

2014-009483

Klamath County, Oregon

09/11/2014 12:43:01 PM

Fee: \$212.00

This document was prepared by
and when recorded return to:

J. Dillon Curran, Esq.
Conner & Winters, LLP
One Leadership Square
211 North Robinson, Suite 1700
Oklahoma City, Oklahoma 73102

**DEED OF TRUST, ASSIGNMENT OF RENTS
AND SECURITY AGREEMENT**

NC5-677668-021
THIS DEED OF TRUST, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT (this "Deed of Trust") is dated this 11th day of September, 2014, from SKY LAKES SNF, LLC, a California limited liability company, having an address of 1437 7th Street, Suite 200, Santa Monica, California 90401 (the "Grantor"), FIRST AMERICAN TITLE INSURANCE COMPANY, having an address of 200 S. W. Market, Suite 250, Portland, Oregon 97201 (the "Trustee"), and BOKF, NA dba BANK OF OKLAHOMA, having an address of 201 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102 (the "Beneficiary").

Recitals:

FAT00
A. Beneficiary has made a loan to Grantor in the maximum principal amount of Four Million Six Hundred Thousand and no/100 Dollars (\$4,600,000.00) (the "Loan") pursuant to the terms of that certain Loan Agreement dated as of even date herewith between Grantor and Beneficiary (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Loan Agreement"), and evidenced by that certain Promissory Note in the principal face amount of \$4,600,000.00 dated as of even date herewith made by Grantor to Beneficiary (such note, together with all extensions, renewals, replacements, restatements or modifications thereof, being hereinafter referred to as the "Note"). The Loan has a maturity date of September 11, 2019. Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Agreement.

B. Pursuant to the Loan Agreement, Grantor has agreed to execute and deliver to Beneficiary this Deed of Trust constituting a lien on the Grantor's interest in the leasehold estates and all privileges and options created by the lease or leases described on **Schedule 1** hereto (as such lease or leases may be amended, modified, extended or supplemented from time to time, the "Lease"), together with all of Grantor's right, title and interest in and to the land (as defined herein) lying and being situated in Klamath County, Oregon, together with the

Improvements (as defined herein) in order to better secure Grantor's obligations pursuant to that certain note.

NOW, THEREFORE, for the purpose of securing the payment and performance of the following obligations (collectively, the "Secured Obligations"):

(A) All indebtedness, together with all interest thereon, evidenced by the Note, the provisions of the Note being incorporated herein by this reference; and

(B) Any sums advanced by Beneficiary which may otherwise become due pursuant to the provisions of the Note, the Loan Agreement or this Deed of Trust or pursuant to any other document or instrument at any time delivered to Beneficiary to evidence or secure any of the Secured Obligations or which otherwise relate to any of the Secured Obligations (as such documents and instruments, including this Deed of Trust, and any other agreement, documents or instruments hereinabove referenced, as the same may be amended, supplemented or replaced from time to time, being collectively referred to herein as the "Loan Documents").

Grantor, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound hereby, does hereby give, grant, bargain, sell, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm to Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, and does agree that Trustee, in trust for the benefit of Beneficiary, shall have a security interest in the following described property, all accessions and additions thereto, all replacements or substitutes therefor, and all products and proceeds thereof, and all reversions and remainders of such property, and whether held to be real or personal property, tangible or intangible (collectively, the "Secured Property") now owned, leased, held or hereafter acquired, to wit:

(a) Land. Grantor's right, title and interest in and to the real property described in Exhibit A attached hereto and made a part hereof (the "Land"), including, but not limited to, Grantor's right, title and interest in and to the Land pursuant to the Lease;

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Grantor for use in connection with the Land and the development of the Land and all additional lands and estates herein which may, from time to time, by supplemental mortgage or otherwise, be expressly made subject to the lien of this Deed of Trust;

(c) Improvements. All buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the land, including but not limited to, Grantor's right, title and interest in and to the Improvements pursuant to (i) the Lease; (ii) that certain Statutory Warranty Deed of even date herewith signed by Sky Lakes Medical Center, Inc. f/k/a Merle West Medical Center, Inc., and Klamath Falls Intercommunity Hospital Authority in favor of Grantor; and (iii) that certain Agreement of Purchase and Sale of even date herewith by and between Sky Lakes Medical Center, Inc. f/k/a Merle West Medical Center, Inc., and Klamath Falls Intercommunity Hospital Authority, as Owner, and Grantor (collectively, the "Improvements" and together with the Land, collectively referred to herein as the "Property");

(d) Easements. All easements, rights-of way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Property and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Grantor of, in and to the Property and every part and parcel thereof, with the appurtenances thereto;

