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(Space above reserved for Recorder of Deeds certification)

THIS IS A CONSTRUCTION SECURITY AGREEMENT WITHIN THE MEANING OF NEB. REV. ST. §52-127 AND IT SECURES AN OBLIGATION WHICH THE GRANTOR (DEBTOR) INCURRED FOR THE PURPOSE OF MAKING AN IMPROVEMENT OF THE REAL ESTATE IN WHICH THE SECURITY INTEREST IS GRANTED AND IS A CONSTRUCTION SECURITY INTEREST.

*Title of Document:* Future Advance Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing

*Date of Document:* APRIL 30, 2019

*Grantor:* 204<sup>TH</sup> STREET CAR WASH, LLC,  
c/o City Ventures, LLC  
P.O. Box 241468  
Omaha, Nebraska 68124  
Attn: Christopher L. Erickson

*Beneficiary:* UMB Bank, n.a.  
16929 Burke Street  
Omaha, Nebraska 68118  
Attn: Kevin Bartak

*Trustee:* Old Republic National Title Insurance Company  
400 Second Avenue South  
Minneapolis, Minnesota 55401

*Mailing Address:* Polsinelli PC  
900 West 48<sup>th</sup> Place, Suite 900  
Kansas City, Missouri 64112  
Attn: Michael B. Shteamer

*Legal Description:* See Exhibit "A" attached hereto

**THIS IS A CONSTRUCTION SECURITY AGREEMENT WITHIN THE MEANING OF NEB. REV. ST. §52-127 AND IT SECURES AN OBLIGATION WHICH THE GRANTOR (DEBTOR) INCURRED FOR THE PURPOSE OF MAKING AN IMPROVEMENT OF THE REAL ESTATE IN WHICH THE SECURITY INTEREST IS GRANTED AND IS A CONSTRUCTION SECURITY INTEREST.**

**THIS FUTURE ADVANCE DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING, SECURES FUTURE ADVANCES AND IS TO BE GOVERNED BY SECTION 76-1002 OF THE REVISED STATUTES OF NEBRASKA. \$4,150,000 IS THE TOTAL PRINCIPAL AMOUNT OF ALL OBLIGATIONS WHICH ARE SECURED HEREBY, SUBJECT TO ADDITIONAL ADVANCES IF BORROWER QUALIFIES FOR FUTURE ADVANCES AS SET FORTH HEREIN.**

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

THIS FUTURE ADVANCE DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (hereinafter called the “**Deed of Trust**”) is made as of April 30, 2019, by and between 204th Street Car Wash, LLC, a Nebraska limited liability company (hereinafter referred to as “**Grantor**”) whose address for notice purposes is c/o City Ventures, LLC, P.O. Box 241468, Omaha, Nebraska 68124, Attention: Christopher L. Erickson, Old Republic National Title Insurance Company (hereinafter called “**Trustee**”), whose address for notice purposes is 400 Second Avenue South, Minneapolis, Minnesota 55401, for the benefit of UMB BANK, n.a. (hereinafter called “**Beneficiary**”), whose address for notice purposes is 16929 Burke Street, Omaha, Nebraska 68118. Capitalized terms not defined herein shall have the same meanings ascribed to them in the Construction Loan Agreement (“**Loan Agreement**”) of even date herewith between Grantor and Beneficiary.

**WITNESSETH:**

WHEREAS, concurrently herewith, Grantor is justly indebted to the Beneficiary in the principal sum of Four Million One Hundred Fifty Thousand and No/100 Dollars (\$4,150,000.00) (hereinafter called the “**Loan**”), which indebtedness is evidenced by that certain Promissory Note (hereinafter called the “**Note**”) in the principal amount of Four Million One Hundred Fifty Thousand and No/100 Dollars (\$4,150,000.00), of even date herewith, payable to the order of and delivered to the Beneficiary, in and by which said Note, Grantor promises to pay the said principal sum, late charges, prepayment premiums, if any, and all other sums and interest at the rate or rates and in installments as provided in said Note. The final payment of said principal and interest on the Note, if not sooner paid as provided in the Note, shall be due on the Maturity Date (as that term is defined in the Note) unless same is extended pursuant to the terms of the Note. All such payments on account of the Indebtedness (as such term is hereinafter defined) evidenced by the Note shall be first applied as set forth in the Note and all of said principal and

interest shall be payable at such place as the holder of the Note may from time-to-time in writing appoint, and in the absence of such appointment, then at the address hereinbefore specified;

WHEREAS, Grantor, in order to induce Beneficiary to make the aforementioned Loan, has agreed to and by these presents does hereby execute this Deed of Trust and hereby subjects the Mortgaged Property (as hereinafter defined) to the lien of this Deed of Trust;

NOW THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and also in consideration of the debt hereinbefore mentioned, and as security for the debt hereinbefore mentioned, Grantor does hereby irrevocably GRANT, BARGAIN, SELL, ALIENATE, REMISE, RELEASE, CONVEY, ASSIGN AND CONFIRM unto Trustee, his successors and assigns, in trust, with power of sale, all of Grantor's estate, right, title and interest in, to and under and grants a security interest in the real property located in Douglas County, Nebraska, legally described in Exhibit "A" attached hereto and incorporated herein which is (except where the context otherwise requires) herein collectively called the "**Premises**", and in any and all of the following property whether now owned or held or hereafter acquired:

(a) All and singular the reversions or remainders in and to said Premises and the tenements, hereditaments, easements, rights-of-way or use, rights (including alley, drainage, crop, timber, logging and cutting, agricultural, horticultural, mineral, water, oil and gas rights), privileges, royalties and appurtenances to said Premises, now or hereafter belonging or in any way appertaining thereto, including any such right, title, interest in, to or under any agreement or right granting, conveying or creating, for the benefit of said Premises, any easement, right or license in any way affecting other property and in, to or under any streets, ways, alleys, vaults, gores or strips of land adjoining said Premises or any parcel thereof, or in or to the air space over said Premises, all rights of ingress and egress by motor vehicles to parking facilities on or with said Premises, and all claims or demands of Grantor, either at law or in equity, in possession or expectancy, of, in or to the same.

(b) All buildings, structures, facilities and other improvements now or hereafter located on the Premises, and all building material, building equipment and fixtures of every kind and nature now or hereafter owned by Grantor and located on the Premises or attached to, contained in, or used in any such buildings, structures, facilities or other improvements (such fixtures collectively called the "Fixtures"), and all appurtenances and additions thereto and betterments, renewals, substitutions and replacements thereof, owned by Grantor or in which Grantor has or shall acquire an interest (all of the foregoing hereinafter collectively called the "Improvements").

(c) All chattels and articles of personal property, and all appurtenances and additions thereto and betterments, renewals, substitutions and replacements thereof, of every character and wherever situated, now or hereafter owned, constructed or acquired by Grantor or in which Grantor has or shall acquire an ownership interest, which is in any way belonging, relating or appertaining to, or located on the Premises herein described or the buildings and Improvements now erected or to be erected thereon, or used or intended

to be used in connection with the Premises, which is used in the operation of the buildings and Improvements, situated thereon, or placed on any part thereof, though not attached thereto (all of the foregoing hereinafter collectively called the "Equipment"). Without limitation, Grantor hereby grants to Beneficiary (if applicable) a security interest in and to all of Grantor's present and future Equipment, and Beneficiary shall have, in addition to all rights and remedies provided in the Security Documents, all of the rights and remedies of a "secured party" under the Uniform Commercial Code of the State of Nebraska.

Equipment shall include any and all fixtures, appliances, machinery and equipment of any nature whatsoever, partitions, screens, awnings, shades, blinds, curtains and other articles of personal property at any time now or hereafter installed in, attached to or situated in or upon the Premises or the Improvements, whether or not the personal property is or shall be affixed thereto, all to the extent owned by Grantor.

Including, without limiting the generality of the foregoing, all plants, furnaces, incinerating and power equipment, boilers, machinery, engines, stokers, pumps, heaters, tanks, compressors, dynamos, motors, electrical transformers, fittings, siding, pipe, pipe connections, conduits, ducts, partitions, communication systems, storm and screen windows, doors, furniture, furnishings, elevators and motors, built-in filing cabinets, shelves, water coolers, signs, tools, switchboards and all equipment, appliances and apparatus of every kind and description now or hereafter affixed or attached to or contained within and used or procured for use in connection with said buildings or improvements for heating necessary for operation, cooling, lighting, plumbing, lifting, cleaning, fire extinguishing and preventing, communication, ventilating, sprinkling, irrigating, refrigerating or air conditioning, or for providing water, gas, electricity or other services or for general operation of the buildings and Improvements, or the plan or business situate or operated thereon.

Such security interest shall extend to and include as well as any and all proceeds of such fixtures and personal property and any and all subsequently acquired fixtures and personal property by way of replacement, substitution, addition or otherwise, all materials and work in process and the proceeds thereof.

