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INSTRUMENT NUMBER

2015-22351

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Sheryl J. Dowling

REGISTER OF DEEDS



LSREF4 BISON, LLC, as trustor

(Trustor)

to

FIRST AMERICAN TITLE INSURANCE COMPANY, as trustee

(Trustee)

for the benefit of

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, and
COLUMN FINANCIAL, INC.,

collectively, as beneficiary

(Lender)

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

**PREPARED BY AND UPON
RECORDATION RETURN TO:**

Cadwalader, Wickersham & Taft LLP
One World Financial Center
New York, New York 10281
Attention: William P. McInerney, Esq.

Dated: As of September 8, 2015

Location: 7000-7011 South 109th Street, La Vista, Nebraska

County: Sarpy

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

THIS DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this “Security Instrument”) is made as of September 8, 2015, by **LSREF4 BISON, LLC**, a Delaware limited liability company, having its principal place of business at 2711 North Haskell Avenue, Suite 1700, Dallas, Texas 75204, as trustor (“Trustor”) to **FIRST AMERICAN TITLE INSURANCE COMPANY**, a Nebraska corporation, having an address at 13924 Gold Circle, Omaha, Nebraska 68144, as trustee (“Trustee”), for the benefit of **JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**, a banking association chartered under the laws of the United States of America, having an address at 383 Madison Avenue, New York, New York 10179, and **COLUMN FINANCIAL, INC.**, a Delaware corporation, having an address at 11 Madison Avenue, New York, New York 10010, collectively, as beneficiary (together with their respective successors and assigns, collectively, “Lender”).

W I T N E S S E T H:

WHEREAS, this Security Instrument is given to secure a loan (the “Loan”) in the principal sum of up to Eight Hundred Eleven Million and No/100 Dollars (\$811,000,000.00) or so much thereof as may be advanced pursuant to that certain Loan Agreement, dated as of the date hereof, among Trustor and LSREF4 Rebound (MA), LLC, LSREF4 Rebound, LLC, LSREF4 Turtle (King Street), LLC, LSREF4 Turtle (Highland), LLC, LSREF4 Turtle (Corridors), LLC and LSREF4 Turtle, LLC (collectively, the “Other Borrowers” and together with Trustor, collectively, “Borrower”) and Lender (as the same may hereafter be amended, restated, replaced, supplemented, renewed, extended or otherwise modified from time to time, the “Loan Agreement”), and evidenced by that certain (i) Promissory Note A-1, dated the date hereof, made by Borrower in favor of JPMorgan Chase Bank, National Association, in the original principal amount of \$495,600,000.00 (as the same may hereafter be amended, restated, replaced, supplemented, renewed, extended or otherwise modified from time to time, “Note A-1”), (ii) Promissory Note A-2, dated the date hereof, made by Borrower in favor of Column Financial, Inc., in the original principal amount of \$212,400,000.00 (as the same may hereafter be amended, restated, replaced, supplemented, renewed, extended or otherwise modified from time to time, “Note A-2”), (iii) Promissory Note A-3, dated the date hereof, made by Borrower in favor of JPMorgan Chase Bank, National Association, in the original principal amount of up to \$72,100,000.00 (as the same may hereafter be amended, restated, replaced, supplemented, renewed, extended or otherwise modified from time to time, “Note A-3”), (iv) Promissory Note A-4, dated the date hereof, made by Borrower in favor of Column Financial, Inc., in the original principal amount of up to \$30,900,000.00 (as the same may hereafter be amended, restated, replaced, supplemented, renewed, extended or otherwise modified from time to time, “Note A-4”; Note A-4 together with Note A-1, Note A-2, and Note A-3, collectively, as the same may be amended, restated, replaced, supplemented, renewed, extended or otherwise modified from time to time, the “Note”);

WHEREAS, Trustor desires to secure the payment of the Note and all other portions of the Debt (as defined in the Loan Agreement) and the performance of all of its obligations under the Note, the Loan Agreement and the other Loan Documents (as herein defined); and

WHEREAS, this Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Trustor of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Security Instrument (the Loan Agreement, the Note, this Security Instrument and all other documents evidencing or securing the Debt (including all additional mortgages, deeds of trust and assignments of leases and rents made pursuant to the Loan Agreement) or executed or delivered in connection therewith, are hereinafter referred to collectively as the "**Loan Documents**").

NOW THEREFORE, in consideration of the making of the Loan by Lender and the covenants, agreements, representations and warranties set forth in this Security Instrument:

ARTICLE I - GRANTS OF SECURITY

Section 1.1 Property Mortgaged. Trustor does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Trustee, in trust, with the POWER OF SALE and right of entry and possession, for the benefit of Lender and its successors and assigns, all of Trustor's right, title, and interest in and to the following property, rights, interests and estates now owned, or hereafter acquired by Trustor (collectively, the "**Property**");

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (the "**Land**");

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Trustor for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Security Instrument;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the "**Improvements**");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the reversion and reversions and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all

the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Trustor of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Equipment. All "goods" and "equipment," as such terms are defined in Article 9 of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired by Trustor, which are used at or in connection with the Improvements or the Land or are located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Trustor and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "**Equipment**"). Notwithstanding the foregoing, Equipment shall not include any property belonging to tenants under leases except to the extent that Trustor shall have any right or interest therein;

(f) Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, by Trustor which is so related to the Land and Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Trustor's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "**Fixtures**"). Notwithstanding the foregoing, "Fixtures" shall not include any property which tenants are entitled to remove pursuant to leases except to the extent that Trustor shall have any right or interest therein;

(g) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, inventory and articles of personal property and accessions thereof and renewals and replacements thereof and substitutions therefor, if any, general intangibles, contract rights, accounts, accounts receivable, franchises, licenses, certificates and permits, and all other personal property of any kind or character whatsoever as defined in and subject to the provisions of the Uniform Commercial Code, other than Fixtures, which are now or hereafter owned by Trustor and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereto or therefor

and the proceeds thereof (collectively, the “**Personal Property**”), and the right, title and interest of Trustor in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the “**Uniform Commercial Code**”), superior in lien to the lien of this Security Instrument and all proceeds and products of the above. Notwithstanding the foregoing, the Personal Property shall not include any property belonging to tenants under leases except to the extent that Trustor shall have any right or interest therein;

(h) Leases and Rents. All leases, subleases or subsubleases, lettings, licenses, concessions or other agreements (whether written or oral), pursuant to which any Person is granted by Trustor a possessory interest in, or right to use or occupy all or any portion of the Land and the Improvements, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into (collectively, the “**Leases**”), whether before or after the filing by or against Trustor of any petition for relief under the Bankruptcy Code and all right, title and interest of Trustor, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements whether paid or accruing before or after the filing by or against Trustor of any petition for relief under the Bankruptcy Code (collectively, the “**Rents**”) and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(i) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property in accordance with Article VI of the Loan Agreement and this Security Instrument;

