

12657064
11/13/2017 2:06:00 PM \$54.00
Book - 10618 Pg - 7881-7903
ADAM GARDINER
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 23 P.

This Document Prepared By
And Upon Recording Return To:

Dennis R. Tyler, Attorney at Law
The State Life Insurance Company
One American Square
Post Office Box 368
Indianapolis, Indiana 46206-0368
(317) 285-1877

CT-95779-AF

TRUST DEED,
SECURITY AGREEMENT AND FIXTURE FILING

THIS TRUST DEED, SECURITY AGREEMENT AND FIXTURE FILING is made this 13th day of November, 2017 (together with all amendments and supplements hereto, hereinafter designated as this "Trust Deed") between HOFFNUNG, LLC, a Utah limited liability company, having an address and principal place of business at 2141 Parleys Terrace, Salt Lake City, Utah 84109 (hereinafter designated as "Trustor", whether one or more), Cottonwood Title Insurance Agency, Inc., an Utah corporation, having an address at 1996 East 6400 South Suite 120, Salt Lake City, Utah 84121, Salt Lake County, Utah (hereinafter designated as "Trustee"), and THE STATE LIFE INSURANCE COMPANY, an Indiana corporation, having its principal offices in Indianapolis, Indiana and an address at One American Square, P.O. Box 368, Indianapolis, Indiana 46206-0368 (hereinafter designated as "Beneficiary").

WITNESSETH: THAT TRUSTOR CONVEYS AND WARRANTS TO TRUSTEE, IN TRUST, WITH POWER OF SALE, the following described land and real property, situated in Salt Lake County, State of Utah (hereinafter called the "Land"), to-wit:

Beginning at a point which is North 1,058.54 feet and East 653.88 feet and North 30°02'25" East 25.00 feet and North 22°38'58" East 135.984 feet from the Southwest corner of Section 36, Township 2 South, Range 1 West, Salt Lake Base and Meridian (basis of bearing: South 00°13'50" West from said Southwest corner of Section 36 to the West quarter corner of Section 1, Township 3 South, Range 1 West, Salt Lake Base and Meridian) and running thence North 89°03'50" East 659.24 feet; thence North 01°00'00" West 389.947 feet; thence South 89°01'27" West 633.669 feet; thence South 249.744 feet to the point of curvature of a 532.435 foot radius curve to the right; thence along the arc of said curve 141.792 feet (chord bears South 07°37'45" West 141.373 feet) to the point of beginning.

Tax ID No.: 21-36-377-012-4001, 21-36-377-012-4002 and 21-36-377-012-4003

TOGETHER WITH (i) all the buildings, structures and other improvements now or hereafter on the Land including all lighting, heating, ventilating, air conditioning, sprinkling and

plumbing fixtures, water rights, water and power systems, engines and machinery, water stock, boilers, furnaces, oil burners, elevators and motors, communication systems, dynamos, transformers, electrical equipment, electronic equipment and all other fixtures and property of every description now or hereafter found or used upon or appurtenant to the Land, buildings and improvements and collateral, it being understood that the enumeration of any specific articles of property shall in no way exclude or be held to exclude any items of property not specifically mentioned (said property described in this clause (i) being hereinafter collectively called "Improvements"), however, trade fixtures and other personal fixtures and property of any tenant now or hereafter installed are not intended to be included in this conveyance unless abandoned or unless such fixtures and property are an integral part of the Improvements and necessary to the use and operation of such Improvements; (ii) all and singular the tenements, hereditaments, easements, rights, rights of way, privileges and appurtenances in and to the Land including, without limitation, the entire right, title and interest of Trustor in, to and under any streets, ways, alleys, vaults, gores or strips of land adjoining the Land; and (iii) the rents, income, revenues, issues and profits of the Land and Improvements (which are pledged primarily on a parity with said real estate and not secondarily), and the present and continuing right, power and authority herein given to and conferred upon Beneficiary, to collect and apply such rents, income, revenues, issues and profits. All of the foregoing Land, Improvements and other property, and collateral, whether affixed or annexed or not, is herein referred to collectively as the "Property" and shall, for the purposes of this Trust Deed, be deemed conclusively to be real property and conveyed hereby.

FOR THE PURPOSE OF SECURING: (i) Payment of the indebtedness in the principal sum of THREE MILLION FIVE HUNDRED THOUSAND and 00/100 Dollars (\$3,500,000.00) with interest thereon, and all other lawful charges, and premium, if any, according to the terms of one certain Trust Deed Promissory Note of even date herewith made by Trustor, with principal and interest on said Note being payable to the order of Beneficiary in monthly installments as therein specified, the final installment of which is due and payable on the first day of December, 2037; (ii) Payment of any future amounts that Beneficiary may loan to Trustor, in its discretion, when evidenced by an additional note or notes (together with the Trust Deed Promissory Note or notes evidencing the indebtedness described in clauses (i) and (iii) of this paragraph, any modifications, extensions or renewals thereof and any notes issued in exchange or substitution therefor, hereinafter called the "Note") reciting the same to be hereby secured, including the principal thereof and interest and premium, if any, thereon; (iii) Payment of any sums paid or advanced by Beneficiary to discharge the obligations of Trustor as permitted under this Trust Deed or the Note or the Assignment of Leases (as hereinafter defined) or any other document collateral to this Trust Deed, together with interest thereon; and (iv) Performance of each obligation and agreement of Trustor contained herein or in the Note or the Assignment of Leases or in any other document collateral to this Trust Deed. The principal of each said installment payment and all accrued interest thereon shall bear interest after maturity until paid at the rate of seven and 75/100 percent (7.75%) per annum until paid (hereinafter called the "Default Interest Rate").

The indebtedness described in clauses (i), (ii) and (iii) in the paragraph next above is hereinafter referred to collectively as the "Indebtedness Hereby Secured".

TO PROTECT THE SECURITY OF THIS TRUST DEED, TRUSTOR AGREES:

1. Payment of Indebtedness. Trustor will duly and punctually pay the Indebtedness Hereby Secured in accordance with the terms of the Note and this Trust Deed and any other document securing this Trust Deed. All payments upon the Indebtedness Hereby Secured shall be made at such place as the holder of the Note may, from time to time designate in writing, and in absence of such designation, then at the principal offices of Beneficiary in Indianapolis, Indiana.

2. Defense of Title. Trustor will appear in and defend any action or proceeding purporting to affect the security hereof, the title to said Property, the value of said Property, this Trust Deed, the Note, the Assignment of Leases, the Indebtedness Hereby Secured or the rights or powers of Beneficiary or Trustee; and should Beneficiary or Trustee elect to also appear in or defend any such action or proceeding, Trustor shall pay all costs and expenses, including cost of evidence of title and reasonable attorneys' fees incurred by Beneficiary or Trustee. Trustor covenants, represents and warrants that Trustor is seized of the Property in fee simple and has the right to convey the same; that the Property is free and clear of all liens and encumbrances except:

- (i) taxes and assessments not yet due and payable,
- (ii) easements and restrictions of record in Salt Lake County, Utah, and
- (iii) leases of the Property previously disclosed to Beneficiary;

and that Trustor will warrant and forever defend the title to the Property against the lawful claims of all persons whomsoever. Any agreement hereafter made by Trustor and Beneficiary or Trustee pursuant to this Trust Deed shall be superior to the rights of the holder of any intervening lien or encumbrance.

