

APN 1219-15-002-032

**WHEN RECORDED MAIL TO:**

R.E. LOANS 02, L.P.  
c/o BAR-K, INC.  
201 LAFAYETTE CIRCLE  
2nd FLOOR  
LAFAYETTE CA 94549

020707446

Loan No. S0226

**DEED OF TRUST, SECURITY AGREEMENT,  
ASSIGNMENT OF LEASES AND RENTS  
AND FIXTURE FILING**

This "Deed of Trust" is dated as of August 27, 2002.

The "Trustor" under this Deed of Trust is DAVID M. SEMAS, a married man.

The Trustor's address is at 2436 GENOA ASPEN DR., GENOA NV 89411.

The "Trustee" under this Deed of Trust is BAR-K, INC., a California corporation.

The "Beneficiary" under this Deed of Trust is R.E. LOANS 02, L.P., a California limited partnership.

Trustor owes Beneficiary the principal sum of \$850,000.00. This debt is evidenced by a certain NOTE SECURED BY DEED OF TRUST dated August 27, 2002 ("Note").

Trustor does irrevocably grant, transfer, and assign to Trustee in trust, with power of sale, all of Trustor's right, title, and interest now owned or later acquired in the real property located in the County of Douglas, State of Nevada, more particularly described as

PARCEL 2 OF "PARCEL MAP FOR MARGARET J. BIGGS AND WILFRED L. JONES",  
RECORDED THE 19TH DAY OF SEPTEMBER, 1985, IN BOOK 985, PAGE 2262, DOCUMENT  
NO. 124005, OFFICIAL RECORDS OF DOUGLAS COUNTY RECORDER, STATE OF NEVADA

together with the rents, issues, and profits derived therefrom (subject to the right granted by this Deed of Trust to Trustor to collect such rents, issues, and profits until there is a default hereunder), for the purpose of securing, in any order of priority that Beneficiary determines: (1) the payment of the indebtedness evidenced by the Note and all extensions, modifications, or renewals of the Note; (2) the payment of the interest on that indebtedness according to the terms of the Note; (3) the payment of all

other sums becoming due and payable to Beneficiary pursuant to the terms of the Note or this Deed of Trust; (4) the performance of every other obligation contained in the Note and this Deed of Trust; and, (5) the payment of all other sums and performance all other obligations owed by Trustor to Beneficiary that by their terms recite that they are secured by this Deed of Trust (sometimes referred to collectively, as the "Secured Obligations").

Trustor also grants, transfers, and assigns to Trustee in trust, with power of sale, all of Trustor's right, title, and interest now owned or later acquired in the following property to the extent that the same is located on or related to the real property described above:

Improvements. All buildings, structures, fixtures, and improvements now or hereafter located on the real property;

Easements and Permits. All easements, rights-of-way, licenses, strips and gores of land, streets, alleys, sewer rights, water, water courses, water rights, water stock, air rights, mineral rights, utility deposits, permits, approvals, development agreements, development entitlements, franchises, consents, plans, and specifications now or hereafter relating to the real property;

Fixtures and Personal Property. All inventory, merchandise, goods, stock in trade, machinery, furnishings, equipment, fixtures (including but not limited to all heating, air conditioning, plumbing, fire suppression, lighting, fans, alarm systems, communications, and elevator fixtures), and other personal property of every kind and nature, whether tangible or intangible, now or hereafter located upon the real property including, without limitation, chairs, desks, lamps, mirrors, bookcases, tables, couches, shelves, outdoor furniture, grills, cabinets, rugs, carpeting, floor coverings, draperies and drapery rods and brackets, curtains, shades, venetian blinds, screens, awnings, paintings, hangings, pictures, keys or other entry systems, cable t.v. equipment, intercom equipment, electric and electronic equipment, private telephone systems, heating, lighting and plumbing fixtures, fire prevention and extinguishing apparatus, fittings, plants, stoves, ranges, microwaves, dishwashers, garbage disposal units, refrigerators, washers and dryers, tools, lawn mowers, pool equipment, exercise equipment, vending machines, machinery, water heaters, incinerators, machines, engines, boilers, dynamos, elevators, stokers, tanks, and all materials and supplies of any nature whatsoever owned by Trustor, or in which Trustor has or shall have an interest, and all proceeds and products of the above;

Leases and Rents. All present and future leases and subleases affecting the use, enjoyment, or occupancy of the real property, or Property related to the real property, and all rents, revenues, issues, and profits derived therefrom (including all oil and gas or other mineral royalties and bonuses), and all right, title, and interest of Trustor in any cash or securities deposited with Trustor or any other person to secure the performance by the lessees of their obligations thereunder.

Condemnation Awards. All awards or payments, including interest thereon, which may be made with respect to the real property or Property as a result of the exercise of the right of eminent domain (including but not limited to any transfer made in settlement of such the right);

Insurance Proceeds. All proceeds of, and any unearned premiums on, any insurance policies covering the real property or Property;

Refunds. All refunds, rebates, or credits in connection with a reduction in real estate taxes or assessments charged against the real property or Property;

Agreements. All agreements (including agreements relating to washers, dryers, and vending machines), contracts, escrows, escrow deposits, and other arrangements, now or hereafter entered into, respecting or pertaining to the use, occupation, construction, management or operation of the real property or Property.

Trademarks. All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books, and records and all other general intangibles relating to or used in connection with the operation of the real property or Property;

Intangibles. All accounts, accounts receivable, book, records, documents, instruments, chattel paper, claims, warranties, general intangibles, actions, claims, suits, judgments, proofs of claim in bankruptcy, and causes of action which now or hereafter relate to, are derived from, or are used in connection with the real property or Property; and

Proceeds. Any and all proceeds derived from the sale, transfer, assignment, or financing of the real property or Property or any portion thereof.

