

DOUGLAS COUNTY, NV

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FIRST AMERICAN TITLE MINDEN

KAREN ELLISON, RECORDER

APN: 1420-30-001-008

Escrow No. 143-2518248
Alpen Mortgage License #2121
Alpen Mortgage NMLS #363496

Recording Requested By, And
When Recorded, Mail To:

MDDM Corporation
P.O. Box 1911
Zephyr Cove, Nevada 89448

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**CONSTRUCTION DEED OF TRUST, SECURITY AGREEMENT,
AND FIXTURE FILING WITH
ASSIGNMENT OF RENTS AND AGREEMENTS**

This Construction Deed of Trust, Security Agreement, and Fixture Filing with Assignment of Rents and Agreements (this "**Deed of Trust**") is made as of March ~~28~~ 2017, by PHILLIP SLOBOGIN ("**Trustor**"), whose address is P.O. Box 455, Minden, Nevada 89423, to FIRST AMERICAN TITLE INSURANCE COMPANY ("**Trustee**"), whose address is 1663 US Highway 395, Suite 101, Minden, Nevada 89423, for the benefit of MDDM CORPORATION, a Nevada corporation ("**Beneficiary**"), whose address is P.O. Box 1911, Zephyr Cove, Nevada 89448.

Trustor hereby irrevocably GRANTS, TRANSFERS AND ASSIGNS TO TRUSTEE, its successors in this trust and its assigns forever, IN TRUST, WITH POWER OF SALE, all of Trustor's right, title, and interest now owned or later acquired in the real property (the "**Land**") located in the Douglas County, Nevada, and more particularly described in Exhibit A attached hereto, incorporated by reference (Trustor agrees that any greater title to the Land later acquired during the term of this Deed of Trust will be subject to this Deed of Trust);

Together with any and all Improvements on the Land and any and all permits and approvals for the development and construction of any improvements on the Land, and any and all development rights, building allocations, residential units of use, tourist accommodation units of use, commercial floor area, land coverage, and/or water rights appurtenant to, banked on, or associated with the Land and recognized by any regulatory agency having jurisdiction over the Land (the "**Development Entitlements**"), along with the rents, issues, profits, and proceeds thereof, subject however, to the right, power, and authority granted and conferred on Trustor in this Deed of Trust to collect and apply the rents, issues, profits, and proceeds (the Land and the Development Entitlements are collectively referred to herein as the "**Property**"); and

FOR THE PURPOSE OF SECURING, in the order of priority that Beneficiary determines,

- (a) Payment of the indebtedness evidenced by a note of Trustor of the same date as this Deed of Trust in the principal amount of Six Hundred Thousand Dollars and Zero Cents (\$600,000.00) ("**Note**"), payable to Beneficiary or to order, and all extensions, modifications, or renewals of that Note;
- (b) Payment of the interest on that indebtedness according to the terms of the Note;
- (c) Payment of all other sums (with interest as provided in this Deed of Trust) becoming due and payable to Beneficiary or Trustee pursuant to the terms of this Deed of Trust;

Initials: *PE*

(d) Performance of every obligation in this Deed of Trust, the Note, the Loan Agreement (defined in this Deed of Trust), any instrument now or later evidencing or securing any indebtedness secured by this Deed of Trust, and any agreements, supplemental agreements, or other instruments of security executed by Trustor dated the same date as this Deed of Trust or at any time subsequent to the date of this Deed of Trust for the purpose of further securing any indebtedness secured by this Deed of Trust, or any part of it, or for the purpose of supplementing or amending this Deed of Trust or any instrument secured by this Deed of Trust; and

(e) Payment of all other obligations owed by Trustor to Beneficiary that by their terms recite that they are secured by this Deed of Trust, including those incurred as primary obligor or as guarantor.

Regardless of anything stated above or any other term contained in this Deed of Trust or in the Loan Documents (as defined in this Deed of Trust), none of Trustor's obligations under or pursuant to the Environmental Agreement (as defined in this Deed of Trust) will be secured by the lien of this Deed of Trust.

ARTICLE 1 DEFINITIONS

Section 1.1. Certain Defined Terms.

As used in this Deed of Trust the following terms will have the following meanings:

Buildings: All buildings and improvements now or later on the Land, including, without limitation, all appurtenances, easements, water and water rights, and pumps and pumping plants; all machinery, equipment, appliances, and fixtures for generating or distributing air, water, heat, electricity, light, fuel, or refrigeration or for ventilating or sanitary purposes or for the exclusion of vermin or insects or for the removal of dust, refuse, or garbage; all wall safes, built-in furniture, and installations, shelving, lockers, partitions, doorstops, vaults, elevators, awnings, window shades, venetian blinds, light fixtures, fire hoses and brackets and boxes for them, fire sprinklers, alarm systems, draperies, drapery rods and brackets, screens, linoleum, carpets, furniture, furnishings, fixtures, plumbing, laundry tubs and trays, iceboxes, refrigerators, heating units, stoves, water heaters, incinerators, communication systems and installations for which any Building is specially designed; all of these items, whether now or later installed.

Business Day: Any day other than Saturday, Sunday, or public holiday or the equivalent for banks generally under the laws of Nevada. Whenever any payment to be made under this Deed of Trust is stated to be due on a day other than a Business Day, that payment may be made on the next succeeding Business Day, and that extension of time will, in that case, be included in the computation of payment of interest. However, if the extension would cause the payment to be made in a new calendar month, that payment will be made on the next preceding Business Day, and interest will be payable for the shorter period.

Environmental Agreement: The Environmental Indemnity Agreement dated on the same date as this Deed of Trust and executed by Trustor in favor of Beneficiary.

Collateral: The Collateral as defined in Section 9.1 of this Deed of Trust.

Construction Account: The Construction Account as defined in the Loan Agreement.

Default Rate: A rate of interest per annum equal to five percent (5%) per annum above the Loan Rate.

Fixtures: All fixtures located on the Improvements (as defined in this Deed of Trust) or now or later installed in, or used in connection with, any of the Improvements, including, but not limited to, all partitions, screens, awnings, motors, engines, boilers, furnaces, pipes, plumbing, elevators, cleaning and

sprinkler systems, fire extinguishing apparatus and equipment, water tanks, heating, ventilating, air conditioning and air cooling equipment, built-in refrigerators, and gas and electric machinery, appurtenances, and equipment, whether or not permanently affixed to the Land or the Improvements.

Hazardous Substance:

- (a) Any oil, flammable substance, explosive, radioactive material, hazardous waste or substance, toxic waste or substance or any other waste, material, or pollutant that
 - (i) Poses a hazard to the Property or to persons on the Property, or
 - (ii) Causes the Property to be in violation of any Hazardous Substance Law;
- (b) Asbestos in any form;
- (c) Urea formaldehyde foam insulation;
- (d) Transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls;
- (e) Radon gas;
- (f) Any chemical, material, or substance defined as or included in the definition of "hazardous substance," "hazardous substances," "hazardous wastes," "hazardous materials", "extremely hazardous waste," "restricted hazardous waste," or "toxic substances" or words of similar import under any applicable local, state, or federal law or under the regulations adopted or publications promulgated pursuant to those laws, including, but not limited to, any Hazardous Substance Law, as amended from time to time;
- (g) Any other chemical, material, or substance that may pose a hazard to the environment.

Hazardous Substance Claim: Any enforcement, cleanup, removal, remedial, or other governmental, regulatory, or private actions, agreements, or orders threatened, instituted, or completed pursuant to any Hazardous Substance Law, together with all claims made or threatened by any third party against Borrower or the Property relating to damage, contribution, cost-recovery compensation, loss, or injury resulting from the presence, release or discharge of any Hazardous Substance.

Hazardous Substance Law: Any federal, state, or local law, ordinance, regulation, or policy relating to the environment, health, and safety, any Hazardous Substance (including, without limitation, the use, handling, transportation, production, disposal, discharge, or storage of the substance), industrial hygiene, soil, groundwater, and indoor and ambient air conditions or the environmental conditions on the Property, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 USCS §§ 9601 *et seq.*], as amended from time to time; the Hazardous Substances Transportation Act [49 USCS §§ 1801 *et seq.*], as amended from time to time; the Resource Conservation and Recovery Act [42 USCS §§ 6901 *et seq.*], as amended from time to time; the Federal Water Pollution Control Act [33 USCS §§ 1251 *et seq.*], as amended from time to time.

Impositions: All real estate and personal property taxes and other taxes and assessments, water and sewer rates and charges, and all other governmental charges and any interest or costs or penalties with respect to those charges, assessments, or taxes, ground rent and charges for any easement or agreement maintained for the benefit of the Property, general and special, ordinary and extraordinary, foreseen or unforeseen, of any kind that at any time prior to or after the execution of the Loan Documents may be assessed, levied, imposed, or become a lien on the Property or the rent or income received from the Property, or any use or occupancy of the Property; and any charges, expenses,

payments, or assessments of any nature, if any, that are or may become a lien on the Property or the rent or income received from the Property.

Impound Account: The account that Trustor may be required to maintain pursuant to Section 4.4(c) of this Deed of Trust for the deposit of amounts required to pay Impositions and insurance premiums.

Improvements: All Buildings, improvements, and appurtenances on the Land, and all improvements, additions, and replacements of those improvements and other buildings and improvements, at any time later constructed or placed on the Land.

Indebtedness: The principal of and interest on, and all other amounts, payments, and premiums due under, the Note and any extensions or renewals (including, without limitation, extensions or renewals at a different rate of interest, regardless of whether evidenced by a new or additional promissory note or notes), and all other indebtedness of Trustor to Beneficiary under or secured by the Security Documents (defined in this Deed of Trust), together with all other sums owed by Trustor to Beneficiary, including those incurred as primary obligor or as guarantor, that recite that they are secured by the Security Documents.

Inspector: The Inspector as defined in the Loan Agreement.

Land: The Land as defined in this Deed of Trust.

Leases: All leasehold interests, including subleases and tenancies following attornment, affecting or covering any portion of the Property.

Loan: The loan secured by this Deed of Trust and evidenced by the Note.

Loan Agreement: The Construction Loan Agreement of the same date as this Deed of Trust executed between Trustor and Beneficiary.

Loan Documents: The Note, the Loan Agreement, the Security Documents, and all other documents (including guaranties) evidencing, securing, or relating to the Loan, except the Environmental Agreement.

Loan Parties: Trustor and any guarantors of the loan or any obligations under the loan, together with their respective affiliates and their respective employees, representatives, and agents.

Material Adverse Change: Any material and adverse change in:

- (a) The business or properties or condition (financial or otherwise) of Trustor, or
- (b) The condition or operation of the Property.

Note: The Note as defined in this Deed of Trust.

Obligations: All of the covenants, promises, and other obligations (other than the Indebtedness):

- (a) Made or owing by Trustor to or due to Beneficiary under or as set forth in the Loan Documents, and
- (b) Made or owing by Trustor to every other Person, a breach of which would or may affect Trustor's ownership, development, or operation of the Property, except any covenants, promises, and other obligations of Trustor to Beneficiary under the Environmental Agreement.

Person: Any natural person, corporation, firm, association, government, governmental agency, or any other entity, whether acting in an individual, fiduciary, or other capacity:

Personalty: Trustor's interest in all accounts, contract rights, and general intangibles (specifically including any insurance proceeds and condemnation awards) arising out of the ownership, development, or operation of the Property, and all furniture, furnishings, equipment, machinery, construction materials and supplies, leasehold interests in personal property, and all other personal property (other than Fixtures) now or later on the Property, together with all present and future attachments, accessions, replacements, substitutions, and additions, and the cash and noncash proceeds.

Plans and Specifications: The final set of architectural, structural, mechanical, electrical, grading, sewer, water, street, and utility plans and specifications for the Improvements, including all supplements, amendments, and modification.

Property: The Land, the Improvements, the Fixtures, and the Personalty, together with:

(a) All rights, privileges, tenements, hereditaments, rights of way, easements, and appurtenances of the Land or the Improvements now or later belonging to the Property and all right, title, and interest of Trustor in any streets, ways, alleys, strips, or gores of land adjoining the Land; and

(b) All of Trustor's right, title, and interest in the Land, the Improvements, the Fixtures, and the Personalty, including any award for any change of grade of streets affecting the Land, the Improvements, the Fixtures, or the Personalty.

Receiver: Any trustee, receiver, custodian, fiscal agent, liquidator, or similar officer.

Release: Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing migration, of Hazardous Substances that goes into the soil, surface water, or groundwater of the Property, whether or not caused by, contributed to, permitted by, acquiesced to, or known to Trustor.

Security Documents: This Deed of Trust and all other documents now or later securing any part of the payment of the Indebtedness or the observance or performance of the Obligations.

Title Policy: The title insurance policy issued by First American Title Insurance Company to Beneficiary.