(e) Equipment. All "equipment," as such term is defined in Article 9 of the Uniform Commercial Code (as hereinafter defined), now owned, leased or hereafter acquired by Grantor, which is sued at or in connection with the Improvements or the Land or is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Grantor and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "Equipment");

(f) Fixtures. All Equipment now owned, leased, or the ownership of which is hereafter acquired, by Grantor which is so related to the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) all or any portion of the Property, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatus and equipment, heating, ventilating, plumbing, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and if owned jointly, to the extent of Grantor's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "Fixtures");

(g) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights, accounts, accounts receivable, franchises, licenses, certificates and permits, and all other personal property of any kind or character whatsoever (as defined in and subject to the provisions of the Uniform Commercial Code), other than Fixtures, which are now or hereafter owned by Grantor and which

are located within or about the Property, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "Personal Property"), and the right, title and interest of Grantor in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state of states whose law governs the creation and/or perfection, as applicable, of security interests in the Secured Property (as amended from time to time, the "Uniform Commercial Code"), superior in lien to the lien of this Deed of Trust, and all proceeds and products of any of the above;

(h) Leases and Rents. All leases, subleases, lettings, licenses, concessions or other agreements (whether written or oral), including, without limitation, that certain Sublease and Purchase Option Agreement dated November 7, 2002 signed by Plum Ridge Care Community, LLC ("Plum Ridge"), as sub-landlord, and Marquis Companies I, Inc., as sub-tenant, as amended, and as subsequently assigned by Plum Ridge to Grantor pursuant to that certain Assignment of Leasehold Interest and Consent to Assignment and Mortgage Assumption and Release dated March 29, 2012 (collectively, the "Operating Lease"), pursuant to which any person is granted a possessory interest in, or right to use or occupy, all or any portion of the secured Property, and every modification, amendment or other agreement relating to such leases, subleases or other agreements, and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party hereto, heretofore or hereafter entered into, whether before or after the filing by or against Grantor of any petition for relief under 11 U.S.C. § 101 *et seq.*, as the same may be amended from time to time (the "Bankruptcy Code") (collectively, the "Leases"), and all right, title and interest of Grantor, 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 Secured Property, whether paid or accruing before or after the filing by or against Grantor of any petition for relief under the Bankruptcy Code (collectively, 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 and performance of the Secured Obligations, including the payment of the indebtedness evidenced by the Note;

(i) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of such right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(j) Insurance Proceeds. All proceeds in respect of the Secured Property under any insurance policies covering the Secured 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 Secured Property;

(k) Tax Certiorari. All refunds, rebates or credits in connection with any reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari proceedings or any other applications or proceedings for reduction;

(l) Rights. The right, in the name and on behalf of Grantor, to appear in and defend any action or proceeding brought with respect to the Secured Property and to commence any action or proceeding to protect the interest of Beneficiary in the Secured Property.

(m) 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 Secured Property and any part thereof or respecting any business or activity conducted on the Secured Property and any part thereof and all right, title and interest of Grantor therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Grantor thereunder;

(n) Trademarks. All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Secured Property;

(o) Accounts. All reserves, escrows and deposit accounts maintained by Grantor with respect to the Secured Property, including, without limitation, all accounts established or maintained pursuant to the Loan Agreement or any other Loan Document, together with all deposits or wire transfers made to such accounts, and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time, and all proceeds, products, distributions, dividends and/or substitutions thereon and thereof;

(p) Uniform Commercial Code Property. All documents, instruments, chattel paper and intangibles, as the foregoing terms are defined in the Uniform Commercial Code, and general intangibles relating to the Secured Property;

(q) Proceeds. All proceeds of any of the foregoing, including, without limitation, proceeds of insurance and condemnation awards, whether in cash or in liquidation or other claims, or otherwise; and

(r) Other Rights. Any and all other rights of Grantor in and to the items set forth in Subsections (a) through (q) above.

ARTICLE I

SECURITY AND GRANTS

Section 1.1 Assignment of Rents. This Deed of Trust is intended to constitute a present, absolute and irrevocable assignment to Beneficiary of all of the Leases and all of the Rents now or hereafter accruing, and Grantor, without limiting the generality of the granting clause hereof, specifically hereby presently, absolutely and irrevocably assigns to Beneficiary all of the Leases and all of the Rents now or hereafter accruing to Beneficiary. The aforesaid assignment shall be effective immediately upon the execution of this Deed of Trust and is not

conditioned upon the occurrence of any Event of Default hereunder or any other contingency or event; provided, however, that Beneficiary hereby grants to Grantor the right and license to collect and receive and enjoy the Rents as they become due, and not in advance, so long as no Event of Default exists hereunder. Immediately upon the occurrence of any Event of Default, the foregoing right and license shall be automatically terminated and of no further force or effect. Nothing contained in this Section 1.1 or elsewhere in this Deed of Trust shall be construed to make Beneficiary a mortgagee in possession unless and until Beneficiary actually takes possession of the Secured Property, nor to obligate Beneficiary to take any action or incur any expense or discharge any duty or liability under or in respect of any leases or other agreements relating to the Secured Property or any part thereof.