(j) Insurance Proceeds. All proceeds in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property in accordance with Article VI of the Loan Agreement and this Security Instrument;

(k) Tax Certiorari. All refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(l) Conversion. All proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, proceeds of insurance and condemnation awards, into cash or liquidation claims;

(m) Rights. The right, in the name and on behalf of Trustor, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(n) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or respecting or pertaining to any business or activity conducted on the Land and any part thereof and all right, title and interest of Trustor therein and thereunder, to the extent any such instruments or rights may be so mortgaged pursuant to the terms thereof, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Trustor thereunder;

(o) Trademarks. All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

(p) Accounts. All reserves, escrows and deposit accounts maintained by Trustor with respect to the Property, including, without limitation, all accounts established or maintained pursuant to the Lockbox Agreement and the Cash Management Agreement, together with all deposits or wire transfers made to such accounts, all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time and all proceeds, products, distributions or dividends or substitutions thereon and thereof in accordance with the terms of the Lockbox Agreement, Cash Management Agreement, and Loan Agreement, as applicable;

(q) Letter of Credit. All letter-of-credit rights (whether or not the letter of credit is evidenced by a writing) Trustor now has or hereafter acquires relating to the properties, rights, titles and interests referred to in this Section 1.1;

(r) Tort Claims. All commercial tort claims Trustor now has or hereafter acquires relating to the Property, rights, titles and interests referred to in this Section 1.1;

(s) Interest Rate Cap Agreement. The Interest Rate Cap Agreement, including, but not limited to, all "accounts", "chattel paper", "general intangibles" and "investment property" (as such terms are defined in the Uniform Commercial Code as from time to time in effect) constituting or relating to the foregoing; and all products and proceeds of any of the foregoing in accordance with the terms of the Interest Rate Cap Agreement; and

(t) Other Rights. Any and all other rights of Trustor in and to the items set forth in Subsections (a) through (s) above.

AND without limiting any of the other provisions of this Security Instrument, to the extent permitted by applicable law, Trustor expressly grants to Lender, as secured party, a security interest in the portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Land (the Land, the Improvements

and the Fixtures collectively referred to as the “**Real Property**”) appropriated to the use thereof and, whether affixed or annexed to the Real Property or not, shall for the purposes of this Security Instrument be deemed conclusively to be real estate and subject to this Security Instrument.

Section 1.2 Assignment of Leases and Rents. Trustor hereby absolutely and unconditionally assigns to Lender all of Trustor’s right, title and interest in and to all current and future Leases and Rents; it being intended by Trustor that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of the Cash Management Agreement and Section 7.1(h) of this Security Instrument, Lender grants to Trustor a revocable license to collect, receive, use and enjoy the Rents and Trustor shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums.

Section 1.3 Security Agreement. This Security Instrument is both a real property deed of trust and a “security agreement” within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Trustor in the Property. By executing and delivering this Security Instrument, Trustor hereby grants to Lender, as security for the Obligations (hereinafter defined), a security interest in the Fixtures, the Equipment, the Personal Property and other property constituting the Property, whether now owned or hereafter acquired, to the full extent that the Fixtures, the Equipment, the Personal Property and such other property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the “**Collateral**”). If an Event of Default shall occur and be continuing, Lender, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Lender after the occurrence and during the continuance of an Event of Default, Trustor shall, at its expense, assemble the Collateral and make it available to Lender at a convenient place (at the Land if tangible property) reasonably acceptable to Lender. Trustor shall pay to Lender, within ten (10) Business Days of written request any and all reasonable out-of-pocket expenses, including reasonable legal expenses and attorneys’ fees, actually incurred or paid by Lender in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral sent to Trustor in accordance with the provisions hereof at least ten (10) Business Days prior to such action, shall, except as otherwise provided by applicable law, constitute reasonable notice to Trustor. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper. Trustor’s (debtor’s) principal place of business is as set forth on page one hereof and the address of Lender (secured party) is as set forth on page one hereof.

Section 1.4 Fixture Filing. Certain of the Property is or will become “fixtures” (as that term is defined in the Uniform Commercial Code) on the Land, and this Security Instrument,

upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures. For purposes of this Section 1.4, (i) Trustor is the "debtor" with the address for Trustor set forth on the first page of this Security Instrument; (ii) Trustor is a Delaware limited liability company, with an organizational identification number of 5776251; (iii) Lender is the "secured party" with the address for Lender set forth on the first page of this Security Instrument; and (iv) the real property upon which the fixtures are or may become located is described on Exhibit A.

Section 1.5 Pledges of Monies Held. Trustor hereby pledges to Lender all of its right, title and interest in and to any and all monies now or hereafter held by Lender or on behalf of Lender, including, without limitation, any sums deposited in the Lockbox Account, the Cash Management Account, the Reserve Funds and Net Proceeds, as additional security for the Obligations until expended or applied as provided in this Security Instrument or the Loan Agreement.

CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property unto Trustee for the use and benefit of Lender, and its successors and assigns, forever;

IN TRUST, WITH POWER OF SALE, to secure payment to Lender of the Debt at the time and in the manner provided for its payment in the Loan Agreement, the Note and in this Security Instrument.

PROVIDED, HOWEVER, these presents are upon the express condition that, if Trustor shall well and truly pay to Lender the Debt at the time and in the manner provided in the Note, the Loan Agreement and this Security Instrument, shall well and truly perform the Other Obligations as set forth in this Security Instrument and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Note, the Loan Agreement and the other Loan Documents, then Lender shall instruct Trustee to reconvey to Trustor, or the person or persons legally entitled thereto, without recourse or warranty, the Property or portions thereof then held hereunder. Subject to the terms of Section 9.3 of the Loan Agreement, Trustor's obligation to indemnify and hold harmless Lender pursuant to the provisions hereof shall survive any reconveyance.

ARTICLE II - DEBT AND OBLIGATIONS SECURED

Section 2.1 Debt. This Security Instrument and the grants, assignments and transfers made in Article I are given for the purpose of securing the Debt.

Section 2.2 Other Obligations. This Security Instrument and the grants, assignments and transfers made in Article I are also given for the purpose of securing the following (the "**Other Obligations**"):

- (a) the performance of all other obligations of Trustor contained herein;

(b) the performance of each obligation of Trustor contained in the Loan Agreement and any other Loan Document; and

(c) the performance of each obligation of Trustor contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement or any other Loan Document.

Section 2.3 Debt and Other Obligations. Trustor's obligations for the payment of the Debt and Trustor's performance of the Other Obligations shall be referred to collectively herein as the "**Obligations.**"

ARTICLE III - TRUSTOR COVENANTS

Trustor covenants and agrees that:

Section 3.1 Payment of Debt. Trustor will pay, or cause to be paid, the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Security Instrument.

Section 3.2 Incorporation by Reference. All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note and (c) all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

Section 3.3 Insurance. Trustor shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Trustor and the Property as required pursuant to the Loan Agreement.

