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Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 12/22/2014 11:40 AM Pg: 1 of 13

Prepared by:
**RECORDING REQUESTED
BY AND WHEN RECORDED
MAIL TO:**

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Loan No. 3740620

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ASSIGNMENT OF LEASES, RENTS, INCOME AND CASH COLLATERAL

ASSIGNMENT OF LEASES, RENTS, INCOME AND CASH COLLATERAL
("Assignment"), made as of the 19th day of December, 2014, from SENECA STRATEGIC VENTURE LLC, a Delaware limited liability company, having an office at c/o Emmes Asset Management Company LLC, 420 Lexington Avenue, Suite 900, New York, New York 10170 ("Assignor"), to NEW YORK LIFE INSURANCE COMPANY ("Assignee"), a New York mutual insurance company, having an office at 51 Madison Avenue, New York, New York 10010-1603.

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RECITALS:

A. Assignee is about to make a loan (the "Loan") to Assignor in the principal sum of Forty-Six Million (\$46,000,000.00) Dollars.

B. In connection with the Loan, Assignor is about to execute and deliver to Assignee a promissory note ("Note"), dated December 18, 2014, payable to Assignee in the original principal amount of Forty-Six Million Dollars (\$46,000,000.00), in lawful money of the United States of America; the terms and conditions of which Note are hereby incorporated herein and made a part hereof.

C. The Note shall be secured by that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing ("Mortgage"), dated as of the date hereof, from Assignor, as mortgagor, to Assignee, as mortgagee.

D. It is a condition to Assignee making the Loan that Assignor enter into this Assignment and consummate the transactions contemplated hereby.

E. All capitalized terms used in this Agreement and not expressly defined herein shall have the meanings assigned to such terms in the Mortgage.

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In consideration of the sum of Ten Dollars (\$10.00) and other good, valuable and lawful consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby unconditionally, absolutely and presently bargains, sells, grants, assigns, releases and sets over to Assignee all right, title and interest of Assignor in and to:

- (a) all existing or future leases, licenses, tenancies, occupancies, subleases, franchises, concessions or other agreements (each a "Lease" and collectively, "Leases") (the lessee, licensee, occupant, subtenant, franchisee or concessionee, as applicable, under any Lease, shall be referred to as "Lessee" and collectively as "Lessees") of or in any way affecting the use or occupancy of all or any part of the (i) land ("Land"), more particularly described in Exhibit A hereto, including, without limitation, oil, gas and mineral leases and agreements and/or (ii) buildings, structures or improvements now or hereafter located on the Land (collectively, "Improvements"; the Land and Improvements are herein collectively called "Premises"), together with all extensions, renewals, modifications or replacements thereof and all guarantees of any or all of the obligations of any Lessee pursuant to any Lease; and
- (b) the immediate and continuing right to collect and receive all rents, income, receipts, revenues, issues, profits, cash collateral, royalties, income and other benefits now due or which may become due or to which Assignor may now or shall hereafter (including during any period of redemption) become entitled or may demand or claim, arising or issuing from or out of the Leases or from or out of the Secured Property or any part thereof, including, without limitation, all minimum, additional, deficiency or percentage rents, all tax and insurance contributions, all liquidated or other damages related to any Lease, all premiums and other sums payable by any Lessee upon the exercise of a cancellation or other privilege provided in any Lease, all proceeds payable pursuant to all condemnation awards or settlements, all policies of insurance or settlements thereof covering the Premises or any part thereof or any loss of rents affecting the Premises or any part thereof, all income and other amounts received or receivable from the Leases or the Premises in any form, including, without limitation, all proceeds from vending, parking, advertising, laundry, maintenance, cafeteria, club or other commercial operations conducted at or in connection with the Premises, all common area maintenance, service, cable, utility or other charges affecting the Premises or any of the Leases, all tax, insurance or other refunds affecting the Premises, all repayments for tenant improvements or work, together with all rights and claims of any kind which Assignor may have against any Lessee (all of the foregoing are herein called "Rents");

Together with all right, power and authority of Assignor to amend any of the Leases and enforce the provisions thereof.

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TO HAVE AND TO HOLD THE LEASES, RENTS AND OTHER SECURED PROPERTY, WITH ALL THE PRIVILEGES AND APPURTENANCES TO THE SAME BELONGING, AND WITH THE POSSESSION AND RIGHT OF POSSESSION THEREOF, UNTO ASSIGNEE AND ITS SUCCESSORS AND ASSIGNS FOREVER.

