

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Trustee for the benefit of the registered holders of
Wells Fargo Commercial Mortgage Trust 2016-NXS6,
Commercial Mortgage Pass-Through Certificates, Series
2016-NXS6, acting by and through its special servicer,
CWC Capital Asset Management LLC,

Plaintiff,

v.

9TH AVE HOTEL PROPERTY HOLDING LLC;
SALIM ASSA; EZAK ASSA; NEW YORK CITY
DEPARTMENT OF FINANCE; NEW YORK STATE
DEPARTMENT OF TAXATION AND FINANCE; and
JOHN DOE # 1 – 50, said John Doe defendants being
fictitious and unknown to Plaintiff, it being intended to
name all other parties who may have some interest in or
lien upon the premises sought to be foreclosed,

Defendants.

Index No.: 850030/2022

Motion Seq. No. 001

ORDER APPOINTING RECEIVER

On reading of the Affirmation of Rishi Kapoor dated February 23, 2022 and the exhibit(s) attached thereto, the Affidavit of Justin Mayers sworn on February 22, 2022 and the exhibit(s) attached thereto, the Affidavit of Edward A. Smith sworn on February 21, 2022 and the exhibit(s) attached thereto, and the Memorandum of Law in Support of Plaintiff's *Ex Parte* Application for the Appointment of a Receiver dated February 23, 2022 (collectively, the "Application"), and upon all papers previously submitted and/or filed herein and all other proceedings had, and the entire record before the Court, and it appearing to the satisfaction of this Court that this action is brought to foreclose the mortgage lien upon certain premises and improvements situated in New York County, State of New York, as more fully described in "Schedule A" annexed hereto (the "Mortgaged Property"), that Plaintiff Wilmington Trust, National Association, as Trustee, for the

benefit of the registered holders of Wells Fargo Commercial Mortgage Trust 2016-NXS6, Commercial Mortgage Pass-Through Certificates, Series 2016-NXS6 (“Plaintiff” or “Lender”), acting by and through its special servicer, CWCapital Asset Management LLC, has the proper authority as the owner and holder of that certain mortgage on the Mortgaged Property (the “Mortgage”) to bring the above-captioned action and Plaintiff is properly exercising such right, and that due to the defaults described in the Application, Plaintiff is entitled to an Order pursuant to RPAPL § 1325(1) and RPL § 254(10), on an *ex parte* basis, appointing a receiver over the Mortgaged Property with the usual power of a receiver;

NOW, on motion of Venable LLP, attorneys for Plaintiff, it is

ORDERED, that Plaintiff’s Application for the appointment of a receiver is granted; and it is further

ORDERED, that Edward A. Smith, a Partner with the law firm Abrams Fensterman, LLP (Fiduciary ID# 814543) (Phone No.: 914-607-7099), having a business address at 81 Main Street, White Plains, New York 10601, shall be and is hereby appointed receiver (the “Receiver”) with the usual powers and direction as receiver of all the Rents (as defined herein), income, charges, subsidies, and profits now due and unpaid, which may hereafter accrue and/or come due from whatever source derived during the pendency of this action, or as otherwise subject to this Order, and issuing out of the Mortgaged Property known as The Hotel Unit (or HU) (the “Hotel Unit”), Commercial Unit 2 (or CU 2 and/or CU2) (the “Commercial Unit”), and The Parking Unit (or PU) (the “Parking Unit,” and together with the Hotel Unit and the Commercial Unit, the “Condominium Units”), located in the building known as 515 9th Avenue Condominium, at 515 9th Avenue, New York, New York 10018, and designated as Block 736, Lots 1002, 1004 and 1005 on the Tax Map for the City of New York.; and it is further

ORDERED, that the Receiver, upon being appointed, is hereby directed to contact Plaintiff's attorney, Rishi Kapoor, Venable LLP, 1270 Avenue of the Americas, New York, New York 10020 (Phone No.: 212-307-5500, Email: rkapoor@venable.com), to ascertain the status of the foreclosure action; and it is further

ORDERED, that before entering upon the duties of such receivership, the Receiver shall execute to the People of the State of New York and file in the Office of the Clerk of New York County a bond in the sum of \$ 89,848.50 conditioned for the faithful performance of the Receiver's duties; and it is further

