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RASHELLE HOBBS  
Recorder, Salt Lake County, UT  
COTTONWOOD TITLE  
BY: eCASH, DEPUTY - EF 26 P.

This instrument prepared by  
and record and return to:  
David R. Kinman, Esq.  
Maynard, Cooper & Gale, P.C.  
1901 Sixth Avenue North, Suite 2400  
Birmingham, Alabama 35203  
(205) 254-1000

126128-JCP

**DEED OF TRUST,  
ASSIGNMENT OF RENTS AND LEASES,  
AND SECURITY AGREEMENT**  
(Tax/APN) PARCEL # 15-20-203-004

**THIS DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, AND SECURITY AGREEMENT** (this "**Deed of Trust**") is executed as of this the 30<sup>th</sup> day of June, 2020, by **JCWVUT001 LLC**, a Delaware limited liability company, with an address of c/o Oak Street Real Estate Capital, LLC, 125 South Wacker Drive, Suite 1220, Chicago, Illinois 60606 (the "**Grantor**"), as Grantor, to **COTTONWOOD TITLE INSURANCE AGENCY, INC.**, whose address is 1996 E. 6400 S, Suite 120, Salt Lake City, Utah 84121 (the "**Trustee**"), as Trustee, for the benefit of **RENASANT BANK**, a Mississippi state banking corporation, whose address is 2001 Park Place North, Birmingham, Alabama 35203 (together with its successors or assigns, the "**Beneficiary**"), as Beneficiary.

**RECITALS**

Grantor is indebted to Beneficiary for money loaned in the original principal sum of up to Forty Four Million Three Hundred Seven Thousand Seven Hundred Twenty and No/100 Dollars (\$44,307,720.00) (as amended, extended, renewed, restated, modified or refinanced, the "**Loan**"), pursuant to that certain Loan Agreement of even date herewith by and between Grantor, JCAHMI001 LLC, a Delaware limited liability company, JCBAOK001 LLC, a Delaware limited liability company, JCBRFL001 LLC, a Delaware limited liability company, JCCOSC001 LLC, a Delaware limited liability company, JCSFSD001 LLC, a Delaware limited liability company, JCSPWA001 LLC, a Delaware limited liability company, JCTEAZ001 LLC, a Delaware limited liability company, JCMLCA001 LLC, a Delaware limited liability company, and JCI Portfolio Owner 2, LLC, a Delaware limited liability company (the foregoing nine entities, together with Grantor, individually and collectively, the "**Borrower**") and Beneficiary (as amended, modified, renewed or extended, the "**Loan Agreement**"; capitalized terms used herein and not otherwise defined shall have the meanings ascribed in the Loan Agreement), as evidenced by that certain Promissory Note of even date herewith from Borrower, payable to the order of Beneficiary in installments of principal and/or interest thereon (as amended, modified, renewed, restated or extended, the "**Note**"; together with the Loan Agreement and all other documents or instruments executed or delivered in connection with the Loan, collectively, the "**Loan Documents**"). The Loan provides for a variable rate of interest as further set forth in the Loan Agreement.

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As a condition precedent to making the Loan, Beneficiary requires that Grantor execute this Deed of Trust as security for the Loan and the Loan Obligations (as herein defined), all renewals, extensions and modifications thereof, and all refinancings of any part of the Loan and any and all other additional indebtedness of Borrower to Beneficiary, now existing or hereafter arising, whether joint or several, due or to become due, absolute or contingent, direct or indirect, liquidated or unliquidated, and any renewals, extensions, modifications and refinancings thereof, and whether incurred or given as maker, endorser, guarantor or otherwise, and whether the same be evidenced by note, open account, assignment, endorsement, guaranty, pledge or otherwise (herein "**Other Indebtedness**").

## **GRANTING CLAUSES**

**NOW, THEREFORE**, for and in consideration of the Loan Obligations and the Other Indebtedness, and to secure the prompt payment thereof, Grantor does hereby irrevocably grant, bargain, sell, convey, assign, transfer, mortgage, pledge and set over unto Trustee, its successors and assigns, in trust with power of sale, the Mortgaged Property (as hereinafter defined), for the benefit of Beneficiary, and grants to Beneficiary a security interest in, and to the Mortgaged Property,

**TO SECURE** unto Beneficiary the repayment of the Loan Obligations and the Other Indebtedness, at and in the manner stipulated herein, in the Loan Agreement, the Note and in the other Loan Documents and in the documents and instruments executed or delivered in connection with the Other Indebtedness (collectively, the "**Other Indebtedness Documents**"), and the performance of the covenants and agreements of Borrower contained in the Loan Documents and in the Other Indebtedness Documents, the Mortgaged Property and all parts thereof unto the Beneficiary, its successors and assigns forever, subject however to the terms and conditions herein;

**PROVIDED, HOWEVER**, that if Borrower shall (i) pay to Beneficiary and perform and satisfy the entire Loan Obligations, all without any deduction or credit for taxes or other similar charges paid by Borrower, and shall cause all other obligated parties to keep, perform, and observe all and singular the covenants and promises herein, in the Loan Agreement, the Note and in each of the other Loan Documents to be kept, performed, and observed, all without fraud or delay, and (ii) pay, perform and satisfy in full any and all Other Indebtedness, all without any deduction or credit for taxes or other similar charges paid by Borrower all without fraud or delay; then this Deed of Trust, and all the properties, interests, and rights hereby granted, bargained, sold and conveyed shall cease, terminate, and be void, but shall otherwise remain in full force and effect.

## **AGREEMENT**

**FOR VALUABLE CONSIDERATION**, Grantor agrees as follows:

1. **DEFINITIONS.** The following terms, when used in this Deed of Trust (including when used in the above recitals), shall have the following meanings:

**Accounts** has the meaning given such term in the UCC, and includes all accounts (including accounts receivable) arising from the operation of the Land, including but not limited to, rights to payment for goods sold or leased or for services rendered, not evidenced by an Instrument.

**Appurtenant Rights** means all air rights, development rights, zoning rights, easements, rights-of-way, strips and gores of land, vaults, streets, roads, alleys, tenements, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber, and other emblements now or hereafter appurtenant to, or used or useful in connection with, or located on, under or above the Land, or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments, and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating, or appertaining to the Land, if any, or any part thereof, now or hereafter.

**Chattel Paper** has the meaning given such term in the UCC, and includes, without limitation, a record or records (including, without limitation, electronic chattel paper) which evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, or a lease of specific goods; all Supporting Obligations with respect thereto; any returned, rejected, or repossessed goods and software covered by any such record or records and all proceeds (in any form including, without limitation, accounts, contract rights, documents, chattel paper, instruments, and general intangibles) of such returned, rejected, or repossessed goods; and all proceeds (cash proceeds and noncash proceeds) of the foregoing.

**Contracts** has the meaning given to such term in the Loan Agreement.

**Deposit Accounts** has the meaning given such term in the UCC.

**Equipment** has the meaning given such term in the UCC, and includes, without limitation, all equipment, machinery, furniture, furnishings, tools, spare parts, materials, supplies, store fixtures, leasehold improvements, all other goods (including embedded software to the extent provided for in Article 9 of the UCC) of every kind and nature (other than Inventory and Fixtures) and all "equipment" as defined in Article 9 of the UCC and all renewals and replacements thereof and substitutions therefor.

**Fixtures** means all property which is now or hereafter so attached to the Land or the Improvements as to constitute a fixture under applicable law and all renewals and replacements thereof and substitutions therefor.

**General Intangibles** has the meaning given such term in the UCC, and includes, without limitation, all intangible personal property of Grantor arising out of or connected with the Land or Improvements and all renewals and replacements thereof and substitutions therefor (other than Accounts, Rents, Instruments, Inventory, Money and, Permits), including, without limitation, contract rights and other rights to payments of Money, commercial tort claims, other claims (including without limitation all claims for income tax and other refunds), payment intangibles, and Supporting Obligations.