It is agreed that notwithstanding that Assignor intends to create, pursuant to this Assignment, an absolute, present and unconditional assignment from Assignor to Assignee and not merely the passing of a security interest, Assignor is hereby permitted, at the sufferance and discretion of Assignee, and is hereby granted by Assignee, a license ("License") to manage and operate the Secured Property, including, without limitation, the right to collect the Rents, as they respectively become due, but not more than one month in advance, and to enter into and enforce the Leases, unless and until there is an Event of Default.

Assignor hereby covenants and agrees as follows:

1. Assignee as Creditor. Notwithstanding the License, Assignor intends to constitute Assignee as the creditor of each Lessee in respect of assignments for the benefit of creditors in all bankruptcy, reorganization, insolvency, dissolution or receivership proceedings affecting such Lessee (without obligation, on the part of Assignee, to file or make timely filings of claims in such proceedings or otherwise to pursue any creditors' rights therein). Assignee may, at its option, apply any monies received by Assignee as such creditor in reduction of the Obligations.

2. Rights and Remedies. Upon the occurrence of an Event of Default, the License shall automatically cease and terminate. After the occurrence of an Event of Default, Assignee may, at its option, enter and take possession of the Premises, or any part thereof, and perform all acts that Assignee deems necessary for the management, operation and maintenance of the Premises. However, without electing to exercise Assignee's right to enter, take over and assume the management, operation and maintenance of the Premises, Assignee, at Assignee's option, may elect to collect the Rents and to enforce payment of the Rents and/or performance of any or all of the other terms and provisions of the Leases and/or exercise any or all rights and privileges of Assignor thereunder, including, without limitation, the rights to fix or modify Rents, to bring or defend any suits in connection with the possession of the Premises or any part thereof in its own name or in Assignor's name, and/or to relet the Premises or any part thereof. Assignee shall, from time to time, apply all Rents, after payment of all proper costs and charges, including, without limitation, all monies due from Assignor pursuant to Section 6, to the Obligations. Assignee may determine, in its sole discretion, the manner of the application of the Rents, the reasonableness of the costs and charges to which the Rents are applied and the item or items which shall be credited thereby. Assignee's entry and taking possession of the Premises, or any part thereof, may be made, at Assignee's option, either by actual entry and possession or by notice to the last owner of the Premises appearing on Assignee's records and no further authorization shall be required. Assignee shall be accountable only for Rents actually received by it pursuant to this Assignment. Notwithstanding any action taken by Assignee pursuant to this Assignment, neither the assignment made pursuant hereto

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nor any such action shall constitute Assignee as a "mortgagee in possession."

3. Termination of Assignment. Upon payment to Assignee of the full amount of the Obligations, as evidenced by a recorded satisfaction or release of the Mortgage, this Assignment shall be void and of no effect.

4. Consent to Payment of Rents. Assignor irrevocably consents that Lessees, upon demand and notice from Assignee of an Event of Default, shall pay the Rents to Assignee without liability of Lessees for the determination of the actual existence of any Event of Default claimed by Assignee. Assignor irrevocably authorizes and directs each Lessee, upon receipt of any notice from Assignee of an Event of Default, to pay to Assignee the Rents. Each such Lessee may rely on any such notice from Assignee, and shall pay all Rents to Assignee, without any obligation and without any right to inquire as to whether any Event of Default actually exists. Assignor shall not have any claim against any Lessee for any Rents paid by any Lessee to Assignee. After the curing of all Events of Default, Assignee shall give written notice thereof to Lessees. Thereafter, until further notice from Assignee, Lessees shall pay the Rents to Assignor.

5. Right to Further Assignment. Assignee may assign Assignee's right, title, and interest in the Leases to any subsequent holder of the Mortgage and to any person acquiring title to the Premises through foreclosure or otherwise. The receipt by Assignee of any Rents pursuant to this Assignment after the institution of foreclosure proceedings pursuant to the Mortgage shall not cure any Event of Default nor affect such proceedings or any sale pursuant thereto.

6. Indemnity. Assignor hereby agrees to indemnify and hold Assignee harmless from and against all liability, loss or damage which Assignee may incur (a) pursuant to any Lease, (b) by reason of this Assignment, (c) arising from any action taken by Assignee pursuant to this Assignment, (d) as a result of any claims or demands which may be asserted against Assignee by reason of any alleged obligation of Assignee pursuant to any Lease or this Assignment, or (e) as a result of the enforcement (or attempted enforcement) of this indemnity, except, in each case, to the extent such liability, loss or damage arises from the gross negligence or willful misconduct of Assignee or its agents. Nothing herein contained shall be construed to bind Assignee to the performance of any of the terms and provisions contained in any of the Leases, or otherwise to impose any obligation on Assignee, including, without limitation, any liability pursuant to the covenant of quiet enjoyment contained in any Lease in the event that any Lessee is joined as a party defendant in any action to foreclose the Mortgage and is barred and foreclosed thereby of all right, title, interest and equity of redemption in the Premises. Prior to actual entry and taking possession of the Premises by Assignee, this Assignment shall not operate to place responsibility for the control, care, management or repair of the Premises upon Assignee or for the carrying out of any of the terms and provisions of any Lease. If Assignee incurs any liability by reason of any actual entry and taking possession of all or any part of the Premises or for any other reason or occurrence or sustains any loss or damage pursuant to any Lease or pursuant to or by reason of this Assignment or in the defense

