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2007086239

OMAHA HOSPITALITY, LLC
(Grantor)

to
FIRST AMERICAN TITLE INSURANCE COMPANY
(Trustee)

for the benefit of
GENERAL ELECTRIC CAPITAL CORPORATION
(Beneficiary)

DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING

Dated as of July 27, 2007

Property Location: Omaha, Nebraska

This Deed of Trust constitutes a Construction Security Agreement that secures an obligation that Grantor incurred for the purpose of making an improvement of the real estate in which the security interest is hereby given and is intended to create a construction security interest.

DOCUMENT PREPARED BY AND WHEN RECORDED, RETURN TO:

Greenberg Traurig, P.A.
401 East Las Olas Boulevard
Suite 2000
Fort Lauderdale, FL 33301
Attention: Stephen F. Katz

Deed of Trust
Doubletree Omaha
FTL 106798542v2

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DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING

This Deed of Trust, Security Agreement and Fixture Filing (this "**Deed of Trust**") is executed as of July 27, 2007, by **OMAHA HOSPITALITY, LLC**, a Delaware limited liability company ("**Grantor**"), whose address for notice hereunder is 5847 San Felipe, Suite 4650, Houston, Texas 77057, Attention: Mohamed Thowfeek, to **FIRST AMERICAN TITLE INSURANCE COMPANY** ("**Trustee**"), for the benefit of **GENERAL ELECTRIC CAPITAL CORPORATION**, a Delaware corporation ("**Beneficiary**"), whose address for notice is c/o GE Capital Realty Group, Inc., 1000 Windward Concourse, Suite 400, Alpharetta, Georgia 30005, Attention: Asset Manager/Doubletree Suites Omaha.

ARTICLE 1

DEFINITIONS

Section 1.1 **Definitions**. As used herein, the following terms shall have the following meanings:

"Indebtedness": The sum of all (1) principal, interest and other amounts due under or secured by the Loan Documents, (2) principal, interest, and other amounts which may hereafter be loaned by Beneficiary, its successors or assigns, to or for the benefit of the owner of the Mortgaged Property, when evidenced by a promissory note or other instrument which, by its terms, is secured hereby, and (3) all other indebtedness, obligations and liabilities now or hereafter existing of any kind of Grantor to Beneficiary under documents which recite that they are intended to be secured by this Deed of Trust.

"Loan Documents": The (1) Loan Agreement of even date between Grantor and Beneficiary (the "**Loan Agreement**"), (2) Promissory Note of even date, executed by Grantor, payable to the order of Beneficiary, in the stated principal amount of \$11,500,000.00 (the "**Note**"), which matures on July 27, 2012, as provided in the Loan Agreement, (3) this Deed of Trust, (4) the Assignment of Rents, Leases and Income, (5) the Uniform Commercial Code Financing Statement, (6) all other documents now or hereafter executed by Grantor, or any other person or entity to evidence or secure the payment of the Indebtedness or the performance of the Obligations, and (7) all modifications, restatements, extensions, renewals and replacements of the foregoing.

"Mortgaged Property": all estate, right, title, interest, claim and demand whatsoever which Grantor now has or hereafter acquires, either in law or in equity, in possession or expectancy, of, in and to (1) the real property described in **Exhibit A** attached hereto and made a part hereof (the "**Land**"), (2) all buildings, structures and other improvements, now or at any time situated, placed or constructed upon the Land (the "**Improvements**"), (3) all materials, supplies, appliances, equipment (as such term is defined in the UCC), apparatus and other items of personal property now owned or hereafter attached to, installed in or used in connection with

any of the Improvements or the Land, and water, gas, electrical, storm and sanitary sewer facilities and all other utilities whether or not situated in easements (the "**Fixtures**"), (4) all right, title and interest of Grantor in and to all machinery; signs; artwork; office furnishings and equipment; partitions and screens; refrigeration equipment; laundry, drying, dishwashing and garbage disposal machinery or equipment; communication apparatus, including television, radio, music and cable antennae and systems; floor coverings, rugs, carpets, window coverings, blinds, awnings, shades, curtains, drapes and rods; screens, storm doors and windows; stoves, refrigerators, dishwashers and other installed appliances; attached cabinets; trees, plants and other items of landscaping; motorized, manual, mechanical or other buses, boats, aircrafts and vehicles of any nature whatsoever; visual and electronic surveillance systems and other security systems; switchboards, exchanges, wires and phone jacks; maintenance equipment, golf carts, pro shop merchandise, tables, chairs, mirrors, desks, beds, pillows, sheets, blankets and towels, wall coverings, clocks, lamps; kitchen, restaurant, bar, lounge, public room, public area and other operating or specialized equipment, including menus, dishes, flatware, dishware, glassware, cooking utensils, tables, refrigerating units, microwave equipment, ovens, timers; food and beverages; liquor; cleaning materials, other similar items; swimming pool heaters and equipment; recreational equipment and maintenance supplies; clubhouse equipment, furnishings and supplies, including lockers and sporting equipment; and health and recreational facilities; and linens, (5) all goods, inventory, accounts, general intangibles, software, investment property, instruments, letters of credit, letter-of credit rights, deposit accounts, documents, chattel paper and supporting obligations, as each such term is presently or hereafter defined in the UCC, and all other personal property of any kind or character, including such items of personal property as defined in the UCC, now or hereafter acquired by Grantor, now or hereafter affixed to, placed upon, used in connection with, arising from or otherwise related to the Land and Improvements or which may be used in or relating to the planning, development, financing or operation of the Mortgaged Property, including, without limitation, furniture, furnishings, equipment, machinery, money, insurance proceeds, accounts, contract rights, software, trademarks, goodwill, promissory notes, electronic and tangible chattel paper, payment intangibles, documents, trade names, licenses and/or franchise agreements, rights of Grantor under leases of Fixtures or other personal property or equipment, inventory, all refundable, returnable or reimbursable fees, deposits or other funds or evidences of credit or indebtedness deposited by or on behalf of Grantor with any governmental authorities, boards, corporations, providers of utility services, public or private, including specifically, but without limitation, all refundable, returnable or reimbursable tap fees, utility deposits, commitment fees and development costs, and commercial tort claims arising from the development, construction, use, occupancy, operation, maintenance, enjoyment, acquisition or ownership of the Mortgaged Property (the "**Personalty**"), (6) all reserves, escrows or impounds required under the Loan Agreement and all deposit accounts (including accounts holding security deposits) maintained by Grantor with respect to the Mortgaged Property, (7) all plans, specifications, shop drawings and other technical descriptions prepared for construction, repair or alteration of the Improvements, and all amendments and modifications thereof (the "**Plans**"), (8) all leases, subleases, licenses, concessions, occupancy agreements or other agreements (written or oral, now or at any time in effect) which grant a possessory interest in, or the right to use, all or any part of the Mortgaged Property, together with all related security and other deposits (the "**Leases**"), (9) all of the rents, revenues, income, proceeds, profits, security and other types of deposits, lease cancellation payments and other benefits paid or payable by parties to the Leases other than Grantor for using, leasing, licensing,

