



MTG 2012078993



AUG 10 2012 15:34 P 36

Fee amount: 184.00
FB: 47-41720
COMP: YT

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
08/10/2012 15:34:50.00



Return to:
Comerica Bank
Attn: Commercial Lending Services
Mail Code 6514
PO Box 650282
Dallas, TX 75265-0282



Deed of Trust, Security Agreement, Assignment of Rents and Fixture Filing

THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND FIXTURE FILING is executed effective as of, although not necessarily on, the 7 day of August, 2012 by Red River Service Corporation, an Oklahoma corporation ("Trustor"), whose address for notice hereunder is 4004 E. Hwy 290W, Phone No. 512-858-0440, Fax No. 512-858-0471, to Jacqueline A. Pueppke, a member of the Nebraska bar, whose address for notice hereunder is at Baird Holm LLP, 1500 Woodmen Tower, 1700 Farnam St., Omaha, Nebraska 68102, Phone No. (402) 636-8270, Fax No. (402) 344-0588, as Trustee, for the benefit of **COMERICA BANK**, whose address for notice hereunder is at P.O. Box 650282, Dallas, Texas 75265-0282, Attention: Com Loan Docs Mail Code 6514, Phone No. 800 550 3128, Fax No. 214 589 4883 as follows:

A. DEFINITIONS.

The following terms shall have the defined meaning ascribed to such terms, as set forth below:

1. "BANK" or "BENEFICIARY" shall mean **COMERICA BANK**, as well as any subsequent holder or holders of the Notes (as defined below).
2. "BORROWER" shall mean (and, if more than one, shall refer jointly and severally to) the person(s) named below together with each such person's heirs, personal representatives, successors and assigns: Red River Service Corporation, an Oklahoma corporation ("Red River") and Black Hills Environmental Partner, LLC, a South Dakota limited liability company ("Black Hills").
3. "CODE" shall mean the Nebraska Uniform Commercial Code as now written or as hereafter amended, revised or replaced from time to time.
4. "CONTRACTS" shall mean any and all (a) contracts for the sale of all or any portion of the Property, whether such Contracts are now or at any time hereafter existing, and

together with all payments, earnings, income, and profits arising from sale of all or any portion of the Property (defined below) or from the Contracts, and all other sums due or to become due under and pursuant thereto; (b) contracts, licenses, permits, and rights relating to utility services whether executed, granted, or issued by a private person or entity or a governmental or quasi-governmental agency, which are directly or indirectly related to, or connected with, the Property; (c) all other contracts, licenses, permits and rights which in any way relate to the use, enjoyment, occupancy, operation, maintenance, or ownership of the Property (including, if applicable, any and all leases, subleases or other agreements pursuant to which Trustor is granted a possessory interest in or the right to possess, use or enjoy any of the Property), including but not limited to restrictive covenants, easements, condominium documents, planned development documents, maintenance agreements, and service contracts; and (d) all renewals, extensions, amendments and other modifications with respect to any of the foregoing.

5. **“DEED OF TRUST”** shall mean this Deed of Trust, Security Agreement, Assignment of Rents and Fixture Filing and all renewals, extensions, amendments and other modifications hereto.
6. **“EVENT OF DEFAULT”** shall mean any occurrence described in Section D hereof.
7. **“FIXTURES”** shall mean all materials, supplies, equipment, apparatus and other items now or hereafter attached to, installed in or used (temporarily or permanently) in connection with any of the Improvements (as defined below) or the Land (as defined below), and all renewals, replacements, and substitutions thereof and additions thereto, including but not limited to any and all: partitions; ducts; shafts; pipes; radiators; conduits; wiring; window screens and shades; drapes; rugs and other floor coverings; awnings; motors; engines; boilers; stokers; pumps; dynamos; transformers; generators; fans; blowers; vents; switchboards; elevators; mail conveyors; escalators; compressors; furnaces; cleaning systems; sprinkler systems; fire extinguishing apparatus; water tanks; swimming pools; heating, ventilating, plumbing, laundry, incinerating, air conditioning and air cooling systems; water, gas and electric equipment; disposals; dishwashers; washers; dryers; refrigerators and ranges; cafeteria equipment; recreational equipment; and facilities of all kinds, all of which property and things are hereby declared to be permanent accessions to the Land.
8. **“GOVERNMENTAL AUTHORITY”** shall mean any and all governmental or quasi-governmental entities or instrumentalities of each and every nature whatsoever, whether federal, state, county, district, city or otherwise, and whether now or hereafter in existence.
9. **“GOVERNMENTAL REQUIREMENTS”** shall mean all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of each Governmental Authority exercising jurisdiction over Trustor or the Property and including, without limitation, all laws, codes, ordinances, rules, regulations, orders, decrees and directives pertaining to Hazardous Materials or otherwise intended to regulate or improve health, safety or the environment.
10. **“GUARANTOR”** shall mean, as the context dictates, any person(s) who or which shall, at any time, guaranty or otherwise be or become obligated for the repayment or performance of all or any part of the Indebtedness (as defined below) including, without limitation, Black Hills, Waste Expansions, LLC , Midland Maintenance, Inc., Red River

Communications, Inc., Red River Disposal, LLC and/or James Smith, whether one or more.

11. **“GUARANTY”** shall mean those certain Guaranty(s) dated as of August __, 2012 by Guarantor in favor of Bank with respect to the Indebtedness of Red River and Black Hills to Bank, including but not limited to that certain Guaranty of Trustor to Bank of even date, and any and all renewals, extension, increases and other modifications thereof and all other guarantees given in substitution thereof
12. **“HAZARDOUS MATERIALS”** shall mean (a) any “hazardous waste” as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), as amended from time to time, and regulations promulgated thereunder; (b) any “hazardous substance” as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.) (“CERCLA”), as amended from time to time, and regulations promulgated thereunder; (c) asbestos; (d) polychlorinated biphenyls; (e) any substance the presence of which on the Property is prohibited by any Governmental Requirement; (f) any petroleum or petroleum-based products; (g) underground storage tanks; (h) flammable explosives; (i) radioactive materials; (j) toxic materials; and (k) any other substance which by any Governmental Requirement requires special handling or notification of any Governmental Authority in its use, collection, storage, treatment, or disposal or is otherwise deemed to be a hazardous, toxic or dangerous waste, substance or material under any Governmental Requirement.
13. **“HAZARDOUS MATERIALS CONTAMINATION”** shall mean the contamination (whether presently existing or hereafter occurring) of the Property or any facilities, soil, groundwater, air or other elements on or of the Property by Hazardous Materials, or the contamination of any other property or the buildings, facilities, soil, groundwater, air or other elements on or of any other property as a result of Hazardous Materials at any time (whether before or after the date of this Deed of Trust) emanating from the Property.
14. **“IMPOSITIONS”** shall mean all rates and charges (including deposits) for: insurance; taxes (both realty and personalty); water, gas, sewer, electricity, telephone and other utilities; easements, licenses, agreements and other Contracts maintained for the benefit of the Property; and all other charges (and any interest, costs or penalties with respect thereto) of each and every nature whatsoever which may now or hereafter be assessed, levied or imposed upon the Property or the Rents (as defined below) or the ownership, use, occupancy or enjoyment thereof.
15. **“IMPROVEMENTS”** shall mean any and all buildings, parking areas and other improvements, and any and all additions, alterations, or appurtenances thereto, now or at any time hereafter placed or constructed upon the Land or any part thereof.
16. **“INDEBTEDNESS”** shall mean all loans, advances, indebtedness, obligations and liabilities of Borrower or any other Loan Party to Bank under this Deed of Trust, the Notes, the Guaranty (as defined below, or any other Loan Document (as defined below), together with all other indebtedness, obligations and liabilities whatsoever of Borrower, Trustor and/or any other Loan Party to Bank, whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, joint or several, due or to become due, now existing or hereafter arising, voluntary or involuntary, known or unknown, or originally payable to Bank or to a third party and subsequently acquired by Bank including, without limitation, any: late charges; loan fees or charges; overdraft

indebtedness; costs incurred by Bank in establishing, determining, continuing, or defending the validity or priority of any security interest, pledge or other Lien or in pursuing any of its right or remedies under any Loan Document or in connection with any proceeding involving the Bank as a result of any financial accommodation to Borrower, Trustor and/or any other Loan Party; debts, obligations and liabilities for which the Borrower, Trustor and/or any other Loan Party would otherwise be liable to the Bank were it not for the invalidity or unenforceability of them by reason of any bankruptcy, insolvency or other law or for any other reason; and reasonable costs and expenses of attorneys and paralegals, whether inside or outside counsel is used, and whether any suit or other action is instituted, and whether any such fees, costs or expenses are incurred at the trial court level or on appeal, in bankruptcy, in administrative proceedings, in probate proceedings or otherwise; provided, however, that the term Indebtedness shall not include any consumer loan to the extent treatment of such loan as part of the Indebtedness would violate any Legal Requirement.

17. **“LAND”** shall mean the real estate (or interest therein) as described in Exhibit “A” attached hereto and incorporated herein by this reference, all Improvements and Fixtures, and all rights, titles and interests appurtenant thereto.
18. **“LEASES”** shall mean all leases (including, oil, gas and other mineral leases), master leases, subleases, licenses, concessions, contracts or other agreements (written or oral, now or hereafter in effect) which grant a possessory interest in and to, or the right to use, any portion of the Property, together with all security and other deposits or payments made in connection therewith and any and all guaranties of leases related thereto.
19. **“LEGAL REQUIREMENTS”** shall mean any and all of the following that may now or hereafter be applicable to Trustor or the Property: (a) judicial decisions, statutes, rulings, rules, regulations, permits, certificates or ordinances of any Governmental Authority; (b) as applicable, Trustor’s bylaws and articles of incorporation or regulations and articles of organization, or certificate of limited partnership, agreement of limited partnership or partnership agreement, or joint venture agreement or trust agreement or declaration of trust, or other agreements pertaining to any other form of Trustor’s business entity; (c) Leases; (d) restrictions of record; and (e) other written or oral agreements or promises of any nature.
20. **“LIEN”** shall mean any valid and enforceable interest in any property, whether real, personal or mixed, securing an indebtedness, obligation or liability owed to or claimed by any person other than the owner of such property, whether such indebtedness is based on the common law or any statute or contract and including, but not limited to, a security interest, pledge, mortgage, assignment, conditional sale, trust receipt, lease, consignment or bailment for security purposes.
21. **“LOAN DOCUMENTS”** shall mean the Notes, the Guaranty, this Deed of Trust and all other instruments, documents or other writings now or hereafter evidencing, governing, securing, guaranteeing or otherwise relating to or executed pursuant to or in connection with any of the Indebtedness or any Loan Document (whether executed and delivered prior to, concurrently with or subsequent to this Deed of Trust), as such documents may have been or may hereafter be amended from time to time, and any other note(s), loan and/or letter of credit agreement(s), indemnity agreement(s) or other evidence(s) of indebtedness to Bank made as of the date of this Deed of Trust by Trustor, Borrower and/or any other Loan Party and any swap agreement(s) or such other documentation governing any interest rate swap transaction, basis swap transaction, forward rate

transaction, equity transaction, equity index transaction, foreign exchange transaction, cap transaction, floor transaction (including any option with respect to any of these transactions and any combination of any of the foregoing) each entered into between Bank and Trustor, Borrower and/or any other Loan Party.