3. Title Insurance. Trustor will deliver to, pay for and maintain with Beneficiary until the Indebtedness Hereby Secured is paid in full, such evidence of title as Beneficiary may require, including abstracts of title or policies of title insurance and any extensions or renewals thereof or supplements thereto.

4. Maintenance, Preservation and Completion of Improvements, etc. Trustor will keep said Property in good condition, maintenance and repair; will not remove or demolish any Improvements thereon except as may be required by law or municipal ordinance; will suffer or permit no change in the general nature of occupancy of the Property without the prior written consent of Beneficiary; will not initiate or acquiesce in any zoning reclassification without the prior written consent of Beneficiary; will not make any alterations or Improvements without first having the written consent of Beneficiary; will complete or restore promptly and in good and workmanlike manner any Improvements which may be constructed, damaged or destroyed thereon and will pay when due all claims for labor performed and materials furnished therefor; will comply with all laws, covenants and restrictions affecting the Property; will comply with the provisions of all insurance policies covering the Property; will not commit or permit waste thereof; will not commit, suffer or permit any action upon the Property in violation of law; and will do all other acts which from the character or use of the Property may be reasonably necessary to maintain,

preserve and enhance its value, the specific enumerations herein not excluding the general. Trustee, upon presentation to it of an affidavit signed by Beneficiary, setting forth facts showing a default by Trustor under this numbered paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

5. Insurance Damage, etc. Trustor shall keep, at all times during the continuation of this Trust Deed, the Improvements now or hereafter on the Land insured under prepaid all risk or special form property insurance policies (or, if such coverage is not then available, such other substantially equivalent coverage as is then available), including replacement cost endorsements, and under such other policies as are necessary to insure against loss or damage by fire, windstorm, earthquake (if the Land is located in seismic zones 3 or 4), flood (if the Land is located in a flood zone), terrorism, sprinklers, pollution and other risks enumerated in extended coverage and vandalism and malicious mischief endorsements, and such other hazards as may reasonably be required by Beneficiary to be insured against, in amounts sufficient to prevent any insured from becoming a co-insurer of a partial loss thereunder, but in any event not less than one hundred percent (100%) of the full replacement value of such Improvements. Trustor shall keep and maintain in force boiler and machinery insurance, if applicable, business interruption coverage, extra expense, rent loss or rental value insurance providing for payment of rent from the Property in the event of casualty for a period of at least twelve (12) months at one hundred percent (100%) occupancy following the date of casualty, "Ordinance or Law" coverage, and shall maintain in force such other insurance as may be required by terms of any lease of the Property or as reasonably required by Beneficiary. All such insurance shall be evidenced by a policy or policies standard for use in the state in which the Property is located, shall have incorporated therein the standard form of mortgagee clause, without contribution, in favor of Beneficiary, shall contain waiver of subrogation clauses for the benefit of the insured parties, shall contain provisions requiring thirty (30) days prior written notice to Beneficiary of any cancellation thereof and shall otherwise be in forms and in companies acceptable to Beneficiary. Trustor will deposit the policies or duplicates thereof (or the underlying policies in the case of blanket insurance) with Beneficiary with premiums paid, as additional security. Trustor hereby assigns to Beneficiary all rights under such policies, including return of premium. In the case of insurance about to expire, Trustor shall deliver: i) prior to expiration of the current insurance coverage, a written statement (email or fax acceptable) from an authorized insurance representative that renewal coverage identical to or better than the current expiring coverage has been bound; ii) within seven (7) days after renewal, certificates or binders of such insurance; iii) within thirty (30) days after renewal, receipts for payment of all premiums due; and iv) within sixty (60) days after renewal, all policies of insurance described in the delivered certificates and binders and otherwise satisfying the requirements of this Trust Deed. Should there be a default in Trustor's obligations to procure or provide evidence of coverage as required herein, Beneficiary may procure such insurance as it may elect and may make payment of premiums thereon, which payment shall be repayable immediately upon demand and shall be added to and become part of the Indebtedness Hereby Secured. In no event and whether or not default hereunder has occurred shall Beneficiary, by the fact of approving, accepting or obtaining such insurance, incur any liability for the amount of such insurance, the form or legal sufficiency of insurance contracts, solvency of insurers, or payment of losses by insurers, and Trustor hereby expressly assumes full responsibility therefor and liability, if any, thereunder.

Trustor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Beneficiary is included thereon under a standard mortgagee clause acceptable to Beneficiary. Trustor shall immediately notify Beneficiary whenever any such separate insurance is taken out and shall promptly deliver to Beneficiary the policy or policies of such insurance, or certificates thereof satisfactory to Beneficiary.

Trustor shall also provide Beneficiary with commercial general liability insurance in insurance companies satisfactory to Beneficiary in amounts of not less than One Million and 00/100 Dollars (\$1,000,000.00) for any one occurrence and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. In addition, Trustor will maintain in force an excess liability or umbrella policy in the amount of One Million and 00/100 Dollars (\$1,000,000.00) and, for properties upon which liquor is sold, a liquor liability endorsement is required. Certificates or other satisfactory evidence of such coverage shall be furnished to Beneficiary at least thirty (30) days prior to the expiration date of any policy. If such insurance required by any lease of the Property is greater than the foregoing, the requirements of such lease will control.

Trustor will give Beneficiary prompt notice of damage to or destruction of any Improvements on the Land and in case of loss covered by policies of insurance, Beneficiary is hereby authorized to make proof of loss if not made promptly by Trustor. The proceeds of all such insurance policies are hereby assigned to, and shall be paid to, Beneficiary. Any expenses incurred by Beneficiary in the collection of insurance proceeds, together with interest thereon from date of any such expense at the per annum Default Interest Rate (or at such lesser rate of interest as may be the maximum not permitted by applicable law) shall be added to and become part of the Indebtedness Hereby Secured and shall be reimbursed to Beneficiary immediately upon demand. Such insurance proceeds, after deducting expenses incurred in collection, may be applied by Beneficiary, in its sole discretion, upon or in reduction of the Indebtedness Hereby Secured, without prepayment premium, or to the cost of rebuilding or restoration of the Improvements, provided, however, if Beneficiary shall require that the Improvements be repaired or rebuilt in accordance with Section 4 of this Trust Deed, such net proceeds of insurance shall be made available therefor under the conditions and in the manner specified in the next following paragraph.

Insurance proceeds made available for restoration, repair, replacement or rebuilding of the Improvements shall be disbursed from time to time (provided no default exists under the Note or this Trust Deed or the Assignment of Leases or any other document collateral to this Trust Deed at the time of each such disbursement), after first deducting the expense of such disbursement including, without limitation, reasonable attorneys' fees, costs of title insurance, escrows and closings by the title company or otherwise and fees and expenses of the disbursing party, upon the disbursing party being furnished with satisfactory evidence of the cost of completion of such work and of the diligent and timely prosecution thereof and with architect's certificates, waivers of lien, contractors' and subcontractors' sworn statements and other evidence of cost and payments so that the disbursing party can verify that the amounts disbursed from time to time are represented by completed and in place work and that said work is free and clear of mechanic's lien claims. No payment made prior to the final completion of any such restoration, repair, replacement or rebuilding shall exceed ninety percent (90%) of the value of the work performed from time to time

and at all times the undisbursed balance of such proceeds remaining in the hands of the disbursing party together with funds deposited for the purpose or irrevocably committed for such purposes, shall be sufficient in the reasonable judgment of Beneficiary to pay for the cost of completion of all such restoration, repair, replacement or rebuilding. Beneficiary may require that plans and specifications for such restoration, repair, replacement or rebuilding be submitted to and approved by Beneficiary prior to the commencement of the work. Any surplus which may remain out of said insurance proceeds after payment of costs of building and restoration may, at the option of Beneficiary, be applied either on account of the Indebtedness Hereby Secured, without prepayment premium, or be paid to any person or persons entitled thereto. Application or release of proceeds under the provisions hereof shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. No interest shall be allowed on account of any such proceeds or other funds held in the hands of Beneficiary or the disbursing party hereunder.

