

OFFICIAL RECORD

Requested By:
CHICAGO TITLE

AP No. 1220-04-501-004

Prepared by and when
recorded mail to:

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Henderson & Morgan, LLC
4600 Kietzke Lane, Suite K228
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Douglas County - NV
Werner Christen - Recorder
Page: 1 of 31 Fee: 44.00
BK-0707 PG- 1058 RPTT: 0.00



FOR THE PURPOSE OF COMPLYING WITH NRS 239B.030(4), THE
UNDERSIGNED HEREBY AFFIRMS THAT THIS DOCUMENT DOES NOT CONTAIN
THE SOCIAL SECURITY NUMBER OF ANY PERSON.

**LEASEHOLD DEED OF TRUST, FIXTURE FILING AND
SECURITY AGREEMENT WITH ASSIGNMENT OF RENTS**
(1357 HWY 395)

NOTICE: THIS DEED OF TRUST SECURES CREDIT IN THE
AGGREGATE PRINCIPAL AMOUNT OF SEVENTY-FOUR MILLION
DOLLARS (\$74,000,000.00), TOGETHER WITH: (i) INTEREST ON THE
OUTSTANDING PORTION OF SAID PRINCIPAL AMOUNT; and
(ii) OTHER AMOUNTS DESCRIBED HEREIN. THE OBLIGATIONS
SECURED HEREBY INCLUDE REVOLVING CREDIT OBLIGATIONS
WHICH PERMIT BORROWING, REPAYMENT AND REBORROWING,
ALL SUBJECT TO THE TERMS AND CONDITIONS OF THE CREDIT
AGREEMENT AND THE NOTES THAT ARE REFERRED TO HEREIN.
INTEREST ON OBLIGATIONS SECURED HEREBY ACCRUES AT
RATES WHICH MAY FLUCTUATE FROM TIME TO TIME.

THIS LEASEHOLD DEED OF TRUST, FIXTURE FILING AND SECURITY
AGREEMENT WITH ASSIGNMENT OF RENTS (1357 HWY 395) (the "Deed of Trust")
is made as of the 29th day of June, 2007, by and among BERRY-HINCKLEY
INDUSTRIES, a Nevada corporation ("BHI"), as trustor and debtor (hereinafter referred
to as "Trustor"), CHICAGO TITLE AGENCY OF NEVADA, INC., a Nevada corporation,
as trustee ("Trustee"), and FIRST NATIONAL BANK OF NEVADA, as secured party and
beneficiary (hereinafter referred to, together with its successors and assigns as
"Beneficiary").

W_I_T_N_E_S_S_E_T_H:

THAT TRUSTOR:

Grants, bargains, sells, transfers, conveys and assigns the following described real property and related collateral to Trustee, in trust, with power of sale, to have and to hold the same unto Trustee and its successors in interest for and on behalf of Beneficiary upon the trusts, covenants and agreements herein expressed:

DESCRIPTION OF COLLATERAL

All right, title and interest of Trustor which is now owned or hereafter acquired, in or to that certain real property situate in the County of Douglas, State of Nevada, that is more particularly described on that certain exhibit marked "Exhibit A", affixed hereto and by this reference incorporated herein and made a part hereof (the "Land"), together with and including, without limitation:

(a) All right, title and interest of Trustor whether now owned or hereafter acquired, in or to any real property lying within the right of way of any street, open or proposed, which adjoins any of said Land and any and all sidewalks, bridges, elevated walkways, tunnels, alleys, strips and gores of real property adjacent to, connecting or used in connection with any of said Land (collectively, the "Adjacent Property");

(b) All buildings, structures and all other improvements and fixtures that are, or that may be hereafter erected or placed on, or in, the Land and all right, title and interest of Trustor which is now owned or hereafter acquired, in or to, all buildings, structures and all other improvements and fixtures that are, or that may be hereafter, erected or placed on, or in, any of the Adjacent Property (collectively, the "Improvements");

(c) All water rights and conditional water rights that are now, or may hereafter be, appurtenant to, used in connection with or intended for use in connection with the Land, the Adjacent Property and/or the Improvements (collectively, the "Water Rights", and together with the Land, the Adjacent Property and the Improvements, the "Real Estate");

(d) All present and future interest of Trustor as lessor, sublessor, licensor, concessionor, franchisor, grantor, or similar party to any lease, sublease, occupancy license, concession, franchise and other use or

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occupancy agreement now or hereafter relating to any of the Real Estate and all renewals, extensions, amendments, restatements and other modifications thereof (collectively, the "Occupancy Agreements");

(e) All present and future rents, issues, products, earnings, revenues, payments, profits, royalties and other proceeds and income of the Real Estate, and of any activities conducted thereon or in connection therewith, regardless of whether such items accrue by virtue of the Occupancy Agreements, or otherwise (collectively, the "Rents"), subject, however, to the absolute assignment given to Beneficiary in Section 10 hereof entitled Assignment of Rents, and to which Section this grant to the Trustee is subject and subordinate;

(f) All right, title and interest of Trustor, whether now owned or hereafter acquired, in, or to, any and all present and future awards or payments, including without limitation, interest on them, and the right to receive them, which may be made with respect to the Real Estate, the Occupancy Agreements, and/or the Rents as a result of: (i) the exercise of the right of eminent domain; (ii) the alteration of the grade of any street; (iii) any loss of or damage to any building or other improvement included in the Real Estate; (iv) any other injury to or decrease in the value of the Real Estate, the Occupancy Agreements, and/or the Rents (including, without limitation, proceeds of any policy of insurance); and (v) any refund due on account of the payment of real estate taxes, assessments or other charges levied against or imposed upon the Real Estate, the Occupancy Agreements, and/or the Rents (collectively, the "Awards");

(g) All development rights, governmental or quasi-governmental licenses, permits or approvals, zoning rights and other similar rights or interests which relate to the development, use or operation of, or that benefit or are appurtenant to, any portion of the Real Estate and all extensions, renewals, amendments, restatements and other modifications thereof (collectively, the "Entitlements").

(h) All and singular the tenements, easements, hereditaments and appurtenances now, or hereafter, belonging to or in any wise appertaining to the Real Estate, the Rents, the Awards, the Entitlements and the reversion and reversions, remainder and remainders thereof and all the estate, right, title, interest or other claim which Trustor now has or hereafter may acquire of, in and to the Real Estate, the Occupancy



Agreements, the Rents, the Awards, the Entitlements and/or any part thereof, with the appurtenances thereto (collectively, the "Other Interests"); and

(i) All right, title and interest of Trustor, whether now owned, or hereafter acquired, in or to, the Personal Property which is referred to below.

The Real Estate, the Occupancy Agreements, the Rents, the Awards, the Entitlements and the Other Interests are hereinafter collectively referred to as the "Real Property." The Real Property includes, without limitation: all right, title and interest therein, or in any portion thereof, which Trustor now has, or may hereafter acquire, under the terms of that certain Lease Agreement dated August 25, 2006 between: (i) Angelo Ramos, Lucy Ramos, Jaime Ramos and Maria C. Ramos, as lessors (collectively referred to herein, together with their successors and assigns in such capacity, as "Lessor"); and (ii) Trustor, as lessee; as such Lease Agreement has been amended by that certain First Amendment to Lease Agreement dated February __, 2007, executed by Lessor and as such Lease Agreement may be further extended, renewed, amended, restated, substituted or otherwise modified, from time to time (collectively, the "Lease").

Record notice of the Lease was given pursuant to that certain Memorandum of Lease which was recorded in the Official Records of Douglas County, Nevada on September 27, 2006, as Document No. 0685308. The leasehold estate which is granted in the Real Property (or any portion thereof) pursuant to the Lease is hereinafter referred to as the "Leasehold Estate".