Section 3.4 Maintenance of Property. Trustor shall cause the Property to be maintained in a good and safe condition and repair in accordance with the terms of the Loan Agreement. The Improvements, the Fixtures, the Equipment and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of the Fixtures, the Equipment or the Personal Property, tenant finish and refurbishment of the Improvements) without the consent of Lender, except to the extent permitted under and in accordance with the Loan Agreement. Subject to the terms of the Loan Agreement, Trustor shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any Casualty or become damaged, worn or dilapidated or which may be affected by any Condemnation, and shall complete and pay for any structure at any time in the process of construction or repair on the Land.

Section 3.5 Waste. Trustor shall not commit or suffer any physical waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or allow the cancellation of any Policy, or do or permit to be done thereon anything that may in any way materially impair the value of the Property or the security of this Security Instrument. Trustor will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the

surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

Section 3.6 Payment for Labor and Materials. (a) Subject to the terms of the Loan Agreement and Section 3.6(c) below, Trustor will promptly pay, or cause to be paid, when due all bills and costs for labor, materials, and specifically fabricated materials (“**Labor and Material Costs**”) incurred in connection with the Property and never permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof and the Permitted Encumbrances.

(b) After prior written notice to Lender, Trustor, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any of the Labor and Material Costs, provided that (i) no Event of Default has occurred and is continuing under the Loan Agreement, the Note, this Security Instrument or any of the other Loan Documents, (ii) Trustor is permitted to do so under the provisions of any other mortgage, deed of trust or deed to secure debt affecting the Property, (iii) such proceeding shall suspend the collection of the Labor and Material Costs from Trustor and from the Property or Trustor shall have paid all of the Labor and Material Costs under protest, (iv) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Trustor is subject and shall not constitute a default thereunder, (v) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost, and (vi) Trustor shall have furnished the security as may be required in the proceeding, or as may be reasonably requested by Lender to insure the payment of any contested Labor and Material Costs, together with all interest and penalties thereon.

(c) Notwithstanding the foregoing, it shall not be a default under the terms and conditions of this Section 3.6 if, in respect of a mechanic’s or materialman’s lien asserted against the Property for Labor and Material Costs (each, a “**Mechanic’s Lien**”): (i) Trustor shall have provided Lender with written notice of such Mechanic’s Lien within thirty (30) days of obtaining actual knowledge thereof; (ii) within sixty (60) days of obtaining actual knowledge of the filing of any Mechanic’s Lien, Trustor shall have furnished to Lender either (A) a cash deposit equal to the amount of the Labor and Material Costs which are the subject of such Mechanic’s Lien, or (B) an indemnity bond satisfactory to Lender with a surety reasonably satisfactory to Lender, in the amount of the Labor and Material Costs which are the subject of such Mechanic’s Lien, plus in each instance a reasonable additional sum to pay all costs, interest and penalties that may be imposed or incurred in connection therewith; (iii) no Event of Default shall have occurred and be continuing under the Loan Agreement, the Note, this Security Instrument or any of the other Loan Documents; (iv) Trustor shall at all times diligently prosecute the discharge of such Mechanic’s Lien, and shall update Lender regarding the status of same from time to time upon Lender’s request; (v) neither the Property nor any part thereof nor any interest therein shall be in imminent danger of being sold, forfeited, terminated, canceled or lost; (vi) such contest shall preclude the collection of, or other realization upon, any contested amount from the Property or any revenues from or interest in the Property; (vii) such contest shall not subject Lender or Trustor to civil or criminal liability (other than the civil liability of

Trustor for the amount of the Mechanic's Lien in question plus interest); and (viii) Trustor has not consented to such Mechanic's Lien.

Section 3.7 Performance of Other Agreements. Trustor shall observe and perform, or cause the observance and performance of, each and every term, covenant and provision to be observed or performed by Trustor pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

Section 3.8 Change of Name, Identity or Structure. Trustor shall not change Trustor's name, identity (including its trade name or names) or, if not an individual, Trustor's corporate, partnership or other structure without notifying Lender of such change in writing at least thirty (30) days prior to the effective date of such change and, in the case of a change in Trustor's structure, without first obtaining the prior written consent of Lender; provided, however, that nothing contained in this Section 3.8 shall be deemed to require notice to or consent by Lender with respect to any Transfer, sale or pledge that would be permitted without notice to Lender or Lender's consent under Section 5.2.10 of the Loan Agreement. Trustor shall execute and deliver to Lender, prior to or contemporaneously with the effective date of any such change, any financing statement or financing statement change required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Trustor shall execute a certificate in form reasonably satisfactory to Lender listing the trade names under which Trustor intends to operate the Property, and representing and warranting that Trustor does business under no other trade name with respect to the Property.

Section 3.9 Title. Trustor has good, marketable and insurable fee simple title to the real property comprising part of the Property and Trustor has good title to the balance of such Property, free and clear of all Liens (as defined in the Loan Agreement) whatsoever except the Permitted Encumbrances (as defined in the Loan Agreement), such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents. The Permitted Encumbrances in the aggregate do not materially and adversely affect the value, operation or use of the Property or Trustor's ability to repay the Loan. Trustor warrants that this Security Instrument is a valid lien on and security interest in the Property, subject only to Permitted Encumbrances and the Liens created by the Loan Documents, and subject to applicable creditor's rights laws and rules of equity, whether or not equitable relief has been sought. To Trustor's actual knowledge, after due inquiry, there are no claims for payment for work, labor or materials affecting the Property which are past due and are or may become a lien prior to, or of equal priority with, the Liens created by the Loan Documents unless such claims for payments are being contested in accordance with the terms and conditions of the Loan Documents.

Section 3.10 Letter of Credit Rights. If Trustor is at any time a beneficiary under a letter of credit relating to the properties, rights, titles and interests referenced in Section 1.1 of this Security Instrument now or hereafter issued in favor of Trustor, Trustor shall promptly notify Lender thereof and, at the request and option of Lender, Trustor shall, pursuant to an agreement in form and substance satisfactory to Lender, either (a) arrange for the issuer and any confirmer of such letter of credit to consent to an assignment to Lender of the proceeds of any drawing under the letter of credit or (b) arrange for Lender to become the transferee beneficiary

of the letter of credit, and Lender agrees, in each case that the proceeds of any drawing under the letter of credit are to be applied as provided in Section 7.2 of this Security Instrument.

ARTICLE IV - OBLIGATIONS AND RELIANCES

Section 4.1 Relationship of Trustor and Lender. The relationship between Trustor and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Trustor, and no term or condition of any of the Loan Agreement, the Note, this Security Instrument and the other Loan Documents shall be construed so as to deem the relationship between Trustor and Lender to be other than that of debtor and creditor.