Trustor shall make monthly deposits with Beneficiary, into a non-interest bearing account, together with and in addition to interest and principal, in amounts determined by Beneficiary to be sufficient to accumulate in such account, at least sixty (60) days prior to their due dates, adequate funds to pay annual insurance premiums necessary to keep the insurance required herein in force. The amount of such premiums, when unknown, shall be estimated by Beneficiary. Such deposits shall be used by Beneficiary to pay such premiums when due. Any insufficiency of such account to pay such charges when due shall be paid by Trustor to Beneficiary on demand. If, by reason of any default by Trustor under any provision of this Trust Deed, Beneficiary declares the Indebtedness Hereby Secured to be due and payable, Beneficiary may then apply any funds in said account against the Indebtedness Hereby Secured. The enforceability of the covenants relating to insurance premiums herein otherwise provided shall not be affected except insofar as those obligations have been met by compliance with this paragraph. Beneficiary may from time to time, at its option, waive and after any such waiver reinstate, any or all provisions hereof requiring such deposits, by notice to Trustor in writing. While any such waiver is in effect, Trustor shall pay insurance premiums as herein elsewhere provided.

6. Payment of Charges Against the Property and Contest Thereof. Trustor will (a) pay not less than five (5) days before their due dates and, within thirty (30) days after their respective due dates, furnish to Beneficiary official receipts for the payment of, all taxes, assessments (including, without limitation, assessments on appurtenant water stock), water rates, dues, charges, fines and impositions of every nature whatsoever imposed, levied or assessed or to be imposed, levied or assessed upon or against the Property, or any part thereof, or upon the interest of Trustee or Beneficiary in the Property; (b) promptly pay, and will not suffer, any mechanic's, laborer's, statutory or other lien or charge which might or could be prior to or equal to this Trust Deed to be created or to remain outstanding upon any of the Property; and (c) promptly pay all taxes, assessments and other charges and impositions levied upon or assessed, placed or made against, or measured by, this Trust Deed, or the recordation hereof, or the Note, or the Indebtedness Hereby Secured. Any assessment which may be paid in installments may be so paid by Trustor provided the installment is paid prior to such time as a penalty would attach for non-payment thereof.

Trustor shall not be required to pay any tax, assessment or other charge or imposition referred to above, so long as Trustor (1) shall contest, in good faith and with due diligence, the existence,

amount or the validity thereof, the amount of damages caused thereby or the extent of its liability therefor, by appropriate proceedings which shall operate during the pendency thereof to prevent (i) the collection of, or other realization upon, the tax, assessment or charge or imposition so contested, (ii) the sale, forfeiture or loss of the Property or any part thereof, and (iii) any interference with the use or occupancy of the Property or any part thereof; and (2) shall give such reasonable security to Beneficiary as may be demanded by Beneficiary to insure compliance with the foregoing provisions of this paragraph.

In the event of a court decree or an enactment after the date hereof of any law of the state in which the Property is located deducting from the value of the Property for the purpose of taxation any lien thereon, or imposing upon Beneficiary or Trustee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Trustor, or changing in any way the laws relating to the taxation of mortgages or deeds of trust or other security instruments, or debts secured by them, or the interest of Beneficiary or Trustee in the Property, or the manner of collection of taxes, so as to adversely affect this Trust Deed or the Indebtedness Hereby Secured or the holders thereof, then, and in any such event, Beneficiary may elect, by notice given to Trustor, to declare all of the Indebtedness Hereby Secured to be and become due and payable sixty (60) days from the giving of such notice, provided, however, if Trustor shall so pay the taxes assessed, the Indebtedness Hereby Secured shall continue in full force and effect in accordance with the terms hereof.

Trustor shall make monthly deposits with Beneficiary, into a non-interest bearing account, together with and in addition to interest and principal, in amounts determined by Beneficiary to be sufficient to accumulate in such account adequate funds to pay taxes, assessments and impositions levied against the Property at least sixty (60) days prior to their respective due dates. The amount of such taxes, assessments, and impositions when unknown, shall be estimated by Beneficiary. Such deposits shall be used by Beneficiary to pay such taxes and assessments when due. Any insufficiency of such account to pay such charges when due shall be paid by Trustor to Beneficiary on demand. If, by reason of any default by Trustor under any provision of this Trust Deed, Beneficiary declares the Indebtedness Hereby Secured to be due and payable, Beneficiary may then apply any funds in said account against the Indebtedness Hereby Secured. The enforceability of the covenants relating to taxes and assessments herein otherwise provided shall not be affected except insofar as those obligations have been met by compliance with this paragraph. Beneficiary may from time to time, at its option, waive, and after any such waiver reinstate, any or all provisions hereof requiring such deposits, by notice to Trustor in writing. While any such waiver is in effect, Trustor shall pay taxes and assessments as herein elsewhere provided.

7. Protection of the Property. Beneficiary or Trustee (with the consent of Beneficiary) shall have power, but not the obligation to do so and without notice or demand on Trustor and without releasing Trustor from any obligation hereof (a) to institute and maintain such suits and proceedings as Beneficiary may deem expedient to prevent any impairment of the Property by any acts which may be unlawful or any violation of this Trust Deed, (b) to preserve or protect the interest of Beneficiary in the Property and in the income, revenues, rents and profits arising therefrom, and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the

enforcement of or compliance with, such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of Beneficiary.

Trustor will pay or reimburse Beneficiary for all reasonable attorneys' fees, costs and expenses incurred by Beneficiary or Trustee in any proceeding involving the estate of a decedent or an insolvent, or in any action, proceeding or dispute of any kind in which Beneficiary or Trustee is made a party, or appears as party plaintiff or defendant, affecting the Note, this Trust Deed, the Assignment of Leases, Beneficiary, Trustee, or the Property, including but not limited to the foreclosure of this Trust Deed by power of sale or otherwise, any condemnation action involving the Property, or any action to protect the security hereof; and any such amounts paid by Beneficiary, together with interest thereon from date of any such expenditure at the per annum Default Interest Rate (or at such lesser rate of interest as may be the maximum not prohibited by applicable law), shall be due and payable immediately on demand and shall be added to and become part of the Indebtedness Hereby Secured.

All reasonable expenses incurred by Beneficiary that are necessary at any time, in the opinion of Beneficiary, for the protection of its interest or the enforcement of its rights, including, without limitation, the cost of recording, searching records, obtaining title reports, appraisals, environmental assessments, surveyors' reports, outlays for documentary and expert evidence, attorney opinions, title insurance, abstracts of title, trustee fees and reasonable attorneys' fees, whether or not any court action is involved, shall become a part of the Indebtedness Hereby Secured and shall be payable immediately on demand and shall bear interest at the per annum Default Interest Rate (or at such lesser rate of interest as may be the maximum not permitted by applicable law) from the date of any such expenditure.

