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Carol A. Finch
DOUGLAS COUNTY
REGISTER OF DEEDS
COMPUTER INDEX FILE # 162-0

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

**THIS DEED OF TRUST IS A CONSTRUCTION SECURITY AGREEMENT
WITHIN THE MEANING OF THE NEBRASKA CONSTRUCTION LIEN ACT**

THIS DEED OF TRUST, SECURITY AGREEMENT, FINANCING STATEMENT, AND ASSIGNMENT OF RENTS AND REVENUES (this "Deed of Trust") is given as of the 7th day of April, 2003, by the Borrower named below to the Trustee named below, for the use and benefit of the Bank named below.

**ARTICLE 1
PARTIES, PROPERTY, AND DEFINITIONS**

The following terms and references shall have the meanings indicated:

1.1 **Borrower:** MDI LIMITED PARTNERSHIP #36, a Nebraska limited partnership, whose address is c/o MetroPlains Development, LLC, 1600 University Avenue, Suite 212, St. Paul, Minnesota, 55104, together with any future owner of the Property or any part thereof or interest therein.

1.2 **Bank:** U.S. BANK NATIONAL ASSOCIATION, whose address is 1700 Farnam Street, Omaha, Nebraska 68102, together with each other lender who may become a Bank pursuant to the Loan Agreement.

1.3 **Guarantor:** collectively Gary L. Stenson, individually, and Metroplains Properties, Inc., a Minnesota corporation

1.4 **Trustee:** U.S. BANK NATIONAL ASSOCIATION, whose address is 1700 Farnam Street, Omaha, Nebraska 68102.

1.5 **Note:** The Tax Increment Financing Promissory Note ("Note") of even date herewith in the principal amount of \$250,000.00. The last payments under the Note are due on or before the TIF Loan Maturity Date (as defined in the Loan Agreement), unless such due

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U.S. Bank / MDI Limited Partnership #36
Second Deed of Trust

DAKOTA TITLE & ESCROW CO.
522 NORTH MAIN STREET
FREMONT, NE 68025
PH. (402) 727-8400

DAK
162-0
6-153600

date is extended or accelerated, together with all renewals, extensions, and modifications of the Note. All terms and provisions of the Note are incorporated by this reference in this Deed of Trust.

1.6 Loan Agreement: The Construction and Permanent Loan Agreement of even date herewith executed by Borrower, Guarantor, and the Bank, and all renewals, extensions, and modifications of the Loan Agreement. All capitalized terms not otherwise defined herein shall bear the meaning given to them in the Loan Agreement.

1.7 Real Property: The real property described in Exhibit A, attached hereto and by this reference incorporated herein, together with all right, title and interest of Borrower in the following with respect to the real property, whether now owned or hereafter acquired by Borrower:

(a) All improvements now or hereafter located on such real property and all easements and appurtenances thereto;

(b) The land lying within any street or roadway adjoining the real property; any vacated or hereafter vacated street or alley adjoining the real property; and any strips and gores adjoining the real property;

(c) All and singular the passages, waters, water rights (whether tributary or non-tributary or not non-tributary), water courses, riparian rights, wells, well permits, water stock, other rights, liberties and privileges thereof or in any way now or hereafter appertaining to the real property, including homestead and any other claim at law or in equity, as well as any after-acquired title, franchise or license, and the reversion and reversions and remainder and remainders thereof;

(d) All of the rents, royalties, income (including, without limitation, operating income), receipts, revenues, issues, and profits of and from the use, operation, or enjoyment of such real property and improvements (collectively, the "Income"), whether such Income is attributable to the period, or is collected, prior to or subsequent to any default by Borrower;

(e) All machinery, apparatus, equipment, fittings, fixtures (whether actually or constructively attached or incorporated, and including all trade, domestic, and ornamental fixtures) now or hereafter located in, upon, or under such real property or improvements and used or usable in connection with any present or future operation thereof, including but not limited to all lighting, utility, and power equipment; engines; pipes; pumps; tanks; motors; conduits; utility systems, plumbing, lifting, cleaning, fire prevention, fire extinguishing, signage, heating, air-conditioning; communication apparatus; water heaters; ranges; furnaces; appliances, refrigerators, stoves; shades, awnings, screens, storm doors and windows; attached cabinets; rugs, carpets and draperies and all additions thereto and replacements therefor;

(f) All other and greater rights and interests of every nature in such property and in the possession or use thereof and income therefrom, including the right to receive any and all tax credits to the extent allowed by Section 42 of the Internal Revenue Code, and the value thereof, relating to the Real Property, whether now owned or subsequently acquired by Borrower.

1.8 Chattels: All right, titles and interests of the Borrower in and to the following, with respect to the Real Property:

(a) all Goods, trade fixtures, fixtures, Inventory, furnishings, fittings, machinery, apparatus, equipment, building and other construction materials, supplies, and other tangible personal property of every nature now owned or hereafter acquired by Borrower and used, intended for use, or reasonably required in the development, construction, reconstruction, alteration, repair, or operation of the Property and any improvements or infrastructure located thereon, together with all accessions thereto, replacements and substitutions therefor, and proceeds thereof, including, without limitation, to the extent not deemed to be real property under this Deed of Trust, all apparatus, machinery, motors, elevators, fittings, equipment, and other furnishings and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air-conditioning and sprinkler equipment and fixtures, all recreation and fitness equipment and other fixtures, furnishings and equipment used in connection with recreational and common amenities and appurtenances thereto.

1.9 Intangible Personalty: All right, title and interest of the Borrower in and to the following, with respect to the Real Property:

(a) All plans and specifications for the improvements on the Real Property; soil, environmental, engineering, land planning maps, surveys and other studies and reports concerning the Real Property or prepared for the orderly planning and development of the Real Property, including all plans, drawings and studies concerning the platting or replatting of the Real Property; all contracts and subcontracts relating to the improvements on the Real Property, or any thereof;

(b) All awards and payments, including interest thereon, resulting from the exercise of any right of eminent domain or any other public or private taking of, casualty or injury to, or decrease in the value of, any of such Real Property, including without limitation all property insurance payments, proceeds and policies related to such Real Property; and

(c) all of the licenses, permits, franchises, and other entitlements to use and all rights thereto which have been issued by or which are pending before any governmental or quasi- governmental agency which are necessary or appropriate for the Property;

(d) all funds, Accounts, operating accounts, accounts receivable, Deposit Accounts, escrow accounts, monies, claims, causes of action, rights to payment, prepaid insurance and other prepaid items, rights in and to contracts for the sale of any portion of the Property, contracts, contract rights, refunds and rebates, maintenance contracts, maintenance warranties, continuing agreements, security deposits, General Intangibles and Payment Intangibles associated with the Property, Letter of Credit Rights and insurance proceeds;

(e) all water taps, sewer taps, building permits, curb cut permits, storm water discharge permits, refunds, rebates or deposits due or to become due from any utility companies or Governmental Entity; and

(f) the absolute right to Borrower's interest in any trade name used by Borrower in connection with the Property and all of Borrower's rights in and to contract rights, leases, concessions, trade names, trademarks, service marks, logos, operating systems, trade secrets, technology and technical information, copyrights, warranties, licenses, plans, drawings and other items of intangible personal property relating to the ownership or operation of the Property.

