

When recorded,  
return to:  
Lara Huskey  
MHDF  
515 N. 162<sup>nd</sup> Ave., Suite #202  
Omaha, NE 68118

**DEED OF TRUST, SECURITY AGREEMENT  
AND FIXTURE FILING**

THIS SECURITY INSTRUMENT CONTAINS AFTER-ACQUIRED PROPERTY PROVISIONS. THIS INSTRUMENT IS A CONSTRUCTION SECURITY AGREEMENT UNDER NEBRASKA LAW WITHIN THE MEANING OF THE UNIFORM COMMERCIAL CODE, WHICH SECURES AN OBLIGATION WHICH BORROWER INCURRED FOR THE PURPOSE OF MAKING AN IMPROVEMENT TO THE REAL ESTATE IN WHICH A SECURITY INTEREST IS GIVEN.

**THIS DEED OF TRUST, SECURITY AGREEMENT, AND FIXTURE FILING (“Deed of Trust”)** made this 17<sup>th</sup> day of May, 2018, among 4834 S. 23<sup>RD</sup> STREET LLC, a Nebraska limited liability company, whose mailing address is 509 Walker Street, Woodbine, IA 51579 as trustor (the “Borrower”); Margot Wickman, whose mailing address is 1650 Farnam, Omaha, NE 68102 as trustee (the “Trustee”); and Midwest Housing Development Fund Inc., a Nebraska corporation, whose mailing address is 515 N. 162<sup>nd</sup> Avenue Omaha, NE 68118, as beneficiary (the “Lender”).

**W I T N E S S E T H:**

That Borrower irrevocably grants, conveys, mortgages, transfers and assigns to Trustee, IN TRUST WITH POWER OF SALE, Eagle Heights located at 4834 S. 23<sup>rd</sup> Street Omaha, Nebraska more particularly described on Exhibit “A” attached hereto and incorporated herein by reference (the “Real Property”), together with all interests which Borrower now has or may hereafter acquire in and to said Real Property and in and to:

A. all easements and rights of way appurtenant thereto and all of the estate, right, title, interest, claim and demand whatsoever of Borrower in the Real Property, either at law or in equity, now or hereafter acquired;

B. all structures, buildings and improvements of every kind and description now or at any time hereafter located or placed on the Real Property (the "Improvements");

C. all machinery, appliances, apparatus, equipment, inventory and fixtures now or hereafter located in, upon or under the Real Property or the Improvements, or any part thereof, and used or usable in connection with any present or future operation thereof, and all additions thereto and replacements thereof;

D. all articles of personal property and any additions to, substitutions for, changes in or replacements of the whole or any part thereof, including, without limitation, all furniture and furnishings, now or at any time hereafter affixed to, attached to, placed upon or used in any way in connection with the use, enjoyment, occupancy or operation of the Real Property or the Improvements, or any portion thereof, and owned by the Borrower or in which Borrower now has or hereafter acquires an interest;

E. all of the rents, royalties, issues and profits of the Real Property and the Improvements, or arising from the use or enjoyment of all or any portion thereof or from any lease, license, concession, occupancy agreement or other agreement pertaining thereto, and all right, title and interest of Borrower in and to all leases, licenses and occupancy agreements of the Real Property or of the Improvements now or hereafter entered into and all right, title and interest of Borrower thereunder, including, without limitation, cash or securities deposited thereunder to secure performance by tenants, lessees or licensees, as applicable, of their obligations thereunder;

F. all building materials and supplies now or hereafter placed on the Real Property or on or in the Improvements;

G. all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards; and

H. all other or greater rights and interests of every nature in the Real Property and the Improvements and in the possession or use thereof and income therefrom, whether now owned or subsequently acquired by Borrower.

The property so conveyed hereunder is hereinafter referred to as the "Property."

