

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:



ENT 113885:2018 PG 1 of 16
JEFFERY SMITH
UTAH COUNTY RECORDER
2018 Nov 30 3:13 pm FEE 40.00 BY SW
RECORDED FOR BARTLETT TITLE INSURANCE AG

31 11/30/18

(Space Above For Recorder's Use)

LEASEHOLD DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING

BORROWER: Stokes Brothers Real Estate, LLC

TRUSTEE: Bartlett Title Insurance Agency, Inc.

BENEFICIARY: Eastern Idaho Development Corporation

DATE: November 28, 2018

LEASEHOLD DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING

THIS LEASEHOLD DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING (the "Deed of Trust") effective as of November 28, 2018, by Stokes Brothers Real Estate, LLC whose address is 539 Overland Avenue, Burley, ID 83318, as grantor (the "Borrower"), Bartlett Title Insurance Agency, Inc. whose address is 1993 N. State Street, Provo, UT 84604, as trustee (the "Trustee"), and Eastern Idaho Development Corporation, a State of Idaho corporation, its successors and assigns, whose address is 1651 Alvin Ricken Drive, Pocatello, ID 83201, as beneficiary (the "Lender").

RECITALS

A. Borrower is indebted to Lender in the original principal sum of **One Million Six Hundred and Sixty Thousand Dollars (\$1,660,000.00)** with interest thereon, which indebtedness is evidenced by that certain promissory note dated **November 28, 2018, Maturing on January 1, 2039** and signed by Borrower, together with all substitutions, consolidations, modifications, replacements, restatements, increases, renewals, and extensions thereof, in whole or in part, collectively referred to as the ("Note").

B. Lender, as a condition precedent to the extension of credit and the making of the loan evidenced by the Note, has required that Borrower provide Lender with security for the repayment of the indebtedness evidenced by the Note as well as for the performance, observance and discharge by Borrower of various covenants, conditions and agreements made by Borrower for the benefit of, Lender with respect to such indebtedness and security.

I. Grants of Security.

1.1 **Property Granted.** In consideration of and in order to secure the repayment, performance and discharge by Borrower of the Secured Obligations (as defined in Section 1.4 below), Borrower grants, bargains, sells, conveys, assigns, pledges, delivers, and warrants to Trustee, in trust, with power of sale, for the benefit and security of Lender, as beneficiary hereunder, subject to the terms and conditions of this Deed of Trust, all right, title and interest that Borrower now has or may later acquire in and to the following described properties, rights and interests and all replacements of, substitutions for, and additions thereto (all of which are referred to below as the "Property"):

1.1.1 **Real Property.** The real property in **Utah County, Utah**, described in *Exhibit A* attached hereto and made a part hereof (the "Real Property"). The property is owned by **Salcm City Redevelopment Agency** and leased to Borrower, as described thereafter in Section 12.13.

1.1.2 **Improvements.** All buildings, structures and other improvements of any kind, nature or description now or hereafter erected, constructed, or located upon the Real Property (the "Improvements").

1.1.3 **Appurtenances.** All tenements, hereditaments, strips and gores of land, rights-of-way, easements, privileges and other appurtenances now or hereafter belonging or in any way appertaining to the Real Property, including, without limitation, all right, title and interest of the Borrower in any after-acquired right, title, interest, remainder or reversion, in and to the beds of any ways, streets, avenues, roads, alleys, passages and public places, open or proposed, in front of, running through, adjoining or adjacent to the Real Property; all minerals, royalties, gas rights, water, water rights, water stock, flowers, shrubs, lawn plants, crops, trees, timber and other emblements now or hereafter located on, under, or above all or any part of the Real Property (the "Appurtenances").

1.1.4 **Leases and Rents.** All leases and other agreements affecting the use, enjoyment or occupancy of all or any part of the Real Property or the Improvements heretofore or hereafter entered into whether before or after the filing by or against Borrower of any petition for relief under 11 U.S.C. " 101, et seq. (the "Bankruptcy Code"), as the same may be amended from time to time (the "Leases") and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Real Property and the Improvements whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code (the "Rents") and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Secured Obligations (defined below).

1.1.5 **Condemnation Awards.** Any and all awards, payments or settlements, including interest thereon, and the right to receive the same, as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade of any street, and (c) any other injury, damage or casualty to, taking of, or decrease in the value of, the Property, to the extent of all amounts that may be secured by this Deed of Trust at the date of any such award or payment, including but not limited to Reasonable Attorneys' Fees (as defined below), costs, and disbursements incurred by Lender in connection with the collection of such award or payment.

1.1.6 **Fixtures and Personal Property.** All machinery, equipment, fixtures (including, but not limited to all heating, air conditioning, plumbing, lighting, communications and elevator fixtures) and other property of every kind and nature whatsoever owned by Borrower, or in which Borrower has or will have an interest, now or hereafter located upon the Real Property or the Improvements, or appurtenant thereto, and used in connection with the present or future operation and occupancy of the Real Property and the Improvements and all building equipment, materials and supplies of any nature whatsoever owned by Borrower, or in which Borrower has or will have an interest, now or hereafter located upon the Real Property and the Improvements, or appurtenant thereto, or used in connection with the present or future operation and occupancy of the Real Property and the Improvements (together referred to as the "Fixtures and Personal Property," which term expressly excludes any toxic waste or substance deemed hazardous under federal, regional, state, or local laws).

1.1.7 Insurance Proceeds. All proceeds of and any unearned premiums on any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance judgments, or settlements made in lieu thereof, for damage to the Property.

1.1.8 Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Real Property and any part thereof and any Improvements or respecting any business or activity conducted on the Real Property and any part thereof and all right, title and interest of Borrower therein and thereunder, including, without limitation, the right to receive and collect any sums payable to Borrower thereunder.

1.1.9 Intangibles. All trade names, trademarks, service marks, logos, copyrights, goodwill, books and records and all other general intangibles specific to or used in connection with the operation of the Property.

1.2 Assignment of Leases and Rents. Borrower absolutely and unconditionally assigns to Lender, with unrestricted right of reassignment, all of Borrower's right, title and interest in and to all current and future Leases and Rents to the Property; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of this Deed of Trust, Lender grants to Borrower a revocable license to collect and receive the Rents. Borrower will hold a portion of the Rents, sufficient to discharge all current sums due on the Note, for use in the payment of such sums. This assignment includes but is not limited to all of the Rents from any and all Leases of the Property and it specifically includes, but is not limited to, all of Borrower's right, title and interest in that certain lease in which Borrower is Lessor and Stokes Salem Inc. is Lessee.

1.3 Security Agreement. This Deed of Trust is both a real property deed of trust and a "security agreement" within the meaning of the Utah Uniform Commercial Code. The Property includes all rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Deed of Trust, Borrower grants Lender, as security for the Secured Obligations, a security interest in the Property that is personal property (the "Personal Property") to the full extent that the Personal Property may be subject to the Utah Uniform Commercial Code. This Deed of Trust also operates as and constitutes a financing statement filed as a fixture filing, covering any of the Property that now is or later becomes fixtures attached to the Real Property or the Improvements.

1.4 Secured Obligations. This Deed of Trust and the grants, assignments and transfers made herein are given for the purpose of securing all of the following, in such order of priority as Lender may determine in its sole discretion (the "Secured Obligations"):

1.4.1 The payment of the indebtedness evidenced by the Note in lawful money of the United States of America, including any amounts that may be repaid from time to time and made available for reborrowing to the extent authorized by the Note or the other Loan Documents (defined in Section 2.1 below).

1.4.2 The payment of interest, default interest, late charges and other sums, as provided in the Note, this Deed of Trust or the other Loan Documents.

