

Prepared by and
Record And Return To:
Kelley Drye & Warren LLP
200 Kimball Drive
Parsippany, New Jersey 07054
Attn: Paul A. Keenan, Esq.

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**FIRST AMENDMENT TO THE ASSIGNMENT OF LEASES, RENTS,
INCOME AND CASH COLLATERAL**

ONE SUPERIOR PLACE FEE LLC and
ONE SUPERIOR PLACE LEASEHOLD LLC,
collectively, as

Assignor

to

NEW YORK LIFE INSURANCE COMPANY,

Assignee

Dated as of: November 8, 2013

Premises:

One Superior Place Apartments
1 West Superior Street
Chicago, Illinois 60610
PIN: 17-09-213-025-0000

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FIRST AMENDMENT TO THE ASSIGNMENT OF LEASES, RENTS, INCOME AND CASH COLLATERAL

THIS FIRST AMENDMENT TO THE ASSIGNMENT OF LEASES, RENTS, INCOME AND CASH COLLATERAL, dated as of November 8, 2013 (this "Amendment"), by and among ONE SUPERIOR PLACE FEE LLC, a Delaware limited liability company, having an address at c/o Hartz Mountain Industries, Inc., 400 Plaza Drive, Secaucus, New Jersey 07096-1515 and ONE SUPERIOR PLACE LEASEHOLD LLC, a Delaware limited liability company, having an address at c/o Hartz Mountain Industries, Inc., 400 Plaza Drive, Secaucus, New Jersey 07096-1515 (together, "Assignor") and NEW YORK LIFE INSURANCE COMPANY, a New York mutual insurance company, having an address c/o New York Life Investment Management LLC, 51 Madison Avenue, New York, New York 10010 ("Assignee").

WITNESSETH:

A. Pursuant to that certain Promissory Note dated as of May 3, 2011, executed by Assignor, as maker, and payable to the order of Assignee, as holder (the "Original Note"), Assignor is indebted to Assignee with respect to a loan in the original principal amount of One Hundred Eighty Million and 00/100 Dollars (\$180,000,000.00);

B. The Original Note is secured by, among other things, that certain Fee and Leasehold Mortgage, Assignment of Leases and Rents and Security Agreement dated as of May 3, 2011 and recorded on May 16, 2011 as Document #1113645030 in the Cook County, Illinois Recorder of Deeds Office (the "Original Mortgage"), granted by Assignor for the benefit of Assignee;

C. Assignor has requested that Assignee make an additional advance to Assignor in the principal amount of Twenty Million and 00/100 Dollars (\$20,000,000.00) (the "Additional Advance"), which Additional Advance is evidenced by that certain Amended and Restated Promissory Note dated of even date herewith executed by Assignor, as maker, and payable to the order of Assignee, as holder, in the original principal sum of One Hundred Ninety-Eight Million Four Hundred Eighty Thousand Twenty-Five and 25/100 Dollars (\$198,480,025.25) (as the same may hereafter be amended, modified, split, consolidated or extended, the "Note"), which Note amends and restates the Original Note in its entirety.

D. The Note is secured by that certain Amended and Restated Fee and Leasehold Mortgage, Assignment of Leases and Rents and Security Agreement dated as of the date hereof granted by Assignor for the benefit of Assignee (the "Mortgage"), which Mortgage amends and restates in its entirety the Original Mortgage, to form a single lien in the consolidated principal sum of \$198,480,025.25 (the "Loan");

E. The Loan is also secured by that certain Assignment of Leases, Rents, Income and Cash Collateral dated May 3, 2011 and recorded on May 16, 2011 as Document #1113645031 in the Cook County, Illinois Recorder of Deeds Office (the "Assignment");

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F. In order to further effectuate the modifications described above, Assignor and Assignee further desire to execute this Amendment in order to amend the Assignment;

NOW, THEREFORE, as an inducement to Assignee to make the Additional Advance, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Assignment is hereby amended as follows :

(i) All references to the "Note" shall mean that certain Amended and Restated Promissory Note dated of even date herewith executed by Assignor, as maker, and payable to the order of Assignee, as holder, in the original principal sum of One Hundred Ninety-Eight Million Four Hundred Eighty Thousand Twenty-Five and 25/100 Dollars (\$198,480,025.25).

(ii) All references to the "Mortgage" shall mean that certain Amended and Restated Fee and Leasehold Mortgage, Assignment of Leases and Rents and Security Agreement dated of even date herewith by Assignor to Assignee and recorded in the Cook County, Illinois Recorder of Deeds Office immediately prior hereto; and

(iii) All references to the "Loan" shall mean the consolidated principal sum of \$198,480,025.25.

(iv) All references to the "Assignment" shall mean the Assignment, as amended by this Amendment.