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ORDERED, that the Receiver file an oath with the County Clerk; and it is further

ORDERED, that the Receiver be and hereby is directed to demand, collect and receive from the occupants, tenants, and licensees in possession of the Mortgaged Property, or other persons liable therefor, all the Rents (as defined herein), income, charges, subsidies, and profits thereof now due and unpaid or hereafter to become fixed or due; and it is further

ORDERED, that the Receiver shall ensure that all monies received by him at the time he receives the same are promptly deposited in his own name as Receiver into an interest-bearing checking account or accounts in an FDIC insured bank (the "Account(s)"), and such Account(s) shall show the name of this action, and no withdrawals shall be made therefrom except for the payment of expenses or other payments as directed or permitted by this Order or further order of this Court, and for any such withdrawals or payments in excess of \$5,000, on a draft or check signed by the Receiver and countersigned by the surety on his undertaking; and it is further

ORDERED, that the Receiver is authorized forthwith to take charge and enter into possession of the Mortgaged Property, to take control of and operate the Mortgaged Property to preserve and protect, and prevent the waste of, the same, with the usual powers and authority of a

receiver, including, without limitation, the power to apply all monies collected from revenues generated by the Mortgaged Property to the preservation of the Mortgaged Property, to apply for, obtain, and pay any reasonable fees for necessary licenses and permits, and to do all things necessary to protect and maintain the Mortgaged Property and such licenses and permits as further described herein; and it is further

ORDERED, that, without limiting the generality of the foregoing, the Receiver is authorized to take immediate possession and control of all real and personal property that relates in any manner to the management, ownership, operation, or control of all or any portion of the Mortgaged Property, including, without limitation, any and all:

(i) rents, rent equivalents, moneys payable as damages (including payments by reason of the rejection of a Lease in a Bankruptcy Proceeding) or in lieu of rent or rent equivalents, royalties (including all oil and gas or other mineral royalties and bonuses), income, fees, receivables, receipts, revenues, deposits (including security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature from any and all sources arising from or attributable to the Mortgaged Property; including all hotel receipts, revenues and credit card receipts collected from guest rooms, restaurants, bars, meeting rooms, banquet rooms and recreational facilities, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of the Mortgaged Property (including, without limitation, from the rental of any office space, retail space, guest rooms or other space, halls, stores, and offices, and deposits securing reservations of such space), license, lease, sublease and concession fees and rentals, health club membership fees, food and beverage wholesale and retail sales, service charges, vending machine

sales, and proceeds, if any, from business interruption or other loss of income insurance (collectively, the “Rents”);

(ii) all funds and bank accounts relating to the Mortgaged Property, including but not limited to, operating accounts, escrow accounts, insurance-proceed accounts, cash management accounts, restaurant accounts and/or other accounts relating to the Mortgaged Property or the businesses conducted thereon;

(iii) furniture; appliances; keys; guest rooms; room access keys and cards; building access cards; combinations for locks, passwords, or other access codes/devices; equipment software; websites; computers, laptops, and data storage devices used in the operation or management of the Mortgaged Property, with security codes and/or passwords to access same; other computer systems, with access information, to operate the Mortgaged Property (e.g., security system, booking and reservation system, television and in-room entertainment systems, billing systems, communication systems, HVAC control systems, etc.); correspondence; cash; credit and charge card documents; restaurant and kitchen facilities and equipment; all food and beverage facilities; vending machines; inventory, operating supplies, equipment, and machinery; lobbies and lounges; business centers; conference rooms; event spaces; audio/video equipment; laundry facilities; recreation facilities and equipment, including pool, spa, and fitness center; shuttle services and vehicles; utility rights and deposits; insurance certificates and policies; payment and performance bonds; orders; books; telephone exchanges, trademarks, the name of the Mortgaged Property, and any intangible rights relating to the Mortgaged Property; sales tax certificates and sales tax reports; telephone and facsimile numbers; email addresses; instruments; federal and state taxpayer identification numbers; and information and materials and such other personalty as may

be found on or off the Mortgaged Property which relates in any manner to the management, ownership, operation, or control of all or any portion of the Mortgaged Property;