1.4.3 The payment of all other monies agreed or provided to be paid by Borrower in the Note, this Deed of Trust or the other Loan Documents.

1.4.4 The payment of all sums advanced pursuant to this Deed of Trust to protect and preserve the Property and the lien and the security interest created hereby.

1.4.5 The payment of all sums advanced and costs and expenses incurred by Lender in connection with the Secured Obligations or any part thereof, any renewal, extension, modification, consolidation, change, substitution, replacement, restatement or increase of the Secured Obligations or any part thereof, or the acquisition or perfection of the security therefor, whether made or incurred at the request of Borrower or Lender.

1.4.6 The payment of all other sums that may hereafter be loaned or advanced by Lender to Borrower.

1.4.7 The performance of all other obligations of Borrower herein.

1.4.8 The performance of each obligation of Borrower in the Loan Documents in addition to the payment of the Note.

1.4.9 The performance of each obligation in the Loan Documents of any person guaranteeing the payment of the Note or any portion thereof or performance by Borrower of any terms of this Deed of Trust, if any.

1.4.10 The performance of each obligation of Borrower and any guarantor in any renewal, extension, modification, consolidation, change, substitution, replacement for, restatement or increase of all or any part of the Note, this Deed of Trust or the other Loan Documents.

2. Borrower Covenants. Borrower covenants and agrees as follows:

2.1 Payment of Principal and Interest. Borrower will pay the Note, together with all interest thereon, in accordance with the terms of the Note, promptly at the times, at the place and in the manner that said principal and interest becomes due. Borrower will also promptly and punctually pay all other sums required to be paid by Borrower pursuant to the terms of the Note, this Deed of Trust, and all other documents and instruments executed as further evidence of, as additional security for, or executed in connection with, the indebtedness evidenced by the Note and secured by this Deed of Trust, collectively referred to as the "Loan Documents." The Loan Documents also include the SBA Authorization (as defined hereafter in Section 12.11), and the documents that Borrower has signed in accordance the SBA Authorization and the applicable governmental regulations.

2.2 Performance of Other Obligations. Borrower will perform, comply with, and abide by each and every one of the covenants, agreements and conditions contained and set forth in the Note, this Deed of Trust, and the other Loan Documents and will comply with all laws, ordinances, rules, regulations and orders of any governmental authorities having jurisdiction over the Property that now or hereafter affect the Property or requires any alterations or improvements to be made thereon, and will perform all of its obligations under any covenant, condition, restriction or agreement of record affecting the Property and will insure that at all times the Property constitutes one or more legal lots capable of being conveyed without violation of any subdivision or plating laws, ordinances, rules or regulations, or other laws relating to the division or separation of real property.

2.3 Preservation and Maintenance of Property. Borrower will keep all Improvements now existing or hereafter erected on the Real Property in good order and repair and will not do or permit any waste, impairment or deterioration thereof or thereon, nor alter, remove, or demolish any of the Improvements or any Fixtures or Personal Property attached or appertaining thereto, without the prior written consent of Lender. Borrower will not initiate, join in, or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses that may be made of the Property or any part thereof, nor do or permit any other act which causes the Property to become less valuable, be used for purposes contrary to applicable law, or be used in any manner that will increase the premium for or result in a termination or cancellation of the insurance policies hereinafter required to be kept and maintained on the Property. Borrower will effect such repairs as Lender may reasonably require, and from time to time make all needful and proper replacements so that the Improvements, Appurtenances, Fixtures and Personal Property will, at all times, be in good condition, fit and proper for the respective purposes for which they were originally erected or installed.

2.4 Hazardous Waste.

2.4.1 Borrower at all times must keep the Property and ground water of the Property free of Hazardous Materials (as defined below). Borrower will not and will not knowingly permit its tenants or any third party requiring the consent of Borrower to enter the Property, to use, generate, manufacture, treat, store, release, threaten release, or dispose of Hazardous Materials in, on, or about the Property or the ground water of the Property in violation of any federal, regional, state, or local law, decision, statute, rule, ordinance or regulation currently in existence or hereinafter enacted or rendered (collectively the "Hazardous Waste Laws"). Borrower will give Lender prompt written notice of any claim by any person, entity, or governmental agency that a significant release or disposal of Hazardous Materials has occurred in, on, or under the Property in excess of legal limits. Borrower, through its professional engineers and at its cost, will promptly and thoroughly investigate suspected Hazardous Materials contamination of the Property. Borrower will forthwith remove, repair, clean up, and/or detoxify any Hazardous Materials found on the Property or in the ground water of the Property if such actions are required by Hazardous Waste Laws, and whether or not Borrower was responsible for the existence of the Hazardous Materials in, on or about the Property or the ground water of the Property. Hazardous Materials includes but is not be limited to substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, by the Superfund Amendments and Reauthorization Act of 1986, The Hazardous Materials Transportation Act of 1994, The Resource Conservation and Recovery Act of 1976, as amended by The Used Oils Recycling Act of 1980, The Solid Waste Disposal Act amendment of 1984, The Toxic Substances Control Act, The Clean Air Act, The Clean Water Act, any State of Utah Hazardous Waste Laws or in any other Federal or State Hazardous Waste Laws. Hazardous materials do not include small quantities of paints, solvents, lubricants or cleaning materials used in the maintenance or operation of the Property. In addition, Borrower must not put any underground storage tanks on the Real Property without Beneficiaries written consent.

2.4.2 Borrower will indemnify Lender and hold Lender harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Lender for, with respect to, or as a direct or indirect result of, the presence in, on, or under, or the escape, seepage, leakage, spillage, discharge, emission, or release from, the Property of any Hazardous Materials (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Hazardous Waste Laws), regardless of the source of origination and whether or not caused by, or within the control of, Borrower.

2.4.3 Liability under this Section 2.4 and similar provisions in this Deed of Trust and the other Loan Documents concerning Hazardous Materials will survive repayment of the Note and satisfaction of this Deed of Trust; provided, however, Borrower will not be liable under this Section 2.4 regarding Hazardous Materials if (i) the Property becomes contaminated subsequent to Lender's acquisition of the Property by foreclosure, acceptance by Lender of a deed in lieu thereof, or subsequent to any transfer of ownership of the Property that was approved or authorized by Lender in writing, pursuant to this Deed of Trust, provided that such transferee assumes in writing all of the obligations of Borrower under the Loan Documents with respect to Hazardous Materials, or (ii) at such time Borrower provides Lender with an environmental assessment report acceptable to Lender, in its sole discretion, showing the Property to be free of Hazardous Materials and not in violation of any Hazardous Waste Laws. Borrower shall bear the burden of proof under this section with regard to establishing the date upon which any Hazardous Material was placed or appeared in, on, or under the Property.

2.5 Accessibility.

2.5.1 Borrower at all times will maintain the Property in full compliance with all existing and hereafter enacted federal, state, county, regional or local laws, ordinances, rules and regulations governing accessibility for the disabled, including but not limited to The Architectural Barriers Act of 1968, The Rehabilitation Act of 1973, The Fair Housing Act of 1988, and The Americans with Disabilities Act (the "Accessibility Laws").

2.5.2 Borrower will indemnify Lender and hold Lender harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Lender for, with respect to, or as a direct or indirect result of, the non-compliance of the Property with the Accessibility Laws whether or not caused by, or within the control of, Borrower.

