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RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

LOEB & LOEB LLP  
345 Park Avenue  
New York, New York 10154  
Attention: Jeffrey S. Fried, Esq.

(Space Above For Recorder's Use)

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

from

**WLF MINDEN LLC**, a California limited liability company

(**Grantor** or **Trustor**)

to

**FIRST AMERICAN TITLE INSURANCE COMPANY**, a Nebraska corporation

(**Trustee**)

**FOR THE BENEFIT OF**

**MORGAN STANLEY PRIVATE BANK, NATIONAL ASSOCIATION**

a national banking association

(**Beneficiary**)

Principal Amount Secured: \$52,525,000.00, plus other sums described in Section 1

Dated: February 28, 2022

Premises: 1645 Highway 88, Minden, Nevada

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

THIS DEED OF TRUST SECURES A PROMISSORY NOTE WHICH BEARS INTEREST AT A VARIABLE RATE AS MORE PARTICULARLY SET FORTH IN THE PROMISSORY NOTE AND LOAN AGREEMENT.

THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (this "**Deed of Trust**") made the 28th day of February, 2022, between WLF MINDEN LLC, a California limited liability company ("**Grantor**" or "**Trustor**"), having its principal business office at 23311 Newton Avenue, Stratford, California 93266, to FIRST AMERICAN TITLE INSURANCE COMPANY, having an office at 101 Mission Street, Suite 1600, San Francisco, CA 94105 ("**Trustee**") for the benefit of MORGAN STANLEY PRIVATE BANK, NATIONAL ASSOCIATION, a national banking association, having an address at 2000 Westchester Avenue, Floor 2NE, Purchase, New York 10577 ("**Beneficiary**").

**WITNESSETH**

A. Pursuant to a certain Term Loan Agreement (Secured by Real Property) dated of even date herewith between Grantor, certain affiliates of Grantor (together with Grantor, collectively, the "**Borrowers**") and Beneficiary (as the same may be supplemented, restated, superseded, amended or replaced from time to time, the "**Loan Agreement**"), Borrowers have executed and delivered to Beneficiary that certain Term Loan Promissory Note of even date herewith in the original principal amount of Fifty Two Million Five Hundred Twenty Five Thousand and 00/100 Dollars (\$52,525,000.00) (as the same may be supplemented, restated, superseded, amended or replaced from time to time, the "**Note**").

B. Grantor is the record owner of (i) all of that certain real estate situated in the City of Minden, County of Douglas, State of Nevada, more particularly described in Exhibit A attached hereto and made a part hereof (the "**Land**"); and (ii) title to the Improvements (as hereinafter defined) located thereon.

C. Grantor desires to secure the payment and performance of the Obligations (as defined below), by among other things, entering into this Deed of Trust.

D. Capitalized terms used without further definition herein shall have the meaning set forth in the Loan Agreement.

NOW, THEREFORE, in consideration of the financing arrangements established under the Loan Agreement, and as security for:

- (1) payment to Beneficiary of all Obligations;
- (2) payment to Beneficiary of all future or additional advances which may be made by Beneficiary to or for the account of Grantor or any other Borrower, together with interest on such advances (including, without limitation, all sums which Beneficiary may advance under this Deed

of Trust or the other Loan Documents (as defined in the Loan Agreement) with respect to any Deed of Trust Property (as defined below) to pay for taxes, assessments, maintenance charges, insurance premiums or costs incurred for the protection of the Deed of Trust Property or any portion thereof or the lien of this Deed of Trust, and expenses incurred by Beneficiary by reason of default by Grantor under this Deed of Trust or any of the other Loan Documents); and

- (3) performance of the undertakings and covenants contained in the Loan Documents.

#### GRANTING CLAUSES

Grantor, in consideration of the premises, the indebtedness evidenced by the Note, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged (a) has mortgaged, warranted, granted, bargained, sold, alienated, released, confirmed, conveyed, pledged and assigned, and (b) by these presents does hereby irrevocably grant and create a first priority lien on and security interest in, subject to those permitted encumbrances included in a lender's title policy approved by Beneficiary and the provisions hereof and of the other Loan Documents, and does hereby irrevocably MORTGAGE, PLEDGE, TRANSFER, CONVEY AND ASSIGN unto Trustee and its successors and assigns forever IN TRUST for the benefit of Beneficiary, with power of sale and right of entry and possession, all of Grantor's estate, right, title and interest now owned or hereafter acquired in, to and under any and all of the property (collectively, the "**Deed of Trust Property**") described in the following Granting Clauses:

- (1) The Land together with all easements, appurtenances and other rights and privileges now or hereafter belonging or appertaining thereto;

- (2) All buildings and improvements now or hereafter located upon the Land (the "**Improvements**");

- (3) All present and future leases, subleases, subsubleases, licenses and other occupancy agreements (whether written or oral) covering all or any portion of the Land, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, licenses and other occupancy agreements (which, together with Grantor's interest as landlord thereunder, are herein collectively referred to herein as the "**Leases**");

- (4) All rents, issues and profits payable under the Leases and under any future renewals, extensions, amendments or modifications thereof;

- (5) All fixtures, appliances, machinery, equipment, furnishings and furniture of any nature whatsoever, and other articles of personal property now or hereafter owned by Grantor and (i) which now or at any time hereafter are installed in, attached to or located in or upon the Land; (ii) used or intended to be used in connection with the Land or the Improvements, or in the operation or maintenance of any Deed of Trust Property (including, without limitation, communications, computer and security systems and the software system therefor); or (iii) the plant or business located thereon, whether or not the personal property is or shall be affixed thereto, expressly including, but without limiting the generality of the foregoing, all articles of personal property listed on Exhibit B attached hereto and made a part hereof;

(6) All building materials, fixtures, building machinery and building equipment owned by Grantor and delivered on site to the Land or the Improvements during the course of, or in connection with, the construction of, or reconstruction of, or remodeling of any Improvements from time to time during the term hereof;

(7) Any and all tenements, hereditaments and appurtenances belonging to the Land or any part thereof, or in any way appertaining thereto, and all streets, alleys, passages, ways, water courses, and all leasehold estates, easements and covenants now existing or hereafter created for the benefit of Grantor or any subsequent owner or tenant of the Land or the Improvements over ground adjoining the Land and all rights to enforce the maintenance thereof, rights-of-way, development rights, mineral rights, water and water rights, pumps and pumping plants, water shares, ditches and canals, weirs, pipelines, wells and wellheads, and all tenements, hereditaments, and appurtenances thereunto belonging or in any way appertaining to the same or to the diversion, delivery, or use of water, of whatever nature or description, whether now owned or hereafter acquired by Grantor, and including all rights of ingress and egress to and from the Land and all adjoining property related thereto and all shares of stock evidencing the same and all other rights, liberties and privileges of whatsoever kind or character, together with any after-acquired property interest in the Land which Grantor may at any time hereafter have or acquire, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law or in equity, of Grantor in and to the Land or any part thereof;

(8) To the extent assignable, all management agreements, service contracts, license agreements, concession agreements, rebate agreements, incentive agreement, grant agreements, written or oral, relating to the use and occupancy of the Land now or hereafter existing and the reversions and remainders, income, rents, issues and profits arising therefrom and all deposits (including, without limitation, tenant security deposits) thereunder, and all rights and benefits now or hereafter accruing to Grantor under any and all guarantees of the obligations of any tenant, licensee, concessionaire or other occupant thereunder, as any of the foregoing may be amended, extended, renewed or modified from time to time;

(9) All reciprocal easement agreements, operating agreements, and similar agreements however labeled or denominated affecting the Land;

(10) All accounts, chattel paper, instruments and other documents of title, deposit accounts, general intangibles, payment intangibles, contract rights, choses in action, causes of action, intangible property, intellectual property (including, any good will and royalties associated therewith), licenses, tax refunds and return claims, books and records, investment property and all other rights and obligations of any kind, whether or not arising out of or in connection with the sale or lease of goods or the rendering of services and all rights now or hereafter existing in and to all security agreements, leases and other contracts securing or otherwise relating to any of the foregoing;

(11) All other documentation belonging to or in Grantor's possession now or hereafter existing in connection with the use or operation of the Land including, without limitation, any plans and specifications pertaining to the Improvements, all appraisals, engineering, environmental, soils, marketing and other reports and studies relating to the Land or the Improvements, all permits, licenses, and contract rights, warranties, guarantees, tenant lists,

correspondence with present or prospective tenants or suppliers, advertising materials, and telephone exchange numbers as identified in such advertising materials; and

(12) All products, proceeds, substitutions, accessions and replacements, of any of the foregoing into cash or liquidated claims, including without limitation, proceeds of insurance and condemnation awards.

TO HAVE AND TO HOLD the Deed of Trust Property hereby conveyed or mentioned and intended so to be, unto Beneficiary, to its own use forever.

PROVIDED ALWAYS, this instrument is made upon the express condition that, upon payment in full of all Obligations, then this Deed of Trust and the estate hereby granted shall, at the request and at the expense of Grantor, be terminated and Beneficiary shall execute and deliver to the Trustor such instruments necessary to release this Deed of Trust and reconvey the Deed of Trust Property conveyed to the Trustee hereunder as required by Nevada Revised Statutes 107.077.

**GRANTOR REPRESENTS, COVENANTS AND WARRANTIES** to and with Trustee and Beneficiary that until the Obligations are indefeasibly paid in full:

1. Maximum Principal Amount Secured. Notwithstanding anything to the contrary contained in this Deed of Trust, the maximum amount of principal indebtedness secured by this Deed of Trust, or which under any contingency may be secured by this Deed of Trust, is \$52,525,000.00, plus amounts that Beneficiary expends after a default under this Deed of Trust to the extent that any such amounts shall constitute payment of (i) taxes, charges or assessments that may be imposed by law upon any Deed of Trust Property; (ii) premiums on insurance policies covering the Deed of Trust Property or any portion thereof; (iii) expenses incurred in upholding the lien of this Deed of Trust, including, without limitation, the expenses of any litigation to prosecute or defend the rights and lien created by this Deed of Trust; (iv) any amount, cost or charge to which Beneficiary becomes subrogated, upon payment, whether under recognized principles of law or equity, or under express statutory authority, and (v) any other amount advanced by Beneficiary and permitted by law to be secured as an additional or protective advance; then, and in each such event, such amounts or costs, together with interest thereon, shall be added to the Obligations and shall be secured by this Deed of Trust.

2. Payment and Performance. Grantor shall pay to Beneficiary all of Grantor's obligations to repay the Term Loan, together with all interest thereon, as well as all other costs and expenses for which Grantor may be obligated to pay under the Note, the Loan Agreement and the other Loan Documents, excluding the Guaranty and the ADA and Environmental Indemnity (collectively, the "**Obligations**"), in each case in accordance with the terms of the Loan Documents (excluding the Guaranty and the ADA and Environmental Indemnity). Notwithstanding anything to the contrary contained herein or in the other Loan Documents, the Guaranty and the ADA and Environmental Indemnity (as such terms are defined in the Loan Agreement) are not secured by this Deed of Trust. Grantor shall perform and comply with all of the agreements, conditions, covenants, provisions and stipulations of this Deed of Trust and the other Loan Documents to which it is a party. Grantor shall timely perform all of its obligations and duties as landlord under any Leases of any portion of the Deed of Trust Property now or hereafter in effect.

3. Warranty of Title. Grantor warrants to Beneficiary that Grantor possesses good and marketable, unencumbered fee simple title to the Deed of Trust Property and every part thereof, except for those title exceptions listed in Beneficiary's title insurance policy approved by and issued to Beneficiary insuring the priority of the lien of this Deed of Trust. Grantor shall reimburse Beneficiary for any losses, costs, damages and expenses (including, without limitation, reasonable attorneys' fees and court costs) incurred by Beneficiary if an interest in the Land or the Deed of Trust Property, other than as permitted hereunder, is claimed by another Person.

