

35000819

CITY REGISTER RECORDING AND ENDORSEMENT PAGE

COUNTY OF New York

THIS PAGE FORMS PART OF THE INSTRUMENT

TOTAL NUMBER OF PAGES IN DOCUMENT INCLUDING THIS PAGE 12

Block 835 Lots - ONLY IF ENTIRE LOT 41 Partial Lots PIO

Premises 350 Fifth Ave

NAME Attn: Louis J. Rosado
Rory Ford Bart

Title/Agent Company Name COMMONWEALTH LAND TITLE INS. CO

ADDRESS 275 Broadhollow Rd

Title Company Number Ny 0200226

CITY Melville, NY STATE NY ZIP 11747

PARTY 1 Empire State Builders, Assoc. Inc. c/o Wren & Korman, L.P.
ADDITIONAL PARTY 1 Empire State Land Development Co. 60 East 42 St, NYC NY 10165
PARTY 2 Rory Ford Bart
ADDITIONAL PARTY 2 275 Broadhollow Rd Melville, NY 11747
CHECK THIS BOX IF THERE ARE MORE THAN 2 OF EITHER PARTY

CITY REGISTER'S USE ONLY - DO NOT WRITE BELOW THIS LINE

Examined by (s): [Signature]
Mtg Tax Serial No. CT 1081
Mtg Amount \$48800000
Taxable Amount \$
Exemption (✓) YES NO
Type: [339EE] [255] [OTHER] [OTHER]
Dwelling Type: [1 & 2] [3] [4 & 6] [OVER 6]
TAX RECEIVED ON ABOVE MORTGAGE
County (basic) \$244000
City (Add'l) \$549122
Spec Add'l \$122000
TASF \$
MTA \$122000
NYCTA \$304878
TOTAL TAX \$1342000
Apportionment Mortgage (✓) YES NO

City Register
Serial Number 020183
Indexed By (s): [Signature] Verified By (s): [Signature]
Block(s) and Lot(s) verified by (s) [Signature]
Address Tax Map
Extra Block(s) _____ Lot(s) _____
Recording Fee D \$77
Affidavit Fee (C) \$
RPTT Fee (R) \$
HPO-A HPO-C
New York State Real Estate Transfer Tax \$
Serial Number _____
New York City Real Property Transfer Tax
Serial Number _____

RECORDED IN THE OFFICE OF THE CITY REGISTER OF THE CITY OF NEW YORK



2002 APR 25 P 1:32

[Signature]

CRGFORM 800 0400

4-1-2001

MORTGAGE

THIS MORTGAGE, made as of the 17th day of April, 2002, between **EMPIRE STATE BUILDING ASSOCIATES L.L.C.**, a New York limited liability company, with offices c/o Wien & Malkin LLP, 60 East 42nd Street, New York, New York 10165 (the "Leasehold Owner") and **EMPIRE STATE LAND ASSOCIATES L.L.C.**, a New York limited liability company, with offices c/o Wien & Malkin LLP, 60 East 42nd Street, New York, New York 10165 (the "Fee Owner", and, together with the Leasehold Owner, the "Mortgagor") and **NORTH FORK BANK**, a corporation organized under the Banking Law of the State of New York having its principal offices at 275 Broadhollow Road, Melville, New York 11747 (the "Mortgagee").