(d) All now owned and hereafter acquired accounts, contract rights, chattel paper, general intangibles (including, but not limited to, all of Grantor's now existing or hereafter arising tax and duty refunds, prepaid expenses, all now owned or hereafter acquired patents, patent applications, trademarks, trademark applications, copyrights, copyright applications, tradenames and tradestyles, license agreements, customer lists, blueprints, drawings and specifications relative to the rendering of services or the sale or manufacture of goods), documents and instruments, whether now owned or hereafter acquired by Grantor; Grantor's interest in the goods represented by all accounts and all returned, reclaimed or repossessed goods with respect thereto; all contracts and rights of Grantor for the sale of its shares; all of Grantor's present and future rights as an unpaid vendor including stoppage in transit, replevin or reclamation; all additional amounts now or hereafter due to Grantor from any account debtor and all construction funds irrespective of whether such additional amounts have been specifically assigned to

Beneficiary; all guarantees, mortgages on real and personal property, letters of credit, trust receipts, bankers' acceptances, choses in action or other agreements or property securing or relating to any of the items referred to above; all monies, deposits, securities, bank accounts, instruments, credits and other property now or hereafter held by Beneficiary or any other entity which at any time participates in Beneficiary's financing of Grantor; all licenses, permits, franchises, certificates and other rights, privileges and documents obtained in connection with or necessary in the operation of the Premises and/or the Improvements; all plans and specifications, architectural contracts, construction contracts, all leases with respect to any part of the Premises and/or the Improvements, and all rents, income, revenues, royalties, bonuses, accounts, issues and profits arising out of the operation of the Premises and/or the Improvements; and all rights and remedies of Grantor under or in connection with such collateral;

There is also transferred, set over and assigned hereby by Grantor to Beneficiary, its successors and assigns, all leases and use agreements of machinery, equipment and other personal property of Grantor in the categories hereinabove set forth, under which Grantor is the lessee of, or entitled to use, such items, and Grantor agrees to execute and deliver to Beneficiary specific separate assignments to Beneficiary of such leases and agreements when requested by Beneficiary; but nothing herein constitutes Beneficiary's consent to any financing of any fixtures or personal property, and nothing herein shall obligate Beneficiary to perform any obligations of Grantor under any such leases or agreements unless it so chooses, which obligations Grantor hereby covenants and agrees to well and punctually perform; and

(e) All now owned and hereafter acquired inventory, including, without limitation all raw materials, supplies, work-in-process, finished and semi-finished inventory of whatever kind or nature; and all labels and other devices, names and marks affixed or to be affixed thereto for purposes of selling or identifying the same or the seller, manufacturer or licensor thereof, and all right, title and interest of Grantor therein or thereto, wherever located, whether now owned or hereafter acquired by Grantor;

(i) all of Grantor's books and records relating to any of the above whether presently existing or hereafter arising including without limitation, all tapes, cards, computer programs, computer data and software in possession or control of Grantor or any computer services bureau; and

(ii) any and all products and proceeds of the foregoing in any form, including without limitation any claims by Grantor against third-parties for loss, damage or destruction of any or all of the foregoing and all insurance proceeds relating to all of the above.

All unearned premiums, accrued, accruing or to accrue under insurance policies now or hereafter obtained by Grantor, all proceeds of the conversion, voluntary or involuntary, of any of the property described in these GRANTING CLAUSES into cash or other liquidated claims, including proceeds of hazard, title and other insurance, and all judgments, damages, awards, settlements and compensation (including interest thereon) heretofore or hereafter made to the present and all subsequent owners of the Premises, the

Improvements, the Equipment and/or any other property or rights encumbered or conveyed hereby for any injury to or decrease in the value thereof for any reason, or by any governmental or other lawful authority for the taking by eminent domain, condemnation or otherwise of all or any part thereof, including awards for any change of grade or streets.

The collateral listed in these GRANTING CLAUSES and any monies on deposit for the payment of real estate taxes, insurance premiums or special assessments against the Premises and all proceeds paid for damage done to the collateral described in these GRANTING CLAUSES or in or on the Premises and all proceeds of any award or claim for damages for any of the collateral described in these GRANTING CLAUSES or in or on the Premises taken or damaged under the power of eminent domain or by condemnation and all rents, issues and profits of and from the Premises and all leases or subleases of the Premises.

The items set forth in the GRANTING CLAUSES above are sometimes hereinafter separately referred to as "Collateral". THIS DEED OF TRUST IS A SECURITY AGREEMENT WITH RESPECT TO THE COLLATERAL; AND TO THE EXTENT THAT THE COLLATERAL IS GOODS WHICH ARE, OR ARE TO BECOME, FIXTURES, THIS DEED OF TRUST IS RECORDED AS A FIXTURE FILING, WITH THE GRANTOR AS THE DEBTOR AND THE BENEFICIARY AS THE SECURED PARTY. The Premises and the Collateral are sometimes collectively referred to as the "Mortgaged Property."

Grantor makes the foregoing grant to Trustee to hold the Premises in trust for the benefit of Beneficiary and for the purposes and upon the terms and conditions hereinafter set forth.

TO HAVE AND TO HOLD the same, together with all the privileges and appurtenances thereunto belonging: In trust nevertheless, in case of default by Grantor hereunder, then upon notice and demand to the extent provided herein, or required by law, to foreclose this Deed of Trust, and to sell and dispose of the Mortgaged Property (or any part thereof) and all the right, title and interest of Grantor therein in the manner as may then be provided by law and to issue, execute and deliver its certificate of purchase, trustee's deed or certificate of redemption all as then may be provided herein and by law. The sale or sales and said deed or deeds so made shall be a perpetual bar, both in law and equity, against Grantor and all other persons claiming the Mortgaged Property or any part hereof by, from, through or under Grantor.

IN TRUST HOWEVER, FOR THE PURPOSE OF SECURING, unto Beneficiary, its successors and assigns in such order of priority as Beneficiary may elect:

(1) All indebtedness and obligations arising pursuant to the provisions of this Deed of Trust, the Note as it may be renewed, extended or amended from time-to-time, plus all interest thereon and other sums due pursuant thereto;

(2) All indebtedness and obligations arising pursuant to the Loan Agreement, and any other security agreements, assignments, deeds of trust, mortgages or other agreements securing the Note, regardless of whether any of the same encumber or pertain to the Mortgaged Property;

(3) Any and all additional advances made by Beneficiary to protect or preserve the Premises or the security created hereby on the Premises, or for taxes, assessments or insurance premiums as hereafter provided, or for performance of any of Grantor's obligations hereunder, or for any other purpose provided herein (whether or not the original Grantor remains the owner of the Premises at the time of such advances), provided, however, nothing hereunder shall be deemed to obligate Beneficiary to make any such advances;

(4) All indebtedness and obligations arising pursuant to any instrument evidencing the advance of additional sums by Beneficiary to Grantor;

(5) Any and all renewals or extensions of and substitutions for any of the above-referenced indebtedness or obligations, or any part thereof.

The word "Indebtedness", as used herein, shall mean all of the indebtedness, obligations and liabilities described or referred to in clauses (1) through (5) above inclusive and all present and future obligations of Grantor to Beneficiary, or any of them, evidenced by or contained in the Loan Documents, whether stated in the form of promises, covenants, representations, warranties, conditions, or prohibitions or in any other form. This Deed of Trust secures future advances up to the total maximum principal amount of \$4,150,000. This Deed of Trust shall be effective to secure payment of all advances under the Note, both obligatory and optional, up to such amount, to the same extent and with the same effect and priority as if such total amount had been fully disbursed on or before the date of recording of this Deed of Trust. If the maturity of the Note is accelerated, whether as the result of the occurrence of an Event of Default or otherwise, the Indebtedness shall include an amount equal to any prepayment fee or premium (if applicable) which would be payable under the terms of the Note as if the Note were prepaid in full on the date of such acceleration. The term "Indebtedness" shall also include all indebtedness, liabilities, fees, costs, assessments or obligations, now existing or hereafter arising, due or to become due, absolute or contingent, of Grantor to Beneficiary under any agreements with respect to any interest rate swap, cap, collar, floor, forward, future or derivative transaction or option or similar agreement involving or settled by reference to, one or more interest rates, currencies, commodities, equity or debt instruments or securities or economic, financial or pricing indices or measures of economic, financial or pricing risk or value, including but not limited to any transactions entered into under any "ISDA" Master Agreement and any Schedule, Credit support Annexes and Trade Confirmations entered into thereunder and including, specifically but without limitation, the interest rate swap transaction entered into by Grantor and Beneficiary on the date of the funding of the Note, which is evidenced by that certain ISDA Master Agreement, Schedule and trade confirmation by and between Grantor and Beneficiary, each dated on or before the date hereof and also including without limitation any breakage fees or other amounts as may be necessary in order to restructure or unwind such transactions. The term "Security Documents" shall collectively refer to all agreements evidencing or securing the Indebtedness including, but not limited to, those defined as "Loan Documents" in the Loan Agreement. All cross-default, cross-collateralization, covenants, obligations and conditions contained in the Loan Agreement are hereby incorporated by reference herein.

PROVIDED, HOWEVER, that if the Grantor shall pay or cause to be paid to the holder(s) of the Note the principal and interest, prepayment premium, if any, and all other

charges to become due thereupon at the time and in the manner stipulated therein, and shall pay or cause to be paid all other sums payable hereunder and all Indebtedness hereby secured, then, in such case, the estate, right, title and interest of the Trustee and the Beneficiary in the Mortgaged Property shall cease, determine and become void, and upon proof being given to the satisfaction of the Trustee and the Beneficiary that the Note, together with interest, prepayment premium, if any, and all other charges due thereon has been paid or satisfied, and upon payment of all fees, costs, charges, expenses and liabilities chargeable or incurred or to be incurred by Trustee, and of any other sums as herein provided, the Trustee or Beneficiary, as the case may be, shall, upon receipt of the written request of the Grantor and at Grantor's expense (to the extent permitted by law) cancel, release and discharge this Deed of Trust.

### Article One

Grantor covenants, acknowledges and agrees to and for the benefit of Trustee and Beneficiary:

#### 1.01 Title.

(a) Grantor warrants that it has good and marketable title to an indefeasible fee simple estate in the Premises and has good and marketable title to the Collateral, subject to no liens, charges or encumbrances except the Permitted Exceptions (as hereinafter defined), that Grantor has full power and authority to mortgage and convey the Mortgaged Property in the manner and form herein done or intended hereafter to be done; that this Deed of Trust is and shall remain a valid and enforceable first lien on the Premises and the Collateral subject only to those exceptions to title described in the mortgagee's title insurance policy issued in conjunction with the Loan (hereinafter called the "Permitted Exceptions"); that Grantor and its successors and assigns shall warrant and defend the same and the priority of this lien forever against the lawful claims and demands of all persons whomsoever, and that this covenant shall not be extinguished by any foreclosure hereof but shall run with the land.

(b) Grantor has and shall maintain title to the Collateral including any additions or replacements thereto free of all security interests, liens and encumbrances, other than the security interest hereunder and other than as disclosed to and accepted by Beneficiary in writing, and has good right to subject the Collateral to the security interest hereunder.

