

DOC # 785719  
06/29/2011 01:43PM Deputy: PK  
**OFFICIAL RECORD**

Requested By:

Stewart Title of Nevada Re  
Douglas County - NV  
Karen Ellison - Recorder

Page: 1 of 12 Fee: \$25.00  
BK-611 PG-6220 RPTT: 0.00



APN: 1320-30-701-019

**RECORDING REQUESTED BY**  
**AND WHEN RECORDED MAIL TO:**

WELLS FARGO BANK, NATIONAL ASSOCIATION  
Middle Market Real Estate  
5340 Kietzke Lane  
Reno, NV 89511  
Attention: Susan A. Klein  
Loan No. 1000427

**MEMORANDUM OF MODIFICATION AGREEMENT**  
**AMENDING DEED OF TRUST**  
**AND ADDENDUM TO DEED OF TRUST**





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Attention: Susan A. Klein  
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**MEMORANDUM OF MODIFICATION AGREEMENT  
AMENDING DEED OF TRUST  
AND ADDENDUM TO DEED OF TRUST**

The undersigned declare that they have entered into a modification agreement dated of even date herewith, wherein provision is made for (a) amendment of that certain Construction Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated November 12, 2008, by MINDEN HOTEL LLC, a Nevada limited liability company ("**Borrower**"), as Trustor, and Stewart Title Guaranty Company, as Trustee, on behalf of WELLS FARGO BANK, NATIONAL ASSOCIATION ("**Lender**"), as Beneficiary ("**Deed of Trust**") and recorded on November 17, 2008 as Document No. 733212, Book 1108, Page 3224, in the Office of the County Recorder of Douglas County, Nevada, as amended pursuant to (a) that certain Memorandum of Modification Agreement Amending Deed of Trust dated as of January 31, 2011 and recorded on February 3, 2011 as Document No. 778113, Book 211, Page 832, in the office of the County Recorder of Douglas County, Nevada, (b) that certain Modification Agreement (Secured Swap Contract) dated as of March 17, 2011 and recorded on May 27, 2011 as Document No. 0783894, Book 0511, Page 5127, in the office of the County Recorder of Douglas County, Nevada, and (c) that certain Memorandum of Modification Agreement Amending Deed of Trust, of even date herewith and to be recorded in the office of the County Recorder of Douglas County, Nevada. This instrument is a memorandum of the modification agreement, and the same is incorporated herein by this reference with the same effect and as though set forth herein in its entirety. In addition, the Deed of Trust is hereby amended to add the Cross Default/Cross Collateralization Rider and the Non-Borrower Trustor Rider, both of which are attached hereto and hereby incorporated into the Deed of Trust.

[SIGNATURE PAGE FOLLOWS]



Dated as of: June 22, 2011.

“LENDER”

WELLS FARGO BANK, NATIONAL  
ASSOCIATION

By: 

