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 OTOE COUNTY, NE  
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*Janet Reed*  
 REGISTER OF DEEDS

ENTERED  
 VERIFIED  
 SCANNED

**NEBRASKA DEED OF TRUST**

THIS DEED OF TRUST is made as of the 31<sup>st</sup> day of May, 2017, by and among Nebraska City Lodging, LLC, "Trustor", whose mailing address is 6007 Norman Road, Lincoln, NE 68512; David J. Partsch, City Attorney of Nebraska City (a Nebraska State Bar Association licensed lawyer at #21763), "Trustee" whose mailing address is 1518 Central Avenue, Nebraska City, NE 68410; and, the City of Nebraska City, Nebraska, representing the Nebraska City Economic Development Plan, "Beneficiary" whose mailing address is 1409 Central Avenue, Nebraska City, NE 68410.

FOR VALUABLE CONSIDERATION, Trustor irrevocably transfers, conveys, and assigns, to Trustee, IN TRUST WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions of this Deed of Trust, the real property located in Nebraska City, County of Otoe, State of Nebraska, and described as follows, the "Property":

Lot Two (2), Arbor Crossing Subdivision, an Administrative Subdivision of Part of Lot A, H & E Subdivision located in the West Half of the Northwest Quarter (W1/2NW1/4) of Section Twenty-One (21), Township Eight (8) North, Range Fourteen (14) East of the 6<sup>th</sup> P.M., City of Nebraska City, Otoe County, Nebraska.

TOGETHER WITH all rents, easements, appurtenances, hereditaments, interest in adjoining roads, streets and alleys, improvements and buildings of any kind situated thereon and all personal property that may be or hereafter become an integral part of such buildings and improvements.

The Property and the entire estate and interest conveyed to the Trustee are referred to collectively as the "Trust Estate".

Subordination. The Deed of Trust shall be subordinate solely to the following lien(s) on the Trust Estate:

- Deed of Trust dated 6/2/2017, by and between Trustor as borrower, Great Western Bank as Lender and Great Western Bank as Trustee and recorded with the Otoe County Register of Deeds on 6/28/2017 as Instrument Number 201701470; and

- Deed of Trust dated \_\_\_\_\_, by and between Trustor as borrower, the Small Business Administration (SBA) as Lender and \_\_\_\_\_ as Trustee and recorded with the Otoe County Register of Deeds on \_\_\_\_\_ as Instrument Number \_\_\_\_\_.

### FOR THE PURPOSE OF SECURING:

Payment of indebtedness is the total principal amount of \$350,000.00, with interest partially thereon, as evidenced by a certain Promissory Note of even date hereinafter referred to as "the Note" with maturity in 2023, executed by Trustor, which has been delivered and is payable to the order of Beneficiary, and which by this reference is hereby made a part hereof, and any and all modifications, extensions and renewals thereof.

This Deed of Trust, the Note and any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby are referred to collectively as the "Loan Instruments".

### TO PROTECT THE SECURITY OF THIS DEED OF TRUST:

1. PAYMENT OF INDEBTEDNESS. Trustor shall pay when due the principal of, and the interest on, the indebtedness evidenced by the Note, charges, fees and all other sums as provided in the Loan Instruments.

2. TAXES. Trustor shall pay each installment of all taxes and special assessments of every kind, now or hereafter levied against the Trust Estate or any part thereof, before delinquency, without notice or demand, and shall provide Beneficiary with evidence of the payment of same. Trustor shall pay all taxes and assessments which may be levied upon Beneficiary's interest herein or upon this Deed of Trust or the debt secured hereby, without regard to any law that may be enacted imposing payment of the whole or any part thereof upon the Beneficiary.

3. INSURANCE AND REPAIR. Trustor shall maintain fire and extended coverage insurance insuring the improvements and buildings constituting part of the Trust Estate for an amount no less than the amount of the unpaid principal balance of the Note (co-insurance not exceeding 80% permitted). Such insurance policy shall contain a standard mortgage clause in favor of Beneficiary and shall not be cancelable, terminable or modifiable without ten (10) days prior written notice to Beneficiary. Trustor shall promptly repair, maintain and replace the Trust Estate or any part thereof so that, except for ordinary wear and tear, the Trust Estate shall not deteriorate. In no event shall the Trustor commit waste on or to the Trust Estate.

