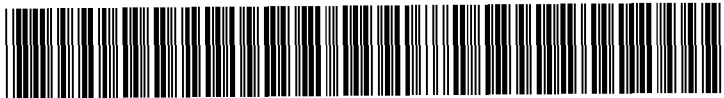


MTG 2013045752



MAY 07 2013 16:48 P 31

Fee amount: 190.00
FB: 49-11211
COMP: PN

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
05/07/2013 16:48:42.00



2013045752

When Recorded, return to:

Sherman & Howard

Attention: Edward J. Adkins
633 17th Street, Suite 3000
Denver, Colorado 80202-3622

**DEED OF TRUST, SECURITY AGREEMENT, FINANCING STATEMENT
AND ASSIGNMENT OF LEASES AND RENTS**

Douglas County, Nebraska

THIS DEED OF TRUST, SECURITY AGREEMENT, FINANCING STATEMENT AND ASSIGNMENT OF LEASES AND RENTS ("Deed of Trust") is executed as of May 1, 2013, by and among GP HOTEL OMAHA LLC, a Nebraska limited liability company (the "Grantor" as further defined below) and GREAT WESTERN BANK (the "Trustee" as further defined below), in trust for the use and benefit of GREAT WESTERN BANK (the "Beneficiary" as further defined below).

Recitals

WHEREAS, on even date herewith, Grantor as Borrower and Beneficiary as Lender have entered into that certain Credit Agreement (as defined below), wherein Grantor borrowed from Beneficiary a term loan in the original principal amount of Nine Million and 00/100 Dollars (\$9,000,000.00) ("Loan");

WHEREAS, in connection with the Loan, the Grantor desires to pledge its interest in certain real and personal property. Grantor acknowledges that it will receive direct and actual benefit from the Loan, and that this Deed of Trust is a reasonable requirement upon Grantor to induce Beneficiary to make the Loan.

ARTICLE I

PARTIES, PROPERTIES, AND DEFINITIONS

The following terms and references shall have the meanings indicated:

1.1 Act. The Nebraska Trust Deeds Act or by successor statute in effect at such time.

1.2 Beneficiary. GREAT WESTERN BANK, with an address at 220 Josephine Street, Denver, Colorado 80206, Attn: Mark A. Mooney, Group President, Southern Colorado, together with any future holder of the Note (as defined below).

1.3 Chattels. All goods, fixtures, equipment, building and other materials, supplies, and other tangible personal property of every nature now owned or hereafter acquired by Grantor and used, intended for use, or reasonably required in the construction, development, or operation of the Real Property, together with all accessions thereto, replacements and substitutions therefor, and proceeds thereof.

1.4 Credit Agreement. The Credit Agreement, by and between Grantor as Borrower and Beneficiary as Lender, of even date herewith pertaining to the Loan, plus any and all modifications, extensions, renewals, and replacements thereto.

1.5 Grantor. GP HOTEL OMAHA LLC, a Nebraska limited liability company, with an address at The Pandey Hotel Corporation, Attn: John Searby, c/o Red Lion Hotel Denver Southeast, 3200 South Parker Road, Aurora, Colorado 80014, together with any future owner of the Real Property or any part thereof or interest therein.

1.6 Intangible Personalty. Grantor's right, title, and interest in any right to use all trademarks and trade names and symbols or logos used in connection with the Real Property, or any modifications or variations thereof, in connection with the operation of the improvements existing or to be constructed on the Real Property, together with the bankruptcy rights and all accounts, monies in the possession of Beneficiary (including without limitation retainages and deposits for taxes and insurance), contract rights and general intangibles (whether now owned or hereafter acquired, and including proceeds thereof) relating to or arising from Grantor's ownership, use, operation, leasing, or sale of all or any part of the Real Property, specifically including but in no way limited to any right which Grantor may have or acquire to transfer any development rights from the Real Property to other real property, and any development rights which may be so transferred. Without limiting the generality of the foregoing, the following rights shall be included within the term "Intangible Personalty":

(a) All Grantor's right, title and interest in and to all agreements and contracts now or hereafter entered into by the Grantor with any and all contractors, subcontractors, materialmen, laborers and other persons or entities, which relate in any way to the construction of improvements on any part of the Real Property; and

(b) All Grantor's right, title and interest in and to all plans and specifications used or which may be used to design and construct improvements on any part of the Real Property. Nothing herein shall be construed as imposing on Beneficiary or as

constituting an assumption by Beneficiary of, any obligation of the Grantor under any of the foregoing contracts, agreements or documents.

1.7 Loan Documents. The Credit Agreement, the Note, the UCC Financing Statements, this Deed of Trust, the Collateral Documents, the Letter(s) of Credit, the Environmental Indemnity Agreement, and any other documents, evidencing, securing or relating to the Loan. The term "Loan Documents" also includes all modifications, extensions, renewals, and replacements of each document referred to above.

1.8 Note. Grantor's Term Loan Promissory Note, dated on even date herewith, in the original principal amount of Nine Million and 00/100 Dollars (\$9,000,000.00) plus any and all modifications, extensions, renewals, and replacements thereto. The Note is more particularly described in the Credit Agreement. All terms and provisions of the Note are incorporated by this reference in this Deed of Trust.

1.9 Real Property. The tract of land described in Exhibit "A" attached hereto, together with the following:

- (a) All buildings, structures, and improvements now or hereafter located on such tract, as well as all rights-of-way, easements, and other appurtenances thereto;
- (b) All of Grantor's right, title and interest in any land lying between the boundaries of such tract and the center line of any adjacent street, road, avenue, or alley, whether opened or proposed;
- (c) All of the rents, income, receipts, revenues, issues and profits of and from such tract and improvements;
- (d) All of Grantor's right, title and interest in any (i) water and water rights (whether decreed or undeclared, tributary, nontributary or not nontributary, surface or underground, or appropriated or unappropriated); (ii) ditches and ditch rights; (iii) spring and spring rights; (iv) reservoir and reservoir rights; (v) well rights, whether adjudicated or evidenced by any well or other permit; (vi) decreed or pending plan or augmentation or water exchange plan; and (vii) shares of stock in water, ditch and canal companies and all other evidence of such rights, which are now owned or hereafter acquired by Grantor and which are appurtenant to or which have been used in connection with such tract or improvements, if any;
- (e) All of Grantor's right, title and interest in oil and gas rights, minerals, trees, shrubs, flowers and landscaping features now or hereafter located on, under or above such tract, if any, which are now owned or hereafter acquired by Grantor;
- (f) All machinery, apparatus, equipment, fittings, fixtures (whether actually or constructively attached, and including all trade, domestic, and ornamental fixtures) now or hereafter located in, upon, or under such tract or improvements and used or usable in connection with any present or future operation thereof, including but not limited to all equipment for the purposes of supplying or distributing heating, air-conditioning, freezing, lighting, gas, water, air, laundry, incinerating and power equipment, all

elevators and related machinery; including but not limited to engines; pipes; pumps; tanks; motors; conduits; switchboards; plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, cooking, and communications apparatus; boilers, water heaters, ranges, furnaces, and burners; appliances; vacuum cleaning systems; elevators; escalators; shades; awnings; screens; storm doors and windows; stoves; refrigerators; attached cabinets; partitions; ducts and compressors; rugs and carpets; draperies; and all additions thereto and replacements therefor;

(g) All of Grantor's right, title and interest in any development rights associated with such tract, whether previously or subsequently transferred to such tract from other real property or now or hereafter susceptible of transfer from such tract to other real property;

(h) Any and all insurance proceeds, and any and all awards, including interest, previously and hereafter made to Grantor for taking by eminent domain or by agreement in lieu of any such action of the whole or any part of the Real Property or any easements used in connection with the Real Property; and

(i) All other and greater rights and interests of every nature in such tract and in the possession or use thereof and income therefrom, whether now owned or subsequently acquired by Grantor.

1.10 Secured Obligations. All present and future indebtedness and other obligations of the Grantor to Beneficiary arising under the Loan Documents (including but not limited to the Note), whether stated in the form of promises, covenants, representations, warranties, conditions, or prohibitions or in any other form.

1.11 Trustee. GREAT WESTERN BANK, with an address at 220 Josephine Street, Denver, Colorado 80206, Attn: Mark A. Mooney, Group President, Southern Colorado, together with any future holder of the Note.

1.12 Non Defined Terms. Any term not defined herein shall have the same meaning as provided in the Credit Agreement.

ARTICLE II

GRANTING CLAUSE

2.1 Grant to Trustee. As security for the payment, performance and discharge of the Secured Obligations and the Trust created herein, Grantor irrevocably GRANTS, BARGAINS, SELLS, TRANSFERS, CONVEYS and ASSIGNS to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary in and to the Real Property, whether now owned or hereafter acquired, together with all and singular the rights, hereditaments, and appurtenances in anywise appertaining or belonging thereto, unto Trustee and Trustee's successors and substitutes, in trust with power of sale for the use and benefit of Beneficiary, and subject to all provisions hereof.