The term "Property" when used in this Deed of Trust includes the real property.

Until the entire indebtedness evidenced by the Note or secured by this Deed of Trust has been paid in full, Trustor covenants and agrees as follows:

1. **General Obligations.** Trustor will timely perform all the covenants, agreements, terms, and conditions to be performed by Trustor: (i) under this Deed of Trust; (ii) under the Note; and (iii) under all other agreements between Trustor and Beneficiary. Without limiting the generality of any other provision of this Deed of Trust, if at any time Trustor fails to pay or perform any obligation secured hereby, Beneficiary shall have the right, but not the obligation, to take such action as Beneficiary deems necessary to protect its interest in the Property, including, without limitation, the right to pay or perform such obligation, and all expenses incurred by Beneficiary in connection therewith shall be paid by Trustor to Beneficiary upon demand.

2. **Insurance.** (a) Until all indebtedness secured by this Deed of Trust has been paid in full, Trustor shall obtain and maintain insurance with at least the following coverages: (i) comprehensive all risk insurance (including, without limitation, riot and civil commotion, vandalism, malicious mischief, water, fire, burglary, and theft) on the Property covering full replacement cost; (ii) flood hazard insurance if any portion of the Property is currently or at any time in the future located in a federally designated special flood hazard area (it being the responsibility of Trustor to determine if the Property is located in such an area); and (iii) such other insurance, including earthquake, and in such amounts as Beneficiary from time to time may reasonably request. If the Property encumbered by this Deed of Trust is commercial property (including an apartment complex), Trustor shall also maintain (i) comprehensive general liability insurance against claims for personal injury, bodily injury, death or

property damage occurring upon, in or about the Property, such insurance to be on the so-called "occurrence" form with a combined single limit of not less than \$1 million; and (ii) business income or rent interruption insurance covering losses of income derived from the Property resulting from any risk or casualty in an amount equal to 100% of the projected gross income from the Property for a period of twelve months.

(b) All insurance shall be in such forms and in such amounts as may from time to time be satisfactory to Beneficiary, issued by financially sound and responsible insurance companies reasonably acceptable to Beneficiary. All policies of insurance shall name Beneficiary, its successors and assigns, or other designees of Beneficiary, as loss payees and as the insured or an additional insured.

(c) All Policies of insurance shall contain clauses or endorsements to the effect that: the Policy shall not be materially changed (other than to increase the coverage provided on the Property thereby) or canceled without at least thirty (30) days' prior written notice to Beneficiary; and, each Policy shall provide that the issuers thereof shall give written notice to Beneficiary if the Policy has not been renewed thirty (30) days prior to its expiration.

(d) Not less than thirty (30) days prior to the expiration dates of any insurance, certified copies of the policies or binders marked "premium paid" or accompanied by evidence satisfactory to Beneficiary of payment of the premiums shall be delivered by Trustor to Beneficiary. If at any time Beneficiary is not in receipt of written evidence that all insurance required hereunder is in full force and effect, Beneficiary shall have the right, but not the obligation, without notice to Trustor, to take such action as Beneficiary deems necessary to protect its interest in the Property, including, without limitation, the obtaining of such insurance coverage as Beneficiary in its sole discretion deems appropriate. All expenses incurred by Beneficiary in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by Trustor to Beneficiary upon demand.

(e) Trustor will promptly notify Beneficiary in writing after any loss or damage caused by fire or other casualty to the Property, and prior to the making of any repairs or the collection of any insurance proceeds Trustor will furnish to Beneficiary with: (i) evidence satisfactory to Beneficiary that sufficient funds are available to Trustor, including insurance proceeds, to complete the repair or reconstruction; and (ii) evidence satisfactory to Beneficiary that the repair or reconstruction may be completed in accordance with all applicable laws, rules, regulations, and ordinances and that all necessary permits and approvals have been or will be obtained. If Trustor does not furnish this evidence to Beneficiary within a reasonable period, or if Beneficiary in its sole discretion determines that repair or reconstruction is not economically feasible, then Beneficiary will have the option to have all insurance proceeds paid directly to Beneficiary and applied against the indebtedness secured by this Deed of Trust. If Beneficiary elects this option, Trustor will immediately transfer to Beneficiary all insurance proceeds, if any, previously received by it. If the insurance proceeds exceed the indebtedness, any excess insurance proceeds will belong to and be paid over to Trustor.

3. **Condemnation.** Immediately upon obtaining knowledge of the institution of any proceedings for the condemnation of the Property or any portion of it, Trustor shall notify Beneficiary of the pendency of the proceedings. Beneficiary may participate in any proceedings and Trustor shall deliver to Beneficiary all instruments requested by Beneficiary to permit participation. If there are

condemnation proceedings, the award or compensation shall be paid to Beneficiary. Beneficiary will be under no obligation to question the amount of any award or compensation and may accept it in the amount in which it is paid. In any condemnation proceedings, Beneficiary may be represented by counsel selected by Beneficiary. The proceeds of any award or compensation received will, at the option of Beneficiary, either be applied to the prepayment of the Note or be paid over to Trustor for restoration of the improvements on the Property.

4. **Maintenance, Waste, and Repair.** Trustor will maintain the improvements on the Property now or later existing in good condition and repair, and will not structurally alter them without the prior written consent of Beneficiary, nor remove or demolish them in whole or in part, nor will Trustor suffer any waste of the Property (including the nonpayment of taxes or insurance premiums) or make any change in the use of the Property that will in any way impair the security of this Deed of Trust. Trustor will not abandon the Property or leave the Property unprotected, vacant, or deserted. Trustor will not permit any of the fixtures to be removed at any time from the Property without the prior written consent of Beneficiary unless actually replaced by articles of equal suitability and value. Trustor will not initiate, join in, or consent to any change in any zoning of the real property without the prior written consent of Beneficiary.