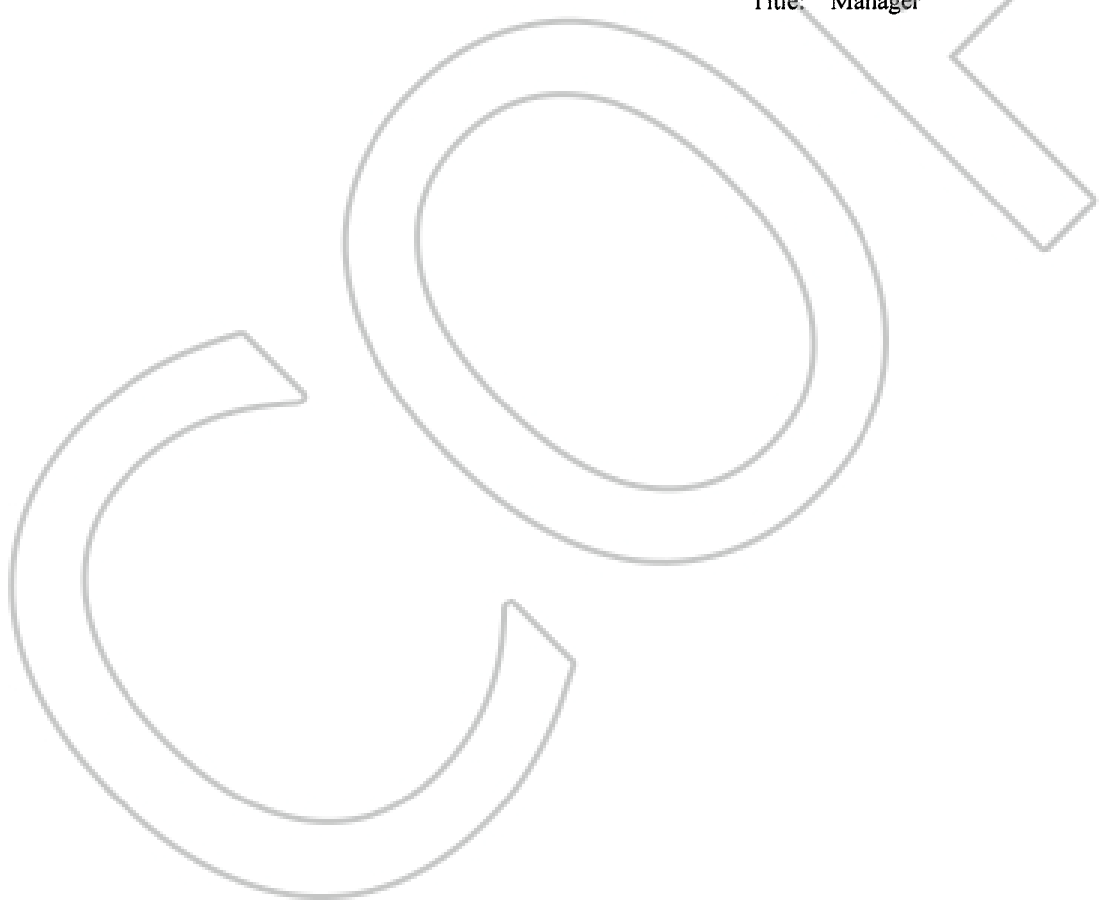
Name: Susan A. Klein  
Title: Senior Vice President

“BORROWER”

MINDEN HOTEL LLC, a Nevada limited liability  
company

By: 

Name: Jaswinder Singh  
Title: Manager



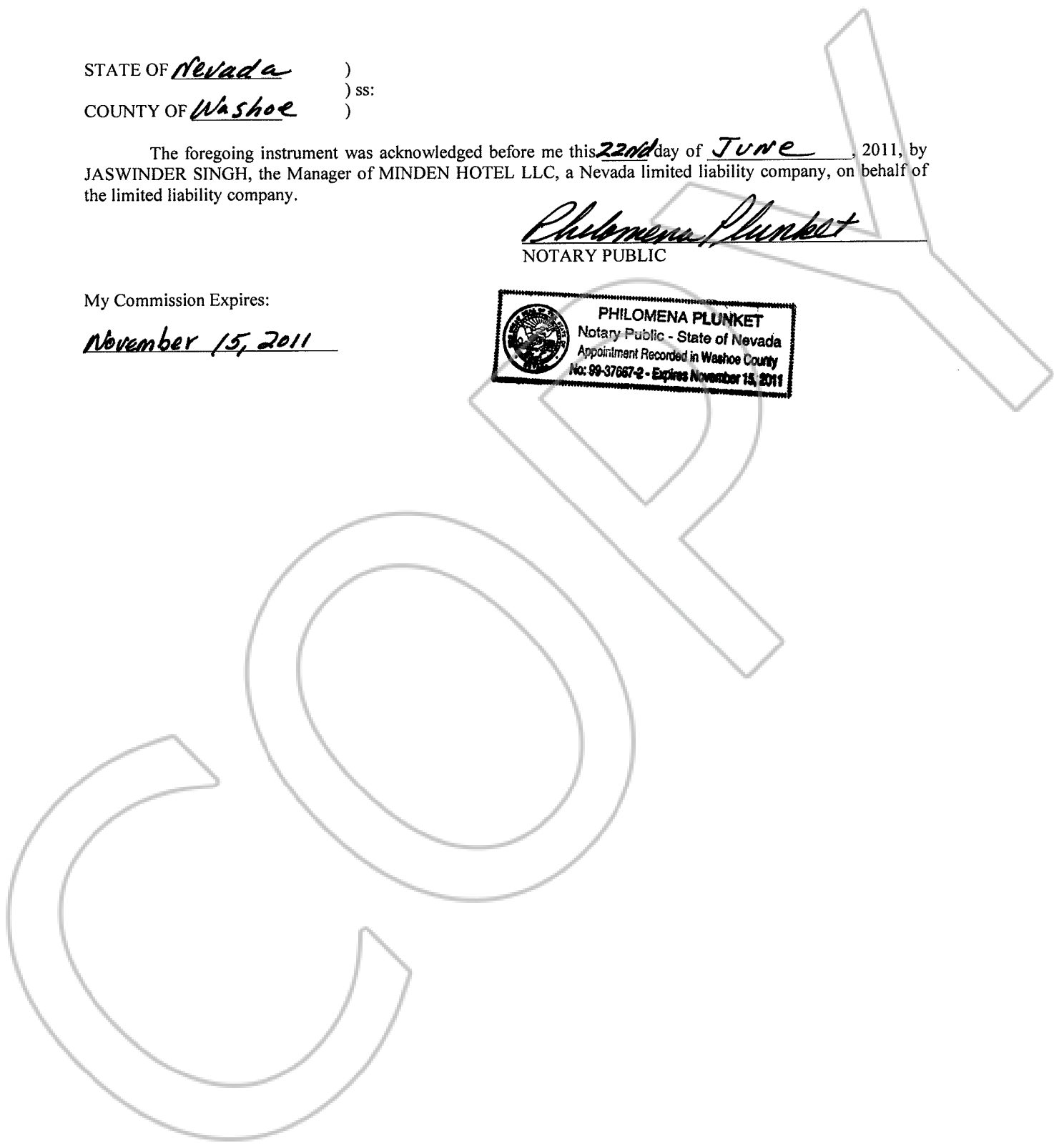
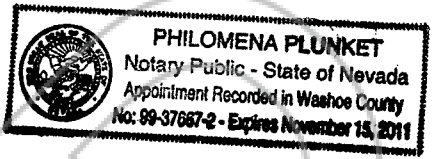


