**ASSIGNMENT AND SUBORDINATION OF MANAGEMENT AGREEMENT**

**[NOTE TO DRAFTER: USE FOR LEASING, ASSET MANAMENT, DEVELOPMENT AGREEMENTS AND THE LIKE, AS APPLICABLE, WITH ANY NECESSARY ADJUSTMENTS]**

THIS ASSIGNMENT AND SUBORDINATION OF MANAGEMENT AGREEMENT (this "**Agreement**") is entered into on this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by and among \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Manage**r”), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Borrowe**r”), and **TRUIST BANK**, a North Carolina banking corporation (“**Lender**”), and affects the real property described in Exhibit "A" attached hereto and by reference made a part hereof, together with the improvements thereon (the “**Property”**).

This Agreement is entered into with reference to the following facts:

A. As more fully provided in that certain [**Construction**] Loan Agreement (as the same may be amended, supplemented, renewed or replaced from time to time, the “**Loan Agreement**”) of even date herewith by and between Borrower and Lender, Lender has agreed to make a [**construction**] loan to Borrower in the aggregate principal amount of up to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and No/100 Dollars ($\_\_\_\_\_\_\_\_\_\_\_) (the “**Loan**”) to finance [**the construction of**] an approximately \_\_\_\_\_\_\_\_square foot **[retail shopping center/multi-family project/describe other project]** on the Property (the “**Project**”).

B. Manager will operate and manage the Project and through its officers and agents is experienced in such management and operation.

C. Borrower, as owner of the Property, and Manager have entered into that certain **[Leasing and Management Agreement]** (the “**Management Agreement”**) dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, pursuant to which Manager has undertaken to manage and operate the Project.

D. The Loan is evidenced by one or more promissory notes made by Borrower, as maker, in favor of Lender, as payee, in the aggregate principal amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and No/100 Dollars ($\_\_\_\_\_\_\_\_\_\_\_) (collectively, as each may be amended, supplemented, renewed or replaced from time to time, the “**Notes**”) and is secured by that certain **[Deed to Secure Debt] [Mortgage] [Deed of Trust]**, Assignment, Security Agreement and Fixture Filing (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Security Instrument”**) of even date herewith executed by Borrower in favor of Lender. The Loan Agreement, the Notes, the Security Instrument, and all other loan documents executed in connection therewith are hereinafter referred to as the “**Loan Documents”**.

E. As a condition to making the Loan to Borrower as set forth in the Loan Agreement and the other Loan Documents, Lender has required that the Management Agreement be subordinated to the lien of the Security Instrument and the other Loan Documents and that Manager agree to apply the Cash Collateral (as defined below) as set forth herein and in the Loan Documents.

F. Manager has agreed to subordinate the Management Agreement to the lien of the Security Instrument and the other Loan Documents and to apply the Cash Collateral in accordance with the terms of the Loan Documents and this Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce Lender to consent to the execution of the Management Agreement, the parties agree as follows:

1. Assignment of Management Agreement. Borrower hereby absolutely and unconditionally transfers, sets over, and assigns to Lender all of Borrower's right, title, benefits, and interest in and to the Management Agreement. This is an absolute assignment, not an assignment for security only; provided, however, so long as an Event of Default (as defined in the Loan Agreement) does not exist, Borrower will have a license to retain all rights, title, interests, and benefits under the Management Agreement. Upon the occurrence of an Event of Default under any of the Loan Documents, including this Agreement, such license will be deemed immediately revoked but shall be reinstated immediately upon the cure of such Event of Default, except to the extent the obligations under the Loan Agreement are accelerated by Lender in accordance with the terms thereof prior to such cure. Notwithstanding any provision of this Assignment, Lender shall have no obligation under the Management and Leasing Agreements unless and to the extent such obligation is assumed by Lender in writing.
2. Borrower's Covenants. Borrower hereby covenants with Lender that, during the term of this Agreement, (i) Borrower shall not transfer the responsibility for the management of the Property from Manager to any other person or entity without the prior written consent of Lender, which consent may be withheld by Lender in Lender's reasonable discretion, (ii) Borrower will not terminate or amend any of the terms or provisions of the Management Agreement without the prior written consent of Lender, which consent may be withheld by Lender in Lender's reasonable discretion, and (iii) Borrower will, in the manner provided for in this Agreement, give notice to Lender of any notice or information that Borrower receives which indicates that the Manager is terminating the Management Agreement or that the Manager is otherwise discontinuing its management of the Property.
3. Agreement by Borrower and Manager. Borrower and Manager hereby agree that upon the occurrence and during the continuance of an Event of Default under any of the Loan Documents during the term of this Agreement, Lender may, at its sole option exercised by written notice to Borrower and Manager, either:
   1. Require Manager to continue performance under the Management Agreement on behalf of Lender, whereupon Lender shall have the right to exercise all of the rights and remedies of the owner of the Property under the Management Agreement, and all rents, security deposits, issues, proceeds, and profits of the Property collected by Manager, after payment of all costs and expenses of operating the Property (including, without limitation, operating expenses, real estate taxes, insurance premiums, repairs and maintenance and the fees and commissions payable under the Management Agreement), will be applied in accordance with Lender's written directions to Manager (provided that Manager shall receive compensation as set forth below); or
   2. Immediately terminate the Management Agreement and require Manager to transfer its responsibility for the management of the Property to a management company selected by Lender in Lender's sole and absolute discretion.