2.2 Security Interest to Beneficiary. As additional security for the Secured Obligations, Grantor hereby grants to Beneficiary a security interest in the Real Property, the

Chattels and the Intangible Personalty. To the extent any of the Chattels or the Intangible Personalty may be or have been acquired with funds advanced by Beneficiary under the Loan Documents, this security interest is a purchase money security interest. This Deed of Trust constitutes a Security Agreement under the Uniform Commercial Code of Nebraska (the "Code") with respect to any part of the Real Property, including the Chattels and Intangible Personalty that may or might now or hereafter be or be deemed to be personal property, fixtures or property other than real estate (all collectively hereinafter called "Collateral"); all of the terms, provisions, conditions and agreements contained in this Deed of Trust pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Real Property, and the following provisions of this section shall not limit the generality or applicability of any other provisions of this Deed of Trust but shall be in addition thereto:

- (a) The Collateral shall be used by Grantor solely for business purposes;
- (b) The Collateral (excluding the Intangible Personalty) shall be kept at the real estate comprising a part of the Real Property, and shall not be removed therefrom without the prior written consent of Beneficiary such consent not to be unreasonable withheld conditional or delayed (being the Secured Party as that term is used in the Code); and the Collateral may be affixed to such real estate but shall not be affixed to any other real estate;
- (c) Except as permitted under the Credit Agreement, no financing statement covering any of the Collateral or any proceeds thereof is on file in any public office; and Grantor will, at its cost and expense, upon demand, furnish to Beneficiary such further information and will execute and deliver to Beneficiary such financing statements and other documents in form satisfactory to Beneficiary and will do all such acts and things as Beneficiary may at any time or from time to time reasonably request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Secured Obligations, subject to no adverse liens or encumbrances, except as permitted under the Credit Agreement; and Grantor hereby authorizes Beneficiary to prepare and file any and all financing statements in the proper recording office and will pay the cost of filing the same or filing or recording such financing statements or other documents and this instrument in all public offices wherever filing or recording is deemed by Beneficiary to be necessary or desirable;
- (d) The terms and provisions contained in this Section and in Section 8.6 of this Deed of Trust shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code; and
- (e) This Deed of Trust constitutes a financing statement under the Code with respect to the Collateral. As such, this Deed of Trust covers all items of the Collateral that are or are to become fixtures. Grantor is the "Debtor" and Beneficiary is the "Secured Party" (as those terms are defined and used in the Code) insofar as this Deed of Trust constitutes a financing statement.

ARTICLE III

GRANTOR'S TITLE AND AUTHORITY

3.1 Warranty of Title. Grantor represents and warrants to Beneficiary that:

(a) Grantor has insurable title to the Real Property in fee simple absolute, subject only to the lien of general taxes for the current year, payable the following year, those encumbrances permitted under the Credit Agreement, and those additional matters, if any, set forth in Exhibit "B" attached hereto;

(b) Grantor is the absolute owner of the Chattels and the Intangible Personalty, free of any liens, encumbrances, security interests, and other claims whatsoever, except insofar as the Chattels may be encumbered by the lien of general taxes for the current year, payable in the following year, or by any encumbrance permitted under the Credit Agreement, or listed in Exhibit "B"; and

(c) Grantor, for itself and its heirs, successors and assigns, hereby agrees to warrant and forever defend, all and singular, all of the Real Property and property interests granted and conveyed in trust pursuant to this Deed of Trust, against every person whomsoever lawfully claiming, or to claim, the same or any part thereof, except for the liens and encumbrances permitted hereunder or under the Credit Agreement.

The warranties contained in this Section shall survive foreclosure of this Deed of Trust, and shall inure to the benefit of and be enforceable by any person who may acquire title to the Real Property, the Chattels, or the Intangible Personalty pursuant to any such foreclosure; provided, however, that as to persons or entities other than Beneficiary, the warranty set forth in subsection (c) above shall apply only to claims made by persons claiming by, through or under Grantor.

ARTICLE IV

GRANTOR'S AFFIRMATIVE COVENANTS

4.1 Performance. Grantor guaranties to pay all principal, interest, and other sums payable under the Note, on the date when such payments are due, without notice or demand.

4.2 Performance of Other Obligations. Grantor will promptly and strictly perform and comply with all other material covenants, conditions, and prohibitions required of Grantor by the terms of the Loan Documents.

4.3 Other Encumbrances. Grantor will promptly and strictly perform and comply with all material covenants, conditions, and prohibitions required of Grantor in connection with any other encumbrance affecting the Real Property, the Chattels, or the Intangible Personalty, or any part thereof, or any interest therein, regardless of whether such other encumbrance is superior or subordinate to the lien hereof.

4.4 Payment of Taxes. Except as otherwise permitted under the Credit Agreement, Grantor will promptly pay all tax obligations in connection with the Real Property, which obligations include, but are not limited to, the following:

(a) Property Taxes. Grantor will pay, before delinquency, all taxes and assessments, general or special, which may be levied or imposed at any time against the Real Property, the Chattels, or the Intangible Personalty. Upon Beneficiary's request, within ten (10) days after each payment of any such tax or assessment, Grantor will deliver to Beneficiary an official receipt for such payment.

(b) Deposit for Taxes. If Beneficiary shall at any time so request in writing during the continuation of an Event of Default under the Credit Agreement, Grantor will immediately deposit with Beneficiary an amount equal to 1/12th of the amount which Beneficiary estimates will be required to make the next annual payment of taxes, assessments, and similar governmental charges referred to in this section, multiplied by the number of whole or partial months that have elapsed since March 31 of the current year. Thereafter, with each monthly payment under the Note, Grantor will deposit with Beneficiary an amount equal to 1/12th of the amount that Beneficiary estimates will be required to make the next annual payment of taxes, assessments, and similar governmental charges referred to in this Section. The purpose of these provisions is to provide Beneficiary with sufficient funds on hand to pay all such taxes, assessments, and other governmental charges thirty (30) days before the date on which they become past due. Beneficiary will apply the amounts so deposited to the payment of such taxes, assessments, and other charges when due, but in no event will Beneficiary be liable for any interest on any amount so deposited, and the money so received may be held and commingled with Beneficiary's own funds.

(c) Intangible Taxes. If by reason of any statutory or constitutional amendment or judicial decision adopted or rendered after the date hereof, any tax, assessment, or similar charge is imposed against the Note, against Beneficiary (other than any tax based on Beneficiary's income), or against any interest of Beneficiary in any real or personal property encumbered hereby, Grantor will pay such tax, assessment, or other charge before delinquency.

(d) Right to Contest. Notwithstanding any other provision of this section, Grantor will not be deemed to be in default under this Deed of Trust solely by reason of Grantor's failure to pay any tax, assessment or similar governmental charge so long as, in Beneficiary's reasonable judgment, each of the following conditions is satisfied:

(i) Grantor is engaged in and diligently pursuing in good faith administrative or judicial proceedings appropriate to contest the validity or amount of such tax, assessment, or charge; and

(ii) Nonpayment of such tax, assessment, or charge will not result in the loss or forfeiture of any property encumbered hereby or any interest of Beneficiary therein; and

(iii) Grantor's reserve of a sum equal to the amount of the disputed tax, assessment or charge plus the interest, penalties, advertising charges, and other costs which Beneficiary estimates are likely to become payable if Grantor's contest is unsuccessful.

If Beneficiary reasonably determines that any one (1) or more of such conditions is not satisfied or is no longer satisfied, Grantor will pay the tax, assessment, or charge in question, together with any interest and penalties thereon, within ten (10) days after Beneficiary gives notice of such determination.

4.5 Future Taxation. Grantor, by the payment of any such tax or taxes, shall protect Beneficiary against any and all loss from any taxation of indebtedness, mortgages or deeds of trust, direct or indirect, that may be imposed upon this Deed of Trust, the lien of this Deed of Trust on the Real Property, or upon the Secured Obligations, by any law, rule, regulation or levy of the federal government, any state government, or any political subdivision thereof. In the event the burden of such taxation cannot lawfully be shifted from Beneficiary to Grantor, Beneficiary may declare the entire Secured Obligations due and payable thirty (30) days after written notice to Grantor.

4.6 Maintenance of Insurance. Grantor shall insure and keep insured, with good and responsible insurance companies, all of the Real Property and Improvements and other insurable assets owned by it which is of a character usually insured by Persons similarly situated and operating like businesses against loss or damage from such hazards and risks, and in such amounts, as are insured by Persons similarly situated; and Grantor shall insure such other hazards and risks with good and responsible insurance companies as and to the extent usually insured by Persons similarly situated and conducting similar businesses (the "Insurance"). Grantor shall, upon the written request of Beneficiary, provide a certificate setting forth in summary form the nature and extent of the Insurance. All policies of Insurance (i) shall name Beneficiary as an additional named insured and loss payee, as its interest may appear, (ii) shall cover Grantor and any other persons or entities having an interest in the Real Property and insurable Collateral, as their interests may appear, (iii) shall insure the named insureds against all liability for loss, injury, damage or claims caused by, arising out of or in connection with the ownership, possession, operation or maintenance of the Real Property and Collateral, (iv) shall provide that if such insurance is canceled for any reason, or if such insurance is allowed to lapse for nonpayment of premiums, such cancellation or lapse shall not be effective as to Beneficiary for thirty (30) days after receipt by Beneficiary of written notice from the insurers of such cancellation or lapse, (v) shall be primary without right of contribution from any other insurance which may be carried by Beneficiary, and (vi) shall expressly provide that all of the provisions thereof shall operate in the same manner as if there were a separate policy covering each insured (provided that such policies shall not operate to increase the insurer's limit of liability). Upon written request, Grantor shall furnish to Beneficiary original policies, certificates or other appropriate evidence of the Insurance coverage required hereby and evidence that the applicable premium has been paid.