Section 1.2 Security Agreement. This Deed of Trust is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Secured Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Grantor in the Secured Property. By executing and delivering this Deed of Trust, Grantor hereby grants to Beneficiary, as security for the Secured Obligations, a security interest in the Fixtures, the Equipment, the Personal Property and the other property constituting the Secured Property to the full extent that the Fixtures, the Equipment, the Personal Property and such other property may be subject to the Uniform Commercial Code (said portion of the Secured Property so subject to the Uniform Commercial Code being called the "Collateral"). Grantor shall execute, file and re-file such financing statements or other security agreements as Beneficiary shall require from time to time with respect to the Collateral. Grantor hereby authorizes Beneficiary to file such financing statements and any amendments thereto pursuant to the Uniform Commercial Code as adopted and enacted by the state or states where the Property is located (sometimes referred to herein as the "UCC"), without the signature of the Grantor as Beneficiary may deem necessary to perfect such interests or rights in its favor. If an Event of Default shall occur and be continuing, Beneficiary, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, 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, the right to take possession of the Collateral or any part thereof, and to take such other measures as Beneficiary may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Beneficiary after the occurrence and during the continuance of an Event of Default, Grantor shall, at its expense, assemble the Collateral and make it available to Beneficiary at a convenient place (at the Land if tangible property) reasonably acceptable to Beneficiary. Grantor shall pay to Beneficiary on demand any and all expenses, including attorneys' fees and costs, incurred or paid by Beneficiary in protecting its interest in the Collateral and enforcing its rights hereunder with respect to the Collateral after the occurrence of an Event of Default. Any notice of sale, disposition or other intended action by Beneficiary with respect to the Collateral sent to Grantor in accordance with the provisions hereof at least ten (10) Business Days prior to such action, shall, except as otherwise provided by applicable law, constitute reasonable notice to Grantor. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Beneficiary to the payment of the indebtedness evidenced by the Note in such priority and proportions as Beneficiary in its discretion shall deem proper. The principal place of business of Grantor is as set forth on page one hereof and the address of Beneficiary (Secured Party) is as set forth on page one hereof.

ARTICLE II

GRANTOR COVENANTS

Grantor covenants and agrees that throughout the term of the Loan:

Section 2.1 Payment of indebtedness evidenced by the Note. Grantor will pay the indebtedness evidenced by the Note at the time and in the manner provided in the Loan Agreement, the Note and this Deed of Trust.

Section 2.2 Incorporation by Reference. All the covenants, conditions and agreements contained in the Loan Agreement, the Note, and all and any of the other Loan Documents, are hereby made a part of this Deed of Trust to the same extent and with the same force as if fully set forth herein.

Section 2.3 Insurance. Grantor shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Grantor and the Property as required pursuant to the Loan Agreement and the Lease.

Section 2.4 Maintenance of Property. Grantor shall cause the Property to be maintained in a good and safe condition and repair. The Improvements, the Fixtures, the Equipment and the Personal Property shall not, except as otherwise provided pursuant to the Loan Agreement, be removed, demolished or materially altered without the prior written consent of Beneficiary. Grantor shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any Casualty, or become damaged, worn or dilapidated or which may be affected by any Condemnation, and shall complete and pay for any structure at any time in the process of construction or repair on the Land, all in accordance with the terms and provisions of this Deed of Trust. All alterations, replacements, renewals or additions made pursuant to this Section 2.4 shall automatically become and constitute part of the Property and shall be covered by the lien of this Deed of Trust.

Section 2.5 Waste. Grantor shall not commit or suffer any waste of the Property, or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or allow the cancellation of any Policy, or do or permit to be done thereon anything that may in any way materially impair the value of the Property or the security of this Deed of Trust. Grantor will not permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

Section 2.6 Payment for Labor and Materials.

(a) Grantor will promptly pay when due all bills and costs for work, services, equipment, labor, materials and specifically fabricated materials ("Labor and Material Costs") incurred in connection with the Property.

(b) Grantor shall not permit to be created or exist in respect of the Property or any part thereof, any other or additional lien or security interest other than the liens and security interests created hereby and by the other Loan Documents.