Section 4.2 No Reliance on Lender. The general partners, members, principals and (if Trustor is a trust) beneficial owners of Trustor are experienced in the ownership and operation of properties similar to the Property, and Trustor and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Trustor is not relying on Lender's expertise, business acumen or advice in connection with the Property.

Section 4.3 No Lender Obligations. (a) Notwithstanding the provisions of Subsections 1.1(h) and (n) or Section 1.2, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

Section 4.4 Reliance. Trustor recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Section 4.1 of the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance exists on the part of Lender on the date hereof; that the warranties and representations are a material inducement to Lender in making the Loan; and that Lender would not be willing to make the Loan and accept this Security Instrument in the absence of the warranties and representations as set forth in Section 4.1 of the Loan Agreement.

ARTICLE V - FURTHER ASSURANCES

Section 5.1 Recording of Deed of Trust, etc. Trustor forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed,

registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Trustor will pay, or cause to be paid, all taxes, filing, registration or recording fees, and all reasonable expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Security Instrument, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, any deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

Section 5.2 Further Acts, Etc. Trustor will, at the cost of Trustor, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Trustor may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or recording this Security Instrument, or for complying with all Legal Requirements. Trustor, within three (3) Business Days following Lender's written request therefor, shall deliver such financing statements as Lender may require, and in the event Trustor fails to deliver such financing statements within three (3) Business Days of request, Trustor authorizes Lender to file one or more financing statements to evidence more effectively, and/or perfect, the security interest of Lender in the Property. Such financing statements may describe the collateral covered thereby as "all assets of the debtor, whether now owned or hereafter acquired" or words to that effect. Upon the occurrence and during the continuance of an Event of Default, Trustor grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation, such rights and remedies available to Lender pursuant to this Section 5.2.

Section 5.3 Changes in Tax, Debt, Credit and Documentary Stamp Laws. (a) If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Trustor will pay, or cause to be paid, the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of tax by Trustor would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury, then Lender shall have the option by written notice of not less than one hundred eighty (180) days to declare the Debt immediately due and payable without the requirement of the payment of any Spread Maintenance Payment.

(b) Trustor will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, by written notice of not less than one hundred eighty (180) days, to declare the Debt immediately due and payable without the requirement of the payment of any Spread Maintenance Payment.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this Security Instrument, or any of the other Loan Documents or impose any other tax or charge on the same, Trustor will pay for the same, with interest and penalties thereon, if any.

Section 5.4 Severing of Deed of Trust. The provisions of Section 8.2(c) of the Loan Agreement are hereby incorporated by reference herein.

Section 5.5 Replacement Documents. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Trustor will issue, or cause to be issued, in lieu thereof, a replacement Note or other Loan Document, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise in the same form as such lost, stolen, destroyed or mutilated Note or other Loan Documents.

ARTICLE VI - DUE ON SALE/ENCUMBRANCE

Section 6.1 Lender Reliance. Trustor acknowledges that Lender has examined and relied on the experience of Trustor and their respective members in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Trustor's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Trustor acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should Trustor default in the repayment of the Debt or Trustor default in the performance of the Other Obligations, Lender can recover the Debt, or part thereof, by a sale of the Property in accordance with the terms of the Loan Documents.

Section 6.2 No Sale/Encumbrance. Neither Trustor nor any Restricted Party shall Transfer the Property or any part thereof or any interest therein or permit or suffer the Property or any part thereof or any interest therein to be Transferred other than as expressly permitted pursuant to the terms of the Loan Agreement.

ARTICLE VII - RIGHTS AND REMEDIES UPON DEFAULT

Section 7.1 Remedies. Subject to and in accordance with the terms of the Loan Agreement, upon the occurrence and during the continuance of any Event of Default, Trustor

agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Trustor and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

- (a) declare the entire unpaid Debt to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;
- (d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Trustor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;
- (e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, the Loan Agreement or in the other Loan Documents;
- (f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the other Loan Documents;
- (g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Trustor, any guarantor or any indemnitor with respect to the Loan or of any Person liable for the payment of the Debt;
- (h) subject to applicable law, the license granted to Trustor under Section 1.2 hereof shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Trustor and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Trustor and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Trustor agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of

Trustor with respect to the Property, whether in the name of Trustor or otherwise, including, without limitation, the right to make, cancel, enforce or modify, Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Trustor to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Trustor; (vi) require Trustor to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Trustor may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all reasonable out-of-pocket expenses (including reasonable attorneys' fees) actually incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance and other reasonable out-of-pocket expenses actually incurred in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Fixtures, the Equipment, the Personal Property or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Fixtures, the Equipment, the Personal Property, and (ii) request Trustor at its expense to assemble the Fixtures, the Equipment, the Personal Property and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Fixtures, the Equipment, and/or the Personal Property sent to Trustor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Trustor, subject to applicable law;

(j) apply any sums then deposited or held in escrow or otherwise by or on behalf of Lender in accordance with the terms of the Loan Agreement, this Security Instrument or any other Loan Document to the payment of the following items in any order in its sole discretion: (i) Taxes and Other Charges; (ii) Insurance Premiums; (iii) interest on the unpaid principal balance of the Note; (iv) the unpaid principal balance of the Note; and (v) all other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, including without limitation advances made by Lender pursuant to the terms of this Security Instrument;

(k) pursue such other remedies as Lender may have under applicable law; or

(l) apply the undisbursed balance of any Net Proceeds Deficiency deposit, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Lender shall deem to be appropriate in its discretion.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of the Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

Section 7.2 Application of Proceeds. Subject to the terms of the Loan Agreement, upon the occurrence and during the continuance of an Event of Default, the purchase money, proceeds and avails of any disposition of the Property, and or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument or the other Loan Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

Section 7.3 Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default, or if Trustor fails to make any payment or to do any act as herein provided (and the continuation of such failure beyond any applicable notice or cure period, if any), Lender may, but without any obligation to do so and without notice to or demand on Trustor and without releasing Trustor from any obligation hereunder, make any payment or do any act required of Trustor hereunder in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt, and all actual out-of-pocket cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 7.3, shall constitute a portion of the Debt and shall be due and payable to Lender within ten (10) days of Lender's written demand. All such costs and expenses incurred by Lender in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable within ten (10) days of Lender's written demand by Lender therefor.

Section 7.4 Actions and Proceedings. Lender has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Trustor, which Lender, in its discretion, decides should be brought to protect its interest in the Property; provided, that Lender shall notify Trustor that it intends to bring such action at least ten (10) Business Days prior to Lender instituting any such action (unless (x) an Event of Default has occurred and is continuing or (y) the provision of such notice by Lender will materially prejudice Lender's security interest in, and/or lien on, the Property or Lender's rights and remedies under the Loan Documents, in either of which events such notice shall not be required), and Lender shall endeavor to provide to Trustor and its legal counsel reasonable periodic status as to any such action brought by Lender.