In the event the Real Property is ever found to be in a flood zone, Grantor hereby agrees to obtain flood insurance as is customary for similarly situated property in such amounts and with such deductibles and under policies in such form as shall be reasonably satisfactory to

Beneficiary. In the event Grantor does not obtain or maintain the flood insurance as required in this paragraph within forty-five (45) days after written notice of such failure is received from Beneficiary, Beneficiary shall be permitted to purchase such flood insurance, at Grantor's sole cost and expense.

Grantor agrees to direct all insurers under the Insurance to pay all proceeds payable thereunder to Beneficiary and all proceeds received by Beneficiary shall be delivered to Grantor for the sole purpose of replacing or repairing the damaged Real Property and Collateral, except if an Event of Default is continuing in which case such proceeds may be applied to the Secured Obligations in such order and manner as Beneficiary shall determine. During the continuance of an Event of Default, Grantor irrevocably, makes, constitutes and appoints Beneficiary (and all officers, employees or agents designated by Beneficiary) as Grantor's true and lawful attorney-in-fact (and agent-in-fact) for the purpose of making, settling and adjusting claims with respect to any Real Property and Collateral under the Insurance, endorsing the name of Grantor on any check, draft, instrument or other item of payment for the proceeds of the Insurance payable in with respect to any Real Property and Collateral and making all determinations and decisions with respect to the Insurance with respect to any Real Property and Collateral. In the event that Beneficiary is entitled hereunder to receive proceeds under the Insurance, Beneficiary will have no obligation to see to the proper application of any Insurance proceeds paid over to Grantor, nor will any such proceeds received by Beneficiary bear interest or be subject to any other charge for the benefit of Grantor. During the continuance of any Event of Default, Beneficiary may, prior to the application of any Insurance proceeds, commingle them with Beneficiary's own funds and otherwise act with regard to such proceeds as Beneficiary may determine in Beneficiary's sole discretion.

If Grantor at any time or times hereafter shall fail to obtain or maintain any of the Insurance or to pay any premium in whole or in part relating thereto, then Beneficiary, without waiving or releasing any obligation or default by Grantor hereunder, may (but shall be under no obligation to) obtain and maintain the Insurance and pay such premiums and take such other reasonable actions with respect thereto as Beneficiary deems advisable. All sums disbursed by Beneficiary in connection with any such actions, including without limitation court costs, expenses, other charges relating thereto and reasonable attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court costs, receivership fees and costs, and disbursements, shall constitute Secured Obligations hereunder and shall be payable on demand by Grantor to Beneficiary and, until paid, shall bear interest at the Default Rate (as defined in the Credit Agreement).

If Beneficiary shall at any time so request in writing during the continuance of an Event of Default, Grantor will immediately deposit with Beneficiary an amount equal to 1/12th of the amount which Beneficiary reasonably estimates will be required to make the next annual payments of the premium for the policies of Insurance referred to in this Section, multiplied by the number of whole and partial months which have elapsed since the most recent policy anniversary date for each such policy. Thereafter, with each monthly payment under the Note, Grantor will deposit an amount equal to 1/12th of the amount which Beneficiary reasonably estimates will be required to pay the next required annual premium for each Insurance policy referred to in this Section. The purpose of these provisions is to provide Beneficiary with sufficient funds on hand to pay all such premiums thirty (30) days before the date on which they

become past due. Beneficiary will apply the amounts so deposited to the payment of such Insurance premiums when due, but in no event will Beneficiary be liable for any interest on any amounts so deposited, and the money so received may be held and commingled with Beneficiary's own funds.

4.7 Maintenance and Repair of Property and Chattels. Grantor will at all times maintain the Real Property and the Chattels in good condition and repair, will diligently prosecute the completion of any building or other improvement which is at any time in the process of construction on the Real Property, and subject to Section 4.9, will promptly repair, restore, replace, or rebuild any part of the Real Property or the Chattels which may be affected by any casualty or any public or private taking or injury to the Real Property or the Chattels. Subject to Section 4.9, all costs and expenses arising out of the foregoing shall be paid by Grantor whether or not the proceeds of any insurance or eminent domain shall be sufficient therefor. Grantor will comply with all statutes, ordinances, and other governmental or quasi-governmental requirements and recorded private covenants relating to the ownership, construction, use, or operation of the Real Property, including but not limited to any environmental or ecological requirements; provided, that so long as Grantor is not otherwise in default hereunder, Grantor may, upon establishing reserves therefor to the extent required by GAAP, proceed diligently and in good faith to contest the validity or applicability of any such statute, ordinance, or requirement. Beneficiary and any person authorized by Beneficiary may enter and inspect the Real Property at all reasonable times, upon reasonable notice to Grantor, and may inspect the Chattels, wherever located, at all reasonable times and upon reasonable notice to Grantor.

4.8 Performance of Tenant Leases. As used herein, the term "Tenant Lease(s)" refers to any and all leases, subleases and other agreements under the terms of which any person other than Grantor has or acquires any right to occupy or use the Real Property or any part thereof; provided, however, the defined term Tenant Lease(s) shall not include daily rentals of hotel rooms or other short term rentals of less than fourteen (14) consecutive days occurring in Grantor's ordinary course of business. Grantor will perform promptly all of Grantor's obligations under or in connection with each present and future Tenant Lease. If Grantor receives at any time any written communication from the tenant under any Tenant Lease asserting a default by Grantor under such Tenant Lease, or purporting to terminate or cancel such Tenant Lease, Grantor will promptly forward a copy of such communication (and any subsequent communications relating thereto) to Beneficiary. Grantor shall also promptly furnish to Beneficiary copies of any notices given to Grantor under any Tenant Lease, extending the term of any Tenant Lease, requiring or demanding the expenditure of any sum by Grantor (or demanding the taking of any action by Grantor), or relating to any other material obligation of Grantor under such Tenant Lease. Grantor agrees that Beneficiary, in its sole but reasonable discretion may advance any sum or take any action which Beneficiary believes is necessary or required to maintain any Tenant Lease in full force and effect, and all such sums advanced by Beneficiary, together with all costs and expenses incurred by Beneficiary in connection with action taken by Beneficiary pursuant to this Section 4.8, shall be due and payable by Grantor to Beneficiary upon demand, shall bear interest until paid at the Default Rate (as defined in the Credit Agreement), and shall be secured by this Deed of Trust. Under no circumstances shall this Section be deemed a waiver of or modification to Section 5.4 below.

4.9 Eminent Domain; Private Damage. If all or any part of any property encumbered hereby is taken or damaged by eminent domain or any other public or private action, Grantor will notify Beneficiary promptly of the time and place of all meetings, hearings, trials, and other proceedings relating to such action. Beneficiary may participate in all negotiations and appear and participate in all judicial or arbitration proceedings concerning any award or payment which may be due as a result of such taking or damaging, and if an Event of Default has occurred and is continuing, Beneficiary may, in Beneficiary's reasonable discretion, compromise or settle, in the names of both Grantor and Beneficiary, any claim for any such award or payment. If an Event of Default is continuing, any such award or payment is to be paid to Beneficiary and will be applied first to reimburse Beneficiary for all costs and expenses, including reasonable attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court costs, receivership fees and costs, and disbursements, incurred by Beneficiary in connection with the ascertainment and collection of such award or payment. The balance, if any, of such award or payment may, if an Event of Default is continuing, in Beneficiary's sole discretion, either (a) be retained by Beneficiary and applied toward the Secured Obligations, or (b) be paid over, in whole or in part and subject to such conditions as Beneficiary may impose, to Grantor for the purpose of restoring, repairing, or rebuilding any part of the encumbered property affected by the taking or damaging. If an Event of Default has not occurred or is not continuing, Beneficiary shall pay over any such award or payment to Grantor, less any costs and expenses, including reasonable attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court costs, receivership fees and costs, and disbursements, incurred by Beneficiary in connection with the ascertainment and collection of such award or payment. Beneficiary will have no duty to see to the application of any part of any award or payment released to Grantor. Grantor's duty to pay the Note in accordance with its terms and to perform the other Secured Obligations will not be suspended by the pendency or discharged by the conclusion of any proceedings for the collection of any such award or payment, and any reduction in the Secured Obligations resulting from Beneficiary's application of any such award or payment will take effect only when Beneficiary receives such award or payment. If this Deed of Trust has been foreclosed prior to Beneficiary's receipt of such award or payment, Beneficiary may nonetheless retain such award or payment to the extent required to reimburse Beneficiary for all costs and expenses, including reasonable attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court costs, receivership fees and costs, and disbursements, incurred in connection therewith, and to discharge any deficiency remaining with respect to the Secured Obligations.