11/17/02
342,000

WITNESSETH, that to secure the payment of indebtedness in the sum of **Forty Eight Million Eight Hundred Thousand and 00/100 (\$48,800,000.00) Dollars**, lawful money of the United States, to be paid according to a certain note bearing even date herewith, the Fee Owner hereby mortgages to the Mortgagee the real property described on the annexed Schedule A, and the Leasehold Owner hereby mortgages to the Mortgagee the leasehold interest in the said property created pursuant to that certain Indenture of Ground Lease dated December 21, 1951 made by The Prudential Insurance Company of America, as landlord and Alglan Realty Corporation, Rostev Realty Corporation and Bentob Realty Corporation, as tenants and recorded December 21, 1951 in Liber 4759 Page 534 in the office of the City Register of the County of New York; which lease was assigned by Alglan Realty Corporation, Rostev Realty Corporation and Bentob Realty Corporation to Imperium Corporation by Assignment of Lease (and Conveyance of Buildings) dated December 21, 1951 and recorded December 21, 1951 in Liber 4759 Page 609 in the office of the City Register of the County of New York; which lease was assumed by Imperium Corporation by Assumption of Ground Lease dated December 21, 1951 and recorded December 21, 1951 in Liber 4759 Page 605 in the office of the City Register of the County of New York; which lease was further assigned by Empire State Building Corporation (formerly known as Imperium Corporation) to Empire State Building Associates (with consent from The Prudential Insurance Company of America) dated December 27, 1961 and recorded December 27, 1961 in Liber 5173 Page 41 in the office of the City Register of the County of New York; which lease was modified by Modification of Indenture of Lease dated December 27, 1961 made between The Prudential Insurance Company of America and Empire State Building Associates and recorded December 27, 1961 in Liber 5173 Page 49 in the office of the City Register of the County of New York; which lease was further assigned by Assignment and Assumption of Lease dated October 26, 1964 made by Empire State Building Associates to Celeritas Realty Corp. (with consent from The Prudential Insurance Company of America) and recorded October 28, 1964 in Liber 5300 Page 334; which lease was further assigned by Reassignment and Reassumption of Lease dated October 26, 1964 made by Celeritas Realty Corp. to Empire State Building Associates and recorded November 6, 1964 in Liber 5302 Page 125; which lease was further modified by Second Modification of Indenture of Lease dated February 15, 1965 made between The Prudential Insurance Company of America and Empire State Building Associates and recorded February 15, 1965 in Liber 5314 Page 479 in the office of the City Register of the County of New York; which lease was made subject to the provisions of that certain Assignment

of Disbursement Rights made by Lawrence A. Wien, Harry S. Helmsley, Wico Trading Corporation and Martin Wiener Realty Corporation, Joint Venturers Associated Under the name of Empire State Building Associates and Empire State Building Associates to Morgan Guaranty Trust Company of New York dated February 15, 1965 and recorded February 15, 1965 in Liber 5315 Page 23 in the office of the City Register of the County of New York; which lease was made subject to the provisions of that certain Agreement and Declaration made by and between The Prudential Insurance Company of America and Empire State Building Associates dated December 6, 1965 and recorded December 10, 1965 in Liber 5353 Page 260 in the office of the City Register of the County of New York; which lease was assigned by The Prudential Insurance Company of America to E.G. Holding Co. Inc. by Lessor's Assignment of Lease dated November 27, 1991 and recorded November 27, 1991 in Reel 1828 Page 1978 in the office of the City Register of the County of New York; which lease was further assigned by Assignment and Assumption of (Landlord's Interest In) Lease made by NS 1999 American Company as nominee for The NS 1991 American Trust (successor by merger to E.G. Holding Co. Inc.) to Trump Empire State Partners, dated as of June 28, 1994 and recorded July 1, 1994 in Reel 2111 Page 2039 in the office of the City Register of the County of New York; which lease was assigned by Trump Empire State Partners to Empire State Land Associates L.L.C. by Assignment of Lease dated as of April 17, 2002 and intended to be recorded immediately prior hereto in the office of the City Register of the County of New York (all of the foregoing collectively referred to as the "Lease");

TOGETHER with all right, title and interest of the Mortgagor in and to the land lying in the streets and roads in front of and adjoining said premises;

TOGETHER with all fixtures, chattels and articles of personal property now or hereafter attached to or used in connection with said premises, including, but not limited to, furnaces, boilers, oil burners, radiators and piping, coal stokers, plumbing and bathroom fixtures, refrigeration, air conditioning and sprinkler systems, wash-tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, elevators, motors, dynamos, refrigerators, kitchen cabinets, incinerators, plants and shrubbery, and all other equipment and machinery, appliances, fittings and fixtures of every kind, in or used in the operation of the buildings standing on said premises, together with any and all replacements thereof and additions thereto;

TOGETHER with all awards heretofore and hereafter made to the Mortgagor for taking by eminent domain the whole or any part of said premises or any easement therein, including any awards for changes of grade of streets, which said awards are hereby assigned to the Mortgagee, who is hereby authorized to collect and receive the proceeds of such awards and to give proper receipts and acquittances therefor, and to apply the same toward the payment of the mortgage debt, notwithstanding the fact that the amount owing thereon may not then be due and payable; and the said Mortgagor hereby agrees, upon request, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning said awards to the Mortgagee free, clear and discharged of any encumbrances of any kind or nature whatsoever.