5. **Taxes.** Trustor will pay when due all real estate and personal property taxes and other assessments pertaining to the Property. Within 5-days of written demand Trustor will provide Beneficiary with reasonable written evidence showing that all taxes and assessments have been paid. If at any time Beneficiary fails to pay any of the taxes or assessments, Beneficiary shall have the right, but not the obligation, without notice to Trustor, to take such action as Beneficiary deems necessary to protect its interest in the Property, including, without limitation, the right to pay such taxes and assessments, and all expenses incurred by Beneficiary in connection therewith shall be paid by Trustor to Beneficiary upon demand.

6. **Impositions.** Trustor will faithfully perform every covenant to be performed by Trustor, and pay any sum to be paid by Trustor, under any lien, encumbrance, or ground lease, including mortgages, deeds of trust, leases, CC&Rs, and other agreements that affect the Property, that may be prior and superior to or on a parity with the lien or charge of this Deed of Trust. Within 5-days of written demand Trustor will provide Beneficiary with reasonable written evidence showing that all such obligations have been paid or performed. A breach of or a default under any such lien or encumbrance will constitute a default under this Deed of Trust. If Trustor fails to pay or perform any such obligation, Beneficiary, without demand or notice and in its sole judgment, may take such action as Beneficiary deems necessary to cure any such default, including the payment of the same, and all expenses incurred by Beneficiary in connection therewith shall be paid by Trustor to Beneficiary upon demand.

7. **Leasehold Protection.** If Trustor's interest in the real property or Property, or any portion thereof, is that of a lessee, then Trustor shall: (i) pay prior to delinquency all rent and other charges that fall due under the provisions of such lease; (ii) fully, faithfully, and punctually observe and perform all other terms, covenants, agreements, and conditions required of it under the terms of such lease; (iii) promptly notify Beneficiary, in writing, of the default by Trustor or the lessor under any provisions of such lease, or of the occurrence of any event which, with notice or the passage of time, would constitute a default under such lease; (iv) promptly cause any notice which it receives from the lessor under such

lease to be delivered to Beneficiary; (v) if any indebtedness secured by this Deed of Trust remains unpaid at a time when notice may or must be given by Trustor of the exercise of any right or option to extend the term of such lease, then Trustor shall promptly give notice of the exercise of such right or option in accordance with the provisions of such lease; (vi) promptly notify the lessor under such lease of the existence and execution of this Deed of Trust and the name and address of Beneficiary; and (vii) not terminate, cancel, surrender, modify, change, alter, or amend such lease, either orally or in writing, without the written consent of Beneficiary.

8. **Interest.** Any sums expended by Beneficiary in accordance with the provisions of this Deed of Trust shall bear interest from the date expended until the date repaid at the interest rate specified in the Note (including the default interest rate set forth in the Note, if any), if any such sum is not paid by Trustor to Beneficiary within 5-days of written demand.

9. **Impounds** At the request of Beneficiary, Trustor will pay to Beneficiary on a monthly basis an amount equal to one-twelfth of the annual cost of taxes, assessments, and insurance on the Property. The accumulated funds will be released to Trustor for payment of taxes, assessments, and insurance premiums, or may be directly applied by Beneficiary, if Beneficiary elects.

10. **Compliance with Law.** Trustor will comply with all present and future laws, ordinances, rules, regulations, and requirements of every governmental authority or agency and of every board of fire underwriters (or similar body exercising similar functions) having jurisdiction that may be applicable to it or to the Property or to the use or manner of occupancy, possession, operation, maintenance, alteration, or repair of the Property or any part of it, whether the law, ordinance, rule, order, regulation, or requirement necessitates structural changes or improvements or interferes with the use or enjoyment of the Property.

11. **Statement of Unpaid Balance.** Beneficiary, within the time allowed by law, and upon the payment of the maximum charge permitted by law (currently \$60.00), will furnish a beneficiary statement or payoff demand statement in accordance with the provisions of Civil Code '2943.

12. **Indemnity.** If any action or proceeding is threatened or commenced that affects the Property or any portion of it, or becomes necessary to defend or uphold the lien of this Deed of Trust, then all costs, fees, and expenses incurred by Beneficiary with respect to the action or proceeding (including, without limitation, attorney fees and expenses) will, within ten (10) days of demand, be paid by Trustor. In addition, Trustor agrees to pay all costs, including, without limitation, attorney fees and expenses, incurred by Beneficiary in enforcing the terms of the Note or this Deed of Trust. Trustor agrees to indemnify and hold Beneficiary harmless from all liability, loss, damage, or expense (including, without limitation, attorney fees) that it may incur under this Deed of Trust, or in connection with the making of any of the loans or financial arrangements secured by this Deed of Trust, the enforcement of any of Beneficiary's rights or remedies, any action taken by Beneficiary under this Deed of Trust, or by reason or in defense of any claims or demands that may be asserted against Beneficiary arising out of the Property or this Deed of Trust.

13. **Due on Sale.** Trustor shall not transfer the Property without the prior written consent of Beneficiary, which consent may be withheld in Beneficiary's sole discretion. Consent to one transfer

shall not be deemed to be a waiver of the right to require consent to other transfers. Except for a transfer resulting in a partial reconveyance of this Deed of Trust if the Note or this Deed of Trust has a partial release clause, if Trustor transfers the Property or any portion thereof, or any interest therein, without first obtaining the written consent of Beneficiary, all indebtedness secured by this Deed of Trust shall, at the option of Beneficiary and without notice or demand, become immediately due and payable. As used herein, transfer includes, but is not limited to, the sale, option to sell, contract to sell, conveyance, or lease with option to purchase of the Property, or any portion thereof, or any interest therein, whether voluntary, involuntary, by operation of law, or otherwise, or the transfer of more than a 50% interest of Trustor if Trustor is anything other than a natural person.