(iv) books and records, accounts, ledgers, banking records, operating statements and business records for the Mortgaged Property, wherever located and in whatever mode maintained, including, without limitation, information contained on computers, software, or applications;

(v) inspection reports, plans, specifications and drawings, appraisals, assessments, correspondence, or memoranda regarding the condition or status of the Mortgaged Property;

(vi) environmental reports and any other documents pertaining to toxic chemicals or hazardous materials, if any, ever brought, used and/or remaining upon the Mortgaged Property, including, without limitation, all reports, surveys, inspections, checklists, proposals, orders, citations, fines, warnings and notices;

(vii) licenses (including, but not limited to, any liquor license), permits, certificates of occupancy, or other certificates or governmental approvals relating to the Mortgaged Property, and documents or correspondence relating thereto;

(viii) guest and customer lists, bookings, reservations, event contracts, vendor contracts, and other occupancy agreements and records, including any deposits, payment amounts, delinquencies, amendments or modifications, and correspondence or other records relating thereto;

(ix) leases, subleases, subsubleases, lettings, licenses, concessions or other agreements (whether written or oral) pursuant to which any person is granted a possessory interest in, or right to use or occupy all or any portion of the Mortgaged Property, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be

performed and observed by the other party thereto, and all extensions, amendments and modifications thereto, and any deposits, payment amounts, delinquencies, and correspondence or other records relating thereto;

(x) credit card agreements, marketing agreements, reservation system agreements, advertising agreements (including those for internet advertising), executory contracts, group sales agreements and other similar contracts and agreements, employment agreements, service agreements, management agreements, franchise agreements, agreements with contractors (including plans and specifications, cost estimates, reports, development rights, and warranties), guaranties, and any other agreements with third parties relating to the Mortgaged Property; and

(xi) all other rents, records, documents, and instruments of whatever kind and nature which relate to the operation, ownership, management and control of the Mortgaged Property or of any part of the receivership; and it is further

ORDERED, that pursuant to the provisions of General Obligations Law section 7-105, any person or entity holding any deposits or advances of rental as security under any lease or license agreement affecting space in the Mortgaged Property shall turn same over to the Receiver within five (5) days after the Receiver shall have qualified; and thereupon the Receiver shall hold such security subject to such disposition thereof as shall be provided in further order of this Court; and it is further

ORDERED, that all occupants, operators, licensees, tenants, and all other persons or entities who now or in the future, occupy, license, lease, use or pay for and/or subsidize any portion of the Mortgaged Property, and all other persons or entities that may be managing, operating, or otherwise in possession of and/or control of the Mortgage Property or the improvements thereof, including, without limitation, defendants Salim Assa ("S. Assa") and Ezak Assa ("E. Assa," and

together with S. Assa, the "Guarantor") and defendant 9th Ave Hotel Property Holding LLC ("Borrower," and together with the Guarantors, the "Owners"), and their agents, officers, affiliates, servants, employees, attorneys, and managing agents, and any banks, financial institutions, or other persons or entities that hold or control Rents, are hereby ordered and directed to surrender to the Receiver all Rents, and until further order of this Court, to pay over and deliver all such Rents, property, documents, records, access, information, and other items and things to the Receiver; and it is further

ORDERED, that all Rents, property, documents, records, access, information, and other items and things required to be delivered to the Receiver pursuant to this Order shall be delivered to the Receiver within five (5) business days after (x) service of this Order, or (y) the Receiver shall have qualified, whichever is later; and it is further

ORDERED, that the Owners and the Receiver are directed to use their best efforts to ensure a smooth transition of the management and operation of the Mortgaged Property to the Receiver; and it is further

ORDERED, that the Owners are directed to cooperate in good faith with the Receiver and, without undue delay, honor any reasonable requests of the Receiver in carrying out his powers and duties, and execute and deliver to the Receiver any documents reasonably requested by the Receiver; and it is further