AND the Mortgagor covenants with the Mortgagee as follows:

1. That the Mortgagor will pay the indebtedness as hereinbefore provided.
2. That the Mortgagor will keep the buildings on the premises insured against loss by fire for the benefit of the Mortgagee; that the Mortgagor will assign and deliver the policies to the Mortgagee; and that the Mortgagor will reimburse the Mortgagee for any premiums paid for insurance made by the Mortgagee on the Mortgagor's default in so insuring the buildings or in so assigning and delivering the policies.
3. That no building on the premises shall be altered, removed or demolished without the consent of the Mortgagee.
4. Intentionally omitted.
5. That the holder of this Mortgage, in any action to foreclose it, shall be entitled to the appointment of a receiver.
6. That the Mortgagor will pay all taxes, assessments, sewer rents or water rates and, in default thereof, the Mortgagee may pay the same.
7. That the Mortgagor, within five (5) days upon request in person or within ten (10) days upon request by mail, will furnish a written statement, duly acknowledged, of the amount due on this Mortgage and whether any offsets or defenses exist against the mortgage debt.
8. That notice and demand or request may be in writing and may be served in person or by mail.
9. That the Mortgagor warrants the title to the premises.
10. That the fire insurance policies required by Paragraph 2 above shall contain the usual extended coverage endorsement; that in addition thereto the Mortgagor, within thirty (30) days after notice and demand, will keep the premises insured against war risk and any other hazard that may reasonably be required by the Mortgagee.
11. That in case of a foreclosure sale, said premises, or so much thereof as may be affected by this Mortgage, may be sold in one parcel.
12. That if any action or proceeding be commenced (except an action to foreclose this Mortgage or to collect the debt secured hereby) to which action or proceeding the Mortgagee is made a party or in which it becomes necessary to defend or uphold the lien of this Mortgage, all sums paid by the Mortgagee for the expense of any litigation to prosecute or defend the rights and lien created by this Mortgage (including counsel fees) shall be paid by the Mortgagor, together with interest

thereon at the rate set forth in that certain Consolidation and Extension Agreement of even date herewith entered into between Mortgagor and Mortgagee (the "Agreement"), and any such sum and the interest thereon shall be a lien on said premises prior to any right or title to, interest in or claim upon said premises attaching or accruing subsequent to the lien of this Mortgage and shall be deemed to be secured by this Mortgage. In any action or proceeding to foreclose this Mortgage or to recover or collect the debt secured hereby the provisions of law respecting the recovering of costs, disbursements and allowances shall prevail unaffected by this covenant.