8. Rents and Leases; Assignment. As additional security for payment of the Indebtedness Hereby Secured and for the faithful performance of the terms and conditions contained herein and in the Note and any other document collateral to this Trust Deed, Trustor does hereby absolutely and unconditionally assign and set over unto Beneficiary all rents, issues and profits, and purchase proceeds from the Property hereafter accruing. In furtherance hereof, Trustor has separately assigned to Beneficiary all right, title and interest of Trustor in all leases of the Property and in any guarantees of any lessee's obligations thereunder, if any, by an assignment of even date herewith (in this Trust Deed called the "Assignment of Leases") recorded in the Recorder of Salt Lake County, Utah to which reference is made for the terms thereof, all of which are incorporated herein. The Assignment of Leases includes, without limitation, the present and continuing right of Beneficiary to make claim for, collect, receive and give receipt for any and all of the rents, income, revenues, issues and profits and other sums of money payable or receivable under all leases of the Property, and under any guarantee of any lessee's obligations thereunder, the right to bring actions and proceedings under such leases and any guarantee of any lessee's obligations thereunder for the enforcement thereof and the right to do anything which Trustor or any lessor is or may become entitled to do under the leases of the Property, and under any guarantee of any lessee's obligations thereunder. Trustor will observe and perform all promises, conditions and agreements on the part of Trustor to be performed in the Assignment of Leases and agrees that any sums advanced by Beneficiary for the purposes specified in the Assignment of Leases, together with interest thereon from date of any such advancement at the per annum Default Interest Rate

(or at such lesser rate of interest as may be the maximum not prohibited by applicable law), shall be due and payable immediately on demand and shall be added to and become part of the Indebtedness Hereby Secured. Unless Beneficiary shall otherwise consent in writing, Trustor (i) will not accept rents more than thirty (30) days in advance under any lease of the Property; (ii) will observe and perform all promises, conditions and agreements on the part of Trustor to be performed as lessor under all leases of the Property and will at all times do all things necessary to compel performance by each lessee and any guarantor of any lessee's obligations thereunder; and (iii) will not subordinate the leases of the Property to this Trust Deed. Trustor represents and warrants that there are no assignments of leases or assignments of rents involving the Property other than the Assignment of Leases; that rents under the leases of the Property have not been paid more than thirty (30) days in advance of the date due thereunder; that neither lessor nor any lessee is default of any of the leases of the Property; and that the leases of the Property have not been subordinated to this Trust Deed without Beneficiary's prior written consent.

During the term of this Trust Deed, all leases of the Property and any modifications, extensions, renewals, and terminations thereof, shall be subject to the prior written approval of Beneficiary, except that: (a) Trustor may enter into an extension of any existing lease without Beneficiary's prior written consent if the terms of the extension are comparable to existing local market terms; (b) Trustor may enter into minor modifications of any existing lease if such modifications are on terms comparable to existing local market terms as of the date of execution of the modifications and if such modifications do not materially reduce rent, shorten the lease term, grant extension options, reduce tenant's obligations under the lease, or increase Trustor's obligations under the lease; and (c) Trustor may enter into new leases of the Property without the prior written consent of Beneficiary provided that each such lease: is on terms comparable to existing local market terms as of the date of execution thereof, is an arm's length transaction with a bona fide independent third party tenant, is subject and subordinate to this Trust Deed and the lessee thereunder agrees to attorn to Beneficiary, and contains provisions that require each tenant to contribute its pro-rata share of operating expenses and real estate taxes.

9. Right of Entry; Right of Inspection. Beneficiary or Trustee, or their agents, may at all reasonable times enter upon the Property for the purposes of inspection or of performing any defaulted covenant, term or condition of this Trust Deed. Beneficiary and Trustee shall have no duty to make such entry on the Property and shall not thereby become liable to Trustor or any person in possession holding under Trustor. Beneficiary, or its agents, may at all reasonable times inspect the books and records of Trustor relating to the Property or this Trust Deed.

10. Miscellaneous Covenants of Trustor. Except as may be hereinafter provided: (i) Trustor (including any or all partners, members, stockholders and holders of beneficial interests) will not sell, cease to own, pledge, encumber, transfer or dispose of the Property, or any interest therein or any part thereof, or any interest in Trustor, without the prior written consent of Beneficiary; (ii) Trustor will not, without prior written consent of Beneficiary, make the Property or allow the Property to be made, subject to any lien or security interest, except the lien of this Trust Deed, which is not removed or bonded-over to Beneficiary's satisfaction, within thirty (30) days of the date such lien or security interest comes into existence. (If bonded-over, any such lien or security interest must be removed within not more than one hundred eighty (180) days of the

date it attaches.); (iii) Trustor will annually furnish to Beneficiary, within ninety (90) days after the end of each fiscal year of Trustor, copies of current and complete financial statements on Trustor on any guarantors that executed any guarantees in connection with this Trust Deed, and full financial statements (balance sheet and operating statement) on the operations of the Property, all in reasonable detail and in form acceptable to Beneficiary, with statements on the Property to be prepared and certified by an independent Certified Public Accountant or by Trustor; (iv) Trustor will furnish to Beneficiary, within ninety (90) days after the end of each fiscal year of Trustor, a current rent roll of the Property, certified by Trustor, which rent roll shall include each tenant's name, lease execution and commencement date, lease termination date, square footage leased, effective annual rent (fixed, percentage and reimbursements), rent per square foot, unit number, date rent paid through, name of any lease guarantor, all special rent items, options to purchase, extend, renew or terminate, any unextinguished free rentals or concessions to tenant, and any obligations of tenants assumed by Trustor; and (v) Trustor shall not change its principal place of business, the location of its chief executive office, its name, its identity or its structure without notifying Beneficiary of such change in writing at least thirty (30) days prior to the effective date of such change, and, in the case of a change in Trustor's structure, without first obtaining the prior written consent of Beneficiary.

The following listed transfers of ownership interests in Trustor (but not transfers of the Premises) shall be permitted during the term of this Trust Deed provided that (i) Beneficiary is given at least thirty (30) days prior written notice of any such transfer; (ii) Trustor and the transferee agree to execute and deliver to Beneficiary such documents regarding the transfer as are required by Beneficiary; (iii) Trustor is not then in default under the terms and conditions of this Trust Deed, the Note, the Assignment of Leases or any other documents executed herewith; (iv) Trustor and/or the transferee pay all costs and expenses related to such transfer; (v) Beneficiary receives written confirmation from any guarantors that any guaranties executed in connection herewith remain unmodified and in full force and effect after such transfer; (vi) Beneficiary is paid a processing fee of not less than Two Thousand and 00/100 Dollars (\$2,000.00) for each such transfer; and (vii) after such transfer Bryce Wade retains at least a one percent (1%) direct or indirect ownership interest in Trustor:

- a. Transfers of ownership interests in Trustor from any existing partner, shareholder or member of Trustor to another existing partner, shareholder or member of Trustor.
- b. Transfers of ownership interests in Trustor from any existing partner, shareholder or member of Trustor to the children, grandchildren, spouse, brothers or sisters of such transferring partner, shareholder or member of Trustor (or to trusts for the benefit of such persons).
- c. Transfers of ownership interests in Trustor which occur as the result of the death of a partner, shareholder or member of Trustor provided, however, that no prior notice shall be required or processing fee shall be payable as the result of transfers described in this paragraph c. but Beneficiary shall be given prompt written notice thereof.