ORDERED, that the Owners and their agents, officers, servants, employees, attorneys, and managing agents, and such other persons or entities as may be managing, operating, or otherwise in possession and/or control of the Mortgaged Property, are hereby enjoined and restrained from (i) collecting the Rents, charges, income, profits, revenues, or other sums or payments relating or attributable to the Mortgaged Property now or hereafter due; and (ii)

interfering in any manner with the Mortgaged Property or its possession or operation, or with the Receiver's and/or Property Manager's (as defined below) management or operation thereof, including, without limitation, transferring, removing or in any way disturbing any of the equipment, machinery, fixtures, furnishings, inventory, or other property used for the operation of the Mortgaged Property; and it is further

ORDERED, that all tenants, occupants, and licensees of the Mortgaged Property and other entities and/or persons liable for Rents, charges, income, profits, revenues, or other sums or payments relating or attributable to the Mortgaged Property be and hereby are enjoined and restrained from paying any such Rents, charges, income, profits, revenues, or other sums or payments to the Owners or their respective agents, representatives, servants or attorneys; and it is further

ORDERED, that, if deemed necessary or appropriate in the Receiver's discretion, the Receiver is authorized to and may:

- (i) terminate any existing manager of the Mortgaged Property, and any existing management agreement, hotel operating agreement, or restaurant operating agreement relating to the Mortgaged Property, and take all necessary action to remove such existing manager or management company from the management of the Mortgaged Property;
- (ii) apply to this Court for authorization to engage a property manager (the "Property Manager") to secure any and all Rents and manage and operate the Mortgaged Property under the Receiver's supervision, which such application may be brought on shortened notice and/or on an *ex parte* basis if the Receiver in his discretion deems it necessary or appropriate under the circumstances; and, subject to

Plaintiff's prior approval as well as an order of the Court, pay the Property Manager management fees and agree to other terms of the Property Manager's engagement; and

- (iii) hire employees and negotiate contracts, as necessary, and/or retain, hire or discharge on-site employees (none of whom are or shall be deemed to be employees of Plaintiff), establish pay rates and policies for any on-site employees, and employ contractors to provide security and other services necessary for the preservation and continued operation of the Property; and it is further

ORDERED, that the Receiver and/or any Court-approved Property Manager may obtain and use new federal and state taxpayer identification numbers to carry out the duties of the receivership; and it is further

ORDERED, that all persons or entities now or hereafter in possession of any part of the Mortgaged Property and not holding such possession under a valid and existing lease or tenancy do forthwith surrender such possession to the Receiver; and it is further

ORDERED, that the Receiver shall be and hereby is authorized to institute and carry on all legal proceedings necessary for the protection of the Mortgaged Property, to enforce any contracts that relate to the Mortgaged Property, or to recover possession of the whole or any part thereof, and to institute and prosecute suits for the collection of Rents or other charges now due or hereafter to become due or fixed and summary proceedings for the removal of any tenants, licensees, guests, or any other persons or entities therefrom, all without further order of this Court, conditioned upon receiving prior written consent from Plaintiff; and it is further

ORDERED, that the Receiver shall be and hereby is authorized to receive, collect, and/or review all mail concerning the Mortgaged Property; to remove from any such mail all checks

payable as Rents or other payments, charges or fees; and to endorse any and all such checks and to deposit said checks in the Account(s); and any such mail reviewed by the Receiver in the performance of his duties will promptly be made available to the addressee after such review; and it is further

ORDERED, that the Receiver appointed herein shall prepare a monthly accounting from the date of this Order and each and every month thereafter during the pendency and existence of this receivership with copies to be forwarded to Plaintiff's and the Owners' attorneys, which accounting shall detail and itemize all receipts and expenditures, and provide monthly bank statements of the Account(s), occupancy reports, delinquency reports, and account reconciliations; and it is further

ORDERED, that within forty-five (45) days of entry of this Order, and no less frequently than on an annual basis, the Receiver shall submit an "Annual Budget" (as defined in the Loan Agreement¹) for Plaintiff's approval and in accordance with the terms of the Loan Agreement, setting forth the Receiver's good faith estimate of operating income, operating expenses, and capital expenditures associated with the Mortgaged Property for the succeeding twelve-month period; and it is further

ORDERED, that the Receiver be and hereby is authorized to make any necessary repairs to the Mortgaged Property in excess of the budgeted amounts in an approved Annual Budget, without further order of this Court, in an emergency affecting the health or safety of any occupant of the Mortgaged Property; and it is further

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the Complaint filed on January 31, 2022 under NYSCEF Doc. No. 2.