**14. Environmental Provisions.** Trustor acknowledges and agrees that Beneficiary has all of the rights of a secured party under the provisions of Nevada Revised Statutes Section 40.501 through 40.512. If the foregoing legislation is amended or superceded by other statute(s) after the date of recordation of this Deed of Trust, then Beneficiary shall have the right to elect to be governed by the foregoing legislation as of the date of recordation of this Deed of Trust, or as of the date of enforcement of Beneficiary's rights thereunder (as amended or superceded), unless the amended or new statute(s) mandate another result.

**15. Assignment of Leases, Rents, Issues, and Profits.** Trustor does hereby sell, assign and transfer unto Beneficiary all of the leases, rents, income and profits now due and which may hereafter become due under or by virtue of any lease, whether written or oral, or any agreement for the use or occupancy of the Property, it being the intention of Trustor and Beneficiary to establish an absolute transfer and assignment of all such leases and agreements, and all of the rents and profits from the Property unto the Beneficiary, and the Trustor does hereby appoint irrevocably the Beneficiary its true and lawful attorney in its name and stead, which appointment is coupled with an interest, to collect all of said rents and profits; provided, Beneficiary grants the trustor the privilege to collect and retain such rents, income, and profits unless and until a default exists under this Deed of Trust. Upon the occurrence of a default, and whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale of the Property, or during any period of redemption, and without regard to waste, adequacy of the security or solvency of the Trustor, the Beneficiary may revoke the privilege granted Trustor hereunder to collect the rents, issues and profits of the Property, and may, at its option, without notice:

- (i) in person or by agent, with or without taking possession of or entering the Property, with or without bringing any action or proceeding, give, or require Trustor to give, notice to any or all tenants under any lease authorizing and directing the tenant to pay such rents and profits to Beneficiary; collect all of the rents, issues and profits; enforce the payment thereof and exercise all of the rights of the landlord under any lease and all of the rights of Beneficiary hereunder; may enter upon, take possession of, manage and operate said Property, or any part thereof; may cancel, enforce or modify any leases, and fix or modify rents, and do any acts which the Beneficiary deems proper to protect the security hereof with or without taking possession of the Property; or

(ii) apply for the appointment of a receiver in accordance with Nevada law, which receivership Trustor hereby consents to, who shall collect the rents, profits and all other income of any kind; manage the Property so as to prevent waste; and execute leases which may expire within or after the period of receivership.

(a) Neither the assignment of leases and rents set forth above nor any other provision of any of the Documents shall impose upon Beneficiary any duty to produce rents from the Property or cause Beneficiary to be (a) a "mortgagee in possession" for any purpose, (b) responsible for performing any of the obligations of the lessor under any Lease, or (c) responsible or liable for any waste by any lessees or any other parties, for any dangerous or defective condition of the Property, for any negligence in the management, upkeep, repair or control of the Property, or for any other act or omission by any other person. The foregoing assignment is an absolute assignment and not an assignment for security only, and Beneficiary's right to the rents is not contingent upon its possession of the Property.

(b) Trustor hereby directs each tenant of the Property, or any portion thereof, to pay such rents to Beneficiary or Beneficiary's agent, and irrevocably appoints Beneficiary as its true and lawful attorney-in-fact, at the option of Beneficiary, at any time and from time to time, to demand, receive and enforce payment, to give receipts, releases and satisfactions and to use, in the name of Trustor or Beneficiary, for all such leases and rents and apply the same to the Secured Obligations; provided, however, Beneficiary confers upon Trustor the authority to collect and retain the rents as they become due and payable, subject, however, to the right of Beneficiary to revoke said authority at any time after the occurrence of a default hereunder, and without taking possession of all or any part of the Property. Trustor shall not accept any deposit or prepayment of rental or lease payment in excess of one (1) month in advance. Beneficiary at any time may require that all deposits and prepayments be delivered to Beneficiary. Trustor covenants and agrees that Trustor shall not (i) amend, modify or change any term, covenant or condition of any lease in existence on the date of this Deed of Trust without the prior written consent of Beneficiary, or (ii) enter into any lease of the Property, or any interest therein, or any portion thereof, from and after the date of this Deed of Trust without the prior written consent of Beneficiary. Trustor agrees that commencing with a default, each tenant of the Property, or any portion thereof, shall make such rents payable to and pay such rents to Beneficiary, or Beneficiary's agent, upon Beneficiary's written demand to each tenant therefor, without any liability on the part of such tenant to inquire further as to the existence of a default by Trustor, provided, however, in the event of Trustor's cure of any such default as herein provided, Trustor shall again be entitled to recover and collect such rents as provided above prior to the default.

(c) Trustor shall (i) fulfill or perform each and every condition and covenant of each lease to be fulfilled or performed by the lessor thereunder, (ii) give prompt notice to Beneficiary of any notice of default by the lessor or the lessee thereunder received by Trustor together with a complete copy of any such notice, and (iii) enforce, short of termination thereof, the performance or observance of each and every covenant and condition thereof by the lessee thereunder to be performed or observed.



(d) Trustor shall furnish to Beneficiary, within thirty (30) days after a request by Beneficiary, a written statement containing the names of all lessees of the Property, the terms of their respective leases, the space occupied, and the rentals payable and received thereunder and a copy of each lease.