22. **“LOAN PARTY”** shall mean the Borrower, the Trustor, any Guarantor and each other person who or which shall be liable for the payment or performance of all or any portion of the Indebtedness or who or which shall own any property that is subject to (or purported to be subject to) a Lien which secures all or any portion of the Indebtedness.
23. **“MINERALS”** shall mean any and all substances in, on, or under the Property which are now, or may become in the future, intrinsically valuable, that is, valuable in themselves, and which now or may be in the future enjoyed through extraction or removal from the Property, including without limitation, oil, gas, and all other hydrocarbons, coal, lignite, carbon dioxide and all other nonhydrocarbon gases, uranium and all other radioactive substances, and gold, silver, copper, iron and all other metallic substances or ores, upon extraction or removal from the Property. The term “Minerals” shall include “oil and gas production” and “as extracted collateral” as such terms are defined in the Code.
24. **“NOTES”** shall mean (i) each of the following notes or other instruments each dated as of August 7, 2012 (unless otherwise indicated) and made by Red River payable to Bank: (a) \$3,500,000 Master Revolving Note Master Revolving Note Daily Adjusting LIBOR Rate, (b) the 9,900,000 Installment Note LIBOR-based Rate, (c) the \$1,000,000 Mortgage Note, (d) the \$1,200,000 Term Note, (e) the \$7,500,000 Specific Advance Facility under Letter Agreement, (f) obligations under standby letter of credit application and agreement(s) in an initial face amount of \$300,000, and in all such cases, any and all renewals, extensions, modifications, substitutions or replacements thereof and all other notes given in substitution therefor, and (ii) the \$452,000 Mortgage Note dated as of August 7, 2012 made by Black Hills payable to Bank, and all extensions, renewals, increases and other modifications thereof and all other notes given in substitution therefor.
25. **“PERSONALTY”** shall mean all of the right, title, and interest of Trustor in and to (a) furniture, furnishings, equipment, machinery, goods (including, but not limited to, crops, farm products, timber and timber to be cut and extracted Minerals); (b) general intangibles, money, insurance proceeds, accounts, chattel paper (including without limit electronic chattel paper and tangible chattel paper), rights to payment evidenced by chattel paper, documents or instruments, health care insurance receivables, commercial tort claims, letters of credit, letter of credit rights, supporting obligations, and rights to payment for money or funds advanced or sold, contract and subcontract rights, trademarks, trade names, inventory; (c) all refundable, returnable, or reimbursable fees, deposits or other funds or evidences of credit or indebtedness deposited by or on behalf of Trustor (or otherwise existing for Trustor’s benefit) with any governmental agencies, boards, corporations, providers of utility services (public or private) or other person(s) including specifically, but without limitation, all refundable, returnable, or reimbursable tap fees, utility deposits, commitment fees and development costs, any awards, remunerations, reimbursements, settlements, or compensation heretofore made or hereafter to be made by any Governmental Authority pertaining to the Land, Fixtures, Contracts, or Personalty, including but not limited to those for any vacation of, or change of grade in, any streets affecting the Land and those for municipal utility district or other utility costs incurred or deposits made in connection with the Property; (d) all software (for purposes of this Deed of Trust “software” consists of all (i) computer programs and

supporting information provided in connection with a transaction relating to the program, and (ii) computer programs embedded in goods and any supporting information provided in connection with a transaction relating to the program whether or not the program is associated with the goods in such a manner that it customarily is considered part of the goods, and whether or not, by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods, and whether or not the program is embedded in goods that consist solely of the medium in which the program is embedded), and (e) all other personal property of any kind or character as defined in and subject to the provisions of the Code (Article 9 - Secured Transactions); any or all of which are now owned or hereafter acquired by Trustor, and which are now or hereafter situated in, on, or about the Property, or used in or necessary or desirable to the complete and proper planning, development, construction, financing, use, occupancy, or operation thereof, or acquired (whether delivered to the Land or stored elsewhere) for use in or on the Property, together with all accessions, replacements, and substitutions thereto or therefor and the proceeds thereof.

26. **“PROPERTY”** shall mean the Land, Minerals, Improvements, Fixtures, Personality, Contracts, Leases and Rents, together with all or any part of, and any interest in, the following: (a) rights, privileges, tenements, hereditaments, rights-of-way, easements, licenses, appendages, and appurtenances in any way pertaining thereto, and rights, titles, and interests of Trustor in and to any streets, ways, alleys, strips of land adjoining the Land or any part thereof; (b) additions, substitutions, replacements and revisions thereof and thereto and all reversions and remainders therein; and (c) other security and collateral of any nature whatsoever, now or hereafter given for the repayment or performance of the Indebtedness. In the definition of Property, a reference to a type of collateral shall not be limited by a separate reference to a more specific or narrower type of that collateral.
27. **“RENTS”** shall mean the rents, revenues, income, proceeds, profits, security and other types of deposits (after Trustor acquires title thereto), and other benefits paid or payable by parties to the Contracts and/or Leases (other than Trustor) for using, leasing, licensing, possessing, operating from, residing in, selling, or otherwise enjoying all or any portion of the Property.
28. **“TRUSTEE”** shall mean Jacqueline A. Pueppke, her substitutes, successors and assigns.
29. **“TRUSTOR”** shall mean the party or parties, whether one or more, who execute this Deed of Trust and who are identified as such in the initial paragraph of this Deed of Trust, as well as the successors, assigns, heirs and legal representatives of such party or parties. Trustor and Borrower may or may not be the same person.

B. GRANT.

To secure the full and timely payment and performance of the Indebtedness, and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration in hand paid by Beneficiary to Trustor, the receipt and legal sufficiency of which is hereby acknowledged, Trustor irrevocably grants, conveys and assigns to Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, Trustor's interest in the Property unto Trustee forever. It is specifically contemplated by Trustor and Beneficiary that the Indebtedness secured hereby may be increased and rearranged by subsequent amendments, restatements, supplements and other modifications and additions to the Loan Documents and that additional promissory notes and loan agreements may be issued and entered into in connection therewith. Trustor and each person who, at any time, may claim an interest in or Lien or encumbrance against all or any portion of the Property agree that all Indebtedness shall be secured by this Deed of Trust with the same priority as if all had been advanced, had arisen or had become owing or

performable on the date of this Deed of Trust. This Deed of Trust shall remain in full force and effect as to all future Indebtedness and to all subsequent advances or subsequently arising portions of the Indebtedness without loss of priority until (a) the Indebtedness is fully and finally paid, performed and satisfied, and (b) all agreements and obligations, if any, of the Bank for further advances or for the extension of additional credit have been terminated (including, without limitation, any loans made by the Bank to the Borrower even if advances or loans thereunder shall be optional or non-obligatory), and (c) this Deed of Trust has been reconveyed of record by Trustee. **WITHOUT LIMITING THE FOREGOING, TRUSTOR ACKNOWLEDGES AND AGREES THAT IF THIS DEED OF TRUST SECURES, AMONG OTHER THINGS, A REVOLVING LINE OF CREDIT, THEN TRUSTOR, AND EACH PERSON WHO, AT ANY TIME, CLAIMS AN INTEREST IN OR LIEN OR ENCUMBRANCE AGAINST ALL OR ANY PORTION OF THE PROPERTY, AGREES THAT ALL ADVANCES MADE BY THE BANK FROM TIME TO TIME UNDER ANY OF THE LOAN DOCUMENTS AND ALL OTHER PORTIONS OF THE INDEBTEDNESS SHALL BE SECURED BY THIS DEED OF TRUST WITH THE SAME PRIORITY AS IF ALL OF THE SAME HAD BEEN ADVANCED, HAD ARISEN OR HAD BECOME OWING OR PERFORMABLE ON THE DATE OF THIS DEED OF TRUST, AND NO REDUCTION OF THE OUTSTANDING PRINCIPAL BALANCE UNDER ANY NOTE OR ANY OTHER LOAN DOCUMENT SHALL EXTINGUISH, RELEASE OR SUBORDINATE ANY RIGHT, TITLE, INTEREST, LIEN, POWER OR PRIVILEGE CREATED OR ARISING HEREUNDER OR UNDER ANY OTHER LOAN DOCUMENT.**

C. WARRANTIES, REPRESENTATIONS, COVENANTS AND OTHER AGREEMENTS.

Trustor unconditionally warrants, represents, covenants and agrees that:

1. The Indebtedness is legal, valid and binding on Borrower and, to the extent provided in the Loan Documents, on each other Loan Party, in accordance with its terms, and the execution and delivery of, and performance under, the Loan Documents to which Trustor is a party or by which Trustor or any of Trustor's property is (or is purported to be) bound: (a) are within Trustor's powers and have been duly authorized by all requisite action (corporate, partnership, trust or otherwise); (b) have received all requisite approval by all Governmental Authorities; and (c) will not violate, conflict with, breach or constitute a default under, any Legal Requirement or result in the imposition of any Lien, charge or encumbrance of any nature upon any of Trustor's assets, except as contemplated in the Loan Documents.
2. Trustor has good and indefeasible title to the Land, Improvements, Fixtures and Personalty, free and clear of any Liens, encumbrances or adverse claims (except as listed in Exhibit "B" attached hereto). This Deed of Trust shall constitute a valid, subsisting, first Lien on the Land, Improvements and Fixtures and a valid, subsisting, exclusive, perfected and prior security interest in and to the Personalty and Leases, all in accordance with the terms hereof. Beneficiary shall have the right at its option and at such time or times as it, in its sole discretion, deems necessary or desirable, to take whatever action it may deem necessary or desirable to defend or uphold the Liens of this Deed of Trust or otherwise enforce any of its rights under this Deed of Trust or any obligations secured by this Deed of Trust including, without limit, the right to institute appropriate legal proceedings for these purposes. With respect to the right, title, or Lien of any person which is superior to any Lien of this Deed of Trust, Beneficiary has the right, but not the obligation, to acquire and/or pay off the holder of such right, title or Lien and add the amount paid to the Indebtedness.
3. Intentionally Deleted.

4. Trustor and each Loan Party are now solvent, and no bankruptcy or insolvency proceedings are pending or contemplated by or against any of them, and all reports, statements, cost estimates and other data, furnished by or on behalf of any of them are true and correct.
5. Trustor will promptly and fully comply with all present and future Legal Requirements, and all Improvements included or to be included in the Property comply and will comply with all Legal Requirements.
6. Trustor is validly and legally created under the laws of the State of Oklahoma and is authorized to do business in the State of Nebraska; Trustor's exact name is the name set forth in this Deed of Trust; and Trustor is, and at all times shall be, located in the following place: 6105 Weir Street, Omaha, Nebraska.
7. Trustor and all Loan Parties, as their interests appear and as stipulated in the Loan Documents, will duly and punctually pay and perform the Indebtedness, as and when called for in the Loan Documents, and Trustor will duly and punctually cause each of the Impositions to be paid and discharged not later than the due dates thereof and shall immediately furnish Beneficiary with evidence of such payments.
8. Trustor will cause the Property (upon the completion of the Improvements if the Indebtedness evidenced by any Note finances the construction thereof) to be maintained and operated in first-class order and condition and will make all interior and exterior repairs, replacements, additions, improvements and alterations thereof and thereto, both structural and non-structural, which are appropriate to keep same in such first-class order and condition.
9. Trustor shall obtain and maintain at Trustor's sole expense: (a) mortgagee title insurance issued to Beneficiary covering the Land, Improvements and Fixtures as required by Beneficiary; (b) all-risk insurance with respect to all insurable Property, against loss or damage by fire, lightning, windstorm, explosion, hail, tornado and such hazards as are presently included in so-called "all-risk" coverage and against such other insurable hazards as Beneficiary may require, in an amount not less than 100% of the full replacement cost, including the cost of debris removal, without deduction for depreciation and sufficient to prevent Trustor or Beneficiary from becoming a coinsurer, such insurance to be in "Builder's Risk" (non-reporting) form during and with respect to any construction on the Property; (c) if and to the extent any portion of the Property is in a special flood hazard area, a flood insurance policy in an amount equal to the lesser of the principal balance of the Indebtedness or the maximum amount available; (d) comprehensive general public liability insurance, on an "occurrence" basis, for the benefit of Trustor and Beneficiary as named insureds; (e) statutory worker's compensation insurance with respect to any work on or about the Property; and (e) such other insurance on the Property as may from time to time be required by Beneficiary (including but not limited to business interruption insurance, loss of rents insurance, boiler and machinery insurance, earthquake insurance, and war risk insurance) and against other insurable hazards or casualties which at the time are commonly insured against in the case of premises similarly situated, due regard being given to the height, type, construction, location, use and occupancy of buildings and improvements. All insurance policies shall be issued and maintained by insurers, in amounts, with deductibles, and in form satisfactory to Beneficiary, and shall require not less than thirty (30) days' prior written notice to Beneficiary of any cancellation or change of coverage. All insurance policies maintained, or caused to be maintained, by Trustor with respect to

