

9. The Assignor agrees to execute and deliver to the Assignees, at any time or times during which this Assignment shall be in effect, such further instruments as the Assignees may deem necessary to make effective this Assignment and the several covenants of the Assignor herein contained.

10. Failure of the Assignees to avail themselves of any of the terms, covenants and conditions of this Assignment for any period of time, or at any time or times, shall not be construed or deemed to be a waiver of any of their rights hereunder. The rights and remedies of the Assignees under this Assignment are cumulative and are not in lieu of but are in addition to any other rights and remedies which the Assignees shall have under or by virtue of the Notes and Loan Agreements. The rights and remedies of the Assignees hereunder may be exercised from time to time and as often as such exercise is deemed expedient.

11. Any default by the Assignor in the performance of any of the obligations herein contained shall constitute and be deemed to be a default under the terms of the Notes and Loan Agreements entitling the Assignees to exercise the rights and remedies provided by the Notes and Loan Agreements and as provided herein and any Default, as defined in the Loan Agreements, under the Notes and Loan Agreements shall constitute a default hereunder entitling the Assignees to exercise the rights and remedies provided therein and hereunder, including the following as to this instrument of assignment:

(a) The right, but not the obligation, to receive the financial benefits (i.e. sublease rents and/or consideration for assignments) of any sublease or assignment of any of the Leases as the Assignees hereunder.

(b) The right, but not the obligation, to make rent payments or to otherwise cure any default in the Leases without becoming liable to any landlord for rent due or obligations arising under the Leases, and without releasing Assignor from any obligation hereof or thereunder, unless possession is taken by Assignee as provided in 11(c) or as provided in 11(d).

(c) The right, but not the obligation, to take possession of any of the leased premises under the Leases following notice to Assignor and to perform the obligations of Assignor as tenant under the Leases or any of them. It is understood that so long as Assignees have not exercised this right (except as provided in 11(d)), Assignees shall not be liable for rent or any obligation of the Assignor under and by virtue of or in connection with the Leases, or any of them and the Assignor shall remain liable for such rent and obligations.

(d) The right, but not the obligation, to acknowledge in writing their acceptance of the obligations of Assignor as tenant under the Leases, except for any obligation to occupy the premises covered by the Leases or any of them. It is understood that as long as Assignees have not exercised this right (except as provided in 11(c)), Assignees shall not be liable for rent or any obligation of the Assignor under and by virtue of or in connection with the Leases, or any of them and the Assignor shall remain liable for such rent and obligations.