## ARTICLE I

### OBLIGATIONS

**Section 1.01. *Obligations.*** This Deed Of Trust is hereby granted for the purpose of securing the following (the "Obligations"):

(a) Payment of the principal sum of Five Hundred Thousand dollars (\$500,000), together with interest thereon (collectively, the "Loan"), as evidenced by that certain Promissory Note dated May 17th, 2018, in the principal amount Five Hundred Thousand dollars (\$500,000), issued by Borrower to Lender (hereinafter referred to as the "Note");

(b) Performance by Borrower of all terms and conditions of this Deed of Trust, the Environmental Indemnity Agreement and the Note (collectively, the "Loan Documents"); and

(c) Payment of future advances, if any, to be made at the option of Lender and Borrower, provided, however, that the maximum indebtedness secured hereby shall never exceed the aggregate original principal sum of the Note. This provision shall not constitute an obligation upon or commitment of Lender to make additional advances or loans to Borrower.

## ARTICLE II

### COVENANTS OF BORROWER

**Section 2.01. *Payment of Interest and Principal.*** Borrower shall promptly pay when due the interest and principal on the Loan evidenced by the Note, and all other sums secured by this Deed of Trust.

**Section 2.02. *Sums Advanced to Bear Interest.*** To pay within ten (10) days following written demand, or other applicable notice requirements, any sums advanced or paid by Lender or Trustee under any clause or provision of this Deed of Trust. Any such sums, until so repaid, shall be considered a portion of the Obligations and bear interest from the date advanced or paid at the same rate specified in the Note and shall be secured by this Deed of Trust.

**Section 2.03. *Payment of Taxes, Assessments, and other Impositions.*** Borrower shall pay promptly when due all taxes, assessments, charges, fines and impositions attributable to the Property. Borrower shall promptly discharge any lien which arises against the Property other than the Permitted Encumbrances and other liens approved by Lender.

**Section 2.04. *Waste.*** Borrower shall not destroy damage or substantially change the Property, allow the Property to deteriorate or commit waste.

**Section 2.05. *Indemnification.*** Borrower shall indemnify, keep and save harmless Lender, its officers, directors, agents and employees against all injuries, losses, claims, liabilities, judgments, costs and expenses which accrue against Lender and arise from Lender's Loan to Borrower, and Borrower shall, at its own expense, defend all actions against Lender and pay all attorneys' fees, costs, judgment and expenses in connection therewith.

**Section 2.06. *Insurance .*** (a) Borrower shall maintain with respect to the Real Property, at its sole expense, the following types and amounts of insurance (which may be included under a blanket insurance policy if all the other terms hereof are satisfied), in addition to such other insurance as Lender may reasonably require from time to time:

(i) Insurance against loss, damage or destruction by fire and other casualty, including theft, vandalism and malicious mischief, flood (if the Real Property is in a location designated by the Federal Emergency Management Administration as a Special Flood Hazard Area), earthquake (if the Real Property is in an area subject to destructive earthquakes within recorded history), boiler explosion (if there is any boiler upon the Real Property), plate glass breakage, sprinkler damage (if the Real Property have a sprinkler system), all matters covered by a standard extended coverage endorsement, special coverage endorsement commonly known as an "all risk" endorsement and such other risks as Lender may reasonably require, insuring the Real Property for not less than 100% of their full insurable replacement cost.

(ii) Commercial general liability and property damage insurance, including a products liability clause, covering Lender and Borrower against bodily injury liability, property damage liability and automobile bodily injury and property damage liability, including without limitation any liability arising out of the ownership, maintenance, repair, condition or operation of the Real Property or adjoining ways, streets or sidewalks and if applicable, insurance covering Lender, against liability arising from the sale of a broad form contractual liability endorsement under which the insurer agrees to insure Borrower's obligations under Section 8.09 hereof to the extent insurable, and a "severability of interest" clause or endorsement which precludes the insurer from denying the claim of either Borrower or Lender because of the negligence or other acts of the other, shall be in amounts of not less than \$1,000,000.00 per injury and occurrence with respect to any insured liability, whether for personal injury or property damage, or such higher limits as Lender may reasonably require from time to time, and shall be of form and substance reasonably satisfactory to Lender.

(iii) Business income insurance equal to 100% of the principal and interest payable under the Note for a period of not less than six months.