Work: The construction of the Improvements on the Property in accordance with the Plans and Specifications.

ARTICLE 2 Warranty of Title

Trustor warrants that:

- (a) Trustor is the lawful owner of the Property,
- (b) Trustor will maintain and preserve the lien of this Deed of Trust until the Indebtedness has been paid in full,
- (c) Trustor has good, right, and lawful authority to grant the Property as provided in this Deed of Trust, and

(d) Trustor will forever warrant and defend the grant made in this Deed of Trust against all claims and demands, except as are specifically set forth in this Deed of Trust.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

Trustor represents and warrants to Beneficiary that as of the date of this Deed of Trust:

Section 3.1. Organization of the Loan Parties.

(a) Trustor is an individual and has the requisite power and authority to own and manage its properties, to carry on its business as now being conducted, and to own, develop, and operate the Property.

(c) Trustor is qualified to do business in every jurisdiction in which the nature of its business or its properties makes qualification necessary.

(d) Trustor is in compliance with all laws, regulations, ordinances, and orders of public authorities applicable to it.

Section 3.2. Validity of Loan Documents.

(a) The execution, delivery and performance by the Loan Parties of the Loan Documents and the borrowings evidenced by the Note:

(i) Are within the power of the Loan Parties,

(ii) Have been duly authorized by all requisite corporate, limited liability company or partnership action, as appropriate,

(iii) Have received all necessary governmental approval, and

(iv) Will not violate any provision of law, any order of any court or agency of government, the charter, documents of any Loan Party, or any indenture, agreement, or any other instrument to which any Loan Party is a party or by which any Loan Party or any of its property is bound, nor will they conflict with, result in a breach of, or constitute (with due notice and lapse of time) a default under any indenture, agreement, or other instrument, or result in the creation or imposition of any lien, charge, or encumbrance of any nature on any of the property or assets of any Loan Party, except as contemplated by the provisions of the Loan Documents.

(b) Each of the Loan Documents, when executed and delivered to Beneficiary, will constitute a valid obligation, enforceable in accordance with its terms.

Section 3.3. Financial Statements.

(a) All financial statements and data that have been given to Beneficiary with respect to any Loan Party:

(i) Are complete and correct in all material respects,

(ii) Accurately present the financial condition of that Loan Party on each date as of which they have been furnished, and accurately present the results of the operations of that Loan Party for the periods for which they have been furnished, and

(iii) Have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods covered.

(b) All balance sheets and the notes with respect to the Loan Parties furnished to Beneficiary disclose all liabilities of the Loan Parties, fixed and contingent, as of their respective dates as well as all obligations of those Loan Parties under any guaranties.

(c) There has been no Material Adverse Change in the financial condition or operations of Trustor since:

(i) The date of the most recent financial statement given to Beneficiary with respect to Trustor of the Property, or

(ii) The date of the financial statements given to Beneficiary immediately prior to the date of this Deed of Trust, other than changes in the ordinary course of business, none of which constitute a Material Adverse Change, either individually or in the aggregate.

Section 3.4. Use of Proceeds of Loan.

Trustor will use the funds advanced pursuant to the Note to pay the cost of the Work, all in accordance with the Plans and Specifications and as required by the Loan Agreement. Trustor warrants that the Improvements

(a) Are the subject of validly issued and outstanding building permits, and

(b) Are (and Trustor covenants that they will remain) permitted by and consistent with all zoning, ecological, environmental, and use restrictions and all other governmental regulations applicable to the Property.

Section 3.5. Other Arrangements.

Trustor is not a party to any agreement or instrument materially and adversely affecting Trustor's present or proposed business, properties, assets, operation, or condition, financial or otherwise; and Trustor is not in default in the performance, observance, or fulfillment of any of the material obligations, covenants, or conditions in any agreement or instrument to which Trustor is a party that materially affect Trustor's present or proposed business, properties, assets, operation, or condition, financial or otherwise.

Section 3.6. Other Information.

All other reports, papers, data, and information given to Beneficiary with respect to Trustor and the Property are accurate and correct in all material respects and complete insofar as completeness may be necessary to give Beneficiary a true and accurate knowledge of the subject matter.

Section 3.7. Litigation.

There is not now pending against or affecting any Loan Party, nor to the knowledge of any Loan Party is there threatened, any action, suit, or proceeding at law or in equity or before any administrative agency that, if adversely determined, would materially impair or affect:

(a) The financial condition or operations of Trustor, or

(b) The condition or operation of the Property.

Section 3.8. Other Warranties.

- (a) The Property is not used principally or primarily for agricultural or grazing purposes,
- (b) Trustor is engaged in the development, construction, and operation of Improvements, and
- (c) The principal purpose of the Loan is the construction of the Improvements.

Section 3.9. Taxes.

Borrower has filed all required Federal, State, County and City tax returns and has paid all taxes due. Borrower knows of no basis for additional assessments with respect to any taxes.

Section 3.10. Compliance with Laws.

Except as otherwise provided in this Deed of Trust, the Property and the proposed and actual use of the Property comply with all laws, ordinances, rules, and regulations of all local, regional, county, state, and federal governmental authorities having jurisdiction (including, but not limited to, the Americans With Disabilities Act), and there is no action or proceeding pending or, to the knowledge of Trustor after due inquiry, threatened before any court, quasi-judicial body, or administrative agency at the time of any disbursement by Beneficiary relating to the validity of the Loan or the proposed or actual use of the Property. All rights to appeal any decision rendered will have expired prior to the date of this Deed of Trust.

**ARTICLE 4
AFFIRMATIVE COVENANTS**

Until the entire Indebtedness has been paid in full, Trustor covenants to and agrees with Beneficiary as follows:

Section 4.1. Obligations of Trustor.

Trustor will pay the Indebtedness and Trustor will continue to be liable for the payment of the Indebtedness until it has been paid in full. Trustor

- (a) Will timely perform all the covenants, agreements, terms, and conditions to be performed by Trustor.
 - (i) Under this Deed of Trust;
 - (ii) As seller under each contract of sale of, and as lessor under each lease of, for any portion of the Property for which a contract of sale or lease has been approved in writing by Beneficiary;
 - (iii) As required of Trustor under each document and agreement constituting one of the Security Documents;
 - (iv) Under all other agreements between Trustor and Beneficiary in accordance with the respective terms of the agreement; and
 - (v) As required of Trustor under all other agreements to which Trustor is a party with respect to the Property;
- (b) Will not cancel, surrender, modify, amend, or permit the cancellation, surrender, modification, or amendment of any of the previously mentioned agreements or any of the covenants,

agreements, terms, or conditions contained in any of them without the prior written consent, in each case, of Beneficiary; and

(c) Will keep Beneficiary indemnified against all actions, proceedings, costs (including, without limitation, Beneficiary's counsel fees and disbursements), claims, and damages incurred or sustained by Beneficiary in respect of the nonpayment of any charges or the nonobservance or nonperformance of any of the covenants, agreements, terms, or conditions in any of the previously mentioned agreements.

Section 4.2. Insurance.

(a) Trustor, at its sole cost and expense, will keep the Property insured for the mutual benefit of Trustor and Beneficiary against loss or damage by earthquake and fire, and against loss or damage by other risks embraced by coverage of the type now known as the broad form of extended coverage, including, but not limited to, riot and civil commotion, vandalism, malicious mischief, burglary, theft, and mysterious disappearance, and against any other risks or hazards that Beneficiary may from time to time reasonably designate, in an amount not less than one hundred percent (100%) of the then full replacement cost of the improvements, without deduction for physical depreciation. The policies of insurance carried in accordance with this Section will contain the "Replacement Cost Endorsement."

(b) Trustor, at its sole cost and expense, but for the mutual benefit of Trustor and Beneficiary, will maintain during the term of this Deed of Trust other insurance, and in any amounts, as may from time to time be reasonably required by Beneficiary against other insurable risks, including, without limitation, business interruption insurance.

(c) Trustor, at its sole cost and expense, will obtain and maintain public liability insurance covering the Property and the ownership, use, occupancy, and maintenance of the Property.

(d) All policies of insurance required pursuant to this Deed of Trust will be satisfactory in form and substance to Beneficiary and will be approved by Beneficiary as to amounts, form, risk coverage, deductibles, insurer, loss payable, and cancellation provisions.

(e) Effective on the occurrence of any Event of Default, all of Trustor's right, title, and interest in all policies of property insurance and any unearned premiums paid are assigned to Beneficiary, who may assign them to any purchaser of the Property at any foreclosure sale.

Section 4.3. Maintenance, Waste, and Repair.

Trustor will maintain the Improvements now or later existing in good and tenantable repair, and will not structurally alter them without the prior written consent of Beneficiary, nor remove or demolish them in whole or in part, nor will Trustor suffer any waste of the Property or make any change in the use of the Property that will in any way increase any ordinary fire or other hazard insurance premiums or permit anything that may in any way impair the security of this Deed of Trust. During the Work, Trustor will use due care in protecting all Improvements from the weather, elements, and other hazards. Trustor will not abandon the Property or leave the Property unprotected, vacant, or deserted.

Section 4.4. Imposition; Impounds.

(a) Impositions Affecting the Property. Trustor will pay when due all Impositions that are or that may become a lien on the Property or are assessed against the Property or its rents, royalties, profits, and income.

(b) Taxes Affecting Trustor. Trustor will file all federal, state, provincial, county, and municipal income tax returns required to be filed and will pay all taxes that become due pursuant to the returns or pursuant to any assessments received by Trustor.

(c) Impounds; Impound Account. At the request of Beneficiary, Trustor will pay on a monthly basis to Beneficiary an amount equal to one-twelfth (1/12th) of the annual cost of taxes and assessments on the Property together with premiums; the accumulated funds will be released to Trustor for payment of taxes, assessments, and insurance premiums, or may be directly applied by Beneficiary, if Beneficiary elects.

Section 4.5. Compliance with Law.

Trustor will preserve and keep in full force its existence, rights, and powers. Trustor will promptly and faithfully comply with, and the Work will conform to, all present and future laws, ordinances, rules, regulations, and requirements of every governmental authority or agency and of every board of fire underwriters (or similar body exercising similar functions) having jurisdiction that may be applicable to it or to the Property or to the use or manner of occupancy, possession, operation, maintenance, alteration, or repair of the Property or any part of it, whether the law, ordinance, rule, order, regulation, or requirement necessitates structural changes or improvements or interferes with the use or enjoyment of the Property.

Section 4.6. Books and Records.

Trustor will maintain complete books of account and other records reflecting the results of Trustor's operations (in conjunction with its other operations as well as its operation of the Property), in a form satisfactory to Beneficiary, and furnish to Beneficiary any information about the financial condition of Trustor, and the sales and operations of the Property as Beneficiary reasonably requests, including, but not limited to, the following information, which will be furnished without request:

(a) Within thirty (30) days after the end of each month, a statement of revenues and expenses relating to the sales, rentals, and operations of the Property for the month just ended;

(b) As soon as available and in any event within sixty (60) days after the end of each fiscal year of Trustor, a copy of the annual audit report for the fiscal year for Trustor, including a balance sheet of Trustor as of the end of the fiscal year, and statements of income and retained earnings and of change in financial position of Trustor for the fiscal year, in each case certified in a manner acceptable to Beneficiary by independent public accountants acceptable to Beneficiary;

(c) Promptly on their becoming available, copies of all financial statements, reports, and notices (including tax returns) sent by Trustor to its partners or any governmental authority succeeding to any of its functions; and

(d) Promptly on receipt, copies of any reports by independent public accountants submitted to Trustor concerning its properties or operations.

Beneficiary will have the right, at all reasonable times and on reasonable notice, to audit, at Trustor's sole cost and expense, Trustor's books of account and records, all of which will be made available to Beneficiary and Beneficiary's representatives for that purpose, from time to time, on Beneficiary's request.

Section 4.7. Further Assurances.

Trustor, at Trustor's expense and at any time on the reasonable request of Beneficiary, will execute, acknowledge, and deliver any additional papers and instruments (including, without limitation, a declaration of no setoff) and any further assurances of title and will do or cause to be done all further acts and things that may be proper or reasonably necessary to carry out the purpose of this Deed of Trust and of the Loan Documents and to subject to the liens any property intended by the terms to be covered and any renewals, additions, substitutions, replacements, or betterments.

Section 4.8. Statement by Trustor.

Trustor, on ten (10) days' written request, will furnish a statement of the amount due or outstanding on the Note and a statement of any offsets, counterclaims, or defenses to the payment.

Section 4.9. Indemnity.