4. Maintenance of Deed of Trust Property. Grantor shall keep and maintain the Deed of Trust Property and the abutting sidewalks and curbs in good order and condition (ordinary wear and tear excepted) in compliance with all applicable laws and in a rentable and tenable state of repair, and will make, as and when necessary, all repairs, renewals and replacements, structural and nonstructural, exterior and interior, ordinary and extraordinary, foreseen and unforeseen. Grantor shall abstain from and shall not permit the commission of waste in or about the Deed of Trust Property, shall not, other than in the ordinary course of business and as permitted under the Loan Agreement, remove or demolish any portion of the Improvements, or any machinery, equipment or other personal property located thereon or alter the structural character or exterior appearance of any Improvements, without the prior written consent of Beneficiary in each instance. Grantor shall not permit any Deed of Trust Property to become deserted or abandoned. Grantor shall operate the Deed of Trust Property as it is currently being operated, and Grantor shall not change the use of any Deed of Trust Property from its current use without first obtaining the prior written consent of Beneficiary.

5. Insurance.

(a) Grantor shall provide and maintain insurance coverage in accordance with the terms of the Loan Agreement.

(b) Grantor has obtained and has delivered to Beneficiary certified copies or originals of all insurance policies required under the Loan Agreement, reflecting the insurance coverages, amounts and other requirements set forth in the Loan Agreement. Grantor has not, and to the best of Grantor's knowledge no Person has, done by act or omission anything which would impair the coverage of any such insurance policy.

(c) If the insurance, or any part thereof, shall expire, or be canceled, or become void or voidable by reason of Grantor's breach of any condition thereof, or if Beneficiary determines that such coverage is unsatisfactory by reason of the failure or impairment of the capital of any company in which the insurance may then be carried or the lowering of such insurance carrier's rating from its rating on the date hereof, or if for any reason whatever the insurance shall, in Beneficiary's reasonable discretion, be unsatisfactory to Beneficiary, Grantor shall place new insurance on the Deed of Trust Property, reasonably satisfactory to Beneficiary in its sole discretion.

(d) Such policies of insurance and all renewals thereof are hereby assigned to Beneficiary as additional security for payment of the Obligations and Grantor hereby agrees that during the continuance of an Event of Default any values available thereunder upon cancellation or termination of any of said policies or renewals, whether in the form of return of premiums or

otherwise, shall be payable to Beneficiary as assignee thereof. If Beneficiary becomes the owner of the Deed of Trust Property or any part thereof by foreclosure or otherwise, such policies, including, without limitation, all right, title and interest of Grantor thereunder, shall become the absolute property of Beneficiary.

(e) Beneficiary shall retain and apply the proceeds of any such insurance to reduction of the Obligations, or to restoration or repair of the property damaged, in accordance with the terms of the Loan Agreement. Beneficiary's application of insurance proceeds to reduction of the Obligations shall not excuse or modify Grantor's obligation to continue to pay the installments of interest and principal required under the Note unless the amount of such insurance proceeds received by Beneficiary is sufficient to repay in full all of the Obligations.

(f) All negotiations, proceedings and settlements to adjust, compromise or settle any loss covered by insurance shall be as set forth in accordance with the terms of the Loan Agreement. All insurance proceeds shall be applied to the Work (as defined in the Loan Agreement) or to the payment of the Term Loan in each case in accordance with the terms of the Loan Agreement.

6. Taxes and Other Charges.

(a) Grantor shall pay or cause to be paid, prior to the time interest, penalties or additions are due thereon, without any deduction, defalcation or abatement, all real estate taxes, charges, municipal assessments and liens, water and sewer rents, and other governmental levies and all other charges or claims of every nature and kind which may be assessed, levied, imposed, suffered, placed or filed at any time against Grantor, any Deed of Trust Property or any part thereof or against the interest of Beneficiary therein, or which by any present or future law may have priority over the indebtedness secured hereby either in lien or in distribution out of the proceeds of any judicial or other sale (collectively "**Taxes**"); and upon request by Beneficiary, Grantor shall produce to Beneficiary, official receipts for the payment of Taxes; provided, however, that if, pursuant to this Deed of Trust, Grantor shall have deposited with Beneficiary before the due date thereof sums sufficient to pay any Taxes, and Grantor is not otherwise in default, beyond any and all applicable notice or cure periods, under the Loan Documents, the Taxes shall be paid by Beneficiary. Grantor will not apply for or claim any deduction, by reason of this Deed of Trust, from the taxable value of all or any part of the Deed of Trust Property. No credit shall be claimed or allowed on the interest payable on the Note because of any Taxes paid.

(b) If requested by Beneficiary, Grantor shall procure for Beneficiary, at Grantor's expense, a real estate tax reporting service throughout the term of this Deed of Trust, and if Grantor fails to do so, Beneficiary may obtain such service directly and Grantor shall, upon demand, reimburse Beneficiary for the cost of such service.

7. Installments for Taxes and Other Charges. Without limiting the effect of Sections 5 and 6, as applicable, during the continuance of an Event of Default, upon Beneficiary's written request, Grantor shall pay to Beneficiary, monthly, with the monthly installments of interest or principal and interest, an amount equal to one-twelfth (1/12) of the annual Taxes ("**Escrow Items**"). On demand by Beneficiary from time to time during the continuance of an Event of Default, Grantor shall pay to Beneficiary any additional sums necessary to pay the Escrow Items,

all as estimated by Beneficiary. The amounts paid by Grantor shall be security for the Escrow Items and shall be used in payment thereof if Grantor is not otherwise in default under the Loan Documents beyond any and all applicable notice or cure periods. No amount so paid shall be deemed to be trust funds but may be commingled with general funds of Beneficiary, and no interest shall be payable thereon. If, pursuant to the Loan Documents, the Obligations become due and payable, Beneficiary shall have the right, at its election, to apply any amount of Escrow Items held by Beneficiary against the Obligations. At Beneficiary's option, Beneficiary from time to time may waive, and after any such waiver may reinstate, the provisions of this Section requiring the monthly payments of Escrow Items.

8. Documentary and Other Stamps. If at any time the United States, the state in which the Deed of Trust Property is located or any political subdivision thereof, or any department or bureau of any of the foregoing shall require documentary, revenue or other stamps or taxes on the Note or this Deed of Trust, Grantor on demand shall pay for them with any interest or penalties payable thereon.

9. Other Taxes. If any law or ordinance now or hereafter imposes a tax directly or indirectly on Beneficiary with respect to the Deed of Trust Property (other than an income tax, withholding tax or foreign taxes) or any portion thereof, the value of Grantor's equity therein, or the Obligations secured by this Deed of Trust, Grantor shall have the right to contest such taxes but shall promptly pay such tax during the pendency of such contest. If Grantor fails to pay such tax or if Grantor is not lawfully permitted to pay such tax, Beneficiary, at its election, shall have the right at any time to give Grantor written notice declaring that the Obligations shall be due on a specified date not less than sixty (60) days thereafter; provided, however, that such election shall be ineffective if, prior to the specified date, Grantor lawfully pays the tax (in addition to all other payments required hereunder) and agrees to pay the tax whenever it becomes due and payable thereafter, which agreement shall then constitute a part of this Deed of Trust.

10. Security Agreement. This Deed of Trust constitutes a "security agreement" under the Uniform Commercial Code in effect in the state where the Land is situated and Grantor hereby grants to Beneficiary a security interest in all existing and future fixtures and other personal property (and the proceeds thereof) included in the Deed of Trust Property which might be deemed "personal property." Grantor authorizes Beneficiary to file this Deed of Trust and any and all other financing statements in all states, counties, and other jurisdictions as Beneficiary may elect, without Trustor's signature if permitted by law, including without limitation any financing statements that describe the collateral as "all assets and all personal property whether now owned or hereafter acquired" of Trustor or words of similar effect. Beneficiary may proceed under the Uniform Commercial Code in effect in the state where the Land as to all or any part of the Deed of Trust Property constituting personal property, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the Uniform Commercial Code in effect in the state where the Land. Upon the occurrence of any Event of Default, Grantor shall assemble all of such personal property and make the same available within the Improvements. Grantor covenants to retain all of the Deed of Trust Property within the county in which the Land is located, other than equipment which, subject to the terms of the Loan Agreement, may be removed. During the continuance of an Event of Default under this Deed of Trust, Beneficiary shall have, in addition to any other rights and remedies under the Loan Documents, all of the rights and remedies granted to a secured party under the Uniform Commercial Code with respect to the



fixtures. During the continuance of an Event of Default under this Deed of Trust beyond any applicable grace and cure period, Beneficiary shall have all of the rights and remedies set forth in the Loan Agreement with respect to the fixtures. Notwithstanding any release of any or all of that property included in the Deed of Trust Property which is deemed “real property,” any proceedings to foreclose this Deed of Trust or its satisfaction of record, the terms hereof shall survive as a security agreement with respect to the security interest created hereby and referred to above until the repayment or satisfaction in full of the Obligations.

11. Compliance with Law and Other Matters.

(a) Grantor shall comply with all laws ordinances, regulations and orders (collectively “**Laws**”) of all governmental authorities relating to the Deed of Trust Property and the use and occupancy of the Deed of Trust Property.

(b) Grantor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses which may be made of the Deed of Trust Property or any part thereof, without the prior written consent of Beneficiary. Grantor will not seek any variance under any existing zoning ordinance that could result in the use of the Deed of Trust Property or any part thereof becoming a non-conforming use under any zoning ordinance or any other applicable land use law, rule or regulation. Grantor will not allow the Deed of Trust Property or any part thereof to be used in any manner that could result in the use of the Deed of Trust Property becoming a non-conforming use under any zoning ordinance or any other applicable land use law, rule or regulation.

(c) Grantor will comply with all restrictive covenants, easement agreements and other recorded documents affecting the Deed of Trust Property. Grantor will not record or permit to be recorded any document, instrument, agreement or other writing against the Deed of Trust Property without the prior written consent of Beneficiary.

(d) Grantor shall pay when due all utility charges which are incurred by Grantor, whether public or private and whether or not such charges are or may become liens on the Deed of Trust Property.

(e) Grantor agrees to subject to the lien of this Deed of Trust, in a form reasonably satisfactory to Beneficiary, all additional strips, gores, or parcels of land acquired by Grantor or any leasehold interest therein acquired by Grantor, which adjoin any Deed of Trust Property, and all additional interest in and easements, rights and appurtenances to the Deed of Trust Property above described and in and to said strips, gores and parcels, and to execute and deliver to Beneficiary such security agreements and extensions thereof as Beneficiary reasonably may request and promptly to pay Beneficiary’s reasonable costs (including, without limitation, reasonable attorneys’ fees and disbursements) in connection therewith and the title insurance premiums necessary to insure such additional land is encumbered by this Deed of Trust as a first lien thereon.

(f) While an Event of Default exists, Grantor agrees to deliver to Beneficiary, within fifteen (15) days after written request by Beneficiary, any and all plans, specifications, renderings, studies, analyses, reports or evaluations in the possession of Grantor with respect to

the physical condition of, or the development or use of, the Deed of Trust Property or any part thereof.

(g) The Deed of Trust Property is used as commercial property and other uses appurtenant thereto and as otherwise permitted by applicable law. Grantor shall not suffer or permit the Deed of Trust Property to be used by the public in such manner as might reasonably tend to impair Grantor's title to the Deed of Trust Property or any portion thereof, or in such manner as might reasonably make possible a right or rights of adverse usage or adverse possession by the public, as such, or of implied dedication of the Deed of Trust Property or any portion thereof.

(h) Grantor shall not suffer, permit, consent to or initiate the joint assessment of the Land or the Deed of Trust Property (i) with any other real property constituting a tax lot separate from the Land or the Deed of Trust Property and (ii) with respect to which any portion of the Land or the Deed of Trust Property may be deemed to constitute personal property, or any other procedure whereby the lien of any taxes which may be levied against such personal property shall be assessed or levied or charged to such real property portion of the Land or the Deed of Trust Property.

(i) Grantor shall keep and maintain all licenses and permits necessary for the operation of the Deed of Trust Property as commercial property.