(b) All insurance policies shall:

(i) Provide for a waiver of subrogation by the insurer as to claims against Lender, its employees and agents and provide that such insurance cannot be unreasonably cancelled, invalidated or suspended on account of the conduct of Borrower, its officers, directors, employees or agents;

(ii) Provide that any "no other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by Lender and that the insurance policy shall not be brought into contribution with insurance maintained by Lender;

(iii) Contain a standard without contribution mortgage clause endorsement in favor of Lender and its successors and assigns as their interest may appear and any other lender designated by Lender;

(iv) Provide that the policy of insurance shall not be terminated, cancelled or substantially modified without at least thirty (30) days' prior written notice to Lender and to any lender covered by any standard mortgage clause endorsement;

(v) Provide that the insurer shall not have the option to restore the Real Property if Lender elects to terminate this Deed of Trust in accordance with the terms hereof;

(vi) Be issued by insurance companies licensed to do business in the state in which the Real Property is located and which are rated A:VI or better by Best's Insurance Guide or otherwise approved by Lender; and

(vii) Provide that the insurer shall not deny a claim because of the negligence of Borrower, anyone acting for Borrower or any tenant or other occupant of the Real Property.

It is expressly understood and agreed that the foregoing minimum limits of insurance coverage shall not limit the liability of Borrower for its acts or omissions as provided in this Deed of Trust. All liability insurance policies (with the exception of worker's compensation insurance to the extent not available under statutory law) shall designate Lender and its successors and assigns as additional insured as their interest may appear and shall be payable as set forth in Article IV hereof. All such policies shall be written as primary policies, with deductibles not to exceed 10% of the amount of coverage. Any other policies, including any policy now or hereafter carried by Lender, shall serve as excess coverage. Borrower shall procure policies for all insurance for periods of not less than one year and shall provide to Lender certificates of insurance or, upon Lender's request, duplicate originals of insurance policies evidencing that insurance satisfying the requirements of this Deed of Trust is in effect at all times.

### ARTICLE III

#### DEFAULT AND REMEDIES

**Section 3.01. *Events of Default.*** Upon the occurrence of any one of the following (hereinafter an "Event of Default" or "default"), the payment of all principal, interest and any other sums due under the terms of the Note shall, at the option of Lender, be accelerated and such principal, interest and other sums shall immediately be due and payable without notice or demand, and Lender shall have the option to foreclose judicially or non-judicially through power of sale any and all liens securing the payment thereof:

(a) Default in the payment of principal of, or interest on, the Note when due or in the payment of any other sums secured hereby or due hereunder or under any of the other Loan Documents when due; or

(b) Failure by Borrower to punctually perform or observe any covenant or agreement contained in this Deed of Trust (other than the monetary obligations described in paragraph (a) above) and such failure shall not have been cured within 30 days after written notice from Lender of such failure; or

(c) if the Property is materially destroyed by fire or other causes and the insurance proceeds available are insufficient to repair and complete the rebuilding of the Property; or

(d) if Borrower fails to comply with any requirement of any governmental authority having jurisdiction over the Property within thirty (30) days after written notice of such requirement shall have been given to Borrower; or

(e) Borrower shall:

(i) have an order for relief entered with respect to it under any law relating to bankruptcy, insolvency, reorganization or relief of debtors ("Bankruptcy Law");

(ii) not pay, or admit in writing its inability to pay, its debts generally as they become due;

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

(iv) apply for, seek, consent to or acquiesce in the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any of its property;

(v) institute any proceedings seeking an order for relief under any Bankruptcy Law, or a proceeding seeking to adjudicate it a bankrupt or insolvent or seeking a dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it, or its debts, under any Bankruptcy Law; or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it;

(vi) take any action to authorize or effect any of the foregoing actions set forth in this paragraph (e); or

(vii) fail to contest, in good faith, any appointment or proceeding described in paragraph (f) below.

(f) Without the application, approval or consent of Borrower, a receiver, custodian, trustee, examiner, liquidator or similar official shall be appointed for Borrower, or any of its property, or any proceeding described in Section 3.01(e)(v) shall be instituted against Borrower and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of thirty (30) consecutive days; or

(g) Should it be discovered after the execution and delivery of this Deed of Trust that there is a defect in the title to, or a lien or encumbrance of any nature on the Real Property or other Property described in the Deed of Trust prior to the lien of the Lender and not disclosed on Exhibit "B" hereto (the "Permitted Encumbrances"), unless such defect is cured within thirty (30) days after written notice of such defect from Lender to Borrower; or

(h) With the exception of the Permitted Encumbrances, if title to the Property is subjected to any lien or charge, whether superior or inferior to the lien of this Deed of Trust, voluntarily or involuntarily, contractual or statutory, except as permitted by this Deed of Trust, without the prior written consent of Lender in each such instance first had and obtained, and if any such lien or charge is not released of record within thirty (30) days following written notice to Borrower; or

(i) Proceedings are commenced by any public or quasi-public body to acquire the Premises, or any material interest therein, by eminent domain and such proceedings are not dismissed within thirty (30) days from the date they are commenced.