4.10 Mechanics' Liens. Except as permitted under the Credit Agreement, Grantor will keep the Real Property free and clear of all liens and claims of liens by contractors, subcontractors, mechanics, laborers, materialmen, and other such persons, and will cause any recorded statement of any such lien to be released of record within thirty (30) days after the recording thereof. Notwithstanding the preceding sentence, however, Grantor will not be deemed to be in default under this Section if and so long as Grantor (a) contest in good faith the validity or amount of any asserted lien and diligently prosecutes or defends an action appropriate to obtain a binding determination of the disputed matter, and (b) establish such reserves therefor as may be required under GAAP or Beneficiary.

4.11 Defense of Actions. Grantor will defend, at Grantor's expense, any third party action, proceeding or claim which affects any property encumbered hereby or any interest of

Beneficiary in such property or in the Secured Obligations, and will indemnify and hold Beneficiary harmless from all loss, damage, cost, or expense, including reasonable attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court costs, receivership fees and costs, and disbursements, which Beneficiary may incur in connection therewith unless attributable to Beneficiary's gross negligence or willful misconduct.

4.12 Expenses of Enforcement. Grantor will pay all costs and expenses which Beneficiary may incur in connection with any effort or action to enforce or defend Beneficiary's rights and remedies under this Deed of Trust, including but not limited to reasonable appraisal fees, attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court costs, receivership fees and costs, disbursements, consultants' fees, and other expenses incurred by Beneficiary in securing possession of, and realizing upon, any security for the Secured Obligations. All such costs and expenses shall constitute part of the Secured Obligations and may be included in the computation of the amount owed to Beneficiary for purposes of foreclosing or otherwise enforcing this Deed of Trust.

4.13 Priority of Leases. To the extent Grantor has the right, under the terms of any Tenant Lease, to make such Tenant Lease subordinate to the lien hereof, Grantor will, at Beneficiary's request and Grantor's expense, take such action as may be required to effect such subordination. In addition, Grantor will, at Beneficiary's request and at Grantor's sole expense, take such action as may be necessary to subordinate the lien hereof to any future Tenant Lease.

4.14 Inventories; Assembly of Chattels. Grantor will, from time to time at the reasonable request of Beneficiary, supply Beneficiary with a current inventory of the Chattels and the Intangible Personalty, in such detail as Beneficiary may reasonably require. During the continuance of an Event of Default hereunder, Grantor will at Beneficiary's request assemble the Chattels and make them available to Beneficiary at any place designated by Beneficiary which is reasonably convenient to both parties.

4.15 Further Assurances; Estoppel Certificates. Grantor will execute and deliver to Beneficiary upon demand, and pay the costs of preparation and recording thereof, any further documents which Beneficiary may reasonably request to confirm or perfect the liens and security interests created or intended to be created hereby, or to confirm or perfect any evidence of the Secured Obligations. Grantor will also, within twenty (20) days after any request by Beneficiary, deliver to Beneficiary a signed and acknowledged statement certifying to Beneficiary, or to any proposed transferee of the Secured Obligations, (a) the balance of principal, interest, and other sums then outstanding under the Note, and (b) whether Grantor claims to have any offsets or defenses with respect to the Secured Obligations and, if so, the nature of such offsets or defenses.

4.16 Patriot Act.

(a) As of the date of this Deed of Trust, Grantor is and, during the term of this Deed of Trust shall remain, in full compliance with all the applicable laws and regulations of the United States of America that prohibit, regulate or restrict financial transactions, including but not limited to, conducting any activity or failing to conduct any activity, if such action or inaction constitutes a money laundering crime, including any money

laundering crime prohibited under the Money Laundering Control Act, 18 U.S.C. 1956, 1957, or the Bank Secrecy Act, 31 U.S.C. 5311 *et seq.* and any amendments or successors thereto and any applicable regulations promulgated thereunder.

(b) Grantor represents and warrants that: (i) neither it, nor any of its constituent owners or any officer, director, member, manager, partner or employee, is or will become named as a “Specially Designated National and Blocked Person” as designated by the United States Department of the Treasury’s Office of Foreign Assets Control or as a person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; (ii) it is not owned or controlled, directly or indirectly, by the government of any country that is subject to a United States Embargo; (iii) it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a “Specially Designated National and Blocked Person,” or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and that it is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity or nation; (iv) no funds will be used to make any payments due hereunder or pursuant to the Note which were obtained directly or indirectly from a Specially Designated National and Blocked Person or otherwise derived from a country that is subject to a United States Embargo; and (v) no current or future tenant, subject to a Tenant Lease, of any portion of the Real Property, nor any officer, director, member, manager, partner or constituent owner of such tenant, subject to a Tenant Lease, is or will become named a Specially Designated National and Blocked Person; provided that, in the event that a tenant of any portion of the Real Property is a publicly-traded company whose shares are listed on a national stock exchange, such representation and warranty shall not apply to shareholders of such tenant.

(c) Grantor represents and warrants that it is not in violation of the requirements of the applicable laws referred to above, including the Money Laundering Control Act, 18 U.S.C. 1956, 1957, the Bank Secrecy Act, 31 U.S.C. 5311 *et seq.*, the applicable regulations promulgated thereunder, and the Foreign Assets Control Regulations, 31 C.F.R. Section 500 *et seq.*

(d) Grantor shall notify Beneficiary immediately upon receipt of any information indicating a breach of this Section 4.16 or if Grantor or any officer, director, member, manager, member, employee or constituent owner of Grantor is custodially detained on charges relating to money laundering, whereupon Beneficiary shall be entitled to take all actions necessary so that Beneficiary is in compliance with all Anti-Money Laundering Regulations. Any and all loss, damage, liability, penalty, fine or expense (including reasonable attorney’s fees and investigatory expenses) incurred by Beneficiary in connection therewith, including but not limited to attorney’s fees, shall be included in the Secured Obligations secured hereunder and shall immediately be due and payable by Grantor to Beneficiary.

ARTICLE V

GRANTOR'S NEGATIVE COVENANTS

5.1 Waste and Alterations. Grantor will not commit or permit any waste with respect to the Real Property or the Chattels. Grantor shall not cause or permit any part of the Real Property, including but not limited to any building, structure, parking lot, driveway, or other ground improvement, to be removed, demolished, or materially altered (except in the ordinary course of business) without the prior written consent of Beneficiary, which consent will not be unreasonably withheld, conditioned or delayed.

5.2 Zoning and Private Covenants. Grantor will not initiate, join in, or consent to any change in any zoning ordinance or classification, any change in the "zone lot" or "zone lots" (or similar zoning unit or units) presently comprising the Real Property, any transfer of development rights, any change in any private recorded restrictive covenant, or any change in any other public or private restriction limiting or defining the uses which may be made of the Real Property or any part thereof, without the express written consent of Beneficiary. If under applicable zoning provisions the use of all or any part of the Real Property is or becomes a nonconforming use, Grantor will not cause such use to be discontinued or abandoned without the express written consent of Beneficiary, which consent will not be unreasonably withheld.

5.3 Interference with Tenant Leases. Grantor will neither do nor neglect to do anything which may cause or permit the termination of any Tenant Lease (other than by expiration in accordance with the terms of such Tenant Lease or on account of a default by the tenant under any such Tenant Lease) of all or any part of the Real Property, or cause or permit the withholding or abatement of any rent payable under any Tenant Lease. Except with the prior written consent of Beneficiary, Grantor will not: (a) collect rent from all or any part of the Real Property for more than one (1) month in advance; (b) materially modify the terms and provisions of any Tenant Lease, nor shall Grantor give any consent (including, but not limited to, any consent to any assignment of, or subletting under, any Tenant Lease, except as expressly permitted thereby) or approval, required or permitted by such terms and provisions or cancel or terminate any Tenant Lease; provided, however, that Grantor may cancel or terminate any Tenant Lease as a result of a default by the tenant thereunder and failure of such tenant to cure the default within the applicable time periods set forth in the Tenant Lease; (c) assign the rents from the Real Property or any part thereof; or (d) (other than by expiration in accordance with the terms of such Tenant Lease or on account of a default by the tenant under any such Tenant Lease) consent to the cancellation or surrender of all or any part of any Tenant Lease. Under no circumstances shall this section be deemed a waiver or modification of Section 5.4.

5.4 Transfer of Property. Grantor will not convey, lease for a period longer than twelve (12) months duration, or otherwise transfer, abandon, alter or modify, either voluntarily or involuntarily, the Real Property or any part thereof or interest therein, without the prior written consent of Beneficiary, except as otherwise permitted under the Credit Agreement.

5.5 Further Encumbrance of Property. Except for the encumbrances set forth on Exhibit B attached hereto, Grantor will neither create nor permit any junior lien or encumbrance

against the Real Property, or any part thereof or interest therein, without the prior written consent of Beneficiary.

