

When recorded, mail to:

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15 West South Temple, Suite 1200
Salt Lake City, Utah 84101



ENT 13007:2016 PG 1 of 8
JEFFERY SMITH
UTAH COUNTY RECORDER
2016 Feb 17 2:45 pm FEE 25.00 BY SS
RECORDED FOR SNELL & WILMER

APN: 13-063-0026

AMENDMENT TO DEED OF TRUST, ASSIGNMENT OF RENTS SECURITY AGREEMENT AND FIXTURE FILING

THIS AMENDMENT TO DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (the "*Amendment*") is made as of February 5, 2016, by and among **AF 737 EAST, LLC**, a Utah limited liability company ("*Trustor*"), and **BOKF, NA**, dba Bank of Arizona ("*Beneficiary*").

RECITALS:

A. Beneficiary has extended a term loan to Trustor (the "*Loan*") in the original maximum principal amount of up to Seven Million Four Hundred Thousand and No/100 Dollars (\$7,400,000.00) pursuant to that certain Term Loan Agreement dated May 1, 2015 (as amended, the "*Loan Agreement*"), and evidenced by a Promissory Note dated May 1, 2015 (as amended, the "*Note*"). Capitalized terms used herein without definition, shall have the meanings given to such terms in the Loan Agreement and Note.

B. The Loan is secured by, among other things, a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (together with any modifications and amendments, the "*Deed of Trust*") executed by Trustor, as trustor, to the trustee named therein for the benefit of Beneficiary, as beneficiary, dated May 1, 2015 and recorded on May 1, 2015 as Entry No. 37316:2015 in the official records of Utah County, Utah, which encumbers certain real property located in Utah County, Utah, as more particularly described on **Exhibit A** attached hereto (the "*Original Property*").

C. Pursuant to that certain Loan and Note Modification Agreement of even date herewith (the "*Modification*"), Trustor and Beneficiary have agreed to modify and amend the Loan Agreement, Note, and other Loan Documents.

D. Concurrently with the modification of the Loan and Loan Documents pursuant to the Modification, Trustor and Beneficiary desire to amend the Deed of Trust, as more particularly set forth herein.

NOW THEREFORE, in consideration of the covenants and conditions contained herein and in the Loan Documents, the parties agree as follows:

1. Accuracy of Recitals. Trustor hereby acknowledges the accuracy of the foregoing Recitals which are incorporated herein by this reference.

2. Notice of Amendment; Amendment of Deed of Trust.

(a) Notice is hereby given that the Loan Agreement, Note, Deed of Trust and other Loan Documents have been amended and modified pursuant to the Modification.

(b) Increase in Loan. The Deed of Trust is hereby amended to reflect that the maximum principal amount of the Loan is increased by ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) to a new maximum principal amount of SEVEN MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$7,500,000.00). All references to the maximum principal amount of the promissory note secured by the Deed of Trust are hereby amended to reflect the maximum principal amount of SEVEN MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$7,500,000.00).

(c) Property. The definition of "Property" in the Deed of Trust and Exhibit A to the Deed of Trust are hereby amended to include in addition to the Original Property the real property described in **Exhibit B** attached hereto (the "*Additional Property*"). With respect to the Additional Property, Trustor agrees as follows:

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein and pursuant to the Deed of Trust created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and assigns to Trustee (as defined in the Deed of Trust), IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions set forth herein and in the Deed of Trust, all of Trustor's right, title and interest, whether fee, leasehold or otherwise, in and to the Additional Property;

TOGETHER WITH all right, title, or interest of Trustor in any and all buildings and other improvements now or hereafter erected on the Additional Property including, without limitation, fixtures, attachments, appliances, equipment, machinery, and other personal property attached to such buildings and other improvements (collectively, the "*Improvements*"), all of which shall be deemed and construed to be a part of the real property;

TOGETHER WITH all right, title or interest of Trustor in all rents, subrents, issues, profits, damages, royalties, income and other benefits now or hereafter derived from the Additional Property and the Improvements (collectively, the "*Rents*"), subject to the terms and provisions of **Article 2** of the Deed of Trust with respect to all leases and subleases of the Additional Property or Improvements now or hereafter existing or entered into, or portions thereof, granted by Trustor, and further subject to the right, power and authority hereinafter given to Trustor to collect and apply such Rents;