(j) Borrower sells, conveys, mortgages, grants, bargains, encumbers, pledges, assigns, or otherwise transfers the Real Property or any part thereof or permits the Real Property or any part thereof to be sold, conveyed, mortgaged, granted, bargained, encumbered, pledged, assigned, or otherwise transferred, other than sales from inventory in the ordinary course of business and the replacement of obsolete personal property.

### **Section 3.02. Remedies.**

(a) Upon the occurrence of one or more Events of Default, or default by Borrower in the performance of any other covenant or agreement hereunder, or any covenant or agreement under the Note or this Deed of Trust or under any instrument or document now or hereafter executed by Borrower to further secure payment and performance of the Obligations, Lender may declare all indebtedness secured hereby immediately due and payable and, at the option of Lender, this Deed of Trust may be foreclosed in the manner provided by law for the foreclosure of mortgages on real property or may be sold in the manner provided by law under the power of sale conferred upon the Trustee hereunder.

(b) If the Property is sold pursuant to the power of sale conferred upon Trustee hereunder, Trustee shall cause to be filed of record a written notice of default and election to sell the Property. After the lapse of such time as then may be required by law following recordation of such notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Borrower, shall sell the Property, either as a whole or in separate parcels, and in such order as it or Lender may determine, at public auction to the highest bidder. Trustee may postpone the sale of all or any portion of the Property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time and place fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying any Property so sold, but without any covenant or warranty, express or implied. The recital in such deed of any matters of fact or otherwise shall be conclusive proof of the truthfulness thereof. Any person, including Borrower, Trustee or Lender, may purchase at such sale. Trustee shall apply the proceeds of the Trustee's sale, first, to the costs and expenses of exercising the power of sale and of the sale, including the payment of Trustee's fees actually incurred, second, to the payment of any Obligations, third, to the payment of junior trust deeds, mortgages or other liens, and the balance, if any, to the person or persons legally entitled thereto.

(c) Borrower agrees, for itself and any and all persons or concerns claiming by, through or under Borrower, that if one or more of Borrower or any such persons or concerns shall hold possession of the Property, or any part thereof, subsequent to the Trustee's or judicial sale hereunder, it, or the parties so holding possession, shall become, and be considered as, tenants at will of the purchaser or purchasers at either such sale; and any such tenant failing or refusing to surrender possession upon demand shall be guilty of forcible detainer and shall be liable to such purchaser or purchasers for reasonable rental of the Real Property, and shall be subject to eviction and removal, forcible or otherwise, with or without process of law, and all damages which may be sustained by any such tenant as a result thereof are hereby expressly waived.

(d) The Trustee shall apply the proceeds of the trustee's sale, first, to the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's fees actually incurred not to exceed the amount which may be provided for in the Deed of Trust, second, to payment of the obligation secured by the Deed of Trust, third, to the payment of junior deeds of trust, mortgages or other lien holders, and the balance, if any, to the person or persons legally entitled thereto.

(e) No remedy herein provided shall be exclusive of any other remedy herein or now or hereafter existing by law, but shall be cumulative. Every power or remedy hereby given to Trustee or Lender, or to which either of them may be otherwise entitled, may be exercised from time to time and as often as may be deemed expedient by them, and either of them may pursue inconsistent remedies. If Lender holds any additional security for any Obligation, it may enforce the sale thereof at its option, either before, contemporaneously with, or after any sale is made hereunder, and on any default of Borrower, Lender may, at its option, offset against any indebtedness secured hereby, and the Lender is hereby authorized and empowered at its option, without any obligation so to do, and without affecting the enforceability of any of the Obligations, to apply toward the payment of any indebtedness of the Borrower to the Lender any and all sums of money of Borrower which Lender may have in its possession or under its control.