the Property, except for public liability insurance, shall provide that each such policy shall be primary without right of contribution from any other insurance that may be carried by Trustor or Beneficiary and that all of the provisions thereof, except the limits of liability, shall operate in the same manner as if there were a separate policy covering each insured. If any insurer which has issued a policy of title, hazard, liability or other insurance required pursuant to this Deed of Trust or any other Loan Document becomes insolvent or the subject of any bankruptcy, receivership or similar proceeding or if Beneficiary, in good faith, believes that the financial responsibility of such insurer is or becomes inadequate, Trustor shall, in each instance, promptly, upon the request of Beneficiary and at Trustor's expense, obtain and deliver to Beneficiary a like policy (or, if and to the extent permitted by Beneficiary, a certificate of insurance) issued by another insurer, which insurer and policy meet the requirements of this Deed of Trust or such other Loan Document, as the case may be. Without limiting the discretion of Beneficiary with respect to required endorsements to insurance policies, all such policies for loss of or damage to the Mortgaged Property shall contain a standard mortgage clause (without contribution) naming Beneficiary as mortgagee with loss proceeds payable to Beneficiary notwithstanding (i) any act, failure to act or negligence of or violation of any warranty, declaration or condition contained in any such policy by any named insured; (ii) the occupation or use of the Mortgaged Property for purposes more hazardous than permitted by the terms of any such policy; (iii) any foreclosure or other action by Beneficiary under the Loan Documents; or (iv) any change in title to or ownership of the Mortgaged Property or any portion thereof, such proceeds to be held for application as provided in the Loan Documents. The originals of each initial insurance policy (or to the extent permitted by Beneficiary, a copy of the original policy and a satisfactory certificate of insurance) shall be delivered to Beneficiary at the time of execution of this Deed of Trust, with premiums fully paid, and each renewal or substitute policy (or certificate) shall be delivered to Beneficiary, with premiums fully paid, at least ten (10) days before the termination of the policy it renews or replaces. Trustor shall pay all premiums on policies required hereunder as they become due and payable and promptly deliver to Beneficiary evidence satisfactory to Beneficiary of the timely payment thereof. If any loss occurs at any time when Trustor has failed to perform Trustor's covenants and agreements in this Paragraph, Beneficiary shall nevertheless be entitled to the benefit of all insurance covering the loss and held by or for Trustor, to the same extent as if it had been made payable to Beneficiary. Upon any foreclosure hereof or transfer of title to the Property in extinguishment of the whole or any part of the Indebtedness, all of Trustor's right, title and interest in and to the insurance policies referred to in this Paragraph (including unearned premiums) and all proceeds payable thereunder shall thereupon vest in the purchaser at foreclosure or other such transferee, to the extent permissible under such policies. Beneficiary shall have the right (but not the obligation) to make proof of loss for, settle and adjust any claim under, and receive the proceeds of, all insurance for loss of or damage to the Property, and the expenses incurred by Beneficiary in the adjustment and collection of insurance proceeds shall be a part of the Indebtedness, shall be due and payable to Beneficiary on demand and shall bear interest from the date paid by Beneficiary until reimbursed at the highest rate of interest applicable to any of the Indebtedness (but not in excess of the highest rate permitted by applicable law). Beneficiary and Beneficiary's employees are each irrevocably appointed attorney-in-fact for Trustor and are authorized to adjust and compromise each loss without the consent of Beneficiary, to collect, receive and receipt for all insurance proceeds in the name of Beneficiary and/or Trustor, and to endorse Trustor's name upon any check in payment of the loss. Beneficiary shall not be, under any circumstances, liable or responsible for failure to collect or exercise diligence in the collection of any of such proceeds or for the obtaining, maintaining or adequacy of any insurance or for failure to see to the proper application of any amount paid over to Trustor.

10. Upon request from time to time and at any time, Trustor will deposit with Beneficiary each month in advance a monetary sum estimated by Beneficiary to equal on a monthly basis all or such portion of the ad valorem taxes, other Impositions and insurance premiums for the Property. At least thirty (30) days prior to the date on which any tax, Imposition or insurance premium must be paid to prevent delinquency thereof, Trustor will, on request of Beneficiary, deliver to Beneficiary the statement or statements showing the amount of tax or premium required to be paid and the concern or authority to which same is payable and will, at the same time, deposit with Beneficiary such amount as will, when added to the amount of such deposits previously made and then remaining available for the purpose, be sufficient to pay such insurance or tax obligations. Beneficiary shall then make payment to the applicable taxing authority, insurance carrier or other person. After the occurrence of an Event of Default, Beneficiary shall have the right (but not the obligation), at its sole discretion, to apply any or all of the foregoing deposits in payment of such insurance, taxes and other Impositions or toward payment of the Indebtedness in such manner and order of priority as Beneficiary, in its sole discretion, may elect. Beneficiary shall not be required to keep in a separate account or to pay to Trustor any interest or earnings whatever on the funds held by Beneficiary for the payment of taxes, other Impositions or insurance pursuant to this Paragraph or on any other funds deposited with Beneficiary in connection with this Deed of Trust.
11. Trustor will: (a) duly and punctually perform and comply with all representations, warranties, covenants and agreements binding upon it under the Leases and Contracts; (b) not voluntarily terminate or waive its rights under any of the Leases or Contracts; (c) use all reasonable efforts to maintain each of the Leases and Contracts in force and effect during the full term thereof; and (d) appear in and defend any action or proceeding in any manner connected with any of the Leases or Contracts.
12. Trustor will permit Trustee or Beneficiary, and their agents, attorneys, representatives and employees, to enter upon and inspect the Property at all reasonable times and intervals. If Beneficiary determines that the Property requires inspection, testing, appraisal, repair, care, alteration or attention of any kind, Beneficiary or its representatives may (but shall not be obligated to) enter upon the Property and inspect, test, appraise, repair, alter or maintain the Property as Beneficiary may deem necessary or desirable, and Trustor shall reimburse Beneficiary upon demand for all resulting costs and expenses incurred by Beneficiary. Any inspection, audit, appraisal or examination by Beneficiary or its representatives of the Property or of information or documents pertaining to the Property is for the sole purpose of protecting Beneficiary's interests under this Deed of Trust and is not for the benefit or protection of Trustor or any third party. Beneficiary has no obligation to provide Trustor or any third party with information concerning, or results of, any inspection, audit, appraisal or examination by Beneficiary or its representatives. If Beneficiary, in its sole discretion, discloses information to Trustor, this disclosure is for the sole protection of Beneficiary, does not constitute an agreement to further disclosure and does not create a representation or warranty by Beneficiary as to the accuracy, sufficiency or any other aspect of disclosure.
13. Trustor will defend and hold Trustee and Beneficiary harmless from any action, proceeding or claim affecting the Property or the Loan Documents or the Liens created thereby. Further, Trustor will notify Beneficiary, in writing, promptly of the commencement of any legal proceedings affecting the Property, or any part thereof, and will take such action as necessary to preserve Trustee's or Beneficiary's rights affected thereby, and Beneficiary may, at its election, take such action on behalf of and in the name of Trustor and at Trustor's expense.

14. Trustor will promptly pay all debts and liabilities of each and every character (including, without limitation, all debts and liabilities for labor, material and equipment) incurred in the construction, operation or development of the Property and will complete in a good and workmanlike manner any Improvements that may be constructed or repaired thereon.
15. Trustor will keep separate and proper books of record and account pertaining to the Property in accordance with generally accepted accounting principles and practices and set aside from its earnings for each fiscal year, and cause to be reflected in its books, reserves for depreciation, depletion, obsolescence and amortization of the Property, as well as for the Impositions and other appropriate reserves, during such fiscal year determined in accordance with generally accepted accounting principles and practices consistently applied. Beneficiary shall have the right to examine the books of account of Trustor and to discuss the affairs, finances and accounts of Trustor with, and to be informed as to the same by, its and their officers or any other party, all at such reasonable times and intervals as Beneficiary may desire. Trustor shall provide or cause to be provided to Beneficiary such financial statements, income and expense statements, cash flow statements, copies of income tax returns, operating statements, rent rolls and other reports, statements and information relating to Trustor or the Property as Beneficiary shall require, from time to time, and in the format and containing such detail as Beneficiary may require. All financial statements and information regarding Trustor or the Property delivered to Beneficiary shall be true and correct in all material respects and fairly present the financial condition of Trustor and the Property as of the date thereof. No material adverse change shall have occurred in the financial condition of Trustor or the Property reflected therein since the date thereof, and no additional borrowings shall have been made or committed to by Trustor since the date thereof other than those disclosed in a supplemental writing accompanying such financial statement.
16. Upon request from time to time and at any time, Trustor will promptly correct any defect, error or omission, which may be discovered in the contents of this Deed of Trust or the Loan Documents and will execute and deliver any and all additional instruments as may be requested by Beneficiary to correct such defect, error or omission or to identify any additional properties which are or become subject to this Deed of Trust.
17. Trustor will give immediate written notice to Beneficiary of any condemnation proceeding or casualty loss affecting the Property and, in each such instance, afford Beneficiary an opportunity to participate in any such proceeding or in the settlement of any awards thereunder.
18. Trustor will promptly pay and hold Beneficiary harmless from all appraisal fees, recording fees, taxes, abstract fees, title policy fees, escrow fees, attorneys' fees, and all other costs of every character incurred by Trustor or Beneficiary in connection with the closing of the loans evidenced by the Notes or the performance of the covenants of this Deed of Trust or any other Loan Document to which Trustor is a party or the Property is or is purported to be bound, or otherwise attributable or chargeable to Trustor as owner of the Property.
19. Trustor will not use or occupy, or permit any use or occupancy of, the Property in any manner which: (a) violates any Legal Requirement; (b) may be dangerous; (c) constitutes a public or private nuisance; or (d) makes void or voidable any of the Leases or any insurance on the Property.

20. Trustor will not permit: (a) any waste or deterioration of any part of the Property (including, without limitation, any failure to repair and maintain the Property, pay property taxes or other Impositions or comply with covenants respecting the physical care, maintenance, construction, demolition or insurance of the Property); or (b) any alterations or additions or improvements to the Property of a material nature regardless of whether the alterations, additions or improvements would increase the value of the Property, without Beneficiary's prior written consent. This consent may be withheld by Beneficiary in its sole discretion. If Beneficiary consents to the making of any alterations, additions or improvements, and the same are not completed with due diligence in accordance with the plans and specifications approved in writing by Beneficiary, or if construction of the alterations, additions or improvements should cease before completion for a period of 30 days, then and in either event, it shall be an Event of Default under this Deed of Trust, and Beneficiary shall have all the rights and remedies provided in this Deed of Trust, including without limitation, the right (but not the obligation) to enter or cause entry to be made upon the Property and complete the alterations, additions or improvements, and the costs shall be added to the Indebtedness, shall be payable on demand, and shall bear interest from the date paid by Beneficiary until reimbursed at the highest interest rate per annum applicable to any of the Indebtedness, but not in excess of the highest rate permitted by applicable law. Further, if any action is threatened or commenced which affects Beneficiary's interest in the Property including, without limit, building, environmental or zoning proceedings, Beneficiary may take such action as it deems necessary or desirable to protect its interests, and its costs shall be added to the Indebtedness, shall be payable on demand and shall bear interest from the date paid by Beneficiary until repaid at the highest per annum interest rate applicable to any of the Indebtedness, but not to exceed the highest rate permitted by applicable law. Trustor further covenants and agrees that it will not permit any of the Fixtures or Personalty to be removed at any time from the Land or Improvements unless the removed item is removed temporarily for maintenance and repair or, if removed permanently, is replaced by an article of at least equal suitability and value and owned by Trustor free and clear of any other Lien.
21. Trustor will not, without the prior written consent of Beneficiary: (a) create, place or permit to be created or placed, or allow to remain, any mortgage, pledge, encumbrance or charge, conditional sale or other title retention agreement or other Lien, regardless of whether same are expressly subordinate to the Liens of the Loan Documents, with respect to the Property or the Leases; (b) permit any person, other than Beneficiary to have possession or control (as defined in the Code) of any Property of such nature that perfection of a security interest may be accomplished by control; or (c) sell, lease, exchange, assign, convey, transfer possession of or otherwise dispose of all or any portion of the Property, or any interest therein, but if ownership of the Property or any part thereof or interest therein becomes vested in any person or entity other than Trustor, Beneficiary or any other holder of the Indebtedness may, without notice to Trustor, deal with such successor or successors in interest with reference to this Deed of Trust and the Indebtedness in the same manner as with Trustor without in any way discharging Trustor or any Loan Party from the Indebtedness. Without limiting the right of Beneficiary to withhold its consent or to make other requirements prior to granting its consent, Beneficiary: (i) may require evidence satisfactory to Beneficiary that transferee is creditworthy and has such management ability as Beneficiary shall deem in its sole discretion to be necessary; and (ii) may require transferee to execute such written modification and assumption agreements with regard to the Loan Documents as Beneficiary shall deem necessary or desirable, including but not limited to provisions increasing the interest rate on the Notes. No transfer of the Property, no forbearance by

Beneficiary, no extension of the time for the payment or performance of the Indebtedness granted by Beneficiary, no amendment or other modification of this Deed of Trust or other Loan Document, no release of any security for or guaranty of any Indebtedness, and no exercise of any right Beneficiary may have hereunder or under any other Loan Document shall release, discharge or affect in any way Trustor's or any other Loan Party's liability hereunder or under any other Loan Document. In the event any Lien shall exist on all or any portion of the Property (no consent by Beneficiary to the existence of any such Lien shall be implied hereby), it is expressly understood and agreed that no such lien holder may exercise any rights with respect to the Property, and all rents and other proceeds from the Property which may be received by such lien holder shall be held in trust by such lien holder for the benefit of Beneficiary and shall be immediately paid over to Beneficiary until the release of this Deed of Trust.