5.6 Assessments Against Property. Grantor will not, without the prior written approval of Beneficiary, consent to any so-called special districts, special improvement districts, benefit assessment districts or similar districts, or any other body or entity of any type, and this provision shall serve as RECORD NOTICE to any such district or districts or any governmental entity under whose authority such district or districts exist or are being formed that, should Grantor or any other person or entity include all or any portion of the Real Property in such district or districts, whether formed or in the process of formation, without first obtaining Beneficiary's express written consent, the rights of Beneficiary in the Real Property pursuant to this Deed of Trust or following any foreclosure of this Deed of Trust, and the rights of any person or entity to whom Beneficiary might transfer the Real Property following a foreclosure of this Deed of Trust, shall be senior and superior to any taxes, charges, fees, assessments or other impositions of any kind or nature whatsoever, or liens (whether statutory, contractual or otherwise) levied or imposed, or to be levied or imposed, upon the Real Property or any portion thereof as a result of inclusion of the Real Property in such district or districts.

5.7 Further Encumbrance of Chattels. Grantor will not create or permit any junior lien, security interest or other encumbrance against the Chattels without the prior written consent of Beneficiary, except as otherwise permitted under the Credit Agreement.

5.8 Transfer or Removal of Chattels. Grantor will not sell, transfer or remove from the Real Property all or any part of the Chattels, outside of the ordinary course, unless the items sold, transferred, or removed are simultaneously replaced with similar items of equal or greater value, except for obsolete Chattels and further as otherwise permitted under the Credit Agreement.

5.9 Change of Name. The Grantor will not change its name without first notifying Beneficiary of its intention to do so and delivering to Beneficiary such executed modifications or supplements to this Deed of Trust (and to any financing statement which may be filed in connection herewith) as Beneficiary may reasonably require.

5.10 Improper Use of Property or Chattels. Grantor will not use the Real Property or the Chattels for any purpose or in any manner which violates, in any material respect, any applicable law, ordinance, or other governmental requirement, the requirements or conditions of any insurance policy, or any private covenant.

5.11 Use of Proceeds. Grantor will not use any funds advanced by Beneficiary for any purpose other than as permitted under the Credit Agreement.

ARTICLE VI

ASSIGNMENTS OF LEASES AND RENTS

6.1 Assignment of Leases and Rents. As further security for the Secured Obligations, Grantor hereby absolutely grants, transfers and assigns unto Beneficiary all rents, royalties, issues, profits and income ("Rents") now or hereafter due or payable for the occupancy

or use of the Real Property, and all Tenant Leases, whether written or oral, with all security therefor, including all guaranties thereof, now or hereafter affecting the Real Property; on the condition that Beneficiary hereby grants to Grantor a license to collect and retain such Rents prior to the occurrence of any Event of Default hereunder. Such license shall be revocable by Beneficiary without notice to Grantor at any time after the occurrence of an Event of Default. Grantor represents that the Rents and the Tenant Leases have not been heretofore sold, assigned, transferred or set over by any instrument now in force and will not at any time during the life of this assignment be sold, assigned, transferred or set over by Grantor or by any person or persons whosoever; and Grantor has good right to sell, assign, transfer and set over the same and to grant to and confer upon Beneficiary the rights, interest, powers and authorities herein granted and conferred. Failure of Beneficiary at any time or from time to time to enforce the assignment of leases and rents under this Section shall not in any manner prevent its subsequent enforcement, and Beneficiary is not obligated to collect anything hereunder, but is accountable only for sums actually collected. Under no circumstance shall this Article be deemed a waiver of or modification to Section 5.4.

6.2 Further Assurances. Grantor shall give Beneficiary at any time upon written demand any further or additional forms of assignment of transfer of such rents, Tenant Leases and security as may be reasonably requested by Beneficiary, and shall deliver to Beneficiary executed copies of all such Tenant Leases and security.

6.3 Application of Rents. The acceptance of this Deed of Trust by Beneficiary or the exercise of any rights by it hereunder shall not be, or be construed to be, an affirmation by it of any Tenant Lease nor an assumption of any liability under any Tenant Lease.

6.4 Collection of Rents. During the continuance of an Event of Default, Beneficiary may declare all sums secured hereby immediately due and payable, and may, at its option, without notice, and whether or not the Secured Obligations shall have been declared due and payable, either in person or by agent, with or without bringing any action or proceeding, or by a receiver to be appointed by a court: (a) enter upon, take possession of, manage and operate the Real Property, or any part thereof (including without limitation making necessary repairs, alterations and improvements to the Real Property); (b) make, cancel, enforce or modify Tenant Leases; (c) obtain and evict tenants; (d) fix or modify rents; (e) do any acts which Beneficiary deems reasonably proper to protect the security thereof; and (f) either with or without taking possession of the Real Property, in its own name sue for or otherwise collect and receive such Rents, including those past due and unpaid. In connection with the foregoing, Beneficiary shall be entitled and empowered to employ attorneys, and management, rental and other agents in and about the Real Property and to effect the matters which Beneficiary is empowered to do, as reasonably necessary, and in the event Beneficiary shall itself effect such matters, Beneficiary shall be entitled to charge and receive reasonable management, rental and other fees therefor as may be customary in the area in which the Real Property is located, taking into consideration the type and scope of the services provided by Beneficiary; and the reasonable fees, charges, costs and expenses of Beneficiary or such persons shall be additional Secured Obligations. Beneficiary may apply all funds collected as aforesaid, less reasonable costs and expenses of operation and collection, including reasonable attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court costs, receivership fees and costs, and disbursements, as aforesaid, upon any Secured Obligations, and in such order as Beneficiary may

determine. The entering upon and taking possession of the Real Property, the collection of such Rents and the application thereof as aforesaid shall not cure or waive any default or waive, modify or affect notice of default under the Note or this Deed of Trust or invalidate any act done pursuant to such notice.

6.5 Authority of Beneficiary. Any tenants or occupants of any part of the Real Property are hereby authorized to recognize the claims of Beneficiary hereunder without investigating the reason for any action taken by Beneficiary, or the validity or the amount of indebtedness owing to Beneficiary, or the existence of any default in the Note or this Deed of Trust, or under or by reason of this assignment of leases and rents, or the application to be made by Beneficiary of any amounts to be paid to Beneficiary. The sole signature of Beneficiary shall be sufficient for the exercise of any rights under this assignment and the sole receipt of Beneficiary for any sums received shall be a full discharge and release therefor to any such tenant or occupant on the Real Property. Checks for all or any part of the rentals collected under this assignment of leases and rents shall be drawn to the exclusive order of Beneficiary.

6.6 Indemnification of Beneficiary. Nothing herein contained shall be deemed to obligate Beneficiary to perform or discharge any obligation, duty or liability of lessor under any lease of the Real Property, and Grantor shall and does hereby indemnify and hold Beneficiary harmless from any and all liability, loss or damage which Beneficiary may or might incur under any lease of the Real Property or by reason of the assignment, with the exception of any liability, loss or damage which results from Beneficiary's gross negligence or willful misconduct or solely from the actions of Beneficiary following the time Beneficiary or its agents or a receiver applied for by Beneficiary takes possession of the Real Property; and any and all such liability, loss or damage incurred by Beneficiary, together with the costs and expenses, including reasonable attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court costs, receivership fees and costs, and disbursements, incurred by Beneficiary in defense of any such claims or demands therefor (whether successful or not), shall be additional Secured Obligations, and Grantor shall reimburse Beneficiary therefor on demand.

ARTICLE VII

EVENTS OF DEFAULT

Each of the following events will independently constitute a default (an "Event of Default") under this Deed of Trust and under each of the other Loan Documents:

7.1 Breach of the Deed of Trust. Grantor's breach of this Deed of Trust, provided however, that Grantor shall have (i) fifteen (15) days to cure a default in the payment of fees or any other Secured Obligation due under any Loan Document (excepting only regularly scheduled payments due under the Note which shall be due and payable as set forth in the Note) and (ii) thirty (30) days to cure a non-payment default after the earlier of (a) the date on which such failure shall first become actually known to Grantor, (b) written notice thereof is given to Grantor by Beneficiary; provided that if such default is of such a nature that it is not reasonably susceptible to cure within thirty (30) days, then within a reasonable time thereafter provided Grantor shall have begun to cure such default within the initial thirty (30) day period and continues to diligently prosecute the same to completion;

7.2 Other Loan Documents. The occurrence of any default (after the lapse of any applicable grace or cure period) by Grantor, or the occurrence of any event or circumstance defined as an event of default, under the Credit Agreement, the Note, any of the Loan Documents (other than this Deed of Trust), or any other promise or obligation owed by Grantor to Beneficiary;

7.3 Levy Against Property. The making or any attempt to make any levy, seizure or attachment of any of Grantor's Real Property, Chattels or Intangible Personalty;

7.4 Appointment of Receiver. The appointment of a receiver or trustee for Grantor, for any of the Real Property, Collateral or for any substantial part of Grantor's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, of Grantor which is a corporation, limited liability company or a partnership; provided, however, that if such appointment or commencement of proceedings against Grantor is involuntary and Grantor is contesting such proceedings in good faith, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

7.5 Dissolution, Insolvency or Bankruptcy. The commencement of any proceedings in bankruptcy by or against Grantor or for the liquidation or reorganization of Grantor, or alleging that Grantor is insolvent or unable to pay its Debts as they mature, or for the readjustment or arrangement of any of Grantor's debts, whether under the United States Bankruptcy Code or under any other law, whether state or federal, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving Grantor; provided, however, that if such commencement of proceedings against Grantor is involuntary and Grantor is contesting such proceedings in good faith, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

7.6 Misrepresentation. The making, furnishing or omission by Grantor to Beneficiary of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Deed of Trust or the Loan Documents or in connection with any other agreement between Grantor and Beneficiary, which is untrue or misleading in any material respect;

7.7 Judgments. The entry of any final, non-appealable judgment or order against Grantor which remains unsatisfied or undischarged and in effect for thirty (30) days after such entry without a stay of enforcement or execution;

7.8 Admissions Regarding Debts. The admission of the Grantor, or any assignee liable for the payment of the Note, whether as maker, endorser or otherwise, in writing of any such party's inability to pay such party's debts as they become due; or

7.9 Death or Dissolution. The death or dissolution of Grantor or any Guarantor.

ARTICLE VIII

BENEFICIARY'S REMEDIES

During the continuance of any Event of Default hereunder, which is not cured within any applicable grace or curative period, Beneficiary may exercise any remedy available at law or in equity, including but not limited to those listed below and those listed in the other Loan Documents, in such sequence or combination as Beneficiary may determine in Beneficiary's sole discretion:

8.1 Acceleration. Beneficiary may declare the Loan, the Note, or any other Secured Obligations or Loan Documents to which Grantor is or may become primarily obligated immediately due and payable in full without presentment, demand, protest of any kind.