STATE OF Nevada )  
 ) ss:  
COUNTY OF Washoe )

The foregoing instrument was acknowledged before me this 22nd day of June, 2011, by JASWINDER SINGH, the Manager of MINDEN HOTEL LLC, a Nevada limited liability company, on behalf of the limited liability company.

Philomena Plunket  
NOTARY PUBLIC

My Commission Expires:  
November 15, 2011



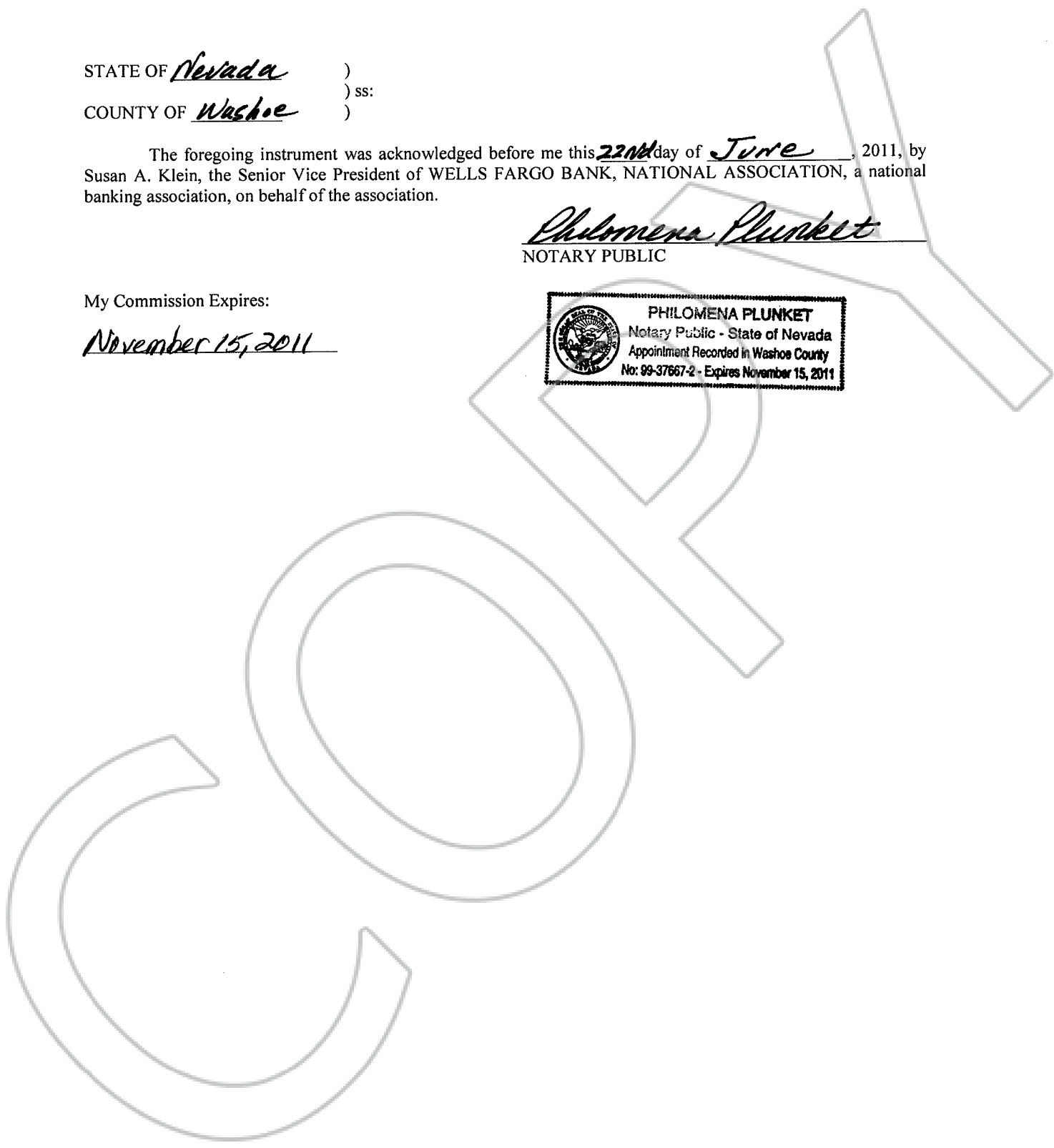
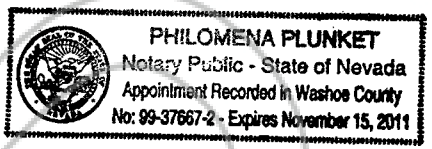


STATE OF Nevada )  
 ) ss:  
COUNTY OF Washoe )

The foregoing instrument was acknowledged before me this 22nd day of June, 2011, by Susan A. Klein, the Senior Vice President of WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, on behalf of the association.

Philomena Plunket  
NOTARY PUBLIC

My Commission Expires:  
November 15, 2011





Loan Number 1000427

**CROSS-DEFAULT/CROSS-COLLATERALIZATION RIDER**

Rider to Construction Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated November 12, 2008, as amended, executed by MINDEN HOTEL LLC, a Nevada limited liability company, as Trustor, to STEWART TITLE GUARANTY COMPANY, as Trustee, for the benefit of WELLS FARGO BANK, NATIONAL ASSOCIATION, as Beneficiary.

1. **ADDITIONAL SECURITY - OBLIGATIONS SECURED BY OTHER DEED OF TRUST.** In addition to the obligations secured by this Deed of Trust and described as "Secured Obligations" herein, this Deed of Trust shall also secure the payment and performance of all obligations secured by that certain Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing ("**Other Deed of Trust**") made by RENO HOTEL LLC, a Nevada limited liability company, as trustor, to STEWART TITLE GUARANTY COMPANY, trustee, for the benefit of Beneficiary, dated as of June 22, 2011, to be recorded in the Official Records in the Office of the County Recorder of Washoe County, State of Nevada (Loan No. 1004306).