22. Trustor represents and covenants that Trustor has not used Hazardous Materials on or affecting the Property in any manner which violates any Governmental Requirement and that there is no condition concerning the Property which could require remediation pursuant to any Governmental Requirement, and that neither Trustor nor, to Trustor's knowledge, any other person has ever caused or permitted any Hazardous Materials to be placed, held, located or disposed of on, under or at the Property or any part thereof in any manner that violates any Governmental Requirement. No part of the Property is being used or, to Trustor's knowledge, has ever been used for the disposal, storage, treatment, processing, manufacturing or other handling of Hazardous Materials, and no part of the Property is affected by any Hazardous Materials Contamination. To the best of Trustor's knowledge, no property adjoining the Property is or has ever been used for the disposal, storage, treatment, processing, manufacturing or other handling of Hazardous Materials, and no other property adjoining the Property is affected by Hazardous Materials Contamination. To the best of Trustor's knowledge, no investigation, administrative order, consent order and agreement, litigation or settlement with respect to Hazardous Materials or Hazardous Materials Contamination is proposed, threatened, anticipated or in existence with respect to the Property. The Property is not currently on, and has never been on, any federal or state "Superfund" or "Superlien" list. Notwithstanding that one or more of the foregoing warranties and representations are "to Trustor's knowledge", the existence at or with respect to the Property of any Hazardous Materials which is in violation of any Governmental Requirement or Hazardous Materials Contamination at any time during the term of the Indebtedness shall constitute an Event of Default hereunder. Trustor covenants and agrees that neither it nor any occupant of all or any portion of the Property shall use, introduce or maintain Hazardous Materials on the Property unless done in strict compliance with all Governmental Requirements. Trustor shall conduct and complete all investigations, environmental audits, studies, sampling and testing, and all remedial removal and other actions necessary to clean up and remove all Hazardous Materials on or affecting the Property, whether caused by Trustor or a third party, in accordance with all Governmental Requirements to the satisfaction of Beneficiary and in accordance with the orders and directives of all Governmental Authorities, and Trustor shall notify Beneficiary in writing prior to taking, and continually after that of the status of, all such actions. Trustor shall, promptly upon Beneficiary's request, provide Beneficiary with copies of the results of all such actions and all related documents and information. Any remedial, removal or other action by Trustor shall not be deemed a cure or waiver of any default under this Deed of Trust or Event of Default due to the presence or use of Hazardous Materials on or affecting the Property. Trustor has never received any notice ("**Environmental Complaint**") of any potential violation of any Governmental Requirement with respect to Trustor or the Property (and within five days of receipt of any Environmental Complaint, Trustor shall give Beneficiary a copy of it), and to the best of Trustor's knowledge, there have been no

actions commenced or threatened by any party with respect to Trustor or the Property for noncompliance with any Governmental Requirement. In the event this Deed of Trust is foreclosed or Trustor tenders a deed in lieu of foreclosure, Trustor shall deliver the Property to Beneficiary, the purchaser or the grantee, as the case may be, free of Hazardous Materials so that the condition of the Property shall not be in violation of any Governmental Requirement.

23. Trustor will (a) give notice to Beneficiary immediately upon Trustor's acquiring knowledge of the presence of any Hazardous Materials on or affecting the Property or of any Hazardous Materials Contamination with a full description thereof, and (b) promptly comply with all Governmental Requirements relating to the Property including, without limit, any Hazardous Materials or Hazardous Materials Contamination affecting the same, and (c) provide Beneficiary with satisfactory evidence of such compliance.

D. EVENTS OF DEFAULT.

The term "**Event of Default**," as used in this Deed of Trust, shall mean the occurrence at any time, and from time to time, of any one or more of the following:

1. Any failure to pay the Indebtedness or any other indebtedness when due, by acceleration, demand having been made, the passage of time or otherwise.
2. Any failure to comply with or breach of or default under, any term of this Deed of Trust or any other Loan Document.
3. Any warranty, representation, financial statement or other information made, given or furnished to Beneficiary by or on behalf of Trustor, Borrower or any other Loan Party shall be, or shall prove to have been, false or materially misleading when made, given or furnished.
4. Any loss, theft, substantial damage or destruction to or of any of the Property or any other security for all or any portion of the Indebtedness or the issuance or filing of any attachment, levy, garnishment or the commencement of any proceeding in connection with any of the Property or any other security for all or any portion of the Indebtedness or of any other judicial process of, upon or in respect of Trustor, Borrower or any other Loan Party, or any of the Property or any other security for all or any portion of the Indebtedness.
5. Any sale or other disposition by Borrower, Trustor or any other Loan Party of any substantial portion of its assets or Property or voluntary suspension of the transaction of its business or the death, dissolution, termination of existence, merger, consolidation, insolvency, business failure, or assignment for the benefit of creditors of or by Borrower, Trustor or any other Loan Party, or commencement of any proceedings under any state or federal bankruptcy or insolvency law or laws for the relief of debtors by or against Borrower, Trustor or any other Loan Party or the appointment of a receiver, trustee, court appointee, sequestration or otherwise for all or any part of the property of Borrower, Trustor or any other Loan Party.
6. Default under any deed of trust, mortgage, security agreement or other Lien instrument against all or any portion of the Property.

7. Beneficiary deems itself insecure, in good faith believing that the prospect of payment of the Indebtedness or any portion thereof or the performance of this Deed of Trust is impaired or shall fear deterioration, removal, or waste of the Property or any part thereof.
8. Trustor shall dissolve or liquidate, merge with or be consolidated into any other corporation or entity, or transfer any portion of or interest in the Property, or shall attempt to do any of the same without the prior written consent of Beneficiary, or if Trustor, Borrower or any other Loan Party shall die or become mentally incompetent.
9. The Property is (a) abandoned or (b) substantially damaged so that in Beneficiary's judgment it cannot be restored with available funds to its value and to approximately the same condition and character that existed immediately prior to such damage within thirty (30) days after such occurrence.
10. The holder of any Lien on any part of the Property (notwithstanding that the creation of the same may constitute a separate default hereunder) institutes foreclosure or other proceedings for the enforcement of its remedies.
11. Any condemnation proceeding is instituted which would, in Beneficiary's sole judgment, materially impair the use or enjoyment of the Property for its intended purposes and Trustor does not cause such proceeding to be dismissed within sixty (60) days of filing.
12. If Trustor shall cause or permit any sale, lease, conveyance, assignment, pledge, encumbrance, or transfer of all or any part of the Property or any interest therein, voluntary or involuntary, whether by operation of law or otherwise, except sales or other transfers of items of Personal Property which have become obsolete or worn beyond practical use and which have been replaced by adequate substitutes, owned by Trustor, having a value equal to or greater than the replaced items when new, or if Trustor shall cause or permit the sale, pledge, encumbrance, assignment or transfer, voluntarily or involuntarily, whether by operation of law or otherwise, of any interest in Trustor (or if Trustor is a partnership or limited partnership, any general partner of Trustor) without the prior written consent of the Bank.
13. If Trustor defaults under any Lease of the Property or any portion thereof and such default is not cured within the applicable grace or notice and opportunity to cure period, if any, contained therein.

GRANTOR ACKNOWLEDGES THAT ALL OR A PORTION OF THE INDEBTEDNESS IS OR MAY BE PAYABLE ON A DEMAND BASIS AND THAT THE BENEFICIARY, AT ANY TIME, WITHOUT NOTICE AND WITH OR WITHOUT REASON, MAY DEMAND THAT SUCH INDEBTEDNESS BE IMMEDIATELY PAID IN FULL. THE DEMAND NATURE OF SUCH INDEBTEDNESS SHALL NOT BE MODIFIED BY REFERENCE TO A DEFAULT OR AN EVENT OF DEFAULT IN THIS DEED OF TRUST OR IN ANY OTHER LOAN DOCUMENT. FOR SUCH PURPOSES, REFERENCES TO DEFAULTS AND EVENTS OF DEFAULT ARE FOR THE PURPOSE, AMONG OTHERS, OF PERMITTING THE BENEFICIARY TO ACCELERATE INDEBTEDNESS NOT ON A DEMAND BASIS AND TO RECEIVE INTEREST AT THE DEFAULT RATE PROVIDED IN THE APPLICABLE LOAN DOCUMENTS. IT IS EXPRESSLY AGREED THAT THE BENEFICIARY MAY EXERCISE ITS DEMAND RIGHTS UNDER THE LOAN DOCUMENTS EVIDENCING SUCH INDEBTEDNESS WHETHER OR NOT A DEFAULT OR A EVENT OF DEFAULT HAS OCCURRED. THE BENEFICIARY, WITH OR WITHOUT REASON AND WITHOUT NOTICE, MAY FROM TIME TO TIME MAKE DEMAND FOR PARTIAL PAYMENTS OF SUCH PORTION OF THE

INDEBTEDNESS, AND SUCH DEMAND SHALL NOT PRECLUDE THE BENEFICIARY FROM DEMANDING AT ANY TIME THAT SUCH INDEBTEDNESS IMMEDIATELY BE PAID IN FULL.

E. DEFAULT AND FORECLOSURE.

To the fullest extent permitted in equity or at law, by statute or otherwise:

1. If an Event of Default shall occur, Beneficiary may, at Beneficiary's sole election and by or through Trustee or otherwise, exercise any or all of the following:
 - (a) Declare all unpaid amounts under the Notes and any other unpaid portion of the Indebtedness immediately due and payable without further notice, whereupon the same shall become immediately due and payable. [Subject to Section N, Paragraph 8 of this Deed of Trust,] acceleration of any Indebtedness shall trigger any applicable pre-payment premium or formula. Without limiting when a pre-payment premium may be due, it is agreed that, at any time after acceleration, a tender of payment of the amount necessary to satisfy the entire Indebtedness must include any applicable pre-payment premium or formula [subject, however, to the terms and provisions of Section N, Paragraph 8 of this Deed of Trust.]
 - (b) With or without notice, without releasing Trustor from any Indebtedness and without becoming a mortgagee in possession, to cure any Default or Event of Default of Trustor and, in connection therewith: (i) to enter upon the Property and to do such acts and things as Beneficiary or Trustee deems necessary or desirable to protect the security of this Deed of Trust, including without limitation, to appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or the rights or powers of Beneficiary or Trustee hereunder; (ii) to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the judgment of either Beneficiary or Trustee, is senior in priority to this Deed of Trust, the judgment of Beneficiary or Trustee being conclusive as between the parties hereto; (iii) to obtain, and to pay any premiums or charges with respect to, any insurance required to be carried hereunder; and (iv) to employ counsel, accountants, contractors and other appropriate persons to assist them.
 - (c) To commence and maintain an action or actions in any court of competent jurisdiction to foreclose this Deed of Trust as a mortgage or to obtain specific enforcement of the covenants of Trustor under this Deed of Trust, and Trustor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy. For the purposes of any suit brought under this subsection, Trustor waives the defenses of laches and any applicable statute of limitations.
 - (d) To apply to a court of competent jurisdiction for and obtain appointment of a receiver of the Property as a matter of strict right and without regard to: (i) the adequacy of the security for the repayment of the Indebtedness; (ii) the existence of a declaration that the Indebtedness is immediately due and payable; or (iii) the filing of a notice of default; and Trustor consents to such appointment.
 - (e) To take and possess all documents, books, records, papers and accounts of Trustor or the then owner of the Property; to make or modify Leases of, and other

agreements with respect to, the Property upon such terms and conditions as Beneficiary deems proper; and to make repairs, alterations and improvements to the Property deemed necessary, in Trustee's or Beneficiary's judgment, to protect or enhance the security hereof.