(e) All leases shall provide for the subordination, in form and substance satisfactory to Beneficiary, of such leases to this Deed of Trust and all extensions, renewals and modifications thereof. In addition, each lease shall provide that in the event of the enforcement by Trustee or Beneficiary of the remedies provided at law or by this Deed of Trust, each lessee under a lease shall, if requested by Beneficiary as a result of such enforcement, automatically become the lessee of Beneficiary, without any change in the terms or other provisions of the respective lease; provided, Beneficiary shall not be (i) bound by any payment of rent or other sum more than one (1) month in advance, except payments in the nature of security, (ii) bound by any amendment or modification to the respective lease made without the consent of Beneficiary, (iii) liable for damages or any act or omission of any prior lessor, or (iv) subject to any offsets or defenses which such lessee might have against any prior lessor.

**16. Lease Obligations.** Trustor covenants and agrees, at Trustor's sole cost and expense: (i) to perform all obligations of the lessor under any leases and subleases for the Property and to enforce performance by the lessees of their obligations under any leases or subleases; (ii) to enforce all remedies available to Trustor in case of default by the lessees under any leases or subleases for the Property and prosecute and defend any action, arbitration, or other controversy relating to any of any leases or subleases; (iii) to give Beneficiary prompt notice of any default that occurs under any leases or subleases for the Property, whether by the lessees or Trustor; (iv) if the Property is rental Property to exercise diligent, good-faith efforts to keep all portions of the Property leased at all times and at rentals not less than the fair market rental value; and (v) to promptly, upon execution or demand by Beneficiary, deliver to Beneficiary copies of all leases and subleases relating to the Property.

**17. Default; Remedies.** Upon the occurrence of a default, Beneficiary may at any time, at its option and in its sole discretion, declare all Secured Obligations to be due and payable and the same shall thereupon become immediately due and payable, including any prepayment charge or fee payable under the terms of any Secured Obligation; provided, upon the occurrence of any event which causes the automatic acceleration of any Secured Obligation in accordance with the terms of the Note or this Deed of Trust, all Secured Obligations shall automatically become immediately due and payable. Beneficiary may also do any or all of the following, although it shall have no obligation to do any of the following:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of Beneficiary's security, enter upon and take possession of the Property, or any part thereof, and do any acts which Beneficiary deems necessary or desirable to preserve the value, marketability or rentability of the Property, or to increase the income therefrom or to protect the security hereof and, with or without taking possession of any of the Property, sue for or otherwise collect all rents and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorney's fees and expenses, upon the Secured Obligation, all in such order as Beneficiary may determine. The collection of rents and profits and the application

thereof shall not cure or waive any default or notice thereof or invalidate any act done in response thereto or pursuant to such notice. If Beneficiary elects to seek the appointment of a receiver for the Property, or any portion thereof, Trustor hereby expressly consents to the appointment of such receiver and authorizes the appointment of Beneficiary as such receiver. Beneficiary or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

(b) Bring an action in any court of competent jurisdiction to foreclose this instrument or to enforce any of the covenants hereof.

(c) Exercise any or all of the remedies available to a secured party under Article 9 of the Uniform Commercial Code (sometimes referred to herein as the "UCC"), including, but not limited to:

(i) either personally or by means of a court appointed receiver, take possession of all or any of the Collateral (below defined) and exclude therefrom Trustor and all others claiming under Trustor and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Trustor in respect to the Collateral; and in the event Beneficiary demands or attempts to take possession of the Collateral in the exercise of any of its rights hereunder, Trustor promises and agrees promptly to turn over and deliver complete possession thereof to Beneficiary;

(ii) without notice to or demand upon Trustor, make such payments and do such acts as Beneficiary may deem necessary to protect its security interest in the Collateral, including, without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior or superior to the security interest granted hereunder, and in exercising any such powers or authority, to pay all expenses incurred in connection therewith;

(iii) require Trustor to assemble the Collateral or any portion thereof at a place designated by Beneficiary and promptly to deliver such Collateral to Beneficiary or an agent or representative designated by it. Beneficiary, its agent and representatives, shall have the right to enter upon any or all of the Trustor's premises and property to exercise the Beneficiary's rights hereunder; and

(iv) sell, lease or otherwise dispose of the Collateral at public sale, with or without having the Collateral at the place of sale, and upon such terms and in such manner as Beneficiary may determine, and Beneficiary may be a purchaser at any such sale. Beneficiary shall not be deemed to have accepted any property other than cash in satisfaction of any Secured Obligation unless Beneficiary shall make an express written election of said remedy under UCC §9505 or other applicable law.

(d) Elect to sell by power of sale the portion of the Property which is real property or which Beneficiary has elected under the UCC to treat as real property and, upon such election,

such notice of default and election to sell shall be given as may then be required by law. Thereafter, upon the expiration of such time and the giving of such notice of sale as may then be required by law, at the time and place specified in the notice of sale, Trustee shall sell such portion of the Property, or any portion thereof specified by Beneficiary, at public auction to the highest bidder for cash in lawful money of the United States. Trustee may, and upon request of Beneficiary shall, from time to time, postpone the sale by public announcement thereof at the time and place noticed therefor. If the Property consists of several lots, parcels or interests, Beneficiary may designate the order in which the same shall be offered for sale or sold. Should Beneficiary desire that more than one such sale or other disposition be conducted, Beneficiary may, at its option, cause the same to be conducted simultaneously, or successively on the same day, or at such different days or times and in such order as Beneficiary may deem to be in its best interest. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. Upon any sale, Trustee shall execute and deliver to the purchaser or purchasers a deed or deeds conveying the Property so sold, but without any covenants or warranty whatsoever, express or implied, whereupon such purchaser or purchasers shall be let into immediate possession.

