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2009091004

DEED OF TRUST
WITH ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

Loan No. 2299565680

THIS DEED OF TRUST WITH ASSIGNMENT OF RENTS AND SECURITY AGREEMENT ("Deed of Trust"), is made as of August 18, 2009, between and among **California Red, LLC**, a Nebraska limited liability company, ("Trustor"), whose mailing address is 13616 California Street, Suite 100, Omaha, Nebraska 68154, in favor of **Pinnacle Bank**, a bank duly chartered under the laws of the State of Nebraska, as Trustee ("Trustee"), whose mailing address is 1200 Golden Gate Drive, ATTN: Brad Eckhoff, Papillion, Nebraska 68046 and **Pinnacle Bank**, a bank duly chartered under the laws of the State of Nebraska ("Beneficiary"), whose mailing address is 1200 Golden Gate Drive, ATTN: Brad Eckhoff, Papillion, Nebraska 68046.

PINNACLE BANK OF PAPILLION
 P.O. BOX 461209
 PAPILLION, NE 68046-1209

P&P

GRANT IN TRUST

Trustor irrevocably grants, conveys, transfers and assigns to Trustee, in trust, WITH POWER OF SALE and right of entry and possession, all of Trustor's right, title and interest in and to that certain real property (the "Subject Property"), described in Exhibit "A" attached hereto and incorporated herein by reference, together with all easements and other rights now or hereafter located thereon or appurtenant thereto, all buildings situated on the Subject Property together with all appurtenances and all other existing or subsequently erected improvements in, under or upon such Subject Property, all water rights, all fixtures, all additions and accretions thereto and any greater estate in the Subject Property or any part thereof now owned or hereafter acquired by Trustor. Trustor makes the foregoing grant to Trustee to hold the Subject Property in trust for the benefit of Beneficiary, and for the purpose and upon the terms and conditions hereinafter set forth.

ASSIGNMENT OF RENTS

Trustor absolutely and irrevocably assigns to Beneficiary the rents, revenues, issues, deposits and profits of the Subject Property, together with the immediate and continuing right to collect and receive the same, for the purposes and upon the terms and conditions hereinafter set forth. The foregoing assignment shall not impose upon Beneficiary any duty to produce rents from the Subject Property, and said assignment shall not cause Beneficiary to be a "mortgagee in possession" for any purpose.

Notwithstanding any law to the contrary, if there is an Event of Default, and if there is any law requiring Beneficiary to take actual possession of the Subject Property (or some action equivalent thereto, such as securing the appointment of a receiver) in order for the Beneficiary to "perfect" or "activate" its rights and remedies as set forth herein, then Trustor waives the benefits of such law and agrees that such law shall be satisfied solely by: (1) Beneficiary sending Trustor written notice that Beneficiary intends to enforce, and is enforcing, its rights in and to the Subject Property and the rents, revenues, profits, and other items assigned herein, and (2) Beneficiary sending written notice to any or all tenants on the Subject Property that said tenants should commence making payments under the Leases directly to Beneficiary or its designee.

OBLIGATIONS SECURED

Trustor makes the foregoing grant and assignment for the purpose of securing the following obligations which Trustor covenants to pay and perform promptly in accordance with their terms:

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1. Payment to Beneficiary of all indebtedness evidenced by and arising under that certain Note Secured by Deed of Trust (herein "Note"), dated as of the date hereof payable to Beneficiary or its order, in the principal amount of FIFTEEN MILLION SEVEN HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$15,750,000.00) (the "Principal") together with Interest thereon, and any modifications, extensions or renewals thereof (including, but without limitation, (i) modifications of the required Principal and/or Interest payment dates, deferring or accelerating said payment dates in whole or in part, and/or (ii) modifications, extensions or renewals at a different rate of Interest), whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes;
2. Payment to the Beneficiary of all indebtedness of such further sums and/or performance of such further obligations as Trustor or the then record owner of the Subject Property may undertake to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Beneficiary, its successors or assigns, when said borrowing and/or obligations is evidenced by a writing or writings reciting that it or they are so secured.
3. Performance of each agreement of Trustor herein contained or contained in the Note and/or any and all documents and instruments executed by Trustor concurrently herewith for purposes of evidencing or securing the repayment of the Note, including the Hazardous Substances Certificate and Indemnity Agreement, which are incorporated herein by this reference, (the "Loan Documents"), and the payment of each fee, cost and expense by Trustor as herein set forth;
4. Any breach, default or event of default with respect to the obligations of the Borrower under the Loan Documents shall also be deemed an event of default by the Trustor under this Deed of Trust, and shall entitle Beneficiary, in addition to any and all rights and remedies to which Beneficiary may be otherwise entitled by law, to all rights and remedies set forth in this Deed of Trust.

In the event of any breach, default or event of default with respect to the obligations to be performed by Trustor under this Deed of Trust, or with respect to the obligations to be performed by Borrower under the Note or the Loan Documents which remains uncured beyond any applicable curative period provided therein, Beneficiary may, without limitation on any other rights and remedies granted pursuant hereto, or pursuant to the Loan Documents, deliver to Trustee a written declaration of default, and Trustee, upon presentation to it of such written declaration signed by Beneficiary setting forth facts showing such default is authorized to accept as true and conclusive all facts and statements therein, and to act thereon pursuant to the terms of this Deed of Trust.

5. This Deed of Trust encumbers, and Trustor hereby grants Beneficiary a security interest in, all personal property of any kind whatsoever, whether tangible or intangible, whether or not any such personal property is now or hereafter becomes a "fixture", which is used or will be used in construction of, or is or will be placed upon or is derived from or used in any connection with the use, occupancy or enjoyment of, the Subject Property. Such personal property ("Collateral") shall include those items as shown on the attached Exhibit "B."

"Fixtures" shall include all articles of personal property, furniture and furnishings which are so related to the Subject Property such that an interest arises in them under the real estate laws of the State of Nebraska. This Deed of Trust constitutes a security agreement and when filed with the Nebraska Secretary of State and in the real property records of the county where the property is situated is intended to create a security interest in the Collateral in favor of Beneficiary and to constitute a "fixture filing" in accordance with the provisions of the Nebraska Uniform Commercial Code. This Deed of Trust shall be self-operative with respect to such Collateral, but Trustor agrees to execute and deliver on demand security agreements, financing statements and other instruments as Beneficiary may request in order to impose the lien hereof more specifically upon any such Collateral and to pay the recording and/or filing fees associated therewith. For purposes of treating this Deed of Trust as a security agreement and financing statement, Beneficiary shall be deemed to be the Secured Party and Trustor shall be deemed to be the Debtor.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST THE PARTIES AGREE AS FOLLOWS:

A. RIGHTS AND DUTIES OF THE PARTIES.

1. **WARRANTIES BY TRUSTOR.** Trustor warrants that, except as otherwise disclosed to Beneficiary in writing, Trustor is the lawful owner of the Subject Property in fee simple without limitation on its right to encumber.
2. **TAXES AND ASSESSMENTS.** Trustor shall pay or cause to be paid when due, all real property taxes, general or special assessments, transaction privilege taxes or sales taxes, levies and charges imposed by any public or quasi-public authority or utility company which are or may become a lien upon the Subject Property, any part thereof or interest therein. Trustor shall also pay when due, all real property taxes, general or special assessments, transaction privilege taxes or sales taxes, levies and charges imposed by any public authority upon Beneficiary by reason of its interest in the Subject Property created hereby; provided, however, that Trustor shall have no obligation to pay or discharge taxes which may be imposed from time to time upon Beneficiary and which are measured by and imposed upon Beneficiary's net income.