ORDERED, that the Receiver be and hereby is authorized to make any reasonable and necessary ordinary repairs to the Mortgaged Property beyond the amounts in an approved Annual Budget, without further order of this Court, in an amount not to exceed the sum of \$5,000.00 for each such repair, or, if no approved Annual Budget is in place, conditioned upon receiving prior written consent from Plaintiff; and it is further

ORDERED, that sums beyond the amounts in an approved Annual Budget, in excess of \$5,000.00, that need to be expended for a non-emergency repair to the Mortgaged Property (including to cure non-emergency health and safety violations at the Mortgaged Property) require prior written consent of the Plaintiff or approval of the Court; and it is further

ORDERED, that the Receiver shall comply with all lawful requirements of any municipal department or other authority of the municipality in which the Mortgaged Property is situated to the extent said requirements unconditionally obligate a mortgagee to act, provided that, in compliance with R.P.A.P.L. § 1325(3), the Receiver may seek an Order of this Court postponing the time for compliance; and it is further

ORDERED, that the Receiver is hereby authorized to pay property taxes and insurance, assessments, water rates, sewer rents, utilities, payroll and related taxes, municipal and government license and permit fees, as the same may come due; and, subject to an approved Annual Budget or Plaintiff's prior approval, to purchase inventory, operating supplies, equipment and personal property in connection with the operation of the Mortgaged Property, enter into marketing, advertising, and similar agreements for the benefit of the Mortgaged Property, and pay for any other expenses and/or enter into any new or amended contracts relating to the operation of the Mortgaged Property on a going forward basis; and it is further

ORDERED, that if it is necessary in the fulfillment of the Receiver's duties hereunder, Plaintiff may, but shall not be required to, advance funds to the Receiver for the payment of repairs, maintenance, insurance, taxes, the curing of violations or any other expenses which may be necessary for the preservation and protection of the Mortgaged Property by the Receiver and to the extent that the Rents, issues, and profits collected by the Receiver and remaining in the Receiver's account are insufficient to reimburse Plaintiff for such advances, all such advances made by Plaintiff shall be secured by the Mortgage and shall be added to and included in the debt thereupon due and in the Judgment of Foreclosure and Sale entered in this Action; and it is further

ORDERED, that the Receiver shall discern the status of the outstanding accounts payable at the Mortgaged Property, and, subject to an approved Annual Budget, take such steps with regard to such accounts in order to maintain, preserve, and protect the Mortgaged Property as the Receiver deems necessary, including paying, settling or compromising such accounts; and it is further

ORDERED, that the Receiver shall have the power and authority to terminate or modify any or all existing contracts with utility companies, vendors, service providers, and suppliers of goods and services, or any other contracts presently existing relating to the Mortgaged Property without the payment of any termination penalties or fees (notwithstanding any provisions contained in such contracts to the contrary), and, as the Receiver deems necessary or appropriate, to change all such utility accounts and vendor contracts, service provider contracts, supplier contracts, or other contracts to the name of the Receiver; and the Receiver shall be and hereby is authorized, to make all reasonably necessary payments for utilities with service established and to vendors, service providers, and suppliers for expenses thereafter incurred and required; and no utility may terminate service to the Mortgaged Property as a result of non-payment obligations due prior to the effective date of this Order; and it is further

ORDERED, that the Receiver may cancel or terminate any existing insurance coverage for the Mortgaged Property; or if requested by the Receiver, the Owners shall permit existing insurance coverage for the Mortgaged Property to remain in force until the expiration of the current paid term under such policy or policies and shall immediately notify the insurance carrier(s) of the appointment of the Receiver hereby and request that the Receiver and Plaintiff be added to the insurance policy or policies as additional insureds thereunder; if the Receiver determines that the existing insurance coverage for the Mortgaged Property is inadequate pursuant to the Loan Documents, or because the Receiver will not be adequately insured, the Receiver shall obtain insurance coverage in compliance with the Loan Documents to adequately insure the Receiver and the operations; in the event that coverage under one or more insurance policies does not exist, is inadequate, or terminates, the Receiver shall have the responsibility for keeping the Mortgaged Property insured and is authorized, at his option, to keep in force the existing insurance policy or policies or obtain insurance coverage through one or more new property and casualty, general liability, umbrella policy, employment practices liability, or worker's compensation policies, or such other insurance coverage as deemed necessary or appropriate by the Receiver and approved by Plaintiff, or as requested by Plaintiff, at commercially reasonable policy limit amounts, each of which shall name the Plaintiff, Receiver, and any Court-approved Property Manager as additional insureds thereunder; and it is further