11. Late Charge. Trustor agrees to pay, in addition to all other sums provided for herein, a late charge of five (5) cents for each one dollar (\$1.00) of each regular monthly payment not made within ten (10) days of when due, to cover the extra expense of Beneficiary in handling delinquent payments.

12. Compliance with Law and Agreements. Trustor will comply with all present and future statutes, laws, rules, orders, restrictions, regulations and ordinances affecting the Property, any part thereof, or the use thereof and shall not knowingly permit any lessee to use or occupy the Property in violation of any law, ordinance, or regulation. Specifically, but without limiting the foregoing requirement, Trustor shall not and shall not allow any tenant to distribute, grow, or sell cannabis or derivatives of cannabis (whether medical or recreational) in violation of the Controlled Substances Act (21 U.S.C. §§ 801 et. seq.), or use the Property in any way in violation of the Controlled Substances Act (21 U.S.C. §§ 801 et. seq.). Trustor will comply with the provisions of all agreements affecting the Property including, without limitation, easement agreements for use of common areas, if any. Trustor represents and warrants (i) that all new Improvements, if any, were constructed in compliance with all existing statutes, laws, rules, orders, regulations, restrictions and ordinances; (ii) that, to the knowledge of Trustor, there are no defects in materials or workmanship affecting the Improvements; (iii) that the Property is properly zoned for the uses specified in the leases of the Property; (iv) that the Property has not been designated as a flood hazard area by any agency of government; and (v) that the Property is separately assessed for real estate tax purposes.

13. Further Assurances; After Acquired Property. At any time, and from time to time, upon request of Beneficiary, Trustor will make, execute and deliver or cause to be made, executed and delivered, to Beneficiary or Trustee and, where appropriate, to cause to be recorded and/or filed and from time to time thereafter, to be re-recorded and/or re-filed at such time and in such offices and places as shall be deemed desirable by Beneficiary, any and all such other and further mortgages, deeds of trust, security instruments, lease assignments, instrument of further assurance, certificates and other documents as may, in the opinion of Beneficiary, be necessary or desirable in order to effectuate, complete, enlarge, or perfect, or to continue and preserve the obligation of Trustor under the Note and this Trust Deed, and the lien of this Trust Deed as a first and prior lien upon all of the Property, whether now owned or hereafter acquired by Trustor. Upon any failure by Trustor so to do, Beneficiary may make, execute, and record any and all such mortgages, deeds of trust, assignments, instruments, certificates, and documents for and in the name of Trustor and Trustor hereby irrevocably appoints Beneficiary the agent and attorney-in-fact of Trustor so to do. The lien hereof will automatically attach, without further act, to all after acquired property and such property will become part of the Property as herein defined.

14. Expenses of Trust; Filing and Recording Fees. Trustor will pay all filing, registration or recording fees and all expenses incident to the execution, acknowledgment and administration of this Trust Deed, including, without limitation, fees of Trustee, and all federal, state, county and municipal taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note, this Trust Deed, the Assignment of Leases, any other document collateral to this Trust Deed and any further assurances.

15. Rate of Interest for Advancements. Trustor agrees to pay immediately and without demand all sums expended hereunder by Beneficiary or Trustee, with interest from date of expenditure at the per annum Default Interest Rate (or at such lesser rate of interest as may be the maximum not permitted by applicable law) until paid, and the repayment thereof shall be secured hereby.

16. Hazardous Substance Compliance and Indemnification. Trustor hereby expressly represents, warrants and covenants to Beneficiary that: (i) neither Trustor nor, to the knowledge of Trustor, any other person, has used or permitted any Hazardous Substance, as hereinafter defined, to be placed, held, stored or disposed on the Property or any portion thereof; (ii) the Property does not now contain any Hazardous Substance in violation of any Environmental Laws (as hereinafter defined); and (iii) Trustor, so long as any of the Indebtedness Hereby Secured remains unpaid, shall not allow any Hazardous Substance to be placed, held, stored or disposed on the Property or any portion thereof or incorporated into any improvements on the Property in violation of any Environmental Laws.

The term "Hazardous Substance" shall mean any hazardous, toxic, or dangerous waste, substance or material defined as such in or for the purpose of the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Super-Lien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulations, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, now or at any time hereafter in effect (collectively the "Environmental Laws").

Trustor hereby agrees to indemnify Beneficiary and hold it harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever, paid, incurred or suffered by, or asserted against, Beneficiary for, with respect to, or as a direct or indirect result of any of the following:

- (i) The presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from, the Property or any portion thereof of any Hazardous Substance, toxic material, dangerous waste, or hydrocarbon (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any of the Environmental Laws); or
- (ii) Any liens against the Property or any portion thereof or any interest or estate in any portion thereof, created, permitted or imposed by the Environmental Laws, or any actual or asserted liability of or obligations of Trustor under the Environmental Laws.

Any expenses or payments made by Beneficiary to cure any violation of any Environmental Laws shall be additional Indebtedness Hereby Secured.

17. Condemnation. Trustor shall promptly give Beneficiary written notice of the actual or threatened commencement of any condemnation or eminent domain proceeding affecting the

Property and shall deliver to Beneficiary copies of any and all papers served in connection with such proceedings. Should the Property or any part thereof be taken or damaged by reason of any public improvement, condemnation or eminent domain proceeding (or sale in lieu thereof), or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds, including the proceeds of any policies of fire and other insurance affecting the Property, are hereby assigned to, and shall be paid to, Beneficiary. Such compensation, awards, damages and proceeds shall be applied, at the sole option of Beneficiary, to reduction, without prepayment premium, of the Indebtedness Hereby Secured, whether due or not, in such order as Beneficiary may determine, or paid over to Trustor or other person or persons entitled thereto. Application or release of the proceeds, or any part thereof, under this paragraph shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

18. Waiver; Releases; Other Security; etc. Without affecting the liability of Trustor or any other party liable for payment of the Indebtedness Hereby Secured or performance of any obligation contained herein, and without affecting the rights of Beneficiary with respect to any security not expressly released in writing, Beneficiary may, at any time, and without notice to or the consent of any party in interest with the Property or the Note or the Indebtedness Hereby Secured (a) Release any person liable for payment of all of any part of the Indebtedness Hereby Secured or for performance of any obligation herein, (b) Make any agreement extending the time or otherwise altering the terms of payment of all or any part of the Indebtedness Hereby Secured or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof, (c) Accept any additional security, (d) Release or otherwise deal with any property, real or personal, including any or all of the Property, including the authorization of partial releases or reconveyance of the Property by Trustee without notice to or approval of other parties in interest with the Property, (e) Accept payment of the Indebtedness Hereby Secured, or any part thereof, after its due date or after the filing of notice of default and of election to sell.

19. Additional Security. If Beneficiary holds any additional security for any obligation secured hereby, it may enforce the sale thereof, at its option, either before, contemporaneously with, or after the sale is made hereunder, and on any default of Trustor, Beneficiary may, at its option, offset against any indebtedness owing by it to Trustor, the whole or any part of the Indebtedness Hereby Secured, and Beneficiary is hereby authorized and empowered, at its option, without any obligation so to do, and without affecting the obligations hereof, to apply toward the payment of any Indebtedness Hereby Secured, any and all sums of money which Beneficiary may have in its possession or under its control.

20. Security Agreement. The parties agree to the following additional defined terms:

“Account” shall have the definition assigned to it in the UCC.

“Bank” shall have the meaning assigned to that term in the UCC.