8.2 Performance of Defaulted Obligations. Beneficiary may make any payment or perform any other obligation under the Loan Documents which Grantor has failed to make or perform, and Grantor hereby irrevocably appoints Beneficiary as the true and lawful attorney-in-fact for Grantor to make any such payment and perform any such obligation in the name of Grantor. All reasonable payments made and expenses (including reasonable attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court costs, receivership fees and costs, and disbursements) incurred by Beneficiary in this connection, together with interest thereon at the Default Rate from the date paid or incurred until repaid, will be part of the Secured Obligations and will be immediately due and payable by Grantor to Beneficiary. In lieu of advancing Beneficiary's own funds for such purposes, Beneficiary may use any funds of Grantor which may be in Beneficiary's possession, including but not limited to insurance or condemnation proceeds and amounts deposited for taxes, insurance premiums, or other purposes.

8.3 Suit for Monetary Relief. With or without accelerating the maturity of the Note, Beneficiary may sue from time to time for any amount due under any of the Loan Documents.

8.4 Possession of Property. Beneficiary may enter and take possession of the Real Property without seeking or obtaining the appointment of a receiver, may employ a managing agent for the Real Property, and may lease or rent all or any part of the Real Property, either in Beneficiary's name or in the name of Grantor, and may collect the rents, issues, and profits of the Real Property. Any revenues collected by Beneficiary under this section will be applied first toward payment of all expenses (including reasonable attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court costs, receivership fees and costs, and disbursements) incurred by Beneficiary, together with interest thereon at the Default Rate from the date incurred until repaid, and the balance, if any, will be applied against the Secured Obligations.

8.5 Enforcement of Security Interests. Beneficiary may exercise all rights of a secured party under the Code with respect to the Chattels and the Intangible Personalty, including but not limited to taking possession of, holding, and selling the Chattels and enforcing or otherwise realizing upon any accounts and general intangibles. Any requirement for reasonable notice of the time and place of any public sale, or of the time after which any private

sale or other disposition is to be made, will be satisfied by Beneficiary's giving of such notice to Grantor at least fifteen (15) days prior to the time of any public sale or the time after which any private sale or other intended disposition is to be made.

8.6 Appointment of Receiver. Trustee or Beneficiary shall be entitled, as a matter of absolute right and without regard to the value of any security for the Secured Obligations or the solvency of any person liable therefor, to the appointment of a receiver for the Real Property. Such receiver and his agents shall be empowered: (a) to take possession of the Real Property and any businesses conducted by Grantor or any other person thereon and any business assets used in connection therewith; (b) to exclude Grantor and Grantor's agents, servants, and employees from the Real Property; (c) to collect the rents, issues, profits, and income therefrom; (d) to complete any construction which may be in progress; (e) to do such maintenance and make such repairs and alterations as the receiver reasonably deems necessary; (f) to use all stores of materials, supplies, and maintenance equipment on the Real Property, as necessary to maintain the Real Property and replace such items at the expense of the receivership estate; (g) to pay all taxes and assessments against the Real Property and the Chattels, all premiums for insurance thereon, all utility and other operating expenses, and all sums due under any prior or subsequent encumbrance; and (h) generally to do anything which Grantor could legally do if Grantor was in possession of the Real Property. All expenses incurred by the receiver or his agents shall constitute a part of the Secured Obligations. Any revenues collected by the receiver shall be applied first to the expenses of the receivership, including reasonable attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court costs, receivership fees and costs, and disbursements incurred by the receiver and by Beneficiary, together with interest thereon at the Default Rate from the date incurred until repaid, and the balance shall be applied toward the Secured Obligations or in such other manner as the court may direct. Unless sooner terminated, any such receivership will continue until the Secured Obligations have been discharged in full, or until title to the Real Property has passed after foreclosure sale and all applicable periods of redemption have expired.

8.7 Foreclosure Against Property. Beneficiary may bring an action in any court of competent jurisdiction to foreclose this Deed of Trust or to enforce any of the covenants and agreements hereof.

8.8 Power to Sell. Beneficiary may elect to sell the Real Property, or any part thereof, as follows:

(a) If Beneficiary elects to exercise its power of sale with respect to the Real Property, or any part thereof, Trustee shall record a notice of default in each county in which any part of such Real Property is located and shall mail copies of such notice in the manner prescribed by applicable law to Grantor and to other persons prescribed by applicable law. After the time required by applicable law, Trustee shall give public notice of the sale to the persons and in the manner prescribed by applicable law. Trustee, without demand on Grantor, shall sell such Real Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Real Property in accordance with the provisions of applicable law. Trustee, Beneficiary, or their designee, may purchase at any such sale. Upon receipt of

the price bid, Trustee shall deliver to the purchaser a Trustee's deed conveying all of Grantor's rights in the Real Property that is sold. The recitals in the deed of any matter of fact shall be conclusive proof of the truthfulness thereof.

(b) Should Beneficiary elect to cause the disposal of any of the Real Property, the Chattels and the Intangible Personalty subject to the Security Agreement in Section 2.2, it may dispose of any part thereof in any manner now or hereafter permitted by the Code or in accordance with any other remedy provided by law. Any such disposition may be conducted by an employee or agent of Beneficiary or Trustee. Both Trustee and Beneficiary shall be eligible to purchase any part or all of such Real Property, the Chattels and the Intangible Personalty at any such disposition. Any such disposition may be either public or private as Beneficiary may elect, subject to the provisions of the Code. Beneficiary shall have all of the rights and remedies of a secured party under the Code. Expenses of retaking, holding, preparing for sale, selling or the like shall include Beneficiary's reasonable attorneys' fees and legal expenses, and upon such default, Grantor, upon demand of Beneficiary, shall assemble such Real Property, the Chattels and the Intangible Personalty and make it available to Beneficiary at the Real Property, a place which is hereby deemed reasonably convenient to Beneficiary and Grantor. Beneficiary shall give Grantor at least fifteen (15) days' prior written notice of the time and place of any public sale or other disposition of such Real Property, the Chattels and the Intangible Personalty or of the time at or after which any private sale or any other intended disposition is to be made, and if such notice is sent to Grantor, in the manner provided for the mailing of notices herein, it shall constitute reasonable notice to Grantor.

(c) Trustee is hereby irrevocably appointed the true and lawful attorney-in-fact of Grantor in its name and stead to make all necessary conveyances, assignments, transfers and deliveries of the Real Property, the Chattels and the Intangible Personalty, or any part thereof, and the rights so sold and for that purpose Trustee may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, Grantor hereby ratifying and confirming all that its said attorney or any substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, Grantor, if so requested by Trustee or Beneficiary, shall ratify and confirm any such sale or sales by executing and delivering to Trustee or to such purchaser or purchasers all such instruments as may be advisable in the judgment of Trustee or Beneficiary, for the purpose as may be designated in such request.

(d) Grantor hereby expressly, waives any right which it may have to direct the order in which any of the Real Property, the Chattels and the Intangible Personalty shall be sold in the event of any sale or sales pursuant hereto.

8.9 Proceeds. Unless otherwise provided by law, the proceeds of any sale made, and all sums recovered under this Article VIII, together with all other sums held by Trustee or Beneficiary under this Deed of Trust, shall be applied in the following order:

(a) to the extent allowable under the laws of the State of Nebraska, to all costs and expenses incurred in connection with the sale or sales and any judicial proceedings,

including, but not limited to, all reasonable Trustee's and attorney's fees and expenses, and the costs of any title evidence;

(b) to the repayment of all sums expended by Trustee or Beneficiary in accordance with the terms of this Deed of Trust, the Credit Agreement and Security Documents, together with accrued interest at the Default Rate;

(c) to the payment of all sums owing on the Secured Obligations;

(d) the remainder, if any, to the person or persons legally entitled thereto.