2. **ADDITIONAL SECURITY - OBLIGATIONS SECURED BY DEED OF TRUST.** In addition to the obligations secured by the Other Deed of Trust, the Other Deed of Trust shall also secure the payment and performance of all obligations secured by this Deed of Trust.
3. **DEFAULT - OTHER DEED OF TRUST.** A Default under the Other Deed of Trust, as defined therein, shall, at Beneficiary's option, constitute a Default under this Deed of Trust.
4. **DEFAULT - DEED OF TRUST.** A Default under this Deed of Trust shall, at Beneficiary's option, constitute a Default under the Other Deed of Trust.
5. **WAIVER OF MARSHALING RIGHTS.** Trustor waives all rights to have all or part of the Property and Collateral described in this Deed of Trust and/or the Other Deed of Trust marshaled upon any foreclosure of this Deed of Trust or the Other Deed of Trust. Beneficiary shall have the right to sell, and any court in which foreclosure proceedings may be brought shall have the right to order a sale of the Property and Collateral described in either or both of said deeds of trust as a whole or in separate parcels, in any order that Beneficiary may designate. Trustor makes this waiver for itself, for all persons and entities claiming through or under Trustor and for persons and entities who may acquire a lien or security interest on all or any part of the Property and Collateral described in either of said deeds of trust, or on any interest therein.
6. **WARRANTIES AND REPRESENTATIONS.** Trustor represents and warrants that the lien of the Other Deed of Trust is a first lien on the property described therein and covered thereby and that the provisions of this Deed of Trust will not cause intervening liens to become prior to the lien of the Other Deed of Trust. If any intervening lien exists or hereafter arises, Trustor shall cause the same to be released or subordinated to the lien of the Other Deed of Trust, without limiting any other right or remedy available to Beneficiary.  
  