possessing, operating from, residing in, selling, terminating the occupancy of or otherwise enjoying the Mortgaged Property (the "**Rents**") and all other revenues, receipts, income, accounts and other receivables arising under, out of, in connection with or related to the Mortgaged Property and including, without limitation, revenues, receipts, income, receivables and accounts relating to or arising from rentals, rent equivalent income, income and profit from the use or occupancy of guest rooms, meeting rooms, food and beverage facilities, other public facilities, vending machines, telephone and television systems, guest laundry, sundry shop, gift shop, pool, golf course and exercise facilities, the provision or sale of food, beverages or other goods and services, and any other items of revenue, receipts or other income as identified in the Uniform System of Accounts for Hotels published by the International Association of Hospitality Accountants as revised from time to time, and all rights to payment from any consumer credit charge card organization or entity such as or similar to the organizations or entities that sponsor and administer the American Express, Visa and MasterCard cards (collectively, "**Income**"), it being the intention of this Mortgage that Mortgagee shall have a continuing security interest in the Rents and Income pursuant to 11 U.S.C. Section 552(b) after the commencement of any proceeding under the Bankruptcy Code involving Grantor, (10) all other agreements, such as construction contracts, architects' agreements, engineers' contracts, utility contracts, maintenance agreements, management agreements, service contracts, permits, licenses, certificates and entitlements in any way relating to the development, construction, use, occupancy, operation, maintenance, enjoyment, acquisition or ownership of the Mortgaged Property (including, without limitation, the License Agreement and the Property Management Agreement) (the "**Property Agreements**"), (11) all rights, privileges, tenements, hereditaments, rights-of-way, easements, appendages and appurtenances appertaining to the foregoing, and all right, title and interest, if any, of Grantor in and to any streets, ways, alleys, strips or gores of land adjoining the Land or any part thereof, (12) all accessions, replacements and substitutions for any of the foregoing and all proceeds thereof, (13) all insurance policies (regardless of whether required by Beneficiary), unearned premiums therefor and proceeds from such policies covering any of the above property now or hereafter acquired by Grantor, (14) all mineral, water, oil and gas rights now or hereafter acquired and relating to all or any part of the Mortgaged Property, and (15) any awards, remunerations, reimbursements, settlements or compensation heretofore made or hereafter to be made by any governmental authority pertaining to the Land, Improvements, Fixtures or Personalty. As used in this Deed of Trust, the term "**Mortgaged Property**" shall mean all or, where the context permits or requires, any portion of the above or any interest therein, wherever located.

"Obligations": All of the agreements, covenants, conditions, warranties, representations and other obligations (other than to repay the Indebtedness) made or undertaken by Grantor or any other person or entity to Beneficiary, Trustee or others as set forth in the Loan Documents.

"Permitted Encumbrances": The outstanding liens, easements, restrictions, security interests and other exceptions to title set forth in the policy of title insurance insuring the lien of this Deed of Trust, together with the liens and security interests in favor of Beneficiary created by the Loan Documents, none of which, individually or in the aggregate, materially interferes with the benefits of the security intended to be provided by this Deed of Trust, materially and adversely affects the value of the Mortgaged Property, impairs the use or

operations of the Mortgaged Property or impairs Grantor's ability to pay its obligations in a timely manner.

"UCC": The Uniform Commercial Code as enacted and in effect in the state where the Land is located (and as it may from time to time be amended); provided that, to the extent that the UCC is used to define any term herein or in any other Loan Document and such term is defined differently in different Articles or Divisions of the UCC, the definition of such term contained in Article or Division 9 shall govern; provided further, however, that if, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of, or remedies with respect to, any security interest herein granted is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the state where the Land is located, the term "UCC" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for the purposes of the provisions thereof relating to such attachment, perfection, priority or remedies and for purposes of definitions related to such provisions.

Section 1.2 **Other Definitions.** Capitalized terms used and not otherwise defined herein shall have the meanings assigned to them in the Loan Agreement.