DESCRIPTION OF COLLATERAL

All right, title and interest of Trustor, which is now owned, or hereafter acquired, in or to, any of the following described personal property, whether now existing or hereafter coming into existence (collectively, the "Personal Property"):

(a) All present and future: (i) accounts; (ii) chattel paper; (iii) commercial tort claims; (iv) deposit accounts; (v) documents; (vi) equipment, inventory and other goods of any kind or nature; (vii) instruments; (viii) investment property; (ix) letter of credit rights; (x) money; (xi) general intangibles including, without limitation, payment intangibles and software; and (xii) proceeds of any of the foregoing; all as defined by Article 9 of the Uniform Commercial Code as enacted in the State of Nevada;

(b) All present and future chattels, furniture, furnishings, machinery, tools, apparatus, fixtures, building materials, building contents and building components, all of every kind and nature, and all other tangible personal property: (i) which is used in connection with, situate in or on, affixed to, or incorporated into any portion of the Real Property; (ii) which is used in connection with, situate in or on, affixed to, or incorporated into, any building, structure or other improvement that is now or that may be hereafter constructed on or under the Real Property; and/or (iii) in which Trustor otherwise has or acquires an interest; all including, without limitation: (aa) all lumber, bricks, cement, masonry, steel, doors, windows, fasteners, nails, bolts, scaffolding, tools, construction supplies, construction equipment and all other building materials, supplies and equipment of any kind or nature; (bb) all air conditioning, heating, electrical, lighting, fire fighting and fire prevention, security, sound, signaling, telephone, window washing, irrigation, storage, shop, landscaping, and other equipment and fixtures, of whatever kind or nature, consisting of, without limitation, air conditioners, compressors, fans, duct work, thermostats, furnaces, boilers, radiators, burners, wiring, conduits, cables, generators, transformers, switching gear, lighting fixtures, sprinkler systems and other fire extinguishing equipment, fire alarms and other fire detection equipment, piping, pumps, valves, sinks, toilets, tubs, motors, carts, elevators and other lifts, ovens, refrigerators, surveillance and entry detection systems, speakers, intercoms and public address systems, hardware, shelving, maintenance and repair equipment and all other similar items; (cc) all furniture, furnishings, wall coverings, floor coverings, window coverings, artwork and decorative items; (dd) all office and administrative equipment and supplies including, without limitation, office appliances, filing cabinets, computers, peripheral computer equipment and other data processing and storage equipment, stationery and other office supply items, and other office and administrative equipment and supplies; (ee) all tools and other maintenance and repair equipment; (ff) all equipment for storage, monitoring, delivery, pumping analysis and other activities with respect to petroleum and petroleum byproducts including, without limitation, gasoline as well as related and similar products; and (gg) all equipment, supplies and other materials utilized in connection with any other activity engaged in by Trustor;

(c) All right, title and interest of Trustor in and to all leases, licenses, concessions, or similar agreements whether or not specifically herein described which now or may hereafter pertain to the Real Property and all amendments to the same, including, but not limited to the following: (aa) all payments due and to become due under such agreements, whether as rent, damages, insurance payments, condemnation awards, or otherwise; (bb) all claims, rights, powers, privileges and remedies under such agreements; and (cc) all rights of Trustor under such leases to exercise any election or option, or to give or receive any notice, consent, waiver or approval, or to accept any surrender of the premises or any part thereof, together with full power and authority in the name of Trustor or otherwise, to demand and receive, enforce, collect, or receipt for any

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or all of the foregoing, to endorse or execute any checks or any instruments or orders, to file any claims or to take any action which Beneficiary may deem necessary or advisable in connection therewith;

(d) All plans, specifications, soil reports, engineering reports, land planning maps, surveys, and any other reports, exhibits or plans used or to be used in connection with the construction, planning, operation or maintenance of the Real Property, together with all amendments and modifications thereof;

(e) The Water Rights;

(f) The Awards;

(g) The Entitlements;

(h) All other tangible and intangible property of Trustor;

(i) All present and future accessions, appurtenances, components, repairs, repair parts, spare parts, replacements, substitutions, additions, issue and/or improvements to or of or with respect to any of the foregoing;

(j) All rights, remedies, powers and/or privileges of Trustor with respect to any of the foregoing; and

(k) Any and all proceeds, products, rents, income and profits of any of the foregoing, including, without limitation, all money, entitlements, rights to payment and any other tangible or intangible property received upon the sale or disposition of any of the foregoing.

SUBJECT, HOWEVER, to the following:

(i) The right of Trustor to sell or otherwise dispose of Personal Property, free and clear of the lien hereof, provided, and to the extent, that such sale or other disposition is permitted under the terms of the Credit Agreement (which is referred to below); and

(ii) As to the fixtures and equipment covered hereby, the leases and/or purchase money security interests pursuant to which Trustor has acquired an interest in such fixtures and equipment provided, and to the extent, that such leases and/or purchase money security interests are permitted under the terms of the Credit Agreement.

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Notwithstanding anything herein to the contrary, in no event shall the Personal Property include any lease, license, contract, property rights or agreement to which Trustor is a party or any of its rights or interests thereunder if and for so long as the grant of a security interest in such personal property shall constitute or result in: (i) the abandonment, invalidation or unenforceability of any right, title or interest of Trustor therein; or (ii) in a breach or termination pursuant to the terms of, or a default under, any such lease, license, contract, property rights or agreement (other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the Commercial Code), provided however that the Personal Property shall include any portion of, or interest in, such lease, license, contract, property rights or agreement that does not result in any of the consequences specified in (i) or (ii) above.

The Real Property and the Personal Property described hereinabove are hereinafter collectively referred to as the "Property." The parties intend for this Deed of Trust to create a lien on and security interest in the Property, and, as provided in Section 9 hereof entitled Assignment of Rents, an absolute assignment of the Rents, all in favor of Beneficiary. To the extent any of said Property and/or Rents are not encumbered by a perfected lien or security interest created above, and are not absolutely assigned by the assignment set forth in Section 9 below, it is the intention of the parties that such Property and/or Rents shall constitute "proceeds, product, offspring, rents or profits" (as defined in and for the purposes of Section 552(b) of the United States Bankruptcy Code, as such section may be modified or supplemented) of the Real Property and/or "fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in . . . lodging properties," as applicable (as such terms are defined in and for the purpose of Section 552(b) of the United States Bankruptcy Code, as such Section may be modified or supplemented).

The Real Property and the Personal Property described hereinabove are hereinafter collectively referred to as the "Property".

FOR THE PURPOSE OF SECURING:

A. Payment when due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including payment of amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a)), of: (i) the principal sum which is, at any time, advanced and unpaid under the Revolving Credit Facility (as defined in the Credit Agreement, referred to below), not to exceed Twenty-three Million Seven Hundred Thousand Dollars (\$23,700,000.00) at any one time, all on a revolving line of credit basis; (ii) interest and other charges accrued on said principal sum, or

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accrued on interest and other charges then outstanding under the Revolving Credit Facility (all including, without limitation, interest and other charges that, but for the filing of a petition in bankruptcy with respect to any of the Borrowers (referred to below) would accrue on such obligations); and (iii) any other obligations of Borrowers, or any or them, under the RLC Note referred to below; all according to the terms of a Revolving Credit Note dated June 28, 2007 which is made by Borrowers and is payable to the order of Beneficiary according to the tenor and effect of said Revolving Credit Note, and all renewals, extensions, amendments, restatements, replacements, substitutions and other modifications thereof (hereinafter collectively referred to as the "RLC Note").

B. Payment when due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including payment of amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)), of: (i) the principal sum of Fifty Million Three Hundred Thousand Dollars (\$50,300,000.00) which is to be advanced under the Term Loan (as defined in the Credit Agreement); (ii) interest and other charges accrued on said principal sum, or accrued on interest and other charges then outstanding under the Term Loan (all including, without limitation, interest and other charges that, but for the filing of a petition in bankruptcy with respect to Borrowers, or any of them, would accrue on such obligations); and (iii) any other obligations of Borrowers, or any of them, under the Term Promissory Note referred to below; all according to the terms of a Term Note dated June 28, 2007 which is made by the Borrowers and is payable to the order of the Beneficiary according to the tenor and effect of said Term Note, and all renewals, extensions, amendments, restatements, replacements, substitutions and other modifications thereof (hereinafter referred to as the "Term Promissory Note", and together with the RLC Note, collectively referred to as the "Notes").

C. Payment and performance of every obligation, covenant, promise and agreement of Trustor herein contained or incorporated herein by reference (other than obligations which Trustor may have under Section 2 hereof to make payment or perform under the Environmental Certificate which is defined by Section 30 below), including, without limitation, reimbursement of any sums paid or advanced by Beneficiary pursuant to the terms hereof.

D. Payment of the expenses and costs incurred or paid by Beneficiary in the preservation and enforcement of the rights and remedies of Beneficiary and the duties and liabilities of Trustor hereunder, including, but not by way of limitation, reasonable attorney's fees, court costs, witness fees, expert witness fees, collection costs, Trustee's fees and costs of a Trustee's Sale Guarantee, and reasonable costs

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and expenses paid by Beneficiary in performing for the account of Trustor any obligation of said Trustor.