13. That the Mortgagor hereby assigns to the Mortgagee the rents, issues and profits of the premises as further security for the payment of said indebtedness and the Mortgagor grants to the Mortgagee the right to enter upon and to take possession of the premises for the purpose of collecting the same and to let the premises or any part thereof and to apply the rents, issues and profits, after payment of all necessary charges and expenses, on account of said indebtedness. This assignment and grant shall continue in effect until this Mortgage is paid. The Mortgagee hereby waives the right to enter upon and to take possession of said premises for the purpose of collecting said rents, issues and profits and the Mortgagor shall be entitled to collect and receive said rents, issues and profits until default under any of the covenants, conditions or agreements contained in this Mortgage and agrees to use such rents, issues and profits in payment of principal and interest becoming due on this Mortgage and in payment of taxes, assessments, sewer rents, water rates and carrying charges becoming due against said premises, but such right of the Mortgagor may be revoked by the Mortgagee upon any default. The Mortgagor will not, without the written consent of the Mortgagee, receive or collect rent from any tenant of said premises or any part thereof for a period of more than one (1) month in advance and in the event of any default under this Mortgage will pay monthly in advance to the Mortgagee, or to any receiver appointed to collect said rents, issues and profits, the fair and reasonable rental value for the use and occupation of said premises or of such part thereof as may be in the possession of the Mortgagor, and upon default in any such payment will vacate and surrender the possession of said premises to the Mortgagee or to such receiver, and in default thereof may be evicted by summary proceedings.
14. That the whole of said principal sum and the interest shall become due at the option of the Mortgagee: (a) after failure to exhibit to the Mortgagee, within ten (10) days after demand, receipts showing payment of all taxes, water rates, sewer rents and assessments; or (b) after the actual or threatened alteration, demolition or removal of any building on the premises without the written consent of the Mortgagee; or (c) after the assignment of the rents of the premises or any part thereof without the written consent of the Mortgagee; or (d) if the buildings on said premises are not maintained in reasonably good repair; or (e) after failure to comply with any requirement or order or notice of violation of law or ordinance

issued by any governmental department claiming jurisdiction over the premises within three (3) months from the issuance thereof; or (f) if, on application of the Mortgagee, two (2) or more fire insurance companies lawfully doing business in the State of New York refuse to issue policies insuring the buildings on the premises; or (g) in the event of the removal, demolition or destruction, in whole or in part, of any of the fixtures, chattels or articles of personal property covered hereby, unless the same are promptly replaced by similar fixtures, chattels and articles of personal property at least equal in quality and condition to those replaced, free from chattel mortgages or other encumbrances thereon and free from any reservation of title thereto; or (h) after thirty (30) days notice to the Mortgagor, in the event of the passage of any law deducting from the value of land for the purposes of taxation any lien thereon, or changing in any way the taxation of mortgages or debts secured thereby for state or local purposes; or (i) if the Mortgagor fails to keep, observe and perform any of the other covenants, conditions or agreements contained in this Mortgage or in the aforementioned Agreement.

15. That the Mortgagor will, in compliance with Section 13 of the Lien Law, receive the advances secured hereby and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.
16. Whenever the terms, provisions, covenants and conditions of this Mortgage conflict in any way with the terms, provisions, covenants or conditions of the Agreement, the terms, provisions, covenants and conditions of the Agreement shall control and prevail.
17. Except for (i) the obligations of the Mortgagor under the provisions of Paragraph 40 of that the Agreement, (ii) any acts or omissions constituting fraud or misrepresentation by the Mortgagor in connection with applying for the loan secured by the Agreement or in supplying information or documentation to the Mortgagee subsequent to the date hereof, (iii) the fraudulent misappropriation or misapplication of the Rents collected at the Mortgaged Property (as defined in the Agreement), (iv) liability for rental or other income generated from the Mortgaged Property received by the Mortgagor after default beyond applicable notice, grace and/or cure periods, if any, under the Agreement which is not applied to the Mortgaged Property (except that payments made to affiliates of the Mortgagor for amounts accrued in prior years, or in amounts which are in excess of then-market rates shall not be considered applied to the Mortgaged Property), or (v) deliberate waste, the liability of the Mortgagor, its permitted successors or assigns, under this Note or any other documents executed in connection with the Agreement is hereby strictly limited to the interest of the Mortgagor, its permitted successors or assigns, in the Mortgaged Property and any judgment in favor of the Mortgagee shall be satisfied only against the Mortgaged Property. Any judgment in favor of

the Mortgagee by reason of any breach of any of the items described in clauses (i) through (v) of this Paragraph may also be enforced against and collected out of the other assets of the Mortgagor as well as the Mortgaged Property. No judgment arising under this Mortgage may be satisfied against any asset of any member of the Mortgagor and the Mortgagee shall neither seek, demand nor be entitled to obtain a deficiency judgment.