Trustor further warrants that Trustor has no legal or equitable claim against any trustor named in the Other Deed of Trust which would be prior to the lien of the Other Deed of Trust, or which would entitle Trustor to a judgment entitling Trustor to an equitable lien on all or any portion of that property prior in lien to the Other Deed of Trust.
7. **NON-IMPAIRMENT.** Except as supplemented and/or modified by this Deed of Trust, all of the terms, covenants and conditions of the Other Deed of Trust and the other loan documents executed in connection therewith shall remain in full force and effect.



8. **LIEN OF DEED OF TRUST AND OTHER DEED OF TRUST.** Trustor and Beneficiary acknowledge and agree that: this Deed of Trust shall constitute a lien or charge upon only that property described herein as the "Property"; and the Other Deed of Trust shall constitute a lien or charge upon only that property described therein as the "Property".

COPY



NON-BORROWER TRUSTOR RIDER

Rider to Construction Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated November 12, 2008, as amended, executed by MINDEN HOTEL LLC, a Nevada limited liability company, as Trustor, to STEWART TITLE GUARANTY COMPANY, as Trustee, for the benefit of WELLS FARGO BANK, NATIONAL ASSOCIATION, as Beneficiary.

To the extent this Deed of Trust secures a promissory note and other loan documents ("**Loan Documents**") made by a party or parties ("**Borrower**") not identical to the party or parties constituting Trustor, the party or parties constituting Trustor agree as follows:

1. **CONDITIONS TO EXERCISE OF RIGHTS.** Trustor hereby waives any right it may now or hereafter have to require Beneficiary, as a condition to the exercise of any remedy or other right against Trustor hereunder or under any other document executed by Trustor in connection with any Secured Obligation: (a) to proceed against any Borrower or other person, or against any other collateral assigned to Beneficiary by Trustor or any Borrower or other person; (b) to pursue any other right or remedy in Beneficiary's power; (c) to give notice of the time, place or terms of any public or private sale of real or personal property collateral assigned to Beneficiary by any Borrower or other person (other than Trustor), or otherwise to comply with the Uniform Commercial Code as enacted in the State of Nevada, NRS Chapters 104 and 104A (as modified or recodified from time to time) with respect to any such personal property collateral; or (d) to make or give (except as otherwise expressly provided in the Loan Documents) any presentment, demand, protest, notice of dishonor, notice of protest or other demand or notice of any kind in connection with any Secured Obligation or any collateral (other than the Property) for any Secured Obligation.
2. **DEFENSES.** Trustor hereby waives any defense it may now or hereafter have that relates to: (a) any disability or other defense of any Borrower or other person; (b) the cessation, from any cause other than full performance, of the obligations of Borrower or any other person; (c) the application of the proceeds of any Secured Obligation, by any Borrower or other person, for purposes other than the purposes represented to Trustor by any Borrower or otherwise intended or understood by Trustor or any Borrower; (d) any act or omission by Beneficiary which directly or indirectly results in or contributes to the release of any Borrower or other person or any collateral for any Secured Obligation; (e) the unenforceability or invalidity of any collateral assignment (other than this Deed of Trust) or guaranty with respect to any Secured Obligation, or the lack of perfection or continuing perfection or lack of priority of any lien (other than the lien hereof) which secures any Secured Obligation; (f) any failure of Beneficiary to marshal assets in favor of Trustor or any other person; (g) any modification of any Secured Obligation, including any renewal, extension, acceleration or increase in interest rate; (h) any and all rights and defenses arising out of an election of remedies by Beneficiary; (i) any law which provides that the obligation of a surety or guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation; (j) any failure of Beneficiary to file or enforce a claim in any bankruptcy or other proceeding with respect to any person; (k) the election by Beneficiary, in any bankruptcy proceeding of any person, of the application or non-application of Section 1111(b)(2) of the United States Bankruptcy Code; (l) any extension of credit or the grant of any lien under Section 364 of the United States Bankruptcy Code; (m) any use of cash collateral under Section 363 of the United States Bankruptcy Code; or (n) any agreement or stipulation with respect to the provision of adequate protection in any bankruptcy proceeding of any person.
3. **SUBROGATION.** Trustor hereby waives, until such time as all Secured Obligations are fully performed: (a) any right of subrogation against any Borrower that relates to any Secured Obligation; (b) any right to enforce any remedy Trustor may now or hereafter have against any Borrower that relates to any Secured Obligation; and (c) any right to participate in any collateral now or hereafter assigned to Beneficiary with respect to any Secured Obligation.
4. **BORROWER INFORMATION.** Trustor warrants and agrees: (a) that Beneficiary would not make the Loan but for this Deed of Trust; (b) that Trustor has not relied, and will not rely, on any representations or warranties by Beneficiary to Trustor with respect to the credit worthiness of any Borrower or the prospects