2.5.3 Liability under this Section 2.5 and similar provisions in this Deed of Trust and the other Loan Documents concerning Accessibility Laws will survive repayment of the Note and satisfaction of this Deed of Trust; provided, however, Borrower will not be liable under this Section 2.5 for compliance with any Accessibility Laws if such Accessibility Laws first become effective, or such violations result from alterations or improvements to the Property that are performed subsequent to Lender's acquisition of the Property by foreclosure or acceptance of a deed in lieu thereof or subsequent to any transfer that was approved or authorized by Lender pursuant to this Deed of Trust, provided that such transferee assumes in writing all obligations pertaining to Accessibility Laws pursuant to this Deed of Trust and the other Loan Documents.

2.6 **Use of Property.** Borrower may use the Property only for Operating a Supermarket ("Permitted Business") and for no other use without the prior written consent of Lender, which consent may be withheld in Lender's discretion.

2.7 **Payment of Taxes, Assessments and Other Charges.** Borrower will pay all taxes, assessments, and other charges that are or may be hereafter levied or assessed upon or against the Property, when the same become due and payable according to law, before the same become delinquent, and before any interest or penalty attaches thereto. Borrower will deliver official receipts evidencing the payment of the same to Lender not later than 30 days following payment. Borrower will have the right to contest, in good faith, the proposed assessment of ad valorem taxes or special assessments by governmental authorities having jurisdiction over the Property; provided, however, Borrower must give written notice thereof to Lender and Lender may, in its sole discretion, require Borrower to post a bond or other collateral satisfactory to Lender in connection with any such action by Borrower.

2.8 **Payment of Liens, Charges and Encumbrances.** Borrower will immediately pay and discharge from time to time when the same will become due all lawful claims and demands of mechanics, materialmen, laborers and others that, if unpaid, might result in, or permit the creation of, a lien, charge or encumbrance upon the Property or any part thereof, or on the rents, issues, income, revenues, profits and proceeds arising therefrom and, in general, to do or cause to be done everything necessary so that the lien of this Deed of Trust will be fully preserved, at the cost of Borrower, without expense to Lender. Borrower will have the right to contest, in good faith and in accordance with applicable laws and procedures, mechanics' and materialmen's liens filed against the Property; provided however, that Borrower must give written notice thereof to Lender, and Lender may, in its sole discretion, require Borrower to post a bond or other collateral satisfactory to Lender (and acceptable to the title insurance company insuring this Deed of Trust) in connection with any such action by Borrower.

2.9 **Payment of Junior Encumbrances.** Borrower will not permit default or delinquency under any lien, imposition, charge or encumbrance against the Property, even though junior and inferior to the lien of this Deed of Trust; provided however, the foregoing will not be construed to permit any other lien or encumbrance against the Property.

2.10 Insurance.

2.10.1 Borrower will obtain and maintain, or cause to be maintained, insurance for Borrower and the Property providing at least the following coverages:

(a) **Property Insurance.** Insurance with respect to the Improvements and building equipment insuring against any peril as set forth under the Causes of Loss-Special Form in an amount equal to amounts at all times sufficient to prevent Lender from becoming a co-insurer within the terms of the applicable policies and under applicable law, but in any event such insurance will be maintained in an amount equal to the full insurable value of the Improvements and building equipment on the Property. The term "full insurable value" means the actual replacement cost of the Improvements and building equipment (without taking into account any depreciation, and exclusive of excavations, footings and foundations, landscaping, and paving). If requested by Lender, the property insurance must include earthquake coverage.

(b) **Liability Insurance.** Commercial general liability insurance, including bodily injury, death and property damage liability insurance, against any and all claims, including all legal liability to the extent insurable and imposed upon Lender and all court costs and attorneys' fees and expenses, arising out of or connected with the possession, use, leasing, operation, maintenance or condition of the Property in such amounts as are generally available at commercially reasonable premiums and are generally required by institutional lenders for properties comparable to the Property but in no event for a combined single limit of less than the face amount of the Note.

(c) **Flood Insurance.** Flood insurance in an amount at least equal to the lesser of (A) the principal balance of the Note, or (B) the maximum limit of coverage available for the Property under the National Flood Insurance Act of 1968, The Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as each may be amended, or any successor law (the "Flood

Acts”), if any portion of the Improvements is now or at any time in the future located within an area identified by the Secretary of Housing and Urban Development or any successor thereto as an area having special flood hazards pursuant to the Flood Acts.

(d) **Other Insurance.** Such other insurance with respect to the Property against loss or damage of the kinds from time to time customarily insured against and in such amounts as are generally available at commercially reasonable premiums and required by the SBA Authorization (as defined hereafter in Section 12.11).

2.10.2 All insurance provided for in Subsection 2.11.1 must be obtained under valid and enforceable policies (the “Policies” or in the singular, the “Policy”), and must be issued by one or more domestic primary insurer(s) having (i) an investment grade rating or claims paying ability assigned by one or more credit rating agencies approved by Lender (a “Rating Agency”) and (ii) a general policy rating of A or better and a financial class of VI or better by A.M. Best Company, Inc. (each such insurer will be referred to below as a “Qualified Insurer”). All insurers providing insurance required by this Deed of Trust will be authorized to issue insurance in the state in which the Property is located. At Lender’s request Lender will be named as an additional named insured in the Liability Policy referred to in Paragraph (b) above and the Policies referred to in Paragraphs (a), (c), and (d), above must provide that all proceeds be payable to Lender as set forth in this Deed of Trust. The Policies referred to in Paragraphs (a), (d), and (e) will also contain: (i) a standard “non-contributory mortgagee” endorsement or its equivalent (such as the Lender’s Loss Payable endorsement 438 BFU, in long form) relating, *inter alia*, to recovery by Lender notwithstanding the negligent or willful acts or omission of Borrower; (ii) to the extent available at commercially reasonable rates, a waiver of subrogation endorsement as to Lender; and (iii) an endorsement providing for a deductible per loss of an amount not more than that which is customarily maintained by prudent owners of similar properties in the general vicinity of the Property, but in no event in excess of an amount approved by Lender. All Policies described in Subsection 2.11.1 will contain (i) a provision that such policies will not be canceled or terminated, nor will they expire, without at least thirty (30) days’ prior written notice to Lender in each instance; and (ii) include effective waivers by the insurer of all claims for Insurance Premiums (defined below) against any loss payees, additional insureds and named insureds (other than Borrower). Certificates of insurance with respect to all renewal and replacement Policies will be delivered to Lender not less than thirty (30) days prior to the expiration date of any of the Policies required to be maintained hereunder which certificates will bear notations evidencing payment of applicable premiums (the “Insurance Premiums”). Originals or certificates of such replacement Policies will be delivered to Lender promptly after Borrower’s receipt thereof but in any case within thirty (30) days after the effective date thereof. If Borrower fails to maintain and deliver to Lender the original Policies or certificates of insurance required by this Deed of Trust, Lender may procure such insurance at Borrower’s sole cost and expense.

2.10.3 Borrower will comply with all insurance requirements and will not bring or keep or permit to be brought or kept any article upon any of the Property or cause or permit any condition to exist thereon that would be prohibited by an insurance requirement, or would invalidate the insurance coverage required hereunder to be maintained by Borrower on or with respect to any part of the Property pursuant to this Section.

2.10.4 If the Property will be damaged or destroyed, in whole or in part, by fire or other casualty, Borrower will give prompt notice of such damage to Lender and provided that Borrower has received the Net Proceeds (defined below), Borrower will promptly commence and diligently prosecute the completion of the repair and restoration of the property as nearly as possible to the condition the Property was in immediately prior to such fire or other casualty, with such alterations as may be approved by Lender (the “Restoration”) and otherwise in accordance with Section 2.13 of this Deed of Trust.

2.10.5 The insurance coverage required under Subsection 2.11.1 may be effected under a blanket policy or policies covering the Property and other properties and assets not constituting a part of the security hereunder, provided that any such blanket policy will specify, except in the case of public liability insurance, the portion of the total coverage of such policy that is allocated to the Property, and any sublimit in such blanket policy applicable to the Property, and will in any case comply in all other respects with the requirements of this Section.