As used herein, the term "real property taxes" shall include any form of assessment, possessory interest tax, license fee, license tax, business license fee, business license tax, commercial rental tax, levy, charge, penalty, tax or similar imposition, imposed by any authority having the direct power to tax, including any city, county, state or federal government, or any school, agricultural, lighting, drainage or other improvement or special assessment district thereof, as against any legal or equitable interest of Trustor in the Subject Property, including, but not limited to, the following:

- (a) any assessment, tax, fee, levy or charge in substitution, partially or totally, of any assessment, tax, fee, levy, or charge previously included within the definition of real property tax. It is the intention of Trustor and Beneficiary that all such new and increased assessments, taxes, fees, levies and charges and all similar assessments, taxes, fees, levies and charges be included within the definition of real property taxes for the purposes of this Deed of Trust;
 - (b) any assessment, tax, fee, levy or charge allocable to the operation of or measured by the area of the Subject Property, including, without limitation, any gross income tax or excise tax levied in lieu of real property taxes by the state, city, or federal government, or any political sub-division thereof, with respect to the possession, leasing, operating, management, maintenance, alteration, repair, use or occupancy of the Subject Property, or any portion thereof; and
 - (c) any assessment, tax, fee, levy or charge, upon the indebtedness secured by this Deed of Trust or any document creating or transferring any interest or an estate in the Subject Property.
3. **INSURANCE COVERAGES.** Trustor shall keep the improvements now existing or hereafter erected on the Subject Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Beneficiary may require, in an amount equal to the full replacement value of the improvements or the Note indebtedness, whichever is greater, as established by a competent insurance appraiser. During the period of construction, Trustor will maintain builder's risk insurance, written on the so-called "builder's risk-completed value basis", in an amount not less than the construction cost of the improvements and with coverage available on the so-called "all risk", non-reporting form of policy. Comprehensive general public liability insurance will also be obtained, with a company acceptable to the Beneficiary, for an amount not less than \$2,000,000.00 combined single limit. The Subject Property, if located in a 100-year flood plain, shall also be covered, until the Note is paid in full, by flood insurance in

an amount at least equal to the outstanding principal balance of the Note, or the maximum limit of coverage made available with respect to this particular type of property, whichever is less.

The insurance carrier providing the insurance shall be chosen by Trustor subject to approval by Beneficiary; provided that such approval shall not be unreasonably withheld. It is required that the insurance carrier hold a Policyholders Rating of at least B+ as set forth in the most current issue of Best's Key Rating Guide for property and casualty companies. All premiums on insurance policies shall be paid by Trustor making payment, when due, directly to the insurance carrier.

In the event any policy is not renewed on or before ten (10) days of its expiration, the Beneficiary, to protect its interest, may procure insurance on the improvements, pay the premiums and such sums shall become immediately due and payable with Interest at the rate set forth in the Note until paid and shall be secured by this Deed of Trust. Failure by Trustor to comply may, at the option of Beneficiary, constitute a default under the terms of this Deed of Trust.

All insurance policies and renewals thereof shall be in form acceptable to Beneficiary and shall include a Beneficiary's loss payable endorsement/standard mortgagee clause in favor of and in form acceptable to Beneficiary, shall provide that the policies may not be canceled, modified, or not renewed except upon the giving of at least thirty (30) days prior written notice to Beneficiary, and shall also provide that any losses shall be payable to Beneficiary and Trustor, as their respective interest may appear, notwithstanding (i) any act, failure to act or negligence contained in such policy by any named insured, (ii) the occupation or use of the Subject Property for purposes more hazardous than permitted by the terms thereof, (iii) any foreclosure or other action or proceeding taken by Beneficiary or foreclosure pursuant to any provision of this Deed of Trust, or (iv) any change in title or ownership of the Subject Property. Beneficiary shall have the right to hold the policies and renewals thereof, and Trustor shall promptly furnish to Beneficiary all renewal notices and all receipts of said premiums. In the event of loss, Trustor shall give prompt notice to the insurance carrier and Beneficiary. Beneficiary may make proof of loss if not made promptly by Trustor.

Unless Beneficiary and Trustor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair by Trustor of the Subject Property damaged, provided such restoration or repair is economically feasible and the security of this Deed of Trust is not thereby impaired. In the event of restoration or repair, the insurance proceeds shall be held in escrow by Beneficiary and disbursed to Trustor as construction is completed and Trustor's contractors are paid. If such restoration or repair is not economically feasible or if the security of this Deed of Trust would be impaired, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Trustor. If the Subject Property is abandoned by Trustor, or if Trustor fails to respond to Beneficiary within thirty (30) days from the date notice is mailed by Beneficiary to Trustor that the insurance carrier offers to settle a claim for insurance benefits, Beneficiary is authorized to collect and apply the insurance proceeds at Beneficiary's option either to restoration or repair of the Subject Property or to the sums secured by this Deed of Trust.

Unless Beneficiary and Trustor otherwise agree in writing, any such application of proceeds to Principal shall not extend or postpone the Due Date of the Installments referred to in Paragraph 1 of this Deed of Trust or change the amount of such Installments. If under Paragraph B.2(e) hereof the Subject Property is acquired by Beneficiary, all right, title and interest of Trustor in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Subject Property prior to the sale or acquisition shall pass to Beneficiary to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.

4. **LIENS AND ENCUMBRANCES.** Trustor shall pay or cause to be paid at or prior to maturity, all obligations secured by or reducible to liens and encumbrances which shall now or hereafter encumber or appear to encumber the Subject Property or any part thereof, all claims for work or labor performed, or materials or supplies furnished, in connection with any work of demolition, alteration, improvement of or construction upon the Subject Property (subject to the right of Trustor to contest in good faith any such claim).

Beneficiary hereby expressly reserves the right to advance any and all funds necessary to cure any and all such obligations, and/or claims.

5. **CONDEMNATION.** Trustor shall promptly provide Beneficiary with notice of any condemnation, eminent domain, change of grade or other proceedings with respect to the Subject Property. All moneys and awards payable as damages and/or compensation for the taking of title to or possession of, or for damage to, or on account of change of grade affecting, any portion of the Subject Property by reason of any condemnation, eminent domain, change of grade, or other proceeding shall, at the option of the Beneficiary, be paid to the Beneficiary, and such moneys and awards are hereby assigned to Beneficiary, and judgment therefor shall be entered in favor of Beneficiary, and when paid shall be used at its option toward the payment of any indebtedness, taxes, assessments, repairs or other items for the payment of which this Deed of Trust is given as security, whether the same be then due or not and in such order or manner as Beneficiary may determine, or for the restoration or repair of the Subject Property, and any amount not so used shall be released by the Beneficiary to the Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

Unless Beneficiary and Trustor otherwise agree in writing, any such application of proceeds to Principal shall not extend or postpone the Due Date of the Installments referred to in Paragraph 1 of this Deed of Trust or change the amount of such Installments.

6. **MAINTENANCE AND PRESERVATION OF THE SUBJECT PROPERTY.** Trustor covenants: (i) to keep the Subject Property in good condition and repair; (ii) not to remove or demolish the Subject Property or any part thereof; (iii) to complete or restore promptly and in good and workmanlike manner the Subject Property or any part thereof which may be damaged or destroyed, whether or not the loss is insured; (iv) to comply with and not suffer violations of (a) all laws, ordinances, regulations, standards, and (b) all covenants, conditions, restrictions and equitable servitudes, whether public or private, of every kind and character, and (c) all requirements of insurance companies and any bureau or agency which establishes standards of insurability, which laws, covenants or requirements affect the Subject Property and pertain to acts committed or conditions existing thereon, including (but without limitation) such work or alteration, improvement or demolition as such laws, covenants or requirements mandate; (v) not to commit or permit waste thereof; (vi) to do all other acts which from the character or use of the Subject Property may be reasonably necessary to maintain, preserve and enhance its value; (vii) to perform all obligations required to be performed in the Loan Documents to be executed pursuant hereto, and all other obligations of Trustor pertaining to the Subject Property, including, but not limited to any and all leases or subleases of which Trustor is or shall be the lessor or sublessor (and in the event of default all right, title and interest of Trustor under any such leases or subleases and any and all other agreements affecting the Subject Property in which Trustor shall have an interest shall be and hereby are automatically assigned to Beneficiary hereunder, together with any deposits made in connection therewith), (viii) to execute and where appropriate, acknowledge and deliver such further instruments as Beneficiary or Trustee deems necessary or appropriate to preserve, continue, perfect and enjoy the security provided for herein, including, but without limitation, assignments of Trustor's interest in leases or subleases of the Subject Property.
7. **COMPLIANCE WITH LAWS; HAZARDOUS SUBSTANCES.** Trustor shall keep the Subject Property in compliance with any and all applicable federal, state and local laws, ordinances and regulations relating to industrial hygiene or to environmental conditions on, under or about the Subject Property, including, but not limited to, soil and ground water conditions (collectively the "Applicable Environmental Laws"). Trustor shall not use, generate, release, manufacture, store or dispose of on, under or about the Subject Property, or transport to or from the Subject Property, any flammable explosive, radioactive materials, asbestos, petroleum or petroleum products, hazardous wastes, toxic substances or related materials, including, without limitation, any substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "toxic wastes", or "toxic substances" under any Applicable Environmental Laws (collectively referred to hereinafter as "Hazardous Substances"). Nothing contained herein shall be construed so as to limit Trustor's ability to use and store janitorial and office supplies in reasonable quantities on the Subject Property, provided such supplies are employed, stored and disposed of

in accordance with all Applicable Environmental Laws. Except with respect to any Hazardous Substances used in the ordinary course of business of Trustor or the tenants of the Subject Property, with respect to which use there has been no violation of Applicable Environmental Laws, Trustor hereby warrants and represents to Beneficiary, that there are no Hazardous Substances on or under the Subject Property. Trustor hereby agrees to indemnify and hold harmless Beneficiary, its past, present, and future directors, officers, employees, and agents, and any successors to Beneficiary's interest, from and against any and all claims, damages and liabilities arising in connection with the presence, use, storage, release, disposal or transport of any Hazardous Substances on, under, from or about the Subject Property, including, without limitation, (i) all damages directly or indirectly arising out of the use, generation, storage or disposal of Hazardous Substances by Trustor or any prior owner or operator of the Subject Property or any other person, including an adjacent property owner or operator, and (ii) all costs of any required or necessary investigation, repair, remediation, clean-up or detoxification and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following transfer of title to the Subject Property, to the full extent that such action is attributable, directly or indirectly, to the presence or use, generation, storage, release, threatened release or disposal of Hazardous Substances by any person on or under the Property prior to transfer of title thereto by Beneficiary. THE FOREGOING WARRANTIES AND REPRESENTATIONS, AND TRUSTOR'S OBLIGATIONS PURSUANT TO THE FOREGOING INDEMNITY, SHALL SURVIVE REPAYMENT OF THE NOTE, THE RECONVEYANCE OF THIS DEED OF TRUST, AND JUDICIAL AND NON-JUDICIAL FORECLOSURE OR CONVEYANCE OF THE SUBJECT PROPERTY BY DEED IN LIEU OF FORECLOSURE.

At any time that Beneficiary suspects the presence of Hazardous Substances, in, on, under, from or around the Subject Property (except with respect to any Hazardous Substances used in the ordinary course of business of Trustor or the tenants of the Subject Property, with respect to which use there has been no violation of Applicable Environmental Laws) or upon and after any Event of Default hereunder, Beneficiary shall have the right to require Trustor, at the sole cost and expense of Trustor, to employ a qualified independent environmental firm, acceptable to Beneficiary, to conduct an environmental assessment of the Subject Property to determine whether there is any Hazardous Substance above, in, on, under, from or around the Subject Property, such that the Subject Property, any activity related to the Subject Property, or the Hazardous Substances is subject to regulation under Applicable Environmental Laws. Beneficiary shall instruct such environmental firm to conduct such assessment in such a manner as to minimize interference with the operation of the Subject Property.

8. **BANKRUPTCY.** The parties agree that Trustor has substantial duties of performance apart from its mere financial obligations under the Deed of Trust, the Note and other Loan Documents or obligations which this Deed of Trust secures, and that parties other than the Trustor could not adequately and fully perform the covenants to be performed by Trustor in this Deed of Trust. The parties also agree that this Deed of Trust is an agreement for the making of loans and for the extending of debt financing or financial accommodations. No assumption of or assignment of this Deed of Trust shall be allowed in bankruptcy. Should an assumption of or assignment of this Deed of Trust be permitted by the Bankruptcy Court in violation of this covenant, the parties agree that Beneficiary will not have adequate assurance of performance unless and until Beneficiary is allowed access to adequate financial and other information to satisfy itself that the trustee or proposed assignee is fully able to assume the financial and personal covenants of Trustor under this agreement, in full accordance with its terms. The parties further agree that the definition of the term "adequate assurance" as set forth in Section 365(b) (3) of the United States Bankruptcy Code shall be applicable directly or by analogy to any determination of adequate assurance in connection with this Deed of Trust.

In the event Trustor becomes a debtor in bankruptcy, the debtor in possession or trustee shall not be permitted to use, sell or lease any of the Subject Property, whether or not in the ordinary course of business, without providing adequate protection to Beneficiary. The parties agree that the language in Section 361 of the United States Bankruptcy Code shall be the definition of the term "adequate protection" in connection with any use, sale or lease of the Subject Property. The cash payment referred to in that section shall mean the full payments required under the Note and all other indebtedness which this Deed of Trust secures.

The parties agree that because of the extreme financial importance to Beneficiary of this transaction, Beneficiary will be irreparably harmed by any stay of its collection efforts or the exercise of its remedies under this Deed of Trust. In the event a plan of reorganization is proposed under Chapter 11 of the United States Bankruptcy Code, the parties also agree that the plan will be fair and equitable to Beneficiary, as a secured creditor, only if Beneficiary realizes under the plan the full payments required under the Note and all other indebtedness which this Deed of Trust secures.

9. **AMERICANS WITH DISABILITIES ACT.** At its sole expense, Trustor shall cause the Subject Property to be and remain in compliance with all applicable provisions of the Americans with Disabilities Act and all similar state and local laws, rules and regulations (hereafter "ADA") during the term hereof. If the Subject Property is remodeled or altered while this Deed of Trust is in effect, the Trustor shall have the work performed so that the Subject Property continues to comply with the ADA. Trustor shall furnish to Beneficiary, if requested, a written opinion from a licensed architect that the remodeling/alterations comply with the ADA. Trustor hereby warrants and represents to Beneficiary that there are no pending or threatened claims by the Department of Justice or third parties relating to the ADA. Trustor hereby agrees to indemnify and hold harmless the Beneficiary, its past, present, and future directors, officers, employees and agents, and any successor to Beneficiary's interest, from and against any and all claims, damages, losses and liabilities arising in connection with any violation of the ADA. THE FOREGOING WARRANTIES AND REPRESENTATIONS, AND TRUSTOR'S OBLIGATIONS PURSUANT TO THE FOREGOING INDEMNITY, SHALL SURVIVE THE REPAYMENT OF THE NOTE, THE RECONVEYANCE OF THIS DEED OF TRUST, AND JUDICIAL AND NON-JUDICIAL FORECLOSURE OR CONVEYANCE OF THE SUBJECT PROPERTY BY DEED IN LIEU OF FORECLOSURE.
10. **REPRESENTATIONS AND WARRANTIES OF TRUSTOR.** In order to induce Beneficiary to deliver this Deed of Trust and perform hereunder, Trustor makes the following representations and warranties to Beneficiary, which representations and warranties shall remain in effect throughout the term of this Deed of Trust, and shall survive and shall be unaffected by any investigations, inspections or inquiries made by Beneficiary, the recording of any of the Loan Documents, or the performance by Beneficiary and Trustor hereunder:
- (a) **Organization:** Trustor is duly organized, validly existing and in good standing as a limited liability company in accordance with the laws of the State of Nebraska, is qualified, in good standing, and authorized to do business in each of the jurisdictions in which the nature of its activities or properties require such authorization, and has full power and authority to own its properties, carry on this business as now being conducted, and to enter into, deliver and perform under the Loan Documents.
 - (b) **Authorization:** The execution and delivery of the Loan Documents and the satisfaction of Trustor's obligations hereunder have been duly authorized by Trustor's directors and officers in accordance with Governing Law. Each of the Loan Documents, upon execution and delivery to Beneficiary, constitutes a legally valid and binding agreement of Trustor, enforceable against Trustor in accordance with its terms, except as such enforcement may be qualified or limited by bankruptcy, insolvency, or other similar laws affecting creditors' rights in general.
 - (c) **No Contravention:** The execution, delivery, and performance of the Loan Documents by Trustor will not, immediately or with the passage of time, the giving of notice or otherwise, result in (i) the breach of, or constitute a default under, or in any manner release any party thereto from, or accelerate any obligations under, any of the terms or provisions of any lease, security agreement, mortgage, note, indenture, deed of trust, license, permit, contract, agreement, or other instrument or document of any kind or nature to which Trustor is a party of by which it or its property is bound or affected, or any restriction to which it or its property is subject, (ii) the creation or acceleration of any lien or encumbrance on the property of Trustor, or (iii) a violation of any order, writ,

injunction, or decree by which Trustor is bound of any court, administrative agency, or governmental body.

- (d) Disclosure: No representation or warranty of Trustor in this Deed of Trust or any statement or certificate furnished or to be furnished by Trustor pursuant to this Deed of Trust or in connection with the transactions contemplated herein contains or shall contain any untrue, inaccurate, or misleading statement of material fact or omits to state a material fact necessary in order to make a statement contained therein not misleading.
- (e) Financial Information: The most recent annual financial statements of Trustor and the guarantor(s) delivered to Beneficiary during the loan application process at Beneficiary's request (the "Annual Financial Statements") accurately present the financial condition of the person(s) referred to therein, as of the date(s) therein indicated and the results of operations of such person(s) for the period(s) then ended.
- (f) Litigation: No suits, actions, governmental investigations or inquiries, proceedings (including, without limitation, condemnation or eminent domain proceedings), or other litigation is pending or, to the best of Trustor's knowledge, proposed or threatened, against or affecting Trustor, the Subject Property, or the Collateral which, singularly or in the aggregate, if adversely determined, would materially inhibit or impair Trustor's ability to perform hereunder or reduce or restrict Trustor's interest in the Subject Property or the Collateral, and Trustor knows of no basis for any such litigation.
- (g) Loan Documents: All representations and warranties of Trustor contained in the Note, the Hazardous Substances Certificate and Indemnity Agreement and all other Loan Documents entered into by Trustor are true and accurate in all material respects to the extent not inconsistent with the representations and warranties of Trustor contained herein.
- (h) Subject Property: Neither the whole nor any portion of the Subject Property is subject to any pending condemnation, taking, or other similar proceeding by any public or private authority, and, to the best of Trustor's knowledge, no such condemnation or taking is threatened or contemplated with respect to the Subject Property. Trustor is unaware of and has not been notified of any plan, study, or effort by any governmental authority or agency which in any way affects or would affect the present use or zoning of the Subject Property nor any existing, proposed, or contemplated plan to widen, modify, or realign any street or highway adjoining the Subject Property. The Subject Property and the occupancy by or operation of the (Trustor's) (Tenant's) business(es) at the Subject Property is not in violation of any law or any building, zoning, fire, health, or other ordinance, code, or regulation, and neither Trustor nor any Tenant has received any notice or request from any governmental authority, insurance company or board of fire underwriters alleging any such violation or requiring or calling attention to the need for any work, repairs, construction, alterations or installation on or in connection with the Subject Property which has not been heretofore complied with. There exist adequate rights of egress from and ingress to the Subject Property, and there is currently adequate access to all water, sewer, gas, electric, telephone, drainage, and other utility equipment and services required by law or necessary for the operation of the business(es) currently operated on the Subject Property, and, to the best of Trustor's knowledge, no fact, condition, or threatened or proposed action exists which would or could have the effect of diminishing such rights.
- (i) Existing Lease: The existing lease(s) with respect to the Subject Property constitute(s) (a) legally valid and binding agreement(s) enforceable against the tenant(s) thereof in accordance with (its) (their respective) terms, except as such enforcement may be

qualified or limited by bankruptcy, insolvency, or other similar laws affecting creditors' rights in general.

11. **DEFENSE AND NOTICE OF ACTIONS.** Trustor shall, without liability, cost or expense to Beneficiary or Trustee, protect, preserve and defend Trustor's fee interest in and to the Subject Property, the security or priority hereof or the rights or powers of Beneficiary or Trustee hereunder. Said protection, preservation and defense shall include protection, preservation and defense against all adverse claimants to Trustor's interest in the Subject Property whether or not such claimants or encumbrances assert title paramount to that of Trustor or claim their interest on the basis of events or conditions arising subsequent to the date hereof. Trustor shall give Beneficiary and Trustee prompt notice in writing of the filing of any such action or proceeding.
12. **COLLECTION OF RENTS, ISSUES AND PROFITS.** Beneficiary confers upon Trustor a license to collect and retain the rents, revenues, issues and profits of the Subject Property as they become due and payable, subject, however, to the right of Beneficiary upon default hereunder to revoke said authority at any time in its sole discretion and without notice to Trustor. Beneficiary may revoke said authority and collect and retain the rents, revenues, issues and profits of the Subject Property, including those past due and unpaid, assigned herein to Beneficiary in the event Trustor is in default hereunder or under any of the obligations secured hereby, and without taking possession of all or any part of the Subject Property, and without prejudice to or limitation upon any of its additional rights and remedies granted pursuant hereto or pursuant to the Loan Documents.
13. **RIGHT OF INSPECTION.** Beneficiary, its agents or employees, may enter the Subject Property at any reasonable time for the purpose of inspecting the Subject Property and ascertaining Trustor's compliance with the terms hereof.
14. **ACCEPTANCE OF TRUST, NOTICE OF INDEMNIFICATION.** Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, becomes a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless Trustee brings such action. Trustee shall not be obligated to perform any act required of it hereunder unless the performance of such act is requested in writing.
15. **POWERS OF TRUSTEE.** From time to time upon written request of Beneficiary and presentation of this Deed of Trust for endorsement, and without affecting the personal liability of any person for payment of any indebtedness or performance of the obligation secured hereby, Trustee may, without liability therefor and without notice: Reconvey all or any part of the Subject Property; consent to the making of any map or plat thereof; join in granting any easement thereon on a quitclaim basis only; join in any declaration of covenants and restrictions; or join in any extension agreement or any agreement subordinating the lien or charge hereof. Trustee or Beneficiary may from time to time apply to any court of competent jurisdiction for aid and direction in the execution of the trusts hereunder and the enforcement of the rights and remedies available hereunder, and Trustee or Beneficiary may obtain orders or decrees directing or confirming or approving acts in the execution of said trusts and the enforcement of said remedies. Trustee has no obligation to notify any party of any pending sale or any action or proceeding unless held or commenced and maintained by Trustee under this Deed of Trust. Trustor shall pay to Trustee reasonable compensation and reimbursement for services and expenses in the administration of the trusts created hereunder, including reasonable attorneys' fees. Trustor hereby agrees to indemnify Trustee and Beneficiary against all losses, claims, demands and liability which either may incur, suffer, or sustain in the execution of the trust or trusts created hereunder or in the performance of any act required or permitted hereunder or by law.
16. **SUBSTITUTION OF TRUSTEES.** From time to time, by a writing signed and acknowledged by Beneficiary and recorded in the Office of the Recorder of the County in which the Subject Property is situated, Beneficiary may appoint another trustee to act in the place and stead of Trustee or any successor. Such writing shall refer to this Deed of Trust and set forth the date, docket and page or document number of its

recording. The recording of such instrument of substitution shall discharge Trustee herein named and shall appoint the new trustee as the trustee hereunder with the same effect as if originally named Trustee herein. A writing recorded pursuant to the provisions of this paragraph and giving notice thereof as required under applicable law shall be conclusive proof of the proper substitution of such new trustee.

17. **ACCELERATION UPON SALE OR ENCUMBRANCE.** If Trustor or any successor in interest to the Subject Property should, without the written consent of Beneficiary, sell, convey, transfer, encumber or alienate the Subject Property, or any part thereof, or any interest therein or be divested of its title or any interest therein in any manner, whether voluntary or involuntary, or if Trustor or any successor in interest to the Subject Property is a corporation, partnership, limited liability company, or joint venture, and more than fifty percent (50%) of the ownership of the corporation, partnership, limited liability company, or joint venture is, without the prior written consent of Beneficiary, sold, conveyed, transferred, encumbered, or alienated, either voluntarily or involuntarily, then Beneficiary shall have the right at its sole option to declare any and all indebtedness or any other obligation secured hereby, immediately due and payable.

The sale or transfer of the Subject Property subject to this Deed of Trust or the assignment of the Note shall not operate to release the Trustor or any guarantor of the Note without the express written agreement of Beneficiary, which may be withheld in Beneficiary's sole discretion.

If the ownership of the Subject Property becomes vested in a person(s), corporation, partnership, limited liability company, or joint venture other than Trustor, Beneficiary may, without notice to Trustee, deal with such successor or successors in interest with reference to this Deed of Trust and the debt hereby secured as with the Trustor, and may forebear to sue, alter time for payment of the debt, change the Interest rate and/or the payments of the debt hereby secured, without discharging or in any way affecting the liability of Trustor hereunder or upon the debt secured.

If Beneficiary exercises such option to accelerate, Beneficiary shall mail Trustor notice of acceleration in accordance with Paragraph C.9. Such notice shall provide a period of not less than ten (10) days from the date the notice is mailed within which the Trustor may pay the sums declared due. If Trustor fails to pay such sums prior to the expiration of such period, Beneficiary may, without further notice or demand on Borrower, invoke any remedies permitted by Paragraph B.2 of this Deed of Trust.

18. **RECONVEYANCE.** Subject to the provisions of the last sentence of this Paragraph, upon Beneficiary's written request, and upon surrender to Trustee for cancellation of this Deed of Trust and any note, instrument, or instruments, setting forth all obligations secured hereby, Trustee shall reconvey, without warranty, the Subject Property or that portion thereof then held hereunder. The recitals of any matters or facts in any reconveyance executed hereunder shall be conclusive proof of the truthfulness thereof. To the extent permitted by law, the reconveyance may describe the grantee as "the person or persons legally entitled thereto." Neither Beneficiary nor Trustee shall have any duty to determine the right of persons claiming to be rightful grantees of any reconveyance. When the Subject Property has been fully reconveyed, the last such reconveyance shall operate as a reassignment of all future rents, issues and profits of the Subject Property to the person or persons legally entitled thereto, unless such reconveyance expressly provides to the contrary.
19. **USURY.** The Note, this Deed of Trust and the other Loan Documents are hereby expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the loan proceeds, acceleration of the maturity of the loan, or otherwise, shall the amount paid or agreed to be paid to Beneficiary for the use, forbearance or detention of the money loaned pursuant to the Loan Documents exceed the maximum rates permissible under applicable law. If, from any circumstances whatsoever, fulfillment of any provisions hereof or of the Note or any other Loan Document, at any time performance of such provision shall be due, shall involve transcending the limits of validity prescribed by law, then ipso facto, the obligations to be fulfilled by Trustor shall be reduced to the limit of such validity. This provision shall never be superseded or waived and shall control every other provision of all the Loan Documents. All loan fees or other charges that might qualify as interest or consideration under applicable usury statutes shall be

averaged over the term of the loan for the purpose of computing whether or not such charges exceed the maximum permissible by law. In the event that the amount of interest would at any time exceed the legal maximum, all such amounts received in excess of the maximum legal rate shall be deemed held by Beneficiary in trust for the exclusive use and benefit of Trustor as long as and to the extent that such amounts so held in trust may be applied to the interest or other consideration payable under the terms of the Loan Documents as and when such amounts can be so applied without violating applicable laws or exceeding the maximum legal rate, if any. Beneficiary may commingle such amounts so held in trust with its own funds. If, at the time of repayment of the loan, the total interest, discount or consideration referred to be taken into consideration in computing such maximum legal rate exceeds such maximum legal rate, then Trustor shall be under no duty or obligation to pay any such excess, but rather the maximum liability of Trustor for such amounts shall be expressly limited to legal maximum amounts and any such sums theretofore paid by Trustor and held in trust by Beneficiary in excess of such amount, as aforesaid, shall promptly be repaid or credited to Trustor at the time of repayment of the loan. If Trustor is exempt from applicable usury statutes or for any other reason not limited by law, none of the provisions of this section shall be construed so as to limit or reduce the interest or other consideration of the loan payable under the Loan Documents.

B. DEFAULT PROVISIONS

1. EVENTS OF DEFAULT. Events of Default hereunder shall include:

- (a) Failure of Trustor to make any payment required under this Deed of Trust, the Note or any other Loan Document, and the continuation thereof for fifteen (15) days after written notice thereof by Beneficiary to Trustor;
- (b) If there shall be filed by or against Trustor an action under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency, or other relief for debtors;
- (c) If there shall be appointed any trustee, receiver, or liquidator of Trustor of all or any part of the Subject Property, or the rents, issues or profits thereof;
- (d) If Trustor shall make any general assignment for the benefit of creditors;
- (e) The abandonment of the Subject Property;
- (f) Failure of Trustor to properly perform its obligations when due hereunder, or a breach or default by Trustor of any of its covenants, representations or warranties contained herein, and the continuation thereof for fifteen (15) days after written notice thereof by Beneficiary to Trustor.
- (g) Failure of Trustor to perform or observe any of its obligations, covenants, representations or warranties contained in any other Loan Document, and such failure shall continue after the expiration of any notice and/or grace period therein provided.
- (h) Any of the events delineated in subparagraphs (b), (c), (d) shall occur with respect to any Guarantor of the Note.
- (i) Failure of Trustor to make any payment of any other indebtedness or to perform or observe any other obligation of the Trustor to Beneficiary, and such failure shall continue after the expiration of any notice and/or grace period therein provided.

2. **RIGHTS AND REMEDIES.** At any time after the occurrence of an Event of Default hereunder, and expiration of any applicable notice and/or grace period under any Loan Document, Beneficiary and/or Trustee shall have the following rights and remedies, all of which are in addition to any rights and remedies available to Beneficiary under the Note or any other Loan Document:

- (a) With or without notice, to declare all obligations secured hereby immediately due and payable;
- (b) With or without notice, and without releasing Trustor from any obligation hereunder, to cure any default of Trustor and, in connection therewith, to enter upon the Subject Property and to do such acts and things as Beneficiary or Trustee deem necessary or desirable to protect the security hereof including, but without limitation, to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee hereunder; to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the judgment of either Beneficiary or Trustee, is prior or superior hereto, the judgment of Beneficiary or Trustee being conclusive as between the parties hereto; to pay any premiums or charges with respect to insurance required to be carried hereunder; and to employ counsel, accountants, contractors and other appropriate persons to assist them;
- (c) To commence and maintain an action or actions in any court of competent jurisdiction to foreclose this instrument as a mortgage or to obtain specific enforcement of the covenants of Trustor hereunder, and Trustor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy and that for the purposes of any suit brought under this subparagraph, Trustor waives the defense of laches and any applicable statute of limitations; and/or
- (d) To enter upon, possess, manage and operate the Subject Property or any part thereof, to make, terminate, enforce or modify leases of the Subject Property upon such terms and conditions as Beneficiary deems proper; to make repairs, alterations and improvements to the Subject Property necessary, in Trustee's or Beneficiary's judgment, to protect or enhance the security hereof.

All sums realized by Beneficiary under this subparagraph, less all costs and expenses incurred by it under this subparagraph, including reasonable attorneys' fees, and less such sums as Beneficiary deems appropriate as a reserve to meet future expenses under this subparagraph, shall be applied on any indebtedness secured hereby in such order as Beneficiary shall determine. Neither application of said sums to said indebtedness nor any other action taken by Beneficiary under this subparagraph shall cure or waive any default or notice of default hereunder or nullify the effect of any such notice of default. Beneficiary or Trustee, or any employee or agents of Beneficiary or Trustee, or a receiver appointed by a court, may take any action or proceeding and without regard to (i) the adequacy of the security for the indebtedness secured hereunder, (ii) the existence of a declaration that the indebtedness secured hereby has been declared immediately due and payable, or (iii) the filing of a notice of default;

- (e) To execute a written notice of such default and of its election to cause the Subject Property to be sold to satisfy the obligation secured hereby. Trustee shall give and record such notice as the law then requires as a condition precedent to a Trustee's sale. When the minimum period of time required by law after such notice has elapsed, Trustee, without notice to or demand upon Trustor except as otherwise required by law, shall sell the Subject Property at the time and place of sale fixed by it in the notice of sale, either as a whole or in separate parcels and in such order as it or Beneficiary may determine, at public auction to the highest bidder for cash, in lawful money of the United States,

payable at the time of sale (the obligations hereby secured being the equivalent of cash for purposes of said sale), or as otherwise permitted under applicable law.

Trustor shall have no right to direct the order in which the Subject Property is sold. Trustee may if so instructed by Beneficiary, postpone sale of all or any portion of the Subject Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at such time fixed by the preceding postponement. Trustee shall deliver to the purchaser at such sale a deed conveying the Subject Property or portion thereof so sold, but without any covenant or warranty, express or implied. The recitals of such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustor or Beneficiary, but not Trustee, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee, and of this trust, including trustee's sale guaranties, litigation guaranties, publication costs, environmental assessment fees, appraisal report fees, cost of evidence of title, and reasonable attorneys' fees in connection with the sale, Trustee shall apply the proceeds of sale to payment of: all sums so expended under the terms hereof not then repaid, with accrued interest at a rate equal to the Note rate in effect prior to default, plus four percent (4%) per annum until paid; the payment of all other sums then secured hereby in such order as Beneficiary may direct; and the remainder, if any, to the person or persons legally entitled thereto;

- (f) To resort and realize upon or waive the security hereunder and any other security now or hereafter held by Beneficiary in such order and manner as Trustee and Beneficiary as either of them may, in their sole discretion determine; resort to any or all such security may be taken concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both; and
 - (g) If the sale proceeds received from the exercise of the power of sale or the foreclosure of this Deed of Trust or the sale of the Collateral that constitutes personalty is insufficient to satisfy the obligations secured by this Deed of Trust, the Beneficiary shall be entitled, subject to any applicable statute or law, to the recovery from Trustor of any amount by which the unpaid balance of the obligations secured by this Deed of Trust exceeds the net sale proceeds payable to Beneficiary.
3. **RECEIVER.** In addition to the foregoing rights and remedies, Beneficiary shall upon the occurrence of default, be entitled to the appointment of a receiver as a matter of right, and any receiver appointed may serve without bond. Employment by Beneficiary shall not disqualify a person from serving as receiver.
 4. **PAYMENT OF COSTS, EXPENSES AND ATTORNEYS FEES.** All costs and expenses incurred by Trustee and Beneficiary pursuant to subparagraphs (a) through (g) inclusive of Paragraph B.2 and Paragraph B.3 (including but without limitation, court costs and attorneys' fees, whether incurred in litigation or not) shall bear interest at a rate equal to the Note rate in effect prior to default, plus four percent (4%) per annum, from the date of expenditure until said sums have been paid. Beneficiary shall be entitled to bid, at the sale of the Subject Property held pursuant to subparagraph B.2(e) above, the amount of said costs, expenses and interest in addition to the amount of the other obligations hereby secured as a credit bid, the equivalent of cash.
 5. **ACCELERATION, PREPAYMENT PRIVILEGE.** Upon any default by Trustor and following the acceleration of maturity as herein provided, a tender of payment of the amount necessary to satisfy the entire indebtedness secured hereby made at any time prior to foreclosure sale (including sale under power of sale) by Trustor, its successors or assigns or by anyone in behalf of Trustor, its successors or assigns, shall constitute an evasion of the prepayment terms of the Note and be deemed to be a voluntary prepayment

thereunder and any such payment to the extent permitted by law, will, therefore, include the additional payment required under the prepayment privilege, if any, contained in the Note.

6. **REMEDIES CUMULATIVE.** All rights and remedies of Beneficiary and Trustee hereunder are cumulative and in addition to all rights and remedies provided by the other Loan Documents and by law.
7. **RELEASES, EXTENSIONS, MODIFICATION AND ADDITIONAL SECURITY.** Without affecting the liability of any person for payment of any indebtedness secured hereby, Beneficiary may make any agreement or take any action extending the maturity or otherwise altering the terms or increasing the amount of any indebtedness secured hereby, and accept additional security or release all or a portion of the Subject Property and/or other security held to secure the indebtedness secured hereby.

C. MISCELLANEOUS PROVISIONS.

1. **INTEREST RATE ADJUSTMENTS.** The Note where Beneficiary is referred to as "Noteholder" and Trustor is referred to as "Borrower", secured by this Deed of Trust may contain provisions that may result in increases in the Interest rate, in the monthly Installments, and in the unpaid Principal balance. Any increases in the Interest rate and in the unpaid Principal balance subsequent to the recording of this Deed of Trust shall be secured in the same lien priority position as the Principal initially advanced.
2. **NON-WAIVER.** By accepting payment of any sum secured hereby after its due date or late performance of any obligation secured hereby, Beneficiary shall not waive its right against any person obligated directly or indirectly hereunder or on any obligation hereby secured or to declare default for failure to make such prompt payment. No exercise of any right or remedy by Beneficiary or Trustee hereunder shall constitute a waiver of any other right or remedy herein contained or provided by law.
3. **EXECUTION OF DOCUMENTS.** Trustor agrees, upon demand by Beneficiary or Trustee, to execute and cause the execution of any and all documents and instruments required to effectuate the provisions hereof and the other Loan Documents.
4. **STATEMENTS OF CONDITION.** From time to time as required by law, Beneficiary shall furnish to Trustor such statements as may be required concerning the condition of the obligation secured hereby.
5. **MODIFICATION AND EXTENSIONS.** References to the Note, and the Loan Documents in this document shall be deemed to include all modifications, extensions and renewals thereof.
6. **ASSIGNMENT; SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; CAPTIONS.** Beneficiary may assign its rights and obligations hereunder by notice to Trustor. Trustor may not assign its rights or obligations hereunder, whether by contract or operation of law, without the prior written consent of Beneficiary, which may be withheld in Beneficiary's sole discretion. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and permitted assigns of Beneficiary and Trustor. All covenants and agreements of Trustor shall be joint and several. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.
7. **GOVERNING LAW; SEVERABILITY.** In the event that any provision or clause of this Deed of Trust or the Note or any other Loan Document conflicts with applicable law, such conflict shall not affect the other provisions of this Deed of Trust or the Note or any other Loan Document which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust and the Note and the Loan Documents are declared to be severable. This Deed of Trust cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by all parties to this Deed of Trust. This Deed of Trust shall be governed by and construed in accordance with the laws of the State in which the Subject Property is located, except to the extent that Federal laws, rules or regulations preempt the laws of

the State in which the Subject Property is located, in which case Beneficiary shall be entitled to such Federal rights and remedies without regard to conflicting limitation imposed by State law.

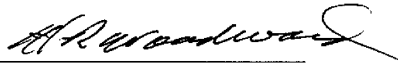
8. **TRUSTOR'S COPY.** Trustor acknowledges receipt of a conformed and completed copy of the Note and of this Deed of Trust at the time of execution or after recordation hereof.
9. **NOTICE.** Except for any notice required under applicable law or the other Loan Documents to be given in another manner, (i) any notice to Trustor provided for in this Deed of Trust shall be in writing to be effective and given by mailing such notice by first class U.S. mail, postage prepaid, to Trustor, California Red, LLC, Attention: Mike Leatherman at 13616 California Street, Suite 100, Omaha, Nebraska 68154, or at such other address as Trustor may designate by notice to Beneficiary as provided herein, and (ii) any such notice to Beneficiary shall be in writing to be effective and given by mailing such notice by first class U.S. mail, postage prepaid, to Beneficiary, Attention: Brad Eckhoff, at 1200 Golden Gate Drive, Papillion, Nebraska 68046, or to such other address as Beneficiary may designate by notice to Trustor as provided herein. Any such notice shall be effective upon deposit with U.S. mail. Any notice provided for in this Deed of Trust shall be deemed to have been given to Trustor or Beneficiary only when given in the manner designated herein.
10. **BENEFICIARY DEFINED.** The word "Beneficiary" hereunder means the Beneficiary named herein or any future owner, including pledges, of any note, notes or instrument secured hereby.
11. **NO OFFSET.** All sums comprising the indebtedness evidenced by the Note, this Deed of Trust or any other Loan Document payable by Trustor shall be paid without notice, demand, offset, deduction, counterclaim, defense, abatement, suspension, diminution or reduction. Trustor's obligation to do so shall not be released, discharged or otherwise diminished by reason of: (a) any damage to or destruction of, or any condemnation or similar taking of, the Subject Property or any portion thereof; (b) any restriction or prevention of, or interference with, the use of the Subject Property or any portion thereof; (c) any title defect or encumbrance, or any eviction from the Subject Property or any portion thereof by the holder of superior title or otherwise; (d) any bankruptcy, insolvency, reorganization, composition, dissolution, liquidation or similar proceeding relating to Trustor or Beneficiary, or any action taken with respect to this Deed of Trust by any trustee or receiver of Trustor or Beneficiary or by any court, in any such proceeding; (e) any claim that Trustor may now or in the future have against Beneficiary; (f) any default or failure on the part of the Beneficiary to perform or comply with any of the terms of this Deed of Trust or any other Loan Documents with Trustor; or (g) any other similar or dissimilar occurrence.
12. **NO MERGER.** If the interests of Beneficiary and Trustor under this Deed of Trust shall at any time become vested in Beneficiary, by reason of foreclosure or otherwise, the lien of this Deed of Trust shall not be destroyed or terminated by application of the doctrine of merger and, in such event, Beneficiary shall continue to have and enjoy all of the rights and privileges of Beneficiary as to the separate estates, unless otherwise consented to in writing by Beneficiary.
13. **REQUEST FOR NOTICE.** Trustor and Beneficiary hereby request that a copy of any notice of default and notice of sale made or executed by Trustee pursuant to the provisions hereof be sent to Trustor and Beneficiary at their respective mailing addresses set forth above.
14. **ANNUAL OPERATING STATEMENTS.** In addition, Trustor shall furnish to Beneficiary certified operating statements for Trustor within one hundred eighty (180) days after the end of each fiscal year during the term of the Note, which statements shall be prepared in accordance with generally accepted accounting principles consistently applied. Said statements shall include gross income (itemized as to source), operating expenses (itemized), depreciation charges and net income before and after federal income taxes. In the event Trustor fails to furnish to Beneficiary the annual operating statements required in this subparagraph C.14, Beneficiary may, at its option, have the applicable books and records of Trustor audited at Trustor's expense. In addition, Trustor shall provide to Beneficiary, at Beneficiary's request, the federal tax returns