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of any such claims or demands, Assignor shall immediately, upon demand, reimburse Assignee for the amount of such liability, loss or damage, plus interest at the Increased Rate, or at the highest rate permitted by law, whichever is less, from the date on which Assignee pays any amount for such liability, loss or damage to the date Assignor repays to Assignee, in full, such amount and such interest, together with all related costs, expenses and attorneys' fees paid by Assignee. From time to time, Assignee may (i) collect and retain possession of the Rents and (ii) apply them in satisfaction of, or reimbursement for, all sums due pursuant to the preceding sentence.

7. Representations and Warranties. Assignor hereby represents and warrants that, to the best of Assignor's knowledge, as of the date hereof:

- (a) Assignor is the absolute owner of each Lease with full right and title to assign the same and the Rents thereunder to Assignee;
- (b) each Lease is valid and in full force and effect;
- (c) there is no outstanding assignment or pledge thereof (other than pursuant to the Loan Instruments) or of the Rents due or to become due;
- (d) no Lessee has any defense, set-off or counterclaim against Assignor;
- (e) each Lessee is in possession of its leased space and has commenced payment of Rent thereunder, and each commercial Lessee has opened for business; other than as expressly set forth in the rent roll or any Lessee estoppel certificates delivered to Lender in connection with the Loan, all Rents and other charges due and payable under the Leases have been paid;
- (f) no Rents payable pursuant to any Lease have been or will be anticipated, discounted, released, waived, compromised or otherwise discharged, except as may be expressly permitted by such Lease;
- (g) all representations made by Assignor in any Lease, if any, are true;
- (h) all Improvements and the leased space demised and let pursuant to each Lease have been completed to the satisfaction of the applicable Lessee;
- (i) no Rents have been prepaid, except as expressly provided pursuant to the applicable Lease;
- (j) other than as expressly set forth in the rent roll or any Lessee estoppel certificates delivered to Assignee in connection with the Loan, there is no existing default or breach of any covenant or condition on the part of any Lessee or lessor under any Lease;
- (k) there are no options to purchase all or any portion of the Secured Property

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contained in any Lease;

- (l) there are no options to renew, cancel, extend or expand by any Lessee, except as stated in the Leases;
- (m) there are no amendments of or modifications to any Lease, except as disclosed in writing to Assignee; and
- (n) all Leases are subject and subordinate to this Assignment and the Mortgage.

8. Covenants Regarding Leases. Unless Assignee provides its prior written consent in each instance, Assignor shall not:

- (a) lease or permit the leasing, to any Person all or any part of the space in, on or over any of the Premises except residential leases for actual occupancy by the Lessee made in the ordinary course of the business of owning and operating a first-class apartment project in a prudent manner, on Assignor's standard lease form for a term of no less than twelve (12) months, approved by Assignee, without material deviation therefrom. Assignor may, without Assignee's prior consent, enter into Extended Stay Leases, provided that (i) not more than twenty-five percent (25%) of the apartment units shall have initial terms of six (6) months or less, and (ii) not more than forty percent (40%) of the apartment units (including any Extended Stay Leases having initial terms of six (6) months or less), shall have initial terms of twelve (12) months or less, so long as Assignor is in compliance with all zoning variances and all Legal Requirements. Assignor shall obtain prior written consent from Assignee, not to be unreasonably withheld, to enter into Extended Stay Leases in excess of the thresholds provided herein above;
- (b) cancel, terminate or accept a surrender, or suffer or permit any cancellation, termination or surrender, of any Lease or any guaranty of any residential Lease except with respect to any Lease, in the ordinary course of business of owning and operating a first class apartment project of the same vintage and stature in a prudent manner;
- (c) modify or amend any Lease so as to (i) reduce the term thereof or the Rents payable thereunder, (ii) change any renewal provision contained therein, (iii) otherwise increase any obligation of Assignor thereunder, or (iv) reduce any obligation of any Lessee thereunder, except, with respect to any residential Lease, in the ordinary course of business of owning and operating an apartment project in a prudent manner;
- (d) commence any summary proceeding or other action to recover possession of any space demised pursuant to any Lease, other than a proceeding brought in good faith by reason of a default of any Lessee of which Assignor has provided written notice to Assignee;