of repayment of any Secured Obligation from sources other than the Property; (c) that Trustor has established and/or will establish adequate means of obtaining from each Borrower on a continuing basis financial and other information pertaining to the business operations, if any, and financial condition of each Borrower; (d) that Trustor assumes full responsibility for keeping informed with respect to each Borrower's business operations, if any, and financial condition; (e) that Beneficiary shall have no duty to disclose or report to Trustor any information now or hereafter known to Beneficiary with respect to any Borrower, including, without limitation, any information relating to any of Borrower's business operations or financial condition; and (f) that Trustor is familiar with the terms and conditions of the Loan Documents and consents to all provisions thereof.

5. **REINSTATEMENT OF LIEN.** Beneficiary's rights hereunder shall be reinstated and revived, and the enforceability of this Deed of Trust shall continue, with respect to any amount at any time paid on account of any Secured Obligation which Beneficiary is thereafter required to restore or return in connection with a bankruptcy, insolvency, reorganization or similar proceeding with respect to any Borrower.

6. **SUBORDINATION.** Until all of the Secured Obligations have been fully paid and performed: (a) Trustor hereby agrees that all existing and future indebtedness and other obligations of each Borrower to Trustor (collectively, the "**Subordinated Debt**") shall be and are hereby subordinated to all Secured Obligations which constitute obligations of the applicable Borrower, and the payment thereof is hereby deferred in right of payment to the prior payment and performance of all such Secured Obligations; (b) Trustor shall not collect or receive any cash or non-cash payments on any Subordinated Debt or transfer all or any portion of the Subordinated Debt; and (c) in the event that, notwithstanding the foregoing, any payment by, or distribution of assets of, any Borrower with respect to any Subordinated Debt is received by Trustor, such payment or distribution shall be held in trust and immediately paid over to Beneficiary, is hereby assigned to Beneficiary as security for the Secured Obligations, and shall be held by Beneficiary in an interest bearing account until all Secured Obligations have been fully paid and performed.

7. **HAZARDOUS MATERIALS.**

(a) **Special Representations and Warranties.** Without in any way limiting the other representations and warranties set forth in this Deed of Trust, and after reasonable investigation and inquiry, Trustor hereby represents and warrants to the best of Trustor's knowledge as of the date of this Deed of Trust as follows:

(i) **Hazardous Materials.** Except as previously disclosed to Beneficiary in that certain Phase 1 Environmental Site Assessment dated May 13, 2011, prepared by Terracon Consultants, Inc., the Property is not and has not been a site for the use, generation, manufacture, storage, treatment, release, threatened release, discharge, disposal, transportation or presence of any oil, flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, hazardous wastes, toxic or contaminated substances or similar materials, including, without limitation, any substances which are "hazardous substances," "hazardous wastes," "hazardous materials," "toxic substances," "wastes," "regulated substances," "industrial solid wastes," or "pollutants" under the Hazardous Materials Laws, as described below, and/or other applicable environmental laws, ordinances and regulations (collectively, the "**Hazardous Materials**").