ARTICLE 2

GRANT

Section 2.1 **Grant.** To secure the full and timely payment of the Indebtedness and the full and timely performance of the Obligations, Grantor GRANTS, BARGAINS, SELLS and CONVEYS to Trustee the Mortgaged Property, subject, however, to the Permitted Encumbrances, TO HAVE AND TO HOLD, IN TRUST, WITH POWER OF SALE, and Grantor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND the title to the Mortgaged Property unto Trustee.

ARTICLE 3

WARRANTIES, REPRESENTATIONS AND COVENANTS

Grantor warrants, represents and covenants to Beneficiary as follows:

Section 3.1 **Title to Mortgaged Property and Lien of This Instrument.** Grantor owns the Mortgaged Property free and clear of any liens, claims or interests, except the Permitted Encumbrances, and has rights and the power to transfer each item of the Mortgaged Property. This Deed of Trust creates valid, enforceable first priority liens and security interests against the Mortgaged Property. Where any of the Mortgaged Property is in the possession of a third party, Grantor will join with Beneficiary in notifying the third party of Beneficiary's security interest and obtaining an acknowledgment from the third party that it is holding such Mortgaged Property for the benefit of Beneficiary. Grantor will cooperate with Beneficiary in obtaining control (for lien perfection purposes under the UCC) with respect to any Mortgaged

Property consisting of deposit accounts, investment property, letter of credit rights or electronic chattel paper.

Section 3.2 **First Lien Status.** Grantor shall preserve and protect the first lien and security interest status of this Deed of Trust and the other Loan Documents. If any lien or security interest other than the Permitted Encumbrances is asserted against the Mortgaged Property, Grantor shall promptly, and at its expense, (a) give Beneficiary a detailed written notice of such lien or security interest (including origin, amount and other terms), and (b) pay the underlying claim in full or take such other action so as to cause it to be released or contest the same in compliance with the requirements of the Loan Agreement (including the requirement of providing a bond or other security satisfactory to Beneficiary).

Section 3.3 **Payment and Performance.** Grantor shall pay the Indebtedness when due under the Loan Documents and shall perform the Obligations in full when they are required to be performed.

Section 3.4 **Replacement of Fixtures and Personalty.** Grantor shall not, without the prior written consent of Beneficiary, permit any of the Fixtures or Personalty to be removed at any time from the Land or Improvements, unless the removed item is removed temporarily for maintenance and repair or, if removed permanently, is obsolete and is replaced by an article of equal or better suitability and value, owned by Grantor subject to the liens and security interests of this Deed of Trust and the other Loan Documents, and free and clear of any other lien or security interest except such as may be first approved in writing by Beneficiary. Grantor shall not incorporate into the Mortgaged Property any item of personalty, fixtures or other property that is not owned by Trustor free and clear of all liens or security interests except the liens and security interests in favor of Beneficiary created by the Loan Documents.

Section 3.5 **Maintenance of Rights of Way, Easements and Licenses.** Grantor shall maintain all rights of way, easements, grants, privileges, licenses, certificates, permits, entitlements, and franchises necessary for the use of the Mortgaged Property and will not, without the prior consent of Beneficiary, consent to any public restriction (including any zoning ordinance) or private restriction as to the use of the Mortgaged Property. Grantor shall comply with all restrictive covenants affecting the Mortgaged Property, and all zoning ordinances and other public or private restrictions as to the use of the Mortgaged Property.

Section 3.6 **Inspection.** Grantor shall permit Trustee and Beneficiary, and their agents, representatives and employees, upon reasonable prior notice to Grantor, to inspect the Mortgaged Property and conduct such environmental and engineering studies as Beneficiary may require, provided that such inspections and studies shall not materially interfere with the use and operation of the Mortgaged Property.

Section 3.7 **Other Covenants.** All of the covenants in the Loan Agreement are incorporated herein by reference and, together with covenants in this Article 3, shall be covenants running with the land. The covenants set forth in the Loan Agreement include, among other provisions: (a) the prohibition against the further sale, transfer or encumbering of any of the Mortgaged Property, (b) the obligation to pay when due all taxes on the Mortgaged Property or assessed against Beneficiary with respect to the Loan, (c) the right of Beneficiary to inspect

the Mortgaged Property, (d) the obligation to keep the Mortgaged Property insured as Beneficiary may require, and (e) the obligation to comply with all legal requirements (including environmental laws), maintain the Mortgaged Property in good condition, and promptly repair any damage or casualty.

Section 3.8 Condemnation Awards and Insurance Proceeds.

(a) **Condemnation Awards.** Grantor assigns all awards and compensation for any condemnation or other taking, or any purchase in lieu thereof, to Beneficiary and authorizes Beneficiary to collect and receive such awards and compensation and to give proper receipts and acquittances therefor, subject to the terms of the Loan Agreement. The condemnation awards shall be applied as provided in the Loan Agreement.

(b) **Insurance Proceeds.** Grantor assigns to Beneficiary all proceeds of any insurance policies insuring against loss or damage to the Mortgaged Property. Grantor authorizes Beneficiary to collect and receive such proceeds and authorizes and directs the issuer of each of such insurance policies to make payment for all such losses directly to Beneficiary, instead of to Grantor and Beneficiary jointly. The insurance proceeds shall be applied as provided in the Loan Agreement.

Section 3.9 After Acquired Property. All right, title, and interest of Grantor in and to all extensions, improvements, betterments, renewals, substitutions, and replacements of, and all additions and appurtenances to the Mortgaged Property, hereafter acquired by, or conveyed to, Grantor or constructed, assembled, or placed by Grantor upon the Land, immediately upon such acquisition, conveyance, construction, assembling or placement, as the case may be, and in each such case, without any further mortgage, conveyance, assignment, or other act by Grantor, shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by Grantor and specifically described in the granting clause of this Mortgage, but at any and all times Grantor will execute and deliver to Mortgagee any and all such further assurances, mortgages, conveyances, or assignments thereof, as Mortgagee may require for the purpose of expressly and specifically subjecting the same to the lien of this Mortgage.

