

judicious, in its discretion, to insure and reinsure the same for all risks incidental to the Assignees' possession, operation and management thereof and to receive all such rents, issues, profits, revenues and other income.

5. **Indemnity.** The Assignees shall not at any time (regardless of any exercise by the Assignees, or rights of the Assignees to exercise, any powers herein conferred) be obligated to perform or discharge, nor do they hereby undertake to perform or discharge, any obligation, duty or liability under any Leases or rental agreements relating to the Premises, and the Developer shall and does hereby agree to indemnify and hold the Assignees harmless of and from any and all liability, loss or damage which the Assignees may or might incur under or by reason of (i) any Leases, (ii) the assignment thereof, (iii) any action taken by the Assignees or their agents hereunder, unless constituting willful misconduct or gross negligence, or (iv) claims and demands which may be asserted against them by reason of any alleged obligations or undertakings on their part to (or to cause the Developer to) perform or discharge any of the terms, covenants or agreements contained in the Leases.

6. **Application of Proceeds.** The Assignees in the exercise of the rights and powers conferred upon them by this Assignment of Rents shall have full power to use and apply the rents, issues, profits, revenues and other income of the Premises to the payment of or on account of the following, in such order as the Assignees may determine:

(a) operating expenses of the Premises, including costs of management and leasing thereof (including reasonable compensation to the Assignees and their agents, and lease commissions and other compensation and expenses of seeking and procuring tenants and entering into Leases), establishing any claims for damages, and premiums on insurance with respect to the Premises; it being expressly understood and agreed that the Assignees in the exercise of such powers may so pay any claims purporting to be due for any operating expenses of the Premises;

(b) taxes and special assessments now due or which may hereafter become due on the Premises;

(c) the costs of all repairs, renewals, replacements, alterations, additions, or betterments, and improvements of the Premises, including without limitation, the cost from time to time of installing or replacing such fixtures, furnishings and equipment therein, and of placing the Premises in such condition as will, in the reasonable judgment of the Assignees, make it readily rentable; and

(d) any indebtedness evidenced by the First Secured Note or secured or guaranteed by the First Mortgage or any of the other Loan Documents or any deficiency which may result from any foreclosure sale or which is due and owing under the Loan Documents.

7. **Occurrence of Default.** Although it is the intention of the parties that this assignment is a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that the Assignees shall not exercise any of the rights and powers conferred upon them herein until and unless there shall occur an "Event of Default" under any of the Loan Documents. Nothing herein contained shall be deemed to affect or impair any rights which the Assignees may have under any of the Loan