(e) Exercise each of its other rights and remedies under this Deed of Trust and each of the other documents.

(f) Except as otherwise required by law, apply the proceeds of any foreclosure or disposition hereunder to payment of the following: (i) the expense of such foreclosure or disposition, (ii) the cost of any search or other evidence of title procured in connection therewith and revenue stamps on any deed or conveyance, (iii) all sums expended under the terms hereof, not then repaid, with accrued interest in the amount provided herein, (iv) all other sums secured hereby and (v) the remainder, if any, to the person or persons legally entitled.

(g) Upon any sale or sales made under or by virtue of this section, whether made under the power of sale or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Beneficiary may bid for and acquire the Property or any part thereof. In lieu of paying cash for the Property, Beneficiary may make settlement for the purchase price by crediting the Secured Obligations, or any portion thereof, against the sales price of the Property.

(h) Trustor agrees to pay any deficiency arising from any cause after application of the proceeds of the sale held in accordance with applicable law and the provisions hereof.

(i) Covenants 1, 3, 4 (interest at the Note rate), 5, 6, 7 (reasonable counsel fees), 8 and 9 of NRS 107.030 are hereby adopted by reference and made a part hereof to the extent not inconsistent with any other provisions contained herein.

If a default occurs under the provisions of the Note, this Deed of Trust, or any other agreement secured by this Deed of Trust, then Beneficiary may declare all the indebtedness secured by this Deed of Trust to be due and payable in full without any further presentment, demand, protest, or notice of any kind, and Beneficiary may: (i) in person, by agent, or by a receiver (whom Trustor agrees may be appointed ex parte and without notice), and without regard to the adequacy of security, the solvency of Trustor, or the existence of waste, enter on and take possession of the Property or any part of it; (ii)

commence an action to foreclose this Deed of Trust; (iii) commence non judicial foreclosure proceedings; or (iv) exercise any of these remedies in combination, or any other remedy provided by this Deed of Trust, or any other remedy at law or in equity.

18. [Intentionally Left Blank]

**19. Security Agreement.** This Deed of Trust also constitutes a security agreement, on all of the terms and conditions set forth herein, to the extent that any of the Property is severable from the real property ("Collateral"). Trustor agrees that as to the Collateral Beneficiary shall have all of the rights and remedies of a secured party under the Nevada Commercial Code, as well as all other rights and remedies available at law or in equity. Trustor agrees to execute and deliver on demand, and irrevocably constitutes and appoints Beneficiary the attorney-in-fact of Trustor to execute, deliver, and file, any security agreements, financing statements, continuation statements, or other instruments that Beneficiary may require to impose, perfect, or continue the perfection of the lien or security interest created by this Deed of Trust. On the occurrence of any default under the provisions of the Note, this Deed of Trust, or any other agreement secured by this Deed of Trust, Beneficiary shall have the right to enforce any and all of the rights and/or remedies of a secured party under the Nevada Commercial Code including, without limitation: (i) the right to require Trustor to immediately assemble all or any portion of the Collateral and to make the same available to Beneficiary at a place designated by Beneficiary; (ii) the right to immediately take physical possession of all or any portion of the Collateral wherever it may be found, using all necessary lawful force to do so, and to exclude Trustor from such possession, and Trustor waives all claims to damages arising from or connected with any such taking or exclusion; (iii) the right to proceed with the foreclosure sale of all or any portion of the Collateral, from time to time, in any manner as may be permitted by Nevada Commercial Code; and, in Beneficiary's discretion, to operate all or any portion of the Collateral as a going concern pending the completion of any foreclosure sale; and (iv) the right to sell all or any portion of the Collateral at one or more public or private sales with or without having said Collateral at the place of sale, and upon such terms and in such manner as Beneficiary may determine, and Beneficiary is authorized to purchase the same at any such sale. Prior to any sale, Beneficiary may, at its option, repair or recondition all or any portion of the Collateral to such extent as Beneficiary may deem advisable and any sums expended therefor by Beneficiary shall be immediately repaid by Trustor. Expenses of retaking, holding, and preparing for sale, selling, or the like will be borne by Trustor and will include Beneficiary's and Trustee's attorney fees and legal expenses. Beneficiary will give Trustor at least ten (10) days' prior written notice of the time and place of any public sale or other disposition of the Collateral or of the time of or after which any private sale or any other intended disposition is to be made. If the notice is sent to Trustor in the manner provided for the mailing of notices in this Deed of Trust, it is deemed reasonable notice to Trustor.

**20. Fixture Filing.** This Deed of Trust covers goods which are or are to become fixtures, and constitutes a financing statement filed as a fixture filing, and it shall be recorded in the Official Records of the County Recorder of the county in which the Property is located with respect to all fixtures included within the term "Property" as used in this Deed of Trust and with respect to any goods, Collateral, or other personal property that may now be or later become fixtures. The address of Beneficiary, from which information concerning this security interest may be obtained, is set forth in the upper left corner of page 1 of this Deed of Trust.

**21. Protection of Security.** If an Event of Default occurs and is continuing, Beneficiary or Trustee, without any obligation to do so, without notice to or demand upon Trustor, and without releasing Trustor from any obligations or defaults may: (i) enter on the Property in any manner and to any extent that either deems necessary to protect the security of this Deed of Trust; (ii) appear in and defend any action or proceeding purporting to affect, in any manner, the Property; (iii) pay, purchase, or compromise any encumbrance, charge, or lien that in the judgment of Beneficiary or Trustee is prior or superior to this Deed of Trust; and (iv) pay necessary expenses, employ counsel, and pay reasonable attorney fees. Trustor agrees to repay on demand all sums expended by Trustee or Beneficiary pursuant to this Section with interest at the Rate specified in the Note, and those sums, with interest, will be secured by this Deed of Trust.