4. ACTIONS AFFECTING TRUST ESTATE. Trustor shall appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and shall pay including cost of evidence of title and attorney's fees, in any such action or proceeding in which Beneficiary or Trustee may appear. Should Trustor fail to

make payment or to do any act as and in the manner provided in any of the Loan Instruments, Beneficiary and/or Trustee, each in its own discretion, without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Trustor shall, immediately upon demand therefor by Beneficiary, pay all costs and expenses incurred by the Beneficiary in connection with the exercise by Beneficiary of the cost, appraisals, surveys and attorney's fees. Any such costs and expenses not paid within ten (10) days after written demand shall draw interest at the default rate provided in the Note.

5. EMINENT DOMAIN. Should the Trust Estate, or any part thereof or interest therein, be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner including deed in lieu of Condemnation ("Condemnation"), or should Trustor receive any notice or other information regarding such proceeding, Trustor shall give prompt written notice thereof to Beneficiary. Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name any action or proceedings. Beneficiary shall also be entitled to make any compromise or settlement in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds awarded to Trustor (the "Proceeds") are hereby assigned to Beneficiary and Trustor agrees to execute such further assignments to the Proceeds as Beneficiary or Trustee may require.

6. APPOINTMENT OF SUCCESSOR TRUSTEE. Beneficiary may, from time to time, by a written instrument executed and acknowledged by Beneficiary, mailed to Trustor and recorded in the County in which the Trust Estate is located and by otherwise complying with the provisions of the applicable law of the State of Nebraska, substitute a successor or successors to the Trustee named herein or acting hereunder.

7. SUCCESSORS AND ASSIGNS. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, personal representatives, successors and assigns. The term "Beneficiary" shall mean the owner and holder of the Note, whether or not named as Beneficiary herein.

8. INSPECTIONS. Beneficiary, or its agent, representatives or workmen, are authorized to enter at any reasonable time upon or in any part of the Trust Estate for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Loan Instruments.

9. EVENTS OF DEFAULT. Any of the following events shall be deemed an event of default hereunder:

a. Trustor shall have failed to make payment of an installment of interest, principal, or principal and interest or any other sum secured hereby within thirty (30) days of the due date; or

b. There has occurred a breach of or default under any term, covenant, agreement, condition, provision, representation or warranty contained in any of the Loan Instruments.

10. TRANSFER OF PROPERTY; ASSUMPTION. If all or any part of the Property or any interest therein is sold or transferred by Trustor without Beneficiary's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Deed of Trust (b) a transfer by devise, descent or by operation of law upon the death of a joint tenant, or (c) the grant of any leasehold interest of three years or less not containing an option to purchase, Beneficiary, may, at Beneficiary's option, declare all the sums secured by this Deed of Trust to be immediately due and payable. Beneficiary shall have waived such option to accelerate, if, prior to the sale or transfer, Beneficiary and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such persons is satisfactory to the Beneficiary and the interest payable on the sums secured by this Deed of Trust shall be at such rate as Beneficiary may request. If Beneficiary has waived the option to accelerate as provided herein, Trustor's successor shall execute a written assumption agreement acceptable to Beneficiary, however, Beneficiary shall not be obligated to release Trustor from any of Trustor's obligations under this Deed of Trust and the Note which it secures. If Beneficiary exercises such option to accelerate, Beneficiary shall mail Trustor notice of acceleration in accordance with paragraphs No. 10 and 11 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Trustor may pay the sums declared due. If the Trustor fails to pay such sums prior to the expiration of such period, Beneficiary may, without further notice or demand on Trustor, invoke any remedies permitted by this Deed of Trust.

11. ACCELERATION UPON DEFAULT, ADDITIONAL REMEDIES. Should an event of default occur, Beneficiary may declare all indebtedness secured hereby to be due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind. Thereafter Beneficiary may:

(i) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without bringing any action adequacy of its security, enter upon and take possession of the Trust Estate, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Trust Estate or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Trust Estate, sue for or otherwise collect the rents, issues and profits and the application thereof, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including attorney's fees, upon any indebtedness secured hereby, all in such order as Beneficiary may determine. The entering upon and taking possession of the Trust Estate, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidates any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Trust Estate or the collection, receipt and application of rents, issues, or profits, Trustee or Beneficiary shall be entitled to exercise every right provided for in any of the Loan Instruments or by law upon occurrence of any event of default, including the right to exercise the power of sale;

(ii) Commence an action to foreclose this Deed of Trust as a Mortgage, appoint a receiver, or specifically enforce any of the covenants, hereof;

(iii) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Trust Estate to be sold, which notice Trustee shall cause to be duly filed of record in the appropriate Official Records of the County in which the Trust Estate is located.