(ii) **Hazardous Materials Laws.** The Property is in compliance with all laws, ordinances and regulations relating to Hazardous Materials ("**Hazardous Materials Laws**"), including, without limitation: the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.*; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 *et seq.*; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 *et seq.*; the Comprehensive Environment Response, Compensation and Liability Act of 1980, as amended (including the Superfund Amendments and Reauthorization Act of 1986, "CERCLA"), 42 U.S.C. Section 9601 *et seq.*; the Toxic Substances Control Act, as amended, 15 U.S.C. Section 2601 *et seq.*; the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651, the Emergency Planning and



Community Right-to-Know Act of 1986, 42 U.S.C. Section 11001 et seq.; the Mine Safety and Health Act of 1977, as amended, 30 U.S.C. Section 801 et seq.; the Safe Drinking Water Act, as amended, 42 U.S.C. Section 300f et seq.; and all comparable state and local laws, laws of other jurisdictions or orders and regulations.

(iii) **Hazardous Materials Claims.** There are no claims or actions (“**Hazardous Materials Claims**”) pending or threatened against Trustor or the Property by any governmental entity or agency or by any other person or entity relating to Hazardous Materials or pursuant to the Hazardous Materials Laws.

(b) **Hazardous Materials Covenants.** Trustor agrees as follows:

(i) **No Hazardous Activities.** Trustor shall not cause or permit the Property to be used as a site for the use, generation, manufacture, storage, treatment, release, discharge, disposal, transportation or presence of any Hazardous Materials.

(ii) **Compliance.** Trustor shall comply and cause the Property and Collateral to comply with all Hazardous Materials Laws.

(iii) **Notices.** Trustor shall immediately notify Beneficiary in writing of: (A) the discovery of any Hazardous Materials on, under or about the Property and Collateral; (B) any knowledge by Trustor that the Property and Collateral does not comply with any Hazardous Materials Laws; (C) any Hazardous Materials Claims; and (D) the discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property and Collateral that could cause the Property and Collateral or any part thereof to be designated as Border Zone Property.

(iv) **Remedial Action.** In response to the presence of any Hazardous Materials on, under or about the Property, Trustor shall immediately take, at Trustor's sole expense, all remedial action required by any Hazardous Materials Laws or any judgment, consent decree, settlement or compromise in respect to any Hazardous Materials Claims.

(v) **Inspection By Beneficiary.** Upon reasonable prior notice to Trustor, Beneficiary, its employees and agents may from time to time (whether before or after the commencement of a nonjudicial or judicial foreclosure proceeding) enter and inspect the Property and Collateral for the purpose of determining the existence, location, nature and magnitude of any past or present release or threatened release of any Hazardous Materials into, onto, beneath or from the Property and Collateral.

(c) **Hazardous Materials Indemnity.** TRUSTOR HEREBY AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS BENEFICIARY, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS FOR, FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, LIABILITIES, CLAIMS, ACTIONS, JUDGMENTS, COURT COSTS AND LEGAL OR OTHER EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND EXPENSES) WHICH BENEFICIARY MAY INCUR AS A DIRECT OR INDIRECT CONSEQUENCE OF THE USE, GENERATION, MANUFACTURE, STORAGE, DISPOSAL, THREATENED DISPOSAL, TRANSPORTATION OR PRESENCE OF HAZARDOUS MATERIALS IN, ON, UNDER OR ABOUT THE PROPERTY AND COLLATERAL. TRUSTOR SHALL IMMEDIATELY PAY TO BENEFICIARY UPON DEMAND ANY AMOUNTS OWING UNDER THIS INDEMNITY, TOGETHER WITH INTEREST FROM THE DATE THE INDEBTEDNESS ARISES UNTIL PAID AT THE RATE OF INTEREST APPLICABLE TO THE PRINCIPAL BALANCE OF THE NOTE. TRUSTOR'S DUTY AND OBLIGATIONS TO DEFEND, INDEMNIFY AND HOLD HARMLESS BENEFICIARY SHALL SURVIVE THE CANCELLATION OF THE NOTE AND THE RELEASE, RECONVEYANCE OR PARTIAL RECONVEYANCE OF THIS DEED OF TRUST.