8.10 Power to Purchase. Trustee, Beneficiary, or their designee, may purchase at any sale or sales made under or by virtue of this Article VIII. No recovery of any judgment by Beneficiary and no levy of an execution under any judgment upon the Real Property or upon any other property of Grantor shall affect, in any manner or to any extent, the lien of this Deed of Trust upon the Real Property, or any part thereof, or any liens, rights, powers or remedies of Trustee or Beneficiary hereunder, but such liens, rights, powers and remedies of Trustee and Beneficiary shall continue unimpaired as before.

8.11 Right to Make Repairs, Improvements. Should any part of the Real Property come into the possession of Beneficiary, during the continuance of an Event of Default, Beneficiary may (but shall not be required to) use, operate, and/or make necessary repairs, alterations, additions and improvements to the Real Property for the purpose of preserving it or its value. Grantor covenants to promptly reimburse and pay to Beneficiary, at the place where the Note is payable, or at such other place as may be designated by Beneficiary in writing, the amount of all reasonable expenses (including the cost of any insurance, taxes, or other charges) incurred by Beneficiary in connection with its custody, preservation, use or operation of the Real Property, after the occurrence and during the continuance of an Event of Default, together with interest thereon from the date incurred by Beneficiary at the Default Rate, and all such expenses, costs, taxes, interest, and other charges shall be a part of the Secured Obligations. It is agreed, however, that the risk of accidental loss or damage to the Real Property is undertaken by Grantor and, except for Beneficiary's willful misconduct or gross negligence, Beneficiary shall have no liability whatsoever for decline in value of the Real Property, for failure to obtain or maintain insurance, or for failure to determine whether any insurance ever in force is adequate as to amount or as to the risks insured.

8.12 Surrender of Insurance. Beneficiary may surrender the insurance policies maintained pursuant to the terms hereof, or any part thereof, and receive and apply any unearned premiums as a credit on the Secured Obligations and, in connection therewith, Grantor hereby appoints Beneficiary (or any officer of Beneficiary) as the true and lawful agent and attorney-in-fact for Grantor (with full powers of substitution), which power of attorney shall be deemed to be a power coupled with an interest and therefore irrevocable, to collect such premiums.

8.13 Costs in Enforcing Performance. Grantor shall pay all reasonable costs and expenses including, without limitation, costs of title searches and title policy commitments, Code searches, appraisals, environmental audits, court costs and reasonable in-house and outside attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court

costs, receivership fees and costs, and disbursements, incurred by Beneficiary in enforcing payment and performance of the Secured Obligations or in exercising the rights and remedies of Beneficiary hereunder. All such costs and expenses shall be secured by this Deed of Trust and by all other lien and security documents securing the Secured Obligations. In the event of any court proceedings, attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court costs, receivership fees and costs, and disbursements shall be set by the court and not by jury and shall be included in any judgment obtained by Beneficiary.

8.14 No Waiver of Remedies. Nothing contained in this Deed of Trust or any exercise by Beneficiary of any right or remedy pursuant to this Deed of Trust or any of the other Loan Documents, shall modify or limit any obligations or liabilities of the Grantor under the Credit Agreement, the Note or any of the other Loan Documents. Grantor hereby agrees and acknowledges that Beneficiary may seek to enforce any rights and remedies set forth in this Deed of Trust, the Credit Agreement, the Note and any other of the Loan Documents against Grantor.

8.15 Waiver by Grantor. To the fullest extent permitted by applicable law, Grantor will not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any stay or extension or moratorium law or law pertaining to the marshaling of assets, the administration of estates of decedents, any exemption from execution or sale of the property, or any part thereof, which may affect the covenants and terms of performance of this Deed of Trust, nor claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the Real Property, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision herein, or pursuant to the decree, judgment or order of any court of competent jurisdiction, and Grantor hereby expressly waives all benefit or advantage of any such law or laws, and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to Trustee or Beneficiary, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted.

ARTICLE IX

CONCERNING THE TRUSTEE

9.1 Reconveyance. Upon payment of all sums secured by this Deed of Trust, Beneficiary shall request Trustee to reconvey the Real Property and shall surrender this Deed of Trust to Trustee and Beneficiary will record, at Grantor's sole cost and expense, any release necessary to effect the release of this Deed of Trust. Trustee shall reconvey the Real Property without warranty and without charge to the person or persons legally entitled to it. Such person or persons shall pay any recording costs.

9.2 Successor Trustee. Beneficiary, at its option and expense, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder in the manner provided by the Act. Without conveyance of the Real Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

9.3 Duties and Obligations of Trustee.

- (a) The duties and obligations of Trustee shall be determined solely by the express provisions of this Deed of Trust, the Act, and other applicable governing law. Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth herein and in the Act, and no implied covenants or obligations shall be imposed upon Trustee.
- (b) No provision of this Deed of Trust shall require Trustee to expend or risk its own funds, or otherwise incur any financial obligation in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have grounds for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured.
- (c) Trustee shall not be liable for any action taken in good faith and reasonably believed to be authorized or within the discretion, rights and powers conferred by this Deed of Trust, the Act, or other applicable governing law.

ARTICLE X

MISCELLANEOUS PROVISIONS

10.1 Indemnity. Grantor shall defend, indemnify and hold harmless Beneficiary, any successors to Beneficiary's interest in the Real Property, any purchaser of the Real Property upon foreclosure, and all shareholders, directors, officers, employees and agents of all of the foregoing and their heirs, personal representatives, successors and assigns from and against all claims, costs, expenses, actions, suits, proceedings, losses, damages and liabilities of any kind whatsoever incurred by Beneficiary or its successor in interest, including, but not limited to, all amounts paid in settlement of, and all costs and expenses (including reasonable attorneys' fees, costs and expenses, expert witness fees, investigation costs and expenses, court costs, receivership fees and costs, and disbursements) incurred in defending or settling, any actual or threatened claim, action, suit or proceeding, directly or indirectly arising out of or relating to the Secured Obligations, this Deed of Trust, or the Real Property, including, but not limited to (a) any violation of or claim of violation of any law, statute, rule or regulation with respect to the Real Property other than that caused solely by the gross negligence or willful misconduct of Beneficiary or (b) any breach of any of the warranties, representations and covenants contained herein. This indemnity provision shall continue in full force and effect and shall survive the payment and performance of the Secured Obligations, the release of record of the lien of this Deed of Trust, any foreclosure (or action in lieu of foreclosure) of this Deed of Trust, the exercise by Beneficiary of any other remedy under this Deed of Trust or any other document or instrument evidencing or securing the Secured Obligations, and any suit, proceeding or judgment against Grantor by Beneficiary hereon for a period of five (5) years.

10.2 Environmental Indemnity Agreement. Grantor's agreements, covenants, warranties, representations, indemnities are contained in that certain Environmental Indemnity Agreement executed by Grantor of even date herewith and are incorporated into this Deed of Trust by this reference.

10.3 Other Security. The acceptance of this Deed of Trust by Beneficiary shall not be considered a waiver of or in any way to affect or impair any other security that Beneficiary may have, acquire simultaneously herewith, or hereafter acquire for the payment or performance of the Secured Obligations, nor shall the taking by Beneficiary at any time of any such additional security be construed as a waiver of or in any way to affect or impair the security of this Deed of Trust; Beneficiary may resort, for the payment or performance of the Secured Obligations, to its several securities therefor in such order and manner as it may determine.

10.4 Inspection. Beneficiary shall be permitted to inspect the Real Property at all reasonable times and with prior written notice.

10.5 Time of the Essence. Time is of the essence with respect to all provisions of this Deed of Trust and any of the other the Loan Documents.

10.6 Rights and Remedies Cumulative. Beneficiary's rights and remedies under each of the Loan Documents are cumulative of the right and remedies available to Beneficiary under each of the other Loan Documents and those otherwise available to Beneficiary at law or in equity. No act of Beneficiary shall be construed as an election to proceed under any particular provision of any Loan Document to the exclusion of any other provision in the same or any other Loan Document, or as an election of remedies to the exclusion of any other remedy which may then or thereafter be available to Beneficiary.

10.7 No Implied Waivers. Beneficiary shall not be deemed to have waived any provision of any Loan Document unless such waiver is in writing and is signed by Beneficiary. Without limiting the generality of the preceding sentence, neither Beneficiary's acceptance of any payment with knowledge of a default by Grantor, nor any failure by Beneficiary to exercise any remedy following a default by Grantor shall be deemed a waiver of such default, and no waiver by Beneficiary of any particular default on the part of Grantor shall be deemed a waiver of any other default or of any similar default in the future.

10.8 Subrogation of Beneficiary. Beneficiary shall be subrogated to the lien of any previous encumbrance discharged with funds advanced by Beneficiary under the Loan Documents, regardless of whether such previous encumbrance has been released of record.