(g) all of Borrower's right, title and interest, now owned or hereafter acquired, in and to all "proceeds" and "products" (as such terms are defined in Article 9 of the Code) of the foregoing collateral, and, to the extent not otherwise included herein: (i) any and all proceeds of any insurance, causes and rights of action, settlements thereof, judicial, administrative and arbitration judgments and awards, indemnity, warranty or guaranty payable to the Borrower from time to time with respect to any of the foregoing collateral; (ii) any and all payments (in any form whatsoever) made or due and payable to the Borrower from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the foregoing collateral by any governmental authority; (iii) all claims of the Borrower for losses or damages arising out of or related to or for any breach of any agreement, covenant, representation or warranty or any default under any of the foregoing collateral (without limiting any direct or independent rights of the Bank with respect to the foregoing collateral); and (iv) any and all other amounts from time to time paid or payable under or in connection with any of the foregoing collateral;

(h) All of Debtor's rights under a certain Redevelopment Agreement dated October 25, 2002 (the "Redevelopment Agreement") with the City of Fremont, Nebraska and any amendments thereto prepared pursuant to the Nebraska Community Development Law to implement a redevelopment plan (the "Redevelopment Plan") which provides for the renovation of the buildings located at 734 Park Avenue North, Fremont, Nebraska (the "Redevelopment Project"), and the use of excess ad valorem taxes generated by such Redevelopment Project;

(i) All of Debtor's rights under a promissory note (the "Redevelopment Note") in the amount of \$250,000.00 executed by the city of Fremont, Nebraska that will be

paid out of a special fund under Section 18-2147 of the Nebraska Revised Statutes established for the purpose of collecting excess ad valorem taxes generated by the Redevelopment Project.

1.10 Property: The Real Property, the Chattels and the Intangible Personalty are sometimes collectively called the "Property." It is specifically understood that the enumeration of any specific articles of the Property, including Chattels and Intangible Personalty shall in no wise exclude or be held to exclude any items of property not specifically mentioned. All of the Real Property, Chattels and Intangible Personalty, whether affixed or annexed or not, and all rights hereby conveyed and mortgaged are intended to be as a unit and are hereby understood and agreed and declared to be appropriated to the use of the real estate, and shall for the purposes of this Deed of Trust be deemed to be real estate and conveyed and mortgaged hereby.

Any capitalized terms not otherwise defined in Sections 1.7 through 1.10 of this Deed of Trust and not defined in the Loan Agreement, shall bear the meaning given to them in Article 9 of the Code, defined below.

1.11 The Secured Obligations: The Property is granted and shall be held for the purpose of securing:

- (a) The payment of the indebtedness as evidenced by the Note;
- (b) The performance and observance of all terms, covenants, conditions, and provisions to be performed or observed by the Borrower pursuant to the terms of (i) this Deed of Trust, (ii) UCC-1 financing statements required to perfect the Bank's security interest in the personal property as granted by this Deed of Trust (the "Financing Statement"), (iii) the Loan Agreement, and (iv) any and all pledge or other security agreements, loan agreements, disbursement agreements, supplemental agreements, assignments (both present and collateral), side letters, as the same may be amended, modified or supplemented from time to time, being referred to hereinafter as "Ancillary Agreements" (the Note, this Deed of Trust, Financing Statement, Ancillary Agreements, Loan Agreement, and any and all other documents or instruments executed in connection with the foregoing to evidence or secure the Note shall be hereinafter collectively called the "Loan Documents," but for purposes of this Deed of Trust, the Guaranty Agreement executed by Guarantor and the Environmental Indemnity Agreement executed by Borrower and Guarantor in favor of Bank (the "Environmental Indemnity") are not included in the term "Loan Documents" and are not secured by this Deed of Trust); and,
- (c) The payment of all sums expended or advanced by Bank pursuant to the terms of the Deed of Trust of the other Loan Documents.

All persons who may acquire an interest in all or any part of the Property will be considered to have notice of, and will be bound by, the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the

Secured Obligations. These terms include any provisions in the Note or the Loan Agreement which provide that the interest rate on one or more of the Secured Obligations may vary from time to time.

ARTICLE 2 GRANTING CLAUSE

2.1 Grant to Trustee. As security for the Secured Obligations, Borrower hereby unconditionally grants, bargains, sells, conveys and assigns the Property to the Trustee, in trust for the benefit of the Bank, as Beneficiary, WITH POWER OF SALE and of entry and possession, and subject to all provisions hereof, all estate, right, title and interest which Borrower now has or may later acquire in and to the Property, and subject to all provisions hereof.

TO HAVE AND TO HOLD the Property unto Trustee, forever, and Borrower does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND the title to the Property unto Trustee against every person whomsoever lawfully claiming or to claim the same or any part thereof; provided, however, that if Borrower shall pay (or cause to be paid) the Secured Obligations as and when the same shall become due and payable and shall fully perform and discharge (or cause to be fully performed and discharged) the Secured Obligations on or before the date same are to be performed and discharged, then the liens, security interests, estates, and rights granted by the Loan Documents shall terminate, in accordance with the provisions hereof, otherwise same shall remain in full force and effect. A certificate or other written statement executed on behalf of Trustee or Bank confirming that the Secured Obligations have not been fully paid, performed or discharged shall be sufficient evidence thereof for the purpose of reliance by third parties on such fact.

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

(a) The Collateral shall be used by Borrower solely for business purposes, being installed upon or owned in connection with the real estate comprising part of the

Property for Borrower's own use or as the equipment and furnishings furnished by Borrower, as owner, to tenants of the Property;

(b) The Chattels shall be kept at the real estate comprising a part of the Property, and shall not be removed therefrom without the consent of Bank and the Chattels may be affixed to such real estate but shall not be affixed to any other real estate;

(c) No financing statement covering any of the Collateral or any proceeds thereof is on file in any public office; and Borrower will, at its cost and expense, upon demand, furnish to Bank such further information and will execute and deliver to Bank such financing statements and other documents in form satisfactory to Bank and will do all such acts and things as Bank may at any time or from time to time reasonably request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Secured Obligations, subject to no adverse liens or encumbrances; and Borrower will pay the cost of filing the same or filing or recording such financing statements or other documents and this instrument in all public offices wherever filing or recording is deemed by Bank to be necessary or desirable;

(d) The terms and provisions contained in this section and in Section 7.5 (Enforcement of Security Interests) of this Deed of Trust shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code; and

(e) This Deed of Trust constitutes a security agreement and financing statement under the Code with respect to the Collateral. As such, this Deed of Trust covers all items of the Collateral that are personal property including all items which are to become fixtures. Borrower is the "Debtor" and Bank is the "Secured Party" (as those terms are defined and used in the Code) insofar as this Deed of Trust constitutes a financing statement.

(f) The Borrower agrees that Bank may, to the extent permitted by applicable law, prepare and file financing statements, amendments thereto, and continuation statements without the signature of the Borrower and file any financing statement, amendment thereto or continuation statement electronically.

2.3 Construction Loan. This is a construction mortgage under the Uniform Commercial Code, given to secure an obligation incurred for the construction of an improvement of land, including the acquisition cost of the land.

2.4 No Agricultural Use. Borrower warrants and agrees that the Property is not used principally or primarily for farming, timber harvesting, grazing, or other agricultural purposes.

ARTICLE 3
BORROWER'S TITLE AND AUTHORITY

3.1 Warranty of Title. Borrower represents and warrants to Trustee and Bank that Borrower has good and marketable title to the Property in fee simple absolute, subject only to the lien of general taxes for the current year, which taxes are not delinquent, and those additional matters, if any, set forth in Exhibit B, attached hereto and by this reference incorporated herein ("Permitted Exceptions"). Borrower further represents and warrants to Trustee and Bank that Borrower is the absolute owner of the Collateral, free of any liens, encumbrances, security interests, and other claims whatsoever, except insofar as the Collateral may be encumbered by the lien of general taxes for the current year, which taxes are not delinquent, and the Permitted Exceptions. Borrower, for itself and its successors and assigns, hereby agrees to warrant and forever defend, all and singular, all of the property and property interest granted and conveyed in trust pursuant to this Deed of Trust, against every person whomsoever lawfully claiming, or to claim, the same or any part thereof, subject to the Permitted Exceptions. The warranties contained in this section shall survive foreclosure of this Deed of Trust, and shall inure to the benefit of and be enforceable by any person who may acquire title to the Property or the Collateral pursuant to any such foreclosure.

3.2 Waiver of Homestead and Other Exemptions. To the extent permitted by law, Borrower hereby waives all rights to any homestead or other exemption to which Borrower would otherwise be entitled under any present or future constitutional, statutory, or other provision of applicable state or federal law.

3.3 Due Authorization. If Borrower is other than a natural person, then each individual who executes this document on behalf of Borrower represents and warrants to Trustee and Bank that such execution has been duly authorized by all necessary corporate, partnership, or other action on the part of Borrower.