ORDERED, that the Receiver shall have no obligation to prepare or file state or federal income tax returns on behalf of the Owners and shall not be responsible for paying any unpaid state or federal income taxes on behalf of the Owners; the responsibility for such filings and payments lies exclusively with the Owners, their agents, employees and representatives, and the

Receiver shall permit reasonable access to all books and records relating to the Mortgaged Property as necessary to facilitate such filings and payments by the Owners; and it is further

ORDERED, that, notwithstanding any provision in this Order to the contrary, the Receiver does not assume and is not obligated to assume and will not be obliged to pay, perform or otherwise discharge any employment-related liabilities of the Owners, and the Owners are and will be solely and exclusively liable with respect to all employment-related liabilities, including, without limitation, all of the Owners' liabilities to any former or current employee(s) in any way related to the employee's employment with or separation from the Owners: (a) for salary, wages, commissions, bonuses, benefits, vacation, or any other form of compensation; (b) for employment taxes; (c) arising out of any acts or omissions of the Owners or any of their agents or representatives with respect to any benefit plan, employee practices or employee programs, including employee claims of discrimination, retaliation or other wrongful conduct or discharge decisions; (d) for severance liabilities; (e) for obligations under employment contracts or any other related agreements with employees; (f) for any change of control amounts payable to any employees; (g) for all liabilities under the Worker Adjustment and Retraining Notification Act (WARN) 29 U.S.C. § 2101 *et seq.*, or similar state statute or regulation; and (h) any other statutory or common law claim; and it is further

ORDERED, that the Receiver shall not be liable for any obligations or debts relating to the Mortgaged Property that arose prior to the entry of this Order, the Receiver shall not be obligated to advance funds, and the Receiver's liability is limited to the assets of the receivership; and it is further

ORDERED, that the Receiver, after paying the necessary expenses of the management and care of said Mortgaged Property as provided in this Order, retain the balance of the money which may come into his hands until further order of the Court; and it is further

ORDERED, that out of the Rents collected by the Receiver, the Receiver shall: (a) retain in an official depository an amount sufficient to pay his legal commissions and attorney's fees, if any, which commissions shall be in an amount agreed upon pursuant to an approved Annual Budget, subject in all cases to compliance with statutory limitations on receiver compensation and final approval by the Court; and (b) not incur obligations in excess of the monies in his hands without further order of the Court or written consent of Plaintiffs; and it is further

ORDERED, that, at or before the termination of the receivership, the Receiver may submit to the Court an application for commissions in accordance with CPLR § 8004(a) or for reimbursement of any reasonable and necessary expenditures incurred by the Receiver in connection with the performance of his duties pursuant to this Order, such commissions or reimbursement (if any) to be limited in any case to the total of the Rents, charges, income, profits, or revenues then in the hands of the Receiver; and it is further

ORDERED, that the Receiver or any party hereto may at any time, on proper notice to all parties who may have appeared in this action, apply to this Court for an order or for further instructions or powers necessary to enable such Receiver to properly and faithfully perform his duties; and it is further

ORDERED, that the Receiver shall comply with Sections 6401-04 of the Civil Practice Law and Rules, Section 1325 of the Real Property Actions and Proceedings Law, and Section 35-a of the Judiciary Law; and it is further

ORDERED, that pursuant to Section 36.1 of Part 36 of the Rules of the Chief Judge, the Receiver shall be subject to such Part 36; and it is further