TOGETHER WITH all leasehold estate, right, title and interest of Trustor in and to all leases, or subleases covering the Additional Property or the Improvements or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Trustor thereunder, including, without limitation, all rights of Trustor against guarantors thereof, all cash or security deposits, advance rentals, and deposits or payments of similar nature (collectively, the "*Leases*");

TOGETHER WITH all interests, estates or other claims, both in law and in equity, which Trustor now has or may hereafter acquire in the Additional Property or the Improvements;

TOGETHER WITH all right, title or interest of Trustor in all easements, rights-of-way and other rights now owned or hereafter acquired by Trustor used in connection with the Additional Property or the Improvements, or as a means of access thereto (including, without limitation, all rights pursuant to any trackage agreement and all rights to the nonexclusive use of common drive entries, and all tenements, hereditaments and appurtenances thereof and thereto) and all water and water rights and shares of stock evidencing the same;

TOGETHER WITH all right, title or interest of Trustor now owned or hereafter acquired by Trustor in and to any greater estate in the Additional Property or the Improvements;

TOGETHER WITH all right, title, or interest of Trustor now owned or hereafter acquired by Trustor in all licenses, permits, approvals, or other authorizations (federal, state, and local) used or useful in connection with or in any way relating to the Additional Property or Improvements, including any building permits relating to the development of the Additional Property and Improvements;

TOGETHER WITH all right, title, and interest of Trustor in (i) all other personal property now or hereafter owned by Trustor that is now or hereafter located on or used in connection with the Additional Property or the Improvements, including, without limitation, the property and interests in property described on Exhibit B to the Deed of Trust, (ii) all other rights and interests of Trustor now or hereafter held in personal property that is now or hereafter located on or used in connection with the Additional Property or the Improvements, including, without limiting the foregoing, all of Trustor's present and future "Accounts", "Cash Proceeds", "Chattel Paper", "Collateral", "Deposit Accounts", "Electronic Chattel Paper", "Equipment", "Fixtures", "General Intangibles", "Goods", "Instruments", "Inventory", "Investment Property", "Letter-of-credit Rights", "Noncash Proceeds", and "Tangible Chattel Paper", (as such terms are defined in the Uniform Commercial Code for the State of Utah.), (iii) all personal property and rights and interests in personal property of similar type or kind hereafter acquired by Trustor, (iv) all present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods, as those terms as defined in the Uniform Commercial Code for the State of Utah, and whether existing now or in the future located at, upon or about, or affixed or attached to or installed in, the Additional Property or the Improvements, or used or to be used in connection with or otherwise relating to the Property or the Improvements or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Additional Property or Improvements, including furniture, furnishings, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating, ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property, (v) all of Trustor's right, title and interest in and to all deposit accounts maintained with Beneficiary or any affiliate of Beneficiary and (vi) all appurtenances and additions thereto and substitutions or replacements thereof (such personal property, together with proceeds (as hereinafter provided), are referred to herein collectively as the "*Personal Property*");

TOGETHER WITH all right, title, and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Additional Property, and any and all sidewalks, alleys, and strips and gores of land adjacent to or used in connection with the Additional Property;

TOGETHER WITH all right, title or interest of Trustor in all of the estate, interest, right, title, other claim, or demand, both in law and in equity (including, without limitation, claims or demands with respect to the proceeds of insurance, indemnities, performance or redemption bonds, judgments, awards of damages, and settlements with respect thereto) that Trustor now has or may hereafter acquire in the Additional Property, the Improvements, the Personal Property, or any other part of the Trust Estate (as defined below), and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Trust Estate (including, without limitation, any awards resulting from a change of grade of streets and awards for severance damages); and

TOGETHER WITH all right, title or interest of Trustor in all accessions to, substitutions for, and replacements, products, and proceeds of any of the foregoing, including, without limitation, the conversion, voluntary or involuntary, into cash or liquidated claims, of any of the foregoing.

The entire estate, property, right, title, and interest hereby conveyed to Trustee may hereafter be collectively referred to as the "*Trust Estate*."