(a) If any action or proceeding (whether judicial, regulatory, or administrative) is threatened or commenced, except an action to foreclose this Deed of Trust or to collect the Indebtedness,

- (i) That affects the Property or any portion of it,
- (ii) In which Beneficiary is or could be made a party, or
- (iii) In which it becomes necessary to defend or uphold the lien of this Deed of Trust,

then all costs, fees, and expenses incurred by Beneficiary with respect to the action or proceeding (including, without limitation, attorney fees and expenses) will, within ten (10) days after the submission of bills for the costs to Trustor, be paid directly to the billing party by Trustor.

(b) In addition, Trustor agrees to pay all costs, including, without limitation, attorney fees and expenses, incurred by Beneficiary in enforcing the terms of this Deed of Trust or the terms of any of the Loan Documents, whether or not suit is filed. Trustor agrees to indemnify and hold Beneficiary harmless from all liability, loss, damage, or expense (including, without limitation, attorney fees) that it may incur under this Deed of Trust, or in connection with the making of any of the loans or financial arrangements secured by this Deed of Trust, the enforcement of any of Beneficiary's rights or remedies, any action taken by Beneficiary under this Deed of Trust, or by reason or in defense of any claims and demands that may be asserted against Beneficiary arising out of the Collateral.

(c) On the failure of Trustor to make timely payment pursuant to the terms of Section 4.9(a) of this Deed of Trust, the payment may be paid by Beneficiary. Sums of money paid by Beneficiary, and sums owed to Beneficiary pursuant to Section 4.9(b) of this Deed of Trust, together with interest at the Default Rate from the date Beneficiary makes the payment or incurs the loss, will be secured by this Deed of Trust, prior to any right, title, or interest in or claim on the Property attaching or accruing subsequent to the lien of this Deed of Trust, and will be payable by Trustor to Beneficiary on demand.

(d) The provisions of this Section 4.9 will survive the termination of this Deed of Trust and the repayment of the Indebtedness.

Section 4.10. Reimbursement.

Beneficiary will have the right to declare immediately due any amount paid by it for any tax, stamp tax, assessment, water rate, sewer rate, insurance premium, repair, rent charge, debt, claim, inspection, or lien having priority over this Deed of Trust, or over any other agreement given to secure the Indebtedness.

Section 4.11. Litigation.

Trustor will promptly give written notice to Beneficiary of any litigation commenced or threatened affecting Trustor or the Property other than unlawful detainer proceedings brought by Trustor.

Section 4.12. Tax Receipts.

Subject to the provisions of Section 4.4 of this Deed of Trust, Trustor will exhibit to Beneficiary, within seven (7) days after demand, bills (that will be receipted from and after the date receipted bills are

obtainable) showing the payment to the extent then due of all taxes, assessments (including those payable in periodic installments), water rates, sewer rates, or any other Imposition that may have become a lien on the Property or any Personalty prior to the lien of this Deed of Trust.

Section 4.13. Duplicate Plans.

Trustor will submit to Beneficiary a duplicate set of plans and specifications for approval before any material improvements, repairs, or alterations are begun that affect the Property.

Section 4.14. Additional Information.

Trustor will furnish to Beneficiary, within seven (7) days after written request, all information that Beneficiary may request concerning the performance by Trustor of the covenants of the Loan Documents, and Trustor will permit Beneficiary or its representatives at all reasonable times to make investigation or examination concerning that performance.

Section 4.15. Right of Entry.

Trustor grants to Beneficiary and its agents, employees, consultants, and contractors the right to enter on the Property for the purpose of making any inspections, reports, tests (including, without limitation, soils borings, groundwater testing, wells, or soils analysis), inquiries, and reviews that Beneficiary, in its sole and absolute discretion, deems necessary to assess the then current condition of the Property. Beneficiary will provide Trustor with one (1) Business Day's notice of the entry. However, Trustor's consent will not be required for entry or for the performance of tests. All costs, fees, and expenses (including, without limitation, those of Beneficiary's outside counsel and consultants) incurred by Beneficiary with respect to the inspections, reports, tests, inquiries, and reviews, together with all related preparation, consultation, analyses, and review, will be paid by Trustor to Beneficiary on demand, will accrue interest at the Default Rate until paid, and will be secured by this Deed of Trust, prior to any right, title, or interest in or claim on the Property attaching or accruing subsequent to the lien of this Deed of Trust.

**ARTICLE 5
NEGATIVE COVENANTS**

Until the entire Indebtedness has been paid in full, Trustor covenants to and agrees with Beneficiary as follows:

Section 5.1. Restrictive Uses.

Trustor covenants not to initiate, join in, or consent to any change in any zoning ordinance, private restrictive covenant, assessment proceedings, or other public or private restriction limiting or restricting the uses that may be made of the Property or any part of it without the prior written consent of Beneficiary.

Section 5.2. Other Financing.

Except for the liens securing the Indebtedness, Trustor will not create or permit to continue in existence any mortgage, pledge, encumbrance, lien, or charge of any kind (including purchase money and conditional sale liens) on any of the Property except for:

(a) Liens for taxes not yet delinquent, and

(b) Any other liens or charges that are specifically approved in writing by Beneficiary prior to the recordation. Any transaction in violation of this Section will cause all Indebtedness, irrespective of the maturity dates, at the option of the holder and without demand or notice, to immediately become due, together with any prepayment premium in accordance with the terms of the Note.

Section 5.3. Transferability.

One of the inducements to Beneficiary for making the Loan is the identity of Trustor. The existence of any interest in the Property other than the interests of Trustor and Beneficiary and any encumbrance permitted in this Deed of Trust, even though subordinate to the security interest of Beneficiary, and the existence of any interest in Trustor other than those of the present owners, would impair the Property and the security interest of Beneficiary, and, therefore, Trustor will not sell, convey, assign, transfer, alienate, or otherwise dispose of its interest in the Property, either voluntarily or by operation of law, or agree to do so, without the prior written consent of Beneficiary. Consent to one transaction by Beneficiary will not be deemed a waiver of the right to require consent to further or successive transactions. If Trustor is a corporation, any sale, transfer, or disposition of fifty percent (50%) or more of the voting stock of Trustor or of any corporation that directly or indirectly owns or controls Trustor, including, without limitation, the parent company of Trustor and the parent company of the parent company of Trustor, will constitute a sale of the Property for purposes of this Section. If Trustor is a partnership, any change or addition of a general partner of Trustor, change of a partnership interest of Trustor, or sale, transfer, or disposition of fifty percent (50%) or more of the voting stock or partnership interest of any partner of Trustor or of any corporation or partnership that directly or indirectly owns or controls any partner of Trustor, including, without limitation, each parent company of a partner of Trustor and each parent company of any parent company of a partner of Trustor, will constitute a sale of the Property for purposes of this Section. If Trustor is a limited liability company, any change or addition of a manager or managing member of Trustor, change of a membership interest of Trustor, or sale, transfer, or disposition of fifty percent (50%) or more of the voting stock or membership interest of any member of Trustor or of any entity that directly or indirectly owns or controls any member of Trustor, including, without limitation, each parent company of a member of Trustor and each parent company of any parent company of a member of Trustor, will constitute a sale of the Property for purposes of this Section. Any transaction in violation of this Section will cause all Indebtedness, irrespective of the maturity dates, at the option of the holder and without demand or notice, immediately to become due, together with any prepayment premium in accordance with the terms of the Note.

Section 5.4. Replacement of Fixtures and Personality.

Trustor will not permit any of the Fixtures or Personality to be removed at any time from the Property without the prior written consent of Beneficiary unless actually replaced by articles of equal suitability and value owned by Trustor free and clear of any lien or security interest except as may be approved in writing by Beneficiary.

ARTICLE 6 ENVIRONMENTAL PROVISIONS

Section 6.1. Representations and Warranties.

Except as disclosed in writing to, and acknowledged in writing by, Lender, Trustor represents and warrants that:

- (a) During the period of Trustor's ownership of the Property
 - (i) There has been no use, generation, manufacture, storage, treatment, disposal, discharge, Release, or threatened Release of any Hazardous Substance by any person on or around the Property, and
 - (ii) There have been no Hazardous Substances transported over or through the Property;

(b) After diligent inquiry, Trustor has no knowledge of, or reason to believe that, there has been:

(i) Any use, generation, manufacture, storage, treatment, disposal, Release, or threatened Release of any hazardous waste or substance by any prior owners or prior occupants of the Property or by any third parties onto the Property, or

(ii) Any actual or threatened litigation or claims of any kind by any person relating to these matters;

(c) No Hazardous Substances in excess of permitted levels or reportable quantities under applicable Hazardous Substance Laws are present in or about the Property or any nearby real property that could migrate to the Property;

(d) No Release or threatened Release exists or has occurred;

(e) No underground storage tanks of any kind are or ever have been located in or about the Property;

(f) The Property and all operations and activities at, and the use and occupancy of, the Property comply with all applicable Hazardous Substance Laws;

(g) Trustor and every User has, and is now in strict compliance with, every permit, license, and approval required by all applicable Hazardous Substance Laws for all activities and operations at, and the use and occupancy of, the Property;

(h) To the best of Trustor's knowledge, after diligent inquiry, there are no Hazardous Substance Claims pending or threatened with regard to Property or against Trustor;

(i) That the current use of the Property is: unimproved residential building site.

(l) Any written disclosure submitted by or on behalf of Trustor to Beneficiary concerning any Release or threatened Release, past or present compliance by Trustor, or any User or other person of any Hazardous Substance Laws applicable to the Property, the past and present use and occupancy of the Property, and any environmental concerns relating to the Property, was true and complete when submitted and continues to be true and complete as of the date of this Deed of Trust.

Section 6.2. Covenants.

Trustor agrees, except in the ordinary course of business and in strict compliance with all applicable Hazardous Substance Laws, as follows:

(a) Not to 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 Substance;

(b) Not to cause, contribute to, permit, or acquiesce in any Release or threatened Release;

(c) Not to change or modify the use of the Property without the prior written consent of Beneficiary;

(d) To comply with and to cause the Property and every User of the Property to comply with all Hazardous Substance Laws;

(e) To immediately notify Beneficiary in writing of and to provide Beneficiary with a reasonably detailed description of:

- (i) Any noncompliance of the Property with any Hazardous Substance Laws;
- (ii) Any Hazardous Substance Claim;
- (iii) Any Release or threatened Release;

(f) If Trustor discovers a Release or the presence of any Hazardous Substance on or about the Property in violation of any Hazardous Substance Law, to:

(i) Notify Beneficiary of that discovery together with a reasonably detailed description;

(ii) Engage promptly after a request by Beneficiary, a qualified environmental engineer reasonably satisfactory to Beneficiary to investigate these matters and prepare and submit to Beneficiary a written report containing the findings and conclusions resulting from that investigation, all at the sole expense of Trustor, and

(iii) Take, at Trustor's sole expense, all necessary actions to remedy, repair, clean up, or detoxify any Release or Hazardous Substance, including, but not limited to, any remedial action required by any Hazardous Substance Laws or any judgment, consent, decree, settlement, or compromise in respect of any Hazardous Substance Claims, these actions to be performed:

- (A) In accordance with Hazardous Substance Laws,
- (B) In a good and proper manner,
- (C) Under the supervision of a qualified environmental engineer approved in writing by Beneficiary,
- (D) In accordance with plans and specifications for these actions approved in writing by Beneficiary, and
- (E) Using licensed and insured qualified contractors approved in writing by Beneficiary;

(g) Immediately furnish to Beneficiary copies of all written communications received by Trustor from any governmental authority or other person or given by Trustor to any person and any other information Beneficiary may reasonably request concerning any Release, threatened Release, Hazardous Substance Claim, or the discovery of any Hazardous Substance on or about the Property in violation of any Hazardous Substance Law; and

(h) Keep Beneficiary generally informed regarding any Release, threatened Release, Hazardous Substance Claim, or the discovery of any Hazardous Substance on or about the Property in violation of any Hazardous Substance Law.

Section 6.3. Inspection and Receivership Rights.

Upon Beneficiary's reasonable belief of the existence of a past or present Release or threatened Release not previously disclosed by Trustor in connection with the making of the Loan or the execution of this Deed of Trust or upon Beneficiary's reasonable belief that Trustor has failed to comply with any environmental provision of this Deed of Trust or any other Loan Document and upon reasonable prior

notice (except in the case of an emergency) to Trustor, Beneficiary or its representatives, employees, and agents, may from time to time and at all reasonable times (or at any time in the case of an emergency) enter and inspect the Property and every part of it (including all samples of building materials, soil, and groundwater and all books, records, and files of Trustor relating to the Property) and perform those acts and things that Beneficiary deems necessary or desirable to inspect, investigate, assess, and protect the security of this Deed of Trust, for the purpose of determining

- (a) The existence, location, nature, and magnitude of any past or present Release or threatened Release,
- (b) The presence of any Hazardous Substances on or about the Property in violation of any Hazardous Substance Law, and
- (c) The compliance by Trustor of every environmental provision of this Deed of Trust and every other Loan Document.