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- (e) receive or collect, or permit the receipt or collection of, any Rents for more than one month in advance of the payment due dates;
- (f) take any other action with respect to any Lease which would tend to impair the security of Assignee pursuant to this Assignment or the Mortgage;
- (g) extend any Lease other than in accordance with the terms presently provided for therein; except residential leases for actual occupancy by the Lessee made in the ordinary course of business of owning and operating a first-class apartment project of the same vintage and stature in a prudent manner;
- (h) execute any agreement or instrument, or create or permit a lien, which may be or become superior to any Lease;
- (i) suffer or permit to occur any release of liability of any Lessee or the accrual of any right in any Lessee to withhold payment of any Rent;
- (j) sell, assign, transfer, mortgage, pledge or otherwise dispose of or encumber, whether by merger, consolidation, operation of law or otherwise, any Lease or any Rents;
- (k) alter, modify or change the terms or any guaranty of any Lease or consent to the release of any party thereto;
- (l) request, consent, agree to, or accept the subordination of any Lease to any mortgage (other than the Mortgage) or other encumbrance now or hereafter affecting the Premises; or
- (m) consent to the assignment of any Lease or any subletting of the Premises demised pursuant to any Lease, except as expressly permitted in such Lease or required by Legal Requirements.

9. Application of Rents. Assignor shall use and apply all Rents first to the payment and performance of the Obligations in accordance with the terms of the Loan Instruments and then to the payment of all Impositions and costs and expenses of management, operation, repair, maintenance, preservation, reconstruction and restoration of the Secured Property in accordance with the requirements of the Mortgage and the obligations of Assignor as the lessor under any Lease. Assignor shall not use any Rents for purposes unrelated to the Secured Property, unless and until all current payments of the Obligations, Impositions and such costs, expenses and obligations have been paid or provided for and adequate cash reserves have been set aside to ensure the timely payment of all future payment of all such items.

10. Further Assurances. Assignor shall execute and deliver to Assignee such further instruments as Assignee may deem necessary to make this Assignment and

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each further assignment affecting the Leases, the Rents or the Premises fully effective. Assignor hereby appoints Assignee, and its successors and assigns, as its agent and attorney-in-fact to execute and deliver, on behalf of Assignor, all such instruments. Such appointment shall be deemed to be coupled with an interest and to be irrevocable.

11. Cancellation Proceeds. Assignor hereby assigns to Assignee and agrees to promptly pay over to Assignee, all payments made or to be made by reason of the termination, cancellation or surrender of any Lease. Assignee may apply such payments, at its election, to the Obligations, in such order as Assignee shall determine or may hold such payments in trust as further security, without interest, for the Obligations.

12. Assignor's Covenants. Assignor shall faithfully perform the lessor's covenants under the Leases. Assignor shall neither do, nor neglect to do, nor permit to be done (other than enforcing the terms of such Leases and exercising the lessor's remedies thereunder following a default or event of default on the part of any Lessee in the performance of its obligations pursuant to the Lease), anything which may cause the modification or termination of any of the Leases, or of the obligations of any Lessee or any other person claiming through such Lessee, or which may diminish or impair the value of any Lease or the rents provided for therein, or the interest of the lessor or of Assignee therein or thereunder. Each Lease shall make provision for the attornment of the Lessee thereunder to any person succeeding to the interest of Assignor as the result of any judicial or nonjudicial foreclosure or transfer in lieu of foreclosure under the Mortgage, such provision to be in form and substance approved by Assignee, provided that nothing herein shall be construed to require Assignee to agree to recognize the rights of any Lessee under any Lease following any such foreclosure or transfer in lieu thereof unless Assignee shall expressly hereafter agree thereto in writing with respect to a particular Lease.

13. Notice of Default. Assignor shall promptly deliver to Assignee a copy of any written notice of any material default or any event of default, extension, renewal, expansion, cancellation or surrender given to or received from any commercial Lessee or from any other Person with respect to any commercial Lease.

14. Continued Validity. No variation of the terms of any Loan instrument, including any increase or decrease in the principal amount of the Obligations or in the rate of interest payable pursuant to any Loan Instrument, nor any extension of time for payment thereunder, shall impair the assignment of the Leases and Rents in accordance with the terms of this Assignment.