(c) Grantor shall, at the cost of Grantor, and without expense to Trustee or Beneficiary, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, assignments, notices of assignments, transfers and assurances as Beneficiary or Trustee shall from time-to-time reasonably require, for the better assuring, conveying, assigning, transferring and confirming unto Trustee or the Beneficiary the Premises, the Collateral and the rights hereby conveyed or assigned or intended now or hereafter so to be, or which Grantor may be or may hereafter become bound to convey or assign to Trustee or Beneficiary, or for carrying out the intention of facilitating the performance of the terms of this Deed of Trust, or for filing, registering or recording this Deed of Trust and, on demand, shall execute and deliver, one or more



financing statements, chattel mortgages or comparable security instruments, to evidence more effectively the lien hereof upon the Collateral.

(d) Grantor forthwith upon the execution and delivery of this Deed of Trust and thereafter from time-to-time, upon the written request of Beneficiary, shall cause this Deed of Trust, and any security instrument creating a lien or evidencing the lien hereof upon the Collateral and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of Trustee and Beneficiary in the Mortgaged Property, any and all at Grantor's expense.

(e) Grantor shall pay all filing, registration or recording fees, and all expenses incident to the preparation, execution and acknowledgment of this Deed of Trust, any deed of trust supplemental hereto, any security instrument with respect to the Collateral, and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note, this Deed of Trust, any deed of trust supplemental hereto, any security instrument with respect to the Collateral, any Security Document or any instrument of further assurance.

(f) Grantor shall do all things necessary to preserve and keep in full force and effect its existence, its franchises, rights and privileges as a legal entity under the laws of the state of its formation and shall comply with all material regulations, rules, ordinances, statutes, orders and decrees of any governmental authority or court applicable to Grantor or to the Premises or any part thereof.

(g) Grantor shall abide by any and all material covenants and restrictions affecting the Premises, and pay when due any assessments pursuant thereto.

#### 1.02 Payment of Note and Reserves.

(a) Grantor shall promptly and punctually pay all principal and interest as provided in the Note, together with any late charges, prepayment premium, and all other sums to become due in respect to the Note, according to the true intent and meaning thereof. Grantor shall, upon written request of Beneficiary only during any period during which there exists an uncured Event of Default, also pay to Beneficiary, together with and in addition to the monthly payments of principal and interest payable under the terms of the Note secured hereby, on the date set forth therein for the making of monthly payments, until said Note is fully paid, a sum, as estimated by Beneficiary equal to the taxes and special assessments next due on the Premises covered by this Deed of Trust, plus the premiums that will next become due and payable on insurance policies as may be required hereunder, Grantor agreeing to deliver promptly to Beneficiary all bills and notices thereof, less all sums already paid therefor, divided by the number of months to elapse before one (1) month prior to the date when such premiums, taxes and special assessments will become delinquent, such sums to be held by Beneficiary to pay said premiums, taxes and special assessments. Such payments, hereinafter referred to as "Reserves", are to be held without any allowance of interest or dividend to Grantor and

need not be kept separate and apart from other funds of Beneficiary but shall be deemed trust funds held for the benefit of Grantor. All payments mentioned in this paragraph and all payments to be made under the Note secured hereby shall be added together and the aggregate amount thereof shall be applied by Beneficiary to the following items in such order as Beneficiary shall elect: (i) taxes, special assessments, insurance premiums (but only during such periods as Grantor may be required to make payments to Reserves due to the existence of an uncured Event of Default or if Beneficiary learns that any taxes, special assessments, or insurance premiums with respect to the Premises have not been paid by Grantor prior to delinquency); (ii) interest, late charges and prepayment premiums on the Note secured hereby; and (iii) amortization of the principal of said Note. Grantor shall pay directly, prior to delinquency, any taxes, special assessments, and insurance premiums with respect to the Premises, and Grantor shall not be required to make any payments to Reserves except during any period in which an uncured Event of Default exists and only after written notice from Beneficiary.

(b) The Reserves are solely for the added protection of Beneficiary and entail no responsibility on Beneficiary's part beyond the allowing of due credit, without interest, for the sums actually received by it. Upon assignment of the Deed of Trust by Beneficiary, any Reserves on hand shall be turned over to the assignee and thereupon any responsibility of the Beneficiary with respect thereto shall terminate.

(c) If the total of the Reserves shall exceed the amount of payments actually applied by Beneficiary, such excess may be credited by Beneficiary on subsequent payments to be made by Grantor or, at the option of Beneficiary, refunded to Grantor or its successors in interest as may appear on the records of Beneficiary. If, however, during any period in which Grantor is required to make payments to the Reserves, the Reserves shall not be sufficient to pay the sums required when the same shall become due and payable, Grantor shall immediately deposit with Beneficiary the full amount of any such deficiency. If there shall be a default under any of the provisions of this Deed of Trust, the Note, or any Security Document, Beneficiary may apply at any time, the balance of the Reserves, against such sums due and payable under the Note or under any instrument constituting additional security for said Note.

1.03 Care of the Premises. Grantor shall keep the Premises in good operating order, repair and condition (subject to ordinary wear and tear) and shall not commit or permit any waste thereof. Grantor shall make all repairs, replacements, renewals, additions and improvements and complete and restore promptly and in good workmanlike manner any building or improvements which may be constructed, damaged, or destroyed thereon, and pay when due all costs incurred therefor. Grantor shall not remove from the Premises or demolish any of the Collateral conveyed hereby except for collateral that becomes worn or obsolete that Grantor replaces, nor demolish or materially alter the Mortgaged Property without the prior written consent of the Beneficiary, which consent shall not be unreasonably withheld. Grantor shall permit Beneficiary or its agents the opportunity to inspect the Premises, including the interior of any structures, at any reasonable time upon reasonable notice.

1.04 Compliance with Laws. Grantor shall comply and shall cause all tenants to comply with all material laws, ordinances, regulations, covenants, conditions and restrictions

affecting said Mortgaged Property or the operation thereof, and shall pay all fees or charges of any kind in connection therewith. Grantor will perform and comply promptly with (and cause all tenants to comply with), and cause the Mortgaged Property to be maintained, used and operated in accordance with, any and all material (i) present and future laws, ordinances, rules, regulations and requirements of every duly constituted governmental or quasi-governmental authority or agency applicable to Grantor or the Mortgaged Property including, without limitation, all applicable federal, state and local laws pertaining to air and water quality, hazardous waste, waste disposal, air emissions and other environmental matters, all zoning and other land use matters, and rules, regulations and ordinances of the United States Environmental Protection Agency and all other applicable federal, state and local agencies and bureaus; (ii) similarly applicable orders, rules and regulations of any regulatory, licensing, accrediting, insurance underwriting or rating organization or other body exercising similar functions; (iii) similarly applicable duties or obligations of any kind imposed under any Permitted Exceptions, or otherwise by law, covenant, condition, agreement or easement, public or private; and (iv) policies of insurance at any time in force with respect to the Mortgaged Property. If Grantor receives any notice that Grantor or the Mortgaged Property is in default under or is not in compliance with any of the foregoing, or receives notice of any proceeding initiated under or with respect to any of the foregoing, Grantor will promptly furnish a copy of such notice to Beneficiary.

Grantor hereby represents and warrants it has obtained, or will obtain in due course, or, alternatively, that its tenant has obtained or will obtain in due course, as applicable, all required licenses, permits, franchise agreements and other necessary agreements to operate the Mortgaged Property as contemplated by the Loan Agreement. Grantor agrees to provide Beneficiary with written notice of any suspension, revocation, termination or default under any such agreements or any threatened suspension, revocation, termination or default thereunder.

Grantor hereby represents and warrants that neither Grantor nor any tenant of the Mortgaged Property nor, to the best of Grantor's knowledge, any previous owner of the Mortgaged Property, or any adjoining property, used, generated, stored, manufactured, or disposed of, on, under or surrounding the Mortgaged Property any hazardous waste, toxic substances or related materials (hereafter referred to as "Hazardous Materials") except in accordance with all applicable laws. Notwithstanding the foregoing warranties, the existence of any of the foregoing conditions at any time while all or any part of the Indebtedness remains unpaid shall, at Beneficiary's option constitute an Event of Default hereunder. For the purposes of this Deed of Trust, Hazardous Materials shall include, but shall not be limited to, any substance, material or waste which is or becomes regulated by any State or Local government authority or the United States Government. The term "Hazardous Materials" includes, without limitation, any material or substance which is listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) as amended from time-to-time. Further, Grantor agrees that it will not permit the use, generation, manufacture, disposal or storage of any toxic and/or Hazardous Materials in, on and/or around the Premises now or at any future time except in accordance with all applicable laws and will indemnify and hold Beneficiary harmless from and against any loss, liability, cost, expense or action(s) which may result in connection with Hazardous Materials and/or toxic material(s) as they relate to the Premises. The foregoing indemnification shall survive repayment of the Indebtedness and the foreclosure, deed in lieu of foreclosure, release or assignment of this Deed of Trust; provided

that, if the Hazardous Material is first present on or about the Premises only after Beneficiary or any other party has acquired title to the Premises through foreclosure or otherwise and neither Grantor nor any of its officers, partners, agents or principals contributes to any extent to such presence of Hazardous Materials, then the indemnity obligation hereunder shall not be applicable, and provided further, if any actual out-of-pocket expense, damage, loss or liability by Beneficiary and is the subject of Grantor's indemnity, Beneficiary shall use reasonable efforts to notify Grantor in writing of the same, as more fully set forth herein.