Section 7.5 Recovery of Sums Required To Be Paid. Subject to the terms of the Loan Agreement and to the extent permitted by applicable law, Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for any Event of Default by Trustor under the Loan Documents existing at the time such earlier action was commenced.

Section 7.6 Examination of Books and Records. At reasonable times and upon reasonable notice, Lender, its agents, accountants and attorneys shall have the right to examine the records, books, management and other papers of Trustor which reflect upon its financial condition, at the Property or at any office regularly maintained by Trustor where the books and records are located. Lender and its agents shall have the right to make copies and extracts from the foregoing records and other papers. In addition, at reasonable times and upon reasonable notice, Lender, its agents, accountants and attorneys shall have the right to examine and audit the books and records of Trustor pertaining to the income, expenses and operation of the Property during reasonable business hours at any office of Trustor where the books and records are located. This Section 7.6 shall apply throughout the term of the Note and without regard to whether an Event of Default has occurred or is continuing.

Section 7.7 Other Rights, etc. (a) The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Trustor shall not be relieved of Trustor's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Trustor or any guarantor or any indemnitor with respect to the Loan to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Security Instrument or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Trustor, and Lender shall have no liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief if any such possession is requested or obtained with respect to any Property or collateral not in Lender's possession.

(c) Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Subject to applicable law, Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

Section 7.8 Right to Release Any Portion of the Property. Lender may release any portion of the Property for such consideration as Lender may require under the Loan Documents, without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require

without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

Section 7.9 Violation of Laws. If the Property is not in material compliance with Legal Requirements, Lender may impose additional requirements upon Trustor in connection therewith to the extent expressly provided for under the terms of the Loan Agreement.

Section 7.10 Recourse and Choice of Remedies. Notwithstanding any other provision of this Security Instrument or the Loan Agreement, including, without limitation, Section 9.3 of the Loan Agreement, to the fullest extent permitted by applicable law, Lender and other Indemnified Parties (as hereinafter defined) are entitled to enforce the obligations of Trustor contained in Sections 9.1, 9.2 and 9.3 herein and Section 9.3 of the Loan Agreement without first resorting to or exhausting any security or collateral and without first having recourse to the Note or any of the Property, through foreclosure or acceptance of a deed in lieu of foreclosure or otherwise, and in the event Lender commences a foreclosure action against the Property, Lender is entitled to pursue a deficiency judgment with respect to such obligations against Trustor. The provisions of Sections 9.1, 9.2 and 9.3 herein and Section 9.3 of the Loan Agreement are exceptions to any non-recourse or exculpation provisions in the Loan Agreement, the Note, this Security Instrument or the other Loan Documents, and Trustor is fully and personally liable for the obligations pursuant to Sections 9.1, 9.2 and 9.3 herein and Section 9.3 of the Loan Agreement. The liability of Trustor pursuant to Sections 9.1, 9.2 and 9.3 herein and Section 9.3 of the Loan Agreement is not limited to the original principal amount of the Note. Notwithstanding the foregoing, nothing herein shall inhibit or prevent Lender from foreclosing or exercising any other rights and remedies pursuant to the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, whether simultaneously with foreclosure proceedings or in any other sequence. A separate action or actions may be brought and prosecuted against Trustor pursuant to Sections 9.1, 9.2 and 9.3 herein and Section 9.3 of the Loan Agreement whether or not action is brought against any other Person or whether or not any other Person is joined in the action or actions. In addition, Lender shall have the right but not the obligation to join and participate in, as a party if it so elects, any administrative or judicial proceedings or actions initiated in connection with any matter addressed in Article 9 herein.

Section 7.11 Right of Entry. Subject to and in accordance with the terms of the Loan Agreement, and subject to applicable law upon reasonable notice to Trustor, Lender and its agents shall have the right to enter and inspect the Property at all reasonable times.

ARTICLE VIII - PREPAYMENT

Section 8.1 Prepayment. The Debt may not be prepaid in whole or in part except in accordance with the express terms and conditions of the Loan Agreement.

ARTICLE IX - INDEMNIFICATION

Section 9.1 General Indemnification. Trustor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless, or cause to be protected, defended, indemnified, released and held harmless, or cause to be protected, defended, indemnified, released and held harmless, the Indemnified Parties from and against any and all actual claims,

suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages (excluding consequential and punitive damages and diminution in value), losses, costs, expenses, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, of whatever kind or nature (including but not limited to reasonable attorneys' fees and other costs of defense) (collectively, the "Losses") imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) ownership of this Security Instrument, the security interest in the Property or receipt of any Rents hereunder; (b) any amendment to, or restructuring of, the Debt, the Note, the Loan Agreement, this Security Instrument, or any other Loan Documents in accordance with the terms of the Loan Agreement; (c) any and all lawful action that may be taken by Lender in accordance with the applicable Legal Requirements and the terms of the Loan Documents in connection with the enforcement of the provisions of this Security Instrument, the Loan Agreement, the Note or any of the other Loan Documents, whether or not suit is filed in connection with same, or in connection with Trustor, any guarantor or any indemnitor and/or any partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any accident, injury to or death of persons or loss of or damage to property occurring in or on the Property or any part thereof, if arising out of or in connection with the use or operation of the Property or any action or obligation of Trustor, on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (e) any use, nonuse or condition in or on the Property or, if arising out of or in connection with the use or operation of, the Property or any action or obligation of Trustor or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (f) intentionally omitted; (g) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (h) the failure of any person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with this Security Instrument, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Security Instrument is made; (i) any failure of the Property to be in compliance with any Legal Requirements; (j) the enforcement by any Indemnified Party of the provisions of this Article 9; (k) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; or (l) the payment of any commission, charge or brokerage fee to anyone claiming through Trustor which may be payable in connection with the funding of the Loan; provided, however, that Trustor shall not be liable for the payment of any Losses to the extent same arise as a result of the gross negligence, willful misconduct, fraud or illegal acts of any Indemnified Party. This provision shall survive payment of the Note in full and the satisfaction of all other obligations of Trustor under this Security Instrument, the Loan Agreement and the other Loan Documents. Any losses incurred by Lender by reason of the application of this Section 9.1 shall become due and payable within ten (10) days of Lender's written demand therefor and shall bear interest at the Default Rate from the date loss or damage is sustained by Lender until paid.

Section 9.2 Mortgage and/or Intangible Tax. Trustor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless, or cause to be protected, defended, indemnified, released and held harmless, the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and

directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Security Instrument, the Note or any of the other Loan Documents, but excluding any income, franchise or other similar taxes. Trustor hereby agrees that, in the event that it is determined that any documentary stamp taxes or intangible personal property taxes are due hereon or on any mortgage or promissory note executed in connection herewith (including, without limitation, the Note), Trustor shall indemnify and hold harmless the Indemnified Parties for all such documentary stamp and/or intangible taxes, including all penalties and interest assessed or charged in connection therewith.