2.10.6 Borrower waives any and all right to claim or recover against Lender, its officers, employees, agents and representatives, by way of subrogation or otherwise, for any loss sustained by Borrower, or any loss or damage to the Property, Borrower’s property or the property of others under Borrower’s control from any cause insured against or required to be insured against by the provisions of this Deed of Trust.

2.11 Condemnation. Borrower will promptly give Lender notice of the actual or threatened commencement of any condemnation or eminent domain proceeding and will deliver to Lender copies of any and all papers served in connection with such proceedings. Lender may participate in any such proceedings to the extent permitted by law. Upon an Event of Default, Borrower will deliver to Lender all instruments requested by it to permit such participation. Borrower will, at its expense, diligently prosecute any such proceedings, and will consult with Lender, its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings. Notwithstanding any taking by any public or quasi-public authority through eminent domain or otherwise (including, but not limited to any transfer made in lieu of or in anticipation of the exercise of such taking), Borrower will continue to pay the Secured Obligations at the time and in the manner provided for its payment in the Note and in this Deed of Trust and the Secured Obligations will not be reduced until any award or payment therefor has actually been received and applied by Lender, after the deduction of expenses of collection, to the reduction or discharge of such obligations. Lender will not be limited to the interest paid on the award by the condemning authority but will be entitled to receive out of the award interest at the rate or rates provided herein or in the Note. If the property or any portion thereof is taken by the power of eminent domain, Borrower will promptly commence and diligently prosecute the Restoration of the Property in accordance with this Deed of Trust. If the Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of the award or payment, Lender will have the right, whether or not a deficiency judgment on the Note will have been sought, recovered or denied, to receive the award or payment, or a portion thereof sufficient to pay the Secured Obligations.

2.12 Restoration After Casualty or Condemnation.

In the event of a casualty or a taking by eminent domain, the following provisions will apply in connection with the Restoration of the Property:

2.12.1 If (i) the Net Proceeds (defined below) do not exceed \$10,000 ("Casualty Amount"); (ii) the costs of completing the Restoration as reasonably estimated by Borrower will be less than or equal to the Casualty Amount; (iii) no Event of Default will have occurred and be continuing under the Note, this Deed of Trust or any of the other Loan Documents; (iv) the Property and the use thereof after the Restoration will be in compliance with, and permitted under, all applicable zoning laws, ordinances, rules and regulations; and (v) such fire or other casualty or taking, as applicable, does not materially impair access to the Property or the Improvements, then the Net Proceeds will be disbursed directly to Borrower and Borrower will commence and diligently prosecute to completion, the Restoration of the Property to as nearly as possible the condition it was in immediately prior to such fire or other casualty or such taking. Except upon the occurrence and continuance of an Event of Default, Borrower will settle any insurance claims with respect to the Net Proceeds which in the aggregate are less than or equal to the Casualty Amount. Lender will have the right to participate in and reasonably approve any settlement for insurance claims with respect to the Net Proceeds that in the aggregate are equal to or greater than the Casualty Amount. If an Event of Default will have occurred and be continuing, Borrower irrevocably empowers Lender, in the name of Borrower as its true and lawful attorney-in-fact, to file and prosecute such claim and to collect and to make receipt for any such payment. If the Net Proceeds are received by Borrower, such Net Proceeds will, until the completion of the related work, be held in trust for Lender and will be segregated from other funds of Borrower to be used to pay for the cost of the Restoration in accordance with the terms hereof.

2.12.2 If the Net Proceeds are greater than the Casualty Amount, such Net Proceeds will be paid to Lender to be held by Lender to be made available to Borrower for the Restoration in accordance with the provisions of this Subsection. Borrower will commence and diligently prosecute to completion the Restoration (in the case of a taking, to the extent the Property is capable of being restored).

2.12.3 The term "Net Proceeds" for purposes of this Section means: (i) the net amount of all insurance proceeds under the Policies carried pursuant to Paragraphs 2.11.1(a), (d), (e), and (f) of this Deed of Trust as a result of such damage or destruction, after deduction of its reasonable costs and expenses (including, but not limited to reasonable counsel fees), if any, in collecting the same, or (ii) the net amount of all awards and payments received by Lender with respect to a taking referenced in Section 2.12 of this Deed of Trust, after deduction of its reasonable costs and expenses (including, but not limited to reasonable counsel fees), if any, in collecting the same, whichever the case may be.

(a) The Net Proceeds will be made available to Borrower for payment of, or reimbursement of Borrower's expenses in connection with, the Restoration, subject to the following conditions:

(i) No Event of Default will have occurred and be continuing under the Note, this Deed of Trust or any of the other Loan Documents;

(ii) Lender will, within a reasonable period of time prior to request for initial disbursement, be furnished with an estimate of the cost of the Restoration accompanied by an architect's certification as to such costs and appropriate plans and specifications for the Restoration;

(iii) The Net Proceeds, together with any cash or cash equivalent deposited by Borrower with Lender, are sufficient to cover the cost of the Restoration as such costs are certified by the architect;

(iv) Lender will be satisfied that any operating deficits, including all scheduled payments of principal and interest under the Note which will be incurred with respect to the Property as a result of the occurrence of any such fire or other casualty or taking, whichever the case may be, will be covered out of (1) the Net Proceeds, or (2) other funds of Borrower;

(v) The Property and the use thereof after the Restoration will be in compliance with, and permitted under, all applicable zoning laws, ordinances, rules and regulations; and

(vi) Such fire or other casualty or taking, as applicable, does not materially impair access to the Property or the Improvements.

(b) The Net Proceeds will be held by Lender and, until disbursed in accordance with the provisions of this Subsection, will constitute additional security for the Secured Obligations. The Net Proceeds other than the Net Proceeds paid under the Policy described in Paragraph 2.11.1(c) will be disbursed by Lender to, or as directed by, Borrower from time to time during the course of the Restoration, upon receipt of evidence satisfactory to Lender that (A) all materials installed and work and labor performed (except to the extent that they are to be directly paid for out of the requested disbursement) in connection with the Restoration have been paid for in full, and (B) there exist no notices of pendency, stop orders, mechanic's or materialman's liens or notices of intention to file same, or any other liens or encumbrances of any nature whatsoever on the Property arising out of the Restoration which have not either been fully bonded and discharged of record or in the alternative fully insured to the satisfaction of Lender by the title insurance company insuring the lien of this Deed of Trust.

(c) Lender will have the use of the plans and specifications and all permits, licenses and approvals required or obtained in connection with the Restoration. The identity of the contractors, subcontractors and materialmen engaged in the Restoration, as well as the contracts under which they have been engaged, will be subject to prior review and acceptance by Lender and an

independent consulting engineer selected by Lender (the "Casualty Consultant"), such acceptance not to be unreasonably withheld or delayed. All costs and expenses incurred by Lender in connection with making the Net Proceeds available for the Restoration, including, without limitation, reasonable counsel fees and disbursements and the Casualty Consultant's fees, will be paid by Borrower.

(d) Lender will not be obligated to make disbursements of the Net Proceeds in excess of an amount equal to the costs actually incurred from time to time for work in place as part of the Restoration, as certified by the Casualty Consultant.

(e) Lender will not be obligated to make disbursements of the Net Proceeds more frequently than once every calendar month.