15. Additional Security. Without prejudice to any of its rights pursuant to this Assignment, Assignee may (a) take security in addition to the security already given Assignee for the payment of the Obligations, (b) release any security given pursuant to the Loan Instruments, (c) release any Person primarily or secondarily liable on the Obligations, (d) grant or make extensions, renewals, modifications or indulgences with respect to the Loan Instruments and replacements thereof, which replacements of the Loan Instruments may be on the same or on terms different from the present terms of

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the Loan Instruments, and (e) apply any security theretofore held by Assignee to the satisfaction of all or any part of the Obligations.

16. Interpretation. The headings of the Sections of this Assignment are for the convenience of reference only, are not to be considered a part hereof, and shall not limit or otherwise affect any of the terms hereof. As used in this Assignment, words such as "hereby," "herein," "hereof," "hereto" and "hereunder" refer to this Assignment as a whole, and not to any particular Section or clause hereof. Whenever the singular or plural number, masculine or feminine or neuter gender is used herein, it shall equally include the other.

17. Notices. All notices and demands or other communications hereunder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when presented personally or sent by generally recognized overnight delivery service, with postage prepaid, addressed to Assignor or Assignee, as applicable, at the addresses stated below, or at such other address of which either Assignor or Assignee may hereafter notify the other in writing:

if to Assignor: SENECA STRATEGIC VENTURE LLC
c/o Emnes Asset Management Company LLC
420 Lexington Avenue, Suite 900
New York, New York 10170

Attn: Justin B. Kleinman

with a copy to: Greenberg Traurig LLP
200 Park Avenue
New York, New York 10166
Attn: Howard R. Shapiro, Esq.

if to Assignee: NEW YORK LIFE INSURANCE COMPANY
c/o New York Life Investment Management LLC
51 Madison Avenue
New York, New York 10010-1603

Attn: Real Estate Group
Director - Loan Administration Division
Loan No.: 3740620

with a copy to: NEW YORK LIFE INSURANCE COMPANY

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Office of the General Counsel
51 Madison Avenue
New York, New York 10010-1603
Attn: Managing Director - Real Estate Section

Each notice or demand so given or served shall be deemed given and effective, (a) if personally delivered, on the day of actual delivery or refusal and (b) if sent by generally recognized overnight delivery service, on the next business day. Notwithstanding the foregoing, service of any notice of default or notice of sale provided or required by law shall, if mailed as required by law, be deemed effective on the date of mailing.

18. Amendment in Writing. No change, amendment, modification, abridgement, cancellation or discharge hereof, or of any part hereof, shall be valid, unless consented to in writing by Assignee.

19. Applicable Law. This Assignment shall be construed and enforced according to the law of the State of Illinois, other than such law with respect to conflicts of laws.

20. Invalid Provisions to Affect No Others. The unenforceability or invalidity of any provision or provisions of this Assignment as to any persons or circumstances shall not render that provision or those provisions unenforceable or invalid as to any other persons or circumstances, and all provisions hereof, in all other respects, shall remain valid and enforceable.

21. No Waiver or Release. Any failure by Assignee to insist upon the strict performance by Assignor of any of the terms and provisions hereof shall not be deemed to be a waiver of any of the terms and provisions hereof, and Assignee, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by Assignor of any and all of the terms and provisions of this Assignment to be performed by Assignor.

22. Cumulative Rights. The rights of Assignee arising under this Assignment and the other Loan Instruments shall be separate, distinct and cumulative and none of them shall be in exclusion of the others. No act of Assignee shall be construed as an election to proceed under any one provision herein or in any other Loan Instrument to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding.

23. No Merger or Termination. The Leases shall not terminate and shall remain in full force and effect irrespective of any merger of the interest of the lessor and Lessee thereunder.

24. Successors and Assigns. This Assignment shall be binding upon Assignor and its successors and assigns, and shall inure to the benefit of Assignee, its successors and assigns. The covenants contained in this Assignment shall run with the land and, in addition to having the binding effect stated above, shall bind all subsequent

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encumbrances, lessees and sublessees of the Secured Property.

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EXHIBIT A THE LAND

LOTS 29 TO 32, BOTH INCLUSIVE, IN LAKE SHORE DRIVE ADDITION TO CHICAGO, A SUBDIVISION OF PARTS OF BLOCKS 14 AND 20 OF CANAL TRUSTEE'S SUBDIVISION OF THE SOUTH FRACTIONAL ¼ OF FRACTIONAL SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, RECORDED JANUARY 25, 1894 IN BOOK 57 AS NO. 1986496.

Pin No: 17-03-221-005-0000

Common Address: 200 E. Chestnut Street, Chicago, IL 60611