#### ARTICLE IV

#### SECURITY AGREEMENT AND FIXTURE FILING

**Section 4.01. *Security Agreement.*** This Deed of Trust constitutes a security agreement between Borrower and Lender with respect to all personal property in which Lender is granted a security interest hereunder, and, cumulative of all other rights and remedies of Lender hereunder, Lender shall have all of the rights and remedies of a secured party under the Nebraska Uniform Commercial Code. Borrower hereby agrees to execute and deliver on demand and hereby irrevocably constitutes and appoints Lender the attorney-in-fact of Borrower to execute and deliver and, if appropriate, to file with the appropriate filing officer or officer, such security agreements, financing statements, continuation statements or other instruments as Lender may request or require in order to impose, perfect or continue the perfection of the lien or security interest created hereby. Upon the occurrence of any default hereunder not cured within any applicable grace period, Lender shall have the right to cause any of the Property which is personal property and subject to the security interest of Lender hereunder to be sold in one or more public or private sales



as permitted by applicable law, including at a sale held in conjunction with the sale of the Real Property by Trustee, as provided for in this Deed of Trust, and Lender shall further have all rights and remedies, whether at law, in equity or by statute, as are available to secured creditors under applicable law. Any such disposition may be conducted by an attorney, employee or other agent of Lender or Trustee. Expenses of retaking, holding, preparing for sale, and selling such personal property shall be borne by Borrower and shall include Lender's and Trustee's fees and actual and reasonable legal expenses. Lender shall have the right to enter upon the Real Property and the Improvements or any other real property where any personal property which is the subject of the security interest granted herein is located, to take possession of, assemble and collect such personal property or to render it unusable, or Borrower, upon demand of Lender, shall assemble such personal property and make it available to Lender at a place deemed reasonably convenient to Lender. If notice is required by law, Lender shall give Borrower at least five (5) days' prior written notice of the time and place of any public sale or other disposition of the Property or of the time of or after which any private sale or other intended disposition is to be made, and, if such notice is sent to Borrower, as the same is provided for the mailing of notices herein, it is hereby deemed that such notice shall be and is reasonable notice to Borrower. Any sale made pursuant to the provisions of this Section shall be deemed to have been a public sale conducted in a reasonably commercial manner if held contemporaneously with the sale under the power of sale granted in this Deed of Trust upon giving the same notice with respect to the sale of the personal property as is required with respect to the trustee's sale under this Deed of Trust.

**Section 4.02. *Fixture Financing Statement.*** This Deed of Trust is intended to be a financing statement within the purview of the Nebraska Uniform Commercial Code with respect to those items of the Property that constitutes fixtures on the Real Property. The address of Borrower (Debtor) and Lender (Secured Party) are set forth on the first page of this Deed of Trust. This Deed of Trust is to be filed for record in the office of the Register of Deeds of Douglas County, Nebraska where the Real Property is located. Borrower represents and warrants that it is the record owner of the Real Property.

## ARTICLE V

### RENTS

**Section 5.01. *Right to Collect and Receive Rents.*** Notwithstanding any other provisions hereof, Lender hereby grants permission to Borrower to collect and retain the rents, income, issues and profits of the Property as they become due and payable, but reserves the right to revoke such permission at any time by notice in writing to Borrower, mailed to Borrower at its last known address in the event of the occurrence of an Event of Default, as defined in this Deed of Trust, if not cured within any applicable grace period. After any Event of Default, Lender may at any time without notice, either in person, by agent, or by receiver to be appointed by the court, and without regard to the adequacy of any security for the Obligations, enter upon and take possession of the Property, or any part thereof, make, cancel, enforce or modify leases; obtain and eject tenants, set or modify rents; in its own name sue or otherwise collect the rents, income, issues and profits thereof, including those past due and unpaid; and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any indebtedness secured hereby and in such order as Lender may determine; and except for such application, Lender shall not be liable to any person for the collection or non-collection of any rents, income, issues or

profits, for the failure to assert or enforce any of the foregoing rights, nor shall Lender be charged with any of the duties or obligations of a mortgagee in possession. The entering upon and taking possession of the Property, the collection of such rents, income, issues or profits, the doing of other acts herein authorized, and the application thereof, shall not cure or waive any Event of Default or notice of default hereunder or invalidate any act done pursuant to such notice.