In furtherance of the purposes above, without limitation of any of its other rights, Beneficiary may:

- (i) Obtain a court order to enforce Beneficiary's right to enter and inspect the Property, to which the decision of Beneficiary as to whether there exists a Release, a threatened Release, any Hazardous Substances on or about the Property in violation of any Hazardous Substance Law, or a breach by Trustor of any environmental provision of this Deed of Trust or any other Loan Document, will be deemed reasonable and conclusive as between the parties; and
- (ii) Have a receiver appointed to enforce Beneficiary's right to enter and inspect the Property for the purpose set forth above.

All costs and expenses incurred by Beneficiary with respect to the audits, tests, inspections, and examinations that Beneficiary or its agents, representatives, or employees may conduct, including the fees of the engineers, laboratories, contractors, consultants, and attorneys, will be paid by Trustor. All costs or expenses incurred by Trustor and Beneficiary pursuant to this Section (including without limitation court costs, consultant's fees, and attorney fees, whether incurred in litigation and whether before or after judgment) will bear interest at the Default Rate from the date they are incurred until those sums have been paid in full. Except as provided by law, any inspections or tests made by Beneficiary or its representatives, employees, and agents will be for Beneficiary's purposes only and will not be construed to create any responsibility or liability on the part of Beneficiary to Trustor or to any other person. Beneficiary will have the right, but not the obligation, to communicate with any governmental authority regarding any fact or reasonable belief of Beneficiary that constitutes or could constitute a breach of any of Trustor's obligations under any environmental provision contained in this Deed of Trust or any Loan Document.

Section 6.4. Release and Indemnity.

Trustor:

- (a) Releases and waives any future claims against Beneficiary for indemnity or contribution in the event Trustor becomes liable for cleanup or other costs under any Hazardous Substance Laws or under any Hazardous Substance Claim;
- (b) Agrees to reimburse Beneficiary, on demand, for all costs and expenses incurred by Beneficiary in connection with any review, approval, consent, or inspection relating to the environmental provisions in this Deed of Trust together with interest, after demand, at the Default Rate; and

(c) Agrees to indemnify, defend, and hold Beneficiary and Trustee harmless from all losses, costs, claims, damages, penalties, liabilities, causes of action, judgments, court costs, attorney fees and other legal expenses, costs of evidence of title, cost of evidence of value, and other expenses (collectively, "**Expenses**"), including, but not limited to, any Expenses incurred or accruing after the foreclosure of the lien of this Deed of Trust, which either may suffer or incur and which directly or indirectly arises out of or is in any way connected with the breach of any environmental provision either in this Deed of Trust or in any Loan Document or as a consequence of any Release or threatened Release on the presence, use, generation, manufacture, storage, disposal, transportation, Release, or threatened Release of any Hazardous Substance on or about the Property, including the soils and groundwaters, caused or permitted by Trustor, any prior owner or operator of the Property, any adjoining landowner or any other party, including, without limitation, the cost of any required or necessary repair, cleanup, remedy, or detoxification of any Hazardous Substance and the preparation of any closure, remedial action, or other required plans, whether that action is required or necessary by reason of acts or omissions occurring prior to or following the recordation of this Deed of Trust. Trustor's obligations will survive the satisfaction, release, or cancellation of the Indebtedness, the release and reconveyance or partial release and reconveyance of this Deed of Trust, and the foreclosure of the lien of this Deed of Trust or deed in lieu of the Deed of Trust.

Section 6.5. Effect of Site Assessment.

Even though Trustor may have provided Beneficiary with an environmental site assessment or other environmental report together with other relevant information regarding the environmental condition of the Property, Trustor acknowledges and agrees that Beneficiary is not accepting the Property as security for the Loan based on that assessment, report, or information. Rather Beneficiary has relied on the representations and warranties of Trustor in this Deed of Trust, and Beneficiary is not waiving any of its rights and remedies in the environmental provisions of this Deed of Trust or any other Loan Document.

ARTICLE 7 CASUALTIES AND CONDEMNATION

Section 7.1. Casualties.

(a) Trustor will promptly notify Beneficiary in writing after any loss or damage caused by fire or other casualty to the Property, and prior to the making of any repairs. Trustor will furnish to Beneficiary within ninety (90) days after the loss or damage the following:

(i) Evidence satisfactory to Beneficiary of the cost of repair or reconstruction;

(ii) Evidence satisfactory to Beneficiary that sufficient funds are available or committed for the benefit of Beneficiary, including insurance proceeds, payment and performance bonds, or otherwise, to complete the repair or reconstruction; and

(iii) Evidence satisfactory to Beneficiary that the repair or reconstruction may be completed in accordance with all applicable laws, rules, regulations, and ordinances and that all necessary permits and approvals have been or will be obtained.

If Trustor does not furnish this evidence to Beneficiary within the 90-day period, or if Beneficiary in its sole discretion determines that repair or reconstruction is not economically feasible, then within thirty (30) days after the expiration of the 90-day period, Beneficiary will have the option (in this Deed of Trust, "**Repayment Option**") to have all insurance proceeds applied against the Indebtedness. If Beneficiary elects the Repayment Option, Trustor will immediately transfer to Beneficiary all insurance proceeds received by it, if any, to the extent of the Indebtedness, and Beneficiary will apply the insurance proceeds received by it, if any, against the Indebtedness. If the insurance proceeds held by Trustor and Beneficiary

will exceed the Indebtedness, any excess insurance proceeds will belong and be paid over to or retained by Trustor.

(b) Beneficiary will consent to disbursement of insurance or condemnation proceeds held by or paid over to Beneficiary pursuant to this Deed of Trust, the Loan Agreement, or any Loan Document (the insurance and condemnation proceeds delivered to Beneficiary to be deposited in a subaccount of the Construction Account, the "**Insurance Proceeds Account**") only following satisfaction of each of the following conditions:

(i) Within Sixty (60) days after the proceeds are paid over to Beneficiary, Trustor will submit to Beneficiary in writing a certificate stating that Trustor intends to commence restoration of the Property to a condition substantially the same as the condition of the Property immediately prior to the loss related to the insurance or condemnation proceeds and that the restoration is reasonably expected to be completed in a timely fashion within twelve (12) months of the commencement of construction.

(ii) Trustor will deposit into the Construction Account an amount equal to the cost of restoration of the Property in excess of the amount of any insurance or condemnation proceeds on deposit in the Insurance Proceeds Account, as that cost is determined by Beneficiary in its sole discretion.

(iii) Trustor will submit to Beneficiary, in writing, plans in reasonable detail specifying the work necessary to complete the reconstruction, the related costs, a timetable, and a construction contract for the work of reconstruction in form and content acceptable to Beneficiary with a contractor reasonably acceptable to Beneficiary.

(iv) Beneficiary will have determined that after the work of reconstruction is completed:

(A) The value of the Property as reasonably determined by Beneficiary will be not less than the appraised value of the Property determined by Beneficiary in connection with its decision to make the Loan, and

(B) The Property will produce income sufficient to pay all costs of operations and maintenance of the Property with a reasonable reserve for repairs and replacements, and service all debts and obligations secured by the Property.

(v) All of the conditions to Disbursements specified in the Loan Agreement as applicable to the construction of Improvements will have been met.

However, if either the insurance proceeds, condemnation proceeds, cost of repair of the Property, or diminution in value of the Property is less than one-third percent (33-1/3%) of the fair market value of the Property, Trustor may either:

(i) Restore or reconstruct the Property, or

(ii) Direct that all or a portion of the insurance or condemnation proceeds be applied to the Indebtedness to repay the Loan.

If either the insurance proceeds, condemnation proceeds, cost of repair of the Property, or diminution in value of the Property is greater than or equal one-third percent (33-1/3%) of the fair market value of the Property, Beneficiary may, in its sole discretion, direct that all or a portion of the insurance or condemnation proceeds be applied to the Indebtedness to repay the Loan.

Section 7.2. Condemnation.

Trustor, immediately upon obtaining knowledge of the institution of any proceedings for the condemnation of the Property or any portion of it, will notify Trustee and Beneficiary of the pendency of the proceedings. Trustee and Beneficiary may participate in any proceedings and Trustor from time to time will deliver to Beneficiary all instruments requested by Beneficiary to permit participation. If there are condemnation proceedings, the award or compensation payable is assigned to and will be paid to Beneficiary. Beneficiary will be under no obligation to question the amount of any award or compensation and may accept it in the amount in which it is paid. In any condemnation proceedings, Beneficiary may be represented by counsel selected by Beneficiary. The proceeds of any award or compensation received will, at the option of Beneficiary, either be applied, without premium, to the prepayment of the Note or be paid over to Trustor for restoration of the Improvements in accordance with the provisions of Section 7.1 of this Deed of Trust.

ARTICLE 8 EVENTS OF DEFAULT AND REMEDIES OF BENEFICIARY

Section 8.1. Events of Default.

The following events are each an "Event of Default":

(a) Default in the payment of any sum of principal or interest when due under the Note or any other sum due under the Loan Documents.

(b) The failure (without cure during the applicable period, if any, for cure) of any Loan Party to observe, perform, or discharge any obligation, term, covenant, or condition of the Loan Documents, any agreement relating to the Property or any agreement or instrument between any Loan Party and Beneficiary.

(c) The entry of an order for relief under federal bankruptcy laws as to Trustor or the adjudication of Trustor as insolvent or bankrupt pursuant to the provisions of any state insolvency or bankruptcy act; the commencement by Trustor of any case, proceeding, or other action seeking any reorganization, arrangement, composition, adjustment, liquidation, dissolution, or similar relief for itself under any present or future statute, law, or regulation relating to bankruptcy, insolvency, reorganization, or other relief for debtors; Trustor's consent to, acquiescence in, or attempt to secure the appointment of any Receiver of all or any substantial part of its properties or of the Property; Trustor generally not paying its debts as they become due or admitting in writing its inability to pay its debts or making a general assignment for the benefit of creditors; or Trustor taking any action to authorize any of the acts set forth above in this Section.

(d) Any case, proceeding, or other action against Trustor is commenced seeking to have an order for relief entered against it as a debtor or seeking any reorganization, arrangement, composition, adjustment, liquidation, dissolution, or similar relief under any present or future statute, law, or regulation relating to bankruptcy, insolvency, reorganization, or other relief for debtors, or seeking appointment of any Receiver for Trustor or for all or any substantial part of its property or for the Property, and that case, proceeding, or other action:

(i) Results in the entry of an order for relief against it that is not fully stayed within seven (7) Business Days after the entry, or

(ii) Remains undismissed for an aggregate of thirty (30) days (whether or not consecutive); or the possibility that any portion of the Property would, by operation of law or otherwise, devolve on or pass to any Person other than Trustor and that situation continues and is not remedied by Trustor within thirty (30) days after the happening of the event.

(e) The assignment by Trustor, as lessor or sublessor, as the case may be, of the rents or the income of the Property or any part of it (other than to Beneficiary) without first obtaining the written consent of Beneficiary.

(f) The following events:

(i) The filing of any claim or lien against the Property or any part of it, whether or not the lien is prior to this Deed of Trust, or the service of any stop notice or notice to withhold funds applicable to the Construction Account, and the continued maintenance if that claim or lien or notice for a period of thirty (30) days without discharge, satisfaction, or adequate bonding in accordance with the terms of this Deed of Trust;

(ii) The existence of any interest in the Property other than those of Trustor, Beneficiary, and any tenants of Trustor; or

(iii) The sale, hypothecation, conveyance, or other disposition of the Property except in accordance with Section 5.2 or 5.3 of this Deed of Trust, any of which will be an Event of Default because Trustor's obligation to own and operate the Property is one of the inducements to Beneficiary to make the Loan;

(g) Default under any agreement to which Trustor is a party, which agreement relates to the borrowing of money by Trustor from any Person.

(h) Any representation or warranty made by any Loan Party or any other Person under this Deed of Trust or in, under, or pursuant to the Loan Documents is false or misleading in any material respect as of the date on which the representation or warranty was made.

(i) Any of the Loan Documents, at any time after their respective execution and delivery and for any reason, cease to be in full force or are declared null and void, or the validity or enforceability is contested by any Loan Party or any stockholder or partner of any Loan Party, or any Loan Party denies that it has any or further liability or obligation under any of the Loan Documents to which it is a party.

(j) Any of the Security Documents, at any time after their respective execution and delivery and for any reason, cease to constitute valid and subsisting liens or valid and perfected security interests in and to the property purported to be subject to any of the Security Documents;

(k) Any representation made by any Loan Party in the Environmental Agreement is false or misleading in any material respect as of the date made, or any breach or default in any of Trustor's obligations under the Environmental Agreement;

(l) The death or incapacity of Borrower's Majority Interest Member.