18. Notwithstanding anything contained in this Mortgage to the contrary, the maximum amount of principal indebtedness secured by this Mortgage at the time of the execution hereof or which under any contingency may be secured by this Mortgage at any time hereafter is \$48,800,000.00 plus (a) taxes, charges or assessments which may be imposed by law on the Mortgaged Property, (b) premiums on insurance policies covering the Mortgaged Property, (c) expenses incurred in upholding the lien of this Mortgage, including, but not limited to, (i) the expenses of any litigation to prosecute or defend the right and lien created by this Mortgage, (ii) any amount, cost or charge to which the Mortgagee becomes subrogated, upon payment, whether under recognized principals of law or equity or under express statutory authority, and (iii) interest at the default rate or the regular interest rate, as applicable.

This Mortgage may not be changed or terminated orally. The covenants contained in this Mortgage shall run with the land and bind the Mortgagor, the heirs, personal representatives, successors and assigns of the Mortgagor and all subsequent owners, encumbrancers, tenants and subtenants of the premises, and shall inure to the benefit of the Mortgagee, the personal representatives, successors and assigns of the Mortgagee and all subsequent holders of this Mortgage. The word "Mortgagor" shall be construed as if it read "Mortgagors" and the word "Mortgagee" shall be construed as if it read "Mortgagees" whenever the sense of this Mortgage so requires.

REEL 3500 PG 0826

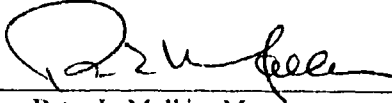
IN WITNESS WHEREOF, this Mortgage has been duly executed by the Mortgagor as of the date first above written.

EMPIRE STATE BUILDING ASSOCIATES L.L.C.

By: 
Peter L. Malkin, Member

EMPIRE STATE LAND ASSOCIATES L.L.C.

By: Empire State Building Associates L.L.C., Sole Member

By: 
Peter L. Malkin, Member

STATE OF NEW YORK)
)ss.:
COUNTY OF NEW YORK)

On the 16 day of April, 2002, before me, the undersigned, personally appeared Peter L. Malkin, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



Notary Public

ROBERT F. LINER
NOTARY PUBLIC, State of New York
No. 4516746
Qualified in Nassau County
Commission Expires Sept. 30, 2005

Mortgagor: EMPIRE STATE BUILDING ASSOCIATES L.L.C. and EMPIRE STATE LAND ASSOCIATES L.L.C.

Mortgagee: NORTH FORK BANK

Section: 3
Block: 835
Lot: 41

Street Address: 350 Fifth Avenue
New York, New York

Check One Box Only

1. The attached mortgage covers real property principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each having their own separate cooking facilities.
2. The attached mortgage does not cover real property improved as described above.

EMPIRE STATE BUILDING ASSOCIATES L.L.C.

By: 
Peter L. Malkin, Member

EMPIRE STATE LAND ASSOCIATES L.L.C.

By: Empire State Building Associates L.L.C., Sole Member

By: 
Peter L. Malkin, Member

SCHEDULE A

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, County, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of 34th Street with the westerly side of 5th Avenue;

THENCE southerly along the westerly side of 5th Avenue 197 feet 6 inches to the northerly side of 33rd Street;

THENCE westerly along the northerly side of 33rd Street 500 feet;

THENCE northerly and parallel with the westerly side of 5th Avenue 98 feet 9 inches to the middle line of the block;

THENCE easterly and parallel with the northerly side of 33rd Street, 75 feet;

THENCE again northerly and parallel with the westerly side of 5th Avenue and part of the distance through a party wall 98 feet 9 inches to the southerly side of 34th Street;

THENCE easterly along the southerly side of 34th Street 425 feet to the corner aforesaid, the point or place of BEGINNING.

Said premises known as: 350 Fifth Avenue, New York, N.Y.

REEL 3500 00830

Mortgage

**EMPIRE STATE BUILDING ASSOCIATES L.L.C. and
EMPIRE STATE LAND ASSOCIATES L.L.C.**

- to -

NORTH FORK BANK

Premises: 350 Fifth Avenue, New York, New York

The within premises lie in
Section 3, Block 835, Lot 41
in New York County

Record and Return To:
North Fork Bank
275 Broadhollow Road
Melville, New York 11747

Attention: Louis J. Rosado, Vice President