10.9 Notices. Any notice required or desired to be given hereunder shall be in writing and shall be considered effective, if by personal delivery, when delivered, if by nationally recognized overnight carrier, when delivered if prior to 5:00 p.m. local time of the recipient on a Business Day, or if not, at 9:00 a.m., local time on the next Business Day, if mailed by certified mail, return receipt requested, postage prepaid, upon first attempted delivery by the U.S. Postal Service after mailing, or if by email communication with return receipt requested, when received if prior to 5:00 p.m. local time of the recipient on a Business Day, or if not, 9:00 a.m. local time on the next Business Day, addressed as follows (or any other address that the party to be notified may have designated to the sender by like notice):

To Grantor:

GP Hotel Omaha LLC
Attention: John Searby
The Pandey Hotel Corporation

c/o Red Lion Hotel Denver Southeast
3200 South Parker Road
Aurora, Colorado 80014

copy to: Brownstein Hyatt Farber Schreck, LLP
Attention: Amy Brimah, Esq.
410 Seventeenth Street, Suite 2200
Denver, CO 80202-4432
abrimah@bhfs.com

To Beneficiary: Great Western Bank
Attention: Mark A. Mooney, Group President, Southern Colorado
220 Josephine Street
Denver, Colorado 80206

copy to: Sherman & Howard L.L.C.
Attention: Edward J. Adkins, Esq.
633 Seventeenth Street, Suite 2000
Denver, Colorado 80202

Either party may change such party's address for notices or copies of notices by giving notice to the other party in accordance with this Section.

10.10 Request for Notice of Default and Notice of Sale. Grantor hereby requests that a copy of any notice of default and a copy of any notice of sale, as may be required by law be mailed to it in the manner provided in Section 10.10 hereof.

10.11 Illegality. If any provision of this Deed of Trust is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Deed of Trust, the legality, validity, and enforceability of the remaining provisions of this Deed of Trust shall not be affected thereby. If the rights and liens created by this Deed of Trust shall be invalid or unenforceable as to any part of the Secured Obligations, then the unsecured portion of the Secured Obligations shall be completely paid prior to the payment of the remaining and secured portion of the Secured Obligations, and all payments made on the Secured Obligations shall be considered to have been paid on and applied first to the complete payment of the unsecured portion of the Secured Obligations.

10.12 Usury Savings Clause. It is expressly stipulated and agreed to be the intent of Beneficiary and Grantor at all times to comply with the applicable law governing the highest lawful interest rate. If the applicable law is ever judicially interpreted so as to render usurious any amount called for under the Note or under any of the other Loan Documents, or, contracted for, charged, taken, reserved or received with respect to the Loan evidenced thereby, or if acceleration of the maturity of the Note, any prepayment by Grantor, or any other circumstance whatsoever, results in Grantor having paid any interest in excess of that permitted by applicable law, then it is the express intent of Grantor and Beneficiary that all excess amounts theretofore collected by Beneficiary be credited on the principal balance of the Note (or, if the Note have been or would thereby be paid in full, refunded to Grantor), and the provisions of the Note and

other Loan Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder. The right to accelerate maturity of the Note does not include the right to accelerate any interest that has not otherwise accrued on the date of such acceleration, and Beneficiary does not intend to collect any unearned interest in the event of acceleration. All sums paid or agreed to be paid to Beneficiary for the use, forbearance or detention of the indebtedness evidenced hereby or by the Note shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the maximum rate or amount of interest permitted under applicable law. The term "applicable law" as used herein shall mean any federal or state law applicable to the Loan made by Beneficiary to the Grantor.

10.13 Obligations Binding upon Grantor's Successors. This Deed of Trust is binding upon Grantor and Grantor's successors and assigns, and shall inure to the benefit of Beneficiary, and its successors and assigns, and the provisions hereof shall likewise be covenants running with the land. The duties, covenants, conditions, obligations, and warranties of Grantor in this Deed of Trust shall be obligations of Grantor and Grantor's successors and assigns.

10.14 Governing Law. The substantive laws of the State of Nebraska shall govern the validity, construction, enforcement, and interpretation of this Deed of Trust.

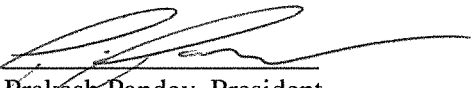
[Signature Page To Follow]

Signed and delivered as of the date first mentioned above.

“GRANTOR”

GP Hotel Omaha LLC,
Nebraska limited liability company

By: Pandey Hotel Corporation
a Delaware corporation, Manager

By: 
Prakash Pandey, President

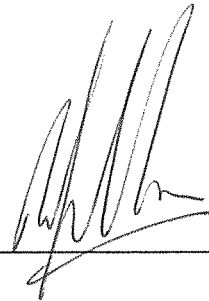
CITY Auckland)
STATE OF Auckland)
COUNTRY New Zealand) ss.
COUNTY OF New Zealand)

The Deed of Trust, Security Agreement, Financing Statement and Assignment of Leases and Rents was acknowledged before me this 26th day of April, 2013, by Prakash Pandey, President of Pandey Hotel Corporation, as Manager of GP Hotel Omaha LLC, a Nebraska limited liability company.

Witness my hand and official seal.

My commission expires: upon my death

Notary Public



Richard George Wilson
Notary Public
Auckland, New Zealand



**[Signature Page to Deed of Trust, Security Agreement, Financing Statement
and Assignment of Leases and Rents]**

EXHIBIT "A"

to

Deed of Trust

(Legal Description)

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.

EXHIBIT "B"

to
Deed of Trust

(Permitted Exceptions)

1. Permanent Easements for Mercy Heights Sanitary Sewer granted to Sanitary and Improvement District No. 102 of Douglas County, Nebraska, its licensees, successors and assigns, by instrument dated September 27, 1962 and recorded October 10, 1962, in Book 388 at Page 54 of the Miscellaneous Records of Douglas County, Nebraska, to construct, operate and maintain a sanitary sewer and appurtenances in a portion of subject property, as shown on the ALTA/ACSM Land Title Survey prepared by James D. Warner, Nebraska Registered Land Surveyor of Thompson, Dreessen & Dorner, Inc., L.S. No. 308, dated February 11, 2013 and last revised April 10, 2013, designated as Job No. 1493-137-3AL REV.

2. Covenants, conditions and restrictions contained in instrument dated April 1, 1964 and recorded July 23, 1964, in Book 415 at Page 75 of the Miscellaneous Records of Douglas County, Nebraska, which contains no provision for reverter, right of re-entry or right of power of termination of the estate or interest referred to in Schedule A upon breach thereof.

a. NOTE: The Company hereby insures the Insured against loss or damage which the Insured shall sustain due to entry of final judgment by a court of competent jurisdiction enforcing the covenants, conditions and restrictions contained in the above instrument based upon a violation thereof on the Land prior to the Date of Policy.

3. Easement granted to Omaha Public Power District and Northwestern Bell Telephone Company by instrument dated January 9, 1973 and recorded January 26, 1973, in Book 518 at Page 271 of the Miscellaneous Records of Douglas County, Nebraska, to install, operate and maintain electric and telephone facilities over, upon, along and under a portion of subject property, as shown on the ALTA/ACSM Land Title Survey prepared by James D. Warner, Nebraska Registered Land Surveyor of Thompson, Dreessen & Dorner, Inc., L.S. No. 308, dated February 11, 2013 and last revised April 10, 2013, designated as Job No. 1493-137-3AL REV.

4. Permanent Sewer Easement granted to the City of Omaha, Nebraska, by instrument dated November 4, 1975 and recorded December 1, 1975, in Book 558 at Page 361 of the Miscellaneous Records of Douglas County, Nebraska, to construct, operate and maintain sanitary or storm sewer pipe or drainage way or drainage facilities and appurtenances in, through, over and under a portion of subject property, as shown on the ALTA/ACSM Land Title Survey prepared by James D. Warner, Nebraska Registered Land Surveyor of Thompson, Dreessen & Dorner, Inc., L.S. No. 308, dated February 11, 2013 and last revised April 10, 2013, designated as Job No. 1493-137-3AL REV.

5. Terms and provisions of Signage Easement Agreement dated June 25, 1997 and recorded August 14, 1997, in Book 1219 at Page 371 of the Miscellaneous Records of Douglas County, Nebraska, to construct, operate and maintain a free standing pole sign and for

underground electrical transmission and distribution lines therefor in adjacent property for the benefit of subject property.

a. Amended by Amended and Restated Signage Easement Agreement dated September 6, 2001 and recorded November 26, 2001, in Book 1409 at Page 667 of the Miscellaneous Records of Douglas County, Nebraska, as shown on the ALTA/ACSM Land Title Survey prepared by James D. Warner, Nebraska Registered Land Surveyor of Thompson, Dreessen & Dorner, Inc., L.S. No. 308, dated February 11, 2013 and last revised April 10, 2013, designated as Job No. 1493-137-3AL REV.

6. ALTA/ACSM Land Title Survey prepared by James D. Warner, Nebraska Registered Land Surveyor of Thompson, Dreessen & Dorner, Inc., L.S. No. 308, dated February 11, 2013 and last revised April 10, 2013, designated as Job No. 1493-137-2AL REV, reveals a telephone line in the Southeasterly portion of subject property for which no recorded easement agreement exists; and, an air conditioner unit encroaching over the Omaha Public Power District Easement and Northwestern Bell Telephone Company recorded in Book 518 at Page 271.

a. NOTE: The Company hereby insures the Insured against loss or damage which the Insured shall sustain due to entry of final judgment by a court of competent jurisdiction requiring removal of the above telephone line and air condition unit encroachments.