(j) Grantor shall continue to engage in the business presently conducted by them as and to the extent the same is necessary for the ownership, maintenance, management and operation of the Deed of Trust Property. Grantor shall qualify to do business and shall remain in good standing under the laws of the State in which the Deed of Trust Property is located and as and to the extent required for the ownership, maintenance, management and operation of the Deed of Trust Property.

(k) Except in accordance with the express terms and conditions contained in the Loan Agreement, Grantor shall not cause or permit a sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or grant of any options with respect to, or any other transfer or disposition (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) of a legal or beneficial interest in the Deed of Trust Property or any part thereof, Grantor, any constituent owner or other holder of a direct or indirect equity interest in Grantor.

12. Required Notices. Grantor shall notify Beneficiary promptly of the occurrence of any of the following:

(i) A fire or other casualty if such damage, destruction or casualty is likely to cost in excess of \$100,000.00 damage to the Deed of Trust Property;

(ii) Receipt of notice of eminent domain proceedings or of any actual or threatened condemnation of any Deed of Trust Property;

(iii) Receipt of a notice from any governmental authority relating to the condition, structure, use or occupancy of any Deed of Trust Property or any real estate adjacent to any Deed of Trust Property;

(iv) Receipt of any notice of default or threatened default, notice of lease termination or similar material notice from a tenant under any of the Leases; or

(v) A material change in the occupancy of any Deed of Trust Property.

13. Condemnation.

(a) In the event of any condemnation or taking of any part of the Deed of Trust Property by eminent domain, alteration of the grade of any street, or other injury to or decrease in the value of any Deed of Trust Property by any public or quasi-public authority or corporation, all proceeds (that is, the award or agreed compensation for the damages sustained) allocable to Grantor or any Deed of Trust Property, after deducting therefrom all costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit) including, without limitation, reasonable attorneys' fees and expenses incurred by Beneficiary in connection with the collection of such proceeds, shall be applied as set forth in this Section. No settlement for the damages sustained shall be made by Grantor without Beneficiary's prior written approval, which approval shall not be unreasonably withheld. All of the proceeds (i) are hereby assigned to and shall be paid to Beneficiary and (ii) shall be applied in the order and in the amounts that Beneficiary, in Beneficiary's sole discretion, may elect, to the payment of the Obligations secured by this Deed of Trust. Grantor, upon request by Beneficiary, shall make, execute and deliver any and all instruments requested for the purpose of confirming the assignment of any awards and compensation described in this Section 13(a) to Beneficiary free and clear of any Liens of any kind or nature whatsoever.

(b) If, prior to the receipt of the proceeds by Beneficiary the Deed of Trust Property shall have been sold on foreclosure of this Deed of Trust, Beneficiary shall have the right to receive the proceeds to the extent of:

(i) the full amount of all such proceeds if Beneficiary is the successful purchaser at the foreclosure sale, or

(ii) if anyone other than Beneficiary is the successful purchaser at the foreclosure sale, any deficiency (as hereinafter defined) due to Beneficiary in connection with the foreclosure sale, with interest thereon at the highest applicable rate set forth in the Note, and reasonable counsel fees, costs and disbursements incurred by Beneficiary in connection with collection of such proceeds of condemnation and the establishment of such deficiency. For purposes of this subsection (b) (ii), the word "deficiency" shall be deemed to mean the difference between (A) the net sale proceeds actually received in cash by Beneficiary as a result of such foreclosure sale less any costs and expenses incurred by Beneficiary in connection with enforcement of its rights under the Loan Agreement, this Deed of Trust and the other Loan Documents and (B) the aggregate amount of the Obligations.

(c) Beneficiary shall have the right to prosecute to final determination or settlement an appeal or other appropriate proceedings in the name of Beneficiary or Grantor, for which Beneficiary is hereby appointed irrevocably as attorney-in-fact for Grantor, which appointment, being for security, is irrevocable. In that event, the expenses of the proceedings, including, without limitation, reasonable counsel fees and expenses, shall be paid first out of the

proceeds, and only the excess, if any, paid to Beneficiary shall be credited against the amounts due under this Deed of Trust.

(d) Nothing herein shall limit the rights otherwise available to Beneficiary, at law or in equity, including, without limitation, the right to intervene as a party to any condemnation proceeding.

14. Completion of Construction. Grantor shall complete and timely pay for any construction which is commenced at any time on any Deed of Trust Property free of any mechanics liens or other liens. All such construction shall comply with all applicable Laws and shall be performed in a good and workmanlike manner. Nothing contained in this Section shall be deemed to waive any right Beneficiary may have under the Loan Documents to approve construction on the Deed of Trust Property.

15. Leases.

(a) Grantor hereby represents that there are no leases or agreements to lease all or any part of the Deed of Trust Property now in effect except the Leases described in the rent roll previously provided to Beneficiary. There are no prior sales, transfers or assignments of the Leases or any portion of the rents due and payable or to become due and payable which are presently outstanding following the funding of the Term Loan, other than those being terminated or assigned to Trustee and Beneficiary concurrently herewith. Grantor agrees not to enter into any Leases or agreements to lease all or any part of the Deed of Trust Property or to modify, amend, terminate or consent to the surrender of, or assign its interest in, any Leases or to permit the tenant or subtenant thereunder to subordinate its Leases to any lien subordinate to this Deed of Trust, other than as expressly permitted by the terms of the Loan Agreement.

(b) Grantor shall (i) observe and perform the obligations imposed upon the lessor under the Leases in a commercially reasonable manner and (ii) enforce the terms, covenants and conditions contained in the Leases upon the part of the lessee thereunder to be observed or performed in a commercially reasonable manner. Grantor shall cause each lessee under each Lease to (i) pay all rents, (ii) diligently perform and observe all of the terms, covenants and conditions of such Lease on the part of such lessee, as tenant thereunder, (iii) promptly deliver to Beneficiary copies of any notice of default by any party under such Lease, or of any notice given by Grantor as landlord under such Lease to terminate such Lease or to re-enter and take possession of any portion of the Deed of Trust Property, immediately upon delivery of such notice and (iv) promptly notify Beneficiary of any bankruptcy, reorganization or insolvency of Grantor as landlord under such Lease or of any notice thereof, and deliver to Beneficiary a true copy of such notice within five (5) Business Days of such lessee's receipt thereof.

(c) Except as expressly permitted by the terms of the Loan Agreement, Grantor shall not permit any lessee under any Lease, without prior written consent of Beneficiary, to surrender the leasehold estate created by such Lease or terminate, cancel or disaffirm such Lease or modify, change, surrender, supplement, alter or amend such Lease, either orally or in writing.

(d) If Grantor as landlord under any Lease shall deliver to Beneficiary a copy of any notice of default under such Lease, such notice shall constitute full protection to Beneficiary for any action taken or omitted to be taken by Beneficiary, in good faith, in reliance thereon.

(e) Grantor shall cause each lessee under each Lease to give Beneficiary written notice of such lessee's intention to exercise each and every option, if any, to renew or extend the term of such Lease, at least thirty (30) days prior to the expiration of the time to exercise such option under the terms thereof.

(f) If a lessee under a Lease intends to renew or extend the term of the applicable Lease, Grantor shall cause such lessee to deliver to Beneficiary, with the notice of such decision, a copy of the notice of renewal or extension delivered to Grantor as landlord under such Lease, together with the terms and conditions of such renewal or extension.

(g) Upon receipt by Grantor, from time to time, of any security deposit, prepaid rent (other than prepaid rent for the next succeeding calendar month), or similar payments by a tenant, subtenant, licensee or other user of the Deed of Trust Property, Grantor shall deposit such sum in a separate escrow account with a national or state bank having banking offices in the state in which the Deed of Trust Property is located. Grantor shall promptly give Beneficiary written notice of the name and address of the bank and the account number of the escrow account. Grantor shall also give written authorization to such bank to permit Beneficiary to receive any information requested by Beneficiary from the bank as to the status and balance of such account. Said sums shall be held in trust by Grantor and disbursed only upon the prior written approval of Beneficiary, which approval shall not be unreasonably withheld. The prior written consent of Beneficiary shall not be required when by law (or agreement approved by Beneficiary) Grantor is required to return any of such sums to the party who deposited it with Grantor or Grantor applies any such amount to any obligation of a lessee. Grantor hereby assigns all of such bank accounts to Beneficiary as collateral security for the Obligations and Grantor agrees that after an Event of Default by Grantor under the Loan Documents, the sums in said bank accounts shall, at the election of Beneficiary, be payable to Beneficiary as assignee of such bank account; provided, however, that Beneficiary shall have no liability for any prior misapplication of said sums by Grantor.

16. Right to Remedy Defaults.

(a) If Grantor should fail to pay corporate taxes, Impositions, Taxes, sums due under any permitted Lien against any Deed of Trust Property, or insurance premiums, or any sums payable by Grantor pursuant to the Leases, or fail to make necessary repairs to any Deed of Trust Property, or permit waste to any Deed of Trust Property, or shall otherwise fail to perform its obligations under this Deed of Trust, Beneficiary, at its election, after giving Grantor five (5) Business Days' notice of such failure (except in an emergency in which case no such notice shall be required), shall have the right to make any payment or expenditure and to take any action which Grantor should have made or taken, or which Beneficiary deems advisable to protect the security of this Deed of Trust or the Deed of Trust Property, without prejudice to any of Beneficiary's rights or remedies available hereunder or otherwise, at law or in equity. Such payment by Beneficiary shall not release Grantor from Grantor's obligations or constitute a waiver of Grantor's default under this Deed of Trust.

(b) Beneficiary in making any payment authorized by this Section 16: (i) relating to Taxes and corporate taxes, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of the Tax or claim thereof; or (ii) for the purchase, discharge, compromise or settlement of any other Lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; or (iii) for the payment of any sums to cure any default under the Leases, may do so without inquiry as to the validity or amount of any claimed default thereunder. In exercising its rights hereunder Beneficiary may, but need not, make full or partial payments on any Lien, if any, and purchase, discharge, compromise or settle any tax lien or other Lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Deed of Trust Property or contest any tax. Such payments will be deemed made by Beneficiary at Grantor's request and Beneficiary shall be subrogated to any and all rights and liens held by the owner or holder of any Lien, irrespective of whether such Lien is released or satisfied.

(c) All such sums, as well as costs, advanced by Beneficiary pursuant to this Deed of Trust shall be due immediately from Grantor to Beneficiary, shall be secured by this Deed of Trust and the lien therefore shall relate back to the date of this Deed of Trust, and such sums, as well as costs, shall bear interest at the highest applicable default rate under the Loan Agreement from the date of payment by Beneficiary until the date of repayment to Beneficiary.

(d) Anything herein to the contrary notwithstanding, (a) Grantor shall remain liable under the contracts and agreements included in the Deed of Trust Property to the extent set forth therein and perform all of its duties and obligations thereunder to the same extent as if this Deed of Trust had not been executed, (b) the exercise by Beneficiary of any of the rights hereunder shall not release the Grantor from any of its duties or obligations under the contracts and agreements included in the Deed of Trust Property, and (c) Beneficiary shall not have any obligation or liability under the contracts and agreements included in the Deed of Trust Property by reason of this Deed of Trust, nor shall the Beneficiary be obligated to perform any of the obligations or duties of the Grantor thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

17. Events of Default. Each of the following shall constitute an "**Event of Default**" under this Deed of Trust:

(a) Grantor's non-performance or non-compliance with any of the agreements, conditions, covenants, provisions or stipulations contained in this Deed of Trust and the continuance of such default for thirty (30) days after the occurrence thereof; or

(b) The occurrence of an Event of Default under the Loan Agreement, the Guaranty or any other Loan Document.

18. Remedies.

(a) Upon the occurrence of an Event of Default, Beneficiary may exercise all rights and remedies under the Loan Agreement and the other Loan Documents.