(m) The occurrence of any Material Adverse Change.

(n) Substantial deviations in the Work from the Plans and Specifications without the prior approval of Beneficiary, or the existence of defective workmanship or materials incorporated into the Improvements, which are not corrected within thirty (30) days after written notice to Trustor; any deviations and defects will be conclusively determined by Beneficiary after consultation with the Inspector.

(o) Cessation of the Work prior to completion of the Improvements for a continuous period of fifteen (15) days or more.

If one or more Event of Default occurs and is continuing, then Beneficiary may declare all the Indebtedness to be due and the Indebtedness will become due without any further presentment, demand, protest, or notice of any kind, and Beneficiary may:

(a) In person, by agent, or by a receiver, and without regard to the adequacy of security, the solvency of Trustor, or the existence of waste, enter on and take possession of the Property or any part of it in its own name or in the name of Trustee, sue for or otherwise collect the rents, issues, and profits, and apply them, less costs and expenses of operation and collection, including reasonable attorney fees, upon the Indebtedness, all in any order that Beneficiary may determine. The entering on and taking possession of the Property, the collection of rents, issues, and profits, and the application of them will not cure or waive any default or notice of default or invalidate any act done pursuant to the notice;

(b) Commence an action to foreclose this Deed of Trust in the manner provided by law for the foreclosure of mortgages of real property;

(c) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause the Property to be sold, which notice Trustee or Beneficiary will cause to be filed for record;

(d) With respect to any Personalty, proceed as to both the real and personal property in accordance with Beneficiary's rights and remedies in respect of the Land, or proceed to sell the Personalty separately and without regard to the Land in accordance with Beneficiary's rights and remedies; or

(e) Exercise any of these remedies in combination or any other remedy at law or in equity.

Section 8.2. Power of Sale.

(a) If Beneficiary elects to foreclose by exercise of the power of sale in this Deed of Trust, Beneficiary will also deposit with Trustee this Deed of Trust, the Note, and any receipts and evidence of expenditures made and secured as Trustee may require. If notice of default has been given as then required by law, and after lapse of the time that may then be required by law, after recordation of the notice of default, Trustee, without demand on Trustor, will, after notice of sale having been given as required by law, sell the Property at the time and place of sale fixed by it in the notice of sale, either as a whole or in separate parcels as Trustee determines, and in any order that it may determine, at public auction to the highest bidder. Trustee may postpone sale of all or any portion of the Property by public announcement at the time and place of sale, and from time to time after that may postpone the sale by public announcement at the time fixed by the preceding postponement, and without further notice make the sale at the time fixed by the last postponement; or Trustee may, in its discretion, give a new notice of sale. Beneficiary may rescind any notice of default at any time before Trustee's sale by executing a notice of rescission and recording it. The recordation of the notice will constitute a cancellation of any prior declaration of default and demand for sale and of any acceleration of maturity of Indebtedness affected by any prior declaration or notice of default. The exercise by Beneficiary of the right of rescission will not constitute a waiver of any default then existing or subsequently occurring, or impair the right of Beneficiary to execute other declarations of default and demand for sale, or notices of default and of election to cause the Property to be sold, nor otherwise affect the Note or this Deed of Trust, or any of the rights, obligations, or remedies of Beneficiary or Trustee. After sale, Trustee will deliver to the purchaser its deed conveying the property sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts will be conclusive proof of their truthfulness. Any Person, including Trustor, Trustee, or Beneficiary, may purchase at that sale. If allowed by law, Beneficiary, if it is the purchaser, may turn in the Note at the amount owing on it toward payment of the purchase price (or for endorsement of the purchase price as a payment on the Note if the amount owing exceeds the

purchase price). Trustor expressly waives any right of redemption after sale that Trustor may have at the time of sale or that may apply to the sale.

(b) Trustee, upon the sale, will make (without any covenant or warranty, express or implied), execute and, after due payment made, deliver to a purchaser and its heirs or assigns a deed or other record of interest, as the case may be, to the Property sold, which will convey to the purchaser all the title and interest of Trustor in the Property and will apply the proceeds of the sale in payment,

(i) First, of the expenses of the sale together with the expenses of the trust, including, without limitation, attorney fees, that will become due on any default made by Trustor, and also any sums that Trustee or Beneficiary have paid for procuring a search of the title to the Property subsequent to the execution of this Deed of Trust; and

(ii) Second, of the Indebtedness then remaining unpaid, and the amount of all other monies with interest in this Deed of Trust agreed or provided to be paid by Trustor. Trustee will pay the balance or surplus of the proceeds of sale to Trustor and its successors or assigns as its interests may appear.

Section 8.3. Proof of Default.

If there is a sale of the Property, or any part of it, and the execution of a deed for it, the recital of default and of recording notice of breach and election of sale, and of the elapsing of the required time between the recording and the following notice, and of the giving of notice of sale, and of a demand by Beneficiary that the sale should be made, will be conclusive proof of the default, recording, election, elapsing of time, and the due giving of notice, and that the sale was regularly and validly made on proper demand by Beneficiary. Any deed with these recitals will be effectual and conclusive against Trustor, its successors, and assigns, and all other Persons. The receipt for the purchase money recited or in any deed executed to the purchaser will be sufficient discharge to the purchaser from all obligations to see to the proper application of the purchase money.

Section 8.4. Protection of Security.

If an Event of Default occurs and is continuing, Beneficiary or Trustee, without limitation to do so, without notice to or demand upon Trustor, and without releasing Trustor from any obligations or defaults may:

(a) Enter on the Property in any manner and to any extent that either deems necessary to protect the security of this Deed of Trust;

(b) Appear in and defend any action or proceeding purporting to affect, in any manner, the Obligations or the Indebtedness, the security of this Deed of Trust, or the rights or powers of Beneficiary or Trustee;

(c) Pay, purchase, or compromise any encumbrance, charge, or lien that in the judgment of Beneficiary or Trustee is prior or superior to this Deed of Trust; and

(d) Pay necessary expenses, employ counsel, and pay reasonable attorney fees. Trustor agrees to repay on demand all sums expended by Trustee or Beneficiary pursuant to this Section with interest at the Default Rate, and those sums, with interest, will be secured by this Deed of Trust.

Section 8.5. Receiver.

If an Event of Default occurs and is continuing, Beneficiary, as a matter of strict right and without notice to Trustor or anyone claiming under Trustor and without regard to the then value of the Property, will have the right to apply ex parte to any court having jurisdiction to appoint a Receiver of the Property,

and Trustor waives notice of any application for that, provided a hearing to confirm the appointment with notice to Trustor is set within fourteen (14) days after the appointment. Any Receiver will have all the powers and duties of receivers in similar cases and all the powers and duties of Beneficiary in case of entry as provided in this Deed of Trust, and will continue as such and exercise all those powers until the date of confirmation of sale, unless the receivership is terminated sooner.

Section 8.6. Curing of Defaults.

If Trustor at any time fails to perform or comply with any of the terms, covenants, and conditions required on Trustor's part to be performed and complied with under this Deed of Trust, the Note, any of the other Loan Documents, or any other agreement that, under the terms of this Deed of Trust, Trustor is required to perform, then Beneficiary, after seven (7) Business Days' notice to Trustor (or without notice if Beneficiary determines that an emergency exists), and without waiving or releasing Trustor from any of the Obligations, may, subject to the provisions of any of the agreements,

- (a) Make from the Construction Account or its own funds any payments payable by Trustor and take out, pay for, and maintain any of the insurance policies provided for; and
- (b) Perform any other acts on the part of Trustor to be performed and enter on the Property for that purpose.

The making by Beneficiary of payments out of Beneficiary's own funds will not, however, be deemed to cure the default by Trustor, and it will not be cured unless and until Trustor reimburses Beneficiary for the payments. If the payment of any sum is made from the Construction Account and results, or may, in Beneficiary's good-faith determination, result, in the reduction in the amount of funds in the Construction Account below that is required to complete the Work, then the amount that Beneficiary determines to be necessary for completion will be deposited by Trustor pursuant to the terms of the Loan Agreement within five (5) business days after written demand by Beneficiary. All sums paid and all reasonable costs and expenses incurred by Beneficiary in connection with the performance of any act, together with interest on unpaid balances at the Default Rate from the respective dates of Beneficiary's making of each payment, will be added to the principal of the Indebtedness, will be secured by the Security Documents and by the lien of this Deed of Trust, prior to any right, title, or interest in or claim on the Property attaching or accruing subsequent to the lien of this Deed of Trust, and will be payable by Trustor to Beneficiary on demand.

Section 8.7. Inspection Rights.

On reasonable notice (except in the case of an emergency), and without releasing Trustor from any obligation to cure any default of Trustor, Beneficiary or its agents, representatives, and employees acting by themselves or through a court-appointed receiver, may, from time to time and at all reasonable times (or at any time in the case of an emergency) enter and inspect the Property and every part of it (including all samples of building materials, soil, and groundwater, and all books, records, and files of Trustor relating to the Property) and perform any acts and things as Beneficiary deems necessary or desirable to inspect, investigate, assess, and protect the security of this Deed of Trust, for the purpose of determining:

- (a) The existence, location, nature, and magnitude of any past or present Release or threatened Release,
- (b) The presence of any Hazardous Substances on or about the Property in violation of any Hazardous Substance Law, and

(c) The compliance by Trustor of every environmental provision of this Deed of Trust and every other Loan Document.

In furtherance of these purposes, without limitation of any of its other rights, Beneficiary may:

(a) Obtain a court order to enforce Beneficiary's right to enter and inspect the Property under State or Federal law, to which the decision of Beneficiary as to whether there exists a Release, threatened Release, any Hazardous Substances on or about the Property in violation of any Hazardous Substance Law, or a breach by Trustor of any environmental provision of this Deed of Trust or any other Loan Document, will be deemed reasonable and conclusive as between Trustor, Trustee, and Beneficiary; and

(b) Have a receiver appointed under State or Federal law to enforce Beneficiary's right to enter and inspect the Property for Hazardous Substances.

All costs and expenses incurred by Beneficiary with respect to the audits, tests, inspections, and examinations that Beneficiary or its agents, representatives, or employees may conduct, including the fees of the engineers, laboratories, contractors, consultants, and attorneys, will be paid by Trustor. All costs or expenses incurred by Trustee and Beneficiary pursuant to this Section (including without limitation court costs, consultant fees, and attorney fees, whether incurred in litigation and whether before or after judgment) will bear interest at the Default Rate from the date they are incurred until they have been paid in full. Except as provided by law, any inspections or tests made by Beneficiary or its representatives, employees, and agents, will be for Beneficiary's purposes only and will not be construed to create any responsibility or liability on the part of Beneficiary to Trustor or to any other person. Beneficiary will have the right, but not the obligation, to communicate with any governmental authority regarding any fact or reasonable belief of Beneficiary that constitutes or could constitute a breach of any of Trustor's obligations under any environmental provision in this Deed of Trust or any Loan Document.

Section 8.8. Judgment on Environmental Provision.

Beneficiary or its agents, representatives, and employees may seek a judgment that Trustor has breached its covenants, representations, or warranties in Article 6 of this Deed of Trust or any other covenants, representations, or warranties that are deemed to be "environmental provisions" pursuant to any federal, state, or local law, ordinance, regulation, or policy (each an "**Environmental Provision**"), by commencing and maintaining an action or actions in any court of competent jurisdiction, whether commenced prior to or after foreclosure of the lien of this Deed of Trust. Beneficiary or its agents, representatives, and employees may also seek an injunction to cause Trustor to abate any action in violation of any Environmental Provision and may seek the recovery of all costs, damages, expenses, fees, penalties, fines, judgments, indemnification payments to third parties, and other out-of-pocket costs or expenses actually incurred by Beneficiary (collectively, "**Environmental Costs**") incurred or advanced by Beneficiary relating to the cleanup, remedy, or other response action required by any Hazardous Substances Law or any Hazardous Substance Claim, or which Beneficiary believes necessary to protect the Property. It will be conclusively presumed between Beneficiary and Trustor that all Environmental Costs incurred or advanced by Beneficiary relating to the cleanup, remedy, or other response action of or to the Property were made by Beneficiary in good faith. All Environmental Costs incurred by Beneficiary under this Section (including without limitation court costs, consultant fees, and attorney fees, whether incurred in litigation and whether before or after judgment) will bear interest at the Default Rate from the date of expenditure until those sums have been paid in full. Beneficiary will be entitled to bid, at any trustee's or foreclosure sale of the Property, the amount of the costs, expenses, and interest in addition to the amount of other Indebtedness.

Section 8.9. Waive Lien.