TO HAVE AND TO HOLD the Trust Estate unto the Trustee and Trustee's successors, substitutes and assigns, IN TRUST, however, upon the terms, provisions, and conditions herein set forth for the purpose of securing the Obligations (as defined in the Deed of Trust).

(d) The Deed of Trust is hereby modified, to the extent necessary, to be consistent with the Modification.

3. Not a Novation. The parties each agree and acknowledge that the Modification and the modifications set forth herein are not intended to be a novation or to constitute or evidence a new loan but rather a continuation of the existing Loan and the lien and charge of the Deed of Trust against the Property and all assets and properties described in the Deed of Trust shall continue unabrogated and in full force and effect.

4. Ratification of Deed of Trust and Assignment of Rents. As amended by this Amendment, the Deed of Trust is ratified and confirmed and continues in full force and effect and contains the entire understanding and agreement of the parties in respect of the Deed of Trust and supersedes all prior representations, warranties, agreements and understandings. The Deed of Trust as modified herein shall be binding upon and inure to the benefit of Trustor and Beneficiary, and their respective successors and assigns. No provision of this Amendment may be changed, discharged, supplemented, terminated or waived except in a writing signed by Beneficiary.

5. Release and Discharge. Trustor fully, finally, and forever releases and discharges Beneficiary and its respective successors, assigns, directors, officers, employees, agents, and representatives from any and all actions, causes of action, claims, debts, demands, liabilities, obligations, and suits, of whatever kind or nature, in law or equity, that Trustor has or in the future may have, whether known or unknown, (i) in respect of the Loan, the Loan Documents, or the actions or omissions of Beneficiary in respect of the Loan or the Loan Documents, and (ii) arising from events occurring prior to the date of this Amendment.

6. Governing Law. This Amendment shall be governed by the law of the State of Utah without regard to its conflicts of laws principles.

7. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. Signature pages may be detached from the counterparts and attached to a single copy of this Amendment to physically form one document.

8. Miscellaneous. Except for the amendment above stated, all of the conditions and covenants of the Deed of Trust shall remain in full force effect, unchanged, and the Deed of Trust is in all respects ratified, confirmed and approved. All of the terms and conditions of the Deed of Trust are incorporated herein by reference.

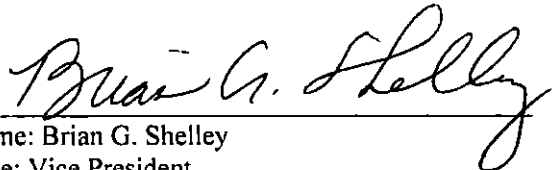
9. Binding Effect. The Deed of Trust as modified herein shall be binding upon and inure to the benefit of Trustor and Beneficiary and their respective successors and assigns.

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IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.


AF 737 EAST, LLC
a Utah limited liability company

By: COLMENA CAPITAL, INC.
a Utah corporation, its Manager

By: 
Name: Brian G. Shelley
Title: Vice President

"Trustor"

BOKF, NA dba Bank of Arizona

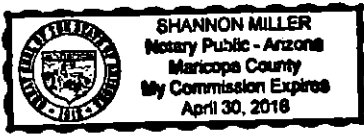
By: 
Name: Chad Neubecker
Title: Senior Vice President

"Beneficiary"

ARIZONA
STATE OF ~~UTAH~~)
County of MARICOPA) ss.
)

The foregoing instrument was acknowledged before me this 5th day of February, 2016, by BRIAN G. SHELLEY, a Vice President of COLMENA CAPITAL, INC., a Utah corporation, the Manager of AF 737 EAST, LLC, a Utah limited liability company, on behalf of such company.

[seal]

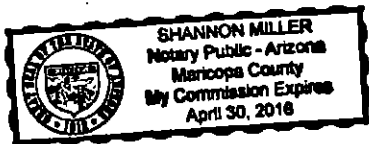


[Handwritten Signature]
Notary Public

STATE OF ARIZONA)
County of MARICOPA) ss.
)

The foregoing instrument was acknowledged before me this 5th day of February, 2016, by CHAD NEUBECKER, a Senior Vice President of BOKF, NA, dba Bank of Arizona, on behalf of such entity.