**Hazardous Materials** means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (“PCBs”) and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials in any form that is or could become friable; underground storage tanks, whether empty or containing any substance; any substance the presence of which on the Land and/or the Improvements is prohibited by any federal, state, or local authority; any substance that requires special handling; and any other material or substance now or in the future defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “contaminant,” or “pollutant” within the meaning of any Hazardous Materials Law.

**Hazardous Materials Laws** means all federal, state, and local laws, ordinances, and regulations and standards, rules, policies, and other governmental requirements, administrative rulings and court judgments and decrees in effect now or in the future and including all amendments, that relate to Hazardous Materials and apply to Grantor or to the Land and/or the Improvements. Hazardous Materials Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. Section 11001 et seq., and their state analogs.

**Improvements** means all buildings, structures, and improvements of every nature whatsoever now or hereafter situated on the Land, including but not limited to, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatuses which are or shall be attached to the Land or said buildings, structures or improvements.

**Instruments** has the meaning given such term in the UCC, and includes, without limitation, all instruments, Chattel Paper, documents, or other writings obtained by Grantor from or in connection with the operation of the Mortgaged Property or the operation of the Land (including without limitation, all ledger sheets, computer records and printouts, data bases, programs, books of account, software, trademarks or trade names, utility contracts, maintenance and service contracts, and files of Grantor relating thereto).

**Inventory** has the meaning given such term in the UCC, and includes, without limitation, all inventory from time to time used on the Land and owned by Grantor.

**Land** means the land described in Exhibit “A” attached hereto and made a part hereof.

**Leases** has the meaning given to such term in the Loan Agreement.

**Loan Obligations** has the meaning given to such term in the Loan Agreement, and includes, without limitation, all Swap Obligations (as defined in the Loan Agreement) and

obligations pursuant to any Interest Rate Protection Agreement (as defined in the Loan Agreement).

**Money** has the meaning given to such term in the UCC.

**Mortgaged Property** means all of Grantor's present and future right, title and interest in and to all of the following identified collateral relating or pertaining to the Land and the Improvements thereon, provided that if any of the following capitalized terms are defined in the UCC, each such term shall have the meaning given such term in the UCC and shall include, without limitation, the additional items set forth in this Deed of Trust with respect to such term:

- (a) the Land;
- (b) all Appurtenant Rights;
- (c) all Equipment;
- (d) all Improvements;
- (e) all Fixtures;
- (f) all Accounts;
- (g) all Deposit Accounts;
- (h) all Contracts;
- (i) all General Intangibles;
- (j) all Permits (to the extent assignable);
- (k) all Instruments;
- (l) all Inventory;
- (m) all Rents;
- (n) all Personalty;
- (o) all Leases;
- (p) all Chattel Paper;
- (q) all Supporting Obligations;
- (r) all Proceeds;

(s) all contracts, options and other agreements for the sale of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property entered into by Grantor now or in the future, including cash or securities deposited to secure performance by parties of their obligations; and

(t) all renewals, replacements, and Proceeds of any of the foregoing and any substitutions therefor, whether now owned or hereafter acquired, and including replacements, additions, accessions, substitutions, and products, and all other property which is or hereafter may become subject to a lien in favor of Beneficiary as security for any of the Loan Obligations.

**Permits** means all licenses, permits, certificates, approvals, authorizations, and registrations obtained from any governmental or quasi-governmental authority and used or useful in connection with the ownership, operation, use, or occupancy of the Land, including, without limitation, business licenses, state health department licenses, food service licenses, licenses to conduct business, liquor licenses and all such other permits, licenses and rights.

**Permitted Encumbrances** has the meaning given to that term in the Loan Agreement.

**Personalty** means all Equipment, Inventory, or General Intangibles which are used now or in the future in connection with the ownership, management or operation of the Land or the Improvements or are located on the Land or in the Improvements, including furniture, furnishings, machinery, building materials, appliances, goods, supplies, tools, books, records (whether in written or electronic form), computer equipment (hardware and software) and other tangible personal property (other than Fixtures) which are used now or in the future in connection with the ownership, management or operation of the Land or the Improvements or are located on the Land or in the Improvements, and any operating agreements relating to the Land or the Improvements, and any surveys, plans and specifications and contracts for architectural, engineering, and construction services relating to the Land or the Improvements and all other intangible property and rights relating to the operation of, or used in connection with, the Land or the Improvements, including all governmental Permits relating to any activities on the Land.

**Proceeds** means all awards, payments, earnings, royalties, issues, profits, liquidated claims, and proceeds (including proceeds of insurance and condemnation and any conveyance in lieu thereof), whether cash or noncash, moveable or immovable, tangible or intangible, from the sale, conversion (whether voluntary or involuntary), exchange, transfer, collection, loss, damage, condemnation, disposition, substitution, or replacement of any of the Mortgaged Property.

**Rents** means all rents, avails, issues, profits, and other payments of whatever nature from time to time payable pursuant to the Leases, whether written or verbal, or any letting of, or any other agreement for the use or occupancy of the Mortgaged Property.

**Supporting Obligation** has the meaning given such term in the UCC, and includes, without limitation, a letter-of-credit right, secondary obligation, or obligation of a secondary obligor, or secondary obligation that supports the payment or performance of an Account, Chattel Paper, a document, a General Intangible, or an Instrument.

**Taxes** means all taxes, assessments, vault rentals, and other charges, if any, general, special or otherwise, including all assessments for schools, public betterments and general or local improvements, which are levied, assessed or imposed by any public authority or quasi-public authority, and which, if not paid, will become a lien, on the Land or the Improvements.

**UCC** has the meaning given to that term in Section 2.

**UCC Collateral** has the meaning given to that term in Section 2.

2. **UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.** This Deed of Trust is also a security agreement under the Uniform Commercial Code as in effect from time to time in the State of Utah and the State of Delaware, as applicable (the “UCC”) for any of the Mortgaged Property which, under applicable law, may be subject to a security interest under the UCC, whether acquired now or in the future, and all products and cash and non-cash Proceeds thereof (collectively, the “UCC Collateral”), and, as collateral and security for the Loan Obligations and the Other Indebtedness, Grantor hereby grants to Beneficiary a security interest in the UCC Collateral. Grantor hereby authorizes Beneficiary to file financing statements, continuation statements, and financing statement amendments, in such form as Beneficiary may reasonably require to perfect or continue the perfection of this security interest and Grantor agrees, if Beneficiary so requests in writing, to execute and deliver to Beneficiary such financing statements, continuation statements and amendments. Grantor shall pay all filing costs and all reasonable out-of-pocket costs and expenses of any record searches for financing statements that Beneficiary may reasonably require. Without the prior express written consent of Beneficiary, Grantor shall not create or permit to exist any other lien or security interest in any of the UCC Collateral, unless otherwise permitted under the Loan Documents. If an Event of Default has occurred and is continuing, Beneficiary shall have the remedies of a secured party under the UCC, in addition to all remedies provided by this Deed of Trust or existing under applicable law. In exercising any remedies, Beneficiary may exercise its remedies against the UCC Collateral separately or together and in any order, without in any way affecting the availability of Beneficiary’s other remedies hereunder and/or under applicable law. The terms “sign,” “signed,” and “signatures” shall have their ordinary meanings except that, to the limited extent Beneficiary in an authenticated record expressly agrees otherwise from time to time in the exercise of its sole and absolute discretion, the terms may also include other methods used to authenticate. Without implying any limitation on the foregoing, with respect to the UCC Collateral that may be perfected by control, Grantor shall take such steps as Beneficiary may reasonably require in order that Beneficiary may have such control. To the extent that the proceeds of any of the Accounts are expected to become subject to the control of, or in the possession of, a party other than Grantor or Beneficiary, Grantor shall cause all such parties to execute and deliver on the date of this Deed of Trust and from time to time hereafter security documents, financing statements, or other documents as reasonably requested by Beneficiary and as may be reasonably necessary to evidence and/or perfect the security interest of Beneficiary in those proceeds. Grantor agrees that a copy of a fully executed security agreement and/or financing statement shall be sufficient to satisfy for all purposes the requirements of a financing statement as set forth in Article 9 of the UCC. Grantor hereby irrevocably appoints Beneficiary as Grantor’s attorney-in-fact, with power of substitution, in the name of Beneficiary or in the

name of Grantor or otherwise, for the use and benefit of Beneficiary during the continuance of an Event of Default, but at the cost and expense of Grantor and with notice to Grantor, to execute and deliver any and all of the instruments and other documents and take any action which Beneficiary may reasonably require pursuant the foregoing provisions of this Section. Further, to the extent permitted by applicable laws, Beneficiary may file, without Grantor's signature, one or more financing statements or other notices disclosing Beneficiary's liens and other security interests. All financing statements and notices may describe Beneficiary's collateral as all assets or all personal property of Grantor.