12. FORECLOSURE BY POWER OF SALE. Should Beneficiary elect to foreclose by exercise of the Power of Sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and the Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

a. Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor, such Notice of Default and Notice of Sale as then required by law and by this Deed of Trust. Trustee shall, without demand on trustor, after such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Trust Estate at the time and place of sale fixed by it in such Notice of Sale, either as a whole or in separate lots or parcels, or items, as Trustee shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee, or Beneficiary, may purchase at such sale and Trustor hereby covenants to warrant and defend the title of such purchaser or purchasers.

b. As may be permitted by law, after deducting all costs, fees and expenses of Trustee and of this Trust, including costs of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of (i) all sums expended under the terms hereof, not then repaid, with accrued interest at the rate of Fourteen percent (14%) per annum, (ii) all other sums then secured hereby, and (iii) the remainder, if any, to the person or persons legally entitled thereto.

c. Trustee may in the manner provided by law, postpone sale of all or any portion of the Trust Estate.

13. REMEDIES NOT EXCLUSIVE. Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or under any Loan Instrument or other agreement or any laws now or hereafter in force, notwithstanding some or all of the such indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment, or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner effect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine.

No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Instruments to Trustee or Beneficiary or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies. Nothing herein shall be construed as prohibiting Beneficiary from seeking deficiency judgment against the Trustor to the extent such action is permitted by law.

14. REQUEST FOR NOTICE. Trustor hereby requests a copy of any notice of default and that any notice of sale hereunder be mailed to it at the address set forth in the first paragraph of this Deed of Trust.

15. GOVERNING LAW. This Deed of Trust shall be governed by the laws of the State of Nebraska. In the event that any provision or clause of any of the Loan Instruments conflicts with applicable laws, such conflicts shall not affect other provisions of such Loan Instruments which can be given effect without the conflicting provision, and to this end the provisions of the Loan Instruments are declared to be severable. This instrument cannot be waived, changed, discharged, or terminated orally, but only by an instrument in writing, signed by the party against whom enforcement of any waiver, change, discharge, or termination is sought.

16. RECONVEYANCE BY TRUSTEE. Upon written request of Beneficiary stating that all sums secured hereby have been paid or forgiven, and upon surrender of this Deed of Trust, and the Note to Trustee for cancellation and retention and upon payment of Trustor of Trustee fees, Trustee shall reconvey to Trustor, or the person or persons legally entitled thereto, without warranty, any portion of the Trust Estate then held hereunder. The recitals in such reconveyance of any matters of facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto".

17. NOTICES. Whenever Beneficiary, Trustor, or Trustee, shall desire to give or serve any notice, demand, request or other communication with respect to this Deed of Trust, each such notice, demand, request or other communication shall be in writing and shall be effective only if the same is delivered by personal service or mailed by certified mail, postage prepaid, return receipt requested, addressed to the address set forth at the beginning of this Deed of Trust. Any party may at any time change its address for such notices by delivering or mailing to the other parties hereto, as aforesaid, a notice of such change.

18. ACCEPTANCE OF TRUSTEE. Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above-written.

NEBRASKA CITY LODGING, LLC,  
OWNERS,

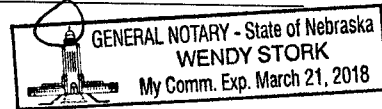
Mike Works  
Mike Works

John Kimpel  
John Kimpel

STATE OF NEBRASKA :  
: SS.  
COUNTY OF LANCASTER :

The foregoing Acknowledgement and Deed of Trust were acknowledged before me  
this 31<sup>st</sup> day of May, 2017, by Mike Works his voluntary act and deed.

Wendy Stork  
Notary Public



STATE OF NEBRASKA :  
: SS.  
COUNTY OF ~~STOE~~ LANCASTER :

The foregoing Acknowledgement and Deed of Trust were acknowledged before me  
this 31<sup>st</sup> day of May, 2017, by John Kimpel his voluntary act and deed.

Wendy Stork  
Notary Public