If Lender shall exercise its right under this section to require Manager to continue performance under the Management Agreement, Manager will perform its obligations under the Management Agreement for the benefit and at the direction of Lender, notwithstanding any counterclaim, right of set-off, claim for additional payment, defense or like right of Manager against Borrower or Borrower's default (including non-payment) under, or breach of, the Management Agreement; provided, however, that Manager receives the compensation provided for in the Management Agreement for services performed for Lender after notice from Lender of its exercise of its rights to require performance. In addition, if Lender shall exercise its right to require Manager to perform under the Management Agreement, Lender shall have the right at any time thereafter, upon not less than thirty (30) days' prior notice to Manager, to terminate the Management Agreement, without cause.

1. Subordination of Management Agreement and Fees. Manager agrees that the liens of the Security Instrument and other Loan Documents, and Lender’s rights to payment under the Loan Documents, shall be superior to and have priority over the Management Agreement as well as any claim, security interest, or right to payment of Manager arising out of or in any way connected with its services performed under the Management Agreement. In furtherance of the foregoing, Manager hereby fully and completely subordinates to the liens of, and Lender’s rights to payment under, the Loan Agreement, the Notes and the other Loan Documents, the following: (i) Manager's rights under the Management Agreement; (ii) any such claim or security interest Manager may now or hereafter have against the Property and/or the rents, issues, profits and income therefrom; and (iii) any right to payment of Manager arising out of or in any way connected with its services performed under the Management Agreement. Upon any termination of the Management Agreement, Manager may seek recourse under the Management Agreement against Borrower for any claims resulting from the period during which Borrower retained its license under Section 1 hereof, subject to the subordination contained herein, but Manager will have no lien or charge upon the Property or rentals from or sales of any portion of the Property. If after an Event of Default under the Loan Documents or this Agreement but prior to the termination of this Agreement, Manager receives payment of or security for any fees, commission, or other amounts not permitted by this Agreement, Manager will forthwith deliver such payment or security to Lender (with Manager's endorsement when necessary) for application to the Loan in such manner as required by the Loan Agreement, and until so delivered such payment or security shall be held in trust by Manager as the property of Lender. In the event of the failure of Manager to endorse any instrument for the payment of money so received, Lender is hereby appointed attorney-in-fact for Manager with full power to make such endorsement and with full power of substitution. Manager acknowledges that it has no interest whatsoever enforceable against Lender in proceeds of the Loan or any right of action under the Loan Documents to garnish, require or compel payment of proceeds of the Loan to be applied toward payment of Borrower's liabilities or obligations under the Management Agreement.
2. Cash Collateral. Pursuant to the Management Agreement, Manager collects all rents and other charges due from tenants and other funds collected from the operation of the Property (the "**Cash Collateral**") and holds the Cash Collateral in a deposit account with Truist Bank. Manager hereby acknowledges and agrees that Lender has a security interest in such Cash Collateral and Manager shall apply the Cash Collateral to operating costs and expenses, including debt service on the Loan, to the extent consistent with an annual budget for the operation of the Property provided to and approved by Lender pursuant to the Loan Agreement. Manager hereby acknowledges that it has reviewed the terms of the Loan Agreement and the other Loan Documents and, to the extent it is within Manager's ability to do so, Manager will deal with the Cash Collateral in a manner that is consistent with the terms thereof and will not use or allow the use of the Cash Collateral for any purpose that is not consistent with the terms of the Loan Agreement and the other Loan Documents without the prior written consent of Lender.
3. Consent and Agreement by Manager. Manager hereby acknowledges and consents to this Agreement and agrees that Manager will act in conformity with the provisions of this Agreement and Lender’s rights hereunder or otherwise related to the Management Agreement. If the responsibility for the management of the Property is transferred from Manager in accordance with the provisions hereof, Manager will, and hereby agrees to, fully cooperate in transferring its responsibility to a new management company and effectuate such transfer no later than ten (10) days from the date the Management Agreement is terminated. If Lender succeeds to the interests of Borrower, or in the event Lender exercises its option to terminate the Management Agreement, notwithstanding any provision of the Management Agreement to the contrary, no termination fee, commission (unpaid or otherwise), construction management fee, development fee, administrative fee, charge, penalty or other compensation shall be due and payable by Lender to Manager as a result thereof. Manager expressly acknowledges that by accepting the assignment of the Management Agreement or by exercising any of its rights by reason thereof, Lender does not assume any obligations or liabilities of Borrower under the Management Agreement and that Lender shall not have any obligation to Manager to exercise its rights under, or to declare a default under, the Loan Agreement or the other Loan Documents, but that the right and option to exercise such rights or declare a default rests in the sole and absolute discretion of Lender.