(b) Without limiting the foregoing, upon the occurrence of an Event of Default, Trustee and/or Beneficiary may also, to the fullest extent permitted by applicable law, immediately pursue one or more of the following remedies:

(i) Foreclosure. Trustee may institute an action of foreclosure against the Deed of Trust Property or any portion thereof, or take such other action at law or in equity for the enforcement of this Deed of Trust and realization on the deed of trust security or any other security herein or elsewhere provided for, as the law may allow, and may proceed therein to final judgment and execution for the entire unpaid balance of the Obligations, with interest at the highest applicable default rate set forth in the Loan Agreement (or as otherwise provided by applicable law), together with all other sums due by Grantor in accordance with the provisions of this Deed of Trust and the other Loan Documents, including, without limitation, all sums which may have been loaned by Beneficiary to Grantor on or after the date of this Deed of Trust, and all sums which may have been advanced by Beneficiary for Taxes, payments on Liens, insurance premiums, utilities or repairs to the Deed of Trust Property and other sums which Beneficiary is permitted to advance pursuant to the terms of this Deed of Trust and/or applicable law, all costs of suit, together with interest at such rate on any judgment obtained by Trustee or Beneficiary from and after the date of any sheriff or other judicial sale until actual payment is made of the full amount due Beneficiary, and all Expenses.

(ii) Possession. Trustee or Beneficiary may enter into possession of any Deed of Trust Property, with or without legal action, collect therefrom all rentals (which term shall include, without limitation, sums payable for use and occupation) and, after deducting all costs of collection and administration expenses, apply the net rentals to any or all of the following in such order and amounts as Beneficiary, in Beneficiary's sole discretion, may elect: the payment of any sums due under any Lien, Taxes, insurance premiums and all other carrying charges, and to the maintenance, repair or restoration of the Deed of Trust Property, and on account and in reduction of the Obligations; in and for that purpose, Grantor hereby assigns to Beneficiary all rentals due and to become due under the Leases or rights to use and occupy the Deed of Trust Property hereafter created, as well as all rights and remedies provided in such Leases or at law or in equity for the collection of the rentals. The taking of possession and collections of rents by Beneficiary and/or Trustee shall not be construed to be an affirmation of any Leases or acceptance of attornment with respect to any Leases of all or any portion of the Deed of Trust Property. Beneficiary and/or Trustee, in its discretion, may, as attorney in fact or agent of Grantor, or in its own name as Beneficiary and/or Trustee and under the powers herein granted, hold, operate, manage and control the Deed of Trust Property and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Deed of Trust Property, including, without limitation, actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power to: (A) cancel or terminate any Leases for any cause or on any ground which would entitle Grantor to cancel the same; (B) elect to disaffirm any Leases which are then subordinate to the lien of this Deed of Trust; (C) extend or modify any then existing Leases and to make new Leases, which extensions, modifications and new Leases may provide for terms to expire, or for options to extend or renew terms to expire, beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Leases,

and the options or other such provisions to be contained therein, shall be binding upon Grantor and all persons whose interests in the Deed of Trust Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Deed of Trust indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; and (D) enter into any management, leasing or brokerage agreements covering the Deed of Trust Property or any part thereof.

(iii) State Specific Remedies. Beneficiary may exercise any of the rights and remedies set forth in Section 39 hereof.

(c) Trustee and/or Beneficiary shall have the right, from time to time, to bring an appropriate action to recover any Obligations without prejudice to the right of Trustee and/or Beneficiary thereafter to bring an action of foreclosure, or any other action, for any Event of Default by Grantor existing at the time the earlier action was commenced.

(d) Any real estate sold pursuant to any writ of execution issued on a judgment obtained by virtue of this Deed of Trust, or pursuant to any other judicial proceedings under this Deed of Trust, may be sold in one parcel, as an entirety, or in such parcels, and in such manner or order as Trustee, in its sole discretion, may elect.

(e) Upon, or at any time after the filing of an action to foreclose this Deed of Trust, the court in which such action is filed may, at the request of Trustee, appoint a receiver of the Deed of Trust Property. Such appointment may be made either before or after any sale of the Deed of Trust Property, without notice to Grantor, without regard to the solvency or insolvency of Grantor at the time of application for such receiver and without regard to either the then value of the Deed of Trust Property, the adequacy or inadequacy of any remedy available at law, or the solvency or insolvency of any other person liable to pay the Obligations. Such receiver shall have the power to perform all of the acts permitted Trustee pursuant to subsection (b) (ii) above and such other powers which may be necessary or are customary in such cases for the protection, possession, control, management and operation of the Deed of Trust Property during such period.

(f) Trustee and/or Beneficiary may, at their sole option, disaffirm and cancel any Leases which are subordinate to this Deed of Trust at any time before the expiration of sixty (60) days after Beneficiary acquires the legal title to the Deed of Trust Property by trustee's deed or any other transfer of legal title to the Deed of Trust Property pursuant to the exercise of a remedy hereunder or otherwise, even though Beneficiary shall have enforced such Leases, collected rents thereunder or taken any action that might be deemed by law to constitute an affirmation of the Leases. Such disaffirmance shall be made by written notice addressed to the applicable tenants at the Deed of Trust Property or, at Beneficiary's option, such other address of such tenants as may be provided in the Leases.

(g) Grantor, for itself and for all persons hereafter claiming through or under it or who may at any time hereafter become holders of a Lien junior to the lien of this Deed of Trust, hereby expressly waives and releases all rights to direct the order in which any of the Deed of Trust Property shall be sold in the event of any sale or sales pursuant hereto and to have any of the Deed of Trust Property and/or any other property now or hereafter constituting security for any of



the Obligations marshalled upon any foreclosure of this Deed of Trust or of any other security for any of said indebtedness.

(h) If Grantor is an occupant of part or all of the Deed of Trust Property, Grantor shall immediately upon any acceleration after an Event of Default hereunder surrender the possession thereof to Beneficiary and, if Grantor remains in possession, such possession shall be as tenant at sufferance of Beneficiary, and Grantor shall pay monthly in advance to Beneficiary such rent for the premises so occupied as Beneficiary may reasonably demand, and in default of so doing Grantor may be dispossessed by summary proceedings or otherwise with or without any action being brought to foreclose this Deed of Trust and without applying for a receiver to collect the rents. In case of the appointment of a receiver of rents and profits of the Deed of Trust Property, the covenants of this Section may be enforced by such receiver.

(i) Upon any sale made under or by virtue of this Section 18, Beneficiary may bid for and then acquire the Deed of Trust Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Obligations of Grantor the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which the Trustee and/or Beneficiary is authorized to deduct under this Deed of Trust or under any of the other Loan Documents.

(j) Trustee and/or Beneficiary may sell the Deed of Trust Property or any part thereof and all estate, claim, demand, right, title and interest of Grantor therein and rights of redemption thereof, pursuant to power of sale or otherwise, including, without, limitation, pursuant to the non-judicial foreclosure procedures set forth in the applicable law of the State in which the Deed of Trust Property is located, at one or more sales, in whole or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law, and in the event of a sale, by foreclosure or otherwise, of less than all of the Deed of Trust Property, this Deed of Trust shall continue as a lien on the remaining portion of the Deed of Trust Property.

(k) The holder of this Deed of Trust, in any action to foreclose it, shall be entitled to the appointment of a receiver in accordance with the applicable law of the State in which the Deed of Trust Property is located.

(l) If Trustee shall have the right to foreclose this Deed of Trust, Grantor authorizes Trustee at its option to foreclose this Deed of Trust subject to the rights of any tenants of the Deed of Trust Property, and the failure to make any such tenants parties defendant to any such foreclosure proceeding and to foreclose their rights will not be asserted by Grantor as a defense to any proceeding instituted by Trustee to collect the Obligations or any deficiency remaining unpaid after the foreclosure sale of the Deed of Trust Property, it being expressly understood and agreed, however, that nothing herein contained shall prevent Trustee from asserting in any proceeding disputing the amount of the deficiency or the sufficiency of any bid at such foreclosure sale, that any such tenancies adversely affect the value of the Deed of Trust Property.

19. Rights and Remedies Cumulative.

(a) The rights and remedies of Trustee and/or Beneficiary as provided in this Deed of Trust and the other Loan Documents and in the warrants attached thereto or contained therein shall be cumulative and concurrent; may be pursued separately, successively or together against Grantor or against the Deed of Trust Property, or both, at the sole discretion of Trustee and/or Beneficiary, and may be exercised as the need to exercise such rights and remedies shall arise. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof.

(b) Any failure by Trustee and/or Beneficiary to insist upon strict performance by Grantor of any of the provisions of this Deed of Trust or the other Loan Documents shall not be deemed to be a waiver of any of the terms or provisions of the Deed of Trust or the other Loan Documents, and Beneficiary shall have the right thereafter to insist upon strict performance by Grantor of any and all of them.

(c) Neither Grantor nor any other person now or hereafter obligated for payment of all or any part of the sums now or hereafter secured by this Deed of Trust shall be relieved or discharged of such obligation by reason of the failure of Trustee and/or Beneficiary to comply with any request of Grantor or of any other person so obligated to take action to foreclose on this Deed of Trust or otherwise enforce any provisions of this Deed of Trust or the other Loan Documents, or by reason of the release, regardless of consideration, of all or any part of the security held for the Obligations, or by reason of consenting to the granting of any easements or recordation of restrictive covenants affecting the Deed of Trust Property or by reason of any agreement or stipulation between any subsequent owner of the Deed of Trust Property and Beneficiary extending the time or amount of payment or modifying the terms of this Deed of Trust or the other Loan Documents without first having obtained the consent of Beneficiary or such other person; and in the latter event Grantor and all such other persons shall continue to be liable to make payments according to the terms of any such extension or modification agreement, unless expressly released and discharged in writing by Beneficiary.

(d) Beneficiary may release, regardless of consideration, any part of the security held for the Obligations without, as to the remainder of the security, in any way impairing or affecting the lien of this Deed of Trust or its priority over any subordinate lien.

(e) For payment of the Obligations secured hereby Beneficiary may resort to any other security therefore held by Beneficiary in such order and manner as Beneficiary may elect.

(f) The receipt by Beneficiary of any sums from Grantor after the date on which Beneficiary elects to accelerate the Obligations by reason of an Event of Default hereunder shall not constitute a cure or waiver of such default or a reinstatement of this Deed of Trust or the other Loan Documents unless Beneficiary expressly agrees, by written notice to Grantor, that such payment shall be accepted as a cure or waiver of the default.

20. Grantor's Waivers. Grantor hereby waives and releases:

(a) All procedural errors, defects and imperfections in any proceeding instituted by Trustee and/or Beneficiary under the Note, this Deed of Trust or any other Loan Document;

(b) All benefit that might accrue to Grantor by virtue of any present or future law, exempting the Deed of Trust Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution, or providing for any stay of execution, exemption from civil process or extension of time for payment;

(c) Unless specifically required herein, all notices of Grantor's default or of Beneficiary's election to exercise, or Beneficiary's actual exercise of, any option under the Leases, the Note, this Deed of Trust or any other Loan Document; and

(d) All rights and defenses that Grantor may have because the debtor's debt is secured by real property. This means, among other things:

(i) the creditor may collect from Grantor without first foreclosing on any real or personal property collateral pledged by the debtor;

(ii) if the creditor forecloses on any real property collateral pledged by the debtor;

(iii) the amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price; and

(iv) Beneficiary may collect from Grantor even if Lender, by foreclosing on the Deed of Trust Property, has destroyed any right Grantor may have to collect from any other Person.

21. Further Assurances. Grantor will, at the expense of Grantor, execute and deliver such further instruments and perform such further acts as may be reasonably requested by Beneficiary from time to time in order to perfect and protect any pledge, assignment or security interest granted or purported to be granted by the Grantor under this Deed of Trust, to confirm the priority of the lien created by this Deed of Trust on any property, rights or interest encumbered or intended to be encumbered by the lien of this Deed of Trust or the other Loan Documents or to enable Beneficiary to exercise and enforce its rights and remedies hereunder with respect to any Deed of Trust Property.