Beneficiary or its agents, representatives, and employees may waive its lien against the Property or any portion of it, including the Improvements and the Personal Property, to the extent that the Property

is found to be environmentally impaired in accordance with any federal, state, or local law, ordinance, regulation, or policy, and to exercise all rights and remedies of an unsecured creditor against Trustor and all of Trustor's assets and property for the recovery of any deficiency and Environmental Costs, including, but not limited to, seeking an attachment order.

Section 8.10. Exception to Nonrecourse.

Trustor agrees that regardless of anything in this Deed of Trust or in the Loan Documents, the Environmental Costs will be exceptions to any nonrecourse or exculpatory provision of the Loan Documents, and Trustor will be fully and personally liable for the Environmental Costs. That liability will not be limited to the original principal amount of the obligations secured by this Deed of Trust, and Trustor's obligations will survive the foreclosure, deed in lieu of foreclosure, release, reconveyance, or any other transfer of the Property or this Deed of Trust. For the purposes of any action brought under this Section, Trustor waives the defense of laches and any applicable statute of limitations.

Section 8.11. Application of Funds Against Note.

On acceleration of the due date of the Note, Beneficiary may apply all or any part of the funds in the Construction Account to the payment of principal and accrued interest under the Note.

Section 8.12. Right to Complete Construction.

If Trustor abandons or fails to proceed diligently with the work, or on the occurrence of any Event of Default, Beneficiary may take over and complete the Work (or assign that right, including the contract for the Work) and, for that purpose, make disbursements from the Construction Account and exercise all other rights and remedies granted to Beneficiary under all bonds, agreements, and other documents to which Beneficiary is a party or for the benefit of Beneficiary and which relate in either case to the Work. Any contracts entered into or indebtedness incurred on the exercise of that right may be in the name of Trustor, and Trustor irrevocably appoints Beneficiary as Trustor's attorney-in-fact (the appointment being coupled with an interest) to enter into the contracts, incur obligations, enforce any contracts or agreements made by or on behalf of trustor, employ attorneys to defend against attempts to interfere with the exercise of the powers granted, and do any things necessary or proper to complete the Work, including the signing of Trustor's name to any contracts and documents that may be deemed necessary by Beneficiary. In no event will Beneficiary be required to expend its own funds to complete the Improvements if the funds in the Construction Account are insufficient, but Beneficiary may advance those funds. Any advanced funds will be considered advances under the Note as Beneficiary may determine, and will be secured by the Loan Documents, even though the advances may cause the total amount advanced to exceed the amount committed to be advanced pursuant to the Loan Agreement, and the amounts will be payable to Beneficiary by Trustor on demand, together with interest, until paid at the Default Rate.

Section 8.13. Stoppage of Construction by Beneficiary.

On:

- (a) The occurrence of any Event of Default,
- (b) The appearance of substantial deviations from the Plans and Specifications without the prior written approval of Beneficiary or the use of defective or unworkmanlike materials or labor in the Work (as determined conclusively by Beneficiary after consultation with the Inspector), or
- (c) Receipt of knowledge by Beneficiary of encroachments to which Beneficiary has not consented in writing,

Beneficiary may order stoppage of construction and demand that the Event of Default be cured or the condition be corrected. Trustor will comply with that order or demand and will cure any Event of Default or any condition within fifteen (15) days after written notice (or within a shorter period of time that may be specifically set forth in the Loan Documents). After issuance of an order in writing, no further work will be done on the Improvements (except as may be necessary to cure any Event of Default or correct any condition) without the prior written consent of Beneficiary unless and until all Events of Default and conditions have been fully cured and corrected.

Section 8.14. Remedies Cumulative.

All remedies of Beneficiary provided for in this Deed of Trust are cumulative and will be in addition to all other rights and remedies provided in the other Loan Documents or provided by law, including any banker's lien and right of offset. The exercise of any right or remedy by Beneficiary will not in any way constitute a cure or waiver of default, will not invalidate any act done pursuant to any notice of default, nor will it prejudice Beneficiary in the exercise of any of its rights unless, in the exercise of those rights, Beneficiary collects the total amount of the Indebtedness.

ARTICLE 9 SECURITY AGREEMENT

Section 9.1. Grant of Security Interest.

Trustor also grants to Beneficiary a security interest in all of Trustor's right, title, and interest now owned or later acquired to the following property (collectively, "Collateral") now or later affixed to or located on the Property, or used in connection with the operation of the Property or the Improvements and all the proceeds of that property; the Personalty; the Fixtures; all machinery, equipment, engines, appliances, and fixtures for generating or distributing air, water, heat, electricity, light, fuel, or refrigeration, or for ventilating or sanitary purposes, or for the exclusion of vermin or insects, or for the removal of dust, refuse, or garbage; all wallbeds, wall safes, built-in furniture and installations, shelving, lockers, partitions, doorstops, vaults, motors, elevators, dumbwaiters, awnings, window shades, venetian blinds, light fixtures, fire hoses and brackets and boxes for them, fire sprinklers, alarm systems, draperies, drapery rods and brackets, mirrors, mantles, screens, linoleum, carpets and carpeting, plumbing, bathtubs, sinks, basins, pipes, faucets, water closets, laundry equipment, washers, dryers, iceboxes, refrigerators, heating units, stoves, ovens, ranges, dishwashers, disposals, water heaters, incinerators, furniture, fixtures, and furnishings; all communication systems; all specifically designed installations and furnishings; all building materials, supplies, and equipment now or later delivered to the Property; all office equipment, including, without limitation, all computers, computer systems, hardware and software, access codes, access keys, computer programs, file names, typewriters, duplicating machines, word processing equipment, adding machines, calculators, dictating equipment, printing presses, and related equipment; all inventories and supplies, including, without limitation, office supplies, soap, light bulbs, toilet paper, and linens; all clocks, television sets, radios, and other electronic or audio/video equipment; all podiums, microphones, movie and slide projectors and screens, and other property relating to conference and convention facilities; all security and cleaning deposits collected from any tenants or lessees of any part of the Property, all deposits collected from purchasers pursuant to contracts for sale of the Property or any portion of the Property; and, subject to the other provisions of this Deed of Trust, all proceeds of any fire and builders risk insurance policy, or of any policy insuring the Property (and the contents of the Improvements) against any other perils, all awards made in eminent domain proceedings, or purchased in lieu of that, made with respect to the Property, and any compensation, award, payment, or relief given by any governmental agency or other source because of damage to the Property resulting from earthquake, flood, windstorm, or any emergency or any other event or circumstance. The specific enumerations in this Deed of Trust do not exclude the general.

The security interest also includes all additions to, substitutions for, changes in, or replacements of the whole or any part of these articles of property, together with all contract rights of Trustor in construction contracts, bonds, agreements for purchase and sale of the Property, all policies of insurance arising out of the improvement or ownership of the Property, and all accounts, contract rights, chattel paper, instruments, general intangibles, and other obligations of any kind now or later existing, arising out of, or in connection with the operation or development of the Property. The security interest also includes all rights now or later existing in all security agreements, leases, and other contracts securing or otherwise relating to any accounts, contract rights, chattel paper, instruments, general intangibles, or obligations; all causes of action and recoveries now or later existing for any loss or diminution in value of the Property; all proceeds of any of the Collateral; and, to the extent not otherwise included, all payments under insurance (whether Beneficiary is the loss payee), or any indemnity, warranty, or guaranty payable by reason of loss or damage to or otherwise with respect to any of the Collateral.

Section 9.2. Remedies

This Deed of Trust constitutes a security agreement with respect to the Collateral in which Beneficiary is granted a security interest. Beneficiary has all of the rights and remedies of a secured party under the Nevada Uniform Commercial Code as well as all other rights and remedies available at law or in equity. Trustor agrees to execute and deliver on demand, and irrevocably constitutes and appoints Beneficiary the attorney-in-fact of Trustor to execute, deliver, and file, any security agreements, financing statements, continuation statements, or other instruments that Beneficiary may request to impose, perfect, or continue the perfection of the lien or security interest created by this Deed of Trust. On the occurrence of any Event of Default (taking into account any applicable period of grace or cure), Beneficiary will have the right to sell at any public or private sales as permitted by applicable law any of the Collateral that is personal property. Beneficiary will also have any other rights and remedies, whether at law, in equity, or by statute that are available to secured creditors. Any disposition may be conducted by an employee or agent of Beneficiary or Trustee. Any Person, including both Trustor and Beneficiary, will be eligible to purchase any part or all of the Collateral at any disposition.

Section 9.3. Expenses.

Expenses of retaking, holding, and preparing for sale, selling, or the like will be borne by Trustor and will include Beneficiary's and Trustee's attorney fees and legal expenses. Trustor, on demand of Beneficiary, will assemble the Collateral and make it available to Beneficiary at the Property, a place deemed to be reasonably convenient to Beneficiary and Trustor. Beneficiary will give Trustor at least ten (10) days' prior written notice of the time and place of any public sale or other disposition of the Collateral or of the time of or after which any private sale or any other intended disposition is to be made. If the notice is sent to Trustor in the manner provided for the mailing of notices in this Deed of Trust, it is deemed reasonable notice to Trustor.

Section 9.4. Fixture Filing.

(a) This Deed of Trust constitutes a financing statement filed as a fixture filing in the Official Records of the County Recorder of the county in which the Property is located with respect to all Fixtures included within the term "Property" as used in this Deed of Trust and with respect to any goods, Collateral, or other personal property that may now be or later become fixtures.

(b) It is understood and agreed that, to protect Beneficiary against the effect of Uniform Commercial Code § 104.9313, if any fixture owned by Trustor on the Property, or any part of any fixture, is replaced or added to, or any new fixture owned by Trustor is installed by Trustor, and the fixture is or may be subject to a security interest held by a seller or any other party, the following will apply:

(i) Trustor or any owner of all or any part of the Property will, before the replacement, addition, or installation of any fixture, obtain the prior written approval of Beneficiary, and

give Beneficiary written notice that a security agreement with respect to the fixture has been or will be consummated, and the notice will contain the following information:

- (A) A description of the fixtures to be replaced, added to, installed, or substituted;
- (B) A recital of the location at which the fixtures will be replaced, added to, installed, or substituted;
- (C) A statement of the name and address of the holder and amount of the security interest; and
- (D) The date of the purchase of the fixtures.

Neither this Section nor any consent by Beneficiary pursuant to this Section will constitute an agreement to subordinate any right of Beneficiary in fixtures or other property covered by this Deed of Trust.

(ii) Beneficiary may at any time pay the balance due under the security agreement and the amount paid will be:

(A) Secured by this Deed of Trust and will be a lien on the Property, enjoying the same priorities as this Deed of Trust;

(B) Added to the amount of the Note or other obligation secured by this Deed of Trust; and

(C) Payable on demand with interest at the Default Rate from the time of the payment; and if Trustor is in default for ten (10) days after demand, the entire principal sum secured with all unpaid interest will, at the Beneficiary's option, become immediately due, regardless of any contrary provision in this Deed of Trust or the Note; or Beneficiary will have the privilege of acquiring by assignment from the holder of the security interest any contract rights, accounts receivable, chattel paper, negotiable or nonnegotiable instruments, or other evidence of Trustor's indebtedness for the fixtures, and, on acquiring these interests by assignment, will have the right to enforce the security interest as an assignee, in accordance with the Nevada Uniform Commercial Code and other applicable law.

(iii) Whether Beneficiary has paid or taken an assignment of the security interest, if at any time Trustor is in default for a period of ten (10) days under the security agreement covering the fixtures, that default will be considered a material breach of Trustor's covenants under this Deed of Trust, and will, at Beneficiary's option, constitute a default under this Deed of Trust, and the principal sum secured will, at Beneficiary's option, become immediately due.

(iv) The provisions of subsections (ii) and (iii) above will not apply if the goods that may become fixtures are of at least equivalent value and quality as any property being replaced and if the rights of the party holding the security interest have been expressly subordinated, at no cost to Beneficiary, to the lien of this Deed of Trust in a manner satisfactory to Beneficiary, including, without limitation, at Beneficiary's option, providing to Beneficiary a satisfactory opinion of counsel that this Deed of Trust constitutes a valid and subsisting first lien on the fixtures that is not subordinate to the lien of the security interest under any applicable law, including, without limitation, the provisions of Uniform Commercial Code § 104.9313.

Section 9.5. Assignment of Agreements.