E. Payment of any sums which may hereafter be owing by Borrowers, or any of them, to Beneficiary or any of its affiliates, under the terms of any interest rate swap agreement, interest rate cap agreement, basis swap agreement, forward rate agreement, interest collar agreement or interest floor agreement to which Borrowers, or any of them, may be a party, or under any other agreement or arrangement to which Borrowers, or any of them, may be a party, which in each case is designed to protect Borrowers, or any of them, as the case may be, against fluctuations in interest rates or currency exchange rates with respect to any other indebtedness secured by the Deed of Trust.

F. Payment of additional sums and interest thereon which may hereafter be loaned to Borrowers, or any of them, pursuant to the Credit Agreement when evidenced by a promissory note or notes which recite that this Deed of Trust is security therefore.

G. Performance and payment of every obligation, warranty, representation, covenant, agreement and promise of Borrowers, or any of them, contained in, or established by, that certain Credit Agreement (together with all extensions, renewals, amendments, restatements, substitutions and other modifications thereof, the "Credit Agreement") dated June 28, 2007 by and among Trustor, JH, Inc., a Nevada corporation and Jerry E. Herbst as Trustee of the Herbst Gaming Trust Created by Agreement dated March 19, 2003 (collectively referred to herein, together with any other person or entity which hereafter becomes a Borrower under the Credit Agreement, as the "Borrowers"), and Beneficiary, excluding, however, any obligation which any of the Borrowers may have thereunder to perform any obligations under the Environmental Certificate.

H. Performance and payment of every obligation, warranty, representation, covenant, agreement and promise of Borrowers, or any of them, contained in, or established by, any of the Loan Documents, which are defined in the Credit Agreement (other than obligations under the Environmental Certificate).

I. Future Advances (as defined by NRS 106.320, as it may be amended or recodified from time to time) in an aggregate principal amount not to exceed Seventy-four Million Dollars (\$74,000,000.00) at any one time (collectively, the "Chapter 106 Advances"), to the extent set forth by the following paragraph.

Trustor acknowledges and agrees that the obligations of Lenders to advance funds under the Bank Facilities are obligatory in nature, and the Borrowers' obligations pursuant to such advances are secured by the lien of this deed of trust with priority determined as of the date hereof, regardless of when such advances are made. Notwithstanding the foregoing, to the extent, and only to the extent, that: (i) any such advances are deemed to be optional ("Optional Advance(s)"); and (ii) this instrument continues, as of the date of such Optional Advance(s), to operate as security for Future Advances under NRS Chapter 106; then such Optional Advance(s) shall be deemed to be Chapter 106 Advances, secured by the Deed of Trust in accordance with Paragraph I, above. It is the intention of Trustor and Beneficiary, and Trustor and Beneficiary hereby acknowledge and agree that, to the extent, and only to the extent, that the Deed of Trust secures any Chapter 106 Advances: (i) it shall constitute an "Instrument" (as defined in NRS 106.330 as amended and recodified from time to time) which secures the Chapter 106 Advances and which is governed pursuant to NRS 106.300 through 106.400 as amended and recodified from time to time, with the priority set forth in NRS 106.370(1) as amended and recodified from time to time; and (ii) the lien and security interest of the Deed of Trust as security for the Chapter 106 Advances shall be in addition to, and not in place of, the lien and security interest of the Deed of Trust as security for the other Secured Obligations.

The foregoing are collectively referred to herein as the "Secured Obligations." The Secured Obligations include, without limitation, the obligation to repay advances under the Revolving Credit Facility, together with accrued interest thereon, which advances may include, without limitation: (i) future advances which are made subsequent to the date when this Deed of Trust is recorded in the office of the County Recorder of Douglas County, Nevada; and (ii) revolving credit advances which are made after the credit amount being advanced has previously been borrowed or reborrowed and thereafter repaid; all including, without limitation, advances which are made when the principal balance of the Revolving Credit Facility and/or the Secured Obligations is zero (\$0.00). All such advances shall be secured to the same extent, and with the same priority, as if they were each made on the date hereof. Interest accrues, as part of the Secured Obligations, at interest rates which may vary from time to time. All persons who may have or acquire an interest in all or any part of the Property will be considered to have notice of, and will be bound by, the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations.

AND THIS INDENTURE FURTHER WITNESSETH:

1. Certain Representations and Warranties of Trustor. Trustor represents, warrants and covenants that this Deed of Trust creates a first priority deed

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of trust lien and/or, to the extent applicable, a first priority security interest on the Leasehold Interest, and on the Personal Property, subject only to BHI Permitted Encumbrances (as defined in the Credit Agreement).

2. Payment of Secured Obligations. Trustor shall pay, or cause to be paid, when due: (i) the principal of, and interest on, the indebtedness evidenced by the Notes; (ii) all other charges, fees and other sums which any of the Borrowers may be required to pay under any of the Loan Documents, other than the Environmental Certificate; (iii) the principal of, and interest on, any future advances secured by this Deed of Trust; and (iv) the principal of, and interest on, any other indebtedness secured by this Deed of Trust.

3. Compliance with Laws. Trustor shall comply in all material respects with all applicable material existing and future laws, rules, regulations, orders, ordinances and requirements of all Governmental Authorities (as defined in the Credit Agreement), and with all recorded covenants and restrictions affecting the Property.

4. Maintenance of Property. Except to the extent that any of the following would be prohibited under, or would constitute a violation of, the terms and conditions of the Credit Agreement, Trustor agrees: (a) to properly care for and keep said Property in good condition and repair (to the extent of Trustor's rights, title and interest therein); (b) not to remove, demolish or substantially alter any material building on the Real Property, except upon the prior written consent of Beneficiary; (c) to complete promptly and in a good and workmanlike manner any building or other improvement which may be constructed thereon by or at the direction of Trustor, and to pay when due all claims for labor performed and materials furnished therefor and in connection therewith; (d) not to commit or permit any waste or deterioration of the Property (ordinary wear and tear, casualty and condemnation excepted; and provided that the non-payment of property and similar taxes shall not, to the extent such payments are not the obligation of Trustor under the Lease, be deemed to constitute waste); (e) not to commit, suffer or permit any act within Trustor's reasonable control to be done, or condition to exist, in or upon said Property in material violation of any law, covenant, condition or restriction now, or hereafter, affecting said Property (including any which require alteration or improvement thereof); (f) **[Intentionally Omitted]**; (g) not to drill or extract or enter into any lease for the drilling for or extraction of oil, gas or other hydrocarbon substances or any mineral of any kind or character on or from the Property or any part thereof; (h) not to apply for, and use commercially reasonable efforts not to permit, any subdivision, change in zoning, change in land use regulation, or inclusion within a general improvement district or similar assessment mechanism, with regard to any portion of the Property without the prior written consent of Beneficiary; and (i) except as otherwise permitted in the Credit Agreement, to do all

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other acts, in a timely and proper manner, which, from the character or use of the Property, may be reasonably necessary to maintain and preserve its value, the specific enumerations herein not excluding the general.

5. Insurance. During the continuance of this trust, Trustor shall obtain, or cause to be obtained, and shall maintain or cause to be maintained, at all times throughout the term of the Credit Facilities, at its own cost and expense, and shall deposit with Beneficiary, Certificates of Insurance, each in a form and substance, and at such times, as is required under Section 5.09 of the Credit Agreement. All monies received from "All Risk" insurance policies (including flood and earthquake policies) covering any of the Property shall be paid directly to Beneficiary and: (i) retained by Beneficiary; or (ii) released to Borrowers by Beneficiary; all in accordance with Section 8.02 of the Credit Agreement. Nothing in this Deed of Trust shall be deemed to excuse Trustor from restoring, repairing and maintaining the Property, as herein provided, and to the extent permitted under the terms of the Lease, whether or not any such proceeds are sufficient in amount, or whether or not the Property can be restored to the same condition and character as existed prior to such damage or destruction.

6. Taxes and Assessments. Trustor shall pay all taxes, assessments and other governmental charges or levies affecting said Property, or any part thereof, in the manner required by the Credit Agreement except such taxes, assessments and other governmental levies as are being contested in good faith in the manner provided by Section 5.01 of the Credit Agreement.