- (f) To execute or cause Trustee to execute a written notice of such Default or Event of Default and of its election to cause the Property to be sold pursuant to the power of sale to satisfy the Indebtedness. Trustee shall give and record such notice as the law then requires as a condition precedent to a trustee's sale. When the minimum period of time required by law after such notice has elapsed, Trustee, without notice to or demand upon Trustor, except as otherwise required by law, shall sell the Property at the time and place of sale fixed by it in the notice of sale, at one or several sales, either as a whole or in separate parcels and in such manner and order, all as directed by Beneficiary in its sole discretion, at public auction to the highest bidder for cash, in lawful money of the United States, payable at the time of sale. Except as required by law, neither Trustor nor any other person or entity shall have the right to direct the order in which the Property is sold. Subject to requirements and limits imposed by law, Trustee may postpone any sale of the Property by public announcement at such time and place of sale, and from time to time may postpone such sale by public announcement at the time and place fixed by the preceding postponement. Trustee shall deliver to the purchaser at such sale a deed conveying the Property or portion thereof so sold, but without any covenant or warranty, express or implied. The recitals in said deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustee, Trustor or Beneficiary, may purchase at such sale.
- (g) To resort to and realize upon the security hereunder and any other security now or later held by Beneficiary concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both, and to apply the proceeds received in accordance with Section 7 of Paragraph E, all in such order and manner as Beneficiary shall determine in its sole discretion.
- (h) Upon sale of the Property at any judicial or non-judicial foreclosure, Beneficiary may credit bid (as determined by Beneficiary in its sole discretion) all or any portion of the Indebtedness. In determining such credit bid, Beneficiary may, but is not obligated to, take into account all or any of the following: (i) appraisals of the Property as such appraisals may be discounted or adjusted by Beneficiary in its sole underwriting discretion; (ii) expenses and costs incurred by Trustee or Beneficiary with respect to the Property prior to foreclosure; (iii) expenses and costs which Beneficiary anticipates will be incurred with respect to the Property after foreclosure, but prior to resale, including without limitation, costs of structural reports and other due diligence, costs to carry the Property prior to resale, costs of resale (e.g., commissions, attorneys' fees, and taxes), Hazardous Materials clean-up and monitoring, deferred maintenance, repair, refurbishment and retrofit, and costs of defending or settling litigation affecting the Property; (iv) declining trends in real property values generally and with respect to properties similar to the Property; (v) anticipated discounts upon resale of the Property as a distressed or foreclosed property; (vi) the existence of additional collateral, if any, for the Indebtedness; and (vii) such other factors or matters that Beneficiary deems appropriate. Trustor acknowledges and agrees that: (A) Beneficiary is not required to use any or all of the foregoing factors to

determine the amount of its credit bid; (B) this Section does not impose upon Beneficiary any additional obligations that are not imposed by law at the time the credit bid is made; (C) the amount of Beneficiary's credit bid need not have any relation to any loan-to-value ratios specified in any agreement between Trustor and Beneficiary or previously discussed by Trustor and Beneficiary; and (D) Beneficiary's credit bid may be, at Beneficiary's sole discretion, higher or lower than any appraised value of the Property.

2. Should the Property be sold in one or more parcels, the right of sale arising out of any Event of Default shall not be exhausted by any one or more such sales, but other and successive sales may be made until all of the Property has been sold or until the Indebtedness has been fully satisfied.
3. All rights, remedies and recourses of Beneficiary granted in the Loan Documents or otherwise available at law or equity: (a) shall be cumulative and concurrent; (b) may be pursued separately, successively or concurrently against Trustor or any Loan Party, or against the Property, or against any one or more of them, at the sole discretion of Beneficiary; (c) may be exercised as often as occasion therefor shall arise, it being agreed by Trustor that the exercise or failure to exercise any of same shall in no event be construed as a waiver or release thereof or of any other right, remedy or recourse; and (d) shall be non-exclusive.
4. Beneficiary may release, regardless of consideration, any part of the Property without, as to the remainder, in any way impairing, affecting, subordinating or releasing the Liens evidenced by the Loan Documents or affecting the obligations of Trustor or any other Loan Party to pay or perform the Indebtedness. For payment of the Indebtedness, Beneficiary may resort to any of the security therefor in such order and manner as Beneficiary may elect. No security heretofore, herewith or subsequently taken by Beneficiary shall in any manner impair or affect the security given by the Loan Documents, and all security shall be taken, considered and held as cumulative.
5. Intentionally Deleted.
6. In case Beneficiary shall have proceeded to invoke any right, remedy or recourse permitted under the Loan Documents or otherwise and shall thereafter elect to discontinue or abandon same for any reason, Beneficiary shall have the unqualified right so to do, and in such event, Trustor and Beneficiary shall be restored to their former positions with respect to the Indebtedness, the Loan Documents, the Property and otherwise, and the rights, remedies, recourses and powers of Beneficiary shall continue as if same had never been invoked.
7. Any proceeds of any sale of, and any Rents, except as may otherwise be provided in Paragraph 2 of Section H, or other amounts generated by the holding, leasing, operation or other use of the Property shall be applied in the such order of priority as Beneficiary, in its sole discretion, may elect including, without limitation, the following order of priority: (a) first, to the payment of all costs and expenses of taking possession of the Property and of holding, leasing, operating, using, repairing, improving and selling the same including, without limitation, fees of the Trustee and attorneys retained by Beneficiary or Trustee (whether inside or outside counsel is used); fees of any receiver or accountants; recording and filing fees; court costs; costs of advertisement; and the payment of any and all Impositions, Liens or other rights, titles or interests equal or superior to the Liens of this Deed of Trust (without in any way implying Beneficiary's

consent to the creation thereof); (b) second, to the payment of all accrued and unpaid interest due on the Notes; (c) third, to the payment of the unpaid principal balance of the Notes; (d) fourth, to the payment of all amounts, other than unpaid principal and accrued interest on the Notes, which may be due to Beneficiary under the Loan Documents, together with interest thereon as provided therein; (e) fifth, to the payment of any Indebtedness remaining unpaid; and (f) sixth, to Trustor or such other person who may be entitled thereto by law.

8. In addition to the remedies set forth in this Section E, upon the occurrence of an Event of Default the Beneficiary and Trustee shall have available to them the remedies set forth in Sections G and H herein as well as all other remedies available to them at law or in equity.
9. The remedies in this Section E are in addition to other remedies available to the Beneficiary, and the exercise of the remedies in this Section shall not be deemed to be an election of non-judicial or judicial remedies otherwise available to the Beneficiary. The remedies in this Section E are available under and governed by the real property laws of Nebraska and, except as described in Section G hereof, are not governed by the personal property laws of Nebraska, including but not limited to, the power to dispose of personal property in a commercially reasonable manner under Section 9-610 of the Code. No action by Beneficiary taken pursuant to this Section E shall be deemed to be an election to dispose of personal property under Section 9-620 of the Code.
10. In the event an interest in any of the Property is foreclosed upon pursuant to a judicial or non-judicial foreclosure sale, Trustor and each other Loan Party hereby make the agreements as set forth in this paragraph. To the extent permitted by law, Trustor and each other Loan Party agree that Beneficiary shall be entitled to seek a deficiency judgment from such party, to the extent such party would otherwise be liable therefor.

F. INSURANCE AND CONDEMNATION PROCEEDS AND OTHER AWARDS.

All proceeds of insurance and all judgments, decrees or awards now or hereafter arising or resulting from or in connection with any injury, damage, taking or other loss to the Property, or awards, settlements or other compensation now or hereafter made by any Governmental Authority, including those for any variation of, or change of grade in, any streets affecting the Land or the Improvements, are hereby assigned in their entirety to Beneficiary and shall be paid directly to Beneficiary. Beneficiary is hereby authorized, in the name of Trustor, to execute and deliver valid acquittances for, and to appeal from, any such award, judgment or decree. Beneficiary and each of Beneficiary's employees is irrevocably appointed attorney-in-fact and is duly authorized and empowered to receive, receipt for, discharge and satisfy any judgment, decree or award, whether joint or several, on behalf of Trustor. Beneficiary shall not be liable for failure to collect any judgment, decree or award, regardless of the cost of such failure. Any proceeds received by Beneficiary from any insurance, judgment, decree or award or otherwise arising or resulting from any injury, damage, taking or other loss to the Property shall, after deduction therefrom of all reasonable expenses actually incurred by Beneficiary, including attorneys' fees, whether inside or outside counsel is used, at Beneficiary's sole option (unless otherwise expressly provided herein), (a) be released to Trustor, or (b) applied (upon compliance with such terms and conditions as may be required by Beneficiary) to repair or restoration, either partly or entirely, of the Property, or (c) applied to the payment of the Indebtedness in such order and manner as Beneficiary, in its sole discretion, may elect, whether or not due. In any event, any unpaid portion of the Indebtedness shall remain in full force and effect, and the payment thereof shall not be excused or postponed. Prepaid amounts shall constitute voluntary prepayments and shall, subject to Section N, Paragraph 8 of this Deed of Trust, be subject to applicable prepayment premiums or formulas. Trustor shall at all times comply with the requirements of the insurance policies required hereunder and of the issuers of such policies and of any board of fire

underwriters or similar body as applicable to or affecting the Property. If any act or occurrence of any kind or nature (including any condemnation or any casualty for which insurance was not obtained or obtainable) shall result in damage to or loss or destruction of the Property, Trustor shall give prompt notice thereof to Beneficiary, and Trustor shall promptly, at Trustor's sole cost and expense and regardless of whether insurance, condemnation or other proceeds (if any) shall be available or sufficient for the purpose, commence and continue diligently to completion to restore, repair, replace and rebuild the Property to its value and, as nearly as possible, to its condition and character immediately prior to the damage, loss or destruction. Notwithstanding anything to the contrary contained in this Deed of Trust or any other Loan Document, (i) if the Property shall be damaged or destroyed or if a portion thereof shall be taken by condemnation or an agreement reached under threat of condemnation, and (ii) if the Beneficiary in good faith determines that the insurance or condemnation proceeds together with such additional cash amounts that Trustor shall make available for the repair or restoration of the Property and shall pledge to Beneficiary as additional security for the payment and performance of the Indebtedness are sufficient to restore, repair, replace and rebuild the Property within thirty (30) days following the occurrence of the damage, destruction or taking to its value immediately prior to such damage, loss or destruction and to approximately the same condition and character that existed immediately preceding such damage, loss or destruction, and (iii) provided that no default or Event of Default shall exist, then the insurance and condemnation proceeds together with such additional cash amounts provided by Trustor shall be placed in a special depository account (which may be a non-interest bearing account) with Beneficiary (or, at Beneficiary's option, a financial institution approved by Beneficiary) and disbursed in scheduled payments approved by Beneficiary to restore, repair, replace and rebuild the Property to a value at least equal to that which existed immediately prior to the damage, loss or destruction and to approximately the same condition and character which existed immediately prior to such damage, loss or destruction. Notwithstanding the foregoing, Beneficiary shall have no obligation to disburse any such proceeds or other cash amounts if the total disbursements made prior to completion of the work would exceed 90% of the value of the work then completed, and each disbursement shall be conditioned upon receipt by Beneficiary (in form and content satisfactory to Beneficiary) of architect certificates, contractor and subcontractor sworn statements and waivers and releases of Liens together with satisfactory evidence of the total cost to complete the work, evidence of costs paid by Trustor as the work progresses, evidence that the work is being completed Lien free and in a good and workmanlike manner, and evidence that the proceeds and other cash amounts then on deposit are sufficient for the completion of the work. The special depository account and all amounts deposited therein together with all interests and profits, if any, accruing with respect thereto and all rights, privileges and benefits existing with respect thereto shall be and are hereby pledged as additional security for the payment and performance of the Indebtedness. All work to be performed in connection with the repair, restoration, replacement or rebuilding of the Property shall be performed pursuant to a written contract, which contract shall be subject to the prior written approval of the Beneficiary and which shall set forth the manner and schedule of payments to be made thereunder. If, at any time, the Beneficiary determines that the insurance or condemnation proceeds together with other cash amounts made available by the Trustor are insufficient to repair, restore, replace and rebuild the Property to the value and condition required hereunder, Trustor shall deposit additional cash amounts to the special depository account established (or to be established) for such purpose.

G. SECURITY AGREEMENT.

Trustor hereby grants to Beneficiary a security interest in and to certain property as follows:

- I. This Deed of Trust shall also constitute and serve as a "security agreement" on personal property and a "fixture filing" within the meaning of, and shall constitute a first and prior security interest under, Chapter 9 of the Code with respect to the Personalty, Fixtures, Contracts and Leases. To this end, Trustor grants to Beneficiary, as a secured party, a first and prior security interest in, to and under the Personalty, Fixtures, Contracts and Leases, to secure the full and timely payment and performance of the Indebtedness.