“Chattel Paper” shall have the definition assigned to it in the UCC.

“Commercial Tort Claim” shall have the definition assigned to it in the UCC.

“Deposit Account” shall have the definition assigned to it in the UCC.

“Document” shall have the definition assigned to it in the UCC.

“Financing Statements” shall have the definition assigned to it in the UCC.

“General Intangibles” shall have the definition assigned to it in the UCC.

“Goods” shall have the definition assigned to it in the UCC. “Goods” include all detached fixtures, items of Personal Property that may become fixtures, property management files, accounting books and records, reports of consultants relating to the Land, site plans, test borings, environmental or geotechnical surveys samples and test results, blueprints, construction and shop drawings, and plans and specifications.

“Investment Property” shall have the definition assigned to that term in the UCC.

“Letter of Credit Rights” shall have the definition assigned to it in the UCC.

“Money” shall have the definition assigned to it in the UCC.

“Personal Property” means Accounts, Chattel Paper, Commercial Tort Claims, Deposit Accounts, Documents, Goods, Instruments, General Intangibles, Investment Property, Letter-of-Credit Rights, Letters of Credit, Money and Proceeds.

“Proceeds” shall have the meaning assigned to that term in the UCC.

“UCC” means the Uniform Commercial Code as adopted in the states where Trustor and the Property are located, as applicable.

This Trust Deed shall also constitute and serve as a “Security Agreement” on Personal Property located, arising from or related to the Property. Trustor hereby grants Beneficiary a security interest in all such Personal Property. Trustor hereby authorizes Beneficiary to execute any “Financing Statements” deemed necessary by Beneficiary and agrees with Beneficiary to execute and deliver to Beneficiary, in form and substance satisfactory to Beneficiary, such further assurances as Beneficiary may, from time to time, consider reasonably necessary to create, perfect, and preserve the security interest of Beneficiary herein granted, and Beneficiary may cause such statements and assurances to be recorded and filed, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest. Beneficiary shall have all the rights, remedies and recourse with respect to the personal property afforded a secured party by the aforesaid UCC in addition to, and not in limitation of, the other rights, remedies and recourse

afforded Beneficiary by this Trust Deed.

Trustor shall provide to Beneficiary upon request, certified copies of any searches of UCC records deemed necessary or appropriate by Beneficiary to confirm the first priority status of its security interest in the Personal Property, together with copies of all documents or records evidencing security interests disclosed by such searches. Trustor shall pay all filing fees and costs and all reasonable costs and expenses of any record searches (or their continuations) as Beneficiary may require. All of the Personal Property is, and shall during the term hereof continue to be, owned by Trustor, and is not the subject matter of any lease, control agreement or other instrument, agreement or transaction whereby any ownership, security or beneficial interest in the Personal Property is held by any person or entity other than Trustor, subject only to (1) Beneficiary's security interest, (2) the rights of tenants occupying the Land pursuant to leases approved by Beneficiary, and (3) the exception on title as permitted hereunder. Trustor covenants and agrees that Trustor will furnish Beneficiary with notice of any change in its name, form of organization, or state of organization within thirty (30) days prior to the effective date of any such change. Trustor will not remove or permit to be removed any item included in the Goods from the real property described herein, unless the same is replaced immediately with unencumbered Goods (1) of a quality and value equal or superior to that which it replaces and (2) which is located on the real property described herein. All such replacements, renewals, and additions shall become and be immediately subject to the security interest of this Trust Deed.

This Trust Deed constitutes a financing statement filed as a fixture filing in the records of the county where the Property is located with respect to any and all fixtures comprising the Property. The "debtor" is Trustor, the "secured party" is Beneficiary, and the collateral is as described above and in the granting clause of this Trust Deed. The owner of record of the Land is Trustor.

21. No Merger. Unless Beneficiary shall expressly consent in writing, the fee title to the Property and the leasehold estate of any lessee under any lease of the Property shall not merge but shall always remain separate and distinct notwithstanding the union of such estates either in Trustor, lessee in such lease or a third party.

22. No Claim Against Beneficiary or Trustee. Nothing contained in this Trust Deed shall constitute any consent or request by Beneficiary or Trustee, express or implied, for the performance of any labor or services or for the furnishing of any materials or other property in respect of the Property, or any part thereof, nor as giving Trustor or any lessee under any lease of the Property any right, power or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would create any personal liability against Beneficiary in respect thereof or would permit the making of any claim that any lien based on the performance of such labor or services or the furnishing of any such materials or other property is prior to the lien of this Trust Deed.

23. Reconveyance to Trustor. Upon written request of Beneficiary stating that all Indebtedness Hereby Secured has been paid, and upon surrender of this Trust Deed and the Note to Trustee for cancellation and retention and upon payment of its fees by Trustor, Trustee shall reconvey, without warranty, the Property then held hereunder. The recitals in any reconveyance

of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as “the person or persons legally entitled thereto”.

24. Default. It shall be a default under this Trust Deed if one or more of the following events (in this Trust Deed called “default” or “Event of Default”) shall happen, that is to say: (a) if Trustor shall default in the payment of any Indebtedness Hereby Secured in accordance with the terms of the Note and this Trust Deed and any other document collateral to this Trust Deed (whether at the stated maturity or at a date fixed for any installment payment or otherwise), and such default continues for a period of five (5) days after the date of mailing written notice thereof to Trustor; or (b) if Trustor shall fail to furnish insurance policies or pay the premiums thereon at the times required in Paragraph 5 of this Trust Deed; or (c) if Trustor shall default in the due observance or performance of any covenant or agreement set out in clauses (i) or (ii) of Section 10 of this Trust Deed; or (d) if Trustor shall default in the due observance or performance of any of the other terms, conditions or covenants of the Note or of this Trust Deed, and such default continues for a period of fifteen (15) days after the date of mailing written notice thereof to Trustor except that if any such default cannot with due diligence be cured within a period of fifteen (15) days, such default shall not be deemed to continue if Trustor proceeds promptly and with all due diligence to cure the default and diligently completes the curing thereof; or (e) if Trustor shall abandon or surrender the Property; or (f) if Trustor shall default in the due observance or performance of any terms, conditions or covenants of the Assignment of Leases or any other document collateral to this Trust Deed (other than covenants or agreements of the type set out in clauses (i) and (ii) of Section 10 of this Trust Deed), and such default continues for a period of fifteen (15) days after the date of mailing written notice thereof to Trustor, except that if any such default cannot with due diligence be cured within a period of fifteen (15) days, such default shall not be deemed to continue if Trustor proceeds promptly and with all due diligence and diligently completes the curing thereof; or (g) if any representation or warranty herein or in the Note or the Assignment of Leases or any other document collateral to this Trust Deed, or if the financial statements of Trustor furnished to Beneficiary, shall be untrue or incorrect in any material respect as of the time such representation or warranty shall have been made or such financial statements shall have been furnished; or (h) if Trustor shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due, or shall file a petition in bankruptcy, or shall be adjudicated as bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future bankruptcy or insolvency statute, law or regulation or shall file an answer admitting to or not contesting the material allegations of a petition filed against it in such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Trustor or a material part of its properties, or shall not within ninety (90) days after the appointment, without the consent or acquiescence of Trustor, of a trustee, receiver or liquidator of Trustor or any material part of its properties have such appointment vacated.