of Trustor. If an extension is filed for the tax return, a copy of the extension will be provided to Beneficiary.


IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year set forth above.

TRUSTOR:

California Red, LLC,
a Nebraska limited liability company

By: 
H. Randal Woodward, M.D., Manager


By: 
Michael C. Longley, M.D., Manager

By: 
Jonathan E. Fuller, M.D., Manager

STATE OF NEBRASKA)
) ss
COUNTY OF DOUGLAS)

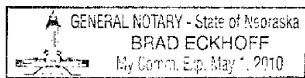
On this 18th day of August, 2009, before me, the undersigned, a Notary Public in and for the State of Nebraska, personally appeared H. Randal Woodward, M.D., Manager of California Red, LLC, a Nebraska limited liability company, the identical person whose name is subscribed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed as Manager on behalf of the company.





Notary Public

STATE OF NEBRASKA)
) ss
COUNTY OF DOUGLAS)

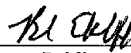
On this 18th day of August, 2009, before me, the undersigned, a Notary Public in and for the State of Nebraska, personally appeared Michael C. Longley, M.D., Manager of California Red, LLC, a Nebraska limited liability company, the identical person whose name is subscribed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed as Manager on behalf of the company.




Notary Public

STATE OF NEBRASKA)
) ss
COUNTY OF DOUGLAS)

On this 18th day of August, 2009, before me, the undersigned, a Notary Public in and for the State of Nebraska, personally appeared Jonathan E. Fuller, M.D., Manager of California Red, LLC, a Nebraska limited liability company, the identical person whose name is subscribed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed as Manager on behalf of the company.



Notary Public

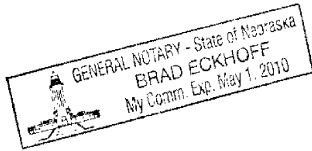


EXHIBIT "A"

Parcel One:

Lot 1, Commercial Federal Business Park Replat 9, an Addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska.

Parcel Two:

Grant of Drainage and Storm Sewer Easement as set forth in Declaration of Easement and Covenants filed January 30, 2006 as Instrument No. 2006010271, Register of Deeds, Douglas County, Nebraska.

EXHIBIT "B"

A. All structural and mechanical components of any structures, buildings, and improvements erected or placed upon the SUBJECT PROPERTY described on the foregoing Exhibit "A," together with all trees, shrubs, flowers, drains and drainage rights appurtenant to, located on, under, or above or used in connection with the SUBJECT PROPERTY and the improvements situated thereon, or any part thereof, whether now existing or hereafter created or acquired;

B. All goods, inventory, machinery, equipment, apparatus, fixtures, furniture, furnishings, appliances, including without limitation all built-in furniture and installations, shelving, partitions, door-stops, vaults, elevators, dumbwaiters, awnings, window shades, venetian blinds, light fixtures, fire hoses and brackets and boxes for the same, fire sprinklers, alarm systems, drapery rods and brackets, screens, linoleum, carpets, plumbing, refrigerators, freezers, heating units, stoves, ovens, water heaters, incinerators, furniture and furnishings, communication systems, all specifically designed installations and furnishings, and all of said articles of property 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 SUBJECT PROPERTY, all building materials and equipment now or hereafter delivered to the SUBJECT PROPERTY and intended to be installed or placed in or about the improvements, items held for sale or lease, items leased to others, and all items used or consumed in DEBTOR'S business;

C. Accounts, accounts receivable, contract rights, chattel paper, including tangible chattel paper and electronic chattel paper, promissory notes, drafts, instruments, investment property, money, letter of credit rights, commercial tort claims, documents and supporting obligations (including but not limited to all of the rents, royalties, issues, profits, revenue, income, proceeds and other benefits of the Premises) arising from the use or enjoyment of all or any portion of the Premises or from any lease agreement pertaining thereto, and all right, title and interest of the DEBTOR in and to all leases of the SUBJECT PROPERTY now or hereafter entered into and all right, title and interest of DEBTOR thereunder, all guarantees of tenants' or occupants' performances thereunder, cash or securities deposited thereunder to secure performance by the lessees of their obligations thereunder, whether said cash or securities are to be held until the expiration of the terms of said leases or applied to one or more of the installments of rent coming due immediately prior to the expiration of said terms; in addition all amounts paid or to be paid by the federal or state government or any governmental agency to or on behalf of DEBTOR or any tenant arising from the use or enjoyment of all or any portion of the Premises;

D. All deposit accounts of DEBTOR maintained at the offices or any branch of SECURED PARTY;

E. All rights, title and interest of DEBTOR in any and all building permits, and any other permits, licenses or authorization required by the governmental authorities having or exercising jurisdiction over the SUBJECT PROPERTY, all rights to performance or payment of any other nature which DEBTOR has or may have in the future under any contract or agreement regarding the SUBJECT PROPERTY, all rights to the names under or by which the SUBJECT PROPERTY may at any time be operated or known, and all rights to carry on business under any such names, logos and goodwill in any way relating to the SUBJECT PROPERTY, and all general intangibles, payment intangibles and software now or hereafter associated with or arising from the SUBJECT PROPERTY;

F. All documents of membership and any owners or members association or similar group having responsibility for managing or operating any part of the SUBJECT PROPERTY; all claims and causes of action relating to, arising, or derived from the SUBJECT PROPERTY;

G. All proceeds (including claims and demands therefore) of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance (Insurance Proceeds) and condemnation awards on the SUBJECT PROPERTY (Condemnation Proceeds) (all of such proceeds hereinafter called "Proceeds").

Whether now owned or hereafter acquired or arising, and all additions and accessions to, all spare and repair parts, special tools, equipment and replacements thereof, and all proceeds and products of the foregoing wherever located.