2. Trustor agrees to execute and deliver to Beneficiary, in form and substance satisfactory to Beneficiary, such financing statements and such further assurances as Beneficiary may, from time to time, request to create, perfect, and preserve the security interest herein granted, and Beneficiary may cause any financing statements and assurances to be recorded and filed at such times and places as may be required or permitted by law to create, perfect and preserve such security interest. Without limiting the foregoing, Trustor shall, upon request of Beneficiary take such actions as Beneficiary shall request to establish exclusive control (as defined in the Code) by Beneficiary over any Property which is of such a nature that perfection of a security interest may be accomplished by control. Furthermore, Trustor (a) irrevocably appoints Beneficiary or any agent of Beneficiary (which appointment is coupled with an interest) the true and lawful attorney of Trustor (with full power of substitution) to act in the name, place and stead of, and at the expense of, Trustor and (b) authorizes Beneficiary or any agent of Beneficiary, in its own name, at Trustor's expense, to do any of the following, as Beneficiary, in its sole discretion, deems appropriate: (i) to demand, receive, sue for, and give receipts or acquittances for any moneys due or to become due on any Property (including, without limit, to draft against Property) and to endorse any item representing any payment on or proceeds of the Property; (ii) to execute and file in the name of and on behalf of Trustor all financing statements or other filings or collateral control agreements deemed necessary or desirable by Beneficiary to evidence, perfect, or continue the security interests granted in this Deed of Trust; and (iii) to do and perform any act on behalf of Trustor permitted or required under this Deed of Trust.
3. Beneficiary, as well as Trustee on Beneficiary's behalf, shall have all the rights, remedies and recourses with respect to the Personalty, Fixtures, Contracts and Leases afforded a "secured party" by Chapter 9 of the Code in addition to, and not in limitation of, the other rights, remedies and recourses afforded Beneficiary and/or Trustee by the Loan Documents.
4. The security interest herein granted shall not be deemed or construed to constitute Trustee or Beneficiary as a party in possession of any portion of the Property or to obligate Trustee or Beneficiary to lease the Property or to take any other action or to incur any expenses or to perform any obligation whatsoever under any of the Contracts or Leases or otherwise.
5. Upon the occurrence of an Event of Default and at any time thereafter:
 - (a) Trustee and Beneficiary shall have, with regard to the Personalty, Fixtures, Contracts and Leases the remedies provided in this Deed of Trust and in the Code (no such remedy granted by the Code being excepted, modified or waived herein). Trustee and Beneficiary may, respectively, use his or its discretion in exercising the rights and electing the remedies; provided, however, all acts shall be in compliance with the standards of the Code where applicable and required. For purposes of the notice requirements of the Code and this Section G, it is agreed that notice sent or given not less than ten (10) calendar days prior to the taking of the action to which the notice relates is reasonable notice.
 - (b) Trustee and Beneficiary shall, respectively, be entitled, acting in his or its sole discretion, to apply the proceeds of any disposition of the Personalty, Fixtures, Contracts and Leases in the order set forth in Chapter 9 of the Code, or, if allowed by the Code, in the order set forth in Paragraph 7 of Section E hereof. Trustor agrees that Beneficiary shall be under no obligation to accept any

noncash proceeds in connection with any sale or disposition of Property unless failure to do so would be commercially unreasonable. If Beneficiary agrees in its sole discretion to accept noncash proceeds (unless the failure to do so would be commercially unreasonable), Beneficiary may ascribe any commercially reasonable value to such proceeds. Without limiting the foregoing, Beneficiary may apply any discount factor in determining the present value of proceeds to be received in the future or may elect to apply proceeds to be received in the future only as and when such proceeds are actually received in cash by Beneficiary.

(c) Notwithstanding anything herein to the contrary, Beneficiary, or the Trustee acting on Beneficiary's behalf, may at its or his option, dispose of the Fixtures, Personalty, Contracts and/or Leases and other items of personal property covered by this Deed of Trust in accordance with Beneficiary's rights and remedies in respect of and together with the Land, collectively as the Property, pursuant to the provisions of Section E of this Deed of Trust in lieu of proceeding under the Code.

6. Beneficiary may require Trustor to assemble the Personalty, Fixtures, Contracts and Leases and make them available to Beneficiary or Trustee at a place to be designated by Beneficiary that is reasonably convenient to both parties. All expenses of retaking, holding, preparing for sale, lease or other use or disposition, selling, leasing or otherwise using or disposing of the Personalty, Fixtures, Contracts and Leases and the like which are incurred or paid by Beneficiary as authorized or permitted hereunder, including also all reasonable attorneys' fees, whether inside or outside counsel is used, legal expenses and costs, shall be added to the Indebtedness, and Trustor shall be liable therefor. At any sale or other disposition of any Property, Beneficiary disclaims all warranties which would otherwise be given under the Code, including without limit, a disclaimer of any warranty relating to title, possession, quiet enjoyment or the like, and Beneficiary may communicate these disclaimers to a purchaser at such disposition. This disclaimer of warranties will not render the sale commercially unreasonable.
7. As to the Personalty, Fixtures, Contracts and Leases, this Deed of Trust shall be effective as a financing statement when filed for record in the official real property records of any county in which any portion of the Land is located. The Trustor is the debtor and the Beneficiary is the secured party. The record owner of the Land is Trustor, whose mailing address for purposes of such financing statement is set forth in the opening recital herein above. Information concerning the security interest created by this Deed of Trust may be obtained from Beneficiary at its address similarly set forth in such opening recital. Beneficiary or Trustee may file a carbon, photographic or other reproduction of this Deed of Trust as a financing statement.
8. Except as otherwise expressly provided in this Deed of Trust, all terms in this Deed of Trust which are defined in the Code shall have the meanings assigned to them in Article 9 (or, absent definition in Article 9, in any other Article) of the Code, as those meanings may be amended, revised or replaced from time to time. Notwithstanding the foregoing, the parties intend that the terms used herein which are defined in the Code have, at all times, the broadest and most inclusive meanings possible. Accordingly, if the Code shall in the future be amended or held by a court to define any term used herein more broadly or inclusively than the Code in effect on the date of this Deed of Trust, then such term, as used herein, shall be given such broadened meaning. If the Code shall in the future be amended or held by a court to define any term used herein more narrowly, or less

inclusively, than the Code in effect on the date of this Deed of Trust, such amendment or holding shall be disregarded in defining terms used in this Deed of Trust.

H. ASSIGNMENT OF RENTS.

1. Assignment. For the purposes and upon the terms and conditions set forth herein, Trustor irrevocably assigns to Beneficiary all of Trustor's right, title and interest in, to and under all Leases, together with any and all Rents. This assignment shall not impose upon Beneficiary any duty to produce Rents from the Property, nor cause Beneficiary to be: (a) a "mortgagee in possession" for any purpose; (b) responsible for performing any of the obligations of the lessor or landlord under any Lease; or (c) responsible for any waste committed by any person or entity at any time in possession of the Property or any part thereof, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property. This is an absolute assignment, not an assignment for security only, and Beneficiary's right to Rents is not contingent upon and may be exercised without taking possession of the Property. Trustor agrees to execute and deliver to Beneficiary, within five (5) days of Beneficiary's written request, such additional documents as Beneficiary or Trustee may reasonably request to further evidence the assignment to Beneficiary of any and all Leases and Rents. Beneficiary or Trustee, at Beneficiary's option and without notice, may notify any lessee or tenant of this assignment of the Leases and Rents.

2. Protection of Security. To protect the security of this assignment, Trustor agrees:
 - (a) At Trustor's sole cost and expense: (i) to perform each obligation to be performed by the lessor or landlord under each Lease and to enforce or secure the performance of each obligation to be performed by the lessee or tenant under each Lease; (ii) not to modify any Lease in any material respect, nor accept surrender under or terminate the term of any Lease; (iii) not to anticipate the Rents under any Lease; and (iv) not to waive or release any lessee or tenant of or from any Lease obligations. Trustor assigns to Beneficiary all of Trustor's right and power to modify the terms of any Lease, to accept a surrender under or terminate the term of or anticipate the Rents under any Lease, and to waive or release any lessee or tenant of or from any Lease obligations, and any attempt on the part of Trustor to exercise any such rights or powers without Beneficiary's prior written consent shall be a breach of the terms hereof.
 - (b) At Trustor's sole cost and expense, to defend any action in any manner connected with any Lease or the obligations thereunder, and to pay all costs of Beneficiary or Trustee, including reasonable attorneys' fees, in any such action in which Beneficiary or Trustee may appear.
 - (c) That, should Trustor fail to do any act required to be done by Trustor under a Lease, then Beneficiary or Trustee, but without obligation to do so and without notice to Trustor and without releasing Trustor from any obligation hereunder, may make or do the same in such manner and to such extent as Beneficiary or Trustee deems necessary to protect the security hereof, and, in exercising such powers, Beneficiary or Trustee may employ attorneys and other agents, and Trustor shall pay necessary costs and reasonable attorneys' fees incurred by Beneficiary or Trustee, or their agents, in the exercise of the powers granted herein. Trustor shall give prompt notice to Beneficiary of any default by any

lessee or tenant under any Lease, and of any notice of default on the part of Trustor under any Lease received from a lessee or tenant thereunder, together with an accurate and complete copy thereof.

- (d) To pay to Beneficiary immediately upon demand all sums expended under the authority hereof, including reasonable attorneys' fees, together with interest thereon at the highest rate per annum payable under any Indebtedness, and the same, at Beneficiary's option, may be added to any Indebtedness and shall be secured hereby.

3. License. Beneficiary confers upon Trustor a license ("**License**") to collect and retain the Rents as, but not before, they come due and payable, until the occurrence of any Default. Upon the occurrence of any Default, the License shall be automatically revoked, and Beneficiary or Trustee may, at Beneficiary's option and without notice, either in person or by agent, with or without bringing any action, or by a receiver to be appointed by a court: (a) enter, take possession of, manage and operate the Property or any part thereof; (b) make, cancel, enforce or modify any Lease; (c) obtain and evict tenants, fix or modify Rents, and do any acts which Beneficiary or Trustee deems proper to protect the security hereof; and (d) either with or without taking possession of the Property, in its own name, sue for or otherwise collect and receive all Rents, including those past due and unpaid, and apply the same in accordance with the provisions of this Deed of Trust. The entering and taking possession of the Property, the collection of Rents and the application thereof as aforesaid, shall not cure or waive any Default, nor waive, modify or affect any notice of default hereunder, nor invalidate any act done pursuant to any such notice. The License shall not grant to Beneficiary or Trustee the right to possession, except as provided in this Deed of Trust.

I. THE TRUSTEE.

The following provisions shall govern with respect to the Trustee:

1. Trustee shall not be liable for any error of judgment or act done by Trustee in good faith, or be otherwise responsible or accountable to Trustor under any circumstances whatsoever. Furthermore, Trustee shall not be personally liable in case of entry by him, or anyone entering by virtue of the powers herein granted, upon the Property for debts contracted 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 any action taken or proposed to be taken by him hereunder and believed by him in good faith to be genuine. Trustee shall be entitled to reimbursement for expenses incurred by him in the performance of his duties hereunder and to reasonable compensation for such of his services hereunder as shall be rendered. Trustor will, from time to time, pay the compensation due to Trustee hereunder and reimburse Trustee for, and save him harmless against, any and all liability and expenses which may be incurred by him in the performance of his duties **INCLUDING ANY CLAIMS, LOSSES, DAMAGES, SUITS, PENALTIES, COSTS, LIABILITIES, OBLIGATIONS AND EXPENSES, RESULTING FROM TRUSTEE'S OWN NEGLIGENCE**; provided, however, that the foregoing indemnification shall not be applicable, and Trustor shall not be liable for any such claims, losses, damages, suits, penalties, costs, liabilities, obligations or expenses, to the extent (but only to the extent) the same arise or result from any gross negligence or willful misconduct of Trustee.
2. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any

manner from any other moneys (except to the extent required by law), and Trustee shall be under no liability for interest on any money received by him hereunder.

3. Trustee may resign at any time with or without notice. If Trustee shall die, resign or become disqualified from acting in the execution of this trust or shall fail or refuse to execute the same when requested by Beneficiary so to do, or if, for any reason, Beneficiary shall prefer to appoint a substitute trustee to act instead of the afore named Trustee, Beneficiary shall have full power to appoint a substitute trustee and, if preferred, several substitute trustees in succession who shall succeed to all the estates, rights, powers and duties of the afore named Trustee.
4. Any new Trustee or Trustees 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, his or their predecessor in the rights hereunder with like effect as if originally named as Trustee herein, but nevertheless, upon the written request of Beneficiary or of the successor Trustee, the Trustee ceasing to act shall execute and deliver an instrument transferring to such successor 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 money held by such Trustee to the successor Trustee so appointed in his place.