25. Acceleration, Remedies of Beneficiary. Time is of the essence hereof. Upon the occurrence of a default by Trustor or an Event of Default in the payment of the Indebtedness Hereby Secured or in the performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of Beneficiary. In the event of such default or Event of Default, Beneficiary may execute or cause Trustee to execute a written notice of default

and of election to cause the Property to be sold to satisfy the obligations hereof, and Trustee shall file such notice for record in each county wherein the Property or some part or parcel thereof is situated. Beneficiary also shall deposit with Trustee the Note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of the notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustor shall sell the Property on the date and at the time and place designated in the notice of sale, either as a whole or in separate parcels, and in such order as Trustee may determine (but subject to any statutory right of Trustor to direct the order in which such Property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he or she deems expedient, postpone the sale from time to time until it shall be completed and, in every such case, notice of postponement shall be given by public declaration, written notice or oral postponement at the time and place last appointed for the sale. No other notice of the postponed sale is required, unless the postponement exceeds forty five (45) days in which event, the sale shall be renoticed in the same manner as the original notice of sale is required to be given. Trustee shall execute and deliver to the purchaser its deed conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or fact shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (a) the costs and expenses of exercising the power of sale and of sale, including the payment of Trustee's and attorneys' fees incurred by Trustee and Beneficiary; (b) cost of any evidence of title procured in connection with such sale and revenue stamps on Trustee's deed; (c) all sums expended under the terms of this Trust Deed, not then repaid, with accrued interest at the per annum Default Interest Rate (or at such lesser rate of interest as may be the maximum not permitted by applicable law) from the date of expenditures; (d) all other sums then secured hereby; and (e) the remainder, if any, to the person or persons legally entitled thereto, or Trustee, in its discretion, may deposit the balance of such proceeds with the county clerk of the county in which the sale took place.

26. Foreclosure After Default. Upon the occurrence of an Event of Default or a default by Trustor, Beneficiary shall have the option to declare all Indebtedness Hereby Secured immediately due and payable and foreclose this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property, and Beneficiary shall be entitled to recover in such proceedings all costs and expenses incident thereto, including a reasonable attorneys' fee in such amount as shall be fixed by the court.

27. Possession After Default. Upon the occurrence of an Event of Default, Beneficiary may enter upon, possess, manage and operate the Property or any part thereof; make, terminate, enforce or modify leases of the Property upon such terms and conditions as Beneficiary deems proper and continue to collect the rents, issues and profits thereof; make repairs, alterations and improvements to the Property for the purpose of protecting or enhancing the security hereof, and Trustor agrees to pay all expenses of action taken under this paragraph with interest thereon from the date of such expenditure at the per annum Default Interest Rate (or at such lesser rate of interest as may be the maximum not permitted by applicable law) and the payment thereof shall be added

to and become part of the Indebtedness Hereby Secured and shall be immediately due and payable on demand. All sums realized by Beneficiary under this paragraph, less all costs and expenses incurred by it hereunder, including, without limitation, reasonable attorneys' fees, and less such sum as Beneficiary deems appropriate as a reserve to meet future expenses under this paragraph, shall be applied on the Indebtedness Hereby Secured in such order as Beneficiary shall determine. Neither application of said sums to the Indebtedness Hereby Secured nor any other action taken by Beneficiary under this paragraph shall cure or waive any Event of Default or notice of default hereunder or nullify the effect of any such notice of default. Any action taken under this paragraph may be taken by Beneficiary or Trustee or any employee or agent of Beneficiary or Trustee with or without bringing any action or proceedings, or may be taken by a receiver appointed by a court, and any such action may be taken without regard to the adequacy of the security for the Indebtedness Hereby Secured and whether or not the Indebtedness Hereby Secured has been declared immediately due and payable and whether or not notice of default has been filed other than as may be above provided.

28. No Obligation of Notice by Trustee. 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 brought by Trustee.

29. Payment of Prepayment Premium; Payment Prior to Sale. The Note may be subject to voluntary prepayment by Trustor under the conditions stated therein, in some cases with premium and in some cases without premium. If, following the occurrence of an Event of Default hereunder but prior to a sale of the Property by power of sale or otherwise, Trustor shall tender to Beneficiary payment of an amount sufficient to satisfy the entire Indebtedness Hereby Secured, such tender shall be deemed to be a voluntary prepayment under the Note and, accordingly, Trustor shall also pay to Beneficiary the prepayment premium (if any) then required under the Note in order to exercise the prepayment privilege contained therein. If such tender is made during a period when prepayment is not permitted, the premium shall be the highest amount stated in the prepayment clause in the Note secured hereby.

30. Right to Cure Default, Performance of Defaulted Acts. In case of the occurrence of a default or Event of Default herein, Beneficiary or Trustee (upon request of Beneficiary) may, but need not, make any payment or perform any act herein required of Trustor in any form and manner deemed expedient, including, without restriction, performance of any covenants or agreements of lessor under the leases of the Property, payment of installments of taxes, assessments and other governmental charges and impositions, payment of costs of repair and maintenance and payment of insurance premiums, and may, but need not, make full or partial payments of principal or interest on prior liens and encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem the Property from any tax or assessments. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees and any other monies advanced by Beneficiary in regard to any stamp tax or to protect the Property and the lien hereof, together with interest thereon from date of any such payment at the per annum Default Interest Rate (or at such lesser rate of interest as may be the maximum not prohibited by applicable law), shall be added to and become part of the Indebtedness Hereby Secured and shall become immediately due and

payable on demand. Inaction of Beneficiary or Trustee shall never be considered as a waiver of any right accruing to them on account of any default on the part of Trustor. Performance by Beneficiary or Trustee of the obligations of Trustor hereunder shall not be deemed to relieve Trustor from any failure or default hereunder. Beneficiary or Trustee in making any payment authorized hereby (a) relating to taxes and assessments may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (b) for the purchase, discharge, compromise or settlement of any other prior lien may do so without inquiry into the validity or amount of any claim for lien which may be asserted.

31. Forbearance Not a Waiver; Rights and Remedies Cumulative. No delay by Beneficiary in exercising any right or remedy provided herein or otherwise afforded by law or equity shall be deemed a waiver of or preclude the exercise of such right or remedy, and no waiver by Beneficiary of any particular provision of this Trust Deed shall be deemed effective unless in writing signed by Beneficiary. All such rights and remedies provided for herein or which Beneficiary or the holder of the Note may have otherwise, at law or in equity, shall be distinct, separate and cumulative and may be exercised singly or serially (in any order) or concurrently, and as often as the occasion therefor arises. No action by Beneficiary under the provisions of this Trust Deed shall impair any acceleration or sale or foreclosure right or remedy available to Beneficiary under this Trust Deed. Acceleration of the Indebtedness Hereby Secured, once claimed hereunder by Beneficiary, may, at the option of Beneficiary, be rescinded, but the tender and acceptance of partial payments alone shall not in any way affect or rescind such acceleration of the Indebtedness Hereby Secured.

32. Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of such funds so used, the Indebtedness Hereby Secured and this Trust Deed shall be subrogated to all of the rights, claims, liens, titles and interests heretofore existing against the Property to secure the indebtedness so extinguished, extended or renewed and the former rights, claims, liens, titles and interests, if any, are not waived but rather are continued in full force and effect in favor of Beneficiary and are merged with the lien created herein as cumulative security for the repayment of the Indebtedness Hereby Secured.