ARTICLE 4

DEFAULT AND FORECLOSURE

Section 4.1 Remedies. If an Event of Default (as defined in the Loan Agreement) exists, Beneficiary may, at Beneficiary's election and by or through Trustee or otherwise, exercise any or all of the following rights, remedies and recourses:

(a) **Acceleration.** Declare the Indebtedness (including any prepayment premium or similar charge required by the Loan Agreement) to be immediately due and payable, without further notice, presentment, protest, notice of intent to accelerate, notice of acceleration, demand or action of any nature whatsoever

(each of which hereby is expressly waived by Grantor), whereupon the same shall become immediately due and payable.

(b) **Entry on Mortgaged Property.** Enter the Mortgaged Property and take exclusive possession thereof and of all books, records and accounts relating thereto. If Grantor remains in possession of the Mortgaged Property after an Event of Default and without Beneficiary's prior written consent, Beneficiary may invoke any legal remedies to dispossess Grantor.

(c) **Operation of Mortgaged Property.** Hold, lease, develop, manage, operate or otherwise use the Mortgaged Property upon such terms and conditions as Beneficiary may deem reasonable under the circumstances (making such repairs, alterations, additions and improvements and taking other actions, from time to time, as Beneficiary deems necessary or desirable), and apply all Rents and other amounts collected by Trustee in connection therewith in accordance with the provisions of Section 4.7.

(d) **Foreclosure and Sale.** Either judicially or by exercise of the power of sale granted herein, sell or offer for sale the Mortgaged Property, judicially or nonjudicially, in such portions, order and parcels as Beneficiary may determine, with or without having first taken possession of same, to the highest bidder for cash at public auction. Such sale shall be made in accordance with the laws of the state where the Land is located relating to the sale of real estate or by Chapter 9 of the UCC relating to the sale of collateral after default by a debtor (as such laws now exist or may be hereafter amended or succeeded), or by any other present or subsequent articles or enactments relating to same. With respect to any notices required or permitted under the UCC, Grantor agrees that five (5) days' prior written notice shall be deemed commercially reasonable. If Beneficiary elects to sell Grantor's interest in the Mortgaged Property by exercise of the power of sale herein contained, Beneficiary shall notify Trustee in the manner then required by law. Upon receipt of such notice of Beneficiary and at the direction of Beneficiary, Trustee shall cause to be recorded, published and delivered such notices of default and notices of sale as may then be required by law and by this Deed of Trust. Trustee shall, only at the direction of Beneficiary and without demand on Grantor, 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 Mortgaged Property at the time and place of sale fixed by it in such notice of sale, either as whole or in separate lots or parcels or items as Beneficiary 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, or as otherwise may then be required by law. Upon receipt of payment, 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, which deed or deeds shall contain recitals of compliance with all applicable law relating to the exercise of the power of sale and sale of the property described therein. The recitals in such deed or deeds of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Grantor, Trustee or Beneficiary, may purchase at such sale. Trustee may in the manner provided by law postpone sale of all or any portion of the Mortgaged Property.

At any such sale (i) whether made under the power herein contained, the UCC, any other legal requirement or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it shall not be necessary for Trustee to be physically present at or to have constructive possession of the Mortgaged Property (Grantor shall deliver to Trustee any portion of the Mortgaged Property not actually or constructively possessed by Trustee immediately upon demand by Trustee), and the title to and right of possession of any such property shall pass to the purchaser thereof as completely as if Trustee had been actually present and delivered to purchaser at such sale, (ii) each instrument of conveyance executed by Trustee shall contain a general warranty of title, binding upon Grantor, (iii) each recital contained in any instrument of conveyance made by Trustee shall conclusively establish the truth and accuracy of the matters recited therein, including, without limitation, nonpayment of the Indebtedness, advertisement and conduct of such sale in the manner provided herein and otherwise by law, and appointment of any successor Trustee hereunder, (iv) any prerequisites to the validity of such sale shall be conclusively presumed to have been performed, (v) the receipt of Trustee or other party making the sale shall be a sufficient discharge to the purchaser or purchasers for his or their purchase money and no such purchaser or purchasers, or his or their assigns or personal representatives, shall thereafter be obligated to see to the application of such purchase money or be in any way answerable for any loss, misapplication or nonapplication thereof, and (vi) to the fullest extent permitted by law, Grantor shall be completely and irrevocably divested of all of its right, title, interest, claim, equity, equity of redemption, and demand whatsoever, either at law or in equity, in and to the property sold and such sale shall be a perpetual bar both at law and in equity against Grantor, and against all other persons claiming or to claim the property sold or any part thereof, by, through or under Grantor. Beneficiary may be a purchaser at such sale and if Beneficiary is the highest bidder, may credit the portion of the purchase price that would be distributed to Beneficiary against the Indebtedness in lieu of paying cash. In connection with any foreclosure sale: (A) Beneficiary shall have no obligation to clean up, repair or otherwise prepare the Mortgaged Property for sale; (B) Grantor waives any right it may have to require Beneficiary to pursue any third party for any of the Indebtedness; (C) Beneficiary may comply with any applicable state or federal law requirements in connection with a disposition of the Mortgaged Property; (D) Beneficiary may specifically disclaim any warranties of title or the like; (E) if Beneficiary sells any of the Mortgaged Property on credit, Grantor will be credited only with payments actually made by purchaser, received by Beneficiary and applied to the indebtedness of the purchaser; and (F) Beneficiary may apply any noncash proceeds of a disposition of the Mortgaged Property in any commercially reasonable manner selected by Beneficiary. Compliance by Beneficiary with the standards set forth in the foregoing sentence shall not be deemed to adversely affect the commercial reasonableness of any sale of the Mortgaged Property or portion thereof.