- (d) **Legal Effect of Section.** Trustor and Beneficiary agree that each provision in this Article (together with any indemnity applicable to a breach of any such provision) with respect to the environmental condition of the real property security is intended by Beneficiary and Trustor to be an "environmental provision" for purposes of Nevada Revised Statutes Sections 40.502 and 40.508, and as such it is expressly understood that Trustor's duty to indemnify Beneficiary hereunder shall survive: (iii) any judicial or non-judicial foreclosure under this Deed of Trust, or transfer of the Property in lieu thereof, (iv) the release and reconveyance or cancellation of this Deed of Trust; and (v) the satisfaction of all of Trustor's obligation under the Loan Documents.
8. **LAWFULNESS AND REASONABLENESS.** Trustor warrants that all of the waivers in this Deed of Trust are made with full knowledge of their significance, and of the fact that events giving rise to any defense or other benefit waived by Trustor may destroy or impair rights which Trustor would otherwise have against Beneficiary, Borrower and other persons, or against collateral. Trustor agrees that all such waivers are reasonable under the circumstances and further agrees that, if any such waiver is determined (by a court of competent jurisdiction) to be contrary to any law or public policy, the other waivers herein shall nonetheless remain in full force and effect.
9. **ENFORCEABILITY.** Trustor hereby acknowledges that: (a) the obligations undertaken by Trustor in this Deed of Trust are complex in nature, and (b) numerous possible defenses to the enforceability of these obligations may presently exist and/or may arise hereafter, and (c) as part of Beneficiary's consideration for entering into this transaction, Beneficiary has specifically bargained for the waiver and relinquishment by Trustor of all such defenses, and (d) Trustor has had the opportunity to seek and receive legal advice from skilled legal counsel in the area of financial transactions of the type contemplated herein. Given all of the above, Trustor does hereby represent and confirm to Beneficiary that Trustor is fully informed regarding, and that Trustor does thoroughly understand: (i) the nature of all such possible defenses, and (ii) the circumstances under which such defenses may arise, and (iii) the benefits which such defenses might confer upon Trustor, and (iv) the legal consequences to Trustor of waiving such defenses. Trustor acknowledges that Trustor makes this Deed of Trust with the intent that this Deed of Trust and all of the informed waivers herein shall each and all be fully enforceable by Beneficiary, and that Beneficiary is induced to enter into this transaction in material reliance upon the presumed full enforceability thereof.
10. **DISCLOSURE OF INFORMATION; PARTICIPATIONS.** Trustor understands and agrees that Beneficiary may elect, at any time, to sell, assign, or participate all or any part of Beneficiary's interest in the Loan, and that any such sale, assignment or participation may be to one or more financial institutions, private investors, and/or other entities, at Beneficiary's sole discretion. Trustor further agrees that Beneficiary may disseminate to any such potential purchaser(s), assignee(s) or participant(s) all documents and information (including, without limitation, all financial information) which has been or is hereafter provided to or known to Beneficiary with respect to: (a) the Property and Collateral and its operation; (b) any party connected with the Loan (including, without limitation, the Trustor, the Borrower, any partner of Borrower and any guarantor); and/or (c) any lending relationship other than the Loan which Beneficiary may have with any party connected with the Loan.
11. **WAIVER OF RIGHT TO TRIAL BY JURY.** EACH PARTY TO THIS DEED OF TRUST, AND BY ITS ACCEPTANCE HEREOF, BENEFICIARY, HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THE LOAN DOCUMENTS, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE MODIFICATION THEREOF OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THE LOAN DOCUMENTS (AS NOW OR HEREAFTER MODIFIED) OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY AND BENEFICIARY HEREBY AGREES AND CONSENTS THAT ANY PARTY TO THIS DEED OF TRUST AND BENEFICIARY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE



**CONSENT OF THE PARTIES HERETO AND BENEFICIARY TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.**

12. **INTEGRATION; INTERPRETATION.** This Deed of Trust and the other Loan Documents contain or expressly incorporate by reference the entire agreement of the parties with respect to the matters contemplated therein and supersede all prior negotiations or agreements, written or oral. This Deed of Trust and the other Loan Documents shall not be modified except by written instrument executed by all parties. Any reference to the Loan Documents includes any amendments, renewals or extensions now or hereafter approved by Beneficiary in writing.

