, New York 10020  
Attention: Jeffrey B. Steiner, Esq.  
369537/000042

**NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER**



**2012090501110004001SDB66**

**SUPPORTING DOCUMENT COVER PAGE**

**PAGE 1 OF 1**

**Document ID: 2012090501110004**

Document Date: 08-30-2012

Preparation Date: 09-05-2012

Document Type: AGREEMENT

**SUPPORTING DOCUMENTS SUBMITTED:**

255 MORTGAGE TAX EXEMPT AFFIDAVIT

Page Count  
5

**REMARKS:**

CONSOLIDATED, AMENDED AND RESTATED MORTGAGE, ASSIGNMENT OF LEASES AND RENTS  
AND SECURITY AGREEMENT

**AFFIDAVIT PURSUANT TO  
TAX LAW SECTION 255**

**(Consolidated, Amended and Restated Mortgage,  
Assignment of Leases and Rents and Security Agreement)**

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK )

The undersigned, being duly sworn, deposes and says:

1. I am the President of Trump Tower Managing Member Inc., a New York corporation, which corporation is the sole managing member of Trump Tower Commercial LLC, a New York limited liability company, ("Mortgagor"), the owner of the fee interest in that certain commercial condominium unit located at 725 Fifth Avenue in the City of New York, County of New York and State of New York, and more particularly described in Exhibit A attached hereto and made a part hereof (the "Property"). I am familiar with the facts and circumstances set forth herein.

2. That Ladder Capital Finance LLC, a Delaware limited liability company ("Mortgagee"), is the owner and holder of those certain mortgages described on Schedule I attached hereto and made a part hereof, in the aggregate principal sum of \$100,000,000.00 and interest (collectively, the "Existing Mortgages"), upon which all applicable mortgage recording taxes due were paid at the time each of such Existing Mortgages were recorded or such tax will be paid simultaneously with the recording of such Existing Mortgages.

3. That the Existing Mortgages were consolidated into a single lien for \$100,000,000.00 and interest, and amended and restated, by that certain Consolidated, Amended and Restated Mortgage, Assignment of Leases and Rents, Security Agreement dated as of the date hereof (the "Consolidated Mortgage"), between Mortgagor and Mortgagee, which Consolidated Mortgage is herewith offered for recording in the Office of the City Register, New York County, New York.

4. That the Consolidated Mortgage herewith offered for recording is given for the purpose of further securing the same principal indebtedness secured by the Existing Mortgages and said Consolidated Mortgage does not create or secure any new or further indebtedness or obligation other than the principal indebtedness secured or which, under any contingency, may be secured by the Existing Mortgages.

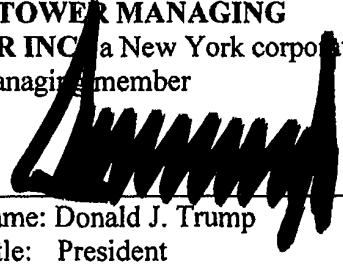
**[No Further Text on This Page]**

WHEREFORE, deponent respectfully requests that the Consolidated Mortgage tendered herewith for recording be declared exempt from taxation pursuant to the provisions of Section 255 of Article 11 of the Tax Law of the State of New York.

**TRUMP TOWER COMMERCIAL LLC,**  
a New York limited liability company

By: **TRUMP TOWER MANAGING  
MEMBER INC**, a New York corporation,  
its sole managing member

By:

  
Name: Donald J. Trump  
Title: President

Sworn to before me this  
23rd day of August, 2012

  
Notary Public

SHARON HWANG  
Notary Public, State of New York  
No. 02HW6106147  
Qualified in New York County  
Commission Expires May 21, 2016



**EXHIBIT A**

**PROPERTY DESCRIPTION**

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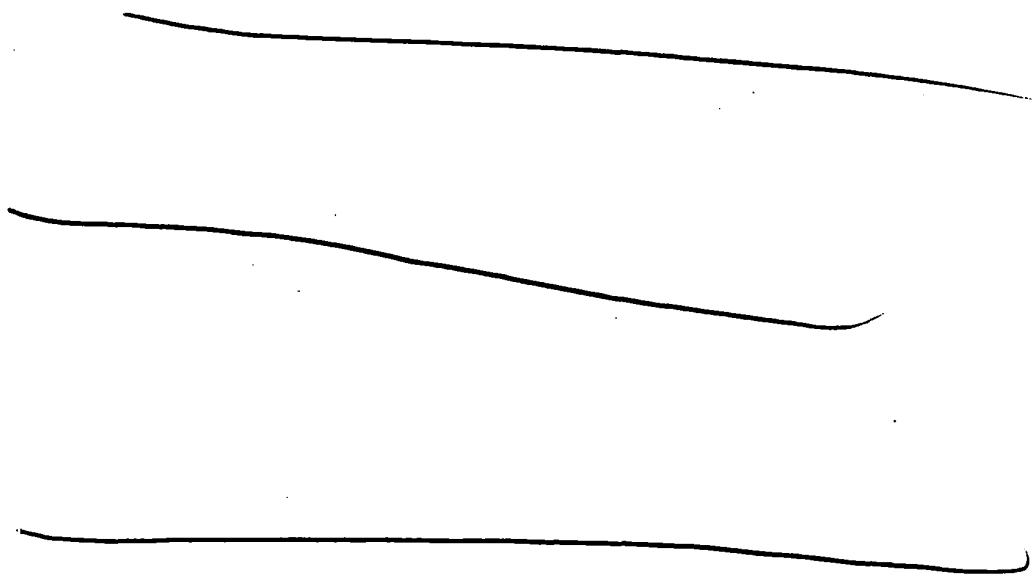
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to the limitations, constraints and burdens thereof.

Three horizontal black lines, each ending in a curved flourish, arranged vertically. The top line is the longest and flattest. The middle line is shorter and has a slight curve. The bottom line is the shortest and has a more pronounced curve at the right end.

## SCHEDULE I

### EXISTING MORTGAGES

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Assignment of Mortgage and Security Agreement dated as of July 23, 1999, made by GMAC Commercial Mortgage Corporation to LaSalle National Bank, as trustee for the registered holders of GMAC Commercial Mortgage Securities, Inc. Mortgage Pass-Through Certificates Series 1998 C-1, and recorded in the Office of the Register of the City of New York, County and State of New York, on April 11, 2001, in Reel 3270, Page 1590; as corrected by Correction Assignment of Mortgage and Security Agreement dated as of August 14, 2012, made by Capmark Finance LLC, f/k/a Capmark Finance Inc., f/k/a GMAC Commercial Mortgage Corporation to U.S. Bank National Association, as trustee, as successor-in-interest to Bank of America, N.A., as successor by merger to LaSalle Bank National Association (f/k/a LaSalle National Bank), as trustee for the registered holders of GMAC Commercial Mortgage Securities, Inc. Mortgage Pass-Through Certificates Series 1998 C-1, being duly recorded prior hereto in the Office of the Register of the City of New York, County and State of New York. (Assigns Mortgage No. 1)  
  
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