22. Reserved.

23. Representations and Warranties. Grantor represents, warrants and covenants to and with Beneficiary that:

(a) There are no pending or, to the best of Grantor's knowledge, threatened proceedings or actions to revoke, invalidate, rescind, or modify the zoning classification or status of the Land or any Deed of Trust Property, or any building, occupancy or other permits heretofore

issued with respect thereto, or asserting that such zoning or permits do not permit either the current or proposed use of the Land or any Deed of Trust Property.

(b) There are no Leases or other arrangements for occupancy of space within the Land or any Deed of Trust Property other than Leases previously furnished to Beneficiary. No Person has any possessory interest in the Land or any Deed of Trust Property or right to occupy the same except under and pursuant to the provisions of the Leases. No rent has been paid more than one month in advance of its due date, except as disclosed in the tenant estoppels certificates delivered to Beneficiary. There has been no prior sale, transfer or assignment, hypothecation or pledge by Grantor of any Lease or rents which will be outstanding following the funding of the Term Loan, other than those being assigned to Beneficiary concurrently herewith. No tenant under any Lease has a right or option to purchase such Lease or otherwise purchase all or any part of the Land or the Deed of Trust Property or any other Collateral.

(c) The Land and the Deed of Trust Property have access to and adequate supply of water, electricity, gas, storm and sanitary sewerage and other required public utilities to serve the present and contemplated uses of the Land and the Deed of Trust Property, fire and police protection, and free means of appropriate vehicular and pedestrian access between the Land, the Deed of Trust Property and public ways and highways; and none of the foregoing will be delayed or impeded by virtue of any requirements under any applicable laws including, without limitation, environmental protection laws; and that all of the foregoing comply with all applicable laws including, without limitation, environmental protection laws. All utilities necessary to the existing use of the Land and the Deed of Trust Property are located either in the public right-of-way abutting the Land and the Deed of Trust Property (which are connected so as to serve the Land and the Deed of Trust Property without passing over other property) or in recorded easements serving the Land and the Deed of Trust Property and such easements are set forth and insured by the title insurance policy insuring the lien of this Deed of Trust. All roads necessary for the use of the Land and the Deed of Trust Property for their current purposes have been completed and, if necessary, dedicated to public use.

(d) If any construction has occurred at the Land or the Deed of Trust Property within the last twelve (12) months, the construction has been completed substantially in accordance with the applicable laws and governmental approvals and, all such improvements are in good working order and are structurally sound and fit for their current use.

(e) The Land and the Deed of Trust Property are comprised of one or more contiguous parcels and are taxed separately without regard to any other property, and for all purposes the Deed of Trust Property may be mortgaged, conveyed, and otherwise dealt with as an independent parcel.

(f) All transfer taxes, deed stamps, intangible taxes and other amounts in the nature of transfer taxes required to be paid by any Person under applicable laws currently in effect in connection with the transfer of the Deed of Trust Property to Grantor have been paid. All mortgage, mortgage recording, stamp, intangible and other similar taxes required to be paid by any Person under applicable laws currently in effect in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Loan Documents, including, without limitation, this Deed of Trust, have been paid.

(g) There are no pending or proposed special or other assessments for public improvements or otherwise affecting the Land or the Deed of Trust Property, nor are there any contemplated improvements to the Land or the Deed of Trust Property that may result in such special or other assessments.

24. Severability and Savings Clauses. If any provision of this Deed of Trust is held to be invalid or unenforceable by a court of competent jurisdiction, the other provisions of this Deed of Trust shall remain in full force and effect and shall be liberally construed in favor of Beneficiary in order to effect the remaining provisions of this Deed of Trust.

25. Commercial Loan.

(a) No portion of the proceeds of the Loan shall be used by Grantor to finance the purchase or construction of real property containing four (4) or fewer residential units or on which four (4) or fewer residential units are to be constructed.

(b) Grantor hereby stipulates, represents and warrants that the loan secured hereby is a commercial loan, and that all of the proceeds of such loan will be used solely to acquire or carry on a business or commercial enterprise and not for personal, family or household uses.

26. Notices.

(a) All notices, consents and other communications provided for hereunder shall be in writing (including fax communication and any other method of communication authorized by the Beneficiary) and faxed or sent by a reputable overnight courier or delivery service to the Beneficiary or Grantor at the address or fax number set forth below, or to the Beneficiary or Grantor at such other address or fax number as shall be designated by such party in a written notice to the other party or, in the case of a change of Grantor's address or fax number, as may be requested by Grantor by telephonic notice and confirmed in writing by the Beneficiary.

If to Beneficiary: Morgan Stanley Private Bank, National Association  
c/o Morgan Stanley Smith Barney LLC  
2000 Westchester Avenue, Floor 2NE  
Purchase, New York 10577  
Attention: Portfolio Management  
Telecopy No. (914) 225-9110

with copies to: Loeb & Loeb LLP  
345 Park Avenue  
New York, New York 10154  
Attention: Jeffrey S. Fried, Esq.  
Telecopy No. (212) 208-4406

If to Grantor: WLF MINDEN LLC  
23311 Newton Avenue  
Stratford, California 93266  
Attention: Ceil Howe, Jr.

with copies to: DLA Piper LLP  
2000 University Avenue  
East Palo Alto, California 94303-2215  
Attention: Flavia Berys, Esq.

If to Trustee: First American Title Insurance Company  
101 Mission Street, Suite 1600  
San Francisco, CA 94105

(b) Any notice sent by Beneficiary or Grantor by any of the above methods shall be deemed to be given when so received by Beneficiary or Grantor.

(c) Beneficiary shall be fully entitled to rely upon any facsimile transmission or other writing purported to be sent by any authorized officer of Grantor as being genuine and authorized.

(d) Time of Essence. Time shall be of the essence of each provision of this Deed of Trust of which time is an element.

27. Covenant Running with the Land. Any act or agreement to be done or performed by Grantor shall be construed as a covenant running with the land and shall be binding upon Grantor and its successors and assigns as if they had personally made such agreement.

28. Amendment. This Deed of Trust cannot be changed or amended except by agreement in writing signed by the party against whom enforcement of the change or amendment is sought to be enforced.

29. Applicable Law; Forum. This Deed of Trust and all questions relating to its validity, interpretation, performance and enforcement (including, without limitation, provisions concerning limitations of actions), shall be governed by and construed in accordance with the laws of the jurisdiction in which the Land is situated, notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary, and without the aid of any canon, custom or rule of law requiring construction against the draftsman. ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST GRANTOR ARISING OUT OF OR RELATING TO THIS DEED OF TRUST MAY AT BENEFICIARY'S OPTION BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE COUNTY OF DOUGLAS OR ANY COURT LOCATED IN THE STATE OF NEVADA, AND GRANTOR WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND GRANTOR HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING.

30. Financing Statement. This Deed of Trust is effective as a financing statement which is filed as a "fixture filing" pursuant to Section 9-502 (or any other applicable section) of the Uniform Commercial Code from the date of recordation of this Deed of Trust with respect to the following types of goods which are or will be fixtures related to the Deed of Trust Property:

Fixtures, equipment, appliances and furnishings and the items set forth in the granting clauses of this Deed of Trust and on Exhibit B hereto.

This Deed of Trust shall be filed as a fixture filing in the Official Records of the County Register of the County in which the Deed of Trust Property is located and covers goods which are or are to become fixtures on the Deed of Trust Property. For the purpose of this Paragraph, Grantor is the Debtor, and Beneficiary is the Secured Party and their addresses are as set forth in the recitals of this Deed of Trust. The record owner of the Land and the Deed of Trust Property is Grantor.

31. Definitions and Interpretation. Whenever used in this Deed of Trust, unless the context clearly indicates a contrary intent:

(a) The word “**Grantor**” shall mean the persons who executes this Deed of Trust as “Grantor” and any subsequent owners of the Deed of Trust Property and their respective heirs, executors, administrators, successors and assigns;

(b) The word “**Beneficiary**” shall mean the person specifically named herein as “Beneficiary” or any subsequent holder of this Deed of Trust;

(c) “**Expenses**” shall mean all out-of-pocket fees, charges, costs and expenses of any nature whatsoever incurred at any time and from time to time (whether before or after an Event of Default) by Beneficiary in making, funding, administering or modifying the Revolving Loan, in negotiating or entering into any workout of the Revolving Loan, or in exercising or enforcing any rights, powers and remedies provided in this Deed of Trust or any of the other Loan Documents, including, without limitation, reasonable attorneys’ fees and expenses, court costs, receiver’s fees, management fees and costs incurred in the repair, maintenance and operation of, or taking possession of, or selling, all or any part of the Deed of Trust Property.

(d) “**Impositions**” means all ground rents and all taxes (including, without limitation, all real estate, ad valorem or value added, sales (including, without limitation, those imposed on lease rentals), use, single business, gross receipts, intangible transaction privilege, privilege, license or similar taxes), assessments (including, without limitation, to the extent not discharged prior to the date hereof, all assessments for public improvements or benefits, whether or not commenced or completed within the term of the Term Loan), water, sewer or other rents and charges, excises, levies, fees (including, without limitation, license, permit, inspection, authorization and similar fees), and all other governmental charges, in each case whether general or special, ordinary or extraordinary, foreseen or unforeseen, of every character in respect of the Deed of Trust Property, (including all interest and penalties thereon), which at any time prior to, during or in respect of the term hereof may be assessed or imposed on or in respect of or be a Lien upon (i) Grantor (including, without limitation, all income, franchise, single business or other taxes imposed on Grantor for the privilege of doing business in the jurisdiction in which the Deed of Trust Property is located) or Beneficiary (including, without limitation, taxes resulting from future changes in law which impose upon Beneficiary or any trustee an obligation to pay any property taxes or other taxes or which otherwise adversely affect Beneficiary’s interests), (ii) the Deed of Trust Property or any part thereof, or (iii) any occupancy, operation, use or possession of, or sales from, or activity conducted on, or in connection with the Deed of Trust Property or the leasing or

use of the Deed of Trust Property or any part thereof, or the acquisition or financing of the acquisition of the Deed of Trust Property by Grantor.

(e) The use of any gender shall include all genders;

(f) The singular number shall include the plural and the plural the singular as the context may require.

(g) The following phrase shall have the following meanings: (i) "including" shall mean "including but not limited to," (ii) "provisions" shall mean "provisions, terms, covenants and/or conditions," (iii) "lien" shall mean "lien, charge, encumbrance, security interest, mortgage and/or deed of trust," (iv) "obligation" shall mean "obligation, duty, covenant and/or condition," (v) "any of the Deed of Trust Property" shall mean "the Deed of Trust Property or any part thereof or interest therein," and (vi) "Partnership" shall mean "partnership or joint venture" and "partner" shall mean "partner or joint venturer."

(h) Any act which Beneficiary is permitted to perform under the Loan Documents may be performed at any time and from time to time by Beneficiary or any person or entity designated by Beneficiary.

(i) Any act which Grantor is required to perform under the Loan Documents shall be performed at Grantor's sole cost and expense.

(j) Any act which is prohibited to Grantor under the Loan Documents is also prohibited to all tenants or other occupants of any of the Land and the Deed of Trust Property.

(k) The captions preceding the text of the Sections or subsections of this Deed of Trust are inserted only for convenience of reference and shall not constitute a part of this Deed of Trust, nor shall they in any way affect its meaning, construction or effect.

(l) All Exhibits attached hereto are hereby incorporated by reference into, and made a part of, this Deed of Trust.

(m) This Deed of Trust may be executed in counterparts, each of which, together with all counterparts, shall be deemed one Deed of Trust. This Deed of Trust shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

(n) Definitions contained in this Deed of Trust which identify documents, including the Loan Documents, shall be deemed to include all amendments and supplements to such documents from the date hereof, and all future amendments and supplements thereto entered into from time to time to satisfy the requirements of this Deed of Trust or otherwise with the consent of Beneficiary. Reference to this Deed of Trust contained in any of the foregoing documents shall be deemed to include all amendments and supplements to this Deed of Trust.