(e) **Receiver**. Make application to a court of competent jurisdiction for, and obtain from such court as a matter of strict right and without notice to Grantor or regard to the adequacy of the Mortgaged Property for the repayment of the Indebtedness, the appointment of a receiver of the Mortgaged Property, and Grantor irrevocably consents to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and

otherwise operate the Mortgaged Property upon such terms as may be approved by the court, and shall apply such Rents in accordance with the provisions of Section 4.7.

(f) **Other.** Exercise all other rights, remedies and recourses granted under the Loan Documents or otherwise available at law or in equity (including an action for specific performance of any covenant contained in the Loan Documents, or a judgment on the Note either before, during or after any proceeding to enforce this Deed of Trust).

Section 4.2 **Separate Sales.** The Mortgaged Property may be sold in one or more parcels and in such manner and order as Trustee, in its sole discretion, may elect; the right of sale arising out of any Event of Default shall not be exhausted by any one or more sales.

Section 4.3 **Remedies Cumulative, Concurrent and Nonexclusive.** Beneficiary shall have all rights, remedies and recourses granted in the Loan Documents and available at law or equity (including the UCC), which rights (a) shall be cumulative and concurrent, (b) may be pursued separately, successively or concurrently against Grantor or others obligated under the Note and the other Loan Documents, or against the Mortgaged Property, or against any one or more of them, at the sole discretion of Beneficiary, (c) may be exercised as often as occasion therefor shall arise, and the exercise or failure to exercise any of them shall not be construed as a waiver or release thereof or of any other right, remedy or recourse, and (d) are intended to be, and shall be, nonexclusive. No action by Beneficiary or Trustee in the enforcement of any rights, remedies or recourses under the Loan Documents or otherwise at law or equity shall be deemed to cure any Event of Default.

Section 4.4 **Release of and Resort to Collateral.** Beneficiary may release, regardless of consideration and without the necessity for any notice to or consent by the holder of any subordinate lien on the Mortgaged Property, any part of the Mortgaged Property without, as to the remainder, in any way impairing, affecting, subordinating or releasing the lien or security interests created in or evidenced by the Loan Documents or their stature as a first and prior lien and security interest in and to the Mortgaged Property. For payment of the Indebtedness, Beneficiary may resort to any other security in such order and manner as Beneficiary may elect.

Section 4.5 **Waiver of Redemption, Notice and Marshalling of Assets.** To the fullest extent permitted by law, Grantor hereby irrevocably and unconditionally waives and releases (a) all benefit that might accrue to Grantor by virtue of any present or future statute of limitations or law or judicial decision exempting the Mortgaged Property from attachment, levy or sale on execution or providing for any appraisal, valuation, stay of execution, exemption from civil process, redemption or extension of time for payment, (b) all notices of any Event of Default or of Beneficiary's or Trustee's election to exercise or the actual exercise of any right, remedy or recourse provided for under the Loan Documents, and (c) any right to a marshalling of assets or a sale in inverse order of alienation.

Section 4.6 **Discontinuance of Proceedings.** If Beneficiary shall have proceeded to invoke any right, remedy or recourse permitted under the Loan Documents and shall thereafter elect to discontinue or abandon it for any reason, Beneficiary shall have the unqualified right to do so and, in such an event, Grantor and Beneficiary shall be restored to their

former positions with respect to the Indebtedness, the Obligations, the Loan Documents, the Mortgaged Property and otherwise, and the rights, remedies, recourses and powers of Beneficiary shall continue as if the right, remedy or recourse had never been invoked, but no such discontinuance or abandonment shall waive any Event of Default which may then exist or the right of Beneficiary thereafter to exercise any right, remedy or recourse under the Loan Documents for such Event of Default.

Section 4.7 **Application of Proceeds.** The proceeds of any sale of, and the Rents and other amounts generated by the holding, leasing, management, operation or other use of, the Mortgaged Property, shall be applied by Beneficiary or Trustee (or the receiver, if one is appointed) in the following order unless otherwise required by applicable law:

(a) to the payment of the costs and expenses of taking possession of the Mortgaged Property and of holding, using, leasing, repairing, improving and selling the same, including, without limitation (1) trustee's and receiver's fees and expenses, (2) court costs, (3) attorneys' and accountants' fees and expenses, (4) costs of advertisement, and (5) the payment of all ground rent, real estate taxes and assessments, except any taxes, assessments, or other charges subject to which the Mortgaged Property shall have been sold;

(b) to the payment of all amounts (including interest), other than the unpaid principal balance of the Note and accrued but unpaid interest, which may be due to Beneficiary under the Loan Documents;

(c) to the payment of the Indebtedness and performance of the Obligations in such manner and order of preference as Beneficiary in its sole discretion may determine;

(d) to the payment of junior deeds of trust, mortgages or other lienholders; and

(e) the balance, if any, to the payment of the persons legally entitled thereto.

Section 4.8 **Occupancy After Foreclosure.** Upon the expiration of the applicable periods for redemption and the delivery of a deed to the purchaser at any foreclosure sale pursuant to Section 4.1(d), such purchaser shall become the legal owner of the Mortgaged Property. All occupants of the Mortgaged Property shall, at the option of such purchaser, become tenants of the purchaser at such time and shall deliver possession thereof immediately to the purchaser upon demand. It shall not be necessary for the purchaser at said sale to bring any action for possession of the Mortgaged Property other than the statutory action of forcible detainer in any court having jurisdiction over the Mortgaged Property.