## ARTICLE VI

### NOTICES

**Section 6.01. *Request for Notice of Default/Notice of Sale.*** Borrower, for itself and for each party hereto, hereby requests a copy of any notice of default and a copy of any notice of sale hereunder be mailed to them at the applicable addresses provided on Page 1 of this Deed of Trust.

**Section 6.02. *Notices.*** All notices or other communications required or permitted to be given pursuant to this Deed of Trust shall be in writing and shall be considered as properly given if (a) mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, (b) delivered in person to the intended addressee or (c) delivered to an independent, nationally or locally recognized third-party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee. Notice so mailed shall be effective three days after its deposit with the United States Postal Service or any successor thereto; notice sent by such a commercial delivery service shall be effective one day after delivery to such commercial delivery service; notice given by personal delivery shall be effective only if and when received by the addressee; and notice given by other means shall be effective only if and when received at the designated address of the intended addressee. The parties hereto shall have the right to change their address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' notice to the other party in the manner set forth herein. Absent such official written notice of a change in address for Borrower, Lender and Trustee shall be entitled for all purposes under the Note and this Deed of Trust to rely upon the addresses as set forth above, as same may have been theretofore changed in accordance with the provision hereof. For purposes of notices and other communications, the addresses of the parties shall be as set forth on page 1 of this Deed of Trust.

## ARTICLE VII

### THE TRUSTEE

**Section 7.01. *Trustee's Acceptance.*** Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of a pending sale under any other deed of trust or any action or proceeding in which Borrower, Lender or Trustee shall be a party, unless brought by Trustee.

**Section 7.02. *Substitution of Trustee.*** Lender may, from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed and acknowledged by Lender and recorded in the office of the Register of Deeds of Douglas County, Nebraska shall be conclusive proof of proper substitution of such Trustee or Trustees. Any successor to Trustee shall execute, acknowledge and deliver to its

predecessor and Borrower an instrument accepting such appointment, and thereupon such successor, without any further act, deed or conveyance, shall become vested with all the estate, properties, rights, powers, duties and trusts of its predecessor in the trusts hereunder with like effect as if originally named as trustee herein; provided, however, that on the written request of Borrower, the Lender or the successor trustee, such predecessor shall execute and deliver an instrument transferring to such successor, upon the trusts expressed in this Deed of Trust, such estate, properties, rights, powers and trusts and shall duly assign, transfer, deliver and pay over to such successor any property and moneys subject to the lien hereof and held by such predecessor.

**Section 7.03. *Resignation of Trustee.*** Trustee may resign and be discharged of the trust by giving notice thereof to the Lender and Borrower specifying the date (not less than ninety (90) days after such notice) when such resignation shall take effect. Such resignation shall take effect on the earlier of the date so specified or the appointment and acceptance of a successor trustee pursuant to Section 7.02 of this Deed of Trust.

**Section 7.04. *Liability of Trustee.*** No trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder.

**Section 7.05. *Payment of Trustee's Compensation.*** Borrower shall pay or cause to be paid the compensation to which Trustee is entitled hereunder and all proper disbursements and expenses incurred by Trustee hereunder.

**Section 7.06. *Reconveyance by Trustee.*** Upon written request of Lender stating that all sums secured hereby have been paid and upon surrender of this Deed of Trust and any note to Trustee for cancellation and retention and upon payment by Lender of Trustee's fees, Trustee shall reconvey to Lender, or the person or persons legally entitled thereto, without warranty, any portion of the Property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof.

## ARTICLE VIII

### MISCELLANEOUS TERMS AND CONDITIONS

**Section 8.01. *Intentionally left blank.***

**Section 8.02. *Severability.*** In the event that any provision or clause of any of the Loan Documents conflicts with applicable laws, such conflict shall not affect other provisions of the Loan Documents which can be given effect without the conflicting provision. To this end, the provisions of this Deed of Trust and the Note are declared to be severable.

**Section 8.03. *Modifications.*** The Loan Documents represent the complete agreement and understanding of the parties with respect to the matters stated therein and may be modified only by written instrument signed by the parties and shall have full force and effect for as long as Borrower shall own the Property or owe moneys or have an obligation to act or to refrain from action under any or all of the Loan Documents.