(f) If at any time the Net Proceeds or the undisbursed balance thereof will not, in the opinion of Lender, be sufficient to pay in full the balance of the costs which are estimated by the Casualty Consultant to be incurred in connection with the completion of the Restoration, Borrower will deposit the deficiency (the "Net Proceeds Deficiency") with Lender before any further disbursement of the Net Proceeds will be made. The Net Proceeds Deficiency deposited with Lender will be held by Lender and will be disbursed for costs actually incurred in connection with the Restoration on the same conditions applicable to the disbursement of the Net Proceeds, and until so disbursed pursuant to this Paragraph will constitute additional security for the Secured Obligations.

(g) The excess, if any, of the Net Proceeds and the remaining balance, if any, of the Net Proceeds Deficiency deposited with Lender after the Casualty Consultant certifies to Lender that the Restoration has been completed in accordance with the provisions of this Section, and the receipt by Lender of evidence satisfactory to Lender that all costs incurred in connection with the Restoration have been paid in full, will be remitted by Lender to Borrower, provided no Event of Default will have occurred and will be continuing under the Note, this Deed of Trust or any of the other Loan Documents.

2.13 Compliance with Laws. Borrower will observe, abide by, and comply with all statutes, ordinances, laws, orders, requirements or decrees relating to the Property enacted, promulgated or issued by any federal, state, county or local governmental authority or any agency or subdivision thereof having jurisdiction over Borrower or the Property. Borrower will observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, but not limited to, zoning, variances, special exceptions and nonconforming uses), privileges, franchises and concessions that are applicable to the Property or that have been granted to or contracted for by Borrower in connection with any existing, presently contemplated or future use of the Property.

2.14 Maintenance of Permits. Borrower will obtain, keep, and constantly maintain in full force and effect during the entire term of this Deed of Trust all certificates, licenses and permits necessary to keep the Property operating as a Permitted Business. Except as specifically provided for in this Deed of Trust, Borrower will not assign, transfer or in any manner change such certificates, licenses or permits without first receiving the written consent of Lender.

2.15 Obligations of Borrower as Lessor. Borrower will perform every obligation of Borrower (as the lessor) and enforce every obligation of the lessee in each lease or other occupancy agreement of the Property or any part thereof (the "Occupancy Leases"). Borrower will not modify, alter, waive, or cancel any Occupancy Lease or any part thereof, without the prior written consent of Lender in accordance with the requirements of the SBA Authorization and other Loan Documents. Borrower will not collect for more than thirty (30) days in advance any rents that may be collectible under any Occupancy Lease and, except as provided for in this Deed of Trust, will not assign any Occupancy Lease or any rents to any party other than Lender, without the prior written consent of Lender. In the event of default under any Occupancy Lease by reason of failure of the Borrower to keep or perform one or more of the covenants, agreements or conditions thereof, Lender is authorized and empowered, and may, at its sole option, remedy, remove or cure any such default, and further, Lender may, at its sole option and in its sole discretion, but without obligation to do so, pay any sum of money deemed necessary by it for the performance of said covenants, agreements and conditions, or for the curing or removal of any such default, and incur all expenses and obligations which it may consider necessary or reasonable in connection therewith, and Borrower will repay on demand all such sums so paid or advanced by Lender together with interest thereon until paid at the then applicable interest rate of the Note plus one hundred (100) basis points. All such sums, if unpaid, will be added to and become part of the indebtedness secured hereby. All Occupancy Leases hereafter made will be subject to the approval of Lender and (a) will be at competitive market rental rates then prevailing in the geographic area for property comparable to the Property, and (b) at Lender's option, will be superior or subordinate in all respects to the lien of this Deed of Trust. Lender will not require approval in advance of any Occupancy Leases that conform to the Borrower's Form Lease (as defined below) as previously approved by Lender, except as set forth below.

2.15.1 Lender has approved in writing a form of Occupancy Lease to be used by Borrower in connection with the Property (the "Form Lease"). Borrower will not, without the prior written consent of Lender, modify or alter the Form Lease in any material respect. In addition, Borrower will not, without the prior written consent of Lender, surrender or terminate, either orally or in writing, any Occupancy Lease now existing or hereafter made with any Major Tenant (as defined below) for all or part of the Property, permit an assignment or sublease of any such Occupancy Lease, except as set forth in the Occupancy Lease, or request or consent to the subordination of any Occupancy Lease to any lien subordinate to this Deed of Trust. If requested, Borrower will furnish Lender with copies of all executed Occupancy Leases of all or any part of the Property now existing or hereafter made, and Borrower will assign to Lender (which assignment will be in form and content acceptable to Lender), as additional security for the Note, all Occupancy Leases now existing or hereafter made for all or any part of the Property. Additionally, if any tenant lease contains a provision allowing the tenant to terminate their lease upon payment of a lease termination fee, Borrower agrees that all such sums will be paid to Lender so long as this Deed of Trust is in effect and held by Lender to be applied to the obligations secured by this Deed of Trust until a new tenant is secured for the space at the same or higher rent. All funds held by Lender will be applied to regular payments due under the Deed of Trust Note and not for prepayment unless there is a default hereunder.

2.15.2 Notwithstanding the foregoing approval by Lender of Borrower's Form Lease, Lender hereby specifically reserves the right to approve all prospective tenants under all Occupancy Leases hereafter proposed to be made if: (i) the term thereof, excluding options to renew the same, exceeds ten (10) years; or (ii) the net rentable area to be occupied thereunder, including expansion options, exceeds twenty percent (20%) of the net leasable area of the Improvements (the tenants under such leases are referred to as "Major Tenants"). Borrower will notify Lender in writing of all prospective Major Tenants and will deliver to Lender, at Borrower's sole cost and expense, information about the prospective Major Tenant reasonably requested by Lender.

2.16 Funds Held by Lender for Taxes, Insurance Premiums, and Other Charges. In order to more fully protect the security of this Deed of Trust, Borrower will, upon the request of Lender, deposit with Lender, together with and in addition to each monthly payment due on account of the indebtedness evidenced by the Note, an amount equal to nine (9%) of the annual total of such taxes, assessments, insurance premiums, and other charges (all as estimated by Lender in its sole discretion) so that, at least thirty (30) days prior to the due date thereof, Lender will be able to pay in full all such taxes, assessments, insurance premiums, and other charges as the same will become due, and Lender may hold without paying interest and commingle with its general funds the sums so deposited and apply the same to the payment of such taxes, assessments, insurance premiums, or other charges as they become due and payable. If at any time the funds so held by Lender are insufficient to pay such taxes, assessments, insurance premiums, or other charges as they become due and payable, Borrower will immediately, upon notice and demand by Lender, deposit with Lender the amount of such deficiency, and the failure on the part of Borrower to do so will entitle Lender, at its sole option, to make such payments in accordance with its right and pursuant to the conditions elsewhere provided in this Deed of Trust. Whenever any default exists under this Deed of Trust, Lender may, at its sole option but without an obligation so to do, apply any funds so held by it pursuant to this Section toward the payment of the indebtedness secured hereby, notwithstanding the fact that the amount owing thereon may not then be due and payable or that said indebtedness may otherwise be adequately secured in such order and manner of application as Lender may elect.

2.17 Examination of Borrower's Records. Borrower will maintain complete and accurate books and records showing in detail the income and expenses of the Property, and will permit Lender and its representatives to examine such books and records and all supporting vouchers and data during normal business hours and from time to time upon request by Lender, in such place as such books and records are customarily kept, and will furnish to Lender, within sixty (60) days after the close of each fiscal year of Borrower, annual statements (income statements and a balance sheet) for the Borrower and the Property in a form acceptable to Lender and will be prepared in accordance with generally accepted accounting principles, and will include a rent roll, certified as true and correct by Borrower and showing in detail all income derived from and expenses incurred in connection with the ownership of the Property. Upon the occurrence of an Event of Default, Lender will have the right to require that the financial statements be audited and certified by a certified public accountant acceptable to Lender, at the sole cost and expense of Borrower.