32. No Third Party Benefits. This Deed of Trust and the other Loan Documents are made for the sole benefit of Grantor and Beneficiary and their successors and assigns, and no other party shall have any legal interest of any kind under or by reason of any of the foregoing. Whether



or not Beneficiary elects to employ any or all the rights, powers or remedies available to it under any of the foregoing, Beneficiary shall have no obligation or liability of any kind to any third party by reason of any of the foregoing or any of Beneficiary's actions or omissions pursuant thereto or otherwise in connection with the transaction evidenced by the Note and secured by this Deed of Trust.

33. Failure of Beneficiary to Perform.

(a) Neither Beneficiary nor any agent or attorney of Beneficiary shall be liable to Grantor for consequential damages, whatever the nature of a breach by Beneficiary of its obligations under this Deed of Trust, or any of the other Loan Documents, and Grantor for itself and all parties claiming through Grantor hereby waives all claims for consequential damages.

(b) Beneficiary shall not be in default under this Deed of Trust, or under any other Loan Documents, unless a written notice specifically setting forth the claim of Grantor shall have been given to Beneficiary within thirty (30) days after Grantor first had knowledge of, or reasonably should have had knowledge of, the occurrence of the event which Grantor alleges gave rise to such claim and Beneficiary does not remedy or cure the default, if any there be, promptly thereafter.

(c) Any action taken by Beneficiary to inspect the Deed of Trust Property, and to approve leases and all other documents and instruments submitted to Beneficiary, will be exercised and taken by Beneficiary for its own protection only and may not be relied upon by Grantor any other party for any purposes whatever; and Beneficiary shall not be deemed to have assumed any responsibility to Grantor any other party with respect to any such action herein authorized or taken by Beneficiary with respect to the proper construction of improvements on the Deed of Trust Property, or performance under any lease or other agreement. Any review, investigation or inspection conducted by Beneficiary, any architectural or engineering consultants retained by Beneficiary or any agent or representative of Beneficiary in order to verify independently Grantor's satisfaction of any conditions precedent to loan disbursements, Grantor's performance of any of the covenants, agreements and obligations of Grantor, or the truth of any representations and warranties made by Grantor hereunder or under any of the Loan Documents (regardless of whether or not the party conducting such review, investigation or inspection should have discovered that any of such conditions precedent were not satisfied or that any such covenants, agreements or obligations were not performed or that any such representations or warranties were not true), shall not affect (or constitute a waiver by Beneficiary of) (i) any of Grantor's representations and warranties under this Deed of Trust or any of the other Loan Documents or Beneficiary's reliance thereon or (ii) Beneficiary's reliance upon any certifications of Grantor under the Loan Documents or any other facts information or reports furnished to Beneficiary by Grantor.

34. WAIVER OF TRIAL BY JURY. TO THE FULLEST EXTENT ALLOWED BY LAW, GRANTOR AND BENEFICIARY EACH HEREBY WAIVE ANY AND ALL RIGHTS IT MAY HAVE TO A JURY TRIAL IN CONNECTION WITH ANY LITIGATION, PROCEEDING OR COUNTERCLAIM ARISING WITH RESPECT TO RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO OR UNDER THE LOAN DOCUMENTS OR WITH RESPECT TO ANY CLAIMS ARISING OUT OF ANY DISCUSSIONS,

NEGOTIATIONS OR COMMUNICATIONS INVOLVING OR RELATED TO ANY PROPOSED RENEWAL, EXTENSION, AMENDMENT, MODIFICATION, RESTRUCTURE, FORBEARANCE, WORKOUT, OR ENFORCEMENT OF THE TRANSACTIONS CONTEMPLATED BY THE LOAN DOCUMENTS.

35. Consequential Damages. Neither Beneficiary nor any agent or attorney of Beneficiary, shall be liable for any consequential damages arising from any breach of contract, tort or other wrong relating to the establishment, administration or collection of the obligations.

36. Copy of Deed of Trust. Grantor hereby declares and acknowledges that is has received, without charge, a true copy of this Deed of Trust.

37. Notice to Prior Lien Holders. Grantor hereby authorizes Beneficiary, without liability and at Beneficiary's sole discretion, to give notice in form and substance satisfactory to Beneficiary of the lien and security interest created by this Deed of Trust to a holder of a previously recorded deed of trust which is a lien on the Deed of Trust Property, in order, among other things, to subordinate further advances by such deed of trust holder.

38. General Indemnification. Grantor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties (as defined below) from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, punitive damages, foreseeable and unforeseeable consequential damages, of whatever kind or nature (including, without limitation, reasonable attorneys' fees and expenses and other costs of defense) (the "**Losses**") imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following, except to the extent any of the following are attributable to the gross negligence or willful misconduct of an Indemnified Party: (a) ownership of this Deed of Trust, the Deed of Trust Property or any interest therein or receipt of any rents; (b) any amendment to, or restructuring of, the Obligations, and the Note, this Deed of Trust or any other Loan Documents; (c) any and all lawful action that may be taken by Beneficiary in connection with the enforcement of the provisions of this Deed of Trust or the Note or any of the other Loan Documents, whether or not suit is filed in connection with same, or in connection with Grantor and/or any partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Deed of Trust Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (e) any use, nonuse or condition in, on or about the Deed of Trust Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (f) performance of any labor or services or the furnishing of any materials or other property in respect of the Deed of Trust Property or any part thereof; (g) any failure of the Deed of Trust Property to be in compliance with any applicable laws; (h) the enforcement by any Indemnified Party of the provisions of this Section 38; (i) any and all claims and demands whatsoever which may be asserted against Beneficiary by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (j) the payment of any commission, charge or brokerage fee to anyone

which may be payable in connection with the funding of the loan evidenced by the Note and secured by this Deed of Trust claiming through Grantor (as opposed to Beneficiary); or (k) any misrepresentation made by Grantor in this Deed of Trust or any other Loan Document. Any amounts payable to Beneficiary by reason of the application of this Section shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Beneficiary until paid in full to Beneficiary. For purposes of this Section, the term “**Indemnified Parties**” means Beneficiary and any directors, officers, shareholders, partners, employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of Beneficiary or any and all of the foregoing.

39. **STATE-SPECIFIC PROVISIONS.**

(a) **Principles of Construction.** The provisions of this Article 40 are an integral part of this Deed of Trust. In the event of any inconsistencies between the terms and conditions of this Article 40 and the terms and conditions of this Deed of Trust, the terms and conditions of this Article 40 shall control and be binding.

(b) **Incorporation of Certain Nevada Covenants.** Where not inconsistent with the above, the following covenants, Nos. 1; 2 (full replacement value); 3; 4 (highest applicable default rate under the Notes); 5; 6; 7 (counsel fees shall be in an amount equal to actual and reasonable Attorneys’ Fees incurred by Trustee and/or Beneficiary); 8 and 9 of NRS 107.030 are hereby adopted and made a part of this Deed of Trust.

(c) **Cumulative Remedies Subject to Nevada One-Action Rule.** All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or afforded by law or equity and may be exercised concurrently, independently or successively; provided, however, the exercise of all remedies under this Deed of Trust must be in compliance with the Nevada One-Action Rule, NRS 40.430, et. seq.

(d) **Environmental Remedies.** Without limiting any other rights or remedies available to Beneficiary under any other Loan Document, at law, or in equity, in the event Beneficiary brings any action against Trustor under NRS 40.508, Beneficiary shall be entitled to recover all amounts advanced by Beneficiary and all costs, liabilities, and expenses incurred by Beneficiary in connection with Trustor’s breach of the relevant environmental provision or Beneficiary’s pursuit of its remedies related to such breach, including, without limitation, costs, attorneys’ fees, and other incidental relief. Trustor agrees that Beneficiary may also recover interest on all such amounts, which interest shall accrue at the highest applicable default rate under the Notes. This Section 40(d) is intended to be an express provision for a different or greater recovery than is provided in NRS 40.509. For purposes of this Section, “environmental provision” shall have the meaning ascribed to it in NRS 40.502. For the purposes of NRS 40.512(3), Beneficiary and Trustor agree that Beneficiary has no actual knowledge of any environmental impairment. If any portion of the Deed of Trust Property constituting real property collateral is determined to be “environmentally impaired” (as “environmentally impaired” is defined in NRS 40.503) and an Event of Default has occurred and is continuing, then, without otherwise limiting or in any way affecting Beneficiary’s or Trustee’s rights and remedies under this Deed of Trust, Beneficiary may elect to exercise its right under NRS 40.512 to (A) waive any lien that it may have on such environmentally impaired real collateral portion of the Deed of Trust Property, and

(B) exercise (i) the rights and remedies of an unsecured creditor, including reduction of its claim against Trustor to judgment, and (ii) any other rights and remedies permitted by law. As between Trustor and Beneficiary, for purposes of NRS 40.512, Trustor shall have the burden of proving that the matters in such section are not true.

(e) Power of Sale.

(i) Upon the occurrence of an Event of Default, Beneficiary may, subject to the requirements of NRS 107.080, declare all sums secured hereby immediately due by delivery to Trustee of a written notice of the breach and of the election to sell or cause to be sold the Deed of Trust Property ("Notice of Breach") to satisfy the obligation (which notice Trustee shall cause to be recorded and mailed as required by law).

(ii) After three (3) months shall have elapsed following recordation of any such Notice of Breach, Trustee shall sell the Deed of Trust Property subject hereto at such time and at such place in the State of Nevada as Trustee, in its sole discretion, shall deem best to accomplish the objects of these trusts, having first given notice of such sale as then required by law. In the conduct of any such sale Trustee may act itself or through any auctioneer, agent or attorney. The place of sale shall be at the location established by NRS 107.081.

(iii) Upon the request of Beneficiary or if required by law, Trustee shall (subject to NRS 107.082) postpone sale of all or any portion of said Deed of Trust Property or interest therein by public announcement at the time fixed by said notice of sale, and shall thereafter postpone said sale from time to time by public announcement at the time previously appointed.

(iv) At the time of sale so fixed, Trustee shall sell the Deed of Trust Property so advertised or any part thereof or interest therein either as a whole or in separate parcels, as Beneficiary may determine in its sole and absolute discretion, to the highest bidder for cash in lawful money of the United States, payable at the time of sale, and shall deliver to such purchaser a deed or deeds or other appropriate instruments conveying the Deed of Trust Property so sold, but without covenant or warranty, express or implied. Beneficiary and Trustee may bid and purchase at such sale. To the extent of the Obligations secured hereby, Beneficiary need not bid for cash at any sale of all or any portion of the Deed of Trust Property pursuant hereto, but the amount of any successful bid by Beneficiary shall be applied in reduction of said Obligations. Trustor hereby agrees, if it is then still in possession, to surrender, immediately and without demand, possession of said Deed of Trust Property to any purchaser.

(v) Trustee shall apply the proceeds of the sale as provided in NRS 40.462.

(vi) Beneficiary, from time to time before Trustee's sale, may rescind any Notice of Breach by executing, delivering and causing Trustee to record a written notice of such rescission. The exercise by Beneficiary of such right of rescission shall not constitute a waiver of any breach or Event of Default then existing or subsequently occurring, or impair the right of Beneficiary to execute and deliver to Trustee, as above provided, another Notice of Breach nor shall such exercise otherwise affect any term, covenant or condition hereof or under any obligation secured hereby, or any of the rights or remedies of the parties hereunder.

(vii) If and to the extent Nevada law is applicable in this regard, to the extent permitted by applicable law, Trustor waives the provisions and application of NRS 40.459(1)(c) and, without limiting the foregoing, agrees that any application of NRS 40.459(1)(c) would apply only to a circumstance where a deficiency judgment or claim was sold by Beneficiary or any secured party after the obtaining of the same separate and apart from any sale or transfer of Beneficiary's or any such secured party's interest in the Obligations. Trustor stipulates that, for purposes of applying NRS 40.459(1)(c), it shall be deemed that the amount of the consideration paid by the purchaser for any transfer, sale, or other conveyance of all or any portion of the Obligations is an amount equal to the amount of the outstanding principal balance of the portion of the Obligations so purchased. Without affecting the rights actually so acquired by such a purchaser, such rights shall not be deemed to constitute in whole or part the "right to obtain a judgment" for purposes of applying NRS 40.459(1)(c).