**Section 8.04. *No Waiver.*** No waiver by Lender of any right under this Deed of Trust shall be effective unless in writing. Waiver by Lender of any right granted to Lender under this Deed of

Trust or of any provision of this Deed of Trust as to any transaction or occurrence shall not be deemed a waiver as to any future transaction or occurrence. By accepting payment or performance of any Obligation after its due date, or by making any other payment or performing any other act on behalf of Borrower for which Borrower was obligated hereunder, but failed to make or perform, or by adding any payment made by Lender to the indebtedness secured hereby, Lender does not waive its right to require prompt payment when due of, or to require prompt performance of, any Obligation, or to declare a default for failure so to pay or perform.

**Section 8.05. *Time of the Essence.*** Time is of the essence for all Borrower's Obligations hereunder.

**Section 8.06. *Successors and Assigns.*** This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns.

**Section 8.07. *Captions.*** Captions and section headings used herein are for convenience only, are not a part of this Deed of Trust, and shall not be used in construing it.

**Section 8.08. *Applicable Law.*** This Deed of Trust, the rights of Lender hereunder and the Note shall be construed and enforced according to the laws of the State of Nebraska.


**Section 8.09. *Credit Agreement in Writing.*** A CREDIT AGREEMENT MUST BE IN WRITING TO BE ENFORCEABLE UNDER LAW. TO PROTECT AGAINST ANY MISUNDERSTANDINGS OR DISAPPOINTMENTS, ANY CONTRACT, PROMISE, UNDERTAKING OR OFFER TO FOREBEAR REPAYMENT OF MONEY OR TO MAKE ANY OTHER FINANCIAL ACCOMMODATION IN CONNECTION WITH THIS LOAN OF MONEY OR GRANT OR EXTENSION OF CREDIT, OR ANY AMENDMENT OF, CANCELLATION OF, WAIVER OF, OR SUBSTITUTION FOR ANY OR ALL OF THE TERMS OR PROVISIONS OF ANY INSTRUMENT OR DOCUMENT EXECUTED IN CONNECTION WITH THIS LOAN OF MONEY OR GRANT OR EXTENSION OF CREDIT, MUST BE IN WRITING TO BE EFFECTIVE.

IN WITNESS WHEREOF, this Deed of Trust was executed on the date first set forth above.

BORROWER: 4834 S. 23<sup>rd</sup> STREET LLC

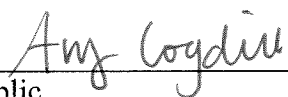
By: 4834 S. 23<sup>rd</sup> Street Managing Member LLC, its sole member

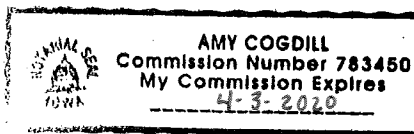
By: AI Investment, LLC, its sole member

By   
Name Darin Smith  
Title Manager

STATE OF Iowa )  
 ) ss.  
COUNTY OF Harrison )

On this 17<sup>th</sup> day of May, 2018, before me, the undersigned, a Notary Public, in and for the State of Iowa, personally appeared Darin Smith, to me personally known, who being by me duly sworn, did say that he is the authorized representative of 4834 S. 23<sup>rd</sup> Street LLC, executing the within and foregoing instrument; that no seal has been procured by the said company; that said instrument was signed on behalf of the company as Manager of AI Investment, LLC, sole member of 4834 S. 23<sup>rd</sup> Street Managing Member LLC, sole member of the 4834 S. 23<sup>rd</sup> Street LLC, and that this authorized representative acknowledged the execution of said instrument to be the voluntary act and deed of said 4834 S. 23<sup>rd</sup> Street LLC by it and by the authorized representative.

  
Notary Public  
My Commission Expires: 4-3-2020



**EXHIBIT "A" - Legal Description**

Tract 1:

Lot 5, Block 87, City of South Omaha, now forming a part of the City of Omaha, Douglas County, Nebraska.

Tract 2:

Lot 6, Block 87, City of South Omaha, now forming a part of the City of Omaha, Douglas County, Nebraska.

Tract 3:

The East 100 feet of Lot 7, Block 87, City of South Omaha, now forming a part of the City of Omaha, Douglas County, Nebraska.