3. **LEASES.** Grantor shall not, without the prior express written consent and approval of Beneficiary, enter into any Lease or enter into or permit any management agreement of or affecting any part of the Mortgaged Property or any assignments, terminations, amendments, extensions, or modifications of the foregoing except as otherwise permitted in accordance with the Loan Agreement.

4. **INTENTIONALLY OMITTED.**

5. **APPLICATION OF PAYMENTS.** Except as otherwise provided herein or in any other Loan Document with respect to the application of insurance proceeds or otherwise, if at any time Beneficiary receives, from Grantor or otherwise, any amount applicable to the Loan Obligations which is less than all amounts due and payable at such time, then Beneficiary may apply that payment to amounts then due and payable in the manner set forth in the Loan Agreement. Notwithstanding the application of any such amount to the Loan Obligations, Grantor's obligations under this Deed of Trust and the Loan Agreement shall remain unchanged.

6. **USE OF PROPERTY.** Unless required by applicable law, Grantor shall not (a) except for any change in use approved by Beneficiary, allow material changes in the use for which all or any part of the Mortgaged Property is being contemplated to be used at the time this Deed of Trust was executed, or (b) initiate or acquiesce in a change in the zoning classification of the Land, except, in each case, to the extent permitted pursuant to the Loan Agreement.

7. **PROTECTION OF BENEFICIARY'S SECURITY.**

(a) During the continuance of an Event of Default, at Beneficiary's option and upon written notice to Grantor where feasible, Beneficiary may make such appearances, disburse such sums and take such actions as Beneficiary reasonably deems necessary to perform such obligations of Grantor and to protect Beneficiary's interest, including (i) disbursement of reasonable fees and out-of-pocket expenses of attorneys, accountants, inspectors, and consultants, (ii) subject to the rights of Tenants under Leases, entry upon the Mortgaged Property to make repairs or secure the Mortgaged Property, (iii) procurement of the insurance coverages required under the Loan Agreement, and (iv) payment of amounts which Grantor has failed to pay under Section 9.

(b) Any amounts disbursed by Beneficiary under this Section 7, or under any other provision of this Deed of Trust, or under any of the other Loan Documents, that treats such disbursement as being made under this Section 7, shall be added to and become part of the Loan



Obligations, shall be due and payable upon ten (10) business days' written notice to Grantor, and shall bear interest from the date of such notice until paid at the Default Rate.

(c) Nothing in this Section 7 shall require Beneficiary to incur any expense or take any action.

8. **INSPECTION.** Subject to the rights of Tenants under Leases and the terms of the Loan Agreement, Beneficiary, its agents, representatives, and designees may make or cause to be made entries upon and inspections of the Mortgaged Property during normal business hours upon reasonable advance written notice to Grantor except in an emergency, in which case no written notice is required.

9. **TAXES; OPERATING EXPENSES.**

(a) Subject to the provisions of the Loan Agreement, Grantor shall pay, or cause to be paid, all Taxes prior to delinquency.

(b) Subject to the provisions of the Loan Agreement, Grantor shall pay or cause to be paid the expenses of operating, managing, maintaining, and repairing the Mortgaged Property (including insurance premiums, utilities, repairs, and replacements) before the last date upon which each such payment may be made without any penalty or interest charge being added or lien imposed.

(c) In the event of the passage of any law subsequent to the date of this Deed of Trust in any manner changing or modifying the laws now in force governing the taxation of deeds of trust or mortgages or debts secured by deeds of trust or mortgages or the manner of collecting any such taxes so as to materially and adversely affect Beneficiary's security in the Mortgaged Property (including, without limitation, a requirement that internal revenue stamps be affixed to this Deed of Trust or any of the other Loan Documents), Grantor will promptly pay any such tax to the extent permitted. In no event, however, shall any income taxes of Beneficiary or franchise taxes of Beneficiary measured by income, or taxes in lieu of such income taxes or franchise taxes, be required to be paid by Grantor.

10. **INTENTIONALLY OMITTED.**

11. **PRESERVATION, MANAGEMENT, AND MAINTENANCE OF MORTGAGED PROPERTY.** Grantor (a) shall not commit intentional material physical waste of the Mortgaged Property, (b) shall not abandon the Mortgaged Property, (c) shall restore or repair the Mortgaged Property in accordance with the Loan Agreement, and (d) shall keep the Mortgaged Property in good repair, including the replacement of Personalty and Fixtures in the ordinary course of operating the Mortgaged Property. Grantor shall not (and shall not permit any other person to) remove, demolish, or materially alter the Mortgaged Property or any material part of the Mortgaged Property except as permitted by the Loan Agreement and in connection with the replacement of tangible Personalty.

12. **INTENTIONALLY OMITTED.**

13. **INTENTIONALLY OMITTED.**

14. **EVENTS OF DEFAULT.** The occurrence of an Event of Default under the Loan Agreement or any of the other Loan Documents shall constitute an Event of Default hereunder.

15. **REMEDIES.**

(a) Acceleration of Maturity. If an Event of Default shall have occurred, then the entire Loan Obligations shall, at the option of Beneficiary, immediately become due and payable upon notice or demand in accordance with the Loan Agreement, time being of the essence of this Deed of Trust, and no omission on the part of Beneficiary to exercise such option when entitled to do so shall be construed as a waiver of such right.

(b) Uniform Commercial Code. Beneficiary shall have all of the rights and remedies of a secured party under the UCC. Upon written demand by Beneficiary and upon the occurrence and during the continuance of an Event of Default, Grantor shall assemble the UCC Collateral and make it available to Beneficiary, at a place designated by Beneficiary or Trustee. Beneficiary or its agents may, upon notice and subject to the rights of Tenants under Leases, from time to time enter upon the Mortgaged Property to take possession of the UCC Collateral, to remove it, to render it unusable, to process it or otherwise prepare it for sale, or to sell or otherwise dispose of it.

Any written notice of the sale, disposition or other intended action by Beneficiary with respect to the UCC Collateral which is sent by regular mail, postage prepaid, to Grantor at the address of Grantor which may from time to time be shown on Beneficiary's records, at least ten (10) days prior to such sale, disposition or other action, shall constitute commercially reasonable notice to Grantor. Beneficiary may alternatively or additionally give such notice in any other commercially reasonable manner. Nothing in this Deed of Trust shall require Beneficiary to give any notice not required by applicable laws.

If any consent, approval, or authorization of any state, municipal, or other governmental department, agency, or authority or of any person, or any person, corporation, partnership, or other entity having any interest therein, should be necessary to effectuate any sale or other disposition of the UCC Collateral, Grantor agrees to execute all such applications and other instruments, and to take all other action, as may be required in connection with securing any such consent, approval or authorization upon the occurrence and during the continuance of an Event of Default.