4. Notice of Defaults. Manager agrees that it will not terminate the Management Agreement and will not cease to perform its services thereunder for any reason, including, but not limited to, Borrower's failure to make any payments to Manager or other breach or default, without giving written notice to Lender of such intention to terminate or cease performing its work at least thirty (30) days prior thereto in order to afford Lender the opportunity (but not the obligation) to cure such breach or default and/or to exercise its rights as described in the Loan Documents and this Agreement; provided, however, that if such default cannot with diligence be cured by Lender or such rights cannot with diligence be exercised by Lender within such thirty (30) day period, the commencement of action by Lender within such thirty (30) day period to cure such default or exercise such rights shall be deemed sufficient so long as Lender pursues such cure or exercise with diligence.
5. Representations and Warranties. Manager and Borrower represent and warrant to Lender that (a) a true, correct, and complete copy of the Management Agreement is attached hereto as Exhibit "B", (b) the Management Agreement is in full force and effect and has not been amended in any respect, and (c) to their respective knowledge, no default or event of default currently exists under the Management Agreement. Manager further represents and warrants to Lender that (i) Manager is a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ duly organized, validly existing, and in good standing under the laws of the state of its organization and is duly qualified to do business in the state in which the Property is located, (ii) Manager has all requisite power and authority to execute and deliver this Agreement, (iii) Manager has taken all action necessary to authorize its execution, delivery, and performance of this Agreement, and the execution, delivery, and performance of the terms hereof will not violate, conflict with or constitute any default under any law, government regulation, the organizational documents of Manager, or any other agreement or instrument binding upon it, (iv) this Agreement is a legal, valid, and binding obligation of Manager and enforceable against it in accordance with its terms; and (v) no consent, approval, or authorization of, or registration or declaration with, any governmental authority is required in connection with the execution, delivery, and performance by Manager of this Agreement.
6. Termination. At such time as the Loan is paid in full and the Security Instrument is released of record, this Agreement and all of Lender’s right, title, and interest hereunder with respect to the Management Agreement shall automatically terminate.
7. Notice. Any notice, approval, or other communication that might be required or permitted to be given or delivered hereunder or required by applicable law in any matter relating to this Agreement (each a "notice") shall be in writing and shall be deemed given or furnished if addressed to the party intended to receive the same at the address set forth below opposite such party's signature to this Agreement (i) upon receipt when personally delivered, (ii) five (5) Business Days after the same is deposited in the United States mail as first class registered or certified mail, return receipt requested, postage prepaid, (iii) one (1) Business Day after the date of delivery of such notice to a nationwide, reputable commercial courier service, charges prepaid, or (iv) upon transmission, when sent by telecopy or other similar facsimile transmission during normal business hours of the intended recipient (if transmitted other than normal business hours of the intended recipient, then on the immediately following business day) (with such telecopy or facsimile promptly confirmed by delivery of a copy by personal delivery, United States Mall, or overnight courier service as otherwise provided in this Section). Any party may change the address to which any notice is to be delivered to any other address within the United States of America by furnishing written notice of such change in accordance with this Section at least (10) days prior to the effective date of such change to the other parties in the manner set forth above, but no such notice of change will be effective unless and until received by such other parties. Rejection or refusal to accept, or inability to deliver because of changed address or because no notice of changed address was given, will be deemed to be receipt of any such notice. Any notice to an entity will be deemed to be given on the date specified in this Section without regard to when such notice is delivered by the entity to the individual to whose attention it is directed and without regard to the fact that proper delivery may be refused by someone other than the individual to whose attention it is directed. If a notice is received by an entity, the fact that the individual to whose attention it is directed is no longer at such address or associated with such entity will not affect the effectiveness of such notice. Notices may be given on behalf of any party by such party's attorneys.
8. Binding Nature of Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
9. Counterparts. This Agreement may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument.
10. Governing Law. This Agreement shall be governed by the laws of the State [**in which the Property is located/of North Carolina [or other state in footprint after analysis of waiver of jury trial] without reference to conflict of laws principles/of New York (including, without limitation, Section 5-1401 of the General Obligations Law of the State of New York)].**
11. Waiver of Jury Trial. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW IN EFFECT FROM TIME TO TIME, MANAGER AND BORROWER HEREBY WAIVE ANY RIGHT EITHER OF THEM MIGHT AT ANY TIME HAVE TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATING TO THIS AGREEMENT OR THE EXERCISE OF ANY RIGHTS AND REMEDIES HEREUNDER, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE.

[SIGNATURES BEGIN ON NEXT PAGE]

IN WITNESS WHEREOF, the parties to this Agreement have caused this Agreement to be executed by their duty authorized representatives on the day and year first above written, with the intention that this Agreement takes effect as an instrument under seal.

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| Address for notice:      Attn: | BORROWER:  ,  a  By: (SEAL)  Name:  Title: |

[SIGNATURES CONTINUE ON NEXT PAGE]

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| Address for notice:      Attn: | MANAGER:  ,  a  By: (SEAL)  Name:  Title: |
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[SIGNATURES CONTINUE ON NEXT PAGE]

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| Address for notice: | LENDER:  TRUIST BANK,  a North Carolina banking corporation  By: (SEAL)  Name:  Title: |
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Exhibit "A"

Legal Description

Exhibit "B"

Property Management Agreement