If at any time it is determined that there are any toxic and/or Hazardous Materials located on the subject Premises, Grantor shall diligently commence to take such action, at its sole expense, to comply with all environmental requirements pertaining to such materials. Failure of Grantor to comply with all material environmental requirements of federal, state or local law, statute, ordinance or regulation, rule, court or administrative order or decree, or private agreement, or to keep the Mortgaged Property free of any lien imposed pursuant to such laws, rules, regulations, shall constitute and be a default or an Event of Default under this Deed of Trust and Beneficiary, in lieu of foreclosure shall have the option to require specific performance of Grantor's obligations hereunder. If the Beneficiary shall ever have received notice or have reason to believe that there are Hazardous Materials affecting all or any portion of the Mortgaged Property, Beneficiary (by its officers, employees or agents) at any time and from time-to-time, 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 Mortgaged Property for the purpose of determining whether there exist on the Mortgaged Property any Hazardous Materials which could result in any liability, cost or expense to the owner, occupier or operator of the Mortgaged Property arising under any state, federal or local law, rule or regulation relating to Hazardous Materials. The Site Assessments may be performed at any time or times, upon reasonable notice, and under reasonable conditions established by Grantor which do not unreasonably impede the performance of the Site Assessments. The Site Reviewers are hereby authorized to enter upon the Mortgaged Property for such purposes, and to perform both above and below the ground testing for environmental damage or the presence of Hazardous Materials on the Mortgaged Property and such other tests on the Mortgaged Property as may be necessary to conduct the Site Assessments in the reasonable opinion of the Site Reviewers. On request, Grantor will supply to the Site Reviewers such historical and operational information regarding the Mortgaged Property as may be reasonably 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.

Grantor shall not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance, easement or other public or private restrictions limiting or defining the uses which may be made of the Premises, or any part thereof, without Beneficiary's prior written consent, which consent shall not be unreasonably withheld or delayed.

#### 1.05 Insurance.

(a) Grantor shall keep all buildings, improvements and personal property now or hereafter situated on said Premises insured on a so-called "all risk" or comprehensive basis, in an amount not less than the full replacement cost of the Mortgaged Property. In

addition, Grantor shall cause such other insurance to be obtained as may be reasonably required by Beneficiary, including, without limitation (i) rent loss or business interruption insurance in an amount at least sufficient to cover debt service and property expenses for a period of twelve (12) months, and (ii) flood insurance only if the Premises is at any time located within a flood hazard area as shown on any flood map maintained by FEMA. Grantor shall also provide liability insurance with such limits for personal injury and death and property damage as Beneficiary may reasonably require.

(b) All policies of insurance to be furnished hereunder shall be in forms, companies and amounts satisfactory to Beneficiary and shall name Beneficiary as an additional insured and a mortgagee thereunder, including a provision requiring that the coverage evidenced thereby shall not be terminated or materially modified without thirty (30) days' prior written notice to and approval by Beneficiary. Grantor shall deliver original policies or binding certificates of insurance, including additional and renewal policies (or binding certificates), to Beneficiary, and, in the case of insurance about to expire, shall deliver original renewal policies or binding certificates of insurance not less than ten (10) days prior to their respective dates of expiration. Grantor shall promptly notify Beneficiary of any loss whether covered by insurance or not.

(c) Grantor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Beneficiary is included thereon as an additional insured. Grantor shall immediately notify Beneficiary whenever any such separate insurance is taken out and shall promptly deliver to Beneficiary the policy(ies) or binding certificate(s) of such insurance. In the event of a foreclosure or other transfer of title to the Premises in lieu of foreclosure, or by purchase at the foreclosure sale, all interest in any insurance policies in force shall pass to Trustee, Beneficiary, transferee or purchaser as the case may be.

(d) If Grantor fails to carry any insurance required to be carried by Grantor under the terms of this Deed of Trust, Beneficiary at its option may procure and maintain such insurance and Grantor will promptly reimburse Beneficiary for any premiums paid by Beneficiary for such insurance.

(e) Grantor hereby assigns to Beneficiary all amounts recoverable under any policy of insurance required hereunder. Upon an Event of Default, Beneficiary is hereby irrevocably appointed by Grantor as attorney of Grantor to assign any policy in the event of the foreclosure of this Deed of Trust or other extinguishment of the Indebtedness secured hereby, and Grantor shall have no right to reimbursement for premiums unearned at the time of any such assignment.

(f) Grantor shall also maintain all insurance coverages as required by the Loan Agreement.

1.06 Casualty. Grantor shall promptly notify Beneficiary of any loss whether covered by insurance or not. In case of loss or damage by fire or other casualty, Beneficiary is authorized (i) to settle and adjust any claim under insurance policies which insure against such risks, or (ii) to allow Grantor to agree with the insurance company or companies on the amount to be paid

in regard to such loss. In either case, Beneficiary is authorized to collect and receive any such insurance money. Such insurance proceeds may, at the option of Beneficiary, be applied in the reduction of the Indebtedness secured hereby, whether due or not, or be held by Beneficiary without any allowance of interest and used to reimburse Grantor for the cost of the rebuilding or restoration of buildings or improvements on said Premises. However, so long as no Event of Default has occurred and is continuing, Beneficiary shall elect to make said proceeds available to reimburse Grantor for the cost of the rebuilding or restoration of the buildings or improvements on said Premises, such proceeds shall be made available during the course of restoration, in the manner and under the conditions that Beneficiary may in its reasonable discretion require, including without limitation, (i) Beneficiary's approval of plans and specifications of such work and approval of the contractors and subcontractors performing such work prior to the time such work is commenced, (ii) Grantor's delivery of suitable completion or performance bonds and builder's All Risk insurance, (iii) delivery of suitable lien waivers and title insurance endorsements; (iv) Grantor's satisfaction of Beneficiary's other normal and customary construction loan requirements; (v) acknowledgment that no insurer claims any rights of participation and/or assignment of rights with respect to the Indebtedness secured hereby; and (vi) the buildings and improvements shall be so restored or rebuilt so as to be of at least equal value and substantially the same character as prior to such damage or destruction. If the proceeds are made available by Beneficiary to reimburse Grantor for the cost of said rebuilding or restoration, any surplus which may remain out of said insurance proceeds after payment of such cost of rebuilding or restoration shall, at the option of Beneficiary, be applied on account of the Indebtedness secured hereby or be paid to Grantor. If Beneficiary exercises its option to apply such proceeds to the reduction of the Indebtedness secured hereby, the same shall be done without prepayment penalty.

1.07 Condemnation. Grantor, promptly upon obtaining knowledge of the institution of any proceeding for the condemnation of the Mortgaged Property or any portion thereof, shall notify Beneficiary of the pendency thereof. Grantor hereby assigns, transfers and sets over unto Beneficiary all compensation, rights of action, the entire proceeds of any award and any claim for damages for any of the Mortgaged Property taken or damaged under the power of eminent domain or by condemnation or by sale in lieu thereof. Beneficiary may, at its option, commence, appear in and prosecute, in its own name, any action or proceeding, or make any compromise or settlement, in connection with such condemnation, taking under the power of eminent domain or sale in lieu thereof. After deducting therefrom all of its expenses, including reasonable attorneys' fees, Beneficiary, at its option, may elect to apply the proceeds of the award upon or in reduction of the Indebtedness secured hereby, whether due or not. However, notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, Beneficiary shall hold said proceeds without any allowance of interest and make available for restoration or rebuilding of the Premises. In the event that Beneficiary elects to make said proceeds available to reimburse Grantor for the cost of the rebuilding or restoration of the buildings or improvements on said Premises, such proceeds shall be made available in the manner and under the conditions provided under Section 1.06 hereinabove. If the proceeds are made available by Beneficiary to reimburse Grantor for the cost of said rebuilding or restoration, any surplus which may remain out of said award after payment of such cost of rebuilding or restoration shall at the option of Beneficiary be applied on account of the Indebtedness secured hereby or be paid to Grantor. Grantor agrees to execute such further assignments of any compensation, award, damages, right of action and proceeds, as Beneficiary may require. If Beneficiary exercises its option to apply

such proceeds to the reduction of the Indebtedness secured hereby, then said prepayment shall be done without penalty.

1.08 Liens and Encumbrances. Grantor shall not, without Beneficiary's prior express written consent, permit the creation of any liens or encumbrances on the Premises other than the lien of this Deed of Trust, the lien of real estate taxes not yet delinquent, and any Permitted Exceptions (which shall include the anticipated PACE financing and the loan documents related thereto) and shall pay when due all obligations, lawful claims or demands of any person which, if unpaid, might result in, or permit the creation of, a lien or encumbrance on the Mortgaged Property or on the rents, issues, income and profits arising therefrom, whether such lien would be senior or subordinate hereto, including, but without limiting the generality of the foregoing, all claims of mechanics, materialmen, laborers and others for work or labor performed, or materials or supplies furnished in connection with any work of demolition, alteration, improvement of or construction upon the Mortgaged Property, and Grantor will do or cause to be done everything necessary so that the first lien of this Deed of Trust shall be fully preserved, at the cost of Grantor, without expense to the Beneficiary. Grantor shall not sell and/or transfer the Property without the prior written consent of the Beneficiary; provided, however, that the foregoing shall not prohibit Grantor from selling the Property and paying the Indebtedness in full.

1.09 Taxes and Assessments. Grantor shall pay in full prior to delinquency, and in any event before any penalty or interest attaches, all general taxes and assessments, special taxes, special assessments, water charges, sewer service charges and all other charges against the Mortgaged Property and shall furnish to Beneficiary official receipts evidencing the payment thereof.