Section 2.7 Performance of Other Agreements. Grantor shall observe and perform each and every term, covenant and provision to be observed or performed by Grantor pursuant to the Loan Agreement, any other Loan Documents and any other agreement or recorded instrument affecting or pertaining to the Property, and any amendments, modifications or changes thereto.

Section 2.8 Leasehold Interest. Grantor (i) shall comply with the provisions of the Lease, (ii) shall give immediate written notice to Beneficiary of any default by lessor under the Lease or of any notice received by Grantor from such lessor of any default under the Lease by Grantor, (iii) shall exercise any option to renew or extend the Lease and give written confirmation thereof to Beneficiary within thirty (30) days after such option becomes exercisable, (iv) shall give immediate written notice to Beneficiary of the commencement of any remedial proceeding under the Lease by any party thereto and, if required by Beneficiary, shall permit Beneficiary as Grantor's attorney-in-fact to control and act for Grantor in any such remedial proceedings, and (v) shall within thirty (30) days after request by Beneficiary obtain from the lessor under the Lease and delivery to Beneficiary the lessor's estoppels certificate required thereunder, if any. Grantor hereby expressly transfers and assigns to Beneficiary the benefit of all covenants contained in the Lease, whether or not such covenants run with the land, but Beneficiary shall have no liability with respect to such covenants nor any other covenants contained in the Lease. Grantor shall not surrender the leasehold estate and interests herein conveyed nor terminate or cancel the Lease creating said estate and interests, nor do, perform, fail to perform, suffer or permit any act or omissions which could result in any termination or cancellation of the Lease. Grantor shall not, without the express written consent of Beneficiary, alter or amend the Lease. Grantor covenants and agrees that there shall not be a merger of the Lease, or of the leasehold estate created thereby, with the fee estate covered by the Lease by reason of said leasehold estate or said fee estate, or any part of either, coming into common ownership, unless Beneficiary shall consent in writing to such merger. If Grantor shall acquire such fee estate, then this Deed of Trust shall simultaneously and without further action be spread so as to become a lien on such fee estate.

ARTICLE III **OBLIGATIONS AND RELIANCES**

Section 3.1 Relationship of Grantor and Beneficiary. The relationship between Grantor and Beneficiary is solely that of debtor and creditor, and Beneficiary has no fiduciary or other special relationship with Grantor, and no term or condition of any of the Loan Agreement, the Note, this Deed of Trust or the other Loan Documents shall be construed so as to deem the relationship between Grantor and Beneficiary to be other than that of debtor and creditor.

Section 3.2 No Reliance on Beneficiary. The principals, members, managers, directors, officers and other managerial agents of Grantor, as applicable, are experienced in the ownership and operation of properties similar to the Property, and Grantor and Beneficiary are

relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Grantor is not relying on Beneficiary's expertise, business acumen or advice in connection with the Property.

Section 3.3 No Beneficiary Obligations.

(a) Notwithstanding any of the provisions hereof, Beneficiary is not undertaking the performance of (i) any obligations under the Lease, (ii) any obligations under the Leases, or (iii) any obligations with respect to any other agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses or other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Beneficiary pursuant to this Deed of Trust, the Loan Agreement, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal or insurance policy, Beneficiary shall not be deemed to have warranted, consented to, or affirmed the sufficiency, legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Beneficiary.

ARTICLE IV
FURTHER ASSURANCES

Section 4.1 Taxes; Recording Fees, Etc. Grantor will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Deed of Trust, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto and any instrument of further assurance, and any modification or amendment of any of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Deed of Trust, any deed of trust or mortgage supplemental hereto or any instrument of further assurance, and any modification or amendment of any of the foregoing documents, except where prohibited by law so to do.

Section 4.2 Further Acts, Etc. Grantor will, at the sole cost and expense of Grantor, and without expense to Beneficiary, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Beneficiary shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring and confirming unto Beneficiary the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Grantor may be or may hereafter become bound to convey or assign to Beneficiary, or for 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, or for complying with all Legal Requirements. Grantor, on demand, will execute and deliver, and in the event Grantor shall fail to so execute and deliver, hereby authorizes Beneficiary to execute in the name of Grantor or without the signature of Grantor to the extent Beneficiary may lawfully do so, one or more financing statements to evidence more effectively the security interest of Beneficiary in the Property.

Grantor grants to Beneficiary an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Beneficiary at law and in equity, including, without limitation, such rights and remedies available to Beneficiary pursuant to this Section 4.2.

Section 4.3 Changes in Tax, indebtedness evidenced by the Note, Credit and Documentary Stamp Laws.