(a) As partial security for the Loan, Trustor sells, assigns, transfers, sets over, and delivers to Beneficiary all of Trustor's right, title, and interest in all agreements, permits, and contracts

pertaining to the use or operation of the Property, including, but not limited to, environmental impact reports; negative declarations; map approvals; grading and construction permits; conditional use permits; applications for all permits; management agreements; all development rights in the Property that Trustor may now or later acquire (including, without limitation, development rights arising in connection with any action by a governmental entity, including, by way of illustration, but not of limitation, inducement resolutions of county, municipal, or other governmental entities); agreements with contractors, suppliers, and construction managers; and agreements pertaining to the transfer of development rights or permitted floor area under applicable laws or ordinances (collectively, "**Agreements**"), as they may be amended or otherwise modified from time to time, including, without limitation, the right of Trustor to terminate any of the Agreements, to perform under them, and to compel performance and otherwise exercise all remedies under them, together with the immediate and continuing right to collect and receive all sums that may become due to Trustor, or to which Trustor may now or later become entitled to demand or claim, arising or issuing out of the Agreements, including, without limitation, claims of Trustor for damages arising out of breach of or default under any of the Agreements and all rights of Trustor to receive proceeds of any insurance, indemnity, warranty, or guaranty with respect to any of the Agreements. However, so long as no Event of Default has occurred and is continuing, Trustor will have the right under a license granted to collect and retain all sums that may become payable to Trustor under the Agreements.

(b) Trustor covenants and agrees to observe, perform, and discharge punctually the obligations, terms, covenants, conditions, and warranties to be observed, performed, and discharged by it under the Agreements. Beneficiary, upon an Event of Default, at its option and upon written notice to Trustor, will have the right to declare the assignment in this Section 9.5 to be absolute and, in addition, Beneficiary will have the complete right then or later to exercise and enforce all of the rights and remedies provided by law.

(c) The acceptance by Beneficiary of the assignment in this Section 9.5, with all the rights, powers, privileges, and authority granted will not, prior to the exercise of Beneficiary's right to declare the assignment in this Section 9.5 to be absolute, obligate Beneficiary to assume any obligations under the Agreements or to take any action under them or to expend any money or incur any expense or perform or discharge any obligation, duty, or liability under the Agreements or to assume any obligation or responsibility for the nonperformance of the provisions by Trustor.

ARTICLE 10 ASSIGNMENT OF LEASES AND RENTS

Section 10.1. Assignment.

Trustor irrevocably assigns to Beneficiary:

(a) All of Trustor's right, title, and interest in all leases; licenses; agreements relating to the management, leasing, or operation of the Property; and other agreements of any kind relating to the use or occupancy of the Property, whether now existing or entered into after the date of this Deed of Trust ("**Leases**"), and

(b) The rents, issues, and profits of the Property, including, without limitation, all amounts payable and all rights and benefits accruing to Trustor under the Leases ("**Payments**"), for the purposes and on the terms and conditions below.

The term "Leases" will also include all guarantees of and security for the lessees' performance, and all amendments, extensions, renewals, or modifications that are permitted. This is a present and absolute assignment, not an assignment for security purposes only, and Beneficiary's right to the Leases and Payments is not contingent on, and may be exercised without, possession of the Property.

Section 10.2. License.

Beneficiary confers on Trustor a license ("**License**") to collect and retain the Payments as they become due until the occurrence of an Event of Default. Upon an Event of Default, the License will be automatically revoked and Beneficiary may collect and retain the Payments without notice and without taking possession of the Property. Trustor irrevocably authorizes and directs the lessees under the Leases to rely on and comply with any notice or demand by Beneficiary for the payment to Beneficiary of any rental or other sums that may at any time become due under the Leases, or for the performance of any of the lessees' undertakings under the Leases. The lessees will have no right or duty to inquire as to whether any Default has actually occurred or is then existing. Trustor relieves the lessees from any liability to Trustor by reason of relying on and complying with any notice or demand by Beneficiary.

Section 10.3. Effect of Assignment.

The assignment will not impose on Beneficiary any duty to produce rents, issues, or profits from the Property, or cause Beneficiary to be:

- (a) A mortgagee in possession for any purpose;
- (b) Responsible for performing any of the obligations of the lessor under any of the Leases; or
- (c) 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. Beneficiary will not be liable to Trustor or any other party as a consequence of the exercise of the rights granted to Beneficiary under this assignment or the failure of Beneficiary to perform any obligation of Trustor arising under the Leases.

Section 10.4. Leasing Covenants.

Trustor covenants and agrees as follows:

- (a) At Trustor's sole cost to:
 - (i) Perform all obligations of the lessor under the Leases and enforce performance by the lessees of their obligations under the Leases;
 - (ii) Subject to the provisions of Section 10.4(b)(iv) below, enforce all remedies available to Trustor in case of default by the lessees under any of the Leases and prosecute and defend any action, arbitration, or other controversy relating to any of the Leases or to Trustor's interest in any of the Leases;
 - (iii) Give Beneficiary prompt notice of any default that occurs under any of the Leases, whether by the lessees or Trustor;
 - (iv) Exercise diligent, good-faith efforts to keep all portions of the Property leased at all times and at rentals not less than the fair market rental value;
 - (v) Promptly upon execution, deliver to Beneficiary fully executed counterpart originals of the Leases; and
- (b) Except with Beneficiary's prior written consent, not to:
 - (i) Enter into any Leases after the date of this Deed of Trust;

- Payments;
- (ii) Execute any other assignment relating to any of the Leases or the
 - (iii) Discount any rent or other sums due under the Leases or collect them in advance, other than to collect rent one (1) month in advance of the time when it becomes due;
 - (iv) Terminate, modify, or amend any of the terms of the Leases or release or discharge the lessees from any obligations;
 - (v) Consent to any assignment or subletting by any lessee; or
 - (vi) Subordinate any of the Leases to any other deed of trust or encumbrance.

Any attempted action in violation of the provisions of Section 10.4(b) will be voidable at Beneficiary's election.

Section 10.5. Application of Rents.

Beneficiary, in its sole discretion, may apply, or require the application of, all amounts received pursuant to the assignment to the payment of any one or more of the Obligations in any order that Beneficiary may elect.

Section 10.6. Estoppel Certificates.

Within twenty (20) days after request by Beneficiary, Trustor will deliver to Beneficiary and to any party designated by Beneficiary estoppel certificates executed by Trustor and by each of the lessees, in recordable form, certifying:

- (a) That the assignment and the Leases are in full force;
- (b) The date of each lessee's most recent payment of rent;
- (c) That there are no defenses or offsets outstanding or stating those claimed by Trustor or lessees under the assignment or the Leases; and
- (d) Any other information reasonably requested by Beneficiary.

Section 10.7. Remedies.

In addition to any other remedies in this Deed of Trust, Beneficiary will have the following rights and remedies upon the occurrence of an Event of Default:

- (a) To receive the Payments and any other amounts arising or accruing under the Leases or from the Property;
- (b) To collect, sue for, settle, compromise, and give releases for the Payments and pursue any remedies for the enforcement of the Leases or Trustor's rights under the Leases; and
- (c) To take possession of the Property, and hold, manage, lease, and operate it on any terms and for any period of time that Beneficiary may deem proper and, either with or without taking possession of the Property, in its own name, make from time to time all alterations, renovations, repairs, or replacements that Beneficiary may deem proper.

Section 10.8. Definitions.

The terms lessor and lessors as used in this Deed of Trust will include all owners, landlords, licensors, and other parties in a similar position with respect to the Leases. The terms lessee and lessees will include any tenants and licensees and any other parties in a similar position and will also include any guarantors of or other obligors under the Leases.

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ARTICLE 11 MISCELLANEOUS

Section 11.1. Successor Trustee.

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

Section 11.2. Change of Law.

If any law is passed, after the date of this Deed of Trust, that deducts from the value of the Property, for the purposes of taxation, any lien on it or changes in any way the laws now in force for the taxation of mortgages, deeds of trust, or debts secured by mortgage or deed of trust (other than laws imposing taxes on income) or the manner of the collection of any taxes so as to affect adversely the rights of Beneficiary as holder of the Note and Beneficiary under this Deed of Trust, the Indebtedness will become due at Beneficiary's option, exercised by thirty (30) days' notice to Trustor unless Trustor, within that thirty (30) day period, if permitted by law, assumes the payment of any tax or other charge imposed on Beneficiary for the period remaining until full payment by Trustor of the Indebtedness.

Section 11.3. No Waiver.

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

Section 11.4. Abandonment.

Subject to any chattel mortgages, security agreements, or other liens on title that may exist with the consent of Beneficiary, or any provided for in this Deed of Trust, all Personalty that upon foreclosure of the Property is owned by Trustor and is used in connection with the operation of the Property will be deemed at Beneficiary's option to have become on that date a part of the Property and abandoned to Beneficiary in its then condition.

Section 11.5. Notices.

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

deemed to have been given. Also, they must be either personally served or sent with return receipt requested by registered or certified mail with postage (including registration or certification charges) prepaid in a securely enclosed and sealed envelope.

Section 11.6. Survival.

The covenants and agreements in this Deed of Trust will bind and inure to the benefit of Beneficiary and Trustor and their successors and assigns. It is agreed that Beneficiary may assign to or grant a participation in any one or more lenders, free from any right of counterclaim, recoupment, or setoff by Trustor, Beneficiary's rights and obligations in whole or in part under the Loan Documents. Nothing in this Section 11.6 is intended to limit other provisions in the Loan Documents that by their terms survive the repayment of the Indebtedness or the termination of any Loan Document.

Section 11.7. Severability.

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

Section 11.8. References to Foreclosure.

References in this Deed of Trust to foreclosure and related phrases are references to the appropriate procedure in connection with Trustee's private power of sale, any judicial foreclosure proceeding, and any deed given in lieu of foreclosure.

Section 11.9. Joinder of Foreclosure.

If Beneficiary holds any other or additional security for the payment of any Indebtedness or performance of any Obligation, its sale or foreclosure, on any default in the payment or performance, in Beneficiary's sole discretion, may be prior to, subsequent to, or joined or otherwise contemporaneous with any sale or foreclosure. In addition to the rights in this Deed of Trust specifically conferred, Beneficiary, at any time and from time to time, may exercise any right or remedy now or later given by law to beneficiaries under deeds of trust generally, or to the holders of any obligations of the kind secured.

Section 11.10. Rights of Beneficiary and Trustee.

At any time and from time to time, without liability and without notice, and without releasing or otherwise affecting the liability of any person for payment of any Indebtedness,

(a) Beneficiary, at its sole discretion and only in writing, may extend the time for or release any Person now or later liable for payment of any Indebtedness, or accept or release additional security, or subordinate the lien or charge of this Deed of Trust, or

(b) Trustee, on written request of Beneficiary and presentation of the Note, any additional notes secured by this Deed of Trust, and this Deed of Trust for endorsement, may reconvey any part of the Property, consent to the making of any map or plat of it, join in granting any easement on it, or join in any agreement of extension or subordination.

On Beneficiary's written request and surrender of the Note, any additional notes secured by this Deed of Trust, and this Deed of Trust to Trustee for cancellation, and on payment to Trustee of its fees and expenses, Trustee will reconvey without warranty the then trust property. The recitals in any reconveyance will be conclusive proof of the truthfulness of them, and the grantee in any reconveyance may be described as the person legally entitled.

Section 11.11. Copies.

Trustor will promptly give to Beneficiary copies of all:

- (a) Notices of violation that Trustor receives from any governmental agency or authority, and
- (b) Notices of default that Trustor receives under any agreement relating to the borrowing of money by Trustor from any Person.

Section 11.12. ERISA Compliance.

[Intentionally Omitted]

Section 11.13. Subordination.

At the option of Beneficiary, this Deed of Trust will become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to any insurance proceeds, damages, awards, or compensation resulting from damage to the Property or condemnation or exercise of power of eminent domain), to any contracts of sale or any leases of the Property on the execution by Beneficiary and recording of a unilateral declaration to that effect in the official records of the county and state where the Property is located. Beneficiary may require the issuance of any title insurance endorsements to the Title Policy in connection with any subordination that Beneficiary, in its judgment, determines are appropriate, and Trustor will be obligated to pay any cost or expense incurred in connection with the issuance.

Section 11.14. No Merger.

So long as any of the Indebtedness remains unpaid or Beneficiary has any further obligation under the Loan Documents, unless Beneficiary otherwise consents in writing, the fee estate of Trustor in the Property or any part of it will not merge, by operation of law or otherwise, with any leasehold or other estate in the Property or any part of it, but will always be kept separate and distinct, regardless of the union of the fee estate and the leasehold or other estate in Trustor or any other Person.

Section 11.15. Inspection of Property.

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

Section 11.16. Performance by Trustor.

Trustor will faithfully perform every covenant to be performed by Trustor under any lien or encumbrance, including, without limiting the generality of this Deed of Trust, mortgages, deeds of trust, leases, declarations or covenants, conditions and restrictions, and other agreements that affect the Property, in law or in equity, that Beneficiary reasonably believes may be prior and superior to or on a parity with the lien or charge of this Deed of Trust. A breach of or a default under any lien or encumbrance that exists after any applicable grace period in the pertinent instrument has expired without that breach or default having been cured, will constitute an Event of Default under this Deed of Trust. If Trustor fails to do so, Beneficiary, without demand or notice and in its sole judgment, may do any things required by Trustor by any of the provisions in this Deed of Trust and incur and pay expenses in connection with that. Nothing in this Section affects Trustor's obligations pursuant to Sections 5.2 and 5.3 of this Deed of Trust or limits Beneficiary's rights.