Grantor recognizes that Beneficiary may be unable to effect a public sale of all or a part of the UCC Collateral consisting of securities by reason of certain prohibitions contained in the Securities Act of 1933, as amended, and other applicable federal and state laws. Beneficiary may, therefore, in its discretion and during the continuance of an Event of Default, take such steps as it may deem appropriate to comply with such laws and may, for example, at any sale of the UCC Collateral consisting of securities restrict the prospective bidders or purchasers as to their number, nature of business and investment intention, including, without limitation, a requirement that the Persons making such purchases represent and agree to the satisfaction of Beneficiary that they are purchasing such securities for their account, for investment, and not with a view to the distribution or resale of any thereof. Upon any such sale or disposition,

Beneficiary shall have the right to deliver, assign and transfer to the purchaser thereof the UCC Collateral consisting of securities so sold.

(c) Right to Enter and Take Possession.

(i) If an Event of Default shall have occurred and be continuing, Grantor, upon written demand by Beneficiary, shall forthwith surrender to Beneficiary the actual possession of the Mortgaged Property and, if and to the extent permitted by law, Beneficiary itself, or by such officers or agents as it may appoint, may enter (subject to the rights of Tenants under Leases) and take possession of all or any part of the Mortgaged Property without the appointment of a receiver or an application therefor, and may exclude Grantor and its agents and employees wholly therefrom, and take possession of the books, papers, and accounts of Grantor relating thereto;

(ii) If Grantor shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after such demand by Beneficiary, Beneficiary may obtain a judgment or decree conferring upon Beneficiary the right to immediate possession or requiring Grantor to deliver immediate possession of the Mortgaged Property to Beneficiary. Grantor shall pay to Beneficiary, upon demand, all out-of-pocket expenses of obtaining such judgment or decree, including reasonable attorneys' fees and other out-of-pocket costs and expenses actually incurred by Beneficiary, its attorneys and agents, and all such expenses and costs shall, until paid, become part of the Loan Obligations and shall be secured by this Deed of Trust;

(iii) Upon every such entering or taking of possession, Beneficiary may, without relieving Grantor from any obligations under the Loan Documents, hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof, and, from time to time (A) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional necessary and proper Fixtures, Personalty and Equipment; (B) insure or keep the Mortgaged Property insured; (C) manage and operate the Mortgaged Property and exercise all of the rights and powers of Grantor to the same extent as Grantor could in its own name; and/or (D) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Beneficiary, all as Beneficiary from time to time may reasonably determine to be in its best interest. Beneficiary may collect and receive all the Rents, including those past due as well as those accruing thereafter. Anything in this paragraph to the contrary notwithstanding, Beneficiary shall not be obligated to discharge or perform the duties of a landlord to any tenant or incur any liability as a result of any exercise by Beneficiary of its rights under this Deed of Trust, and Beneficiary shall be liable to account only for the rents, incomes, issues and profits actually received by Beneficiary;

(iv) If an Event of Default shall exist and be continuing, Beneficiary may require that Grantor cause all of its Accounts (including without limitation, the Rents) to be paid to one or more deposit accounts with Beneficiary, or at Beneficiary's option, with another financial institution approved by Beneficiary. Grantor assigns and grants to Beneficiary a security interest in, pledge of and right of setoff against all

moneys from time to time held in such deposit accounts, to the extent permitted by applicable law. Grantor agrees to promptly notify all of its account debtors to make payments to one or more such deposit accounts upon Beneficiary's written request and as designated by Beneficiary, and Grantor agrees to provide any necessary endorsements to checks, drafts and other forms of payment so that such payments will be properly deposited in such accounts. Beneficiary may cause moneys to be withdrawn from such deposit accounts and applied to the Loan Obligations in such order as Beneficiary may elect, whether or not then due. Grantor appoints Beneficiary as Grantor's attorney-in-fact, which appointment is coupled with an interest and is irrevocable, to provide any notice, endorse any check, draft or other payment for deposit, or take any other action which Grantor agrees to undertake in accordance with this Section. Beneficiary shall not be liable for failure to collect or to enforce any Accounts or for any action or omission on the part of Beneficiary, its officers, agents, and employees in collecting or enforcing such Accounts; and

(v) Whenever all the Loan Obligations shall have been paid and all Events of Default shall have been cured, Beneficiary shall surrender possession of the Mortgaged Property to Grantor, its successors and/or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

(d) Performance by Beneficiary. Upon the occurrence and during the continuance of an Event of Default, Beneficiary may, at its sole option, pay, perform or observe the same, and all payments made or out-of-pocket costs or expenses actually incurred by Beneficiary in connection therewith, including reasonable attorneys' fees, with interest thereon at the Default Rate or at the maximum rate from time to time allowed by applicable law, whichever is less, shall be secured hereby and shall be repaid by Grantor to Beneficiary upon ten (10) days' written notice to Grantor.

(e) Receiver. If any Event of Default shall have occurred and be continuing, Beneficiary, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right, without notice and without regard to the sufficiency or value of any security for the Loan Obligations or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Mortgaged Property and to collect and apply the Rents. The receiver shall have all the rights and powers permitted under the laws of the State of Utah. Grantor will pay unto Beneficiary within ten (10) days upon written request all out-of-pocket expenses, including receiver's fees, reasonable attorneys' fees, costs and agent's compensation, actually incurred pursuant to the provisions of this Section, and upon any Grantor's failure to pay the same, any such amounts shall be added to the Loan Obligations and shall be secured by this Deed of Trust.

(f) Beneficiary's Power of Enforcement. If an Event of Default shall have occurred and be continuing, Beneficiary may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law in equity or any other appropriate proceeding or remedy (i) to enforce payment of the Loan or the performance of any term thereof or any other right, (ii) to foreclose this Deed of Trust and to sell, as an entirety or in separate lots or parcels, the Mortgaged Property, as provided by applicable law, and (iii) to

pursue any other remedy available to it, including a sale by power of sale, to the extent applicable as may be permitted by law, all as Beneficiary shall deem most effectual for such purposes. Beneficiary shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Beneficiary may determine.

(g) Exercise of Power of Sale. If an Event of Default shall have occurred and be continuing, Trustee, or the agent or successor of Trustee, at the request of Beneficiary, shall sell the Mortgaged Property or any part of the Mortgaged Property at one or more public sales in any county in which the Land or any part of the Land is situated, to the highest bidder for cash (or credit upon the Loan Obligations and Other Indebtedness if Beneficiary is the successful bidder), and in bar of the right of redemption (statutory or otherwise), the equity of redemption, homestead, dower, elective or distributive share, any right of appraisal or valuation and all other rights and exemptions of every kind, all of which are hereby expressly waived, in order to pay the Loan Obligations and Other Indebtedness all expenses of sale and of all proceedings in connection therewith, including reasonable attorney's fees. If the power of sale is invoked, Trustee shall execute a written notice of the occurrence of an Event of Default and of Beneficiary's election to cause the Mortgaged Property to be sold and shall record such notice in each county in which the Mortgaged Property is located. Beneficiary or Trustee shall mail notice of default in the manner provided by the laws of the State of Utah to Grantor and to such other persons as the laws of the State of Utah prescribe. Trustee shall give public notice of sale and shall sell the Mortgaged Property according to the laws of the State of Utah. Grantor acknowledges that the power of sale granted in this Deed of Trust may be exercised by Beneficiary without prior judicial hearing. Trustee may sell the Mortgaged Property at the time and place and under the terms designated in the notice of sale in one or more parcels. Trustee may postpone sale of all or any part of the Mortgaged Property by public announcement at the time and place of any previously scheduled sale. Beneficiary or Beneficiary's designee may purchase the Mortgaged Property at any sale. Trustee shall deliver to the purchaser at the sale, within a reasonable time after the sale, a deed conveying the Mortgaged Property so sold without any covenant or warranty, express or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all costs and expenses of the sale, including Trustee's fees not to exceed 5% of the gross sales price, attorneys' fees and costs of title evidence; (b) to the Loan Obligations in such order as Beneficiary, in Beneficiary's discretion, directs; and (c) the excess, if any, to the person or persons legally entitled thereto or to the county clerk of the county in which the sale took place. In the event of any sale under this Deed of Trust by virtue of the exercise of the powers herein granted, or pursuant to any order in any judicial proceedings or otherwise, the Mortgaged Property may be sold as an entirety or in separate parcels at one or more separate sales and in such manner or order as Beneficiary in its sole discretion may elect, and if Beneficiary so elects, Trustee or Beneficiary may sell the personal property covered by this Deed of Trust at one or more separate sales in any manner permitted by the Uniform Commercial Code of the state in which the Land is located, and one or more exercises of the powers herein granted shall not extinguish or exhaust such powers, until the entire Mortgaged Property is sold or the Loan Obligations and the Other Indebtedness are paid in full. If the Loan Obligations and the Other Indebtedness are now or hereafter further secured by any chattel mortgages pledges, contracts of guaranty, assignments of lease or other security instruments, Beneficiary at its option may exhaust the remedies granted under any of said security instruments