3. Representations and Warranties. Borrower represents and warrants to Lender that:

3.1 Warranty of Title. Borrower has good title to the Property and has the right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the same and that Borrower possesses an unencumbered fee simple absolute estate in the Real Property and the Improvements and that it owns the Property free and clear of all liens, encumbrances and charges whatsoever except for accruing real property taxes which are not yet due and payable and those matters set forth in the Lender's Policy of Title Insurance insuring the priority lien of this Deed of Trust (the "Permitted Exceptions") in accordance with the SBA Authorization. Borrower will forever warrant, defend and preserve the title and the validity and priority of the lien of this Deed of Trust and will forever warrant and defend the same to Lender against the claims of all persons whomsoever.

3.2 Status of Property.

3.2.1 Borrower has obtained all necessary certificates, licenses and other approvals, governmental and otherwise, necessary for the operation of the Property and the conduct of its business and all required zoning, building code, land use, environmental and other similar permits or approvals, all of which are in full force and effect as of the date hereof and not subject to revocation, suspension, forfeiture or modification.

3.2.2 All public roads and streets necessary for service of and access to the Property for the current or contemplated use thereof have been completed, are serviceable and all-weather and are physically and legally open for use by the public.

3.2.3 The Property complies with the Americans With Disabilities Act and any regulations promulgated thereunder.

3.2.4 No part of the Real Property consists of or is classified as wetlands, tidelands, or swamp and overflow lands.

3.3 Leases. Except as disclosed in the rent roll for the Property delivered to and approved by Lender, (a) Borrower is the sole owner of the entire lessor's interest in the Leases; (b) the terms of all alterations, modifications and amendments to the Leases are reflected in the certified rent roll delivered to and approved by Lender; (c) none of the Rents reserved in the Leases have been assigned or otherwise pledged or hypothecated (except to Lender); (d) the premises demised under the Leases have been completed and the tenants under the Leases have accepted the same and have taken possession of the same on a rent-paying basis; (e) the Leases are valid and enforceable against Borrower and the tenants set forth therein; (f) no person or entity has any possessory interest in, or right to occupy, the Property except under and pursuant to a Lease; and (g) each Lease (other than a residential Lease) is subordinate to this Security Interest, either pursuant to its terms or a recorded subordination agreement.

3.4 Taxes. Borrower has filed all federal, state, county, municipal, and city income and other tax returns required to have been filed by it and have paid all taxes and related liabilities which have become due pursuant to such returns or pursuant to any assessments received by it. Borrower does not know of any basis for any additional assessment in respect of any such taxes and related liabilities for prior years.

4. Further Assurances.

4.1 Inspection by Lender. Lender, and/or its agents, will have the right and will be permitted, but will not be required, at all reasonable times, to enter upon and inspect the Property to insure compliance with the covenants, agreements, and conditions set forth in this Deed of Trust.

4.2 Execution of Additional Documents. Borrower will, at the cost of Borrower, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers, assurances and other instruments, including security agreements and financing statements, as Lender will from time to time require for the purpose of better assuring, conveying, assigning, transferring and confirming unto Lender the Property and rights hereby encumbered, created, conveyed, assigned or intended now or hereafter so to be encumbered, created, conveyed or assigned or that Borrower may now be or may hereafter become bound to encumber, create, convey, or assign to Lender, or for the purpose of carrying out the intention or facilitating the performance of the terms of this Deed of Trust, or for filing, registering, or recording this Deed of Trust, and to pay all filing, registration, or recording fees and all taxes, costs and other expenses, including Reasonable Attorneys' Fees, incident to the preparation, execution, acknowledgment, delivery, and recordation of any of the same.

4.3 Estoppel Certification by Borrower. Borrower, upon Lender's request, shall certify in writing to Lender (or any party designated by Lender) in form satisfactory to Lender the amount of principal and interest then outstanding under the terms of the Note and any other sums due and owing under this Deed of Trust or any of the other Loan Documents and whether any offsets or defenses exist against the Secured Obligations. Borrower shall make such certification within ten (10) days of Lender's request. Borrower shall deliver to Lender, promptly upon request, duly executed estoppel certificates from any one or more lessees (provided the Property is not a residential multifamily property) as required by Lender attesting to such facts regarding the Lease as Lender may require, including, but not limited to attestations that each Lease covered thereby is in full force and effect with no defaults thereunder on the part of any party, that none of the Rents have been paid more than one month in advance, except as security, and that the lessee claims no defense or offset against the full and timely performance of its obligations under the Lease.

5. Sale and Further Encumbrance Prohibited. Borrower will not, without the prior written consent of Lender, sell, convey, mortgage, grant, bargain, encumber, pledge, assign, or otherwise transfer the Property or any part thereof or permit the Property or any part thereof to be sold, conveyed, mortgaged, granted, bargained, encumbered, pledged, assigned, or otherwise transferred. A sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer within the meaning of this Section will be deemed to include, but not limited to (a) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments; (b) an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a space tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's right, title and interest in and to any Leases or any Rents; (c) Lease for a term in excess of twenty (20) years; (d) If Borrower is a corporation, partnership or limited liability company, transfer also includes any change in Borrower's entity ownership of more than twenty-five percent (25%).

Notwithstanding the foregoing, the following transfers will not be deemed to be a sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment or transfer within the meaning of this Section: (a) transfer by devise or descent or by operation of law upon the death of a member, general partner or stockholder of Borrower or any member or general partner thereof, and (b) a sale, transfer or hypothecation of a membership, partnership or shareholder interest in Borrower, whichever the case may be, by a current member, general partner or shareholder, as applicable, to an immediate family member (i.e., parents, spouses, siblings, children or grandchildren) of such member, general partner or shareholder, or to a trust for the benefit of an immediate family member of such member, general partner or shareholder. Further, no restriction against sale or further encumbrance as set forth in this section will apply if that restriction is prohibited by federal law or by state law where the property is located.

6. Default. The occurrence of any one or more of the following events will constitute an "Event of Default":

6.1 Failure to make any payment of (i) interest or principal when due, (ii) any other amount of the Secured Obligations when due, or (iii) the entire amount of the Secured Obligations on or before the Maturity Date.

6.2 If any representation or warranty of Borrower or any Guarantor, or any member, general partner, principal or beneficial owner of any of the foregoing, made herein, or in any other Loan Document, or in any guaranty, or in any certificate, report, financial statement or other instrument or document furnished to Lender was false or misleading in any material respect when made.

6.3 If Borrower or any Guarantor makes an assignment for the benefit of creditors or if Borrower is generally not paying its debts as they become due.

6.4 If (i) Borrower or any Guarantor commences any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or the Borrower or any Guarantor makes a general assignment for the benefit of its creditors; or (ii) there is commenced against Borrower or any Guarantor any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or

(B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) there is commenced against the Borrower or any Guarantor any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of any order for any such relief which will not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (iv) the Borrower or any Guarantor takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) the Borrower or any Guarantor is generally unable to, or admits in writing its inability to, pay its debts as they become due.

6.5 Except for the specific defaults set forth in this Section, any other default under any Loan Document by Borrower, which default is not cured within thirty (30) days after written notice from Lender to Borrower; provided that if such default cannot reasonably be cured within such thirty (30) day period and Borrower will have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period will be extended for so long as it will require Borrower in the exercise of due diligence to cure such default, it being agreed that no such extension will be for a period in excess of one hundred twenty (120) days, unless, only in the case of cures that require construction or remedial work, such cure cannot with diligence be completed within such one hundred twenty (120) day period, in which case such period will be extended for an additional one hundred twenty (120) days.