(a) If any law is enacted or adopted or amended after the date of this Deed of Trust which deducts the indebtedness evidenced by the Note from the value of the Secured Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the indebtedness evidenced by the Note or Beneficiary's interest in the Secured Property, Grantor will pay the tax, with interest and penalties thereon, if any. If Beneficiary is advised by counsel chosen by it that the payment of tax by Grantor would be unlawful or taxable to Beneficiary or unenforceable or provide the basis for a defense of usury, then Beneficiary shall have the option to declare the indebtedness evidenced by the Note immediately due and payable.

(b) Grantor will not claim or demand or be entitled to any credit or credits on account of the indebtedness evidenced by the Note for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Deed of Trust or the indebtedness evidenced by the Note. If such claim, credit or deduction shall be required by law, then Beneficiary shall have the option to declare the indebtedness evidenced by the Note immediately due and payable.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this Deed of Trust, or any of the other Loan Documents or shall impose any other tax or charge on the same, Grantor will pay for the same, with interest and penalties thereon, if any.

Section 4.4 Splitting of Deed of Trust. This Deed of Trust and the Note may, at any time until the same shall be fully paid and satisfied, at the sole election of Beneficiary, be split or divided into two or more notes and two or more deeds of trust, in such denominations as Beneficiary shall determine in its sole discretion (subject to the following sentence), each of which shall cover all or a portion of the Property to be more particularly described therein. To that end, Grantor, upon written request of Beneficiary, shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered by the then owner of the Property, to Beneficiary and/or its designee or designees, substitute notes and deeds of trust in such principal amounts, aggregating not more than the then unpaid principal amount of the Note, and containing terms, provisions and clauses similar to those contained herein and in the Note, and such other documents and instruments as may be required by Beneficiary.

Section 4.5 Replacement Documents. Upon receipt of an affidavit of an officer of Beneficiary as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of the Note or such other Loan Document, Grantor will issue, in lieu thereof, a

replacement note or a replacement of such other Loan Document, dated on the date of such lost, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

ARTICLE V

DUE ON SALE/ENCUMBRANCE

Section 5.1 Beneficiary Reliance. Grantor acknowledges that Beneficiary has examined and relied on the experience of Grantor and its principals, members, managers, directors, officers and other managerial agents in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Grantor's ownership of the Property as a means of maintaining the value of the Secured Property as security for the payment and performance of the Secured Obligations, including the repayment of the indebtedness evidenced by the Note. Grantor acknowledges that Beneficiary has a valid interest in maintaining the value of the Secured Property so as to ensure that, should Grantor default in the payment and/or performance of the Secured Obligations, including the repayment of the indebtedness evidenced by the Note, Beneficiary can recover the indebtedness evidenced by the Note by a sale of the Property.

Section 5.2 No Transfer. Except as may be permitted by the Loan Agreement, Grantor shall not permit or suffer to occur any Transfer.

ARTICLE VI

CASUALTY/CONDEMNATION

Section 6.1 Proceeds of Insurance. In the event of casualty, damage or loss to the Property, Grantor will give immediate notice by mail to Beneficiary, who is hereby given privilege and authority, on failure of Grantor to act promptly, to make proof of loss and adjust and collect such insurance. Each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Beneficiary. Beneficiary shall have the right to apply the insurance proceeds as follows: first, to reimburse Beneficiary for all costs and expenses, including reasonable attorneys' fees incurred in connection with the collection of such proceeds, and second, the Beneficiary shall have the option, in Beneficiary's sole discretion, to apply any proceeds so collected either to the restoration of the Property, in the amounts, manner, method and pursuant to such requirements, conditions, and documents as Beneficiary may require, and otherwise as set forth below, or to the payment of the indebtedness secured hereby. In the event of foreclosure of this Deed of Trust or other transfer of title to the Property in extinguishment of the indebtedness secured hereby, all right, title and interest of Grantor in and to any insurance policies then in force shall pass to the purchaser or grantee.

If the Beneficiary elects to restore the Property in the manner set forth above, then all proceeds of insurance received for loss or damage to the Property shall be retained by the Beneficiary and held in trust in a special account with Beneficiary, and shall be made available to the Grantor for restoration of the Property, subject to strict compliance with the following terms and conditions: (i) there shall be no Default under the Note, this Deed of Trust, the Loan Agreement, or any other instrument executed in connection with this transaction, or under any renewals or modifications thereof; (ii) the Grantor shall deliver to the Beneficiary evidence

satisfactory to the Beneficiary that the Grantor's lease or leases covering space in the Property will not be adversely affected by any such casualty, repair or restoration; (iii) Grantor shall deliver to Beneficiary evidence satisfactory to Beneficiary that after the restoration is completed, the value of the Property, upon completion of reconstruction of the improvements thereon, as determined by the Beneficiary in its reasonable discretion, will not be less than the value of the Property on a completed basis including land and improvements, as originally determined by Beneficiary in its approval of the loan; (iv) Beneficiary, in its reasonable discretion, has determined that after the work of reconstruction is completed, the Property will be substantially in the condition existing immediately prior to the loss or damage; (v) Grantor has satisfied Beneficiary that the improvements can be completed prior to the maturity date of the Note, substantially in accordance with the plans and specifications for the improvements, copies of which will be submitted to Beneficiary; (vi) Beneficiary shall be subrogated to all rights, claims and causes of action of Grantor against the parties, if any, who are or may be liable for the loss or damage; (vii) the Grantor shall deposit with the Beneficiary all additional sums which are reasonably estimated by the Beneficiary as necessary to completely pay the costs of restoration of the Property, which sums shall be disbursed by the Beneficiary prior to any further disbursements of insurance proceeds; and (viii) prior to any disbursement by the Beneficiary, the following information shall have been obtained by the Grantor, at their expense, and submitted to the Beneficiary, which information shall be in form and substance satisfactory to the Beneficiary: (a) architect's or engineer's plans and specifications for all construction and restoration, which plans and specifications shall contain an estimate of the cost of all construction and restoration; (b) a request for advance signed by the Grantor, accompanied by billing statements, vouchers and invoices, which request for advance shall expressly warrant that the work for which the advance is requested has been performed in accordance with the approved plans and specifications; (c) proof that all invoices for labor and materials have been paid, except those contained in the current request for advance; (d) lien waivers from all payees under previous requests for advances; (e) a report from the architect or engineer which shall specify the percentage of completion of construction, provide detailed comments on specific work performed since the date of the last such report, and certify that there are sufficient funds remaining in escrow to pay the cost of construction; and (f) an endorsement to Beneficiary's title policy insuring this Deed of Trust, which endorsement shall show no liens of record or additional encumbrances not acceptable to the Beneficiary.

Grantor and Beneficiary agree that the Beneficiary shall have the right to deduct from the deposited sum, prior to any disbursements, reasonable charges for acting as a disbursing agent hereunder. In no event shall Beneficiary be obligated to make any payment, disbursement or contribution towards the cost of repairs and restoration except to the extent of insurance proceeds actually received as increased by any additional sums required of Grantor as herein provided.

Section 6.2 Condemnation. Grantor agrees that all awards heretofore or hereafter made by any public or quasi-public authority to the present and all subsequent owners of the Property covered by this Deed of Trust by virtue of any exercise of the right of eminent domain by such authority, including any award for taking of title, possession or right of access to a public way or for any change of grade of street affecting the Property, are hereby assigned and shall be paid directly to Beneficiary; and Beneficiary, is hereby authorized, directed and empowered to collect and receive the proceeds of any such awards from the authorities making the same and to give proper receipts and acquittances therefor, and the Beneficiary shall have the

option, in Beneficiary's sole discretion, to apply any proceeds so collected either to the restoration of the Property, in the amounts, manner, method and pursuant to such requirements, conditions, and documents as Beneficiary may require, or to the payment of the indebtedness secured hereby; provided, however, that the Beneficiary shall not be obligated to see to the proper application of any amount paid over to the Grantor. Grantor hereby covenants and agrees to and with Beneficiary, upon written request by Beneficiary, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning all such awards to Beneficiary free, clear and discharged of any and all encumbrances of any kind or nature whatsoever.

The Grantor immediately upon obtaining knowledge of the institution of any proceedings or negotiations for the condemnation of the Property, or any portion thereof, will notify the Beneficiary of the pendency of such negotiations or proceedings. The Beneficiary may participate in such negotiations or proceedings, and the Grantor from time to time will execute and deliver to the Beneficiary all instruments requested by the Beneficiary to permit such participation.

ARTICLE VII

RIGHTS AND REMEDIES UPON DEFAULT

Section 7.1 Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default" hereunder:

- (a) The occurrence of a Default under and as defined in the Loan Agreement;
- (b) A failure by Grantor to duly and timely perform and/or observe any of the Grantor's obligations or any other provision set forth in this Deed of Trust;
- (c) An event of default is alleged to have occurred under any other Permitted Encumbrance, whether alleged to be superior or junior to the lien of this Deed of Trust;
- (d) Any action or proceeding is commenced, excepting an action to foreclose this Deed of Trust or to collect the indebtedness hereby secured, to which action or proceeding Beneficiary is made a party by reason of the execution of this Deed of Trust or the Note, or in which it becomes necessary to defend or uphold the lien of this Deed of Trust, or the priority thereof or possession of the Secured Property, or otherwise protect the security hereunder unless such action is dismissed within sixty (60) days after the filing thereof; and
- (e) The Improvements are substantially damaged or destroyed by an uninsured or inadequately insured Casualty.

Section 7.2 Remedies. If an Event of Default occurs, Beneficiary may, at its option and notwithstanding any contrary provisions in the Loan Documents, without demand, notice or delay, do one or more of the following:

- (a) Beneficiary may declare the entire unpaid principal balance of the Secured Obligations, together with all interest thereon, to be due and payable immediately and all such

indebtedness shall automatically and immediately become due and payable without notice or any other act.

(b) For any sale under the power of sale granted by this Deed of Trust, Beneficiary or Trustee shall record and give all notices required by law and then, upon the expiration of such time as is required by law, Trustee may sell the Property upon any terms and conditions specified by Beneficiary and permitted by applicable law. Trustee may postpone any sale by public announcement at the time and place noticed for the sale. If the Property includes several lots or parcels, Beneficiary in its discretion may designate their order of sale or may elect to sell all of them as an entirety. The Property, real, personal, and mixed, may be sold in one parcel. Any person permitted by law to do so may purchase at any sale. Upon any sale, Trustee will execute and deliver to the purchaser or purchasers a deed or deeds conveying the Property sold, but without any covenant or warranty, express or implied, and the recitals in the Trustee's deed showing that the sale was conducted in compliance with all the requirements of law shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value.

(c) Beneficiary may (1) institute and maintain an action of mortgage foreclosure against the Property and the interests of Grantor therein, (2) institute and maintain an action on any instruments evidencing the Note or any portion thereof (including through the exercise of a power of sale, if permitted in the jurisdiction in which the Land is located, Grantor hereby expressly granting such power), and (3) take such other action at law or in equity for the enforcement of any of the Loan Documents as the law may allow, and in each such action Beneficiary shall be entitled to all costs of suit and attorneys fees.

(d) Beneficiary may, in its sole and absolute discretion, and without releasing Grantor or any other obligor or guarantor from any obligation under any of the Loan Documents and without waiving any Event of Default: (1) collect any or all of the Rents, including any Rents past due and unpaid; (2) perform any obligation or exercise any right or remedy of Grantor under any Lease, or (3) enforce any obligation of any tenant of any of the Property. Beneficiary may exercise any right under this subsection (d) whether or not Beneficiary shall have entered into possession of any of the Property, and nothing herein contained shall be construed as constituting Beneficiary a "Beneficiary in possession," unless Beneficiary shall have entered into and shall continue to be in actual possession of the Property.

(e) Grantor hereby authorizes and directs each and every present and future tenant of any of the Property to pay all Rents directly to Beneficiary and to perform all other obligations of that tenant for the direct benefit of Beneficiary, as if Beneficiary were the landlord under the Lease with that tenant, immediately upon receipt of a demand by Beneficiary to make such payment or perform such obligations. Grantor hereby waives any right, claim or demand it may now or hereafter have against any such tenant by reason of such payment of Rents or performance of obligations to Beneficiary, and any such payment or performance to Grantor. Grantor shall indemnify Beneficiary and hold Beneficiary harmless from and against any and all claims, liability, damage, cost and expense (including attorneys' fees) which may be asserted against or incurred by Beneficiary by reason of any obligations of Grantor to perform any provision of any Lease. Beneficiary may apply the Rents received by Beneficiary to the payment

of any one or more of the following, in such order and amounts as Beneficiary, in its sole discretion, may elect, whether or not the same be then due: the Note, liens on any of the Property, taxes, impositions, claims, insurance premiums, other carrying charges, invoice of persons who at any time have supplied goods or services to or for the benefit of any of the Property, and all other costs and expenses of maintenance, repair, restoration, management, operation, ownership, use, leasing, occupancy, protection, security, insurance, alteration or improvement of any of the Property, costs of enforcing Beneficiary's rights under the Loan Document, including any foreclosure sale hereunder, and including all attorneys' fees and costs. Beneficiary may, in its sole discretion, determine the method by which, and extent to which, the Rents will be collected and obligations of tenants enforced; and Beneficiary may waive or fail to perform or enforce any provision of any Lease. Beneficiary shall not be accountable for any Rents or other sums it does not actually receive. Grantor hereby appoints Beneficiary as its attorney-in-fact effective upon an Event of Default to perform all acts which Grantor is required or permitted to perform under any and all Leases.