or this Deed of Trust either concurrently or independently, and in such order as Beneficiary may determine.

(h) Purchase by Beneficiary. Upon any foreclosure sale, Beneficiary may bid for and purchase the Mortgaged Property and shall be entitled to apply all or any part of the Loan Obligations as a credit to the purchase price.

(i) Application of Proceeds. Beneficiary shall apply the proceeds of any foreclosure sale of, or other disposition or realization upon, or Rents or profits from, the Mortgaged Property to satisfy the Loan Obligations in such order of application as the Beneficiary shall determine in its sole and absolute discretion.

(j) Grantor as Tenant Holding Over. In the event of any such foreclosure sale, Grantor (if Grantor shall remain in possession) shall be deemed a tenant holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or be summarily dispossessed according to provisions of law applicable thereto.

(k) Waiver of Appraisal, Valuation, Etc. Grantor agrees, to the full extent permitted by law, that in case of the continuance of an Event of Default on the part of Grantor hereunder, neither Grantor nor anyone claiming through or under Grantor will assert, claim or seek to take advantage of any appraisal, redemption, valuation, stay, homestead, extension, exemption or laws now or hereafter in force, in order to prevent or hinder the enforcement of foreclosure of this Deed of Trust, or the absolute sale of the Mortgaged Property, or the delivery of possession thereof immediately after such sale to the purchaser at such sale.

(l) Discontinuance of Proceedings. In case Beneficiary shall have proceeded to enforce any right, power or remedy under this Deed of Trust by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Beneficiary, then in every such case, Grantor and Beneficiary shall be restored to their former positions and rights hereunder, and all rights, powers, and remedies of Beneficiary shall continue as if no such proceedings had occurred.

(m) Waiver.

(i) No delay or omission by Beneficiary or by any holder of the Note to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein, and every right, power and remedy given by this Deed of Trust to Beneficiary may be exercised from time to time and as often as may be deemed expedient by Beneficiary. No consent or waiver expressed or implied by Beneficiary to or of any breach or default by Grantor in the performance of the obligations of Grantor hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of the same or any other obligations of Grantor hereunder. Failure on the part of Beneficiary to complain of any act or failure to act or failure to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Beneficiary of its rights hereunder or impair any rights, powers or remedies of Beneficiary hereunder.

(ii) No act or omission by Beneficiary shall release, discharge, modify, change or otherwise affect the original liability under the Note, this Deed of Trust, the other Loan Documents or any other obligation of Grantor or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor, nor preclude Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then existing or of any subsequent default, nor alter the lien of this Deed of Trust, except as expressly provided in an instrument or instruments executed by Beneficiary. Without limiting the generality of the foregoing, Beneficiary may (A) grant forbearance or an extension of time for the payment of all or any portion of the Loan Obligations; (B) take other or additional security for the payment of any of the Loan Obligations; (C) waive or fail to exercise any right granted herein, in the Note or in other Loan Documents; (D) release any part of the Mortgaged Property from the security interest or lien of this Deed of Trust or otherwise change any of the terms, covenants, conditions or agreements of the Note, this Deed of Trust or other Loan Documents; (E) consent to the filing of any map, plat or replat affecting the Land; (F) consent to the granting of any easement or other right affecting the Mortgaged Property; (G) make or consent to any agreement subordinating the security title or lien hereof, or (H) take or omit to take any action whatsoever with respect to the Note, this Deed of Trust, the other Loan Documents, the Mortgaged Property or any document or instrument evidencing, securing or in any way related to the Deed of Trust, all without releasing, discharging, modifying, changing or affecting any such liability, or precluding Beneficiary from exercising any such right, power or privilege with respect to the lien of this Deed of Trust. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, Beneficiary, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with respect to the Mortgaged Property or the Loan Obligations, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings of Grantor, any guarantor of the Loan Obligations or others.

(iii) To the fullest extent permitted by applicable law, Grantor waives and relinquishes any and all rights it may have, whether at law or equity, to require Beneficiary to proceed to enforce or exercise any rights, powers and remedies it may have under the Loan Documents in any particular manner or in any particular order. To the fullest extent permitted by applicable law, Grantor expressly waives and relinquishes any and all rights and remedies that Grantor may have or be able to assert by reason of the laws of the state of jurisdiction pertaining to the rights and remedies of sureties.

Grantor makes these arrangements, waivers, and relinquishments knowingly and as a material inducement to Beneficiary in making the Loan, after consulting with and considering the advice of independent legal counsel selected by Grantor.

(n) Suits to Protect the Mortgaged Property. During the continuance of an Event of Default, Beneficiary shall have power to institute and maintain such suits and proceedings as it may deem expedient (i) to prevent any impairment of the Mortgaged Property by any acts which constitute an Event of Default under this Deed of Trust; (ii) to preserve or

protect its interest in the Mortgaged Property and in the Rents arising therefrom; and (iii) 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 materially and adversely impair the security hereunder or be prejudicial to the interest of Beneficiary.

(o) Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition, or other proceedings affecting Grantor, its creditors or its properties, Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be reasonably necessary in order to have the claims of Beneficiary allowed in such proceedings for the entire amount due and payable by Grantor under this Deed of Trust at the date of the institution of such proceedings and for any additional amount which may become due and payable by Grantor hereunder after such date.

(p) Actions Without Grantor's Consent. Grantor agrees that Beneficiary may do any one or all of the following without notice to or the consent of Grantor and without affecting Beneficiary's rights or remedies against Grantor to the extent permitted by applicable law: (i) accept partial payment of, compromise, settle, renew, extend the time for payment or performance of, or refuse to enforce any of the Loan Obligations to Beneficiary under or in connection with this Deed of Trust or any of the other Loan Documents; (ii) grant any indulgence or forbearance to Borrower, Guarantor or any other Person under or in connection with any or all of the Loan Documents; (iii) release, waive, substitute, or add any or all collateral securing payment of any or all of the Loan Obligations; (iv) release, substitute or add any one or more endorsers or guarantors of any or all of the Loan Obligations; and (v) exercise any right or remedy with respect to the Loan Obligations or any collateral securing the Loan Obligations, notwithstanding any effect on or impairment of Grantor's subrogation, reimbursement, or other rights against Guarantor or any other Person under or in connection with any or all of the Loan Documents.

16. **REMEDIES CUMULATIVE.** Each right and remedy provided in this Deed of Trust is distinct from all other rights or remedies under this Deed of Trust or any other Loan Document or afforded by applicable law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order.

17. **FORBEARANCE.**

(a) Beneficiary may agree with Borrower, from time to time, at Beneficiary's option and without giving notice to, or obtaining the consent of, or having any effect upon the obligations of any guarantor or other third party obligor, extend the time for payment of all or any part of the Loan Obligations, reduce the payments due under this Deed of Trust, the Loan Agreement, or any other Loan Document, release anyone liable for the payment of any amounts under this Deed of Trust, the Loan Agreement, or any other Loan Document, accept a renewal of the Loan Agreement, modify the terms and time of payment of the Loan Obligations, join in any extension or subordination agreement, release any Mortgaged Property, take or release other or additional security, modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable under the Loan Agreement, or otherwise modify this



Deed of Trust, the Loan Agreement, or any other Loan Document to the extent Grantor's obligations and liabilities hereunder are not increased.

(b) Any forbearance by Beneficiary in exercising any right or remedy under the Loan Agreement, this Deed of Trust, the Guaranty Agreement, or any other Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Beneficiary of payment of all or any part of the Loan Obligations after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Beneficiary's right to require prompt payment when due of all other payments on account of the Loan Obligations or to exercise any remedies for any failure to make prompt payment. Enforcement by Beneficiary of any security for the Loan Obligations shall not constitute an election by Beneficiary of remedies so as to preclude the exercise of any other right available to Beneficiary. Beneficiary's receipt of any insurance and/or condemnation proceeds shall not operate to cure or waive any Event of Default.

18. **LOAN CHARGES.** If any applicable law limiting the amount of interest or other loan charges permitted to be collected from Borrower is interpreted so that any charge provided for in any Loan Document, whether considered separately or together with other charges levied in connection with any other Loan Document, violates that law, and Borrower is entitled to the benefit of that law, that charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Beneficiary in excess of the permitted amounts shall be applied by Beneficiary to reduce the principal of the Loan Obligations. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all Loan Obligations which constitute interest, as well as all other charges levied in connection with the Loan Obligations which constitute interest, shall be deemed to be allocated and spread over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of the Note.

19. **ASSIGNMENT OF LEASES.**

(a) Grantor, in consideration of Beneficiary's making the Loan as aforesaid and for other good and valuable consideration, and to secure the prompt payment of same, with the interest thereon, and any extensions, renewals, modifications and refinancings of same, and any charges herein incurred by Beneficiary on account of Grantor, including but not limited to reasonable attorneys' fees, and any and all Other Indebtedness, and further to secure the performance of the covenants, conditions and agreements herein and set forth in the Loan Agreement, in the other Loan Documents, does hereby sell, assign and transfer unto Beneficiary all of its right, title and interest in and to the Leases of or relating to all or part of the Mortgaged Property, whether now existing or hereafter created or arising, and all the Rents now due and which may hereafter become due under or by virtue of any such Lease, whether written or verbal, or any letting of, or of any agreement for the use or occupancy of the Mortgaged Property or any part thereof, which may have been heretofore or may be hereafter made or agreed to or which may be made or agreed to by Beneficiary under the powers herein granted, it being the intention of the parties to hereby establish a transfer and assignment of all the said Leases and Rents to Beneficiary, and, during the continuance of an

Event of Default, Grantor does appoint Beneficiary its true and lawful attorney in its name and stead (upon taking possession of the aforesaid Mortgaged Property as hereinafter provided), to rent, lease or let all or any portion of the Mortgaged Property to any party or parties at such rental and upon such terms, in its discretion as it may determine, and to collect all of said Rents arising from or accruing at any time hereafter, and all now due, or that may hereafter become due under each and all of the Leases or other tenancy existing or which may hereafter exist on the Mortgaged Property, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Beneficiary would have upon taking possession of the Mortgaged Property pursuant to the provisions hereinafter set forth. Nothing herein contained shall be construed as constituting Beneficiary as "mortgagee in possession" in the absence of the taking of actual possession of the Mortgaged Property by Beneficiary pursuant to the provisions herein contained. In the exercise of the powers herein granted Beneficiary, no liability shall be asserted or enforced against Beneficiary, all such liability being expressly waived and released by Grantor.

(b) It is the intention of the parties that this assignment of Rents and Leases shall be a present assignment; however, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Grantor shall have the right to collect the Rents so long as there exists no continuing Event of Default, and provided further, that Grantor's right to collect such Rents shall terminate and cease automatically upon the occurrence and during the continuance of any such Event of Default.

(c) Beneficiary shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any Leases relating to the Mortgaged Property, and Grantor shall and does hereby agree to indemnify and hold Beneficiary harmless of and from any actual liability, loss or damage which it incurs under any Leases or under or by reason of the assignment thereof and of and from any and all actual claims and demands whatsoever asserted against it by reason of any actual obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said Leases; provided, that Grantor shall not be obligated to indemnify Beneficiary with respect to any such liability, loss or damages arising out of the gross negligence or willful misconduct of Beneficiary or its agents as determined by a final, non-appealable order of a court with valid jurisdiction. Should Beneficiary incur any such actual liability, loss or damage, under said Leases or under or by reason of the assignment thereof, or in the defense of any actual claims or demands against Beneficiary in connection with any one or more of said Leases, Grantor agrees to reimburse Beneficiary for the amount thereof, including out-of-pocket costs, expenses and reasonable attorneys' fees within ten (10) Business Days of written demand therefor, and until the same are fully reimbursed by Grantor, all such costs, expenses and attorneys' fees shall be secured by the assignment hereunder and by this Deed of Trust.

(d) Grantor does further specifically authorize and instruct each and every present and future lessee, tenant, lease guarantor, sublessee or subtenant of the whole or any part of the Mortgaged Property to pay all unpaid rental agreed upon in any Lease or tenancy to Beneficiary, upon receipt of written demand from said Beneficiary to pay the same during the continuance of an Event of Default.

(e) Upon the occurrence and during the continuance of any Event of Default, then, in addition to the right to demand and collect directly from tenants or lease guarantors Rents accruing from Leases of the Mortgaged Property, Beneficiary shall have all rights and remedies provided by this Deed of Trust or existing under applicable law.

20. **WAIVER OF STATUTE OF LIMITATIONS.** To the fullest extent permitted by applicable law, Grantor hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Deed of Trust or to any action brought to enforce any Loan Document.

21. **WAIVER OF MARSHALLING.** Notwithstanding the existence of any other security interests in the Mortgaged Property held by Beneficiary or by any other party, Beneficiary shall have the right to determine the order in which any or all of the Mortgaged Property shall be subjected to the remedies provided in this Deed of Trust, the Note, the Loan Agreement, any other Loan Document or under applicable law. Beneficiary shall have the right to determine the order in which any or all portions of the Loan Obligations are satisfied from the proceeds realized upon the exercise of such remedies. Grantor and any party who now or in the future acquires a security interest in the Mortgaged Property and who has actual or constructive notice of this Deed of Trust waives any and all right to require the marshalling of assets or to require that any of the Mortgaged Property be sold in the inverse order of alienation or that any of the Mortgaged Property be sold in parcels or as an entirety in connection with the exercise of any of the remedies permitted by applicable law or provided in this Deed of Trust.

22. **INTENTIONALLY OMITTED.**

23. **ESTOPPEL CERTIFICATE.** Within thirty (30) days after written request from Beneficiary, Grantor shall deliver to Beneficiary a written statement, signed by Grantor, certifying to Beneficiary or any person designated by Beneficiary, as of the date of such statement, to its actual knowledge (a) that the Loan Documents are unmodified and in full force and effect (or, if there have been modifications, that the Loan Documents are in full force and effect as modified and setting forth such modifications); (b) the unpaid principal balance of the Note; (c) the date to which interest under the Note has been paid; (d) there is no continuing Event of Default with respect to this Deed of Trust or any of the other Loan Documents (or, if there is an Event of Default, describing such default in reasonable detail); and (e) whether or not there are then existing any setoffs or defenses known to Grantor against the enforcement of any right or remedy of Beneficiary under the Loan Documents.