J. SITE ASSESSMENTS.

If Beneficiary shall ever in good faith believe that there may be a possibility of Hazardous Materials or Hazardous Materials Contamination affecting any of the Property, Beneficiary (by its officers, employees and agents) at any time and from time to time after notice to Trustor of same (except in an emergency or where not practical under applicable law, in which case notice is waived), either prior to or after the occurrence of a default or an Event of Default, may contract for the services of persons (the “**Site Reviewers**”) to perform environmental site assessments (“**Site Assessments**”) on the Property for the purpose of determining whether any environmental condition exists which could result in any liability, cost or expense to the owner, occupier or operator of such Property. The Site Assessments may be performed at any time or times, upon reasonable notice, and under reasonable conditions established by Trustor which do not impede the performance of the Site Assessments. The Site Reviewers are hereby authorized to enter upon the Property for such purposes. The Site Reviewers are further authorized to perform both above and below the ground testing for environmental damage or the presence of Hazardous Materials and such other tests as may be necessary to conduct the Site Assessments in the opinion of the Site Reviewers. Trustor will supply to the Site Reviewers such historical and operational information regarding the Property as may be requested by the Site Reviewers to facilitate the Site Assessments and will make available for meetings with the Site Reviewers appropriate personnel having knowledge of such matters. On request, Beneficiary shall make the results of such Site Assessments fully available to Trustor. The cost of performing such Site Assessments shall be paid by Trustor upon demand of Beneficiary. Any such obligations shall be Indebtedness secured by this Deed of Trust, shall be payable by Trustor upon demand and shall bear interest from the date paid by Beneficiary until reimbursed at the highest per annum interest rate applicable to any of the Indebtedness but not to exceed the highest rate permitted by applicable law.

K. INDEMNIFICATION.

Regardless of whether any Site Assessments are conducted hereunder, Trustor shall defend, indemnify and hold harmless Beneficiary and Trustee and their respective employees, agents, shareholders, officers and directors from any and all liabilities (including strict liability), actions, demands, penalties, losses, costs and expenses (including, without limitation, consultants’ fees, investigation and laboratory fees, reasonable attorneys’ fees, whether inside or outside counsel is used, expenses and remedial costs), suits,

costs of any settlement or judgment and claims of each and every kind whatsoever which may now or in the future (whether before or after the release of this Deed of Trust) be paid, incurred or suffered by or asserted against Beneficiary or Trustee or such other indemnified party by any person or entity or Governmental Authority for, with respect to, or as a direct or indirect result of (a) the presence, disposal, release or threatened release of any Hazardous Materials on, from or affecting the Property or the soil, water, air, vegetation, building, personal property, persons or animals on the Property, (b) any personal injury (including, without limit, wrongful death) or property damage (real or personal) arising out of or related to Hazardous Materials, (c) any law suit brought or threatened, settlement reached or government order related to Hazardous Materials, (d) the cost of removal of Hazardous Materials from any portion of the Property, (e) taking necessary precautions to protect against the release of Hazardous Materials on or affecting the Property, (f) complying with all Governmental Requirements, and/or (g) any violation of any Governmental Requirement or requirements of this Deed of Trust which are in any way related to Hazardous Materials including, without limit, attorney's fees (whether inside or outside counsel is used) and consultants' fees (the attorneys and consultants to be selected by Beneficiary), investigation and laboratory fees and environmental studies required by Beneficiary (whether prior to foreclosure, or otherwise) **INCLUDING ANY CLAIMS, LOSSES, DAMAGES, SUITS, PENALTIES, COSTS, LIABILITIES, OBLIGATIONS OR EXPENSES, RESULTING FROM BENEFICIARY'S, TRUSTEE'S OR SUCH OTHER INDEMNIFIED PARTY'S OWN NEGLIGENCE**; provided, however, that the foregoing indemnification shall not be applicable, and Trustor shall not be liable for any such claims, losses, damages, suits, penalties, costs, liabilities, obligations or expenses, to the extent (but only to the extent) the same arise or result from any gross negligence or willful misconduct of the indemnified party. The representations, covenants, warranties and indemnification contained in this Section K shall survive the release of this Deed of Trust.

L. BENEFICIARY'S RIGHT TO REMOVE HAZARDOUS MATERIALS.

Beneficiary shall have the right but not the obligation, without in any way limiting Beneficiary's other rights and remedies under this Deed of Trust or any other Loan Document, to enter onto the Property or to take such other actions which are required by Legal Requirements or Governmental Requirements (and as Trustor deems necessary or advisable) to investigate or test for, clean up, remove, resolve or minimize the impact of, advise any Governmental Authority of the possible existence of, or otherwise deal with any Hazardous Materials or Hazardous Materials Contamination on or affecting the Property following receipt of any notice from any person or entity asserting the existence of any Hazardous Materials or Hazardous Materials Contamination pertaining to the Property or any part thereof which, if true, could result in an order, notice, suit, imposition of a Lien on the Property or other action and/or which, in Beneficiary's sole opinion, could adversely affect Beneficiary's security under this Deed of Trust. All costs and expenses paid or incurred by Beneficiary in the exercise of any such rights shall be Indebtedness secured by this Deed of Trust, shall be payable by Trustor upon demand and shall bear interest from the date paid by Beneficiary until reimbursed at the highest per annum interest rate applicable to any of the Indebtedness but not to exceed the highest rate permitted by applicable law. Any such actions conducted by Beneficiary shall be solely for the benefit of and to protect the interests of Beneficiary and shall not be relied upon by Trustor, Borrower, any other Loan Party or any third party for any purpose. By conducting any such actions, Beneficiary does not assume control over the environmental affairs or operations of Trustor or assume any liability of Trustor, Borrower, any Loan Party or any third party. The provisions of this Section shall be in addition to all other obligations and liabilities Trustor may have to Beneficiary at common law or pursuant to any other agreement and shall survive (a) the repayment and performance of the Indebtedness, (b) the satisfaction of all other obligations of Trustor under this Deed of Trust and under any other Loan Document, (c) the discharge of this Deed of Trust, and (d) the foreclosure of this Deed of Trust or acceptance of a deed in lieu of foreclosure.

M. ASSIGNMENT OF CONTRACTS AND SALES PROCEEDS.

1. Trustor hereby collaterally sells, assigns, transfers and sets over unto Beneficiary, its successors and assigns, all of Trustor's right, title and interest in, to and under any and all Contracts, including all of Trustor's rights to receive payments, receipts, revenues, interest and income of any kind under the Contracts (hereinafter collectively called the "Proceeds") including but not limited to (a) any and all rights of Trustor to receive the Proceeds, and (b) any and all rights and remedies which Trustor may have against any other party to any of the Contracts, whether related to the payment of any portion of the Proceeds or otherwise.
2. These presents are given to additionally secure payment and performance of the Indebtedness. Trustor shall not cancel or amend any of the Contracts or permit any of them to terminate if they are necessary or desirable for the operation of the Property without first obtaining the written approval of the Beneficiary. This Section shall not be applicable to any Contract that terminates if it is assigned without the consent of another party (other than Trustor) unless this consent has been obtained. Furthermore, this Section shall not be construed as a present assignment of any Contract that Trustor is required by law to hold.
3. Beneficiary shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Trustor under any of the Contracts, and Trustor hereby agrees to indemnify Beneficiary for, and to save Beneficiary harmless from, any and all liability arising from any of the Contracts or from this assignment **INCLUDING ANY CLAIMS, LOSSES, DAMAGES, SUITS, PENALTIES, COSTS, LIABILITIES, OBLIGATIONS OR EXPENSES, RESULTING FROM BENEFICIARY'S OWN NEGLIGENCE**; provided, however, that the foregoing indemnification shall not be applicable, and Trustor shall not be liable for any such claims, losses, damages, suits, penalties, costs, liabilities, obligations or expenses, to the extent (but only to the extent) the same arise or result from any gross negligence or willful misconduct of Beneficiary. This assignment shall not place responsibility for the control, care, management or repair of the Property upon Beneficiary or make Beneficiary responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Property resulting in loss or damage or injury or death to any party.
4. The failure of Beneficiary to enforce any of the terms, covenants or conditions hereof shall not be construed or deemed to be a waiver of any rights or remedies hereunder. Beneficiary shall have the full right, power and authority to enforce this assignment, or any of the terms, covenants or conditions hereof, at any time or times that Beneficiary shall deem fit.

N. MISCELLANEOUS.

The following provisions shall also apply to and govern this Deed of Trust and the interpretation hereof:

1. Each and every portion of the Indebtedness shall survive the execution and delivery of the Loan Documents and the consummation of the loans called for therein and shall continue in full force and effect until the Indebtedness shall have been paid and performed in full except for the representations, covenants, warranties and indemnification contained in Section K and Section O which shall survive the payment and performance of the Indebtedness as specified therein.
2. Trustor, upon the request of Trustee or Beneficiary, will execute, acknowledge, deliver and record and/or file such further instruments and do such further acts as may be

necessary, desirable or proper, in Beneficiary's judgment, to carry out more effectively the purposes of the Loan Documents and to subject to the Liens and security interests thereof any property intended by the terms thereof to be covered thereby, including specifically, but without limitation, any renewals, additions, substitutions, replacements, or appurtenances to the Property. Trustor will pay all such recording, filing, re-recording and re-filing taxes, fees and other charges, including those for Lien searches.

3. All notices or other communications required or permitted to be given pursuant to this Deed of Trust (except for notices of a foreclosure sale which shall be given in the manner set forth in Paragraph I(f) of Section E hereof) shall be in writing. A notice or communication shall be deemed to be given under this Deed of Trust when delivered to the applicable party or when placed in an envelope addressed to the party and deposited, with postage prepaid, in a post office or official depository under the exclusive care and custody of the United States Postal Service or delivered to an overnight courier. The mailing shall be by overnight courier, certified or first class mail. In the event that applicable law shall obligate Beneficiary to give prior notice to the Trustor or any other Loan Party of any action to be taken under this Deed of Trust or any other Loan Document, the Trustor and other Loan Parties agree that a written notice given to Trustor or such other Loan Party at least 10 days before the date of the act shall be reasonable notice of the act unless a shorter notice period is reasonable under the circumstances. For purposes of notice, the addresses of the parties shall be as set forth in the opening Paragraph herein above; provided, however, that either party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of 10 days' notice to the other party in the manner set forth herein above.
4. Any failure by Trustee or Beneficiary to insist, or any election by Trustee or Beneficiary not to insist, upon strict performance by Trustor, Borrower or any other Loan Party of any of the terms, provisions or conditions of the Loan Documents shall not be deemed to be a waiver of same or of any other term, provision or condition thereof, and Trustee or Beneficiary shall have the right at any time or times thereafter to insist upon strict performance by Trustor, Borrower or any other Loan Party of any and all of such terms, provisions and conditions.
5. If Trustor, Borrower or any other Loan Party shall fail, refuse or neglect to make any payment or perform any act required by the Loan Documents, then at any time after the applicable notice and cure periods have passed, if any, and without waiving or releasing any other right, remedy or recourse Beneficiary may have because of same, Beneficiary may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of Trustor and shall have the right to enter the Land and Improvements for such purpose and to take all such action thereon and with respect to the Property as it may deem necessary or appropriate. Trustor shall indemnify Beneficiary for all losses, expenses, damages, claims, and causes of action, including reasonable attorneys' fees, whether inside or outside counsel is used, incurred or accruing by reason of any acts performed by Beneficiary pursuant to this Paragraph 5 of Section N or by reason of any other provision in the Loan Documents **INCLUDING ANY CLAIMS, LOSSES, COSTS, DAMAGES, LIABILITIES, OBLIGATIONS, AND EXPENSES RESULTING FROM BENEFICIARY'S OWN NEGLIGENCE**, except to the extent, but only to the extent, caused by Beneficiary's gross negligence or willful misconduct. All sums paid by Beneficiary pursuant to this Paragraph 5 of this Section N and all other sums expended by Beneficiary to which it shall be entitled to be indemnified, together with interest thereon at the highest per annum rate of interest applicable to any of the Indebtedness, but not in excess of the maximum rate permitted by applicable law, from

the date of such payment or expenditure until repaid, shall constitute additions to the Indebtedness, shall be secured by the Loan Documents and shall be paid by Trustor to Beneficiary upon demand.