Section 4.9 **Additional Advances and Disbursements; Costs of Enforcement.**

(a) If any Event of Default exists, Beneficiary shall have the right, but not the obligation, to cure such Event of Default in the name and on behalf of Grantor.

All sums advanced and expenses incurred at any time by Beneficiary under this Section 4.9, or otherwise under this Deed of Trust or any of the other Loan Documents or applicable law, shall bear interest from the date that such sum is advanced or expense incurred, to and including the date of reimbursement, computed at the Default Rate (as defined in the Loan Agreement), and all such sums, together with interest thereon, shall be secured by this Deed of Trust.

(b) Grantor shall pay all expenses (including reasonable attorneys' fees and expenses) of or incidental to the perfection and enforcement of this Deed of Trust and the other Loan Documents, or the enforcement, compromise or settlement of the Indebtedness or any claim under this Deed of Trust and the other Loan Documents, and for the curing thereof, or for defending or asserting the rights and claims of Beneficiary in respect thereof, by litigation or otherwise.

(c) This Deed of Trust is a construction mortgage under the Uniform Commercial Code, to secure an obligation incurred for the construction of an improvement on land, including the acquisition costs of the land. This Deed of Trust secures a construction loan, and it will be subject to the terms of a loan agreement between Grantor and Beneficiary. Any materials, equipment or supplies used or intended for use in the construction, development, or operation of the Trust Property, whether stored on or off the Trust Property, shall also be subject to the lien of this Deed of Trust and Grantor, or Grantor's contractor if loan proceeds are paid to such contractor, shall apply the loan proceeds to the payment of lawful claims for labor and material furnished for such construction.

(d) This Deed of Trust shall secure the Indebtedness and any and all future advances made to Grantor by Beneficiary. At no time during the term of this Deed of Trust or any extension thereof shall the unpaid and outstanding secured principal future advances, not including sums advanced by Beneficiary to protect the security of this Deed of Trust, exceed \$ 17,250,000.00. This provision shall not constitute an obligation upon or commitment of Beneficiary to make additional advances or loans to Grantor.

Section 4.10 **No Mortgagee in Possession.** Neither the enforcement of any of the remedies under this Article 4, the assignment of the Rents and Leases under Article 5, the security interests under Article 6, nor any other remedies afforded to Beneficiary under the Loan Documents, at law or in equity shall cause Beneficiary or Trustee to be deemed or construed to be a mortgagee in possession of the Mortgaged Property, to obligate Beneficiary or Trustee to lease the Mortgaged Property or attempt to do so, or to take any action, incur any expense, or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

ARTICLE 5

ASSIGNMENT OF RENTS AND LEASES

Section 5.1 **Assignment.** Grantor acknowledges and confirms that it has executed and delivered to Beneficiary an Assignment of Rents and Leases of even date (the "**Assignment of Rents and Leases**"), intending that such instrument create a present, absolute assignment to Beneficiary of the Leases and Rents. Without limiting the intended benefits or the remedies provided under the Assignment of Rents and Leases, Grantor hereby assigns to Beneficiary, as further security for the Indebtedness and the Obligations, the Leases and Rents. While any Event of Default exists, Beneficiary shall be entitled to exercise any or all of the remedies provided in the Assignment of Rents and Leases and in Article 4 hereof, including the right to have a receiver appointed. If any conflict or inconsistency exists between the assignment of the Rents and the Leases in this Deed of Trust and the absolute assignment of the Rents and the Leases in the Assignment of Rents and Leases, the terms of the Assignment of Rents and Leases shall control.

Section 5.2 **No Merger of Estates.** So long as any part of the Indebtedness and the Obligations secured hereby remain unpaid and undischarged, the fee and leasehold estates to the Mortgaged Property shall not merge, but shall remain separate and distinct, notwithstanding the union of such estates either in Grantor, Beneficiary, any lessee or any third party by purchase or otherwise.

ARTICLE 6

SECURITY AGREEMENT

Section 6.1 **Security Interest.** This Deed of Trust constitutes a "**Security Agreement**" on personal property within the meaning of the UCC and other applicable law with respect to the Personalty, Fixtures, Plans, Leases, Rents and Property Agreements. To this end, Grantor grants to Trustee and Beneficiary a first and prior security interest in the Personalty, Fixtures, Plans, Leases, Rents and Property Agreements and all other Mortgaged Property which is personal property to secure the payment of the Indebtedness and performance of the Obligations, and agrees that Beneficiary shall have all the rights and remedies of a secured party under the UCC with respect to such property. Any notice of sale, disposition or other intended action by Beneficiary with respect to the Personalty, Fixtures, Plans, Leases, Rents and Property Agreements sent to Grantor at least five(5) days prior to any action under the UCC shall constitute reasonable notice to Grantor.

Section 6.2 **Financing Statements.** Grantor hereby irrevocably authorizes Beneficiary at any time and from time to time to file in any filing office in any UCC jurisdiction one or more financing or continuation statements and amendments thereto, relative to all or any part of the Mortgaged Property, without the signature of Grantor where permitted by law. Grantor agrees to furnish Beneficiary, promptly upon request, with any information required by Beneficiary to complete such financing or continuation statements. If Beneficiary has filed any

initial financing statements or amendments in any UCC jurisdiction prior to the date hereof, Grantor ratifies and confirms its authorization of all such filings. Grantor acknowledges that it is not authorized to file any financing statement or amendment or termination statement with respect to any financing statement without the prior written consent of Beneficiary, and agrees that it will not do so without Beneficiary's prior written consent, subject to Grantor's rights under Colo. Rev. Stat. S.4-9-509(d)(2). Grantor shall execute and deliver to Beneficiary, in form and substance satisfactory to Beneficiary, such additional financing statements and such further assurances as Beneficiary may, from time to time, reasonably consider necessary to create, perfect and preserve Beneficiary's security interest hereunder and Beneficiary may cause such statements and assurances to be recorded and filed, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest.