2. All of the terms, covenants, and conditions contained in the Assignment shall be and remain in full force and effect, except as specifically modified in this Amendment, and are hereby ratified, reaffirmed and republished in their entirety by the parties hereto. It is expressly understood that the execution and delivery of this Amendment do not and shall not (i) give rise to any defense, set-off, right of recoupment, claim or counterclaim with respect to any of Assignee's or Assignor's obligations under the Assignment or the enforcement thereof, (ii) operate as a waiver of any of Assignee's or Assignor's rights, powers or privileges under the Assignment, or (iii) prejudice, limit or affect in any way any present or future rights, remedies, powers or benefits available to Assignee or Assignor under the Assignment or any other documents executed by Assignor for the benefit of Assignee in connection with the Loan. In addition, the parties hereto expressly disclaim any intent to effect a novation or an extinguishment or discharge of any of the obligations pursuant to the Assignment or by any other document executed in connection therewith by reason of this Amendment.

3. Each party hereto hereby represents and warrants that such party (a) is authorized to enter into this Amendment and (b) has obtained all necessary consents, if any, needed to enter into this Amendment.

4. Wherever possible, each provision of this Amendment shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Amendment shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the

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extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Amendment.

5. This Amendment may be executed by one or more of the parties hereto on any number of separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Amendment by telecopy or email shall be effective as delivery of a manually executed counterpart of this Amendment.

6. This Amendment shall inure to the benefit of and are binding upon Assignor and Assignee, and their respective successors and permitted assigns.

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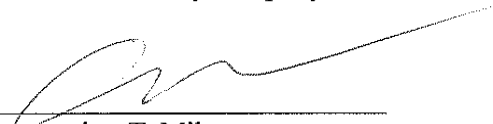
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IN WITNESS WHEREOF, the Assignor has caused this Amendment to be duly executed by its authorized representatives, all as of the day and year first above written.

ASSIGNOR:

ONE SUPERIOR PLACE FEE LLC,
a Delaware limited liability company

By: 

Name: Constantino T. Milano

Title: Managing Director

ONE SUPERIOR PLACE LEASEHOLD LLC,
a Delaware limited liability company

By: 

Name: Constantino T. Milano

Title: Managing Director

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[Signature Page to Amendment to ALR]

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IN WITNESS WHEREOF, the Assignee has caused this Amendment to be duly executed by its authorized representatives, all as of the day and year first above written.

ASSIGNEE:

NEW YORK LIFE INSURANCE COMPANY, a
New York mutual insurance company

By: *Laura Cardno* 
Name: LAURA CARDNO
Title: CORPORATE VICE PRESIDENT

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[Signature Page to Amendment to ALR]

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ASSIGNOR'S ACKNOWLEDGMENTS

STATE OF *New Jersey*)
) SS.
COUNTY OF *Hudson*)

I, *Toni Louise Sicurella*, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Constantino T. Milano, as Managing Director of One Superior Place Fee LLC, a Delaware limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he/she, being thereunto duly authorized, signed and delivered said instrument as the free and voluntary act of said limited liability company and as his/her own free and voluntary act, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this *5th* day of November, 2013.

Toni Louise Sicurella
Notary Public

My Commission expires: _____
TONI LOUISE SICURELLA
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires April 6, 2014

STATE OF *New Jersey*)
) SS.
COUNTY OF *Hudson*)

I, *Toni Louise Sicurella*, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Constantino T. Milano, as Managing Director of One Superior Place Leasehold LLC, a Delaware limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he/she, being thereunto duly authorized, signed and delivered said instrument as the free and voluntary act of said limited liability company and as his/her own free and voluntary act, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this *5th* day of November, 2013.

Toni Louise Sicurella
Notary Public

My Commission expires: _____
TONI LOUISE SICURELLA
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires April 6, 2014

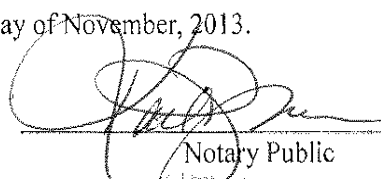
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ASSIGNEE'S ACKNOWLEDGMENTS

STATE OF _____)
 COUNTY OF Jeff) SS.

I, ~~KATHLEEN BROWN~~ a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that ~~LAURA CARDNO~~ as ~~CORPORATE VICE PRESIDENT~~ New York Life Insurance Company, a New York mutual insurance company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he/she, being thereunto duly authorized, signed and delivered said instrument as the free and voluntary act of said limited liability company and as his/her own free and voluntary act, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this 6 day of November, 2013.



Notary Public

~~KATHLEEN K. BROWN~~

Notary Public State of New York

New York County

Lic. #01BR5070610

Comm. Exp. December 23, 2014

My Commission expires:
