

COUNTER JS
VERIFY JS
FEES \$ 52.00
CHG SFILE
SUBMITTED NEBRASKA LAND TITLE & ABSTR

FILED SARPY CO. NE.
INSTRUMENT NUMBER
2014-21078
2014 Sep 22 01:38:24 PM
Sheryl J. Dowling
REGISTER OF DEEDS


Return to:
Christie Schroff
300 N. 44 St., Ste. 116
Lincoln, NE 68503

DEED OF TRUST

THIS DEED OF TRUST is made this 15th day of September, 2014, by and among **1910 Betz, LLC**, a Nebraska limited liability company, whose mailing address is 1908 Betz Road, Bellevue, Nebraska 68005 ("Trustor"), and Christie Schwartzkopf Schroff, an attorney at law licensed to practice in the State of Nebraska, whose mailing address is 300 North 44th Street, Suite 116, Lincoln, Nebraska 68503 ("Trustee"), and **Lexlee, L.L.C.**, a Nebraska limited liability company whose mailing address is 5501 Bridle Lane, Lincoln, Nebraska 68516 ("Beneficiary").

FOR VALUABLE CONSIDERATION, Trustor irrevocably transfers, conveys, and assigns to Trustee, in trust, with power of sale, for the benefit and security of Beneficiary, under and subject to the terms and conditions of this Deed of Trust, **the real property located in Sarpy County, Nebraska, and legally described on Exhibit "A"** attached hereto and incorporated herein by this reference (the "Real Estate"), together with all rents, easements, appurtenances, hereditaments, interest in adjoining roads, streets, alleys, improvements, buildings of any kind situated thereon, and all personal property that may be or hereafter become an integral part of such buildings and improvements, and all water and mineral rights related thereto, which Real Estate and the entire estate and interest conveyed to the Trustee hereunder are hereinafter referred to collectively as the "Trust Estate".

1. Obligations to be Secured. This Deed of Trust is made for the purpose of securing:

(a) The repayment of the indebtedness evidenced by that certain Secured Promissory Note together with all renewals, extensions, modifications, refinancings, and substitutions therefor ("Note") of 1910 Betz, LLC, a Nebraska limited liability company, and Jerry Teeter ("Makers") dated of even date herewith in the principal sum of Forty One Thousand Two Hundred Fifty and no/100 Dollars (**\$41,250.00**), with interest on the unpaid principal at the rate as stated in the Note and payable to the order of Beneficiary at 5501 Bridle Lane, Lincoln, NE 68516, in full on ~~September 12, 2016~~ 14th (the "Maturity Date"), which Note by this reference is hereby made a part hereof;

(b) The prompt, full and faithful performance and discharge of each and every obligation, covenant and agreement due and owing or which may become due and owing at any time in the future by Trustor to Beneficiary under this Deed of Trust and/or by Makers under the Note; and

(c) The prompt repayment of all sums or amounts that are advanced or extended by Beneficiary, for the maintenance, protection or preservation of the Trust Estate, or any part thereof, with interest thereon at the rate provided in the Note, and all costs and charges (including court costs and reasonable attorney's fees) incurred in the enforcement of this Deed of Trust, the Note, or in the taking and/or sale of the Trust Estate and in the care and protection thereof.

This Deed of Trust, the Note and any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby are referred to collectively as the "Loan Instruments."

2. Representations and Warranties by Trustor. Trustor hereby represents and warrants as follows:

- (a) The Trustor is a duly organized limited liability company, validly existing and in good standing under the laws of Nebraska and has the legal capacity and full right, power and authority to execute deliver and perform this Deed of Trust;
- (b) Once executed and delivered, this Deed of Trust and the Note will constitute legal and binding obligations of Trustor and of Makers and be enforceable against Trustor and Makers in accordance with their respective terms;
- (c) Trustor is the legal and equitable owner of and is in possession of all the Trust Estate and Trustor shall and will warrant and defend the title to said Trust Estate against the claims of all persons whomsoever;
- (d) There are no: (i) bankruptcy proceedings involving Trustor or Makers and none is contemplated; (ii) dissolution proceedings involving Trustor and none is contemplated; (iii) unsatisfied judgments of record against Trustor; or (iv) tax liens filed against Trustor; and
- (e) Trustor has good and lawful authority to pledge, assign and deliver the Trust Estate in the manner contemplated herein.

The foregoing representations and warranties are in addition to the representations and warranties of Makers in the Note, which are deemed to have been made by Trustor herein at and as of the date hereof and are incorporated herein by this reference as though made hereunder on and as of such date, and all of such representations and warranties shall survive the execution and delivery of this Deed of Trust.

3. Covenants of Trustor. Trustor hereby covenants and agrees as follows:

- (a) to cause Makers to pay when due the principal of, and the interest on, the indebtedness evidenced by the Note, and all charges, fees, and sums as provided in the Loan Instruments;
- (b) to observe and promptly perform and discharge all obligations, terms, covenants, understandings, conditions or agreements required to be performed or observed by Trustor or Makers pursuant to the Loan Instruments;
- (c) except as otherwise permitted herein, to not permit any lien, encumbrance, security interest or adverse claim to attach to the Trust Estate, or any portion thereof;
- (d) to maintain the Trust Estate in tenantable condition and promptly perform all repairs, replacements and maintenance necessary to preserve the Trust Estate; and
- (e) to not demolish or remove any improvements to the Trust Estate without the prior written consent of the Beneficiary.

The foregoing covenants are in addition to the covenants of the Makers in the Note which shall be deemed to have been made by Trustor herein at and as of the date hereof and as though made hereunder on and as of such date, and all of such covenants shall survive the execution and delivery of this Deed of Trust.

4. Taxes. Trustor shall pay each installment of all taxes and special assessments of every kind, now or hereafter levied against the Trust Estate or any part thereof, before delinquency, without notice or demand, and shall provide Beneficiary with evidence of the payment of same. Trustor shall pay all taxes and assessments which may be levied upon Beneficiary, its interest herein or upon this Deed of Trust or the debt secured hereby without regard to any law that may be enacted offering payment of the whole or any part thereof upon Beneficiary.

5. Insurance and Repairs. Trustor shall provide to Beneficiary proof of and thereafter maintain fire and extended coverage insurance insuring the improvements and buildings, if any, constituting part of the Trust Estate for an amount no less than the Fair Market Value of the improvements and buildings. Such insurance policy shall contain a standard mortgage clause in favor of Beneficiary and shall not be cancelable, terminable, or modifiable without thirty (30) days prior written notice to Beneficiary. Trustor shall promptly repair, maintain, and replace the Trust Estate or any part thereof so that, except for ordinary wear and tear, the Trust Estate shall not deteriorate. In no event shall Trustor conduct waste on or to the Trust Estate. Trustor shall also maintain premises general liability insurance naming Beneficiary as an additional named insured in such form, amounts and with such companies as Beneficiary may from time to time reasonably require, with Trustee and Beneficiary included thereon as named insureds under a standard mortgage endorsement.

6. Actions Affecting Trust Estate. Trustor shall appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee and shall pay all costs and expenses, including cost of evidence of title and attorney fees, in any such action or proceeding in which Beneficiary or Trustee may appear. Should Trustor fail to make any payment or to do any act as and in the manner provided in any of the Loan Instruments, Beneficiary and/or Trustee, each in its own discretion, without obligation so to do and without notice to or demand upon Trustor and without relieving Trustor from any obligation, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Trustor shall, immediately upon demand ☐herefore by Beneficiary, pay all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing rights, including, without limitation, costs of evidence of title, court costs, appraisals, surveys and attorney fees. Any such costs and expenses not paid within ten (10) days of written demand shall draw interest at the default rate provided in the Note.

7. Eminent Domain. Should the Trust Estate, or any part thereof or interest therein, be taken or damaged by reason of any manner including deed in lieu of condemnation ("Condemnation"), or should Trustor receive any notice or other information regarding such proceeding, Trustor shall give prompt written notice thereof to Beneficiary. Beneficiary shall be entitled to all compensation, awards, and other payments or relief ☐herefore and shall be entitled at its option to commence, appear in, and prosecute in its own name any action or proceedings. Beneficiary shall also be entitled to make any compromise or settlement in connection with such taking or damage. All such Compensation, awards, damages, rights of action, and proceeds awarded to Trustor (the "Proceeds") are hereby assigned to Beneficiary, and Trustor agrees to execute such further assignments of the Proceeds as Beneficiary or Trustee may require.