ARTICLE 4
BORROWER'S AFFIRMATIVE COVENANTS

4.1 Payment of Note. Borrower will pay all principal, interest, and other sums payable under the Note, the Loan Agreement or this Deed of Trust or the Loan Documents, on the date when such payments are due, without notice or demand.

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

4.3 Other Encumbrances. Borrower will promptly and strictly perform and comply with all covenants, conditions, and prohibitions required of Borrower in connection with any other encumbrance affecting the Property or the Collateral, or any part thereof, or any interest

therein, regardless of whether such other encumbrance is superior or subordinate to the lien hereof. This paragraph does not authorize any lien or encumbrance against the Property or the Collateral except as permitted by Section 3.1 or with the prior written consent of the Bank as provided in this Deed of Trust.

4.4 Payment of Taxes.

(a) Property Taxes. Borrower will pay, before delinquency, all taxes and assessments, including without limitation, general, special and metropolitan district taxes, water charges, sewer service charges (collectively, the "Impositions"), which may be levied or imposed at any time against Borrower's interest and estate in the Property or the Collateral. Such payment shall be made by depositing the required amounts with Bank pursuant to subsection (b), or by any other method approved in writing by Bank. Within ten (10) days after request by Bank, Borrower will deliver to Bank an official receipt for such payment or other evidence that such payment has been made.

(b) Deposit for Taxes. With each monthly payment under the Note, Borrower will deposit with Bank an amount equal to 1/12th of the amount which Bank estimates to be the total annual amount of Impositions (adjusted, if necessary, depending on the Closing Date, the date of the first monthly payment, and the date of the next installment of Impositions). The purpose of these provisions is to provide Bank with sufficient funds on hand to pay all such Imposition charges 30 days before the date on which they become past due. Provided no default exists hereunder, Bank will apply the amounts so deposited to the payment of such Imposition when due, but in no event will Bank be liable for any interest on any amount so deposited, and the money so received may be held and commingled with Bank's own funds. If the funds so deposited are insufficient to pay the Impositions for any year when the same shall become due and payable or the next installment of such Impositions, the Borrower shall, within ten (10) days after receipt of demand therefor, deposit such additional funds as may be necessary to pay such Impositions in full.

(c) Intangible Taxes. If by reason of any statutory or constitutional amendment or judicial decision adopted or rendered after the date hereof, any tax, assessment, or similar charge is imposed against the Note, against Bank arising directly from Bank's interests in the Loan Documents (other than a tax based on Bank's income), or against any security interest of Bank in the Property, Borrower will pay such tax, assessment, or other charge before delinquency and will indemnify Bank against all loss, expense, or diminution of income in connection therewith. In the event Borrower is unable to do so, either for economic reasons or because the legal provisions or decisions creating such tax, assessment or charge forbid Borrower from doing so, then the Note will, at Bank's option, become due and payable in full upon sixty (60) days' notice to Borrower.

(d) Right to Contest. Notwithstanding any other provision of this section, Borrower will not be deemed to be in default solely by reason of Borrower's failure to pay any Impositions so long as, in Bank's judgment, each of the following conditions is satisfied:

(i) Borrower is engaged in and diligently pursuing in good faith administrative or judicial proceedings appropriate to contest the validity or amount of such Impositions; and

(ii) Nonpayment of such Impositions will not result in the loss or forfeiture of any Property encumbered hereby or any interest of Bank therein.

If Bank determines that any one or more of such conditions is not satisfied or is no longer satisfied, Borrower will pay the Impositions in question, together with any interest and penalties thereon, within ten (10) days after Bank gives notice of such determination.

4.5 Maintenance of Insurance. Borrower shall provide and maintain policies of insurance on the Property in accordance with the Loan Agreement.

(a) Deposit for Premiums. Concurrently with the delivery of this Deed of Trust, Borrower has deposited with Bank an amount equal to 1/12th of the amount which Bank estimates will be required to make the next annual payments of the premium for the policies of insurance referred to in this section, multiplied by the number of whole and partial months which have elapsed since the most recent policy anniversary date for each such policy ("Insurance Premium"). With each monthly payment under the Note, Borrower will deposit an amount equal to 1/12th of the amount which Bank estimates will be required to pay the next required annual premium for each insurance policy referred to in this section. The purpose of these provisions is to provide Bank with sufficient funds on hand to pay all such Insurance Premiums thirty (30) days before the date on which they become past due. Borrower shall, within ten (10) days after receipt of demand therefor, deposit such additional funds as are necessary to make up any deficiencies in amounts necessary to pay such Insurance Premiums when due. Provided no default exists hereunder, Bank will apply the amounts so deposited to the payment of such Insurance Premiums when due, but in no event will Bank be liable for any interest on any amount so deposited, and the money so received may be held and commingled with Bank's own funds.

(b) Renewal Policies. Not less than ten (10) days prior to the expiration date of each insurance policy required pursuant to subsection 4.5(a) above, Borrower will deliver to Bank a copy of an appropriate renewal policy certified by Borrower as complete and accurate, together with evidence satisfactory to Bank that the applicable premium has been prepaid.

(c) Application of Hazard Insurance Proceeds. Any insurance proceeds received as a consequence of casualty shall be applied in accordance with the terms of the Loan Agreement.

(d) Successor's Rights. Any person who acquires title to the Property or the Collateral upon foreclosure hereunder will succeed to all of Borrower's rights under all policies of insurance maintained pursuant to this section, including, without limitation, all rights to all claims under all such insurance policies regardless of the nature of such claim or when such claim arose.

4.6 Maintenance and Repair of Property and Collateral. Borrower will at all times maintain the Property and the Collateral in good condition and repair, and will diligently prosecute the completion of any infrastructure, building or other improvement which is at any time in the process of construction on the Property in full compliance with all building codes and other governmental requirements and in accordance with the Loan Agreement. Borrower shall constantly maintain and shall not diminish in any respect nor materially alter the Property during the term of this Deed of Trust except as contemplated by the Plans (as defined in the Loan Agreement), except as required by law or municipal ordinance, without the prior written consent of Bank. Borrower will promptly repair, restore, replace, or rebuild any part of the Property or the Collateral which may be affected by any casualty or any public or private taking or injury to the Property or the Collateral. Any repair, restoration, replacement, or rebuilding shall be consistent with all applicable laws and regulations and the Loan Agreement. All costs and expenses arising out of the foregoing shall be paid by Borrower whether or not the proceeds of any insurance or eminent domain shall be sufficient therefor. Borrower will comply with all statutes, ordinances, and other governmental or quasi-governmental requirements and private covenants relating to the ownership, construction, use, or operation of the Property and the Collateral, including but not limited to any environmental or ecological requirements, legislation or regulations with respect to the ADA; provided, that so long as Borrower is not otherwise in default hereunder, Borrower may, upon providing Bank with security reasonably satisfactory to Bank, proceed diligently and in good faith to contest the validity or applicability of any such statute, ordinance, or requirement. Bank and any person authorized by Bank may enter and inspect the Property at all reasonable times, and may inspect the Collateral, wherever located, at all reasonable times.

4.7 Performance of Lease Obligations. Borrower will perform promptly all of Borrower's obligations under or in connection with each present and future lease of all or any part of the Property (collectively called the "Leases").

4.8 Recertified Appraisal. If required by the Bank in accordance with the Loan Agreement, Borrower shall provide a recertified appraisal of the Property.

4.9 Management. The Borrower will provide and maintain good and efficient management of the Property satisfactory to Bank. Borrower shall obtain Bank's advance written approval of any management provided, and of any contract therefor or assignment thereof, which written approval shall not be unreasonably withheld.

4.10 Condemnation. Borrower hereby assigns, transfers and sets over unto Bank the entire proceeds of any award or any claim for damages for any of the Property taken or damaged under the power of eminent domain or by condemnation ("Condemnation Proceeds"). Any Condemnation Proceeds received shall be applied in accordance with the terms of the Loan Agreement.

4.11 Mechanics' Liens. Borrower will keep the Property free and clear of all liens and claims of liens by contractors, subcontractors, mechanics, laborers, materialmen, and other such persons in the manner provided in the Loan Agreement.