6. All obligations contained in the Loan Documents are intended by the parties to be, and shall be construed as, covenants running with the Property.
7. All of the terms of the Loan Documents shall apply to, be binding upon and inure to the benefit of the parties thereto, their respective successors, assigns, heirs and legal representatives, and all other persons claiming by, through or under them.
8. The Loan Documents are intended to be performed in accordance with, and only to the extent permitted by, all applicable Legal Requirements. If any provision of any of the Loan Documents or the application thereof to any person or circumstance shall, for any reason or to any extent, be invalid or unenforceable, neither the remainder of the instrument in which such provision is contained nor the application of such provision to other persons or circumstances nor the other instruments referred to herein above shall be affected thereby, but rather, the same shall be enforced to the greatest extent permitted by law. It is hereby expressly stipulated and agreed to be the intent of Trustor and Beneficiary at all times to comply with the usury, and all other laws relating to the Indebtedness or Loan Documents. If, at any time, the applicable Legal Requirements render usurious any amount called for in any Loan Document, then it is Trustor's, Trustee's and Beneficiary's express intent that such document be immediately deemed reformed, and the amounts collectible be reduced or spread, without the necessity of the execution of any new documents, so as to comply with the then applicable law but so as to permit the recovery of the fullest amount otherwise called for in such Loan Documents.
9. In the event of the passage after the date of this Deed of Trust of any applicable law changing in any way the laws for the taxation of deeds of trust or mortgages and/or the debts secured thereby so as to affect this Deed of Trust, Beneficiary shall have the right, at Beneficiary's option, without limiting any other right or remedy (including, without limitation, the right to demand payment of any Indebtedness that is payable on a demand basis) to declare the Indebtedness immediately due and payable after providing Trustor with notice of such tax, and if such law permits Trustor to pay such tax, the failure of Trustor to pay such tax within ten (10) days of such notice; provided further, in the event payment of such tax by Trustor is prohibited under such law, then Trustor shall not have the option to pay such tax, and the Indebtedness shall be due and payable after the passage of ten (10) days of notice of such tax assessment from Beneficiary to Trustor.
10. The Loan Documents contain the entire agreements between the parties relating to the subject matter hereof and thereof, and all prior agreements relative thereto which are not contained herein or therein are terminated. The Loan Documents may be amended, revised, waived, discharged, released or terminated only by a written instrument or instruments, executed by the party against which enforcement of the amendment, revision, waiver, discharge, release or termination is asserted. Any alleged amendment, revision, waiver, discharge, release or termination which is not so documented shall not be effective as to any party.
11. This Deed of Trust may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute but one instrument.

12. If any or all of the proceeds of the Notes have been used to extinguish, extend or renew any indebtedness heretofore existing, then, to the extent of such funds so used, the Beneficiary, the Indebtedness and this Deed of Trust shall be subrogated to all the rights, claims, Liens, titles and interests heretofore existing to secure the indebtedness so extinguished, extended or renewed, and the former rights, claims, Liens, titles and interests, if any, are not waived but rather are continued in full force and effect in favor of Beneficiary and are merged with the Liens created herein as cumulative security for the repayment and performance of the Indebtedness.
13. THE LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAWS OF THE STATE OF NEBRASKA AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA.
14. The section and paragraph entitlements hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such sections or paragraphs. Whenever the context hereof requires, references herein to the singular number shall include the plural, and likewise, the plural shall include the singular. Words denoting gender shall be construed to include the masculine, feminine and neuter, where appropriate, and specific enumeration shall not exclude the general but shall be considered as cumulative.
15. If there is more than one Borrower, Trustor or other Loan Party, the obligations of all such Loan Parties shall be joint and several.
16. Upon payment and performance in full of all Indebtedness and termination of any and all commitments by Beneficiary to extend credit to Borrower and/or Trustor and termination of all loans made by Beneficiary to Borrower and/or Trustor (whether advances are optional or obligatory), Beneficiary shall request Trustee in writing to reconvey the Property. When Trustee receives Beneficiary's written request for reconveyance and all fees and other sums owing to it by Trustor under paragraph 1 of Section I of this Deed of Trust, Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Neither Beneficiary nor Trustee have any duty to determine the rights of the persons claiming to be rightful grantees of any reconveyance.
17. Beneficiary may sell, assign or grant participations in any of the Indebtedness and any of the Loan Documents including, without limit, this Deed of Trust. Beneficiary may provide information relating to this Deed of Trust, the Property, Trustor, or any other Loan Party to Beneficiary's parent, affiliates, subsidiaries, service providers, assignees, participants and prospective assignees and participants.
18. Trustor delivers this Deed of Trust based solely on Trustor's independent investigation of (or decision not to investigate) the financial condition of Borrower, and Trustor is not relying on any information furnished by Beneficiary. Trustor assumes full responsibility for obtaining any further information concerning the Borrower's financial condition, the status of the Indebtedness or any other matter which Trustor may deem necessary or appropriate now or later. Trustor waives any duty on the part of the Beneficiary and agrees that Trustor is not relying upon or expecting the Beneficiary to disclose to the Trustor any fact now or later known by Beneficiary whether relating to the operations or condition of Borrower, the existence, liabilities or financial condition of any guarantor of the Indebtedness or any other Loan Party, the occurrence of any default or Event of Default, or otherwise, notwithstanding any effect such fact may have upon the Trustor's risk or the Trustor's rights against Borrower, any other Loan Party or any other person.

Trustor knowingly accepts the full range of risk encompassed in this Deed of Trust, which risk includes, without limit, the possibility that Borrower may incur Indebtedness to Beneficiary after the financial condition of Borrower, or Borrower's ability to pay debts as they mature, has deteriorated. Trustor further agrees that no security or guaranty now or later held by the Beneficiary for the payment or performance of any Indebtedness, whether from Borrower, any guarantor, any other Loan Party or otherwise, and whether in the nature of a security interest, pledge, lien, assignment, set-off, suretyship, guaranty, indemnity, insurance or otherwise, shall affect in any manner the Liens created under this Deed of Trust, and Beneficiary, in its sole discretion, without notice to the Trustor may release, exchange, modify, enforce and otherwise deal with any security or guaranty without affecting in any manner the Liens under this Deed of Trust. Trustor acknowledges and agrees that Beneficiary has no obligation to acquire or perfect any Lien on any assets, whether realty or personalty, or to obtain any guaranty to secure payment or performance of the Indebtedness, and Trustor is not relying upon any guaranty which Beneficiary has or may have or assets in which Beneficiary has or may have a Lien for payment or performance of the Indebtedness.

19. Notwithstanding any prior revocation, termination or discharge of this Deed of Trust (except as to the rights of subsequent intervening bonafide purchasers or lien holders), the effectiveness of this Deed of Trust shall automatically continue or be reinstated in the event that (a) any payment received or credit given by Beneficiary in respect of the Indebtedness is returned, disgorged or rescinded as a preference, in impermissible set-off, fraudulent conveyance, diversion of trust funds, or otherwise under any applicable law, in which case this Deed of Trust shall be enforceable as if the returned, disgorged or rescinded payment or credit had not been received or given, whether or not Beneficiary relied upon this payment or credit or changed its position as a consequence of it, or (b) any liability is sought to be imposed against Beneficiary relating in any manner as to which Trustor agreed to indemnify Beneficiary under this Deed of Trust including, without limit, as to the presence of Hazardous Materials or Hazardous Materials Contamination on, in, about or affecting the Property, whether this matter is known or unknown, now or later exists (excluding only matters which arise after any acquisition by Beneficiary of the Property by foreclosure, deed in lieu of foreclosure or otherwise, to the extent due to the wrongful act or omission of Beneficiary), in which case this Deed of Trust shall be enforceable to the extent of all liability, costs and expenses (including, without limit, attorneys' fees, whether inside or outside counsel is used, incurred by Beneficiary as the direct or indirect result thereof. In the event of continuation or reinstatement of this Deed of Trust, Trustor agrees, upon demand by Beneficiary, to execute and deliver to Beneficiary those documents which Beneficiary determines are appropriate to further evidence (in the public records or otherwise) this continuation or reinstatement, although the failure of Trustor to do so shall not affect in any way the reinstatement or continuation. If Trustor does not execute and deliver to Beneficiary upon demand such documents, Beneficiary and each employee of Beneficiary is irrevocably appointed (which appointment is coupled with an interest) the true and lawful attorney of Trustor (with full power of substitution) to execute and deliver such documents in the name and on behalf of Trustor.
20. Protective Advances. Advances or disbursements made by beneficiary to protect the security, under the terms hereof, shall not be deemed to be optional advances.

O. INDEMNITY.

Trustor shall indemnify, defend, and hold harmless Trustee and Beneficiary from and against any and all liability, damage, loss, cost, or expense (including, without limitation, attorneys' fees and expenses,

whether inside or outside counsel is used), action, proceeding, claim or dispute incurred or suffered by Beneficiary, whether voluntarily or involuntarily incurred or suffered, in respect of the following: (a) any litigation concerning this Deed of Trust, the other Loan Documents or the Property, or any interest of Trustor, Trustee or Beneficiary therein, or the right of occupancy thereof by Trustor, Trustee or Beneficiary, whether or not any such litigation is prosecuted to a final, non-appealable judgment; (b) any dispute, including disputes as to the disbursement of proceeds of the Notes not yet disbursed, among or between any of the constituent parties or other partners or venturers of Trustor (if Trustor is a general or limited partnership) or among or between any employees, officers, directors, or shareholders of Trustor (if Trustor is a corporation), or among or between any members, trustees or other responsible parties (if Trustor is an association, trust or other entity); (c) any action taken or not taken by Beneficiary or Trustee which is allowed or permitted under this Deed of Trust or any of the other Loan Documents relating to Trustor, the Property, any other Loan Party, any constituent parties or otherwise in connection with the Loan Documents including, without limitation, the protection or enforcement of any Lien, security interest or other right, remedy or recourse created or afforded by this Deed of Trust or any other Loan Document; and (d) any action brought by Beneficiary or Trustee against Trustor under this Deed of Trust or any other Loan Document, whether or not such action is prosecuted to a final, non-appealable judgment **INCLUDING ANY CLAIMS, LOSSES, COSTS, DAMAGES, LIABILITIES, OBLIGATIONS AND EXPENSES RESULTING FROM BENEFICIARY'S OR TRUSTEE'S OWN NEGLIGENCE**, except and to the extent, but only to the extent, caused by Beneficiary's or Trustee's gross negligence or willful misconduct. Beneficiary and/or Trustee may employ an attorney or attorneys to protect or enforce any rights, remedies or recourses under this Deed of Trust or any other Loan Document and to advise and defend Beneficiary and/or Trustee with respect to any such actions and other matters. Trustor shall reimburse Beneficiary and/or Trustee for their respective attorneys' fees, whether inside or outside counsel is used, and expenses (including expenses and costs for experts) immediately upon receipt of a written demand therefor, whether on a monthly or other time interval, and whether or not an action is actually commenced or concluded. Unless otherwise specified herein, all reimbursement and indemnity obligations hereunder shall become due and payable upon demand and shall bear interest from the date paid by Beneficiary until reimbursed at the highest per annum rate of interest applicable to any of the Indebtedness, but not in excess of the maximum rate permitted by law. The provisions of this Paragraph shall survive repayment and performance of the Indebtedness, the release of the Liens of this Deed of Trust, any foreclosure (or action in lieu of foreclosure) and the exercise by Beneficiary of any and all remedies set forth herein or in the Loan Documents.

P. REQUEST FOR NOTICE.

Trustor hereby requests a copy of any notice of default and any notice of sale hereunder or under any other deed of trust recorded against the Property be mailed to Trustor at Trustor's address set forth in the first paragraph of this Deed of Trust. While hereby expressly reserving the priority of this Deed of Trust as established by law, Trustee and Beneficiary 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 Deed of Trust is recorded, be mailed to each at the addresses set forth in Section 8.10 of this Deed of Trust.

Q. NOTICE OF FINAL AGREEMENT.

THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

R. WAIVER OF RIGHT TO TRIAL BY JURY.

TRUSTOR AND BENEFICIARY ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE BUT THAT IT MAY BE WAIVED. EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, KNOWINGLY AND VOLUNTARILY AND FOR THE MUTUAL BENEFIT OF ALL PARTIES WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS DEED OF TRUST, ANY OTHER LOAN DOCUMENT OR THE INDEBTEDNESS.

[Signature Page Follows]

EXECUTED as of, although not necessarily on, the day and year first above written.

TRUSTOR: RED RIVER SERVICE CORPORATION

By: _____

Its: DIRECTOR _____

STATE OF Texas)
) ss.
COUNTY OF Texas)

The foregoing instrument was acknowledged before me this 7 day of Aug, 2012, by James A Smith, the Director of Red River Service Corporation, an Oklahoma corporation, on behalf of the company.

Matthew Horst
Notary Public

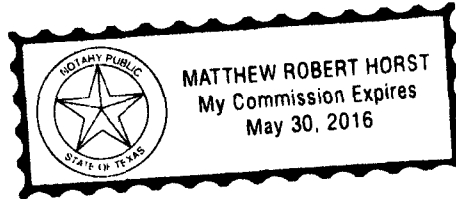


EXHIBIT "A"

Legal Description

[6105 Weir Street, Omaha, Nebraska]

Lot 1, 2, 3, 4, 5, 6, 7 and 8, Block 40, in Weir Crest, an Addition to the City of Omaha, as surveyed, platted, and recorded in Douglas County, Nebraska.

EXHIBIT "B"

Permitted Exceptions

Matters shown on Schedule B Part 1 of Stewart Title Guaranty Policy with respect to Office File No. 12331346

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