7. Lien Claims. If any mechanic's lien or materialman's lien shall be recorded, filed or suffered to exist against the Property or any interest therein by reason of any work, labor, services or materials supplied, furnished or claimed to have been supplied and furnished in connection with any work of improvement upon the Property, Trustor shall, upon receipt of written notice from Lender demanding the release and discharge of such lien, cause said mechanic's lien or materialman's lien to be released and discharged of record within ninety (90) days following their receipt of such notice.

8. Easements. Trustor not shall amend, change, terminate or modify any easement or other incorporeal right which may constitute any portion of the Property (collectively, "Easements"), or any right thereto or interest therein, without the prior written consent of Beneficiary, which consent may be withheld in Beneficiary's sole discretion, and any such amendment, change, termination or modification without such prior written consent shall be deemed void and of no force or effect. Trustor agrees to perform all of its obligations and agreements with respect to said Easement

and shall not take any action or omit to take any action, which would effect or permit the termination thereof. Upon receipt of notice, or otherwise becoming aware, of any default or purported default under any Easement to which Trustor is a party (by succession or otherwise), by any party thereto, Trustor shall promptly notify Beneficiary in writing of such default or purported default and shall deliver to Beneficiary copies of all notices, demands, complaints or other communications received or given by Trustor with respect to any such default or purported default.

9. Certain Covenants and Agreements Regarding the Lease. Trustor further covenants, warrants and represents as follows:

(a) Trustor shall observe and perform each and every material obligation imposed upon it under the provisions of the Lease. Trustor hereby specifically agrees that any failure by it to so observe and perform any such material obligation (a "Lease Obligation"), prior to the expiration of any applicable cure periods, shall constitute a default under this Deed of Trust with the same force and effect as if such Lease Obligation were specifically set forth in this instrument as an obligation of Trustor hereunder. Whenever and as often as Trustor shall so fail to observe or perform any Lease Obligation, then such failure shall, at the option of Beneficiary, for so long as such failure is continuing, constitute an Event of Default as provided in Section 7.01 of the Credit Agreement, thereby authorizing the Beneficiary: (i) to declare the unpaid balance of the Notes immediately due and payable, together with all interest accrued thereon, and to proceed to exercise of any remedies which it may have hereunder; or (ii) may, at the Beneficiary's option and at Trustor's expense, enter upon the Real Property and perform or cause to be performed work, labor, services or any act or thing to cure such failure, including the payment of any rent, cost or charge payable by Trustor under the Lease. Either of the options hereinabove set forth may be exercised from time to time and as many times as may be desired by the Beneficiary (so long as such failure or failures are continuing); provided, however, Beneficiary shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Trustor under the Lease. Trustor hereby agrees to indemnify the Beneficiary for, and to save it harmless from, any and all liability arising from the Lease, or from this Deed of Trust, and this Deed of Trust shall not place responsibility for the control, care, management or repair of any Real Property upon the Beneficiary, or make the Beneficiary responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Leasehold Estate resulting in loss or injury or death to any tenant, guest, licensee, employee or stranger, except to the extent that such responsibility or liability arises from Beneficiary's gross negligence or willful misconduct.

(b) Trustor shall use commercially reasonable efforts to enforce, or cause to be enforced (as the case may be), the material obligations of the Lessor

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under the Lease and if at any time Beneficiary desires Trustor to exercise and enforce any such rights in his favor under the Lease, Trustor, after notice and demand by the Beneficiary specifying the right or rights to be exercised and enforced, shall, at Trustor's cost, diligently and faithfully exercise and enforce such right or rights, and the provisions of this Deed of Trust shall not be deemed to prohibit the Beneficiary from taking any action, including without limitation, legal proceedings which Beneficiary deems appropriate to exercise any of such rights or to enjoin any violation of the Lease, but the Beneficiary shall have no obligation to take any such action.

(c) Trustor hereby assigns to Beneficiary to secure payment of the indebtedness secured hereby all rights, privileges, titles, and interests now or hereafter acquired by it under or by virtue of the Lease, and any and all causes of action relating thereto or arising under the Lease, and Trustor further agrees that it shall promptly furnish to Beneficiary each and every notice received from under the Lease which provide, or purport to provide, notice of a default thereunder.

(d) The curing by Beneficiary of any default by Trustor under the Lease shall not remove or waive, as between Trustor and Beneficiary, the default which occurred hereunder by virtue of said default under the Lease, and all sums expended by Beneficiary in order to cure any such default and costs and expenses incurred by Beneficiary in connection with the curing of such default shall be paid by Trustor to Beneficiary upon demand, with interest thereon at the "Default Rate" set forth in the Credit Agreement from the date of demand therefor until paid, and any such indebtedness shall be deemed to be secured by, and shall constitute a part of the indebtedness secured by this Deed of Trust.

(e) Trustor hereby represents and warrants that: (i) the Lease is currently in full force and effect and is unmodified, except as otherwise previously disclosed to Beneficiary in writing; (ii) there are no existing material defaults under the Lease by reason of an act or omission of Trustor thereunder and, to the best of Trustor's knowledge, no event has occurred which with the lapse of time or the giving of notice, or both, will constitute a material default or authorize Lessor to terminate the Lease; (iii) all rentals under the Lease, if any, accrued and payable to date have been paid and neither Trustor nor, to the best of Trustor's knowledge, Lessor claim any present charge, lien or claim of offset against any sums due under the terms of the Lease; and (iv) Trustor will not modify, or agree to modify, any material terms of the Lease without the prior written consent of Beneficiary.

(f) Trustor further covenants, warrants and represents that:

(i) Except to the extent required under the terms of the Lease, Trustor will not subordinate or consent to the subordination of the Lease to any mortgage, lien, encumbrance or other charge (other than this Deed of Trust, or the other Security Documentation which is defined by the Credit Agreement), without Beneficiary's *prior written consent*.

(ii) Trustor shall give Beneficiary reasonably prompt notice of any default under the Lease or of the receipt of any notice of default from Lessor and Trustor shall reasonably promptly furnish the Beneficiary with any and all information which the Beneficiary may request concerning the performance and observance of all material covenants, agreements and conditions contained in the Lease to be kept, observed and performed and concerning the compliance with all material terms and conditions of the Lease. Trustor hereby authorizes the Beneficiary or its representatives to make reasonably necessary investigations and examinations concerning such performance, observance and compliance, and Trustor shall also furnish the Beneficiary, in a reasonably prompt manner, with any and all information which Beneficiary may request concerning (and including copies of) any and all notices, communications, plans, specifications or other instruments or documents received or given by Trustor in any way relating to or affecting the interest of Trustor or under the Lease.

(iii) Trustor shall not, without the prior express written consent of Beneficiary, permit the fee title to any portion of any of the Real Property to merge with the Leasehold Estate (except as permitted in the Credit Agreement). Except as permitted in the Credit Agreement, Trustor shall always keep the Leasehold Estate separate and distinct, notwithstanding the union of such estate whether in Lessor, or in some other third party by purchase or otherwise; and in the case that Trustor acquires fee title or any other estate, title or interest in any of the Real Property, this Deed of Trust shall attach to and cover and be a lien upon the fee title or such other estate so acquired (to the extent that said estate title or interest is not then encumbered hereby), and such fee title or other estate shall, without further assignment, mortgage or conveyance, become and be subject to the lien of and be covered by this Deed of Trust. Trustor shall notify the Beneficiary of any such acquisition by it and, upon written request of the Beneficiary, shall cause to be executed and recorded all such other and further assurances or other instruments in writing as may, in the opinion of the Beneficiary, be required to carry out the intent and meaning of this provision.

(iv) It is the intention of Trustor and Beneficiary that, if Beneficiary, or any third party shall acquire a fee interest in any of the Real Property, as well as an interest in the Leasehold Estate, whether by foreclosure hereunder, or deed-in-lieu thereof, such interests shall remain separate and distinct and shall not merge with each other.

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(v) In the event that the Lessor or any trustee for Lessor, as the case may be, reject the Lease, as contemplated by Subsection 365(h)(1) of the Bankruptcy Reform Act of 1978, as amended (the "Bankruptcy Code"), or as contemplated by any successor statute, then upon such occurrence, Trustor shall not, without the Beneficiary's express prior written consent, elect to treat the Lease or the Leasehold Estate as terminated under said Subsection 365(h)(1), and any such election made without Beneficiary's prior written consent shall be void and ineffective.