**22. Receiver.** If a default under the provisions of the Note, this Deed of Trust, or any agreement secured by this Deed of Trust occurs, Beneficiary, as a matter of strict right and without notice to Trustor or anyone claiming under Trustor and without regard to the then value of the Property, will have the right to apply ex parte to any court having jurisdiction to appoint a receiver to take possession of the Property, and Trustor waives notice of any such application, provided a hearing to confirm the appointment with notice to Trustor is set within fourteen (14) days after the appointment. Any receiver will have all the powers and duties of receivers in similar cases, including the right to encumber or sell the Property with the approval of both Beneficiary and the court after proper notice and a hearing.

**23. Remedies Cumulative.** Every power or remedy given by this instrument to Trustee or Beneficiary may be exercised from time to time and as often may be deemed expedient by Trustee or Beneficiary. If there exists multiple items of collateral securing the performance of the obligations secured hereby, the holder of the Note, at its sole option and without limiting or affecting any rights or remedies hereunder, may exercise any of the rights and remedies to which it may be entitled either concurrently, or from time to time, with whatever other rights it may have in connection with such any other collateral in such order as it may determine. All rights, powers, and remedies provided for in this Deed of Trust are cumulative and will be in addition to all other rights and remedies provided by law. The exercise of any right, power, or remedy will not prejudice Beneficiary in the exercise of any of its other rights.

**24. Successor Trustee.** Beneficiary may remove Trustee or any successor trustee at any time and appoint a successor trustee by recording a written substitution in the county where the Property is located, or in any manner permitted by law. Upon that appointment, all of the powers, rights, and authority of Trustee will immediately become vested in the successor.

**25. No Waiver.** No waiver by Beneficiary of any default or breach by Trustor will be implied from any omission by Beneficiary to take action on account of that default if the default persists or is repeated. Also, no express waiver will affect any default other than the default expressly waived, and the waiver will be operative only for the time and to the extent stated. A waiver of any covenant, term, or condition in this Deed of Trust will not be construed as a waiver of any subsequent breach of the same covenant, term, or condition. The consent or approval by Beneficiary for any act by Trustor requiring further consent or approval will not be deemed to waive or render unnecessary the consent or approval for any subsequent similar act.

**26. Notices.** All notices, advices, demands, requests, consents, statements, satisfactions, waivers, designations, refusals, confirmations, or denials that may be required or contemplated under this Deed of Trust for any party to serve on or give to any other will be in writing, and if not in writing, will not be deemed to have been given.

**27. Survival.** The covenants and agreements in this Deed of Trust will bind and inure to the benefit of Beneficiary and Trustor and their successors and assigns. It is agreed that Beneficiary may assign the Note or this Deed of Trust or grant a participation to one or more lenders, free from any right of counterclaim, recoupment, or setoff by Trustor.

**28. Severability.** If any term, provision, covenant, or condition of this Deed of Trust or any application of it is held by a court of competent jurisdiction to be invalid, void, or unenforceable, in whole or in part, all terms, provisions, covenants, and conditions of this Deed of Trust and all applications of it not held invalid, void, or unenforceable will continue in full force and will not be affected, impaired, or invalidated.

**29. Rights of Beneficiary and Trustee.** At any time and from time to time, without liability and without notice, and without releasing or otherwise affecting the liability of any person for payment of any indebtedness secured by this Deed of Trust: (i) Beneficiary, at its sole discretion and only in writing, may extend the time for or release any person now or later liable for payment of any indebtedness secured by this Deed of Trust, or accept or release additional security, or subordinate the lien or charge of this Deed of Trust; or (ii) Trustee, on written request of Beneficiary and presentation of the Note, any additional notes secured by this Deed of Trust, and this Deed of Trust for endorsement, may reconvey any part of the Property, consent to the making of any map or plat of it, join in granting any easement on it, or join in any agreement of extension or subordination. On Beneficiary's written request and surrender of the Note, any additional notes secured by this Deed of Trust, and this Deed of Trust to Trustee for cancellation, and on payment to Trustee of its fees and expenses, Trustee will reconvey without warranty the then trust property. The recitals in any reconveyance will be conclusive proof of the truthfulness of them, and the grantee in any reconveyance may be described as the person legally entitled.

**30. No Merger.** So long as any of the indebtedness secured by this Deed of Trust remains unpaid or Trustor has any further obligation under this Deed of Trust, unless Beneficiary otherwise consents in writing, the fee estate of Trustor in the Property or any part of it will not merge, by operation of law or otherwise, with any leasehold or other estate in the Property or any part of it, but will always be kept separate and distinct, regardless of the union of the fee estate and the leasehold or other estate in Trustor or any other person.

**31. Inspection of Property.** Beneficiary is authorized by itself or its agents, employees, or workers to enter the Property at any reasonable time for the purpose of inspecting it, and for the purpose of performing any of the acts it is authorized to perform under the terms of this Deed of Trust. Trustor agrees to cooperate with Beneficiary to facilitate any inspection.

**32. Waiver of Statute of Limitations.** The pleading of any statute of limitations as a defense to any obligations secured by this Deed of Trust is waived, to the fullest extent permissible by law.

**33. Entire Agreement.** This Deed of Trust shall not be amended except by a written instrument duly executed by Trustor and Beneficiary.

**34. Waiver of Marshaling Rights.** Trustor, for itself and for all parties claiming through or under Trustor, and for all parties who may acquire a lien on or interest in the Property, waives all rights to have the Property or any other property that now or later may be security for any obligation secured by this Deed of Trust marshaled on any foreclosure.