24. **GOVERNING LAW; CONSENT TO JURISDICTION AND VENUE.**

(a) This Deed of Trust, and any Loan Document which does not itself expressly identify the law that is to apply to it, shall be governed by the internal laws of the State of New York (without regard to conflict of law principles), except as required by mandatory provisions of law and except that the laws of the State of Utah shall govern the creation, validity, perfection, enforcement and foreclosure of the liens on the Mortgaged Property created hereunder or any interest therein.

(b) Each of Grantor and Beneficiary consents to the nonexclusive jurisdiction of any and all state and federal courts in the State of Alabama located in Jefferson County, Alabama over Grantor and Grantor's assets. Grantor agrees that its assets shall be used first to satisfy all claims of creditors organized or domiciled in the United States and that no assets of Grantor in the United States shall be considered part of any foreign bankruptcy estate.

(c) Each of Grantor and Beneficiary agrees that any controversy arising under or in relation to the Note, this Deed of Trust, or any other Loan Document may be litigated in the State of Alabama. The state and federal courts and authorities with jurisdiction in Jefferson County, Alabama shall have nonexclusive jurisdiction over all controversies that shall arise under or in relation to the Note, any security for the Loan Obligations, or any other Loan Document. Grantor irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

25. **NOTICE.** Any notice or other communication required or permitted to be given by this Deed of Trust or other Loan Documents or by applicable law shall be in writing and shall be provided in accordance with the Loan Agreement and in each case addressed as follows:

If to Grantor: JCWVUT001 LLC  
c/o Oak Street Real Estate Capital, LLC  
125 South Wacker Drive, Suite 1220  
Chicago, Illinois 60606  
Attn: James Hennessy

with a copy to: Kirkland & Ellis LLP  
300 North LaSalle  
Chicago, Illinois 60654  
Attention: David Rosenberg, Esq.  
Facsimile No.: (312) 862-2200

If to Beneficiary: Renasant Bank  
2001 Park Place North  
Birmingham, Alabama 35203  
Attention: Ingram Voltz  
Phone: (205) 327-4324  
Email: [ingram.voltz@renasant.com](mailto:ingram.voltz@renasant.com)

with a copy to: David R. Kinman, Esq.  
Maynard, Cooper & Gale, P.C.  
1901 Sixth Avenue North, Suite 2400  
Birmingham, Alabama 35203  
Phone: (205) 254-1092  
E-mail: [dkinman@maynardcooper.com](mailto:dkinman@maynardcooper.com)

Either party may change its address to another single address by notice given as herein provided, except any change of address notice must be actually received in order to be effective.

26. **LOAN AGREEMENT.** Until the Loan Obligations and Other Indebtedness are paid in full, Grantor shall comply with all the covenants in the Loan Agreement.

27. **SUBROGATION.** If, and to the extent that, the proceeds of the Loan are used to pay, satisfy or discharge any obligation of Grantor for the payment of money that is secured by a pre-existing mortgage, deed of trust or other lien encumbering the Mortgaged Property (a “**Prior Lien**”), such loan proceeds shall be deemed to have been advanced by Beneficiary at Grantor’s request, and Beneficiary shall automatically, and without further action on its part, be subrogated to the rights, including lien priority, of the owner or holder of the obligation secured by the Prior Lien, whether or not the Prior Lien is released.

28. **INTENTIONALLY OMITTED.**

29. **INTENTIONALLY OMITTED.**

30. **FULL RECONVEYANCE.** Upon the payment and performance in full of all of the Loan Obligations and the Other Indebtedness (other than contingent obligations which survive the release hereof and as to which no event giving rise to the incurrence of any such obligation shall have occurred), and provided all fees due Beneficiary in connection with the release of this Deed of Trust shall have been paid, and upon request of Grantor, Beneficiary shall release the Mortgaged Property from this Deed of Trust, reconvey the Mortgaged Property and surrender or request the Trustee to surrender to Grantor the Note and all other documents evidencing the Loan Obligations and the Other Indebtedness secured by this Deed of Trust. The recitals in the reconveyance of any matters or facts shall be conclusive proof of their truthfulness. The grantee in such reconveyance may be described as the “person or persons legally entitled thereto”. Such reconveyance shall operate as a reassignment of the Rents assigned to Beneficiary under the Assignment of Leases and Rents. Trustee shall deliver this Deed of Trust and the Note after full reconveyance to the Person or Persons legally entitled thereto.

31. **SUBSTITUTION OF TRUSTEE.** Beneficiary, at its option, shall have the right from time to time to appoint a successor trustee to any trustee appointed under this Deed of Trust by Beneficiary’s execution and acknowledgment of a written instrument which is recorded in the office of the recorder of each county in which the Mortgaged Property is located. The recordation of such an instrument in accordance with this Section shall constitute conclusive proof of the proper substitution of a successor trustee under this Deed of Trust. Upon recordation of such an instrument, the successor trustee shall succeed to all the title, power and duties granted to the Trustee under this Deed of Trust and by applicable law without conveyance of the Mortgaged Property. Such instrument shall contain the name of the original Beneficiary, Trustee and Grantor named in this Deed of Trust, the book and page or other recording information for this Deed of Trust, and the name and address of the successor trustee. Without limiting the terms of this Section, Beneficiary shall have the right from time to time to substitute a successor to any trustee appointed under this Deed of Trust in accordance with any statutory or other procedure allowed by law for such substitution and without the necessity of conveyance from the above named Trustee or any successor or substitute.

**32. EXECUTION OF DOCUMENTS BY BENEFICIARY AND TRUSTEE.**

Without notice to or affecting the liability of Grantor or any other Person for the payment or performance of the Loan Obligations or Other Indebtedness, without affecting the lien or priority of this Deed of Trust or Beneficiary's rights and remedies under the Loan Documents, and without liability to Grantor or any other Person, Beneficiary and Trustee (if Trustee is so requested in writing by Beneficiary) shall have the right, at any time and from time to time, to do any one or more of the following: (a) reconvey any part of the Mortgaged Property and (b) execute any extension agreement relating to any or all of the Loan Obligations or Other Indebtedness, any document subordinating the lien of this Deed of Trust to any other lien or document, or any other document relating to the Mortgaged Property, Loan Obligations or Other Indebtedness, or the Loan Documents.

**33. TRUST IRREVOCABLE; ACCEPTANCE BY TRUSTEE.** The trust created by this Deed of Trust is irrevocable by Grantor so long as the Loan Obligations have not been paid in full. Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is recorded in the county in which the Mortgaged Property is located as provided by law. Trustee is not obligated to notify any party of a pending sale under any other deed of trust or of any action or proceeding in which Grantor, Beneficiary or Trustee shall be a party unless brought by Trustee except to the extent required pursuant to applicable law.

**34. FUTURE ADVANCES, REVOLVING AND OPEN-END LOANS, AND OTHER DEBTS.<sup>1</sup>** It is expressly understood that this Deed of Trust is intended to and does secure not only the Loan Obligations, but also future advances and any and all Other Indebtedness, obligations and liabilities, direct or contingent, of Borrower to Beneficiary, whether now existing or hereafter arising, and any and all extensions, renewals, modifications and refinancings of same, or any part thereof, existing at any time before actual cancellation of this Deed of Trust in the official public records of the county where the Mortgaged Property is located, and whether the same be evidenced by note, open account, assignment, endorsement, guaranty, pledge or otherwise. The Loan and the Other Indebtedness may, if provided in the applicable loan instruments, provide for revolving or open-end loans and advances, all of which shall be secured by this Deed of Trust. This Section shall serve as notice to any subsequent encumbrance of the Mortgaged Property that Beneficiary claims the priority of the lien of this Deed of Trust for all such future advances and Other Indebtedness, as well as for all other obligations and liabilities secured hereby.

**35. JOINT AND SEVERAL LIABILITY.** If more than one Person or entity signs this Deed of Trust as Grantor, the obligations of such Persons shall be joint and several.