(vi) Trustor shall, promptly after obtaining knowledge thereof, give written notice to the Beneficiary of any actual or contemplated filing by or against Lessor, of a petition under the Bankruptcy Code, and use commercially reasonable efforts to give prompt oral notice to the Beneficiary of such actual or contemplated filing. The aforesaid written notice shall set forth any information available to Trustor concerning the date or anticipated date of such filing, the court in which such petition was filed or is expected to be filed, and the relief sought therein. Trustor shall, promptly after receipt thereof, deliver to the Beneficiary any and all notices, summonses, pleadings, applications and other documents received by it in connection with any such petition or in connection with any proceeding relating thereto.

10. Assignment of Rents.

(a) Trustor hereby presently, absolutely and unconditionally assigns to Beneficiary, which assignment shall be effective without Beneficiary having to first take possession of the Property, all of Trustor's interests in any and all present and future Occupancy Agreements and Rents, reserving unto Trustor the right, prior to the occurrence of any Event of Default (as defined in the Credit Agreement), to collect and retain the Rents as they may become due and payable. Upon the occurrence, and during the continuance, of any Event of Default as defined in the Credit Agreement, such license reserved to Trustor shall be immediately revoked without further demand or notice, and any Rents, including those past due, unpaid or undetermined, may be collected by Beneficiary or its agent. In addition to any other actions which may be taken by Beneficiary to collect the Rents in accordance herewith, Beneficiary may, at any time, by a receiver to be appointed by a court of competent jurisdiction in accordance with subsection 20(b) below, enter upon and take possession of said Property, or any part thereof, and exercise such rights and remedies as are provided by subsections 20(b) and 20(c) below including, without limitation, suing for or otherwise collecting the Rents (including those past due or unpaid). All Rents collected hereunder, less costs and expenses of operation and collection (including reasonable attorneys' fees), shall be applied towards satisfaction of the Secured Obligations, in such order as is required under the Credit Agreement. The collection of such Rents, and the application thereof as

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aforesaid, shall not cure or constitute a waiver of any default or notice of default hereunder or invalidate any act done pursuant to such notice. Trustor and Beneficiary intend that this assignment shall be a present, absolute and unconditional assignment, not an assignment for additional security only, and shall, immediately upon the execution hereof, subject to the license granted above, give Beneficiary, and its agent, the right to collect the Rents and to apply them as aforesaid. Nothing contained herein, nor any collection of Rents by Beneficiary, or its agent or a receiver, shall be construed to make Beneficiary: (i) a "Mortgagee-in-Possession" of the Property so long as Beneficiary has not itself entered into actual possession of the Property; (ii) responsible for performing any of the obligations of the lessor under any Occupancy Agreement; (iii) responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair or control of the Property; or (iv) liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it (provided that this clause (iv) shall not act to relieve Beneficiary from liability resulting from the gross negligence or willful misconduct of Beneficiary).

(b) Trustor hereby represents that there are no assignments or pledges of any leases of, or rentals or income from, said Property now in effect and covenants that, until Credit Facilities Termination (as defined in the Credit Agreement), it will not make any such assignment or pledge to anyone other than Beneficiary.

11. Performance by Trustee or Beneficiary. Should Trustor fail to make any payment or perform any act which it is obligated to make or perform, as and when required, hereunder or under the Credit Agreement, then the Trustee, or Beneficiary, at the election of either of them, upon notice to Trustor, or any successor in interest of Trustor, and without releasing Trustor from any obligation hereunder, may make such payment or perform such act and incur any liability, or expend whatever amounts, in its discretion, it may deem necessary therefor. All sums incurred or expended by the Trustee, or Beneficiary, under the terms hereof, shall become due and payable by Trustor to the Beneficiary, on the next interest or installment payment date under any of the promissory notes secured hereby and shall bear interest from the date of notice to Trustor, until paid, at an annual percentage rate equal to the Default Rate expressed in the Credit Agreement. In no event shall such payment or performance of any such act by Trustee or Beneficiary be construed as a waiver of the default occasioned by Trustor's failure to make such payment(s) or perform such act(s).

12. Actions Affecting Property. Trustor promises and agrees that if, during the existence of this trust, there shall be commenced or pending any suit or action affecting said Property, or any part thereof, or the title thereto, or if any adverse

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claim for or against said Property, or any part thereof, be made or asserted, it will appear in and defend any such matter purporting to affect the security of this Deed of Trust and will pay all costs and damages arising because of such action.

13. Eminent Domain. Any award of damages in connection with any condemnation or similar actions in regard to said Property, or any part thereof, shall be paid directly to Beneficiary and shall be: (i) retained by Beneficiary; or (ii) released to Trustor by Beneficiary; all in accordance with Section 8.02 of the Credit Agreement.

14. Subrogation. To the extent that any sums advanced by Beneficiary are used to pay any outstanding lien, charge or prior encumbrance against the Property, such sums shall be deemed to have been advanced by Beneficiary at the request of Trustor and Beneficiary shall be subrogated to any and all rights and liens held by any owner or holder of such outstanding liens, charges and prior encumbrances, regardless of whether said liens, charges or encumbrances are released.

15. Due on Sale. If Trustor shall be voluntarily, or involuntarily, divested of title or possession of any Property, by merger or otherwise, or shall lease, sell, convey, further encumber or in any other manner voluntarily or involuntarily alienate any of its interest in any of the Property, or shall enter into an agreement to do any of the foregoing, other than as permitted in the Credit Agreement, any indebtedness or obligation secured hereby, irrespective of the maturity dates expressed in any notes evidencing the same, shall at the option of Beneficiary, and upon the giving of any notice which may be required under the Credit Agreement, immediately become due and payable.

16. Partial or Late Payment. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment, when due, of all other sums so secured or to declare default, as herein provided, for failure to so pay.

17. Certain Acts by Trustee or Beneficiary. At any time, and from time to time, without liability therefor and without notice to Trustor, upon written request of Beneficiary and, if required by Trustee, upon presentation of this Deed of Trust and the Notes secured hereby for endorsement (if required by Trustee), and without affecting the effect of this Deed of Trust upon the remainder of said Property, Trustee may: reconvey to Trustor any part of said Property; consent in writing to the making of any map or plat thereof; join in granting any easement thereon, or join in any extension agreement or subordination agreement in connection herewith. The Beneficiary may without notice to or consent of Trustor extend the time of the payment of any

indebtedness secured hereby to any successors in interest of Trustor without discharging Trustor from liability thereon.

18. Full Reconveyance. Upon receipt of written request from Beneficiary reciting that all obligations under the Notes and any other notes secured hereby, and all other sums then due and owing and secured hereby, have been paid and, if required by Trustee, upon surrender of this Deed of Trust and the Notes secured hereby to Trustee for cancellation and retention, or such other disposition as Trustee, in its sole discretion, may choose, and upon payment of its fees, the Trustee shall reconvey, within applicable statutory period, without warranty or recourse and at the expense of Trustor, the Property then held hereunder, and the assignment set forth by Section 10 above shall be of no further force or effect. The recitals in such reconveyance of any matters of fact shall be conclusive proof of the truth thereof. The Grantee in such reconveyance may be described in general terms as "the person or persons legally entitled thereto".

19. Right of Beneficiary and Trustee to Appear. If, during the existence of the trust, there be commenced or pending any suit or action affecting the Property, or any part thereof, or the title thereto, or if any adverse claim for or against the Property, or any part thereof, be made or asserted, the Trustee or Beneficiary (unless such suit, action or claim is being contested in good faith by Trustor and Trustor shall have established and maintained adequate reserves in accordance with generally accepted accounting principles for the full payment and satisfaction of such suit or action if determined adversely to Trustor), may appear or intervene in the suit or action and retain counsel therein and defend same, or otherwise take such action therein as they may be advised, and may settle or compromise same or the adverse claim; and in that behalf and for any of the purposes may pay and expend such reasonable sums of money as the Trustee or Beneficiary may deem to be necessary and Trustor shall reimburse Trustee, or Beneficiary, as the case may be, for such sums expended, together with accrued interest thereon, at the Default Rate which is defined in the Credit Agreement, accruing from Beneficiary's demand for such payment.