Section 9.3 ERISA Indemnification. Trustor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless, or cause to be protected, defended, indemnified, released and held harmless, the Indemnified Parties from and against any and all Losses (including, without limitation, reasonable attorneys' fees and costs incurred in the investigation, defense, and settlement of Losses incurred in correcting any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Lender's reasonable discretion) that Lender may incur, directly or indirectly, as a result of a breach of any of the representations made under Section 4.1.9 of the Loan Agreement or a breach of any negative covenants contained in Section 5.2.9 of the Loan Agreement.

Section 9.4 Duty to Defend; Attorneys' Fees and Other Fees and Expenses. Upon written request by any Indemnified Party, Trustor shall defend, or cause to be defended, such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals reasonably approved by the Indemnified Parties, from and against any Losses. Notwithstanding the foregoing, if the defendants in any such claim or proceeding include both Trustor and any Indemnified Party and Trustor and such Indemnified Party shall have reasonably concluded that there are any legal defenses available to Trustor and/or other Indemnified Parties that are different from or additional to those available to Trustor, such Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Indemnified Party, provided that no compromise or settlement shall be entered without Trustor's consent, which consent shall not be unreasonably withheld. Trustor shall not be liable for the expenses of more than one (1) legal counsel and one (1) local counsel in each applicable jurisdiction for the Indemnified Parties, unless any Indemnified Party shall have reasonably concluded that the positions of any Indemnified Party are in conflict with another Indemnified Party. Within ten (10) days of written demand, Trustor shall pay (or cause to be paid) or, in the sole and absolute discretion of the Indemnified Parties, reimburse (or cause to be reimbursed), the Indemnified Parties for the payment of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith (subject to the carve-outs from liability in Section 9.1 above).

Section 9.5 Environmental Indemnity. Simultaneously with this Security Instrument, Trustor (among others) has executed the Environmental Indemnity. The obligations of Trustor under the Environmental Indemnity are not part of the Debt and are not secured by this Security Instrument.

ARTICLE X - WAIVERS

Section 10.1 Waiver of Counterclaim. To the extent permitted by applicable law, Trustor hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Security Instrument, the Loan Agreement, the Note, any of the other Loan Documents, or the Obligations.

Section 10.2 Marshalling and Other Matters. To the extent permitted by applicable law, Trustor hereby waives the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Trustor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Trustor, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by applicable law.

Section 10.3 Waiver of Notice. To the extent permitted by applicable law, Trustor shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Security Instrument or the Loan Documents specifically and expressly provides for the giving of notice by Lender to Trustor and except with respect to matters for which Lender is required by applicable law to give notice, and Trustor hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument or the Loan Agreement does not specifically and expressly provide for the giving of notice by Lender to Trustor.

Section 10.4 Waiver of Statute of Limitations. To the extent permitted by applicable law, Trustor hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

Section 10.5 Survival. The indemnifications made pursuant to Sections 9.1, 9.2 and 9.3 herein shall continue indefinitely in full force and effect and shall survive and shall in no way be impaired by any of the following: any satisfaction or other termination of this Security Instrument, any assignment or other transfer of all or any portion of this Security Instrument or Lender's interest in the Property (but, in such case, shall benefit both Indemnified Parties and any assignee or transferee), any exercise of Lender's rights and remedies pursuant hereto including, but not limited to, foreclosure or acceptance of a deed in lieu of foreclosure, any exercise of any rights and remedies pursuant to the Loan Agreement, the Note or any of the other Loan Documents, any transfer of all or any portion of the Property (whether by Trustor or by Lender following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), any amendment to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, and any act or omission that might otherwise be construed as a release or discharge of Trustor from the obligations pursuant hereto.

ARTICLE XI - EXCULPATION

The provisions of Section 9.3 of the Loan Agreement are hereby incorporated by reference into this Security Instrument to the same extent and with the same force as if fully set forth herein.

ARTICLE XII - NOTICES

All notices or other written communications hereunder shall be delivered in accordance with Section 10.6 of the Loan Agreement.

ARTICLE XIII - APPLICABLE LAW

Section 13.1 Governing Law. This Security Instrument shall be governed in accordance with the terms and provisions of Section 10.3 of the Loan Agreement; provided that the provisions of this Security Instrument regarding the creation, perfection and enforcement of the Liens and security interests herein granted shall be governed by and construed under the laws of the State in which the Real Property is located.

Section 13.2 Usury Laws. Notwithstanding anything to the contrary, (a) all agreements and communications between Trustor and Lender are hereby and shall automatically be limited so that, after taking into account all amounts deemed interest, the interest contracted for, charged or received by Lender shall never exceed the maximum lawful rate or amount, (b) in calculating whether any interest exceeds the lawful maximum, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal indebtedness of Trustor to Lender, and (c) if through any contingency or event, Lender receives or is deemed to receive interest in excess of the lawful maximum, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Trustor to Lender, or if there is no such indebtedness, shall immediately be returned to Trustor.

Section 13.3 Provisions Subject to Applicable Law. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Security Instrument or any application thereof shall be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

ARTICLE XIV - DEFINITIONS

All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "Trustor" shall mean "Trustor and any subsequent owner or owners of the Property or any part thereof or any interest therein (other than Lender, its designee or any

Person that acquires title to all or any portion of the Property from Lender or such designee),” the word “Lender” shall mean “Lender and any subsequent holder of the Note,” the word “Note” shall mean “the Note and any other evidence of indebtedness secured by this Security Instrument,” the word “Property” shall include any portion of the Property and any interest therein, and the phrases “attorneys’ fees”, “legal fees” and “counsel fees” shall include any and all reasonable attorneys’, paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

ARTICLE XV - MISCELLANEOUS PROVISIONS

Section 15.1 No Oral Change. This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Trustor or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 15.2 Successors and Assigns. This Security Instrument shall be binding upon and inure to the benefit of Trustor and Lender and their respective successors and assigns forever.

Section 15.3 Inapplicable Provisions. If any term, covenant or condition of the Loan Agreement, the Note or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the Loan Agreement, the Note and this Security Instrument shall be construed without such provision.

Section 15.4 Headings, Etc. The headings and captions of various Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 15.5 Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 15.6 Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used and to the extent permitted by applicable law, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of Trustor’s obligations hereunder, under the Loan Agreement, the Note and the other Loan Documents and the performance and discharge of the Other Obligations.

Section 15.7 Entire Agreement. The Note, the Loan Agreement, this Security Instrument and the other Loan Documents constitute the entire understanding and agreement between Trustor and Lender with respect to the transactions arising in connection with the Debt and supersede all prior written or oral understandings and agreements between Trustor and Lender with respect thereto. Trustor hereby acknowledges that, except as incorporated in writing in the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, there are not, and were not, and no persons are or were authorized by Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Note, the Loan Agreement, this Security Instrument and the other Loan Documents.

Section 15.8 Limitation on Lender's Responsibility. No provision of this Security Instrument shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger unless Lender has taken title to the Property. Nothing herein contained shall be construed as constituting Lender a "mortgagee in possession."