4.12 Defense of Actions. Borrower will defend, at Borrower's expense, any action, proceeding or claim which affects any Property encumbered hereby or any interest of Bank in such Property or in the Secured Obligations, and will indemnify and hold Bank harmless from all loss, damage, cost, or expense, including attorneys' fees, which Bank may incur in connection therewith.

4.13 Inventories; Assembly of Chattels. Borrower will, from time to time at the request of Bank, supply Bank with a current inventory of the Chattels, in such detail as Bank may require. Upon the occurrence of any Event of Default hereunder, Borrower will, at Bank's request assemble the Chattels and make the Chattels available to Bank at any place designated by Bank which is reasonably convenient to both parties.

4.14 Further Assurances; Estoppel Certificates. Borrower will execute and deliver to Bank upon demand, and pay the costs of preparation and recording thereof, any further documents which Bank may request to confirm or perfect the liens and security interests created or intended to be created hereby, or to confirm or perfect any evidence of the Secured Obligations. Borrower will also, within ten (10) days after any request by Bank, deliver to Bank a signed and acknowledged statement certifying to Bank, or to any proposed transferee of the Secured Obligations, (a) the balance of principal, interest, and other sums then outstanding under the Note, and (b) whether Borrower claims to have any offsets or defenses with respect to the Secured Obligations and, if so, the nature of such offsets or defenses.

4.15 Parking Requirements. Borrower shall maintain at all times sufficient parking spaces to comply with the parking requirements of all Leases, zoning and other regulations affecting the Property.

4.16 Financial Statements and Inspection of Records. Borrower, at Borrower's expense, shall furnish to Bank the financial and other reports required by the Loan Agreement.

4.17 Security Deposits. If required by the Bank, Borrower shall keep and maintain in a separate bank account with Bank, any security deposits or advance payments received from tenants in lieu of security deposits, subject to the terms of the Loan Agreement.

4.18 Environmental Representations and Warranties. Borrower has executed for the benefit of the Bank the Environmental Indemnity, the provisions of which are included herein by reference. Borrower shall comply with, observe and perform each of the terms and provisions of the Environmental Indemnity.

4.19 Stamp Tax. If, by the laws of the United States of America, or of any state or political subdivision having jurisdiction over Borrower, any tax is due or becomes due in respect of the issuance of the Note, or recording of this Deed of Trust, Borrower covenants and agrees to pay such tax in the manner required by any such law. Borrower further covenants to hold harmless and agrees to indemnify Bank, its successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the Note or recording of this Deed of Trust.

4.20 Changes in Taxation. In the event of the enactment after this date of any law of the State in which the Property is located or any political subdivision thereof deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon Bank the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Borrower, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the Bank's interest in the Property, or the manner of collection of taxes, so as to affect this Deed of Trust or the Secured Obligations, then Borrower, upon demand by Bank, shall pay such taxes or assessments, or reimburse Bank therefor; provided, however, that if in the opinion of counsel for Bank (i) it might be unlawful to require Borrower to make such payment or (ii) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then Bank may elect, by notice in writing given to Borrower, to declare all of the Secured Obligations to be and become due and payable sixty (60) days from the giving of such notice.

4.21 Commercial Purposes. The Loan and the other Secured Obligations were obtained by Borrower upon its representation that it will use the Property only for commercial purposes. Borrower agrees that throughout the term of the Loan, the Property will continue to be used for commercial or business purposes other than agricultural, timber, or grazing purposes, and not for Borrower's personal, family or household purposes.

ARTICLE 5 BORROWER'S NEGATIVE COVENANTS

5.1 Waste. Borrower will not commit or permit any waste with respect to the Property or the Collateral.

5.2 Zoning and Private Covenants. Except as specifically provided in the Loan Agreement, if at all, Borrower will not initiate, join in, or consent to any change in any zoning ordinance or classification, any change in the "zone lot" or "zone lots" (or similar zoning unit or units) presently comprising the Property, any change in any private restrictive covenant, or

any change in any other public or private restriction limiting or defining the uses which may be made of the Property or any part thereof, without the express written consent of Bank. If under applicable zoning provisions the use of all or any part of the Property is or becomes a nonconforming use, Borrower will not cause such use to be discontinued or abandoned without the express written consent of Bank.

5.3 Disposition of Mortgaged Property, Leases, or Beneficial Interest in Borrower. It is expressly acknowledged, covenanted and agreed, there shall be no sale, lease (except for residential leases and leases of space for services supporting the Property subordinate to this Deed of Trust), exchange, assignment, conveyance, encumbrance, mortgage, alienation, transfer or other disposition (herein collectively called a "Disposition") of (a) all or any portion of the Property or any lease thereof (or any interest therein) which gives the lessee any option to purchase the Property or any part thereof, or (b) all or any part of the legal or beneficial ownership interest or management control in Borrower, unless Bank has provided its prior written consent thereto. In the event there occurs a Disposition without Bank's written consent, then Bank may, at Bank's option, accelerate the maturity of the Note and enforce any and all of Bank's rights, remedies and resources set forth in this Deed of Trust upon the occurrence of an Event of Default. It is acknowledged and agreed that the Bank may arbitrarily withhold, at its sole option, its consent to any Disposition as described above. Bank's failure to respond or otherwise consent within such thirty (30) day period shall be deemed a denial of the request for approval. Bank's failure to exercise its remedies hereunder for a disapproved Disposition shall not be construed as a waiver of Bank's right to subsequently exercise such remedies, and Bank's approval of a Disposition shall not be construed as a waiver of the provisions hereof with respect to any subsequent Disposition. The rights and options herein granted to Bank may be exercised at Bank's sole option and discretion, need not be based upon an increased business risk or any other risk, and are an integral and valuable part of the security given to Bank.

5.4 Further Encumbrance of Property. Except for the Permitted Exceptions, Borrower will not create, place or permit to be created or placed or allow to remain against the Property any mortgage or deed of trust, regardless of whether the same is expressly subordinate to the liens and security interests imposed hereby or by any other instruments securing the Secured Obligations and Borrower shall not encumber the Property without the prior written consent of Bank.

5.5 Transfer or Removal of Chattels. Borrower will not sell, transfer or remove from the Property all or any material part of the Chattels, unless the items sold, transferred, or removed are simultaneously replaced with similar items of equal or greater value.

5.6 Further Encumbrance of Collateral. Borrower will not create or permit any junior lien, security interest or other encumbrance against the Collateral without the prior written consent of Bank.

5.7 Change in Name, Location of Collateral, Etc. Without giving at least thirty (30) days' prior written notice to Bank, the Borrower shall not: (a) change its name, identity structure, or jurisdiction of organization; (b) change the location of its place of business (or chief executive office if more than one place of business); or (c) add to or change any location at which any of the Collateral is stored, held or located, without first notifying Bank of Borrower's intention to do so and shall execute and deliver to Bank modifications or supplements of this Deed of Trust (and to any financing statement which may be filed in connection herewith) as Bank may require.

5.8 Improper Use of Property or Collateral. Borrower will not use the Property or the Collateral for any purpose or in any manner, or take any action with respect to the Property which violates any applicable law, ordinance, or other governmental requirement, the requirements or conditions of any insurance policy, or any private covenant.

5.9 Independence of Security. Borrower shall not by act or omission permit any building or other improvement on any premises not subject to the lien of this Deed of Trust to rely on the Property or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Borrower hereby assigns to Bank any and all rights to give consent for all or any portion of the Property to rely on any premises not subject to the lien of this Deed of Trust or any interest therein to fulfill any municipal or governmental requirement. Borrower shall not by act or omission impair the integrity of the Property as a single zoning lot, and as one or more complete tax parcels, separate and apart from all other premises. Any act or omission by Borrower which would result in a violation of any of the provisions of this Section 5.9 shall be void.

ARTICLE 6 EVENTS OF DEFAULT

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

6.1 Loan Agreement. The occurrence of an Event of Default under the Loan Agreement.

6.2 Superior Lien Against the Property. Except for those liens identified in Exhibit B attached hereto and by this reference incorporated herein ("Permitted Exceptions"), the assertion of any claim of priority over this Deed of Trust, by title, lien, or otherwise in any legal, administrative, or equitable proceeding, unless such assertion be withdrawn, or effective action satisfactory to Bank commenced (and thereafter diligently prosecuted) and Bank is secured against any loss or damage therefrom, within 30 days of the assertion of such claim.

6.3 Abandonment. The actual or constructive abandonment of all or a substantial portion of the Property or the Collateral (such abandonment constituting an assignment to

Bank, at Bank's option, of Borrower's interest in any lease or contract now or hereafter affecting the abandoned property).

6.4 Right to Cure. If such a default is curable and if Borrower has not been given a notice of a breach of the same provision of this Deed of Trust within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Borrower, after Bank sends written notice demanding cure of such failure: (a) cures the failure within thirty (30) days; or (b) if the cure requires more than thirty (30) days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

ARTICLE 7 BANK'S REMEDIES

Bank shall give notice to the Borrower following Borrower's breach of any covenant or agreement hereunder which results in the occurrence of any Event of Default in this Deed of Trust and the Note which it secures. The Notice shall specify (a) the default; (b) the action required to cure the default; (c) a date, not less than thirty (30) days from the date the notice is given to the Borrower by which default must be cured; (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sum secured by this Deed of Trust and sale of the property. The notice shall further inform the Borrower of the right to reinstate after acceleration. If default is not cured, on or before the date specified in the notice, Bank, at its option, may exercise any remedy available at law or in equity, including but not limited to those listed below and those listed in the other Loan Documents, in such sequence or combination as Bank may determine in Bank's sole discretion:

7.1 Performance of Defaulted Obligations. Bank may make any payment or perform any other obligation under the Loan Documents which Borrower has failed to make or perform, and Borrower hereby irrevocably appoints Bank as the true and lawful attorney-in-fact for Borrower to make any such payment and perform any such obligation in the name of Borrower, which appointment is coupled with Bank's interest in the Property and the Collateral. All payments made and expenses (including attorneys' fees and legal assistant's fees) incurred by Bank in this connection, including any amounts in excess of the Loan Amount, together with interest thereon at the Default Rate, as set forth in the Note, from the date paid or incurred until repaid, will be part of the Secured Obligations and will be immediately due and payable by Borrower to Bank.

7.2 Specific Performance and Injunctive Relief. Notwithstanding the availability of legal remedies, Bank will be entitled to obtain specific performance, mandatory or prohibitory injunctive relief, or other equitable relief requiring Borrower to cure or refrain from repeating any default.

7.3 Acceleration of Secured Obligations. Bank may, without notice or demand, declare all of the Secured Obligations immediately due and payable in full.

7.4 Possession of Property. Bank may enter and take possession of the Property without seeking or obtaining the appointment of a receiver, may employ a managing agent for the Property, and may complete the development and construction described in the Loan Agreement with respect to all or any part of the Property, either in Bank's name or in the name of Borrower.

7.5 Enforcement of Security Interests. Bank may exercise all rights of a secured party under the Uniform Commercial Code with respect to the Collateral, including but not limited to taking possession of, holding, and selling the Collateral and enforcing or otherwise realizing upon any accounts and general intangibles. Any requirement for reasonable notice of the time and place of any public sale, or of the time after which any private sale or other disposition is to be made, will be satisfied by Bank's giving of such notice to Borrower at least 15 days prior to the time of any public sale or the time after which any private sale or other intended disposition is to be made. If permitted by statute or court decision, the Collateral may be sold by the Trustee as part of the foreclosure sale of the Property.

7.6 Judicial Action. Bank may bring an action in any court of competent jurisdiction to foreclose this instrument or to obtain specific enforcement of any of the covenants or agreements of this Deed of Trust.

7.7 Power of Sale. If Bank elects to foreclose by exercise of the power of sale herein contained, Bank shall (a) deliver to Trustee a written declaration of default and demand for sale and a written notice of default and election to cause Borrower's interest in the Property to be sold ("Notice of Default"), (b) deposit with Trustee this Deed of Trust and the Note and such receipts and evidence of expenditures made and secured by this Deed of Trust as Trustee may require. Upon receipt of such Notice of Default from Bank, Trustee shall cause to be recorded, published and delivered to Borrower such Notice of Default and Notice of Sale as then required by law and by this Deed of Trust. Trustee shall, without demand on Borrower, after such time as may then be required by law and after recordation of such Notice of Default and after notice of sale having been given as required by law, sell the 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 it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including without limitation Borrower, Trustee, or Bank, may purchase at such sale. Trustee may postpone sale of all or any parcel of the property by public announcement at the time and place of any previously scheduled sale. Bank or its designee may purchase the property at any sale. Upon receipt of payment of the price bid,

Trustee shall deliver to the purchaser Trustee's Deed conveying the property. The recitals in the Trustee's Deed shall be prima facie evidence of the truth of the statements made therein.

7.8 Application of Foreclosure Sale Proceeds. The proceeds of any Foreclosure Sale shall be applied in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the expenses of sale, including the fees and expenses of the officer conducting the sale, costs of any action and any other sums for which Borrower is obligated to reimburse Bank hereunder or under the other Loan Documents, including, but not limited to, Trustee's fees as permitted by Nebraska law. The Trustee's fees payable upon the Trustee's sale shall be the amount of the Trustee's fees actually incurred, not to exceed one-half of one percent of the gross sales price;

(b) Second, to pay the portion of the Secured Obligations attributable to any sums expended or advanced by Bank under the terms of this Deed of Trust which then remain unpaid;

(c) Third, to pay all other Secured Obligations in any order and proportions as Bank in its sole discretion may choose;

(d) Fourth, to the payment of junior lienholders; and

(e) Fourth, to deposit the surplus, if any, with the court or to remit such remainder to the person or persons entitled to it, as required under applicable law.

7.9 Appointment of Receiver. Bank shall be entitled, as a matter of absolute right and without regard to the value of any security for the Secured Obligations or the solvency of any person liable therefor and without any showing of insolvency, fraud or mismanagement on the part of Borrower, to the appointment of a receiver for the Property, the Leases, and the Rents and Revenues upon ex parte application to any court of competent jurisdiction. Borrower waives any right to any hearing or notice of hearing prior to the appointment of a receiver.

7.10 Right to Make Repairs, Improvements. Should any part of the Property come into the possession of Bank or a receiver, whether before or after an Event of Default, Bank or the receiver and receiver's agents shall be empowered:

(a) To take possession of the Property, Leases, Rents and Revenues and any business conducted by Borrower or any other person thereon and any business assets used in connection therewith and any Property in which Bank has a security interest granted by Borrower and, if the receiver deems it appropriate, to operate the same;

(b) To exclude Borrower and Borrower's agents, servants, and employees from the Property;

(c) With or without taking possession of the Property, to collect the Rents and Revenues, including those past due and unpaid and any security deposits;

(d) To rent, lease or let all or any portion of the Property to any party or parties at such rental and upon such terms as the Bank shall, and to pay any leasing or rental commissions associated therewith in its discretion, determine;

(e) To continue the development, marketing and sale of the Property or any portion thereof;

(f) To complete any construction or development which may be in progress;

(g) To do such maintenance and make such repairs and alterations as the receiver deems necessary;

(h) To use all stores of materials, supplies and maintenance equipment on the Property and to replace and replenish such items at the expense of the receivership estate;

(i) To pay the operating expenses of the Property, including costs of management and leasing or marketing thereof (which shall include lease commissions, sale commissions), payments under contracts and agreements for development and construction;

(j) To pay all taxes and assessments against the Property and any property which is collateral for the Secured Obligations, all premiums for insurance thereon, all utility and other operating expenses, and all sums due under any prior or subsequent encumbrance;

(k) To borrow from the Bank such funds as may be reasonably necessary to the effective exercise of the receiver's powers, on such terms as may be agreed upon by the receiver and the Bank, but not in excess of the Default Rate under the Note; and

(l) Generally do anything which Borrower could legally do if Borrower were in possession of the Property.