20. Remedies. Upon, and at any time subsequent to, the occurrence of an Event of Default, as defined in the Credit Agreement, Beneficiary and/or Trustee will be entitled to invoke any and all of the following rights and remedies, all of which will be cumulative, it being provided that exercise of any one or more of such rights and remedies shall not constitute an election of remedies:

(a) With respect to any Event of Default as defined in Section 7.01 of the Credit Agreement (other than Events of Default as defined by

Subsections 7.01(f), (g) or (h) of the Credit Agreement), all sums secured hereby shall, at the option of Beneficiary, and upon the giving of notice required by the Credit Agreement, if any, become immediately due and payable. With respect to any Event of Default as defined in any of subsections 7.01(f), (g) or (h) of the Credit Agreement, all sums secured hereby shall automatically become due and payable without notice and without any action on the part of Beneficiary.

(b) Beneficiary may apply to any court of competent jurisdiction, by ex parte application or otherwise, for, and obtain appointment of, a receiver for the Property or any part thereof, without notice to Trustor or anyone claiming under Trustor, as a matter of absolute right, and without regard to the then value of the Property, the adequacy of any security for the obligations secured hereby or the solvency of any person or entity liable therefor, and Trustor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers of receivers in like or similar cases and all the powers of Beneficiary in case of entry as provided by subsection (c) below and as provided in the Credit Agreement and shall continue as such and exercise all such powers until the termination of such receivership with the consent of Beneficiary or pursuant to an order of a court of competent jurisdiction. All expenses incurred by the receiver or his agents, including obligations to repay funds borrowed by the receiver, shall constitute a part of the obligations secured hereby. Any revenues collected by the receiver shall be applied first to the expenses of the receivership, including attorneys' fees incurred by the receiver and by Beneficiary, together with interest thereon at the Default Rate (as defined the Credit Agreement) from the date incurred until repaid, and the balance shall be applied toward the obligations secured hereby or in such other manner as the court may direct.

(c) Beneficiary, in person, by agent or by court appointed receiver, under subsection (b) above, may enter, take possession of, manage and operate all or any part of the Property, subject to applicable laws, and may also do any and all other things in connection with those actions that Beneficiary may, in its sole discretion, consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include, among other things, any of the following: taking and possessing all of Trustor's or the then owner's books and records with respect to the Property; obtaining and evicting tenants in accordance with any applicable leases; fixing or modifying rents in accordance with any applicable leases; collecting and receiving any payment of money owing to Trustor with respect to the Property; completing construction; and contracting for and making repairs and alterations. If Beneficiary so requests, Trustor shall assemble all of the Property that has been removed from the Real Property in violation of any of the Loan Documents (as defined in the Credit Agreement) and make all of it available to Beneficiary at the site of the Real Property. Trustor hereby

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irrevocably constitutes and appoints Beneficiary (or, if applicable, Beneficiary's receiver) as Trustor's attorney-in-fact to perform such acts and execute such documents as Beneficiary in its sole discretion may consider to be appropriate in connection with taking these measures. All reasonable expenses incurred by Beneficiary or its agents under this subsection 20(c) shall constitute a part of the obligations secured hereby. Any revenues collected by Beneficiary shall be applied first to the expenses so incurred (including reasonable attorneys' fees) together with interest thereon at the Default Rate (as defined the Credit Agreement) from the date incurred until repaid, and the balance shall be applied toward the obligations secured hereby or in such other manner as the court may direct. Regardless of any provision of this Deed of Trust, or the Credit Agreement, Beneficiary shall not be considered to have accepted any personal property (other than cash or immediately available funds which have been actually, and indefeasibly, delivered to Beneficiary and are not held in the hands of a receiver or other third party) in satisfaction of any obligation of Trustor to Beneficiary, unless Beneficiary has given express written notice of Beneficiary's election of that remedy in accordance with the Nevada Uniform Commercial Code, as it may be amended or recodified from time to time.

(d) If the notice of breach and election to sell which is required by Chapter 107 of the Nevada Revised Statutes shall be first recorded, and if the time period after such recording, which is required by Chapter 107 of the Nevada Revised Statutes, shall have elapsed, then Trustee, its successors or assigns, on demand by Beneficiary, shall sell the above-granted premises, in order to accomplish the objects of these trusts, in the manner following, namely:

(i) the Trustee shall first give notice of the time and place of such sale, in the manner provided by the laws of the State of Nevada for the sale of real property under execution, and may from time to time postpone such sale by such advertisement as it may deem reasonable, or without further advertisement, by proclamation made to the persons assembled at the time and place previously appointed and advertised for such sale (as such time may have been previously postponed), and: (aa) on the day of sale so advertised, the Trustee may, in its discretion, sell the Property so advertised, or any portion thereof, in one or more lots (and thereafter postpone such sale, in accordance herewith, as to any portion of the Property remaining unsold, if Trustee so elects); and (bb) on any day to which such sale may have been postponed, the Trustee may, in its discretion, sell all or any portion of the Property then remaining unsold, in one or more lots (and thereafter further postpone such sale, in accordance herewith, as to any portion of the Property remaining unsold, if Trustee so elects); all at public auction, at the time and place specified in the notice (as such time may have been postponed), either in the county in which the Property, or any part thereof, to be sold, is situated, or at the principal office of the Trustee, in its discretion, to the highest cash

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bidder. The Beneficiary, Trustee, obligee, creditor, or the holder or holders of the Notes (and/or other obligations) secured hereby may bid (including by credit bid) and purchase at such sale. The Beneficiary may, after recording the notice of breach and election, waive or withdraw the same or any proceedings thereunder, and shall thereupon be restored to its former position and have and enjoy the same rights as though such notice had not been recorded.

(ii) the Trustee, upon such sale, shall make (without warranty), execute and, after due payment made, deliver to purchaser or purchasers, his, her or their heirs or assigns, a deed or deeds of the premises so sold which shall convey to the purchaser all the title of the Trustor in the trust premises, and shall apply the proceeds of the sale thereof in accordance with the terms and conditions of the Credit Agreement. The recital in any such deed, of: (aa) default; (bb) recording notice of breach and election of sale; (cc) the elapsing of the three (3) month period after such recording; (dd) the giving of notice of sale; and (ee) demand by Beneficiary, its heirs or assigns, that such sale should be made; shall be conclusive proof of such default, recording, elapsing of time and of the due giving of notice and that the sale was regularly and validly made on due and proper demand by Beneficiary, its heirs and assigns; and any such deed or deeds with such recitals therein shall be effectual and conclusive against Trustor or its successors and assigns, and all other persons; and the receipt for the purchase money recited or contained in any deed executed to the purchaser as aforesaid shall be sufficient discharge to such purchaser from all obligation to see to the proper application of the purchase money, according to the trusts aforesaid.

(e) The rights and remedies of Beneficiary upon the occurrence of one or more Events of Default as defined in the Credit Agreement (whether such rights and remedies are conferred by statute, by rule of law, by this Deed of Trust, by any Loan Document, as defined in the Credit Agreement, or otherwise) may be exercised by Beneficiary, in the sole discretion of Beneficiary, either alternatively, concurrently, or consecutively in any order. The exercise by Beneficiary or Trustee at the express direction of Beneficiary, of any one or more of such rights and remedies shall not be construed to be an election of remedies nor a waiver of any other rights and remedies Beneficiary might have unless, and limited to the extent that, Beneficiary shall so elect or so waive by an instrument in writing delivered to Trustee. Without limiting the generality of the foregoing, to the extent that this Deed of Trust covers both Real Property and Personal Property, Beneficiary may, in the sole discretion of Beneficiary, either alternatively, concurrently, or consecutively in any order:

(i) proceed as to both the Real Property and Personal Property in accordance with Beneficiary's rights and remedies in respect of the Real Property; or

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(ii) proceed as to the Real Property in accordance with Beneficiary's rights and remedies in respect of the Real Property and proceed as to the Personal Property in accordance with Beneficiary's rights and remedies in respect of the Personal Property.

If Beneficiary should elect to proceed as to both the Real Property and Personal Property collateral in accordance with Beneficiary's rights and remedies in respect to the Real Property:

(i) all, or any portion of, the Real Property and all, or any portion of, the Personal Property may be sold, in the manner and at the time(s) and place(s) provided in this Deed of Trust, in one lot, or in separate lots consisting of any combination or combinations of Real Property and Personal Property, as the Beneficiary may elect, in the sole discretion of Beneficiary.