Section 15.9 Joint and Several Liability. If Trustor consists of more than one Person, the term "Trustor" shall be deemed to refer to each and every Person comprising Trustor from time to time, jointly and severally, and to include the heirs, executors, administrators, legal representatives, successors and assigns of each such Person. Without limiting the generality of the foregoing, the term "Trustor" as used herein shall include any new or successor corporation, association, partnership (general or limited), limited liability company joint venture, trust or other individual or organization formed as a result of any merger, reorganization, sale, transfer, devise, gift or bequest of any Person comprising Trustor from time to time or any interest in such Person. If Trustor consists of more than one Person, all representations, warranties, covenants, obligations and liabilities of each such Person hereunder shall be joint and several and a default hereunder by any such Person shall be deemed a default by all such Persons and Trustor. If Trustor consists of more than one Person, the representations, warranties and covenants contained herein shall be read to apply to the individual Persons comprising Trustor when the context so requires, but a breach of any such representation, warranty or covenant or a breach of any obligation under this Security Instrument shall be deemed a breach by all such Persons and Trustor, entitling Lender to exercise all of their rights and remedies under this Security Instrument and under applicable law.

Section 15.10 Conflict of Terms. In the event of any conflict between the terms of this Security Instrument and the terms of the Loan Agreement, the terms of the Loan Agreement shall control.

Section 15.11 Cross-Collateralization and Cross-Default. Trustor acknowledges that in order to induce Lender to make the Loan, (i) this Security Instrument and (ii) each other Mortgage with respect to each Individual Property (collectively, the "**Other Security Instruments**") are hereby cross-collateralized and cross-defaulted as provided herein. In accordance with the terms and provisions of the Loan Agreement, without limitation of any other

right or remedy provided to Lender in this Security Instrument or in any of the other Loan Documents, Trustor agrees that this Security Instrument and the Other Security Instruments are and will be cross-collateralized and cross-defaulted with each other so that (i) an Event of Default by Trustor shall constitute an Event of Default under the Other Security Instruments; (ii) an Event of Default under the Note, the Loan Agreement or this Security Instrument shall constitute an Event of Default; and (iii) this Security Instrument and each of the Other Security Instruments shall constitute security for the Note as if a single blanket lien were placed on all of the Individual Properties as security for the Note.

ARTICLE XVI - DEED OF TRUST PROVISIONS

Section 16.1 Concerning the Trustee. Trustee shall be under no duty to take any action hereunder except as expressly required hereunder or by law, or to perform any act which would involve Trustee in any expense or liability or to institute or defend any suit in respect hereof, unless properly indemnified to Trustee's reasonable satisfaction. Trustee, by acceptance of this Security Instrument, covenants to perform and fulfill the trusts herein created, being liable, however, only for gross negligence or willful misconduct, and hereby waives any statutory fee and agrees to accept reasonable compensation, in lieu thereof, for any services rendered by Trustee in accordance with the terms hereof. Trustee may resign at any time upon giving thirty (30) days' notice to Trustor and to Lender. Lender may remove Trustee at any time or from time to time and select a successor trustee. In the event of the death, removal, resignation, refusal to act, or inability to act of Trustee, or in its sole discretion for any reason whatsoever Lender may, without notice and without specifying any reason therefor and without applying to any court, select and appoint a successor trustee, by an instrument recorded wherever this Security Instrument is recorded and all powers, rights, duties and authority of Trustee, as aforesaid, shall thereupon become vested in such successor. Such substitute trustee shall not be required to give bond for the faithful performance of the duties of Trustee hereunder unless required by Lender. The procedure provided for in this paragraph for substitution of Trustee shall be in addition to and not in exclusion of any other provisions for substitution, by law or otherwise.

Section 16.2 Trustee's Fees. Trustor shall pay all reasonable costs, fees and expenses incurred by Trustee and Trustee's agents and counsel in connection with the performance by Trustee of Trustee's duties hereunder and all such costs, fees and expenses shall be secured by this Security Instrument.

Section 16.3 Certain Rights. With the approval of Lender, Trustee shall have the right to take any and all of the following actions: (a) to select, employ, and advise with counsel (who may be, but need not be, counsel for Lender) upon any matters arising hereunder, including the preparation, execution, and interpretation of the Note, this Security Instrument or the other Loan Documents, and shall be fully protected in relying as to legal matters on the advice of counsel, (b) to execute any of the trusts and powers hereof and to perform any duty hereunder either directly or through his/her agents or attorneys, (c) to select and employ, in and about the execution of his/her duties hereunder, suitable accountants, engineers and other experts, agents and attorneys-in-fact, either corporate or individual, not regularly in the employ of Trustee, and Trustee shall not be answerable for any act, default, negligence, or misconduct of any such accountant, engineer or other expert, agent or attorney-in-fact, if selected with reasonable care,

or for any error of judgment or act done by Trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever, except for Trustee's gross negligence or bad faith and (d) any and all other lawful action as Lender may instruct Trustee to take to protect or enforce Lender's rights hereunder. Trustee shall not be personally liable in case of entry by Trustee, or anyone entering by virtue of the powers herein granted to Trustee, upon the Property for debts contracted for or liability or damages incurred in the management or operation of the Property. Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting an action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. Trustee shall be entitled to reimbursement for actual reasonable expenses incurred by Trustee in the performance of Trustee's duties hereunder and to reasonable compensation for such of Trustee's services hereunder as shall be rendered.

Section 16.4 Retention of Money. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by applicable law) and Trustee shall be under no liability for interest on any moneys received by Trustee hereunder.

Section 16.5 Perfection of Appointment. Should any deed, conveyance, or instrument of any nature be required from Trustor by any Trustee or substitute trustee to more fully and certainly vest in and confirm to the Trustee or substitute trustee such estates rights, powers, and duties, then, upon request by the Trustee or substitute trustee, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged, and delivered and shall be caused to be recorded and/or filed by Trustor.

Section 16.6 Succession Instruments. Any substitute trustee appointed pursuant to any of the provisions hereof shall, without any further act, deed, or conveyance, become vested with all the estates, properties, rights, powers, and trusts of its or his/her predecessor in the rights hereunder with like effect as if originally named as Trustee herein; but nevertheless, upon the written request of Lender or of the substitute trustee, the Trustee ceasing to act shall execute and deliver any instrument transferring to such substitute trustee, upon the trusts herein expressed, all the estates, properties, rights, powers, and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such Trustee to the substitute trustee so appointed in the Trustee's place.

ARTICLE XVII - STATE-SPECIFIC PROVISIONS

Section 17.1 Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Article 17 and the other terms and conditions of this Security Instrument, the terms and conditions of this Article 17 shall control and be binding.