7. Rights and Remedies.

7.1 **Remedies.** Upon the occurrence of any Event of Default, Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to the following actions, each of which may, to the extent permitted by applicable law, be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

7.1.1 Declare the entire unpaid Secured Obligations to be immediately due and payable.

7.1.2 Institute proceedings, judicial or otherwise, for the complete foreclosure of this Deed of Trust under any applicable provision of law in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner.

7.1.3 Sell for cash or upon credit the Property or any part thereof or any estate, right, title or interest of Borrower therein or rights of redemption thereof, pursuant to power of sale or otherwise, in its entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law.

7.1.4 Institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note or in the other Loan Documents.

7.1.5 Apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Secured Obligations and without regard for the solvency of Borrower or of any person, firm or other entity liable for the payment of the Secured Obligations.

7.1.6 Subject to any applicable law, the license granted to Borrower under Subsection 1.2 will automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect, and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower; (vi) require Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Secured Obligations, in such order, priority and proportions as Lender will deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees.

7.1.7 Exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Personal Property or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Personal Property, and (ii) request Borrower at its expense to assemble the Personal Property and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Personal Property sent to Borrower in accordance with the provisions hereof at least ten days prior to such action, will constitute commercially reasonable notice to Borrower.

7.1.8 Apply the undisbursed balance of any Net Proceeds or any Net Proceeds Deficiency deposit, together with interest thereon, to the payment of the Secured Obligations in such order, priority and proportions as Lender will deem to be appropriate in its discretion.

7.1.9 Pursue such other remedies as Lender may have under applicable law.

Notwithstanding the provisions of this Section to the contrary, if any Event of Default as described in Subsection 6.4(i) or (ii) will occur, the entire unpaid Secured Obligations will be automatically due and payable, without any further notice, demand or other action by Lender.

7.2 Foreclosure by Power of Sale. If Lender elects to foreclose by exercise of the power of sale herein contained, Lender will notify Trustee and will deposit with the Trustee this Deed of Trust, the Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require. Upon receipt of such notice from Lender, Trustee will cause to be recorded and given all notices required by law. Trustee will, without demand on Borrower, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Property at the time and place of sale fixed by it in said Notice of Sale either as a whole, or in separate lots or parcels as Trustee will deem expedient, unless Lender specifies certain terms and conditions that are permitted by applicable law, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. The Trustee may postpone any sale by public announcement at the time and place noticed for the sale. Trustee will deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts will be conclusive proof of the truthfulness thereof. Any person, including without limitation, Borrower, Trustee or Lender, may purchase at such sale. At any judicial or trustee sale of the Property, Beneficiary may credit bid (as determined by Beneficiary in its sole and absolute discretion) all or any portion of the Secured Obligations.

7.3 Application of Proceeds. The purchase money, proceeds and avails of any disposition of the Property, or any part thereof, or any other sums collected by Lender pursuant to the Note, this Deed of Trust or the other Loan Documents, may be applied by Lender to the payment of the Secured Obligations in such priority and proportions as Lender in its discretion will deem proper, subject to any applicable law.

7.4 Right to Cure Defaults. Upon the occurrence of any Event of Default, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, cure the same in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Deed of Trust or collect the Secured Obligations, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section, will constitute a portion of the Secured Obligations and will be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Event of Default or in appearing in, defending, or bringing any such action or proceeding will bear interest at the default rate specified in the Note (the "Default Rate"), for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate will be deemed to constitute a portion of the Secured Obligations and be secured by this Deed of Trust and the other Loan Documents and will be immediately due and payable upon demand by Lender therefor.

7.5 Examination of Books and Records. Lender, its agents, accountants and attorneys will have the right upon prior written notice to examine the records, books, management and other papers of Borrower and its affiliates that reflect upon their financial condition, at the Property or at any office regularly maintained by Borrower, its affiliates or any guarantor where the books and records are located. Lender and its agents will have the right upon notice to make copies and extracts from the foregoing records and other papers. In addition, Lender, its agents, accountants and attorneys will have the right to examine and audit the books and records of Borrower and its affiliates or of any guarantor pertaining to the income, expenses and operation of the Property during reasonable business hours at any office of Borrower, its affiliates or any guarantor where the books and records are located.

7.6 Other Rights.

7.6.1 The failure of Lender to insist upon strict performance of any term hereof will not be deemed to be a waiver of any term of this Deed of Trust. Borrower will not be relieved of Borrower's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Borrower to take any action to foreclose this Deed of Trust or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Secured Obligations or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Deed of Trust or the other Loan Documents.

7.6.2 The risk of loss or damage to the Property is on Borrower, and Lender will have no liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender will not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property or collateral not in Lender's possession.

7.6.3 Lender may resort for the payment of the Secured Obligations to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Secured Obligations, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Deed of Trust. The rights of Lender under this Deed of Trust will be separate, distinct and cumulative and none will be given effect to the exclusion of the others. No act of Lender will be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Lender will not be limited exclusively to the rights and remedies herein stated but will be entitled to every right and remedy now or hereafter afforded at law or in equity.

7.7 Lender's Power. Lender may release or reconvey any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Deed of Trust, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder will have been reduced by the

actual monetary consideration, if any, received by Lender for such release or reconveyance, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Deed of Trust will continue as a lien and security interest in the remaining portion of the Property. Without affecting the liability of any other person liable for the payment and/or performance of the Obligations and without in any way impairing or affecting the lien or priority of this Deed of Trust, Lender may, from time to time and without notice (i) release any person so liable; (ii) extend the maturity or alter any of the terms of any Secured Obligation; (iii) grant other indulgences; or (iv) make compositions or other arrangements with debtors in relation thereto.

7.8 Right of Entry. Lender and its agents will have the right upon prior written notice to enter and inspect the Property at all reasonable times upon notice to Borrower.

7.9 Acceptance of Trust; Powers and Duties of Trustee. Trustee accepts this trust when this Deed of Trust is recorded. From time to time upon written request of Lender and presentation of this Deed of Trust, or a certified copy thereof, for endorsement, and without affecting the personal liability of any person for payment of any indebtedness or performance of any other Obligation, Trustee may, without liability therefor and without notice: (a) reconvey all or any part of the Property; (b) consent to the making of any map or plat of the Property; (c) join in granting any easement on the Property; (d) join in any declaration of covenants and restrictions; or (e) join in any extension agreement or any agreement subordinating the lien or charge of this Deed of Trust. Nothing contained in the immediately preceding sentence will be construed to limit, impair or otherwise affect the rights of Trustee in any respect. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Borrower, Lender, or Trustee will be a party unless brought by Trustee.

7.10 Substitution of Trustee. Lender may at any time, and from time to time, and without notice, replace and substitute a new trustee in place of the existing Trustee under this Deed of Trust, in the manner provided for under, and as allowed by, current Utah law.

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

8. Indemnification. If Lender will become a party either as plaintiff or as defendant, in any action, suit, appeal or legal proceeding (including, without limitation, foreclosure, condemnation, bankruptcy, administrative proceedings or any proceeding wherein proof of claim is by law required to be filed), hearing, motion or application before any court or administrative body in relation to the Property or the lien and security interest granted or created hereby or herein, or for the recovery or protection of said indebtedness or the Property, or for the foreclosure of this Deed of Trust, Borrower will save and hold Lender harmless from and against any and all costs and expenses incurred by Lender on account thereof, including, but not limited to, Reasonable Attorneys' Fees, title searches and abstract and survey charges, at all trial and appellate levels, and Borrower will repay, on demand, all such costs and expenses, together with interest thereon until paid at the then applicable rate of interest of the Note plus one hundred (100) basis points; all of which sums, if unpaid, will be added to and become a part of the indebtedness secured hereby.