Notwithstanding the foregoing, Grantor, at its expense, may contest by appropriate legal proceedings conducted in good faith and with due diligence the amount or validity or application, in whole or in part, of: (i) any federal, state, county or local law, statute, act, code, rule, regulation or requirement affecting, applicable to or pertaining to all or any part of the Mortgaged Property or the use thereof (each and every such law, statute, act, code, rule, regulation and requirement being herein called the "Applicable Laws"), (ii) the amount or validity of all taxes, assessments, water and sewer charges and public charges now or hereafter levied against the Mortgaged Property and the valuation of the Mortgaged Property for real estate tax purposes (all hereinafter called the "Taxes"); or (iii) the amount or validity of any mechanics' or materialmen's lien against the Mortgaged Property, or of any apparent or threatened adverse title or claim to or against the Mortgaged Property, or any other lien, statement of lien, encumbrance, claim or charge against the Mortgaged Property (all hereinafter called "Liens"); provided, that during the pendency thereof each such contest by Grantor of such proceedings shall prevent: (1) the collection of or other realization of or enforcement of such Applicable Laws, Taxes or Liens; and (2) the sale, forfeiture, interference with or loss of the Mortgaged Property or any part thereof or the use and occupancy of the Mortgaged Property to satisfy the same. Grantor further agrees that each such contest shall be promptly prosecuted to a final conclusion. Grantor will pay, and save Beneficiary harmless from and against, any and all losses, judgments, decrees and cost (including reasonable attorneys' fees and expenses) in connection with any such contest and will promptly after the final determination of such contest, pay and discharge any amounts levied, assessed, charged or imposed or determined to be payable therein or in connection therewith, together with all penalties, fines, interests, costs and expenses

thereof or in connection therewith, and perform all acts, the performance of which shall be ordered or decreed as a result thereof. No such contest shall subject Beneficiary to the risk of any civil liability or criminal liability and Grantor shall give such security, as may be reasonably required by Beneficiary, which at the option of Beneficiary, shall be in the form of acceptable surety bond or cash in the amount of 125% of the contested amount (including costs), or such other reasonable security as may be demanded by Beneficiary to insure compliance by Grantor with the foregoing provisions of this Section.

1.10 Indemnification. Grantor shall appear in and defend any suit, action or proceeding that might in any way and in the sole judgment of Beneficiary affect the value of the Mortgaged Property, the priority of this Deed of Trust or the rights and powers of Beneficiary or Trustee in the Mortgaged Property. Grantor shall, at all times, indemnify, hold harmless and on demand, reimburse Beneficiary for any and all loss, damage, expense or cost, including cost of evidence of title and reasonable attorneys' fees to the extent permitted by law, arising out of or incurred in connection with any such suit, action or proceeding, and the sum of such expenditures shall be secured by this Deed of Trust and shall bear interest at the rate(s) provided in the Note and shall be due and payable on demand.

1.11 Change of Title or Additional Financing.

(a) In order to induce Beneficiary to make the Loan, evidenced by the Note, Grantor agrees that if the Mortgaged Property or any part thereof or interest therein is sold, assigned, transferred, conveyed, further mortgaged, encumbered or otherwise alienated (including by contract for deed or installment sale) (hereinafter "Transfers"), whether voluntarily or involuntarily or by operation of law, in either or any case without the prior written consent of Beneficiary, Beneficiary, at its option, may declare the Note secured hereby and all other Indebtedness to be forthwith due and payable.

(b) A change in the legal or equitable title of the Mortgaged Property, or any part thereof, or in the beneficial ownership of the Mortgaged Property, whether or not of record and whether or not for consideration, shall be deemed a Transfer of an interest in the Premises. In connection herewith, the financial stability and managerial and operational ability of Grantor are a substantial and material consideration to Beneficiary in its agreement to make the loan to Grantor secured hereby.

(c) In the event ownership of the Mortgaged Property, or any part thereof, becomes vested in a person or persons other than Grantor, without the prior written approval of Beneficiary, Beneficiary may, without notice to Grantor, waive such default and deal with such successor or successors in interest with reference to this Deed of Trust and the Note in the same manner as with Grantor, without in any way releasing, discharging or otherwise affecting the liability of Grantor hereunder, or the Indebtedness hereby secured. No sale of the Mortgaged Property, no forbearance on the part of Beneficiary, no extension of the time for the payment of the Indebtedness or any change in the terms thereof consented to by Beneficiary shall in any way whatsoever operate to release, discharge, modify, change or affect the original liability of Grantor herein, either in whole or in part, nor shall the full force and effect of this lien be altered thereby. Any deed conveying the Premises, or any part thereof, shall, at Beneficiary's option, provide



that the grantee thereunder assumes all of Grantor's obligations under this Deed of Trust, the Note and all other instruments or agreements evidencing or securing the repayment of the Indebtedness. In the event such deed shall not contain such assumption language, the grantee under such deed shall nevertheless be deemed to have assumed such obligations by acquiring the Premises, the Collateral or any portion thereof, encumbered by this Deed of Trust.

(d) Grantor shall not voluntarily, involuntarily or by operation of law sell, assign, transfer or otherwise dispose of the Collateral or any interest therein and shall not otherwise do or permit anything to be done or occur that may impair the Collateral as security hereunder except so long as this Deed of Trust and the Security Agreement are not in default, Grantor shall be permitted to sell or otherwise dispose of the Collateral when worn out, inadequate, unserviceable or unnecessary for use in the operation of the Mortgaged Property in the conduct of the business of Grantor, upon replacing the same or substituting for the same other Collateral at least equal in value to the initial value of that disposed of and in such a manner so that said Collateral shall be subject to the security interest created hereby and so that the security interest of Beneficiary hereunder shall be a first lien priority security interest in said Collateral. In the event the Collateral is sold, Grantor shall require, as a condition of the sale, that the buyer specifically agree to assume Grantor's obligations as to the security interest herein granted and to execute whatever agreements and filings are deemed necessary by Beneficiary to maintain its perfected security interest in the Collateral.

(e) Notwithstanding the foregoing provisions of this Section 1.11 or anything else contained herein, transfers of equity interests in Grantor (or in any parent company of Grantor) between or among existing equity owners of Grantor (or any parent company of Grantor) shall be freely permitted from time to time without any consent from Beneficiary and such transfers between or among existing direct or indirect equity owners of Grantor shall not be deemed a "Transfer" prohibited hereunder.

1.12 Advances; Protection of Security. Should Grantor fail to make any payment or fail to perform any covenant as herein provided, Beneficiary (but without obligation so to do and without releasing Grantor from any obligation hereof) may: make or do the same in the manner and to such extent as Beneficiary may deem necessary to protect the security hereof, Beneficiary being authorized to enter upon the Premises for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of Beneficiary is prior or superior hereto and, in exercising any such power, incur any liability and expend whatever amounts in its absolute discretion it may deem necessary therefor, including cost of evidence of title and reasonable counsel fee. Any expenditures in connection herewith shall constitute an advance hereunder and shall bear interest at the Default Rate provided in the Note. Nothing herein contained shall prevent any such failure to perform on the part of Grantor from constituting an Event of Default.

1.13 Financial Statements and Records. Grantor shall keep and maintain, or shall cause to be kept and maintained, at Grantor's cost and expense, proper and accurate books, records and accounts reflecting all items of income and expense in connection with the operation

of the Mortgaged Property. Beneficiary and Beneficiary's agents, accountants and attorneys shall have the right from time-to-time at reasonable times during normal business hours upon reasonable notice to examine such books, records and accounts at the office of Grantor or such other person or entity maintaining such books, records or accounts and to make copies or extracts thereof as Beneficiary shall desire and to discuss Grantor's affairs, finances and accounts with Grantor, at such reasonable times as may be requested by Beneficiary. Grantor shall deliver to Beneficiary such financial information and at such times as required by the Loan Agreement. Grantor shall also deliver to Beneficiary a copy of its federal income tax return within thirty (30) days of filing with the Internal Revenue Service (subject to any extensions filed with the IRS), except during such tax years as Grantor is a "disregarded entity" for federal income tax purposes. All guarantors of the Loan shall also deliver financial statements to Beneficiary as required by the Loan Agreement and the Guaranty Agreement of even date herewith. All of the foregoing financial statements shall fairly and accurately present the financial condition of the subject thereof. In the event that Grantor or any guarantor shall refuse or fail to furnish any statement as aforescribed, or in the event such statement shall be inaccurate or false, or in the event of failure of Grantor to permit Beneficiary or its representatives to inspect the Premises or the said books and records, such acts of Grantor or guarantor shall be a default hereunder and Beneficiary may proceed in accordance with the rights and remedies afforded it under the provisions hereof.

1.14 Time. Grantor agrees that time is of the essence hereof in connection with all obligations of Grantor herein or in the Note, the Security Documents or any other instruments constituting additional security for said Note.

1.15 Estoppel Certificates. Grantor within ten (10) days after written request shall furnish a duly acknowledged written statement setting forth the amount of the debt secured by this Deed of Trust, and stating either that no setoffs or defenses exist against the Deed of Trust debt, or, if such setoffs or defenses are alleged to exist, the nature thereof.

1.16 Assignment of Rents and Leases. Grantor absolutely and unconditionally assigns to Beneficiary the rents, issues and profits of the Mortgaged Property as further security for the payment of the Indebtedness and Grantor grants to Beneficiary the right to enter the Mortgaged Property for the purpose of collecting the same and to let the Mortgaged Property or any part thereof, and to apply said rents, issues and profits, after payment of all necessary charges and expenses, on account of the Indebtedness. This assignment is absolute and effective as of the date hereof and shall continue in effect until the Indebtedness is fully paid; provided, however, so long as Grantor is not in default hereunder, Beneficiary hereby waives the right to enter the Premises for the purpose of collecting said rents, issues and profits, and Grantor shall be entitled to collect, receive and use said rents, issues and profits, until the occurrence of one or more Events of Default. Upon and during the continuance of any Event of Default, the right of Grantor to collect, receive and use said rents, issues and profits, shall be revoked forthwith. Grantor shall, from time-to-time after request by Beneficiary, execute, acknowledge and deliver to Beneficiary, in form reasonably satisfactory to Beneficiary, separate assignments effectuating the foregoing. Beneficiary shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Grantor under any lease or other agreement affecting all or any part of the Mortgaged Property, and, except for liability caused by Beneficiary's intentional acts or gross negligence, Grantor hereby agrees to indemnify Beneficiary for and hold it harmless from, any and all liability arising from any such lease or other agreement or any assignments

thereof, and no assignment of any such lease or other agreement shall place the responsibility for the control, care, management or repair of all or any part of the Mortgaged Property upon Beneficiary, nor make Beneficiary liable for any negligence in the management, operation, upkeep, repair or control of all or any part of the Mortgaged Property. In addition, at Beneficiary's option, after the occurrence of an Event of Default and the giving of notice to Grantor, Grantor will pay monthly in advance to Beneficiary, or to any receiver appointed to collect said rents, issues and profits, the fair and reasonable rental value for the use and occupancy of the Mortgaged Property or of such part thereof as may be in the possession of Grantor.