**36. COMMERCIAL LOAN.** Grantor represents and warrants that the loans or other financial accommodations included as Loan Obligations secured by this Deed of Trust were obtained solely for the purpose of carrying on or acquiring a business or commercial investment and not for residential, consumer, or household purposes.

**37. RELATIONSHIP OF PARTIES; NO THIRD PARTY BENEFICIARY.** The relationship between Beneficiary and Grantor shall be solely that of creditor and debtor,

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<sup>1</sup> NTD: To be confirmed.

respectively, and nothing contained in this Deed of Trust shall create any other relationship between Beneficiary and Grantor. No creditor of any party to this Deed of Trust and no other person shall be a third party Beneficiary of this Deed of Trust or any other Loan Document.

38. **SEVERABILITY; AMENDMENTS.** The invalidity or unenforceability of any provision of this Deed of Trust shall not affect the validity or enforceability of any other provision, and all other provisions shall remain in full force and effect. This Deed of Trust contains the entire agreement among the parties as to the rights granted and the obligations assumed in this Deed of Trust. This Deed of Trust may not be amended or modified except by a writing signed by the party against whom enforcement is sought.

39. **MISCELLANEOUS PROVISIONS.** The captions and headings of the sections of this Deed of Trust are for convenience only and shall be disregarded in construing this Deed of Trust. Any reference in this Deed of Trust to an "Exhibit" or a "Section" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit attached to this Deed of Trust or to a section of this Deed of Trust. All Exhibits attached to or referred to in this Deed of Trust are incorporated by reference into this Deed of Trust. Any reference in this Deed of Trust to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time. Use of the singular in this Agreement includes the plural and use of the plural includes the singular. As used in this Deed of Trust, the term "including" means "including, but not limited to."

40. **WAIVER OF TRIAL BY JURY. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF GRANTOR AND BENEFICIARY (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL, AND THIS WAIVER IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A JURY TRIAL WOULD OTHERWISE EXIST. GRANTOR AND BENEFICIARY ARE AUTHORIZED TO SUBMIT THIS DEED OF TRUST TO ANY COURT HAVING JURISDICTION OVER THE SUBJECT MATTER AND THE PARTIES TO ANY LOAN DOCUMENT, SO AS TO SERVE AS CONCLUSIVE EVIDENCE OF GRANTOR'S AND BENEFICIARY'S WAIVER OF THE RIGHT TO JURY TRIAL. FURTHER, EACH OF GRANTOR AND BENEFICIARY CERTIFIES THAT NEITHER GRANTOR'S NOR BENEFICIARY'S REPRESENTATIVES OR AGENTS HAVE REPRESENTED, EXPRESSLY OR OTHERWISE, THAT ENFORCEMENT OF THIS WAIVER WILL NOT BE SOUGHT.**

41. **WAIVER OF AUTOMATIC STAY. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, GRANTOR HEREBY AGREES THAT, IN CONSIDERATION OF BENEFICIARY'S AGREEMENT TO MAKE THE LOAN AND IN RECOGNITION THAT THE FOLLOWING COVENANT IS A MATERIAL INDUCEMENT FOR BENEFICIARY TO MAKE THE LOAN, IN THE EVENT THAT**

GRANTOR SHALL (A) FILE WITH ANY BANKRUPTCY COURT OF COMPETENT JURISDICTION OR BE THE SUBJECT OF ANY PETITION UNDER ANY SECTION OR CHAPTER OF TITLE 11 OF THE UNITED STATES CODE, AS AMENDED ("BANKRUPTCY CODE"), OR SIMILAR LAW OR STATUTE; (B) BE THE SUBJECT OF ANY ORDER FOR RELIEF ISSUED UNDER THE BANKRUPTCY CODE OR SIMILAR LAW OR STATUTE; (C) FILE OR BE THE SUBJECT OF ANY PETITION SEEKING ANY REORGANIZATION, ARRANGEMENT, COMPOSITION, READJUSTMENT, LIQUIDATION, DISSOLUTION, OR SIMILAR RELIEF UNDER ANY PRESENT OR FUTURE FEDERAL OR STATE ACT OR LAW RELATING TO BANKRUPTCY, INSOLVENCY, OR OTHER RELIEF FOR DEBTORS; (D) HAVE SOUGHT OR CONSENTED TO OR ACQUIESCED IN THE APPOINTMENT OF ANY TRUSTEE, RECEIVER, CONSERVATOR, OR LIQUIDATOR; OR (E) BE THE SUBJECT OF AN ORDER, JUDGEMENT OR DECREE ENTERED BY ANY COURT OF COMPETENT JURISDICTION APPROVING A PETITION FILED AGAINST GRANTOR FOR ANY REORGANIZATION, ARRANGEMENT, COMPOSITION, READJUSTMENT, LIQUIDATION, DISSOLUTION, OR SIMILAR RELIEF UNDER ANY PRESENT OR FUTURE FEDERAL OR STATE ACT OR LAW RELATING TO BANKRUPTCY, INSOLVENCY OR RELIEF FOR DEBTORS, THEN, SUBJECT TO COURT APPROVAL, BENEFICIARY SHALL THEREUPON BE ENTITLED AND GRANTOR HEREBY IRREVOCABLY CONSENTS TO, AND WILL NOT CONTEST, AND AGREES TO STIPULATE TO RELIEF FROM ANY AUTOMATIC STAY OR OTHER INJUNCTION IMPOSED BY SECTION 362 OF THE BANKRUPTCY CODE, OR SIMILAR LAW OR STATUTE (INCLUDING, WITHOUT LIMITATION, RELIEF FROM ANY EXCLUSIVE PERIOD SET FORTH IN SECTION 1121 OF THE BANKRUPTCY CODE) OR OTHERWISE, ON OR AGAINST THE EXERCISE OF THE RIGHTS AND REMEDIES OTHERWISE AVAILABLE TO BENEFICIARY AS PROVIDED IN THE LOAN DOCUMENTS, AND AS OTHERWISE PROVIDED BY LAW, AND GRANTOR HEREBY IRREVOCABLY WAIVES ITS RIGHTS TO OBJECT TO SUCH RELIEF.

42. **SUCCESSORS AND ASSIGNS BOUND.** This Deed of Trust shall bind, and the rights granted by this Deed of Trust shall inure to, the respective successors and assigns of Beneficiary and Grantor.

43. **COUNTERPARTS.** This Deed of Trust may be executed in any number of counterparts, all of which when taken together shall constitute one and the same Deed of Trust.

[SIGNATURE ON FOLLOWING PAGE]



[Signature page to Deed of Trust, Assignment of Rents and Leases and Security Agreement]

**IN WITNESS WHEREOF**, Grantor has caused this Deed of Trust to be executed by its duly authorized representative as of the date first above written.

**GRANTOR:**

**JCWVUT001 LLC**, a Delaware limited liability company

By: \_\_\_\_\_  
Name: James Hennessey  
Its: Authorized Representative

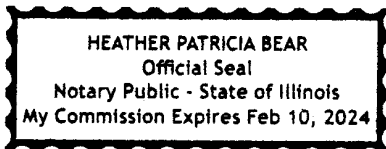
STATE OF Illinois )  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of June, 2020, by James Hennessey, the Authorized Representative of JCWVUT001 LLC, a Delaware limited liability company.

\_\_\_\_\_  
Notary Public  
My commission expires: 02/10/2024

[AFFIX SEAL]

Residing at: 1361 N Ashland Ave,  
Chicago, IL 60622



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

Beginning at a point which is South 00°04'50" East along the 3600 West Street monument line 1056.03 feet and East 638.10 feet from the North quarter corner of Section 20, Township 1 South, Range 1 West, Salt Lake Base and Meridian; thence North 45° East 364.00 feet; thence South 45° East 374.00 feet; thence South 45° West 364.00 feet; thence North 45° West 374.00 feet to the point of beginning.

LESS AND EXCEPTING any portion lying within the bounds of dedicated streets known as Technology Park Way and Technology Drive.