(viii) Credit Bids. At any trustee sale of the Deed of Trust Property, any Person, including Trustor, Trustee or Beneficiary, may bid for and acquire the Deed of Trust Property or any part thereof to the extent permitted by then applicable law. Instead of paying cash for the Deed of Trust Property, Beneficiary may settle for the purchase price by crediting the sales price of the Deed of Trust Property against the Obligations in the order provided by NRS 40.462.

(f) Exercise of Rights to apply any cash collateral held by Beneficiary towards repayment of the Loan. All cash collateral held by Beneficiary and applied towards repayment of the Loan is intended to be covered by NRS 40.430(6)(g) such that the application of cash collateral by Beneficiary towards repayment of the Loan shall not constitute an "action" within the meaning of NRS 40.430.

(g) Substitution of Trustee. Trustee may resign by mailing or delivering notice thereof to Beneficiary and Trustor; in addition Beneficiary in its discretion may appoint another Trustee in the place and stead of said Trustee or any successor in trust. The title herein conveyed to Trustee shall be vested in said successor, which appointment shall be in writing and shall be duly recorded in the Recorder's Office of the county in which the above described Land is situated. A writing recorded pursuant to this Section shall be conclusive proof of the proper substitution of such new trustee.

(h) Nevada UCC Remedies. From and after the occurrence of an Event of Default, Beneficiary may proceed at its election, in any sequence: (i) to dispose of any Personalty and Fixtures separately from the sale of real Deed of Trust Property in accordance with Article 9 of the Nevada Uniform Commercial Code or other applicable law; (ii) to dispose of some or all of the Deed of Trust Property and the Personalty and Fixtures in any combination consisting of both real and Personalty and Fixtures together in one or more sales to be held in accordance with the provisions of NRS 104.9604(1)(a) of Article 9 of the Nevada Uniform Commercial Code; and (iii) to exercise any remedies of a secured party under Article 9 of the Nevada Uniform Commercial Code or any other applicable law. Expenses of retaking, holding, preparing for sale, selling or the like shall include Beneficiary's reasonable attorneys' fees and costs.

(i) Reconveyance. Upon written request of Beneficiary stating that all sums secured hereby have been paid, and delivery of the Notes to Trustee for cancellation and retention and upon payment by Trustor of Trustee's fees, Trustee shall reconvey, without warranty, the

estate in the Deed of Trust Property then held by Trustee. The grantee in such reconveyance may be designated and described as the “Person or persons legally entitled thereto,” or by other appropriate terms.

(j) Powers of Trustee. From time to time upon written request of Beneficiary, without affecting the personal liability of any Person for payment of any indebtedness or performance of the Obligations secured hereby, Trustee may, without liability therefor and without notice:

- (i) reconvey all or any part of the Deed of Trust Property;
- (ii) consent to the making of any map or plat thereof;
- (iii) join in granting an easement thereon;
- (iv) join in any declaration of covenants and restrictions; or
- (v) join in any extension agreement or any agreement subordinating the lien or charge hereof.

(k) Compensation of Trustee. Trustor shall pay to Trustee reasonable compensation and reimbursement for services and expenses in the administration of the trusts created hereunder, including reasonable attorneys’ fees and costs.

(l) Indemnity of Trustee. Trustor hereby indemnifies and agrees to defend and hold Trustee harmless for, from and against all expenses, loss, claims, demands, and liabilities which any of them may incur, suffer, or sustain in the execution of the trusts created hereunder or in the performance of any act required or permitted hereunder or by law, unless, with respect to each indemnified party, caused by the gross negligence or willful misconduct of the indemnified party.

(m) Nevada Uniform Assignment of Leases and Rents Act and Right to A Receiver. This Deed of Trust is intended to be an “assignment of rents” under NRS 107A.040 which means a transfer of an interest in rents in connection with an obligation secured by the Land located in the State of Nevada and from which the Rents arise. Upon the occurrence of an Event of Default and during the continuance thereof, any license in favor of Trustor shall automatically and immediately terminate upon the notice required under the Nevada Uniform Assignment of Leases and Rents Act, NRS Chapter 107A (“**Nevada Uniform Assignment of Leases and Rents Act**”) or as otherwise provided in this Deed of Trust at Beneficiary’s election. Trustor, and Beneficiary shall then be entitled thereupon to receive and collect the Leases and Rents directly or through an agent or a receiver under such terms as are permitted under the Nevada Uniform Assignment of Leases and Rents Act and to the extent permitted by applicable law, Beneficiary may have a receiver appointed as a matter of right without regard to the sufficiency of the Deed of Trust Property or any other security or guaranty and without any showing as required by NRS 107.100.

(n) Non-Cash Payment. Regardless of any provision of this Deed of Trust or any other of the Loan Documents, Beneficiary shall not be considered to have accepted any

received payment other than cash or immediately available funds in satisfaction of any obligation of Trustor to Beneficiary unless Beneficiary has given express written notice of Beneficiary's election of that remedy in accordance with NRS 104.9505, as it may be amended or recodified from time to time.

(o) Future Advances. This instrument secured future advances, as defined in NRS 106.320 and is to be governed by NRS 106.300 to 106.400, inclusive. The maximum principal amount to be secured hereby is the amount of One Hundred Million and 00/100 Dollars (\$100,000,000). The maximum amount of advances of principal to be secured by this instrument may increase or decrease from time to time by amendment of this instrument. An Event of Default shall also be deemed to have occurred if any "borrower" (as that term is defined in NRS 106.310) who may send a notice pursuant to NRS 106.380(1), (i) delivers, sends by mail or otherwise gives, or purports to deliver, send by mail or otherwise give, to a beneficiary under this Deed of Trust; (A) any notice of an election to terminate the operation of this Deed of Trust as security for any future advance (as defined in NRS 106.320) of "principal" (as defined in NRS 106.345); or (B) any other notice pursuant to NRS 106.380(1); (ii) records a statement pursuant to NRS 106.380(3); or (iii) causes this Deed of Trust, any secured obligation, Beneficiary or any secured party to be subject to NRS 106.380(2), 106.380(3) or 106.400.

(p) Protective Advances. Funds disbursed that, in the reasonable exercise of Beneficiary's judgment, are needed to complete the Improvements to the Land or to protect Beneficiary's security are to be deemed obligatory advances and will be added to the total Obligations evidenced by the Notes and secured by this Deed of Trust and such Obligations shall be increased accordingly.

(q) Waiver of Condemnation. Trustor specifically, unconditionally and irrevocably waives all rights of the owner of the Land granted under applicable law, including NRS 37.115, as amended or recodified from time to time, which provide for an allocation of condemnation proceeds between the owner of the Land and a lienholder, and any other law or successor statute of similar import.

(r) Waiver of Marshaling. Trustor specifically, unconditionally and irrevocably waives any right to a marshaling of assets, a sale in inverse order of alienation or to require sale of assets in a particular order, including rights provided by NRS 100.040 and 100.050, as such sections may be amended or recodified from time to time.

(s) Trustee.

(i) Liability of Trustee. Trustee shall have no liability or responsibility for, and make no warranties in connection with, the validity or enforceability of any of the Loan Documents or the description, value or status of title to the Property. Trustee shall be protected in acting upon any notice, request, consent, demand, statement, note or other paper or document believed by Trustee to be genuine and to have been signed by the party or parties purporting to sign the same. Trustee shall not be liable for any error of judgment, nor for any act done or step taken or omitted, nor for any mistakes of law or fact, nor for anything which Trustee may do or refrain from doing in good faith, nor generally shall Trustee have any accountability hereunder except for willful misconduct or gross negligence. The powers and duties of Trustee hereunder

may be exercised through such attorneys, agents or servants as Trustee may appoint, and Trustee shall have no liability or responsibility for any act, failure to act, negligence or willful conduct of such attorney, agent or servant, so long as the selection was made with reasonable care. In addition, Trustee may consult with legal counsel selected by Trustee, and Trustee shall have no liability or responsibility by reason of any act or failure to act in accordance with the opinions of such counsel. Trustee may act hereunder and may sell or otherwise dispose of the Property or any part thereof as herein provided, although Trustee has been, may now be or may hereafter be, an attorney, officer, agent or employee of Beneficiary, in respect of any matter or business whatsoever. Trustee, however, shall have no obligation to sell all or any part of the Property following an Event of Default or to take any other action authorized to be taken by Trustee hereunder except upon the demand of Beneficiary.

(ii) Indemnification of Trustee. Trustor agrees to indemnify Trustee and to hold Trustee harmless from and against any and all claims and expenses directly or indirectly, whether arising in contract, tort or by statute, arising out of or resulting from any transaction, act, omission, event or circumstance in any way connected with the Property or the Loan, including but not limited to any claim arising out of or resulting from any assertion or allegation that Trustee is liable for any act or omission of Trustor or any other Person in connection with the ownership, development, financing, operation or sale of the Property (individually a “Claim” and collectively, “Claims”); provided, however, that Trustor shall not be obligated to indemnify Trustee with respect to any Claim arising solely from the gross negligence or willful misconduct of Trustee or acts of Beneficiary. The agreements and indemnifications contained in this Section shall apply to Claims arising both before and after the repayment of the Loan and shall survive the repayment of the Loan, any foreclosure or deed, conveyance or assignment in lieu thereof and any other action by Trustee to enforce the rights and remedies of Beneficiary or Trustee hereunder or under the other Loan Documents.

(iii) Substitution of Trustee; Multiple Trustees. Beneficiary shall have, and is hereby granted with warranty of further assurances, the irrevocable power to appoint a new or replacement or substitute Trustee. Such power may be exercised at any time without notice, without cause and without specifying any reason therefor, by filing for record in the office where this Deed of Trust is recorded a Substitution of Trustee. The power of appointment of a successor Trustee may be exercised as often as and whenever Beneficiary may choose, and the exercise of the power of appointment, no matter how often, shall not be an exhaustion thereof. Upon the recordation of such Substitution of Trustee, the Trustee so appointed shall thereupon, without any further act or deed of conveyance, become fully vested with identically the same title and estate in and to the Property and with all the rights, powers, trusts and duties of its predecessor in the trust hereunder with like effect as if originally named as Trustee hereunder. Whenever in this Deed of Trust reference is made to Trustee, it shall be construed to mean each Person appointed as Trustee for the time being, whether original or successor in trust. All title, estate, rights, powers, trusts and duties granted to Trustee shall be in each Person appointed as Trustee so that any action hereunder by any Person appointed as Trustee shall for all purposes be deemed to be, and as effective as, the action of all Trustees.

(t) Uniform Commercial Code. Beneficiary may proceed under the Uniform Commercial Code as to all or any part of the Personal Property, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the Uniform Commercial



Code. Upon the occurrence of any Event of Default, Trustor shall assemble all of the Personal Property and make the same available within the Improvements. Any notification required by the Uniform Commercial Code shall be deemed reasonable and properly given if sent in accordance with the notice provisions of this Deed of Trust at least ten (10) days before any sale or other disposition of the Personal Property. Disposition of the Personal Property shall be deemed commercially reasonable if made pursuant to a public sale advertised at least twice in a newspaper of general circulation in the community where the Property is located. It shall be deemed commercially reasonable for the Trustee to dispose of the Personal Property without giving any warranties as to the Personal Property and specifically disclaiming all disposition warranties. Alternatively, Beneficiary may choose to dispose of some or all of the Property, in any combination consisting of both Personal Property, Improvements, and Premises, in one sale to be held in accordance with the applicable law and procedures applicable to real property, as permitted by Article 9 of the Uniform Commercial Code. Trustor agrees that such a sale of Personal Property together with Real Property constitutes a commercially reasonable sale of the Personal Property.