Section 11.17. Personality Security Instruments.

Trustor agrees that if Beneficiary at any time holds additional security for any obligations secured by this Deed of Trust, it may enforce the terms of it or otherwise realize on it, at its option, either before or concurrently or after a sale is made under this Deed of Trust, and may apply the proceeds on the Indebtedness secured without affecting the status or waiving any right to exhaust any other security, including the security under this Deed of Trust, and without waiving any breach or default or any right or power, whether exercised under this Deed of Trust or in any other security.

Section 11.18. Suits to Protect Property.

Trustor agrees to appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or any additional or other security for the obligations secured, the interest of Beneficiary or the rights, powers, or duties of Trustee, and to pay all costs and expenses, including, without limitation, cost of evidence of title and attorney fees, in any action or proceeding in which Beneficiary or Trustee may appear or be made a party, including, but not limited to, foreclosure or other proceedings commenced by those claiming a right to any part of the Property under subordinate liens, in any action to partition or condemn all or part of the Property, whether pursued to final judgment, and in any exercise of the power of sale in this Deed of Trust, whether the sale is actually consummated.

Section 11.19. Junior Liens.

Trustor agrees:

- (a) That as of the date of this Deed of Trust there are no encumbrances to secure debts junior to this Deed of Trust; and
- (b) That there are to be none as of the date when this Deed of Trust becomes of record.

Section 11.20. Further Advances.

On the request of Trustor or its permitted successors in ownership of the Land, Beneficiary may, at its option, at any time before full payment of the Indebtedness, make further advances to Trustor or the successors in ownership, with interest and late charges to be secured by this Deed of Trust. However, the amount of principal secured by this Deed of Trust and remaining unpaid, will not at the time of and including any advance exceed the original principal sum secured. Also, if Beneficiary, at its option, makes a further advance or advances, Trustor or the successors in ownership agree to execute and deliver to Beneficiary a note, payable on or before the maturity of the Indebtedness secured and bearing any other terms that Beneficiary will require.

Section 11.21. Waiver of Statute of Limitations.

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

Section 11.22. Charges for Statements.

Trustor agrees to pay Beneficiary's reasonable charge, to the maximum amount permitted by law, for any statement regarding the obligations secured by this Deed of Trust requested by Trustor or on its behalf.

Section 11.23. Entire Agreement.

This Deed of Trust and the other Loan Documents set forth the entire understanding between Trustor and Beneficiary and they will not be amended except by a written instrument duly executed by each of Trustor and Beneficiary. Any previous representations, warranties, agreements, and understandings among the parties regarding the subject matter of the Loan or the Loan Documents, whether written or oral, are superseded by this Deed of Trust and the other Loan Documents.

Section 11.24. Incorporation.

All terms of the Loan Documents are incorporated in this Deed of Trust by this reference. All persons who may have or acquire an interest in the Property will be deemed to have notice of the terms of the Loan Documents and to have notice, if provided for, that the rate of interest on one or more Obligations may vary from time to time.

Section 11.25. Waiver of Marshaling Rights.

Trustor, for itself and for all parties claiming through or under Trustor, and for all parties who may acquire a lien on or interest in the Property, waives all rights to have the Property or any other property that now or later may be security for any Obligation ("**Other Property**") marshaled on any foreclosure of this Deed of Trust or on a foreclosure of any other security for any of the Obligations. Beneficiary will have the right to sell, and any court in which foreclosure proceedings may be brought will have the right to order a sale of, the Property and any of the Other Property as a whole or in separate parcels, in any order that Beneficiary may designate.

Section 11.26. Acceptance of Trust; Powers and Duties of Trustee.

Trustee accepts this trust when this Deed of Trust is recorded. From time to time on written request of Beneficiary and presentation of this Deed of Trust for endorsement, and without affecting the personal liability of any person for payment of any indebtedness or the performance of any obligations, Trustee may, without liability and without notice:

- (a) Reconvey all or any part of the Property;
- (b) Consent to the making of any map or plat; and
- (c) Join in any grant of easement, any declaration of covenants, conditions, and restrictions, any extension agreement, or any agreement subordinating the lien or charge of this Deed of Trust.

Except as may be required by applicable law, Trustee or Beneficiary may from time to time apply to any court of competent jurisdiction for aid and direction in the execution of the trust and the enforcement of the rights and remedies available, and may obtain orders or decrees directing, confirming, or approving acts in the execution of the trust and the enforcement of the remedies. Trustee has no obligation to notify any party of any pending sale or any action or proceeding, including, without limitation, actions in which Trustor, Beneficiary, or Trustee will be a party, unless held or commenced and maintained by Trustee under this Deed of Trust. Trustee will not be obligated to perform any act required of it under this Deed of Trust unless the performance of the act is requested in writing and Trustee is reasonably indemnified and held harmless against any loss, cost, liability, or expense.

Section 11.27. Releases, Extensions, Modifications, and Additional Security.

Without notice to or the consent, approval, or agreement of any persons or entities having any interest at any time in the Property or in any manner obligated under the Obligations ("**Interested Parties**"), Beneficiary may, from time to time, release any person or entity from liability for the payment or performance of any Obligation; take any action or make any agreement extending the maturity or otherwise altering the terms or increasing the amount of any Obligation; or accept additional security or

release the Property or other security for any Obligation. None of these actions will release or reduce the personal liability of any of the Interested Parties, or release or impair the lien of this Deed of Trust, or the priority of it on the Property. However, no action taken or agreement made by Beneficiary to extend the maturity or otherwise alter the terms or increase the amount of any Obligation will be binding on Trustor without Trustor's consent.

Section 11.28. Reconveyance.

Upon the payment and performance of all Obligations, including, without limitation, Beneficiary's receipt of all sums owing and outstanding under the Note, Beneficiary will deliver to Trustee a written request for reconveyance, and will surrender to Trustee for cancellation this Deed of Trust and any note or instrument evidencing the Obligations. However, Beneficiary will have no obligation to deliver the written request and documents until Beneficiary has been paid by Trustor, in immediately available funds, all escrow, closing, and recording costs, the costs of preparing and issuing the reconveyance, and any trustee's or reconveyance fees. On Trustee's receipt of the written request by Beneficiary and the documents, Trustee will reconvey, without warranty, the Property or that portion then held. To the extent permitted by law, the reconveyance may describe the grantee as the person or persons legally entitled and the recitals of any matters or facts in any reconveyance will be conclusive proof of the truthfulness of them. Neither Beneficiary nor Trustee will have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance. When the Property has been fully reconveyed, the last reconveyance will operate as a reassignment of all future rents, issues, and profits of the Property to the person legally entitled.

Section 11.29. Subrogation.

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

Section 11.30. Obligations of Trustor, Joint and Several.

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

Section 11.31. Recourse to Separate Property.

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

Section 11.32. Rules of Construction.

When the identity of the parties or other circumstances make it appropriate, the singular number includes the plural.

Section 11.33. Successors in Interest.

The terms, covenants, and conditions in this Deed of Trust will be binding on and inure to the benefit of the heirs, successors, and assigns of the parties. However, this section does not waive the provisions of Section 6.11.

Section 11.34. No Offset.

Trustor will pay to Beneficiary all amounts owing under the Note, this Deed of Trust, or any of the other Obligations without deduction, offset, or counterclaim of any kind.

Section 11.35. Fluctuating Interest Rate.

Trustor understands and acknowledges that the secured amounts accrue interest at a variable rate in accordance with the terms of the Note.

Section 11.36. Governing Law.

The parties expressly agree that this Deed of Trust (including, without limitation, all questions regarding permissive rates of interest) will be governed by and construed in accordance with the laws of Nevada and federal law, where applicable.

In Witness Whereof, Trustor has executed this Deed of Trust as of the day and year first above written.

TRUSTOR:

[Signature]
PHILLIP SLOBOGIN

State of Calif }
County of El Dorado } SS.

On 3/28/17, 2017 before me, J. Lane, a Notary Public, personally appeared Phillip Slobogin, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature: *[Signature]*
Name: Thorne
(Typed or Printed)

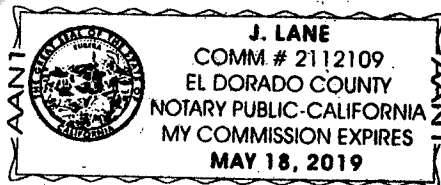


EXHIBIT A

Legal Description

The land referred to in this Commitment is situated in the County of Douglas, State of Nevada and is described as follows:

PARCEL 1:

ADJUSTED PARCEL 2 AS SHOWN ON THE RECORD OF SURVEY TO SUPPORT A BOUNDARY LINE ADJUSTMENT FOR DOUG HIGHLIPPINCOTT, MICHAEL HAKANSSON AND MARGARET HAKANSSON FILED IN THE OFFICE OF THE COUNTY RECORDER OF DOUGLAS COUNTY, STATE OF NEVADA ON JUNE 29, 2007 IN BOOK 607, PAGE 10219 AS FILE NO. 704215, OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LOCATED WITHIN PORTIONS OF THE WEST ONE-HALF OF SECTION 30, TOWNSHIP 14 NORTH, RANGE 20 EAST, MOUNT DIABLO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE COMMON CORNER FOR SECTIONS 24 AND 25, T.14N., R.19E. AND SECTIONS 19 AND 30, T.14N., R.20E., M.D.M.;

THENCE ALONG THE COMMON LINE BETWEEN SAID SECTIONS 25 AND 30, SOUTH 00°44'27" WEST, 420.65 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 1 AS SHOWN ON THE FINAL PARCEL MAP LDA 02-085 FOR DOUG H. LIPPINCOTT RECORDED MARCH 7, 2006 IN THE OFFICE OF RECORDER, DOUGLAS COUNTY, NEVADA AS DOCUMENT NO. 669335;

THENCE ALONG SAID NORTH LINE OF PARCEL 1, SOUTH 89°16'00", 713.14 FEET TO THE POINT OF BEGINNING;

THENCE ALONG THE NORTH LINES OF PARCELS 1 AND 2 AS SHOWN ON SAID FINAL PARCEL MAP, SOUTH 89°15'53" EAST, 1107.84 FEET;

THENCE SOUTH 36°29'24" WEST, 1650.11 FEET
THENCE NORTH 48°24'10" WEST, 119.87 FEET;
THENCE NORTH 72°43'20" WEST, 55.30 FEET;
THENCE NORTH 00°44'09" EAST, 1244.94 FEET, TO THE POINT OF BEGINNING.

PARCEL 2:

A THIRTY-FOOT WIDE (30') STRIP OF LAND FOR PRIVATE ACCESS PURPOSES, LOCATED WITHIN A PORTION OF THE WEST ONE-HALF OF SECTION 30, TOWNSHIP 14 NORTH, RANGE 20 EAST, MOUNT DIABLO MERIDIAN, LYING FIFTEEN-FEET (15') ON BOTH SIDES OF A LINE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE COMMON CORNER FOR SECTIONS 24 AND 25, T.14N., R.19E. AND SECTIONS 19 AND 30, T.14N., R.20E., M.D.M.;

THENCE ALONG THE COMMON LINE BETWEEN SAID SECTIONS 25 AND 30, SOUTH 00°44'27" WEST, 420.65 FEET TO THE NORTHWEST CORNER OF PARCEL 1 AS SHOWN ON

THE FINAL PARCEL MAP LDA 02-085 FOR DOUG H. LIPPINCOTT RECORDED MARCH 7, 2006 IN THE OFFICE OF RECORDER, DOUGLAS COUNTY, NEVADA AS DOCUMENT NO. 669335;

THENCE ALONG THE NORTH LINE OF SAID PARCEL 1, SOUTH 89°16'00" EAST, 713.14 FEET;

THENCE CONTINUING ALONG THE NORTH LINES OF SAID PARCEL 1 AND PARCEL 2 OF SAID PARCEL MAP SOUTH 89°15'53" EAST, 938.02 FEET;

THENCE SOUTH 31°55'59" WEST, 1351.46 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 52°27'18" EAST, 242.80 FEET;

THENCE SOUTH 76°57'31" EAST, 135.12 FEET;

THENCE SOUTH 62°01'33" EAST, 352.87 FEET;

THENCE SOUTH 68°02'49" EAST, 740.15 FEET TO THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY 395

NOTE: THE ABOVE METES AND BOUNDS DESCRIPTION APPEARED PREVIOUSLY IN THAT CERTAIN DOCUMENT RECORDED NOVEMBER 14, 2014 AS INSTRUMENT NO. 852807.