1.17 Security Agreement. It is the intention of the parties hereto that this instrument shall constitute a security agreement within the meaning of the Uniform Commercial Code as enacted in the State of Nebraska (the "Uniform Commercial Code") with respect to the Collateral and fixtures comprising a part of the Mortgaged Property, and that a security interest shall attach thereto for the benefit of Beneficiary to further secure the Indebtedness and Grantor hereby grants a security interest to Beneficiary in the Collateral. Grantor hereby authorizes Beneficiary to file financing and continuation statements with respect to such Collateral in which Grantor has a mortgageable interest, without the signature of Grantor whenever lawful, and upon request, Grantor shall promptly execute financing and continuation statements in form satisfactory to Beneficiary to further evidence and secure Beneficiary's interest in such Collateral, and shall pay all filing fees in connection therewith. In the event of the occurrence of one or more defaults or an Event of Default, Beneficiary, pursuant to the applicable provision of the Uniform Commercial Code, shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of the real property, in which event, the default provisions of the Uniform Commercial Code shall not apply. The parties agree that in the event Beneficiary elects to proceed with respect to Collateral constituting personalty or fixtures separately from the real property, the giving of ten (10) days' notice by Beneficiary, designating the place and time of any public sale or the time after which any private sale or other intended disposition of such collateral is to be made, shall be deemed to be reasonable notice thereof and Grantor waives any other notice with respect thereto. In addition, any sale of the Collateral may be made without having the Collateral present at the sale.

## Article Two Default and Remedies

2.01 Events of Default: The occurrence of any of the following (time being of the essence) shall be deemed to be an Event of Default or default hereunder and, at the option of Beneficiary, a default under the Note and any Security Document (hereinafter "Event of Default" or "default"):

(a) Failure to make any payment within five (5) days of when due in accordance with the terms of the Note secured hereby, this Deed of Trust, the Loan Agreement or any Security Documents.

(b) Failure to perform or breach of any of the other terms, covenants and conditions in the Note secured hereby, this Deed of Trust (including those set forth below in this Section 2.01), or any of the Security Documents, the Loan Agreement or any other

instrument constituting additional security for the Loan and such default shall continue for a period of thirty (30) days after delivery of written notice of such default from Beneficiary to Grantor, or if such default is not capable of being cured within said period (but is capable of being cured), Grantor has substantially commenced to cure said default and Grantor diligently pursues completion of cure of the default, Grantor shall be granted such additional time as is reasonably necessary to cure the default; provided however, no notice or cure periods shall be applicable to a breach of the provisions of Section 1.11 hereof.

(c) Breach of or material misrepresentation of any material warranties or representations given by Grantor to Beneficiary herein, in the Note, the Loan Agreement or in any Security Document including, but not limited to any financial statements given to Beneficiary as an inducement to make the Loan which results in a material adverse effect on Beneficiary.

(d) An event of default under, or institution of foreclosure or other proceedings to enforce any deed of trust or security interest, lien or encumbrance of any kind upon the Mortgaged Property or any portion thereof.

(i) Should Grantor, or any guarantor of the Note secured hereby, or any successors and assigns thereof, including without limitation the then current owners of any interest in the Mortgaged Property:

(ii) file a petition under the Federal Bankruptcy Code or any similar law, state or federal, whether now or hereafter existing (hereafter referred to as a "Bankruptcy Proceeding"); or

(iii) file any answer admitting insolvency or inability to pay its debts; or

(iv) be the subject of any petition of involuntary Bankruptcy, which is not dismissed within ninety (90) days; or

(v) be the subject of an order for relief against it in any Bankruptcy Proceeding, which is not dismissed within ninety (90) days; or

(vi) have a custodian or trustee or receiver appointed for or have any court take jurisdiction of its property, or the major part thereof, in any involuntary proceeding for the purpose of reorganization, arrangement, dissolution, or liquidation, which is not dismissed within ninety (90) days; or

(vii) make an assignment for the benefit of its creditors; or

(viii) admit in writing its inability to pay its debts generally as they become due; or

(ix) consent to an appointment of custodian or receiver or trustee of all of its property, or the major part thereof.

(e) Failure to pay any state, county or local tax prior to delinquency or failure to pay any general or special assessment prior to delinquency, except as the same may be contested pursuant to Section 1.09.

(f) Failure to procure and/or pay for any insurance policy required hereunder, or the lapse or expiration without replacement of any such policy.

(g) Should the lien of this Deed of Trust fail to be a first lien and Grantor fails to promptly execute and deliver to Beneficiary such documents or instruments necessary to cure such failure and restore the priority of this lien of this Deed of Trust.

## 2.02 Remedies.

(a) Upon and during the continuance of any such Event of Default beyond any applicable cure periods, Beneficiary may declare the entire principal of the Note then outstanding (if not then due and payable), and all accrued and unpaid interest thereon, all prepayment premium payable thereunder, if any, and all other Indebtedness to be due and payable immediately, and upon any such declaration the principal of the Note and said accrued and unpaid interest, prepayment premium, if any, and other charges shall become and be immediately due and payable, anything in the Note, the Loan Agreement, any Security Document or in this Deed of Trust to the contrary notwithstanding.

(b) Upon and during the continuance of any such Event of Default beyond any applicable cure periods, the Beneficiary or Trustee personally, or by their agents or attorneys, may enter into and upon all or any part of the Mortgaged Property, and each and every part thereof, and may exclude the Grantor, its agents and servants wholly therefrom; and having and holding the same, may use, operate, manage and control the Mortgaged Property and conduct the business thereof, either personally or by their superintendents, managers, agents, servants, attorneys or receivers; and upon every such entry, Beneficiary at the expense of Grantor, from time-to-time, either by purchase, repairs or construction may maintain and restore the Mortgaged Property, may complete the construction of the improvements and in the course of such completion may make such changes in the contemplated improvements as it may deem desirable and may insure the same; and likewise, from time-to-time, at the expense of Grantor, Beneficiary may make all necessary or proper repairs, renewals and replacements and such useful alterations, additions, betterments and improvements thereto and thereon as to it may deem advisable; and in every such case Beneficiary shall have the right to manage and operate the Mortgaged Property and to carry on the business thereof and exercise all rights and powers of Grantor with respect thereto either in the name of Grantor or otherwise as it shall deem best; and Beneficiary shall be entitled to collect and receive all earnings, revenues, rents, issues, profits and income of the Mortgaged Property and every part thereof, all of which shall constitute property of Beneficiary; and after deducting the expenses of conducting the business thereof and of all maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements and amounts necessary to pay for taxes, assessments, insurance and other charges upon the Mortgaged Property or any part thereof, as well as just and reasonable compensation for the services of Beneficiary and for all attorneys, counsel, agents, clerks, servants and other employees

by it properly engaged and employed, to the extent permitted by law, Beneficiary shall apply the moneys arising as aforesaid, first, to the payment of the interest and the principal of the Note, when and as the same shall become payable, and second, to the payment of any other sums required to be paid by the Grantor under the Note and this Deed of Trust. If Grantor shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after such demand by Beneficiary, Beneficiary may obtain a judgment or decree conferring upon Beneficiary the right to immediate possession or requiring Grantor to deliver immediate possession of the Premises to Beneficiary, to the entry of which judgment or decree Grantor hereby specifically consents. Grantor will pay to Beneficiary, upon demand, all expense of obtaining such judgment or decree, including reasonable compensation to Beneficiary, its attorneys and agents; and all such expenses and compensation shall, until paid, be secured by the lien of this Deed of Trust. In the event that all such interest, deposits and principal installments and other sums due under any of the terms, covenants, conditions and agreements of this Deed of Trust, shall have been paid and all Events of Default cured and satisfied, and as a result thereof, Beneficiary surrenders possession of the Premises to Grantor, the same right of taking possession shall exist if any subsequent Event of Default shall occur.

(c) Upon and after any such Event of Default and after any applicable cure periods, Beneficiary or Trustee (as applicable), with or without entry, personally or by its agents or attorneys, insofar as applicable, may:

(i) Sell the Mortgaged Property hereinbefore described or any and every part thereof, either in mass or in parcels, at public venues to the highest bidder for cash. at the place customary for foreclosure sales in the county and state where the Mortgaged Property is located, first by giving such notice of default and election to sell as may then be required by law and upon the expiration of such time and the giving of such notice of sale as may then be required by law; and upon such sale, execute and deliver a deed or deeds conveying all estate, right, title and interest, claim and demand therein, and right of redemption thereof, at one or more sales as an entity or in parcels;

(ii) institute proceedings for the complete or partial foreclosure of this Deed of Trust; or

(iii) Beneficiary, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right without notice and without regard to the sufficiency or value of any security for the Indebtedness secured hereby or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Mortgaged Property and to collect and apply the income, rents, issues, profits, and revenues thereof. The receiver shall have all of the rights and powers permitted under the laws of the state within which the Mortgaged Property is located. Grantor shall pay to Beneficiary upon demand all expenses, including receiver's fees, reasonable attorneys' fees, costs, and agent's compensation, incurred pursuant to the provisions of this paragraph, to the extent permitted by law; and all such expenses shall be secured by this Deed of Trust; and/or

(iv) take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Note or in this Deed of Trust, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Beneficiary shall elect.

(d) Trustee may adjourn from time-to-time any sale by it to be made under or by virtue of this Deed of Trust by announcement at the time and place appointed for such sale, or for such adjourned sale or sales; and except as otherwise provided by any applicable provision of law, Trustee, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned. In case Trustee shall have proceeded to enforce any right or remedy under this Deed of Trust by foreclosure, entry or otherwise, and such proceeding shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Beneficiary, then and in every case Grantor, Beneficiary and Trustee shall be restored to their former positions and the rights, powers and remedies of Beneficiary and Trustee herein provided or arising, or existing otherwise than herein set forth shall continue as if no such proceeding had been taken.