(u) Contracted for Rate of Interest. All fees, charges, goods, things in action or any other sums or things of value (collectively, the “**Additional Interest**”) paid by Trustor to Beneficiary, whether pursuant to the Loan Agreement, the Notes, or otherwise with respect to Obligations evidenced thereby, which under applicable law may be deemed to be interest with respect to such indebtedness, shall, for the purposes of any applicable law that may limit the maximum rate of interest to be charged with respect to such Obligations, be payable by Trustor as, and shall be deemed to be, Additional Interest, and for such purposes only, the agreed upon and contracted for rate of interest described in the Loan Agreement, the Notes, or otherwise shall be deemed to be increased by the Additional Interest.

40. Multistate Real Property Transaction.

(a) Trustor acknowledges that this Deed of Trust is one of a number of mortgages, deeds of trust or similar instruments (“Other Deeds of Trust”) that secure the Obligations. Trustor agrees that the lien of this Deed of Trust shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Beneficiary, and without limiting the generality of the foregoing, the lien hereof shall not be impaired by any acceptance by Beneficiary of any security for or guarantees of the Obligations, or by any failure, neglect or omission on the part of Beneficiary to realize upon or protect any Obligation or any collateral security therefor including the Other Deeds of Trust. Except as supplemented and/or modified by this Deed of Trust, all of the terms, covenants and conditions of the Other Deeds of Trust and the other Loan Documents executed in connection therewith shall remain in full force and effect. The lien hereof shall not in any manner be impaired or affected by any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition of any of the Obligations or of any of the collateral security therefor, including the Other Deeds of Trust or of any guarantee thereof, and, to the fullest extent permitted by Legal Requirements, Beneficiary may at its discretion foreclose, exercise any power of sale, or exercise any other remedy available to it under any or all of the Other Deeds of Trust without first exercising or enforcing any of its rights and remedies hereunder. Such exercise of Beneficiary’s rights and remedies under any or all of the Other Deeds of Trust shall not in any manner impair the indebtedness hereby secured or the lien of this Deed of Trust and any exercise of the rights or remedies of Beneficiary hereunder shall not

impair the Lien of any of the Other Deeds of Trust or any of Beneficiary's rights and remedies thereunder. To the fullest extent permitted by Legal Requirements, Trustor specifically consents and agrees that the Beneficiary may exercise its rights and remedies hereunder and under the Other Deeds of Trust separately or concurrently and in any order that it may deem appropriate and waives any rights of subrogation.

(b) Trustor waives all rights to have all or part of the Deed of Trust Property described in this Deed of Trust and/or the property described in the Other Deeds of Trust marshaled upon any foreclosure of this Deed of Trust or the Other Deeds of Trust (the Deed of Trust Property subject to this Deed of Trust and the property subject to the Other Deeds of Trust hereinafter referred to collectively as the "Subject Property"). Beneficiary shall have the right to sell, and any court in which foreclosure proceedings may be brought shall have the right to order a sale of the Subject Property as a whole or in separate parcels, in any order that Beneficiary may designate. Trustor makes this waiver for itself, for all Persons (as defined in the Loan Agreement) and entities claiming through or under Trustor and for Persons and entities claiming through or under Trustor and for Persons and entities who may acquire a lien on all or any part of the Subject Property or any interest therein.

(c) Trustor represents and warrants that the lien of the Other Deeds of Trust is a first lien on each property described therein and covered thereby and that the provisions of this Deed of Trust will not cause intervening liens to become prior to the lien of the Other Deeds of Trust. If any intervening lien exists or hereafter arises, Trustor shall cause the same to be released or subordinated to the lien of the Other Deeds of Trust, without limiting any other right or remedy available to Beneficiary. Trustor further warrants that Trustor has no legal or equitable claim against any mortgagor or trustor named in the Other Deeds of Trust which would be prior to the lien of the Other Deeds of Trust, or which would entitle Trustor to a judgment entitling such mortgagor or trustor to an equitable lien on all or any portion of that property prior in lien to the Other Mortgages.


(d) Trustor and Beneficiary acknowledge and agree that: this Deed of Trust shall constitute a lien or charge upon only that property described herein as the "Deed of Trust Property"; and the Other Deeds of Trust shall constitute a lien or charge upon only that property described therein as the "Deed of Trust Property".

IN WITNESS WHEREOF, Grantor has caused this Deed of Trust to be duly executed the day and year first above written.

**GRANTOR:**

WLF MINDEN LLC, a California limited liability company

By: Westlake Farms, Inc. a California corporation, its sole member

By:   
Name: Ceil W. Howe, Jr.  
Title: President

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF California )  
 ) ss.  
COUNTY OF Kings )

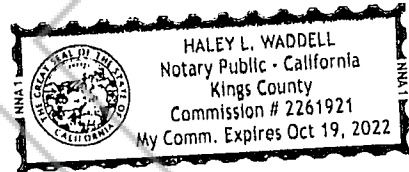
On February 24, 2022 before me, Haley L Waddell, Notary Public.  
(insert name of notary)

personally appeared Ceil W. Howe, Jr., 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature] (Seal)



## EXHIBIT "A"

### Legal Description

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

PARCEL 1:

ALL THAT CERTAIN REAL PROPERTY SITUATE WITHIN A PORTION OF SECTION 30, TOWNSHIP 13 NORTH, RANGE 20 EAST, M.D.M., DOUGLAS COUNTY, NEVADA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL D AS SHOWN ON THAT RECORD OF SURVEY TO SUPPORT A BOUNDARY LINE ADJUSTMENT FOR MAVERIK, INC., RECORDED AS DOCUMENT NO. 812496 IN THE OFFICIAL RECORD OF DOUGLAS COUNTY, NEVADA, ALSO BEING A POINT ON THE EAST RIGHT OF WAY LINE OF STATE ROUTE 88;

THENCE FROM THE POINT OF BEGINNING, ALONG SAID RIGHT OF WAY LINE, NORTH 00°22'11" EAST, 36.83 FEET;

THENCE DEPARTING SAID RIGHT OF WAY LINE, SOUTH 63°54'44" EAST, 281.81 FEET;

THENCE NORTH 26°03'41" EAST, 218.04 FEET;

THENCE SOUTH 63°56'19" EAST, 55.37 FEET;

THENCE NORTH 00°22'11" EAST, 212.34 FEET;

THENCE SOUTH 89°37'49" EAST, 33.01 FEET;

THENCE SOUTH 00°22'11" WEST, 18.50 FEET;

THENCE SOUTH 89°37'49" EAST, 19.50 FEET;

THENCE SOUTH 00°22'11" WEST, 123.00 FEET;

THENCE SOUTH 89°37'49" EAST, 45.50 FEET;

THENCE SOUTH 00°22'29" WEST, 101.50 FEET;

THENCE SOUTH 89°37'49" EAST, 29.56 FEET;

THENCE SOUTH 63°56'19" EAST, 119.80 FEET;

THENCE SOUTH 26°03'41" WEST, 39.50 FEET;

THENCE SOUTH 63°56'19" EAST, 40.98 FEET;

THENCE SOUTH 00°22'11" WEST, 265.52 FEET;

THENCE NORTH 63°56'19" WEST, 725.34 FEET TO THE POINT OF BEGINNING.

SAID LAND IS FURTHER SHOWN AND DELINEATED AS ADJUSTED PARCEL D ON RECORD OF SURVEY MAP RECORDED AUGUST 27, 2013 AS DOCUMENT NO. 829576.

NOTE: THE ABOVE METES AND BOUNDS DESCRIPTION APPEARED PREVIOUSLY IN THAT CERTAIN DOCUMENT RECORDED SEPTEMBER 24, 2014 IN BOOK 914, PAGE 4443 AS INSTRUMENT NO. 849823, OF OFFICIAL RECORDS DOUGLAS COUNTY, NEVADA.

PARCEL 2:

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS AS DEFINED IN THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MINDEN GATEWAY CENTER RECORDED MAY 08, 2008 IN BOOK 508 AT PAGE 1598 AS INSTRUMENT NO. 722796, AS AMENDED AND RESTATED IN DOCUMENT RECORDED AUGUST 27, 2013 IN BOOK 0813 AT PAGE 7137 AS INSTRUMENT NO. 829608 AND ANY AMENDMENTS THERETO, IN THE OFFICE OF THE DOUGLAS COUNTY RECORDER.

PARCEL 3:

A RECIPROCAL ACCESS EASEMENT AS DESCRIBED IN THAT CERTAIN RECIPROCAL ACCESS AGREEMENT RECORDED SEPTEMBER 28, 1998 IN BOOK 998, PAGE 5738 AS INSTRUMENT NO. 450462 OF OFFICIAL RECORDS.

## **EXHIBIT "B"**

### **PROPERTY SUBJECT TO SECURITY INTEREST**

Any and all fixtures, appliances, machinery, equipment furnishings and furniture of any nature whatsoever, and other items of personal property and fixtures at any time now or hereafter owned by Grantor and now or at any time hereafter installed in, attached to or situated in or upon the land described in Exhibit "A" or the buildings and improvements now erected or to be erected thereon (including, without limitation, communications, computer and security systems and the software system therefor), or used or intended to be used in connection with the real estate, or in the operation or maintenance of the buildings and improvements, plant or business situate or operated thereon (the "Property") or in connection with the conduct of Grantor's/Debtor's business whether or not the personal property is or shall be affixed to the Property.

Such personal property and fixtures shall include, without limiting the generality of the foregoing:

All plants, furnaces, boilers, machinery, ranges, engines, stokers, pumps, heaters, tanks, compressors, dynamos, motors, electrical transformers, fittings, siding, pipe, pipe connections, conduits, ducts, partitions, communication systems, storm and screen windows, doors, refrigerators, ovens, kitchen equipment, chests, chairs, desks, bookcases, tables, curtains, hangings, pictures, carpeting, artwork, lighting fixtures and apparatus, furniture, furnishings, elevators and motors, built-in filing cabinets, shelves, water coolers, signs, tools, electrical equipment, and all equipment, appliances and apparatus of every kind and description now or hereafter affixed or attached to or contained within and used or procured for use in connection with said buildings or improvements for heating, cooling, lighting, plumbing, ventilating, sprinkling, irrigating, refrigerating or air conditioning, or for providing water, gas, electricity or other services or for general operation of the buildings and improvements, or the plant or business situate or operated thereon.

All licenses, permits, franchises, trade names, logos, service marks, service contracts, management agreements, telephone numbers, advertising materials, warranties, guarantees, tenant lists, engineering, environmental, marketing and similar studies and appraisals for the Property and all other documents and items relating to the operation of the Property, and all leases and lease guarantees with respect to any part of the Property, and all rents, issues and profits arising out of the operation, use or occupancy of the Property.

All of Grantor's interest in all utility security deposits or bonds for the Property and all security deposits, bonds or other security delivered to any governmental authority in connection with the use, development or operation of the Property.

All of Grantor's books and records relating to the use, operation and occupation of the buildings and the Property including, without limitation, the books and records relating to the operation of Grantor's business therein, and the plans and specifications for the construction or reconstruction thereof.

If the Property is now or hereafter used in whole or in part as a hotel, motel or similar facility or as a restaurant or other food and/or beverage service facility, such personal property shall also include all licenses for the serving of alcoholic beverages at the Property and all lodging and food and/or beverage equipment including, without limitation, beds, bureaus, divans, couches, chinaware, linens, glassware, silverware, uniforms, ornaments, kitchen utensils, bars, bar fixtures, radios, televisions, electric equipment, lamps, mirrors, and other personal property and fixtures used now or hereafter in on or about the operation, use and occupation of a lodging facility and/or food and/or beverage facility, on the Property.

Such security interest shall extend to and include as well as any and all cash and non-cash proceeds, insurance proceeds and condemnation proceeds of such fixtures and personal property and any and all subsequently acquired fixtures and personal property by way of replacement, substitution, addition or otherwise and the proceeds thereof.

Such security interest shall not extend to property owned by third party space tenants now or hereafter occupying the Property.