All expenses incurred by the receiver or the receiver's agent shall constitute part of the Secured Obligations. Any revenues collected by the receiver shall be applied first to the expenses of the receivership (including attorneys' fees incurred by the receiver and by Bank), to expenses of the Property, and to preserve, protect, maintain and operate the Property and any other collateral which is security for the Secured Obligations, and the balance shall be applied toward the Secured Obligations or any deficiency which may result from any foreclosure sale, and then in such other manner as the court may direct. Unless sooner terminated with the express consent of the Bank, any such receivership will continue until all amounts remaining due under the Note have been discharged in full, or until title to the Property has passed after foreclosure sale and all applicable periods of redemption have expired, and in either case, the court has discharged the receiver. Borrower covenants to

promptly reimburse and pay to Bank or such receiver, at the place where the Note is payable, or at such other place as may be designated in writing, the amount of all reasonable expenses (including the cost of any insurance, taxes, or other charges) incurred by Bank or such receiver in connection with its custody, preservation, use or operation of the Property, together with interest thereon from the date incurred by Bank or such receiver at the Default Rate, as set forth in the Note, and all such expenses, costs, taxes, interest, and other charges shall be part of the Secured Obligations. It is agreed, however, that the risk of accidental loss or damage to the Property is undertaken by Borrower and, except for Bank's or such receiver's willful misconduct or gross negligence, Bank or such receiver shall have no liability whatsoever for decline in value of the Property, for failure to obtain or maintain insurance, or for failure to determine whether any insurance ever in force is adequate as to amount or as to the risks insured, or to complete development.

7.11 Further Assurances. Upon issuance of a deed or deeds pursuant to foreclosure of this Deed of Trust, all right, title, and interest of the Borrower in and to the Leases shall, by virtue of this instrument, thereupon vest in and become the absolute property of the grantee or grantees in such deed or deeds without any further act or assignment by the Borrower. Borrower hereby agrees to execute all instruments of assignment or further assurance in favor of such grantee or grantees in such deed or deeds, as may be necessary or desirable for such purpose. But nothing contained herein shall prevent Bank from terminating any subordinated Lease not approved by the Bank through such foreclosure.

ARTICLE 8

ASSIGNMENT OF RENTS AND REVENUES

8.1 Assignment of Rents and Revenues. To further secure the Secured Obligations, Borrower does hereby sell, assign and transfer unto the Bank all rents, issues, profits, revenue, and income now due and which may hereafter become due under or by virtue of any Leases, tenancies or other agreements for occupancy (collectively "Rents and Revenues"), whether written or verbal, or any letting of, or of any agreement for the sale, use or occupancy of the Property or any part thereof, and all proceeds from, evidence of, and benefits and advantages to be derived therefrom, now or hereafter existing, whether or not with the Bank's approval. The Borrower does hereby appoint irrevocably the Bank its true and lawful attorney in its name and stead (with or without taking possession of the Property) to rent, lease or let any improvements located on the Property upon such terms as said Bank shall, in its discretion, determine, and to collect all of said Rents and Revenues arising from or accruing at any time hereafter, and all now due or that may hereafter become due under each and every of the Leases, or other agreements, written or verbal, or which may hereafter exist on the Property, on the condition that Bank hereby grants to Borrower a license to collect and retain such Rents and Revenue (but expressly not including the right to collect any rents more than one month in advance or any amount to prepay, terminate, or "buy out" any Leases) prior to the occurrence of any Event of Default under the Loan Documents. Borrower expressly covenants to apply the Rents and Revenue received, after application for operating expenses permitted hereunder,

to payment of the Secured Obligations as and when the same become due and in compliance with the Loan Documents. Such license shall be revocable by Bank without notice to Borrower at any time upon or after an Event of Default under the Loan Documents, and immediately upon any such revocation, Bank shall be entitled to receive, and Borrower shall deliver to Bank, any and all Rents and Revenues theretofore collected by Borrower which remain in the possession or control of Borrower and all Leases, and other such agreements. It is the intention of the Borrower to create and grant, and it is the intention of Bank to create and receive, a present and absolute assignment of all of the Leases, Rents and Revenue now due or which may hereafter become due, but it is agreed that the Bank's right to collect the Rents and Revenues is conditioned upon the existence of an Event of Default under the Loan Documents. Failure of Bank at any time or from time to time to enforce its rights under this ARTICLE 8 shall not in any manner prevent its subsequent enforcement, and Bank is not obligated to collect anything hereunder, but is accountable only for sums collected. Nothing contained herein shall be construed as constituting the Bank a mortgagee in possession in the absence of the taking of actual possession of the Property by the Bank pursuant to Section 8.7 (Bank's Right of Possession In Case of Default) hereof. In the exercise of the powers herein granted to the Bank, no liability shall be asserted or enforced against the Bank, all such liability being expressly waived and released by Borrower.

8.2 Covenants Regarding Leases. Borrower agrees:

(a) Not to collect any of the Rents for more than one (1) month in advance of the time when the same become due under the terms thereof, except that the Borrower may collect in advance any monthly pro-rated rents resulting from a tenant under a lease commencing occupancy on other than the first (1st) day of the month and that the Borrower may collect rents more than one (1) month in advance for not more than three (3) units in the Property;

(b) Not to execute any other assignments of said Leases or any interest therein or any of the Rents and Revenues thereunder;

(c) That notwithstanding any variation of the terms of the Deed of Trust or any extension of time for payment thereunder or any release of part or parts of the Property, the Leases and benefits hereby assigned, insofar as they relate to the unreleased Property, shall continue as additional security in accordance with the terms hereof;

(d) To hold and account for all security deposits in the manner provided for under any state or local laws or ordinances applicable to the Property or under the Loan Documents; and

(e) To perform all of the Borrower's covenants and agreements under the Leases and not to suffer or permit to occur any release of liability of the lessees.

8.3 Representations Regarding Leases. Borrower represents and warrants (a) that, the Leases, if any, are in full force and effect; (b) that the Leases and the Rents and Revenues thereunder have not been heretofore sold, assigned, transferred, or set over by Borrower or by any person or persons whatsoever; (c) that no material default exists on the part of the lessees thereunder, or the Borrower as lessor; (d) that no Rents have been paid by any of the lessees for more than one month in advance; (e) that the payment of none of the rents have been or, will be waived, released, reduced, discounted or otherwise discharged or compromised by the Borrower directly or indirectly by assuming any lessee's obligations with respect to other premises, provided, however, that Borrower, in its commercially reasonable judgment, may discount rents to the extent necessary to keep the Property occupied; and (f) Borrower has good right to sell, assign, transfer, and set over the same and to grant to and confer upon Bank the rights, interests, powers, and authorities herein granted and conferred.

8.4 Further Assignments. Borrower shall give Bank at any time upon demand any further or additional forms of assignment of transfer of such Rents and Revenues, Leases, and security as may be reasonably requested by Bank, and shall deliver to Bank executed copies of all such leases and security.

8.5 Authority of Bank. Any tenants or occupants of any part of the Property are hereby authorized to recognize the claims of Bank hereunder without investigating the reason for any action taken by Bank, or the validity or the amount of indebtedness owing to Bank, or the existence of a Default or Event of Default under any Loan Document, or the application to be made by Bank of any amounts to be paid to Bank. The sole signature of Bank or a receiver shall be sufficient for the exercise of any rights under this ARTICLE 8 and the sole receipt of Bank or a receiver for any sums received shall be a full discharge and release therefor to any such tenant or occupant of the Property; and Borrower hereby releases each such tenant and occupant or purchaser which makes payments to Bank under this ARTICLE 8 from any liability under the applicable Lease or occupancy agreement. Checks for all or any part of the rentals collected under this ARTICLE 8 shall be drawn to the exclusive order of Bank or such receiver.