(ii) Trustor acknowledges and agrees that a disposition of the Personal Property collateral in accordance with Beneficiary's rights and remedies in respect of Real Property, as hereinabove provided, is a commercially reasonable disposition of said collateral.

If Beneficiary should elect to proceed as to the Personal Property collateral in accordance with Beneficiary's rights and remedies with respect to personal property, Beneficiary shall have all the rights and remedies conferred on a secured party by the Uniform Commercial Code (NRS 104.9101 et seq.; as amended and recodified from time to time). Beneficiary may, in the sole discretion of Beneficiary, appoint Trustee as the agent of Beneficiary for the purpose of disposition of the Personal Property in accordance with the Uniform Commercial Code.

(f) Every right, power and remedy granted to Trustee or Beneficiary in this Deed of Trust shall be cumulative and not exclusive, and in addition to all rights, powers and remedies granted at law or in equity or by statute, and each such right, power and remedy may be exercised from time to time and as often and in such order as may be deemed expedient by Trustee or Beneficiary, and the exercise of any such right, power or remedy shall not be deemed a waiver of the right to exercise, at the time or thereafter, any other right, power or remedy.

21. Substitution of Trustee. The Beneficiary or its assigns may, from time to time, appoint another trustee, or trustees, to execute the trust created by this Deed of Trust or other conveyance in trust. Upon the recording of an acknowledged instrument executed by Beneficiary and providing for such appointment, the new

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trustee or trustees shall be vested with all the title, interest, powers, duties and trusts in the premises vested in or conferred upon the original trustee. If there be more than one trustee, either may act alone and execute the trusts upon the request of the Beneficiary, and all his acts thereunder shall be deemed to be the acts of all trustees, and the recital in any conveyance executed by such sole trustee of such request shall be conclusive evidence thereof, and of the authority of such sole trustee to act.

22. Binding Nature. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. It is expressly agreed that the Trust created hereby is irrevocable by Trustor. If there is more than one trustor hereunder, the obligations of said trustors hereunder shall be joint and several.

23. Acceptance of Trust; Recognition by Trustee. Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law, reserving, however, unto the Trustee, the right to resign from the duties and obligations imposed herein whenever Trustee, in its sole discretion, deems such resignation to be in the best interest of the Trustee. Written notice of such resignation shall be given to Trustor and Beneficiary.

24. Waiver of Certain Rights by Trustor. Trustor waives, to the fullest extent permitted by law: (i) all rights to direct the order in which any of the Property shall be sold in the event of any sale or sales pursuant hereto; and (ii) the rights to have any of the Property or any other property now or hereafter constituting security for the indebtedness secured hereby marshaled upon any foreclosure of this Deed of Trust or of any other security for any such indebtedness.

25. Attorney-in-Fact. Upon the occurrence, and during the continuance, of an Event of Default as defined in Section 7.01 of the Credit Agreement, Trustor shall be deemed to have appointed and does hereby appoint Beneficiary the attorney-in-fact of Trustor to: (i) prepare, sign, file and/or record one or more financing statements, any documents of title or registration, or any similar papers; and (ii) take any other action(s) deemed necessary, useful or desirable by Beneficiary to perfect and preserve the lien and/or security interest of this Deed of Trust against the rights or interests of third persons.

26. Environmental Indemnity.

(a) Trustor agrees to indemnify, protect, defend and save harmless Beneficiary and each of the Banks, as well as their respective, trustees, officers, employees, agents, attorneys and shareholders (individually, an "Indemnified

Party" and collectively, the "Indemnified Parties") from and against any and all losses, damages, expenses or liabilities, of any kind or nature from any investigations, suits, claims or demands, including reasonable counsel fees incurred in investigating or defending such claim, suffered by any of them and caused by, relating to, arising out of, resulting from or in any way connected with: (a) the presence in, on or under the Property of any Hazardous Materials, as defined by reference in the Credit Agreement, or any releases or discharges of any Hazardous Materials on, under or from the Property; (b) any violation of Hazardous Materials Laws (as defined in the Credit Agreement); or (c) any activity carried on or undertaken on or off the Property, whether prior to or during the term of the Credit Facility, and whether by Trustor or any predecessor in title or any employees, agents, contractors or subcontractors of Trustor or any predecessor in title, or any third persons at any time occupying or present on the Property, in connection with the handling, treatment, removal, storage, decontamination, clean-up, transport or disposal of any Hazardous Materials at any time located or present on or under the Property. The foregoing indemnity shall further apply to any residual contamination on or under the Property, or affecting any natural resources, and to any contamination of any property or natural resources, arising in connection with the generation, use, handling, storage, transport or disposal of any such Hazardous Materials, and irrespective of whether any of such activities were or will be undertaken in accordance with applicable laws, regulations, codes and ordinances. It is provided, however, that Trustor shall not be obligated to indemnify, protect, defend or save harmless an Indemnified Party if, and to the extent that, any such loss, damage, expense or liability was caused by: (i) the gross negligence or intentional misconduct of such Indemnified Party; or (ii) the breach of this Deed of Trust, the Credit Agreement or any other Loan Document by such Indemnified Party or the breach of any laws, rules or regulations by such Indemnified Party (other than those breaches arising from Trustor's default). Trustor hereby acknowledges and agrees that, notwithstanding any other provision of this Deed of Trust or any of the other Loan Documents to the contrary, the obligations of Trustor under this Section 26 shall be unlimited personal obligations of Trustor and shall survive any foreclosure under this Deed of Trust, any transfer in lieu thereof, any reconveyance of this Deed of Trust and any satisfaction of the obligations which are secured hereby. Trustor acknowledges that Beneficiary's appraisal of the Property is such that Beneficiary would not extend the Credit Facility but for the personal liability undertaken by Trustor for the obligations under this Section 26. Trustor and Beneficiary agree that any obligations of Trustor under this Section 26 which may also be obligations of Trustor under the Environmental Certificate (which is referred to below) shall be deemed to arise solely under this Section 26 and not under the Environmental Certificate. The obligations of Trustor under this Section 26 are separate from and in addition to the obligations to pay the indebtedness evidenced by the Notes, the obligations under the Credit Agreement and the other obligations secured by, or imposed under, this Deed of Trust. The liability of Trustor under this Section 26 shall not be

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limited to or measured by the amount of the indebtedness secured hereby or the value of the Property. Trustor shall be fully and personally liable for all obligations of Trustor under this Section 26 and a separate action may be brought and prosecuted against Trustor under this Section 26. Trustor waives the right to assert any statute of limitations as a bar to the enforcement of this Section 26 or to any action brought to enforce this Section 26. This Section 26 shall not affect, impair or waive any rights or remedies of Beneficiary or any obligations of Trustor with respect to Hazardous Materials created or imposed by Hazardous Materials Laws (including Beneficiary's rights of reimbursement or contribution under Hazardous Materials Laws). The remedies under this Section 26 are cumulative and in addition to all remedies provided by law.

(b) In case any action shall be brought against any Indemnified Party based upon any of the above and in respect to which indemnity may be sought against Trustor, Beneficiary shall promptly notify Trustor in writing, and Trustor shall assume the defense thereof, including the employment of counsel selected by Trustor and reasonably satisfactory to the Indemnified Party, the payment of all costs and expenses and the right to negotiate and consent to settlement upon the consent of the Indemnified Party. Upon reasonable determination made by an Indemnified Party that such counsel would have a conflict representing such Indemnified Party and Trustor, the applicable Indemnified Party shall have the right to employ, at the expense of Trustor, separate counsel in any such action and to participate in the defense thereof. Trustor shall not be liable for any settlement of any such action effected without its consent, but if settled with Trustor's consent, or if there be a final judgment for the claimant in any such action, Trustor agrees to indemnify, defend and save harmless such Indemnified Parties from and against any loss or liability by reason of such settlement or judgment.

27. Governing Law. This Deed of Trust shall, in all respects, be governed by and construed in accordance with the internal laws of the State of Nevada without regard to conflict of law principles.

28. Uniform Commercial Code.

(a) Statutory References. All references in this Deed of Trust to: (i) "Commercial Code" shall be to the Uniform Commercial Code, as enacted in the State of Nevada (NRS Chapters 104 and 104A), as it may be amended or recodified from time to time; and (ii) "Article 9 of the Commercial Code" shall be to the Uniform Commercial Code--Secured Transactions, NRS 104.9101, et seq., as it may be amended or recodified from time to time; provided, however, that if, by reason of mandatory provisions of law, the validity or perfection of any security interest granted herein is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of Nevada, then, as to the validity or perfection of such security interest,

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"Commercial Code" shall mean the Uniform Commercial Code in effect in such other jurisdiction.