9. Usury Savings Clause. Notwithstanding any provisions in the Note or in this Deed of Trust to the contrary, the total liability for payments in the nature of interest including but not limited to default interest and late payment charges will not exceed the limits imposed by the laws of the State of Utah or, if controlling, the United States relating to maximum allowable charges of interest. Lender will not be entitled to receive, collect or apply, as interest on the indebtedness evidenced by the Note, any amount in excess of the maximum lawful rate of interest permitted to be charged by applicable law. If Lender ever receives, collects or applies as interest any such excess, such amount that would be excessive interest will be applied to reduce the unpaid principal balance of the indebtedness evidenced by the Note. If the unpaid principal balance of such indebtedness has been paid in full, any remaining excess will be paid to Borrower.

10. Notices. All notices or other written communications hereunder will be deemed to have been properly given (a) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged by the recipient thereof, (b) one (1) business day after having been deposited for overnight delivery with any reputable overnight courier service, or (c) three (3) business days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Borrower:	Stokes Brothers Real Estate, LLC 539 Overland Avenue Burley, ID 83318
If to Lender:	Eastern Idaho Development Corporation 1651 Alvin Rieken Drive Pocatello, ID 83201 Attention: Samantha Damron

or addressed as such party may from time to time designate by written notice to the other parties. Either party by notice to the other may designate additional or different addresses for subsequent notices or communications.

11. Governing Law. This Deed of Trust is to be governed by and construed in accordance with the laws of the state where the Property is located and, if controlling, by the laws of the United States and will be binding upon Borrower, its heirs, personal representatives, successors and assigns and will inure to the benefit of Lender, its successors and assigns.

12. Miscellaneous.

12.1 Successors and Assigns; Terminology. The provisions hereof will be binding upon Borrower and the heirs, personal representatives, successors and assigns of Borrower, and will inure to the benefit of Lender, its successors and assigns. Where more than one Borrower is named herein, the obligations and liabilities of said Borrower will be joint and several. Wherever used in this Deed of Trust, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, the word "Borrower" will mean Borrower and/or any subsequent owner or owners of the Property, the word "Lender" will mean Lender or any subsequent holder or holders of this Deed of Trust, the word "Note" will mean Note(s) secured by this Deed of Trust, and the word "person" will mean an individual, trustee, trust, corporation, partnership or unincorporated association. As used herein, the phrase "Reasonable Attorneys' Fees" will mean fees charged by attorneys selected by Lender based upon such attorneys' then prevailing hourly rates as opposed to any statutory presumption specified by any statute then in effect in the State of Utah.

12.2 Provisions Subject to Applicable Law. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any Applicable Law.

12.3 Inapplicable Provision. If any term of this Security Instrument or any application thereof will be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term will not be affected thereby.

12.4 Attorney's Fees for Enforcement. Borrower will pay to Lender on demand any and all expenses, including legal expenses and attorney's fees, incurred or paid by Lender in protecting its interest in the Property or Personal Property or in collecting any amount payable hereunder or in enforcing its rights hereunder with respect to the Property or Personal Property, whether or not any legal proceeding is commenced hereunder or thereunder and whether or not any default or Event of Default will have occurred and is continuing, together with interest thereon at the Default Rate from the date paid or incurred by Lender until such expenses are paid by Borrower.

12.5 Modifications. This Deed of Trust cannot be changed, altered, amended or modified except by an agreement in writing and in recordable form, executed by both Borrower and Lender.

12.6 Captions. The captions set forth at the beginning of the various sections of this Deed of Trust are for convenience only and will not be used to interpret or construe the provisions of this Deed of Trust.

12.7 Liability. If Borrower consists of more than one person, the obligations and liabilities of each such person hereunder will be joint and several.

12.8 Duplicate Originals; Counterparts. This Deed of Trust may be executed in any number of duplicate originals and each duplicate original will be deemed to be an original. This Deed of Trust may be executed in several counterparts, each of which counterparts will be deemed an original instrument and all of which together will constitute a single Deed of Trust. The failure of any party hereto to execute this Deed of Trust, or any counterpart hereof, will not relieve the other signatories from their obligations hereunder.

12.9 Entire Agreement. The Note, this Deed of Trust and the other Loan Documents constitute the entire understanding and agreement between Borrower and Lender with respect to the transactions arising in connection with the Secured Obligations and supersede all prior written or oral understandings and agreements between Borrower and Lender with respect thereto.

12.10 SBA Loan. The Loan secured by this lien was made under a United States Small Business Administration ("SBA") nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under SBA regulations:

- a) When SBA is the holder of the Note, this document and all Loan Documents evidencing or securing the Note will be construed in accordance with federal law.
- b) Lender or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No Borrower or Guarantor may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to this Loan.

Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.

12.11 SBA Authorization. The Loan Documents also include the SBA Authorization for SBA loan no. 87946650-09 ("SBA Authorization"), together with such other agreements and certifications that are signed by Borrower in accordance with the requirements of the SBA Authorization.

12.12 Third Party Lender Deed of Trust. Notwithstanding any provision of the Deed of Trust to the contrary, this deed of trust will be junior to the deed of trust that Borrower has given to the Third-Party Lender, identified in the Authorization, provided that the underlying obligation to the Third Party does not exceed that allowed by the Authorization.

12.13 Salem City Redevelopment Agency Lease. The Real Property is owned by Salem City Redevelopment Agency, but leased to Borrower for a term of 50 years, in accordance with that certain lease dated August 29, 2011 and Assignment of Lease dated December 9, 2015. Lender's rights in the Real Property are subject to Salem City Redevelopment Agency, as modified by the Lessor's Agreement that is recorded contemporaneously with this Deed of Trust.

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust as of the day and year first written above.

BORROWER

Stokes Brother Real Estate, LLC

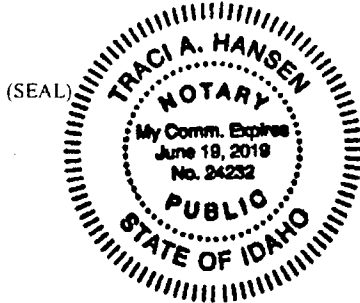
By: [Signature]
John Stokes, Member

By: [Signature]
Steve Stokes, Member

STATE OF IDAHO)
)SS.
COUNTY OF BANNOCK)

On this 28th day of November, 2018, before me, the undersigned, a Notary Public in and for said County and State, personally appeared John Stokes and Steve Stokes, known or identified to me to be the members of the limited liability company that executed the within instrument or the persons who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]
NOTARY PUBLIC
Residing at: Pocatello, ID
Commission expires: June 19, 2019

Exhibit "A"

Property Description

The land referred to is located in Utah County, State of Utah, and is described as follows:

Commencing North 1284.81 feet and East 1501.79 feet from the West quarter corner of Section 1, Township 9 South, Range 2 East, Salt Lake Base and Meridian; thence South 88°21'00" East 726.10 feet; thence South 23°02'16" West 361.37 feet; thence North 55°05'46" West 4.75 feet; thence South 32°05'37" West 1.21 feet; thence along a 15.01 foot radius curve to the right (chord bears South 67°19'02" West 19.45 feet); thence North 70°35'53" West 3.50 feet; thence along a 265.93 foot radius curve to the left (chord bears North 78°11'11" West 101.69 feet); thence North 89°14'50" West 436.71 feet; thence along a 25.00 foot radius curve to the right (chord bears North 37°44'19" West 36 feet); thence West 1.41 feet; thence North 00°12'00" East 303.08 feet to the point of beginning.

(30:002:0088)