8. Events of Default. Any of the following events shall be deemed an event of default hereunder:

- (a) Makers' or Trustor's failure to make payment of any installment of interest, principal, or principal and interest, or any other sum secured hereby when such payment is due, which failure is not satisfied within the ten (10) days following written notice of nonpayment from Beneficiary;

- (b) Trustor's failure to observe or perform any obligation, term, covenant, understanding, condition or agreement, or the provisions required to be performed or observed by Trustor under the terms of any of the Loan Instruments, which failure is not satisfied within thirty (30) days following written notice from Beneficiary of such failure, or in the case of a failure that requires more than thirty (30) days to cure, such longer period as may be reasonable under the circumstances, provided only that the Trustor immediately undertakes and diligently pursues the correction of such failure to the Beneficiary's satisfaction;
- (c) Any representation or warranty given by Trustor in any of the Loan Instruments being false or becoming false at any time in the future;
- (d) Trustor's sale or transfer all or any part of the Trust Estate or an interest therein without Beneficiary's prior written consent;
- (e) The creation of a lien or encumbrance on the Trust Estate subordinate to this Deed of Trust; or
- (f) Trustor's making an assignment for the benefit of its creditors, or admitting in writing its inability to pay its debts as they become due, or filing a petition in bankruptcy, or being adjudicated bankrupt or insolvent, or filing a petition seeking any reorganization, dissolution, liquidation, arrangement, composition, readjustment or similar relief under any present or future bankruptcy or insolvency statute, law or regulation or filing an answer admitting to or not contesting the material allegations of a petition filed against it in such proceedings, or not having such a petition dismissed or vacated within sixty (60) days after filing, or seeking or consenting to or acquiescing to the appointment of any trustee, receiver or liquidator of a material part of its properties, or not having said appointment of such trustee, receiver or liquidator vacated within sixty (60) days of such appointment.

9. Acceleration Upon Default, Additional Remedies. Should an event of default occur, Beneficiary may declare all indebtedness secured hereby to be immediately due and payable and the same shall thereupon become immediately due and payable without any presentment, demand, protest, or notice of any kind. Thereafter, Beneficiary may:

- (a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon, and take possession of the Trust Estate, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability, or rentability of the Trust Estate, or part thereof or interest therein, increase the income therefrom, or protect the security hereof and, with or without taking possession of the Trust Estate, sue for or otherwise collect the rents, issues, and profits thereof, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorney fees, upon any indebtedness secured hereby, all in such order as Beneficiary may determine. The entering upon and taking possession of the Trust Estate, the collection of such rents, issues, and profits, and the application thereof as aforesaid shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Trust Estate or the collection, receipt, and application of rents, issues, or profits, Trustee or Beneficiary shall have and be entitled to exercise every right or remedy provided for in any of the Loan Instruments or by law or in equity upon occurrence of any event of default, including the right to exercise the power of sale.
- (b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof.
- (c) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Trust Estate to be sold, which

notice Trustee shall cause to be duly filed for record in the appropriate official records of the county in which the Trust Estate is located.

(d) Take such steps to protect and enforce its rights, whether by action, suit or proceeding at law or in equity, for the specific performance of any covenant, condition or agreement in the Note, this Deed of Trust, or any other document now or hereafter securing payment of the Note, or in aid of the execution of any power granted herein or therein, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Beneficiary shall elect.

10. Foreclosure by Power of Sale. Should Beneficiary elect to foreclose by exercise of the Power of Sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and the Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

(a) Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published, and delivered to Trustor such Notice of Default and Notice of Sale as then required by law and this Deed of Trust. Trustee shall, without demand on Trustor, after such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Trust Estate, or any portions thereof, at the time and place of sale fixed by it in such Notice of Sale, either as a whole, or in separate lots or parcels or items as Trustee shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed or any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee, and Beneficiary, may purchase at such sale and Trustor hereby covenant to warrant and defend the title of such purchaser or purchasers.

(b) As may be permitted by law, after deducting all costs, fees, and expenses of Trustee and of this Trust, including costs of evidence of title in connection with sale, Trustee shall apply the proceeds of any sale to the payment of (i) all sums expended under the terms hereof not then repaid, with accrued interest at Nine and One Half Percent (9.5%) per annum; (ii) all other sums then secured hereby; and (iii) the remainder, if any, to the person or persons legally entitled thereto.