(e) Upon the completion of any sale or sales made by Trustee, under or by virtue of this Section, Trustee, or an officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. Trustee is hereby appointed the true and irrevocable lawful attorney of the Grantor, in its name and stead, to make all necessary conveyances, assignments, transfers and deliveries of the Premises and rights so sold and for that purpose Trustee may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, Grantor hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. This power of attorney shall be deemed to be a power coupled with an interest and not subject to revocation. Nevertheless, Grantor, if so requested by Trustee, shall ratify and confirm any such sale or sales by executing and delivering to Trustee or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of the Trustee, for that purpose, and as may be designated in such request. Any such sale or sales made under or by virtue of this Section whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Grantor in and to the properties and rights so sold, and shall be a perpetual bar both at law and in equity against Grantor and against any and all persons claiming in equity against Grantor and against any and all persons claiming or who may claim the same, or any part thereof from, through or under Grantor.

(f) In the event of any sale made under or by virtue of this Section, the entire principal of, and interest on, the Note, if not previously due and payable, and all other sums required to be paid by Grantor pursuant to this Deed of Trust, immediately

thereupon shall, anything in the Note, the Loan Agreement, any Security Document or in this Deed of Trust to the contrary notwithstanding, become due and payable.

(g) The purchase money proceeds or avails of any sale made under or by virtue of this Section, together with any other sums which then may be held by Trustee under the provisions of this Section or otherwise, shall be applied as follows:

- First To the payment of the costs and expenses of such sale, including reasonable compensation to Trustee and/or Beneficiary, their agents and attorneys, title insurance premiums, and of any judicial proceedings wherein the same may be made, and of all expenses, liabilities and advances made or incurred by Beneficiary under this Deed of Trust, together with interest at the Default Rate provided in the Note.
- Second To the payment of any other sums required to be paid by Grantor pursuant to any provisions of this Deed of Trust, the Loan Agreement or of the Note.
- Third To the payment of the whole amount then due, owing or unpaid upon the Note for principal and interest, with interest on the unpaid principal and accrued interest at the rate(s) specified in the Note, from and after the happening of any Event of Default described herein from the due date of any such payment of principal until the same is paid.
- Fourth To the payment of the surplus, if any, to whomsoever may be lawfully entitled to receive the same.

(h) Upon any sale made under or by virtue of this Section, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Beneficiary may bid for and acquire the Mortgaged Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Indebtedness of Grantor secured by this Deed of Trust the net sales price after deducting therefrom the expenses of the sale and the cost of the action and any other sums which Beneficiary is authorized to deduct under this Deed of Trust. Beneficiary, upon so acquiring the Mortgaged Property, or any part thereof, shall be entitled to hold, lease, rent, operate, manage and sell the same in any manner provided by applicable laws.

(i) Beneficiary, at Beneficiary's option, is authorized to foreclose this Deed of Trust subject to the rights of any tenants of the Premises, and the failure to make any such tenants parties defendant to any such foreclosure proceeding and to foreclose their rights will not be, nor be asserted by Grantor as a defense to any proceedings instituted by Beneficiary to collect the sums secured hereby.

(j) Trustee hereby lets the Mortgaged Property to Grantor until a sale is held under the foregoing provisions therefor, or until a default or defaults in any of the terms,



covenants, and conditions of this Deed of Trust, the Note, or any of the Security Documents upon the following terms and conditions, to-wit: Grantor and every and all persons claiming or possessing the Mortgaged Property, or any part thereof, by, through or under Grantor shall pay rent therefor during said term at the rate of one cent per month, payable monthly upon demand, and shall surrender immediate peaceable possession of the Mortgaged Property (and any and every part thereof) sold under the provisions of this Deed of Trust to the purchaser thereof under such sale, without notice or demand therefor, and shall and will at once, without notice, surrender up possession of the Mortgaged Property and every part thereof in the event Beneficiary shall take charge and enter as hereinbefore provided.

Article Three  
Miscellaneous Terms and Conditions

3.01 Leases. In the event Trustee shall institute judicial proceedings to foreclose the lien hereof, and shall be appointed as a beneficiary in possession of the Mortgaged Property, the Trustee or Beneficiary during such time as it shall be beneficiary in possession of the Mortgaged Property pursuant to an order or decree entered in such judicial proceedings, shall have, and Grantor hereby gives and grants to Trustee and/or Beneficiary, the right, power and authority to make and enter into leases of the Mortgaged Property or the portions thereof for such rents and for such periods of occupancy and upon such conditions and provisions as such mortgagee in possession may deem desirable, and Grantor expressly acknowledges and agrees that the term of any such lease may extend beyond the date of any sale of the Mortgaged Property pursuant to a decree rendered in such judicial proceedings; it being the intention of Grantor that while Trustee or Beneficiary is a mortgagee in possession of the Mortgaged Property pursuant to an order or decree entered in such judicial proceedings, Trustee or Beneficiary shall be deemed to be and shall be the attorney-in-fact of Grantor for the purpose of making and entering into leases of parts or portions of the Mortgaged Property for the rents and upon the terms, conditions and provisions deemed desirable to Trustee or Beneficiary and with like effect as if such leases had been made by Grantor as the owner in fee simple of the Premises free and clear of any conditions or limitations established by this Deed of Trust. The power and authority hereby given and granted by Grantor to Trustee or Beneficiary shall be deemed to be coupled with an interest and shall not be revocable by Grantor.

3.02 Taxation of Note and Deed of Trust. If at any time before the debt hereby secured is fully paid, any law be enacted, deducting from the value of the Mortgaged Property, for the purposes of taxation, any lien thereon, or revising or changing in any way the laws now in force for the taxation of mortgages, deed of trust, or notes, or the debts secured thereby, for state or local purposes, or the manner of collection of such taxes, so as to affect adversely this Deed of Trust or the debt hereby secured, or the owner and holder thereof in respect thereto, and Grantor does not promptly upon notice lawfully pay the same, then this Deed of Trust and the Note hereby secured shall at the option of said Beneficiary without notice to any party, become immediately due and payable.

3.03 Partial Release, Modification, Extension, Etc. Without affecting the liability of any other person for the payment of any Indebtedness herein mentioned (including Grantor should it convey said Mortgaged Property) and without affecting the priority of the lien hereof

upon any property not released, Beneficiary may, without notice, release any person so liable, extend the maturity or modify the terms of any such obligation, or grant other indulgences, release or reconvey or cause to be released or reconveyed at any time all or any part of the Mortgaged Property described herein, take or release any other security or make compromises or other arrangements with debtors. Beneficiary may also accept additional security, either concurrently herewith or hereafter, and sell same or otherwise realize thereon either before, concurrently with, or after sale hereunder. Beneficiary may also accept additional security, either concurrently herewith or hereafter, and sell same or otherwise realize thereon either before, concurrently with, or after sale hereunder.

3.04 Non-Waiver.

(a) By accepting payment of any sum secured hereby after its due date or altered performance of any obligation secured hereby, Beneficiary shall not waive its right against any person obligated directly or indirectly hereunder or with respect to any Indebtedness hereby secured, either to require prompt payment when due of all other sums so secured or to take remedy for failure to make such prompt payment or full performance. No exercise of any right or remedy by Beneficiary hereunder shall constitute a waiver of any other right or remedy herein contained or provided by law.

(b) No delay or omission of Beneficiary or Trustee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein.

(c) Receipts of rents, awards, and any other monies or evidences thereof, pursuant to the provisions of this Deed of Trust and any disposition of the same by Beneficiary shall not constitute a waiver of the right of foreclosure by Beneficiary in the Event of Default or failure of performance by Grantor of any covenant or agreement contained herein or in the Note secured hereby.

3.05 Severability. If any term of this Deed of Trust or any Security Document, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Deed of Trust, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Deed of Trust shall be valid and enforceable to the fullest extent permitted by law.

3.06 Successors in Interest. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but also on their successors and permitted assigns. The term "Beneficiary" shall mean the holder(s) and owner(s), including pledgees, of the Note secured hereby, whether or not named as Beneficiary herein.

3.07 Notices. Except as otherwise required by law, all notices to be given pursuant to this Deed of Trust shall be sufficient if delivered personally, sent by national overnight delivery service or mailed postage prepaid, certified or registered mail, return receipt requested, to the addresses of the parties hereto provided below, or to such other address as a party may request in

writing. Any time period provided in the giving of any notice hereunder shall commence upon receipt of such notice.

Grantor: 204th Street Car Wash, LLC  
c/o City Ventures, LLC  
P.O. Box 241468  
Omaha, Nebraska 68124  
Attention: Christopher L. Erickson

With a Copy to: Fullenkamp, Jobeun, Johnson & Beller LLP  
11440 W. Center Road #C  
Omaha, Nebraska 68144  
Attention: Mark Johnson

Beneficiary: UMB Bank, n.a.  
16929 Burke Street  
Omaha, Nebraska 68118  
Attention: Kevin Bartak

With a Copy to: Polsinelli PC  
900 W. 48<sup>th</sup> Place, Suite 900  
Kansas City, Missouri 64112  
Attention: Michael B. Shteamer

Trustee: Old Republic National Title Insurance Company  
400 Second Avenue South  
Minneapolis, Minnesota 55401

3.08 Integration; Modifications. This Deed of Trust, the Note, the Loan Agreement and the Security Documents contain all of the agreements of Beneficiary and Grantor and supersede any and all prior discussions and/or agreements relative thereto. This Deed of Trust may not be amended, modified or changed nor shall any waiver of any provision hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.

3.09 Governing Law. This Deed of Trust shall be construed according to and governed by the laws of the State of Nebraska.