33. Governing Law; Severability. In the event one or more of the provisions contained in this Trust Deed or the Note or in any other document collateral to this Trust Deed shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of Beneficiary, not affect any other provision of this Trust Deed, and this Trust Deed shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein. This Trust Deed shall be construed and governed by the laws of the State of Utah.

34. Notices. Any notice which either party hereto may desire or be required to give to the other party shall be in writing and the mailing thereof by United States Postal Service certified or registered mail or recognized national overnight courier service, postage prepaid, addressed to

Trustor or Beneficiary, as the case may be, at the respective address first above set out, or at such other place as any party hereto may by notice in writing designate to the other party as a place for service of notice, shall constitute service of notice hereunder.

35. No Usury. Notwithstanding any provision hereof, it is not intended by the Note, the Assignment of Leases, this Trust Deed or any other document collateral to this Trust Deed to impose upon Trustor any obligation to pay interest in excess of the maximum rate of interest permitted by law, and any interest which exceeds such maximum rate of interest shall automatically abate to the extent of such excess.

36. Successors and Assigns, etc. This Trust Deed shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. All obligations of Trustor hereunder are joint and several. The term "Beneficiary" shall mean the owner and holder, including any pledgee, of the Note. In this Trust Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. If more than one person or entity has executed this Trust Deed as Beneficiary, the term "Beneficiary" shall include all such persons and entities and the obligations of all such persons and entities shall be joint and several.

In the event of the sale with the consent of Beneficiary or transfer by operation of law of all or any part of the Property, Beneficiary and Trustee, without notice to any person or corporation or entity, are hereby authorized and empowered to deal with any such vendee or transferee with reference to the Property or the Indebtedness Hereby Secured, or with reference to any of the terms or conditions hereof, as fully and to the same extent as they might deal with Trustor and without in any way releasing or discharging any of the liabilities or undertakings of Trustor hereunder.

37. Substitution of Trustee. Beneficiary may from time to time or at any time substitute a trustee or trustees to execute the Trust Deed hereby created, and when any such substitution has been filed for record in the official public records of real property of the county in which the Property is situated, it shall be conclusive evidence of the appointment of such trustee or trustees, and such new trustee or trustees shall succeed to all of the powers and duties of Trustee named herein.

38. Captions and Headings. The captions and headings of the various sections of this Trust Deed are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof.

39. Reconveyance, Easements, Plats, etc. At any time or from time to time, without liability therefor and upon written request of Beneficiary and presentation of this Trust Deed and said Note for endorsement, and without affecting the personal liability, if any, of any person for payment of the Indebtedness Hereby Secured, or the lien upon the remainder of the Property for the full amount of the Indebtedness Hereby Secured then remaining unpaid, Trustee may reconvey any part of said Property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or other agreement subordinating the lien or charge hereof.

40. Counterparts. This Trust Deed may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one instrument.

41. Limitation of Liability. Subject to the limitations and exceptions contained in this section, and further subject to the terms of any guaranty agreement(s) and environmental indemnity agreement(s) executed in connection herewith, the Loan Documents (as hereinafter defined) shall be non-recourse to Trustor except that Trustor shall be personally liable to Beneficiary, on a joint and several basis: (i) for payment of the Indebtedness Hereby Secured and performance of Trustor's obligations under the Note, any guaranty of the Note, this Trust Deed, the Assignment of Leases and any other document executed therewith (hereinafter the "Loan Documents") if any of the events described in the following items a. through f. occur; and (ii) to the extent of any loss suffered by Beneficiary as a result of the occurrence of any of the events described in the following items g. through q.:

a. fraud or material misrepresentation in connection with the Loan Documents or the loan evidenced thereby; b. the occurrence of any prohibited transfer without the prior written consent of Beneficiary; c. the voluntary encumbrance of the Property or any part thereof or interest therein by a lien securing an obligation for which Trustor or any of its members, shareholders, partners or beneficiaries is personally liable; d. any act, other than the assertion of valid legal defenses, by Trustor or its members, shareholders, partners or beneficiaries to contest, delay or otherwise hinder Beneficiary's legal enforcement actions under the Loan Documents; e. any seizure or forfeiture of the Property or other collateral or security provided under any of the Loan Documents, or any portion thereof or Beneficiary's interest therein, pursuant to federal, state or local laws, other than by condemnation; f. any breach of the obligations of Trustor under the provisions of this Trust Deed entitled "Hazardous Substance Compliance and Indemnification" including, without limitation, the indemnification obligations thereunder; g. waste or any act or omission by Trustor which materially reduces the value of the Property; h. the failure following a default under any of the Loan Documents to apply all of the rents, profits or other income from the Property or other collateral or security to the payment of the Indebtedness Hereby Secured, after paying all reasonable, ordinary and customary expenses directly incurred and currently due for the operation of the Property; i. the collection of rents or other income from the Property or other collateral or security more than thirty (30) days in advance or the failure to account for security deposits of tenants or other occupants at the Property (and interest required by law or agreement to be paid thereon) which in either such case are not turned over to Beneficiary immediately after Beneficiary's demand following the occurrence of a default under any of the Loan Documents; j. the application of insurance proceeds or condemnation awards relating to the Property or other collateral or security provided under any of the Loan Documents in a manner contrary to the applicable provisions of the Loan Documents; k. the failure to maintain casualty, liability and other insurance as required under the Loan Documents unless funds sufficient to pay all required premiums on such insurance were separately escrowed with Beneficiary in advance and coverage terminated because Beneficiary failed to pay the premiums for such coverage; l. the existence of any lien on the Property (whether or not voluntary) other than those liens approved by Beneficiary; m. the removal, in violation of the Loan Documents, of any fixtures or personal property now or hereafter constituting collateral for the payment of Trustor's obligations under the Loan

Documents, except to the extent replaced with fixtures or personal property of at least equal value and utility; n. the failure to pay real estate taxes, special assessments, personal property taxes and other levies or assessments constituting a lien against all or any part of the Property or the collateral or other security provided under any of the Loan Documents unless funds necessary to pay all such taxes, levies and assessments were separately escrowed with Beneficiary in advance and Beneficiary failed to pay such taxes, levies or assessments; o. the expenditure by Beneficiary of any sums required to perform landlord obligations under leases of the Property or any part thereof required to have been performed prior to any transfer of possession of the Property to Beneficiary or a receiver; p. the existence in any lease of the Property of an option to purchase the Property or any portion thereof; and q. any modifications, terminations or cancellations of any lease of the Property or any part thereof without Beneficiary's prior written consent, if and to the extent such consent is required under the Loan Documents.

The foregoing provisions of this section shall not (i) limit or impair in any way the validity or priority of the lien of this Trust Deed or the liens created under any other Loan Documents, (ii) prevent the failure to pay when due of any amounts under the Loan Documents, or the failure to comply with any other covenants under the Loan Documents, from constituting a default under the Loan Documents, (iii) limit or impair in any way the rights of Beneficiary to accelerate maturity of the Indebtedness Hereby Secured or to cause a foreclosure sale or other enforcement of its remedies as to the Property under the Loan Documents, (iv) limit or impair in any way Beneficiary's right to name Trustor or any guarantor a party defendant in any action for foreclosure under, or other enforcement of, the Loan Documents, if Trustor or any guarantor is a necessary party in connection therewith, or (v) limit or impair in any way Beneficiary's rights, or release any person's or entity's obligations, under any indemnity or guaranty given in connection with the Loan Documents.

[Remainder of page intentionally left blank; signature page(s) to follow.]