(c) Trustee may, in the manner provided by law, postpone sale of all or any portion of the Trust Estate.

11. Remedies Not Exclusive. Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or under any of the Loan Instruments or other agreement, or any laws now or hereafter in force, notwithstanding that some or all of the such indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment, or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy conferred upon or reserved to Trustee or Beneficiary herein or in any of the other Loan Instruments is intended to be exclusive of any other remedy provided for herein, therein or otherwise at law or in equity, and each such right or remedy shall be cumulative and shall be in addition

to every other remedy given hereunder, thereunder or now or hereafter existing at law or in equity or by statute. Every power given by any of the Loan Instruments to Trustee or Beneficiary or to which either of them may be otherwise entitled may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary, and either or both of them may pursue inconsistent remedies. Nothing herein shall be construed as prohibiting Beneficiary from seeking a deficiency judgment against the Trustor or the Makers to the extent such action is permitted by law.

12. Assignment of Rents. For the purpose of providing further security for the debt secured hereby, Trustor hereby assigns, transfers, and sets over to Beneficiary, to be applied toward the payment of the Note and all other sums secured hereby or evidenced by the Loan Instruments, in case of default in the performance of any of the terms or conditions of this Deed of Trust, or the said Note, or the terms of any Loan Instruments, all the rents, revenues, and incomes, if any, to be derived from the Trust Estate during such time as the Note shall remain unpaid; and Beneficiary shall have the power to appoint any agent or agents they may desire for the purpose of repairing the Trust Estate and of renting the same and collecting the rents, revenues, and income, and it may pay out of said income all expenses of repairing the Trust Estate and necessary commissions and expenses incurred in renting and managing the same and of the payment of insurance premiums and of collecting rentals therefrom, and the balance remaining, if any, to be applied toward the discharge of the Note.

13. Due on Sale. Upon the sale or transfer of all or part of the Trust Estate without the Beneficiary's prior written consent, the Beneficiary may at its option declare all sums secured by this Deed of Trust to be immediately due and payable. Sale or transfer means the conveyance of the Trust Estate or any right, title or interest in the Trust Estate whether legal, beneficial or equitable.

14. Appointment of Successor Trustee. Beneficiary may, from time to time, by a written instrument executed and acknowledged by Beneficiary, mailed to Trustor and recorded in the county in which the Trust Estate is located, and by otherwise complying with the provisions of the applicable law of the State of Nebraska, substitute a successor or successors to the Trustee named herein or acting hereunder.

15. Successors and Assigns. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, personal representatives, successors, and assigns. The term "Beneficiary" shall mean the owner and holder of the Note, whether or not named as Beneficiary herein.

16. Inspections. Beneficiary or its agents, representatives, or workmen, are authorized to enter at any reasonable time upon or in any part of the Trust Estate for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Loan Instruments.

17. Request for Notice. Trustor hereby requests that a copy of any notice of default and any notice of sale hereunder be mailed to the address set forth in the first paragraph of this Deed of Trust.

18. Governing Law. This Deed of Trust shall be governed by the laws of the State of Nebraska. In the event that any provision or clause of any of the Loan Instruments conflicts with applicable laws, such conflicts shall not affect the provisions of such Loan Instruments which can be given effect without the conflicting provision and, to this end, the provisions of the Loan Instruments are declared to be severable. This instrument cannot be waived, changed, discharged, or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge, or termination is sought.

Exhibit “A” to Deed of Trust
(1910 Betz, LLC— Trustor; Lexlee, L.L.C. — Beneficiary)

Lots 11, 12 and 13, Gloeb’s Addition, together with a piece of land described as follows:
Beginning at the Northeast corner of Lot 11 of said Airview; and running thence Southwesterly along the Soouthwesterly lines of said Airview 417.1 feet to the most Southerly corner of Lot 8 of said Airview; thence South 56 feet; thence East 173.9 feet to the Westerly line of U.S. Hiways 73 and 75; thence Northeasterly along the Westerly line of said Hiways 425.4 feet; thence West 158.4 feet to the point of beginning, commonly known as Lot 7, Gloeb’s Addition, an Addition to the City of Bellevue, Sarpy County, Nebraska.