3.10 Intentionally Omitted.

3.11 Substitute Trustee. If Trustee shall die or become disqualified from acting in the execution of this trust, or be absent from the country or shall fail or refuse to execute the same when requested by Beneficiary to do so; or if, for any reason, Beneficiary shall prefer to appoint a substitute trustee to act instead, Beneficiary shall have full power to appoint, by recorded, written instrument, or other manner as provided by applicable law, a substitute trustee, and, if necessary, several substitute trustees in succession, who shall succeed to all the estate, rights, powers and duties of Trustee. Such appointment is executed in its behalf by any officer of such

corporation, such appointment shall be conclusively presumed to be executed with authority and shall be valid and sufficient without proof of any action by the board of directors or any superior officer of the corporation. Grantor hereby agrees, in its behalf and in behalf of its heirs, executors, administrators, successors, personal representatives and assigns, that any and all statements of fact or other recitals made in any deed of conveyance given by Trustee, with respect to identity of Beneficiary, or with respect to the occurrence or existence of any default, or with respect to the acceleration of the maturity of any Indebtedness secured hereby, or with respect to the request to sell, the notice of sale, the giving of notice to all debtors legally entitled thereto, the time, place, terms and manner of sale, and receipt, distribution and application of the money realized therefrom, or with respect to the due and proper appointment of a substitute trustee, and, without being limited by the foregoing, with respect to any other act or thing having been duly done by Beneficiary or by Trustee, shall be taken by all courts of law and equity as prima facie evidence that the statements or recitals state facts and are without further question to be so accepted, and Grantor hereby ratifies and confirms every act that Trustee or any substitute trustee hereunder may lawfully do in regard to the Mortgaged Property by virtue hereof.

3.12 Business Loan. Grantor covenants and agrees that the Indebtedness secured by this Deed of Trust, and the proceeds of such Indebtedness, are for business purposes only and that the Loan is a "Business Loan" within the meaning and scope of the Nebraska Revised Statutes.

3.13 Late Charge. The Note secured hereby requires the payment of a late charge in the event any installment of principal and/or interest due thereunder and/or any escrow fund payment for taxes or insurance due hereunder shall become overdue. Said late charges shall be Indebtedness secured hereby.

3.14 Grantor Covenant. Grantor covenants and warrants that the Note, this Deed of Trust, and other instruments securing the Note or relating to the loan evidenced by the Note are valid, binding and enforceable in accordance with their terms, subject to insolvency laws and principles of equity, and that the execution and delivery of said instruments and the performance by Grantor of Grantor's obligations thereunder do not and will not contravene any law or regulation, nor shall they violate or contravene the provisions of any real estate contract, mortgage, deed of trust, joint venture or partnership agreement, banking agreement, credit agreement nor any other agreement, nor any judgment, order or decree affecting Grantor or the Premises or to which Grantor may be bound.

3.15 General Construction. Whenever used in this Deed of Trust and unless expressly provided otherwise: (i) use of the singular includes the plural, and vice versa; (ii) use of gender includes all genders; (iii) use of the term "include" is always without limitation; (iv) use of the words "should", "must", and "will" has the same legal effect as the use of the word "shall"; (v) the term "days" means consecutive calendar days except that, if the expiration of any time period measured in days occurs on a Saturday, Sunday, or legal holiday, such expiration automatically will be extended to the next day that is not a Saturday, Sunday or legal holiday; (vi) "person" means any natural person or artificial entity having legal capacity; (vii) the term "Deed of Trust" includes any and all amendments, modifications, extensions, renewals, replacements, substitutions and consolidations now or hereafter made, individually and collectively; (viii) the term "Security Documents" means written documents which secure the

payment or other performance of the obligations from time-to-time evidenced by the Note or this Deed of Trust; and (ix) “dollars” or “\$” means the currency of the United States of America. All payments to Beneficiary pursuant to any provision of this Deed of Trust must be made by legal tender of the United States of America. For purposes of determining the accrual of interest pursuant to any provision of this Deed of Trust, interest shall be based on a 360-day year, actual days elapsed. Mortgagee, at any time by reasonable prior notice, may require that any payment will be deemed “made”, “paid” or “received” to or by Beneficiary only when reduced to immediately available funds in such bank account as Beneficiary reasonably may designate for such purpose within the United States of America or, if made by legal tender, on the next succeeding banking day following receipt, unless sooner utilized by, or deposited to the credit of, Beneficiary. Section and paragraph headings and subheadings are for indexing purposes only and are not to be used to interpret, construe, apply or enforce the substantive provisions of this Deed of Trust.

3.16 Usury. No provision of the Note secured hereby or this Deed of Trust, the Loan Agreement, any Security Document issued in conjunction herewith shall be deemed to require payment or permit the collection of interest in excess of the maximum permitted by the applicable law. If any excess of interest in such respect is provided in said Note, this Deed of Trust, the Loan Agreement, or any Security Documents, the provisions of this Section 3.16 shall govern and no party obligated for the Indebtedness secured hereby shall be obligated to pay the amount of such interest to the extent that it is in excess of the amount permitted by law. If it is adjudicated that the fee or other charge related to the Loan is interest, such fee or other charge so adjudicated to be interest shall be considered as interest for the life of the Loan commencing from the date hereof and extending to the due date of the Note secured hereby or any extension of such due date.

3.17 Regulation G. Grantor warrants that the proceeds of the Note secured hereby will not be used for the purchase of registered equity securities within the purview of Regulation G issued by the Board of Governors of the Federal Reserve System.

3.18 Waiver of Statutory and Other Rights. To the extent permitted by law, Grantor shall not, and will not, apply for or avail itself of and hereby expressly waives for itself and its successors and assigns, of any appraisal, valuation, stay, homestead exemption, extension or exemption laws, any so-called “Moratorium Laws”, all rights to redeem, periods of redemption and equity of redemption now existing or hereafter enacted, and all other laws enacted in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust. Grantor, for itself and all who may claim through or under it, expressly waives any and all right to have the property and estates comprising the Mortgaged Property marshaled upon any foreclosure of the lien hereof and agree that any court having jurisdiction to foreclose such lien may order the Mortgaged Property sold as an entirety.

3.19 Expenses. Grantor shall, to the extent permitted by law, pay or reimburse Beneficiary, upon demand therefor, for all reasonable attorneys’ fees, costs and expenses incurred by Beneficiary in any suit, action, legal proceeding or dispute of any kind in which Beneficiary is made a party or appears as a party plaintiff or defendant, affecting the Indebtedness, this Deed of Trust, or the interest created herein, or the Mortgaged Property, including, without limitation, any foreclosure proceedings, any condemnation action involving

the Premises, any federal bankruptcy proceeding or state insolvency proceeding involving the priorities or rights of creditors, any action to protect the security hereof, or any action or proceeding commenced by a governmental authority with respect to the storage, disposal or clean-up of toxic or Hazardous Materials on the Premises; and such amounts paid by Beneficiary shall be added to the Indebtedness secured by the lien of this Deed of Trust and shall bear interest from and after the date paid, at the Default Rate in effect under the Note.

3.20 Future Advances. This Security Instrument shall secure any future advances which may be made by Lender to Borrower, provided that the maximum principal amount to be secured hereby shall not exceed \$4,150,000. Nothing herein shall in any way imply that Lender is obligated to make any future advances to Borrower or to lend all or any part of such maximum amount to Borrower.

3.21 Waiver of Jury Trial. TO THE EXTENT PERMITTED BY APPLICABLE LAW, AND ACKNOWLEDGING THAT THE CONSEQUENCES OF SAID WAIVER ARE FULLY UNDERSTOOD, GRANTOR HEREBY EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY, THE RIGHT TO INTERPOSE ANY DEFENSE BASED UPON ANY STATUTE OF LIMITATIONS, ANY CLAIM OF LACHES AND ANY SET-OFF OR COUNTERCLAIM OF ANY NATURE OR DESCRIPTION IN ANY ACTION OR PROCEEDING INSTITUTED AGAINST GRANTOR OR ANY OTHER PERSON LIABLE ON THE NOTE.

3.22 Collateral Insurance Protection. As used herein, the terms “you” and “your” shall refer to Borrower; and the terms “we” and “us” shall refer to the Trustee and Beneficiary. Unless you provide evidence of the insurance coverage required by your agreement with us, we may purchase insurance at your expense to protect our interests in your collateral. This insurance may, but need not, protect your interests. The coverage that we purchase may not pay any claim that you make or any claim that is made against you in connection with the collateral. You may later cancel any insurance purchased by us, but only after providing evidence that you have obtained insurance as required by our agreement. If we purchase insurance for the collateral, you will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges we may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to your total outstanding balance or obligation. The costs of the insurance may be more than the cost of insurance you may be able to obtain on your own.

3.23 Lease Property By Trustee. Trustee hereby lets the Mortgaged Property to Grantor, until this Deed of Trust is satisfied and released or until an Event of Default be made under the covenants or agreements hereof, upon the following terms and provisions, to-wit: The Grantor, its successors and assigns, shall pay rent therefore during said terms at the rate of one cent (\$0.01) per month, payable monthly upon demand, and shall and will peaceably surrender possession of the Mortgaged Property, and every part thereof, to Trustee immediately upon an Event of Default, and without notice or demand therefor, and thereupon Trustee or Lender shall be entitled to the rents, revenues, income and profits derived therefrom as provided herein and shall have the right to sell the Mortgaged Property or any part thereof as herein provided.

3.24 **Oral Agreements are Unenforceable.** Oral or unexecuted agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt, including promises to extend or renew such debt, are not enforceable, regardless of the legal theory upon which it is based that is in any way related to the credit agreement. To protect you (borrower(s)) and us (creditor) from misunderstanding or disappointment, any agreements we reach covering such matters are contained in this writing, which is the complete and exclusive statement of the agreement between us, except as we may later agree in writing to modify it.

3.25 As used in this Section 3.24, “this writing” is deemed to include this Deed of Trust and all other Loan Documents.

3.26 **Request for Notice.** Grantor and Beneficiary hereby request that a copy of any Notice of Default and Notice of Sale be mailed to them to their respective address as set forth in this Deed of Trust.

[Remainder of Page Intentionally Left Blank – Signature Page Follows]





**Exhibit "A"**

**Legal Description**

**Parcel 1:**

**Lot 2, Menards Subdivision Replat Four, an Addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska.**

**Parcel 2:**

**A Non-exclusive appurtenant easement for common elements as set forth in Declaration of Reciprocal Easements and Restrictive Covenants recorded April 9, 2008 at Instrument No. 2008034360 of the Records of Douglas County, Nebraska.**