[seal]



[Handwritten Signature]
Notary Public

EXHIBIT A**PROPERTY DESCRIPTION**

That certain real property situated in the County of Utah, State of Utah and described as follows:

Commencing at a point located South 00°25'09" East along the Section Line 78.94 feet and West 2148.10 feet from the East Quarter Corner of Section 25, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence South 00°00'14" West 111.05 feet; thence North 89°23'22" East 47.36 feet; thence North 77°58'05" East 285.69 feet; thence North 76°13'17" East 68.01 feet; thence North 89°54'38" East 354.90 feet; thence South 64°27'14" East 110.95 feet; thence South 50°05'30" East 127.84 feet; thence South 49°38'50" East 264.15 feet; thence South 40°08'13" West 389.97 feet; thence North 49°51'47" West 164.57 feet; thence along an arc of a 260.00 foot Radius Curve to the left 182.14 feet (chord bears North 69°55'54" West 178.43 feet); thence West 706.12 feet; thence along an arc of a 15.00 foot Radius Curve to the right 23.56 feet (chord bears North 45°00'00" West 21.21 feet); thence North 53.19 feet; thence along an arc of a 233.00 foot Radius Curve to the left 93.53 feet (chord bears North 11°30'00" West 92.91 feet); thence North 23°00'00" West 81.28 feet; thence along an arc of a 350.00 foot Radius Curve to the right 140.50 feet (chord bears North 11°30'00" West 139.56 feet); thence North 79.06 feet; thence along an arc of a 15.00 foot Radius Curve to the right 23.47 feet (chord bears North 44°49'37" East 21.15 feet); thence North 89°39'14" East 181.93 feet to the point of beginning.

EXHIBIT B**ADDITIONAL PROPERTY**

That certain real property situated in the County of Utah, State of Utah and described as follows:

A tract of land, situate in the NW1/4SE1/4 of Section 25, T. 5 S., R. 1 E., S.L.B. & M. The boundaries of said tract of land are described as follows:

Commencing at the point of intersection of the southwesterly frontage road right of way line of Interstate-15 and the northeasterly corner of the grantee's property as recorded in Entry No. 157226:2002 on file in the office of the Utah County Recorder; said point is 151.23 feet S.00°25'09"E. along the section line and 1,301.78 feet S.89°34'51"W. from the East Quarter Corner of Section 25, Township 5 South, Range 1 East, Salt Lake Base and Meridian; and running thence along the Right of Way line as shown on project number I-15-6(2)270 the following six (6) courses and distances: next N.64°27'14"W. (N. 67°32'00" W. by record) 110.30 feet; thence (2) S.89°54'38"W. (West by record) 354.90 feet; thence (3) S.76°13'17"W. (S. 77°17'00" W. by record) 68.01 feet; thence (4) S.77°58'05"W. (S. 77°17'00" W. by record) 285.69 feet; thence (5) S.89°23'22"W. (West by record) 47.36 feet; thence (6) N.00°00'14"E. (North by record) 106.28 feet to the beginning of a 1,550.00-foot radius non-tangent curve to the left; thence along the southerly toe of slope of Sam White Bridge the following seven (7) courses and distances: next easterly 166.29 feet along the arc of said curve (Note: Chord to said curve bears N.81°51'21"E. for a distance of 166.21 feet) to a point of reverse curve to the right having a radius of 800.00 feet; thence (2) easterly 157.87 feet along the arc of said curve (Note: Chord to said curve bears N.84°26'08"E. for a distance of 157.62 feet); thence (3) S.89°54'40"E. 103.33 feet to the beginning of a 800.00-foot radius curve to the right; thence (4) easterly 107.40 feet along the arc of said curve (Note: Chord to said curve bears S.86°03'54"E. for a distance of 107.32 feet); thence (5) S.82°13'08"E. 39.79 feet to the beginning of a 800.00-foot radius curve to the left; thence (6) easterly 95.43 feet along the arc of said curve (Note: Chord to said curve bears S.85°38'11"E. for a distance of 95.38 feet); thence (7) S.89°03'14"E. 68.80 feet; thence S.49°51'08"E. 146.67 feet to the point of beginning.