ORDERED, that by accepting this appointment, the Receiver certifies that he is in compliance with Part 36, including Section 36.2 (d) (“Limitations on appointments based upon compensation”), but if he is disqualified from receiving such appointment pursuant to the provisions of Part 36, he shall notify this Court forthwith; and it is further

ORDERED, that by accepting this appointment, the Receiver certifies that he is familiar with the duties and responsibilities of a Receiver, has experience in such area, and is fully capable of assuming, and prepared to assume, those duties and responsibilities, which are commensurate with his abilities; and it is further

ORDERED, that the Receiver appointed herein shall continue his duties as Receiver until the receivership is (i) terminated by Court order, or (ii) automatically terminated upon the settlement of this action, or the closing of title pursuant to the referee’s terms of sale, in either event under subsection (ii), subject to the Receiver’s final accounting and discharge; and it is further


ORDERED, that the Receiver, upon receiving written notifications from Plaintiff’s attorneys that Borrower has entered into a forbearance agreement with Plaintiff, shall cease from his duties until further notification from Plaintiff’s attorneys; and it is further

ORDERED, that, except as authorized herein, the Receiver shall not make any secondary appointments without the prior written approval of the Court, and that the Receiver shall apply to the Court in a separate application for landlord tenant counsel, broker, or other managing services pursuant to 36.1 of the Rules of the Chief Judge; and it is further

ORDERED, that service of a copy of this Order, together with a copy of the papers upon which same is granted, upon the Owners via NYSCEF if they have appeared, or via FedEx or overnight courier at their last known address if they have not appeared, and upon the Receiver via FedEx or overnight courier, shall be deemed good and sufficient service of this Order.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS ORDER TO THE CONTRARY, RECEIVER SHALL NOT APPOINT ANY ATTORNEY, APPRAISER, ACCOUNTANT AGENT OR AUCTIONEER WITHOUT PRIOR AUTHORIZATION OF THIS COURT.

ENTER



JUSTICE, SUPREME COURT

3/4/22

SCHEDULE A
(Legal Description)

The Condominium Unit known as The Hotel Unit, Commercial Unit 2, and The Parking Unit in the premises known as 515 9th Avenue Condominium as designated and described in the Declaration of 515 9th Avenue Condominium made by 511 Property LLC and FSA NY Property LLC, pursuant to Article 9-B of the Real Property Law of The State of New York (the Condominium Act) establishing a plan for condominium ownership of said premises, which Declaration was recorded in the Office of the Register of the County of New York on 01/22/14 in CRFN 2014000026062, as amended by First Amendment to Declaration of Condominium and By-laws of 515 9th Avenue Condominium recorded on 03/26/2014 in CRFN 2014000104651, as further amended by Second Amendment to Declaration of Condominium and By-laws of 515 9th Avenue Condominium dated 3/15/2016 and intended to be recorded, as further amended by Third Amendment to Declaration which amends and restates the Declaration of Condominium of even date herewith and intended to be recorded and said units being also designated as Tax Lot No. 1002 (Hotel Unite), Tax Lot No. 1004 (Commercial Unit 2) and Tax Lot 1005 (Parking Unit) in Block 736 on the tax map of The City of New York for the County of New York in the Real Property Assessment Department of The City of New York and on the Floor Plans of the building (the Building) in which the Unit is contained, Certified by Goldstein, Hill and West Architects, LLP on December 13, 2013 and filed with the Real Property Assessment Department of the City of New York as Condominium Plan No. 2449 and also filed in the said Register's Office on 01/22/14, as Map No. CRFN 2014000026063.

Together with a 22.3119% undivided interest as to Lot 1002, 6.7534% undivided interest as to Lot 1004 and 5.5732% as to Lot 1005 in the common elements.

The land on which said Building is located is bounded and described as follows:

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 a point on the westerly side of Ninth Avenue distant 49 feet 5 inches northerly from the northerly side of West 38th Street;

RUNNING THENCE westerly and parallel with West 38th Street, 100 fee **THENCE** northerly and parallel with Ninth Avenue, 148 feet 1 inch; **THENCE** easterly along the southerly side of West 39th Street, 100 feet;

THENCE southerly along the westerly side of Ninth Avenue, 148 feet 1 to the point or place of **BEGINNING**.