Section 17.2 State Specific Provisions. Notwithstanding anything to the contrary elsewhere in this Security Instrument:

(a) **Foreclosure by Power of Sale.** Should Lender elect to foreclose by exercise of the power of sale herein contained, Lender shall notify Trustee and shall deposit with Trustee this Security Instrument, the Loan Agreement and such receipts and evidence of

expenditures made and secured hereby as Trustee may require. Thereafter, and only in accordance with or as permitted by the Nebraska Trust Deeds Act (as may be amended from time to time):

(i) upon receipt of such notice from Lender, Trustee shall cause to be recorded, published and delivered to Trustor such notice of default and notice of sale and any other notice or document or instrument as then required by applicable law and/or by this Security Instrument. Trustee shall, without demand on Trustor, after such time as may then be required by law and after recordation and/or delivery of such notice of default, notice of sale and/or any other notice required by law, sell the Property at the time and place of sale fixed by it in such notice of sale, either as a whole, or in separate lots or parcels or items as Trustee shall deem expedient, and in such order as Trustee may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof a good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. Any person, including, without limitation, Lender, may purchase at such sale, and Trustor hereby covenants to warrant and defend the title of such purchaser or purchasers; and

(ii) after deducting all costs, fees and expenses of Trustee and those allowed or permitted by the Loan Agreement, including attorneys fees and costs of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of (i) the costs and expenses of exercising the power of sale and of the sale, (ii) payment of the Obligations, including all sums expended under the terms hereof, not then repaid, with accrued interest at the Default Rate, and all other sums then secured hereby, (iii) all junior deeds of trust, mortgages or other lienholders, and (iii) the remainder, if any, to the person or persons legally entitled thereto; and

(iii) Trustee may in the manner provided by law postpone sale of all or any portion of the Mortgaged Property.

(b) Foreclosure as Mortgage. This instrument shall be effective as a mortgage as well as a deed of trust and upon the occurrence of an Event of Default may be foreclosed as to any of the Property in any manner permitted by the laws of the State of Nebraska or of any other state in which any part of the Property is situated, and any foreclosure suit may be brought by the Trustee or by the Lender.

(c) Appointment of Successor Trustee. Lender may, from time to time, by a written instrument executed and acknowledged by Lender, mailed to Trustor and recorded in the County in which the Property is located and by otherwise complying with the provisions of the applicable law of the State of Nebraska, substitute a successor or successors to the Trustee named herein or acting hereunder.

(d) Requests for Notice. Trustor for itself and for each person who is a party hereto hereby requests a copy of any notice of default and any notice of sale hereunder be mailed to each such person at the addresses set forth on the first page of this Security Instrument. While hereby expressly reserving the priority of this Security Instrument as established by law, Trustee

and Lender hereunder request that a copy of any notice of default and any notice of sale under any deed of trust recorded against the Property either prior to, or subsequent to the date this Security Instrument is recorded be mailed to each at the addresses set forth in this Security Instrument.

(e) Reconveyance by Trustee. Upon written request of Lender stating that all sums secured hereby have been irrevocably paid in full, Trustee shall reconvey to Trustor, or to the person or persons legally entitled thereto, without warranty, any portion of the Property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof.

(f) Future Advances. In addition to the indebtedness presently secured hereby, this Security Instrument shall also secure such future advances, whether such advances are obligatory or to be made at the option of Lender, or otherwise, to the same extent as if such future advances were made on the date of the execution of this Security Instrument, even though there may be no indebtedness outstanding at the time any advance is made. Such lien, as to third persons without actual notice thereof, shall be valid as to all such indebtedness and future advances from the time this Security Instrument is filed for record as provided by law. The total amount of indebtedness that may be so secured may increase or decrease from time to time (and also may be decreased to zero), but the total unpaid balance so secured at any one time shall not exceed the maximum principal amount of \$811,000,000.00, plus interest thereon and advances made hereunder for the payment of taxes, liens and insurance with respect to any part of the Security Instrument. This Section shall not, however, obligate Lender to make any such advances.

(g) Inconsistent Provisions. If any provision in this Security Instrument shall be inconsistent with any applicable provision of the law of the State of Nebraska governing foreclosure or power of sale under a deed of trust (herein collectively called the "Laws"), the provisions of the Laws shall take precedence over the provisions of this Security Instrument, but shall not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with the Laws.

(h) Rights and Remedies Upon Default. If any provision of this Security Instrument shall grant to Trustee or Lender any rights or remedies upon default which are more limited than the rights that would otherwise be vested in Trustee or Lender under the Laws in the absence of such provision, Trustee or Lender, as the case may be, shall be vested with the rights granted in the Laws to the full extent permitted thereby and other applicable law.

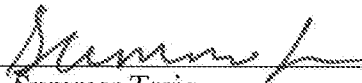
(i) Security Interest in Rents. Without limiting any other provisions of this Security Instrument, to secure all of the Obligations, Trustor does hereby assign and grant to Lender a security interest in all present, future or after-arising Rents or Leases, all as provided in Section 52, Article 17, Reissue Revised Statutes of Nebraska, 2010.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, this Security Instrument has been executed by Trustor as of the date first above written.

TRUSTOR:

LSREF4 BISON, LLC,
a Delaware limited liability company

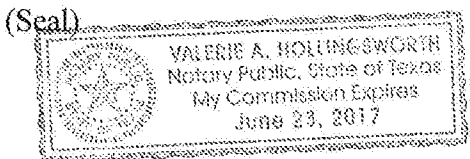
By: 
Name: Summer Trejo
Title: Assistant Vice President

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Before me the undersigned, a Notary Public in and for said County and State, on this day personally appeared SUMMER TREJO, the Assistant Vice President of LSREF4 BISON, LLC, a Delaware limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and thereupon she acknowledged that she was authorized to execute the within instrument on behalf of said limited liability company, and that she executed said instrument as the voluntary act of the said limited liability company, and for the purposes and consideration expressed therein and in the capacity stated therein.

Given under my hand and seal of office this 25th day of August, A.D., 2015.



VL, Notary Public
(signature of Notary Public)

My Commission Expires: 6.23.17

EXHIBIT A

LEGAL DESCRIPTION

Brook Valley I
La Vista, Nebraska

REAL PROPERTY IN THE CITY OF LA VISTA, COUNTY OF SARPY, STATE OF NEBRASKA, DESCRIBED AS FOLLOWS:

THE SOUTH 405 FEET OF LOT 24, BROOK VALLEY BUSINESS PARK, AN ADDITION TO THE CITY OF LA VISTA, IN SARPY COUNTY, NEBRASKA; AKA LOT 24, BROOK VALLEY BUSINESS PARK, AN ADDITION TO THE CITY OF LA VISTA, IN SARPY COUNTY, NEBRASKA, EXCEPT THE NORTH 45 FEET THEREOF; AKA LOT 24A, BROOK VALLEY BUSINESS PARK, AN ADDITION TO THE CITY OF LA VISTA, IN SARPY COUNTY, NEBRASKA.