**35. Acceptance of Trust, Powers and Duties of Trustee.** Trustee accepts this trust when this Deed of Trust is recorded. From time to time on written request of Beneficiary and presentation of this Deed of Trust for endorsement, and without affecting the personal liability of any person for payment of any indebtedness or the performance of any obligations, Trustee may: (i) reconvey all or any part of the Property; (ii) consent to the making of any map or plat; and (iii) join in any grant of easement, any declaration of covenants, conditions, and restrictions, any extension agreement, or any agreement subordinating the lien or charge of this Deed of Trust. Except as may be required by applicable law, Trustee or Beneficiary may from time to time apply to any court of competent jurisdiction for aid and direction in the execution of the trust and the enforcement of the rights and remedies available, and may obtain orders or decrees directing, confirming, or approving acts in the execution of the trust and the enforcement of the remedies. Trustee has no obligation to notify any party of any pending sale or any action or proceeding, including, without limitation, actions in which Trustor, Beneficiary, or Trustee will be a party, unless held or commenced and maintained by Trustee under this Deed of Trust. Trustee will not be obligated to perform any act required of it under this Deed of Trust unless the performance of the act is requested in writing and Trustee is reasonably indemnified and held harmless against any loss, cost, liability, or expense.

**36. Releases, Extensions, Modifications, and Additional Security.** Without notice to or the consent, approval, or agreement of any persons or entities having any interest at any time in the Property, Beneficiary may, from time to time, release any person or entity from liability for the payment or performance of any obligation secured by this Deed of Trust; take any action or make any agreement extending the maturity or otherwise altering the terms or increasing the amount of any obligation secured by this Deed of Trust; or accept additional security or release the Property or any other security. None of these actions will release or reduce the personal liability of any of Trustor, or release or impair the lien of this Deed of Trust, or the priority of it on the Property.

**37. Subrogation.** Beneficiary will be subrogated to the lien of all encumbrances, whether released of record, paid in whole or in part by the proceeds of any loan secured by this Deed of Trust.

**38. Obligations of Trustor, Joint and Several.** If more than one person has executed this Deed of Trust as Trustor, the obligations of all those persons will be joint and several.

**39. Recourse to Separate Property.** Any married person who executes this Deed of Trust as a Trustor agrees that any money judgment that Beneficiary or Trustee obtains pursuant to the terms of this Deed of Trust or any other obligation of that married person secured by this Deed of Trust may be collected by execution on that person's separate property, and any community property of that person.

40. **No Offset.** Trustor will pay to Beneficiary all amounts owing under the Note, this Deed of Trust, or any other obligation secured by this Deed of Trust without deduction, offset, or counterclaim of any kind.

41. **Governing Law.** The parties expressly agree that this Deed of Trust will be governed by and construed in accordance with the laws of the State of Nevada.

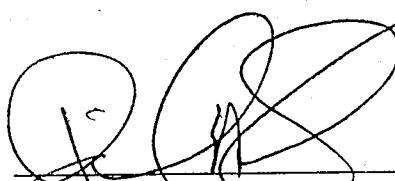
42. **Gender and Number.** As used in this Deed of Trust, the masculine, feminine, and neuter gender, and the singular and plural number, shall each be deemed to include the other whenever the context requires.

COOPER



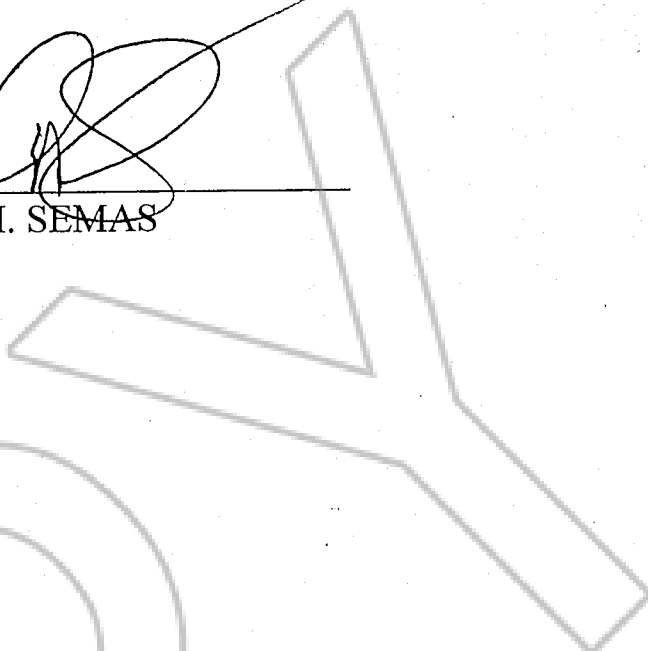
43. **Notice of Default and Notice of Sale.** Trustor requests that a copy of any notice of default and any notice of sale under this Deed of Trust be mailed to Trustor at the address set forth above.

**IN WITNESS WHEREOF,** Trustor has executed this Deed of Trust as of the date set forth above.

  
\_\_\_\_\_  
DAVID M. SEMAS



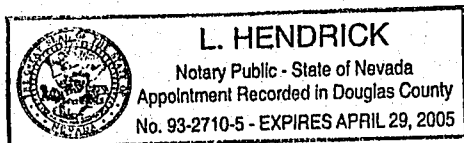



STATE OF Nevada )  
COUNTY OF Douglas ) ss.

On 8-28-02, 2002, before me, the undersigned, a Notary Public in and for said State and County, personally appeared David M. Semco, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

L. Hendrick



COOPER

REQUESTED BY  
Stewart Title of Douglas County  
IN OFFICIAL RECORDS OF  
DOUGLAS CO., NEVADA

2002 AUG 29 PM 4: 37

LINDA SLATER  
RECORDER

\$ 31.00 PAID Bh DEPUTY

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