Section 6.3 **Fixture Filing.** This Deed of Trust shall also constitute a "fixture filing" for the purposes of the UCC against all of the Mortgaged Property which is or is to become fixtures. Information concerning the security interest herein granted may be obtained at the addresses of Debtor (Grantor) and Secured Party (Beneficiary) as set forth in the first paragraph of this Deed of Trust.

ARTICLE 7

CONCERNING THE TRUSTEE

Section 7.1 **Certain Rights.** With the approval of Beneficiary, Trustee shall have the right to select, employ and consult with counsel. Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by him hereunder, believed by him in good faith to be genuine. Trustee shall be entitled to reimbursement for actual, reasonable expenses incurred by him in the performance of his duties. Grantor shall, from time to time, pay the compensation due to Trustee hereunder and reimburse Trustee for, and indemnify, defend and save Trustee harmless against, all liability and reasonable expenses which may be incurred by him in the performance of his duties, including those arising from the joint, concurrent, or comparative negligence of Trustee; however, Grantor shall not be liable under such indemnification to the extent such liability or expenses result solely from Trustee's gross negligence or willful misconduct hereunder. Grantor's obligations under this Section 7.1 shall not be reduced or impaired by principles of comparative or contributory negligence.

Section 7.2 **Retention of Money.** All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by law), and Trustee shall be under no liability for interest on any moneys received by him hereunder.

Section 7.3 **Successor Trustees.** If Trustee or any successor Trustee shall die, resign or become disqualified from acting in the execution of this trust, or Beneficiary shall desire to appoint a substitute Trustee, Beneficiary shall have full power to appoint one or more substitute Trustees and, if preferred, several substitute Trustees in succession who shall succeed

to all the estates, rights, powers and duties of Trustee. Such appointment may be executed by any authorized agent of Beneficiary, and as so executed, such appointment shall be conclusively presumed to be executed with authority, valid and sufficient, without further proof of any action.

Section 7.4 **Perfection of Appointment.** Should any deed, conveyance or instrument of any nature be required from Grantor by any successor Trustee to more fully and certainly vest in and confirm to such successor Trustee such estates, rights, powers and duties, then, upon request by such Trustee, all such deeds, conveyances and instruments shall be made, executed, acknowledged and delivered and shall be caused to be recorded and/or filed by Grantor.

Section 7.5 **Trustee Liability.** In no event or circumstance shall Trustee or any substitute Trustee hereunder be personally liable under or as a result of this Deed of Trust, either as a result of any action by Trustee (or any substitute Trustee) in the exercise of the powers hereby granted or otherwise.

ARTICLE 8

MISCELLANEOUS

Section 8.1 **Notices.** Any notice required or permitted to be given under this Deed of Trust shall be in writing and either shall be mailed by certified mail, postage prepaid, return receipt requested, or sent by overnight air courier service, or personally delivered to a representative of the receiving party, or sent by telecopy (provided an identical notice is also sent simultaneously by mail, overnight courier, or personal delivery as otherwise provided in this Section 8.1). All such communications shall be mailed, sent or delivered, addressed to the party for whom it is intended at its address set forth on the first page of this Deed of Trust. Any communication so addressed and mailed shall be deemed to be given on the earliest of (a) when actually delivered, (b) on the first Business Day (as defined in the Loan Agreement) after deposit with an overnight air courier service, or (c) on the third Business Day after deposit in the United States mail, postage prepaid, in each case to the address of the intended addressee, and any communication so delivered in person shall be deemed to be given when receipted for by, or actually received by, Beneficiary or Grantor, as the case may be. If given by telecopy, a notice shall be deemed given and received when the telecopy is transmitted to the party's telecopy number specified in the Loan Agreement and confirmation of complete receipt is received by the transmitting party during normal business hours or on the next Business Day if not confirmed during normal business hours, and an identical notice is also sent simultaneously by mail, overnight courier, or personal delivery as otherwise provided in this Section 8.1. Any party may designate a change of address by written notice to the other by giving at least ten (10) days' prior written notice of such change of address. Trustor requests that copies of any notice of default and notice of sale hereunder be sent to Trustor at Trustor's address stated above.

Section 8.2 **Covenants Running with the Land.** All Obligations contained in this Deed of Trust are intended by Grantor, Beneficiary and Trustee to be, and shall be construed as, covenants running with the Mortgaged Property. As used herein, "Grantor" shall refer to the party named in the first paragraph of this Deed of Trust and to any subsequent owner of all or

any portion of the Mortgaged Property (without in any way implying that Beneficiary has or will consent to any such conveyance or transfer of the Mortgaged Property). All persons or entities who may have or acquire an interest in the Mortgaged Property shall be deemed to have notice of, and be bound by, the terms of the Loan Agreement and the other Loan Documents; however, no such party shall be entitled to any rights thereunder without the prior written consent of Beneficiary.