8.6 Indemnification of Bank. Nothing herein contained shall be deemed to obligate Bank to perform or discharge any obligation, duty, or liability of lessor under any Lease of the Property, and Borrower shall and does hereby indemnify and hold Bank harmless from any and all liability, loss, or damage which Bank may or might incur under any Lease of the Property or by reason of this assignment; and any and all such liability, loss, or damage incurred by Bank, together with the costs and expenses, including reasonable attorneys' fees, incurred by Bank in defense of any claims or demands therefor (whether successful or not), shall be additional Secured Obligations, and Bank shall reimburse Bank therefor on demand.

8.7 Bank's Right of Possession in Case of Default. In any case in which under the provision of this Deed of Trust, the Bank has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately

due, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, promptly upon demand of Bank, Borrower shall surrender to Bank and Bank shall be entitled to take actual possession of the Property or any part thereof personally, or by its agents or attorneys, as for condition broken, and Bank in its discretion may, with or without force and with or without process of law, enter upon and take and maintain possession of all or any part of the Property, together with all documents, books, records, papers and accounts of the Borrower or then owners of the Property relating thereto, and may exclude the Borrower, its agents or servants, wholly therefrom and may, as attorney-in-fact or agent of the Borrower, or in its own name as Bank and under the powers herein granted, hold, operate, manage and control the Property and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the rents, issues, revenues and profits of the Property.

8.8 Severability and Survival. The provisions of this ARTICLE 8 shall survive the foreclosure of the lien of this Deed of Trust and the exercise of the power of sale granted under this Deed of Trust until the expiration of all periods of redemption following any such foreclosure or sale and thereafter with respect to all Rents and Revenues arising prior to or attributable to the period prior to the expiration of all such redemption periods.

ARTICLE 9 MISCELLANEOUS PROVISIONS

9.1 Time of the Essence. Time is of the essence with respect to all provisions of this Deed of Trust.

9.2 Additional Provisions. The Loan Documents fully state all of the terms and conditions of the parties' agreement regarding the matters mentioned in or incidental to this Deed of Trust. The Loan Documents also grant further rights to Bank and contain further agreements and affirmative and negative covenants by Borrower which apply to this Deed of Trust and the Property. Any capitalized term not otherwise defined in this Deed of Trust shall have the meaning ascribed to such term in the Loan Agreement.

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

9.4 Remedies Not Exclusive. No action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the Note. Bank shall be entitled to enforce payment and performance of any of the Secured Obligations and to exercise all rights and powers under this Deed of Trust or other agreement or any laws now or hereafter in force, notwithstanding some or all of the Secured Obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or other powers herein contained, shall prejudice or in any manner affect Bank's right to realize upon or enforce any other security now or hereafter held by Bank, it being agreed that Bank shall be entitled to enforce this Deed of Trust and any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No waiver of any default of the Borrower hereunder shall be implied from any omission by Bank to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. No acceptance of any payment of any one or more delinquent installments which does not include interest at the Default Rate from the date of delinquency, together with any required late charge, shall constitute a waiver of the right of Bank at any time thereafter to demand and collect payment of interest at such Default Rate or of Late Charges, if any.

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

9.6 Waiver of Statutory Rights. To the extent permitted by law, Borrower hereby agrees that it shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust, but hereby waives the benefit of such laws. Borrower for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Property marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety.

9.7 No Third Party Rights. No person shall be a third party beneficiary of any provision of this Deed of Trust. All provisions of this Deed of Trust favoring Bank are intended solely for the benefit of Bank, and no third party shall be entitled to assume or expect

that Bank will or will not waive or consent to modification of any such provision in Bank's sole discretion.

9.8 Powers of Bank and Trustee.

(a) Trustee shall have no obligation to perform any act which it is empowered to perform under this Deed of Trust unless it is requested to do so in writing and is reasonably indemnified against loss, cost, liability and expense.

(b) If either Bank or Trustee performs any act which it is empowered or authorized to perform under this Deed of Trust, that act alone shall not release or change the personal liability of any person for the payment and performance of the Secured Obligations then outstanding, or the lien of this Deed of Trust on all or the remainder of the Property for full payment and performance of all outstanding Secured Obligations. The liability of the original Borrower shall not be released or changed if Bank grants any successor in interest to Borrower any extension of time for payment, or modification of the terms of payment, of any Secured Obligation. Bank shall not be required to comply with any demand by the original Borrower that Bank refuse to grant such an extension or modification to, or commence proceedings against, any such successor in interest.

(c) Bank may take any of the actions permitted hereunder regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Deed of Trust.

(d) From time to time, Bank or Trustee may apply to any court of competent jurisdiction for aid and direction in executing the trust and enforcing the rights and remedies created under this Deed of Trust. Bank or Trustee may from time to time obtain orders or decrees directing, confirming or approving acts in executing this trust and enforcing such rights and remedies.

9.9 Request for Notice. Borrower, on behalf of Borrower and Bank, hereby requests that a copy of any Notice of Sale under this Deed of Trust be mailed to them at the addresses set forth in Section 9.13.

9.10 Modifications. This Deed of Trust may not be changed or terminated except in writing signed by both parties. The provisions of this Deed of Trust shall extend and be applicable to all renewals, amendments, extensions, consolidations, and modifications of the other Loan Documents, and any and all references herein to the Loan Documents shall be deemed to include any such renewals, amendments, extensions, consolidations or modifications thereof.

9.11 Preservation of Liability and Priority. Without affecting the liability of Borrower or of any other person (except a person expressly released in writing) for payment

and performance of all of the Secured Obligations, and without affecting the rights of Bank with respect to any security not expressly released in writing, and without impairing in any way the priority of this Deed of Trust over the interests of any person acquired or first evidenced by recording subsequent to the recording hereof, Bank may, either before or after the maturity of the Note, and without notice or consent: (a) release any person liable for payment or performance of all or any part of the Secured Obligations; (b) make any agreement altering the terms of payment or performance of all or any of the Secured Obligations; (c) exercise or refrain from exercising, or waive, any right or remedy which Bank may have under any of the Loan Documents; (d) accept additional security of any kind for any of the Secured Obligations; or (e) release or otherwise deal with any real or personal property securing the Secured Obligations. Any person acquiring or recording evidence of any interest of any nature in the Property or the Collateral shall be deemed, by acquiring such interest or recording any evidence thereof, to have agreed and consented to any or all such actions by Bank.

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

9.13 Notices. Any notice required or permitted to be given by Borrower or Bank under this Deed of Trust shall be in writing and will be deemed given (a) upon personal delivery or upon confirmed transmission by telecopier or similar facsimile transmission device, (b) on the first business day after receipted delivery to a national courier service which guarantees next-business-day delivery, or (c) on the third business day after mailing, by registered or certified United States mail, postage prepaid, in any case to the appropriate party at its address set forth below:

If to Borrower:

MDI Limited Partnership
c/o MetroPlains Properties, Inc.
1600 University Avenue, Suite 212
St. Paul, Minnesota 55104
Telecopy No.: 651-646-8947

With a copy to:

MEC Warehousing, LLC
33 North Garden Avenue, Suite 1200
Clearwater, Florida 33755
Telecopy No.: 727-443-6067

With a copy to:

Nixon Peabody LLP
401 Ninth Street, N.W., Suite 900
Washington, D.C., 20004-2128
Telecopy No.: 202-585-8080

If to Bank:

U.S. Bank National Association
1700 Farnam Street
OM-NE-T2CM
Omaha, NE 68102
Attention: Jodie Schoemaker
Telecopy No.: 402-348-6018

With a copy to:

Gorsuch Kirgis LLP
Tower 1, Suite 1000
1515 Arapahoe Street
Denver, Colorado 80202
Attn: Randall F. Komisarek, Esq.
Telecopy No.: 303-376-5001

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

9.14 Reconveyance. When all of the Secured Obligations have been paid in full, Bank shall request Trustee in writing to reconvey the Property, and shall surrender this Deed of Trust and all notes and instruments evidencing the Secured Obligations to Trustee. When Trustee receives Bank's written request for reconveyance and all fees and other sums owing to Trustee by Borrower hereunder, Trustee shall reconvey the Property, or so much of it as is then held under this Deed of Trust, without warranty to the person or persons legally entitled to it. Such person or persons shall pay any costs of recordation. In the reconveyance, the grantee may be described as "the person or persons legally entitled thereto," and the recitals of any matters or facts shall be conclusive proof of their truthfulness. Neither Bank nor Trustee shall have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance.