(b) Fixture Filing. The Property includes goods which are, or are to become, fixtures related to the Real Property, and this Deed of Trust is intended to be a fixture filing under NRS 104.9502 as it may be amended, or recodified, from time to time. Trustor's Nevada Organizational Identification Number is: C649-1975. The address of Beneficiary from which information may be obtained concerning the security interest granted hereunder and the mailing address of Trustor are as follows:

Beneficiary: First National Bank of Nevada
4950 W. Flamingo
Las Vegas, Nevada 89103
Attn: E. Philip Potamitis, Senior Vice President

Trustor: Berry-Hinckley Industries
5195 Las Vegas Blvd.
Las Vegas, Nevada 89119

(c) Remedies in Respect of Personal Property. Upon the occurrence and during the continuance of an Event of Default, as defined in the Credit Agreement:

(i) Beneficiary may exercise in respect of the Personal Property, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party after default under Article 9 of the Commercial Code (whether or not Article 9 of the Commercial Code applies to the affected Personal Property). Beneficiary may also: (aa) require Trustor to, and Trustor hereby agrees that it will, at its expense and at the request of Beneficiary upon reasonable notice, assemble all or part of its Personal Property as directed by Beneficiary and make it available to Beneficiary at a place to be designated by Beneficiary which is reasonably convenient to both parties; and (bb) without notice except as specified below, sell the Personal Property or any part thereof in one or more parcels at public or private sale, at any of Beneficiary's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as Beneficiary may deem to be commercially reasonable. Unless the Personal Property to be sold is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Beneficiary shall give Trustor, at least ten (10) business days' prior notice of the time and place

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of any public sale or the time after which any private sale is to be made, and Trustor agrees that satisfaction of the foregoing notice requirements shall constitute reasonable notification. Beneficiary shall also give such other notice as may be required by law. Beneficiary shall not be obligated to make any sale of Personal Property regardless of notice of sale having been given. Beneficiary may adjourn any public or private sale from time to time by announcement at the time and place fixed therefore, and such sale may, without further notice, be made at the time and place to which it was so adjourned;

(ii) Upon any sale of the Personal Property (whether public or private) by Beneficiary, Beneficiary shall have the right to deliver, assign and transfer to the purchaser thereof the Personal Property so sold. Each purchaser (including Beneficiary and the other Banks) at any such sale shall hold the Personal Property so sold free from any claim or right of whatever kind, including any equity or right of redemption of Trustor, and Trustor, to the extent permitted by law, hereby specifically waives all rights of redemption under the Commercial Code, and any right to a judicial or other stay or approval which it has or may have under any law now existing or hereafter adopted;

(iii) Beneficiary shall have the right and power to institute and maintain such suits and proceedings as it may deem appropriate to protect and enforce the rights vested in it by this Deed of Trust and may proceed by suit or suits at law or in equity to enforce such rights and to foreclose upon and sell the Personal Property or any part thereof pursuant to the judgment or decree of a court of competent jurisdiction;

(iv) To the extent permitted by law and without regard to the solvency or insolvency at the time of any Person then liable for the payment of any of the Secured Obligations or the then value of the Personal Property, and without requiring any bond from any party to such proceedings, be entitled to request the appointment of a special receiver or receivers (who may be Beneficiary or any other Bank) for the Personal Property or any part thereof and for the rents, issues, tolls, profits, royalties, revenues and other income therefrom, which receiver shall have such powers as the court making such appointment shall confer, and to request the entry of an order directing that the rents, issues, tolls, profits, royalties, revenues and other income of the property constituting the whole or any part of the Personal Property be

segregated, sequestered and impounded for the benefit of Beneficiary and the other Banks; and

(v) No remedy conferred upon or reserved to Beneficiary in this Deed of Trust is intended to be exclusive of any other remedy or remedies, but every such remedy shall be cumulative and shall be in addition to every other remedy conferred herein or now or hereafter existing at law, in equity or by statute.

(d) Further Assurances. Trustor agrees that, in addition to all other obligations of further assurance which Trustor may have hereunder, it shall file such financing statements, execute such amendments to this Deed of Trust, obtain such agreements and documents from third parties, and take such other actions as may be necessary or desirable under Article 9 of the Commercial Code, or that Beneficiary may reasonably request in accordance with Article 9 of the Commercial Code, in order to: (i) provide for perfection, preservation and protection of the security interests granted or intended to be granted hereunder; and (ii) enable Beneficiary to exercise and enforce its rights and remedies hereunder with respect to any Property.

29. Credit Agreement. This Deed of Trust has been executed pursuant to and is subject to the terms of the Credit Agreement and is one of the Loan Documents referred to therein. Trustor agrees to observe and perform all provisions contained in the Credit Agreement and in the other Loan Documents.

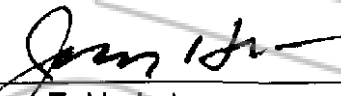
30. Environmental Certificate. Trustor has executed an instrument entitled "Certificate and Indemnification Regarding Hazardous Substances", dated June 28, 2007 (which, together with all amendments, modifications, extensions, renewals or restatements thereof, is referred to herein as the "Environmental Certificate"). The obligations of Trustor under the Environmental Certificate are not secured by this Deed of Trust.

31. Notices. All notices, reports, demands, requests and other communications authorized or required under this Deed of Trust to be given to Trustor or Beneficiary, shall be given in the manner and to the addresses specified in the Credit Agreement for the giving of notices.

IN WITNESS WHEREOF, BHI has executed this instrument as of the day and year first above written.

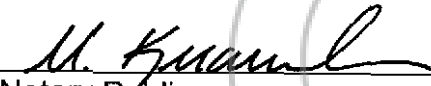
TRUSTOR:

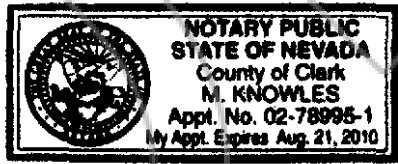
BERRY-HINCKLEY INDUSTRIES,
a Nevada corporation

By 
Jerry E. Herbst,
President

STATE OF NEVADA)
) ss
COUNTY OF CLARK)

This instrument was acknowledged before me on June 29, 2007, by JERRY E. HERBST as President of BERRY-HINCKLEY INDUSTRIES.


Notary Public



LEGAL DESCRIPTION

All that certain real property situate in the County of Douglas, State of Nevada, described as follows:

Parcel One (1):

Beginning a portion of the Northeast Quarter (NE ¼) of Section 4, Township 12 North, Range 20 East, M.D.B. & M., described as follows:

Commencing at the Southeast (SE) corner of Lot Thirty Nine (39), as shown on the map of Carson Valley Estates Subdivision, Unit No. 1, filed in the Office of the County Recorder of Douglas County, Nevada on July 19, 1965; thence North 89°46'07" East, a distance of 30.00 feet; thence South 38°54'53" West, a distance of 715.12 feet to a point on the Northeasterly right of way line of U.S. Highway 395; thence along said right of way line North 51°04' West, a distance of 30.00 feet to the True Point of Beginning; thence continuing along the Northeasterly right of way line of said U.S. Highway 395, North 51°04' West, a distance of 135.00 feet; thence North 38°54'53" East, 100.00 feet; thence South 51°04' East, 135.00 feet; thence South 38°54'53" West, a distance of 100.00 feet to the Point of Beginning.

Parcel One-A (1A):

A non exclusive easement for roadway purposes that is described as follows:

Commencing at the most Southerly corner of the herein above conveyed parcel; thence North 38°54'53" East, along the Easterly line of said parcel, a distance of 135.00 feet to the most Easterly corner thereof; thence South 51°04" East, 30.00 feet; thence South 38°54'53" West, a distance of 135.00 feet to a point on the Northeasterly right of way line of U.S. Highway 395; thence along the right of way line North 51°04" West, a distance of 30.00 feet to the Point of Beginning.

NOTE: The above metes and bounds description appeared previously in that certain Document recorded in the Office of the County Recorder of Douglas County, Nevada on December 30, 2002 in Book 1202, Page 13431 as Document No. 562391 of Official Records.

(APN No. 1220-04-501-004)

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EXHIBIT "A"