Section 8.3 **Attorney-in-Fact.** Grantor hereby irrevocably appoints Beneficiary and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest, (a) to execute and/or record any notices of completion, cessation of labor, or any other notices that Beneficiary deems appropriate to protect Beneficiary's interest, if Grantor shall fail to do so within ten (10) days after written request by Beneficiary, (b) upon the issuance of a deed pursuant to the foreclosure of this Deed of Trust or the delivery of a deed in lieu of foreclosure, to execute all instruments of assignment, conveyance or further assurance with respect to the Leases, Rents, Income, Personalty, Fixtures, Plans and Property Agreements in favor of the grantee of any such deed and as may be necessary or desirable for such purpose, (c) to prepare, execute and file or record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve Beneficiary's security interests and rights in or to any of the collateral, and (d) while any Event of Default exists, to perform any obligation of Grantor hereunder; however: (1) Beneficiary shall not under any circumstances be obligated to perform any obligation of Grantor; (2) any sums advanced by Beneficiary in such performance shall be added to and included in the Indebtedness and shall bear interest at the Default Rate; (3) Beneficiary as such attorney-in-fact shall only be accountable for such funds as are actually received by Beneficiary; and (4) Beneficiary shall not be liable to Grantor or any other person or entity for any failure to take any action which it is empowered to take under this Section.

Section 8.4 **Successors and Assigns.** This Deed of Trust shall be binding upon and inure to the benefit of Beneficiary and Grantor and their respective successors and assigns. Grantor shall not, without the prior written consent of Beneficiary, assign any rights, duties or obligations hereunder.

Section 8.5 **No Waiver.** Any failure by Trustee or Beneficiary to insist upon strict performance of any of the terms, provisions or conditions of the Loan Documents shall not be deemed to be a waiver of same, and Trustee or Beneficiary shall have the right at any time to insist upon strict performance of all of such terms, provisions and conditions.

Section 8.6 **Subrogation.** To the extent proceeds of the Note have been used to extinguish, extend or renew any indebtedness against the Mortgaged Property, then Beneficiary shall be subrogated to all of the rights, liens and interests existing against the Mortgaged Property and held by the holder of such indebtedness and such former rights, liens and interests, if any, are not waived, but are continued in full force and effect in favor of Beneficiary.

Section 8.7 **Loan Agreement.** If any conflict or inconsistency exists between this Deed of Trust and the Loan Agreement, the Loan Agreement shall govern.

Section 8.8 **Release or Reconveyance.** Upon written request of Beneficiary stating that all sums secured hereby have been paid and upon surrender of this Deed of Trust and any note to Trustee for cancellation and retention and upon payment by Beneficiary of Trustee's fees, Trustee shall reconvey to Beneficiary, or the person or persons legally entitled thereto, without warranty, any portion of the Trust Property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto."

Section 8.9 **Waiver of Stay, Moratorium and Similar Rights.** Grantor agrees, to the full extent that it may lawfully do so, that it will not at any time insist upon or plead or in any way take advantage of any appraisal, valuation, stay, marshalling of assets, extension, redemption or moratorium law now or hereafter in force and effect so as to prevent or hinder the enforcement of the provisions of this Deed of Trust or the indebtedness secured hereby, or any agreement between Grantor and Beneficiary or any rights or remedies of Beneficiary.

Section 8.10 **Limitation on Liability.** Grantor's liability hereunder is subject to the limitation on liability provisions of Article 13 of the Loan Agreement.

Section 8.11 **Obligations of Grantor, Joint and Several.** If more than one person or entity has executed this Deed of Trust as "Grantor," the obligations of all such persons or entities hereunder shall be joint and several.

Section 8.12 **Governing Law.** This Deed of Trust shall be governed by the laws of the State of Nebraska.

Section 8.13 **Headings.** The Article, Section and Subsection titles hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such Articles, Sections or Subsections.

Section 8.14 **Counterparts.** This Deed of Trust may be executed in counterparts, all of which counterparts together shall constitute one and the same instrument (and original signature pages and notary pages from each counterpart may be assembled into one original document to be recorded). Grantor, by its execution hereof, acknowledges receipt of a copy of this Deed of Trust.

Section 8.15 **Entire Agreement.** This Deed of Trust and the other Loan Documents embody the entire agreement and understanding between Beneficiary and Grantor and supersede all prior agreements and understandings between such parties relating to the subject matter hereof and thereof. Accordingly, the Loan Documents may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

EXECUTED as of the date first above written.

OMAHA HOSPITALITY, LLC, a Delaware
limited liability company

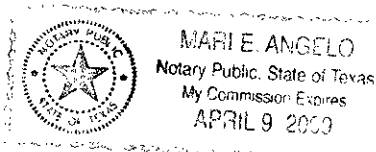
By: [Signature]
Name: MOHAMED THOWFEEK
Title: Authorized Representative

ACKNOWLEDGEMENT

STATE OF TEXAS)
) SS:
COUNTY OF HARRIS)

On this 25th day of July, 2007, before me personally appeared MOHAMED THOWFEEK to me known to be the Authorized Representative of OMAHA HOSPITALITY, LLC, a Delaware limited liability company, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that (s)he was authorized to execute said instrument on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Signature: [Signature]
Printed Name: MARIE E. ANGELO

NOTARY PUBLIC in and for the State of TEXAS

My appointment expires: APRIL 9, 2009

EXHIBIT A
LEGAL DESCRIPTION OF THE LAND

Exhibit "A"

Legal Description

Real property in the City of Omaha, County of Douglas, State of Nebraska, described as follows:

Parcel I:

Lot 1, Embassy Suites Subdivision, an Addition to the City of Omaha, Douglas County, Nebraska, recorded in Misc. Book 1195 at Page 46 of the Douglas County Records.

Parcel II:

Easement for the benefit of Parcel I as created by 'Signage Easement Agreement' filed August 14, 1997 in Misc. Book 1219 at Page 371 and Amended and Restated Signage Easement Agreement filed November 26, 2001 in Book 1409 at Page 667, of the Douglas County records.