9.15 Substitution of Trustee. From time to time, Bank may substitute a successor to any Trustee named in or acting under this Deed of Trust in any manner now or later to be provided at law, or by a written instrument executed and acknowledged by Bank and recorded in the office(s) of the recorder(s) of the county or counties where the Real Property and Improvements are situated. Any such instrument shall be conclusive proof of the proper

substitution of the successor Trustee, who shall automatically upon recordation of the instrument succeed to all estate, title, rights, powers and duties of the predecessor Trustee, without conveyance from it.

9.16 Illegality. If any provision of this Deed of Trust is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Deed of Trust, the legality, validity, and enforceability of the remaining provisions of this Deed of Trust shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable provision there shall be added automatically as a part of this Deed of Trust a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. If the rights and liens created by this Deed of Trust shall be invalid or unenforceable as to any part of the Secured Obligations, then the unsecured portion of the Secured Obligations shall be completely paid prior to the payment of the remaining and secured portion of the Secured Obligations, and all payments made on the Secured Obligations shall be considered to have been paid on and applied first to the complete payment of the unsecured portion of the Secured Obligations.

9.17 Obligations Binding Upon Borrower's Successors. This Deed of Trust is binding upon Borrower and Borrower's successors and assigns, including all grantees and remote grantees of any interest of Borrower in the Property, and shall inure to the benefit of Bank, and its successors and assigns, and the provisions hereof shall likewise be covenants running with the land. The duties, covenants, conditions, obligations, and warranties of Borrower in this Deed of Trust shall be joint and several obligations of Borrower and Borrower's successors and assigns.

9.18 GOVERNING LAW; JURISDICTION; VENUE. THIS DEED OF TRUST AND THE LOAN DOCUMENTS AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEBRASKA (WITHOUT GIVING EFFECT TO NEBRASKA'S PRINCIPLES OF CONFLICTS OF LAW), EXCEPT TO THE EXTENT (A) OF PROCEDURAL AND SUBSTANTIVE MATTERS RELATING ONLY TO THE CREATION, PERFECTION, FORECLOSURE AND ENFORCEMENT OF RIGHTS AND REMEDIES AGAINST SPECIFIC COLLATERAL, WHICH MATTERS SHALL BE GOVERNED BY THE LAWS OF THE STATE IN WHICH THE COLLATERAL IS LOCATED (THE "COLLATERAL STATE"), AND (B) THAT THE LAWS OF THE UNITED STATES OF AMERICA AND ANY RULES REGULATIONS, OR ORDERS ISSUED OR PROMULGATED THEREUNDER, APPLICABLE TO THE AFFAIRS AND TRANSACTIONS ENTERED INTO BY THE BANK, OTHERWISE PREEMPT COLLATERAL STATE LAW OR NEBRASKA LAW; IN WHICH EVENT SUCH FEDERAL LAW SHALL CONTROL. BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY NEBRASKA OR FEDERAL COURT SITTING IN OMAHA, NEBRASKA (OR, WITH RESPECT TO THE MATTERS SET FORTH IN

SUBSECTION (A) ABOVE, ANY STATE IN WHICH THE PROPERTY IS LOCATED) OVER ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS DEED OF TRUST OR ANY OF THE LOAN DOCUMENTS. BORROWER HEREBY WAIVES ANY RIGHT TO OBJECT TO THE LOCATION OF VENUE IN ANY NEBRASKA OR FEDERAL COURT SITTING IN OMAHA, NEBRASKA, OR, WITH RESPECT TO THE MATTERS SET FORTH IN SUBSECTION (A) ABOVE, TO THE APPROPRIATE COURT LOCATED IN THE COLLATERAL STATE, CONCERNING ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS DEED OF TRUST OR ANY OF THE LOAN DOCUMENTS AND WAIVES ANY OBJECTION WHICH IT MAY HAVE AT ANY TIME TO THE LAYING OF VENUE IN ANY PROCEEDINGS BROUGHT IN ANY SUCH COURT, WAIVES ANY CLAIM THAT SUCH PROCEEDINGS HAVE BEEN BROUGHT IN AN INCONVENIENT FORUM AND FURTHER WAIVES THE RIGHT OR TO OBJECT, WITH RESPECT TO SUCH PROCEEDINGS, THAT SUCH COURT DOES NOT HAVE JURISDICTION OVER SUCH PARTY TO OBJECT TO THE CHOICE OF GOVERNING LAW SET FORTH IN THIS SECTION. BORROWER ACKNOWLEDGES THAT THE LOAN WAS SOLICITED, NEGOTIATED, CLOSED AND FUNDED IN THE STATE OF NEBRASKA, WHICH IS THE STATE OF GUARANTOR'S FORMATION AND PRINCIPAL PLACE OF BUSINESS.

9.19 Survival. This Deed of Trust shall survive foreclosure of the liens created hereby, to the extent necessary to fulfill its purposes.

9.20 Effect of Extensions of Time and Amendments. If the payment of the Secured Obligations or any part thereof be extended or varied or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in the Property, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse, if any, against all such persons being expressly reserved by Bank, notwithstanding such extension, variation or release. Nothing in this Section 9.20 shall be construed as waiving any provision contained herein or in the Loan Documents which provides, among other things, that it shall constitute an Event of Default if the Property be sold, conveyed, or encumbered.

9.21 Captions. The captions and headings of various paragraphs of this Deed of Trust are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

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Signed and delivered as of the date first mentioned above.

BORROWER:

MDI LIMITED PARTNERSHIP #36, a Nebraska limited partnership

By: MetroPlains Properties, Inc., a Minnesota corporation, as General Partner

By: Gary L Stenson
Name: METROPLAINS PROPERTIES, INC., GENERAL PARTN
Title: BY: GARY L. STENSON, VICE PRESIDENT/SECRETARY

STATE OF ~~NEBRASKA~~ Minnesota)
COUNTY OF ~~DODGE~~ Ramsey) ss.

The foregoing instrument was acknowledged before me this 7th day of April, 2003, by Gary L Stenson as Vice President of MetroPlains Properties, Inc., a Minnesota corporation, as General Partner of MDI Limited Partnership #36, a Nebraska limited partnership.

Witness my hand and official seal.

My commission expires: 1-31-2005



(SEAL)

[Signature]
Notary Public

EXHIBIT A
PROPERTY DESCRIPTION

Lots 1, 2, 3 and 4, Block 113, Original Town, now City of Fremont, together with all of the vacated alley between Lots 2 and 3 and the North one-half of the vacated alley adjacent to Lots 1, 2, 3 and 4 and the vacated alley between Lots 2 and 3 on the South,
Dodge County, Nebraska

EXHIBIT B
PERMITTED EXCEPTIONS

1. Taxes for the year 2002 and all subsequent years. (270136127) 2002 County Taxes, \$0.00 - EXEMPT
2. Subject property does not lie within the 100 year flood plain as defined by the Corps of Engineers.
3. Easement, contained in Ordinance No. 3983; recorded October 4, 2002, Book 2002, Page 7567, Records of Dodge County, Nebraska; wherein the City of Fremont, Nebraska reserves an easement to keep and maintain a communications antenna on subject property and suitable space for electrical equipment related thereto.
4. Reciprocal Easement Agreement, dated October 29, 2002, recorded November 15, 2002, Book 2002, Page 8877, Records of Dodge County, Nebraska; between the City of Fremont, Nebraska and MDI Limited Partnership #36, a Nebraska limited partnership.
5. Deed of Trust, Security Agreement, Financing Statement and Assignment of Rents and Revenues executed by MDI Limited Partnership #36, a Nebraska limited partnership, to U.S. Bank National Association, in the sum of \$1,745,000.00 recorded _____, 2003, in Book _____ at Page _____, Records of Dodge County, Nebraska.
6. Secretary of State - UCC Division # _____, recorded _____, 2003, MDI Limited Partnership #36, as debtor and U.S. Bank National Association as Secured Party.
- 7.