(f) Beneficiary may, without releasing Grantor or any obligor or guarantor of the Note from any obligation under any of the Loan Documents and without waiving any Event of Default, enter upon and take possession of the Property or any portion thereof, with or without legal action and by force if necessary, or have a receiver appointed for the Property without proof of depreciation or inadequacy of the value of the Property, the insolvency, fraud or mismanagement on the part of Grantor, the waste of the Property, or any other proof and without notice to Grantor, which notice is hereby waived by Grantor. Beneficiary or said receiver may manage and operate the Property, make, cancel, enforce or modify the Leases or any of them, obtain and evict tenants, establish or change the amount of any Rents, and perform any acts and advance any sums which Beneficiary deems proper to protect the security of this Deed of Trust, all such sums to be payable on demand, together with interest thereon at the default rate specified in the Note, from the date of such demand, and such sums and interest to be secured by this Deed of Trust.

(g) Beneficiary may take possession of the Secured Property, or any portion thereof, and may use and deal with the same to the same extent as Grantor is entitled to do so and may sell the same pursuant to law and exercise such other rights and remedies with respect to the same as may be provided by law, and file such continuation statements it deems desirable.

(h) Beneficiary may, but does not have the obligation to, exercise any option to renew or extend the Lease or behalf of Grantor and cure any default of Grantor in the terms and conditions of the Lease.

Section 7.3 Sale in Parcels or Units. In case any sale under this Deed of Trust occurs by virtue of judicial proceedings, the Property may be sold in one parcel or unit and as an entity, or in such parcels or units, and in such manner or order, as Beneficiary in its sole discretion may elect.

Section 7.4 Waiver. Grantor hereby expressly waives any right which it may have to direct the order in which any of the Mortgaged Property shall be sold in the event of any sale or sales pursuant hereto.

Section 7.5 Application of Proceeds. The purchase money proceeds and avails of any disposition of the Secured Property or any part thereof, or any other sums collected by Beneficiary pursuant to the Note, the Loan Agreement, this Deed of Trust or the other Loan Documents, may be applied by Beneficiary to the payment of the Secured Obligations in such priority and proportions as Beneficiary in its discretion shall deem proper, to the extent consistent with law.

Section 7.6 Remedies Cumulative. All remedies contained in this Deed of Trust are cumulative and Beneficiary also has all other remedies provided by law or in equity or in any of the other Loan Documents. No delay or failure by Beneficiary to exercise any right or remedy under this Deed of Trust will be construed to be a waiver of that right or remedy or a waiver of any Event of Default. Beneficiary may exercise any one or more of its rights and remedies without regard to the adequacy of its security. The Loan Agreement may contain provisions pursuant to which all or a part of the Secured Obligations shall become immediately and automatically due and payable upon the occurrence of certain events described therein. Nothing in this Deed of Trust shall be construed as limiting the effectiveness of such provisions, and in the event of any inconsistency between the terms of the Loan Agreement and this Deed of Trust, the terms of the Loan Agreement shall govern.

Section 7.7 Beneficiary's Right to Protect Security. Beneficiary is hereby authorized, but is not obligated, to do any one or more of the following irrespective of whether an Event of Default has occurred: (a) appear in and defend any action or proceeding purporting to affect the security hereof or the rights or power of Beneficiary hereunder; (b) take such action as Beneficiary may determine to pay, perform or comply with any impositions or Legal Requirements, to cure any Events of Default and to protect its security in the Secured Property, advance sums on behalf of Grantor to pay, perform or comply with an imposition, Legal Requirement, prohibited lien, claims, costs and expenses in connection with the Secured Property, including payment for utilities, fuel or any other necessary maintenance expenses, fees, insurance and repairs; and for the purpose of exercising any such powers Beneficiary is hereby attorney-in-fact for Grantor and is authorized to pay or advance sums to meet necessary expenses and costs of repaid, employ counsel and pay reasonable attorneys' fees. All sums paid by or otherwise owing to Beneficiary under this Deed of Trust shall be paid by Grantor to Beneficiary on demand, and until paid such sums shall be included as part of the Secured Obligations and shall bear interest at the Default Rate.

Section 7.8 Other Rights, Etc.

(a) The failure of Beneficiary to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Deed of Trust. Grantor shall not be relieved of Grantor's obligations hereunder by reason of (i) the failure of Beneficiary to comply with any request of Grantor or any guarantor or indemnitor with respect to the Loan 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 Secured Property, or of any Person liable for the Secured Obligations or any portion thereof; or (iii) any agreement or stipulation by Beneficiary extending the time of

payment or otherwise modifying or supplementing the terms of the Note, the Loan Agreement, this Deed of Trust or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Secured Party is on Grantor, and Beneficiary shall have no liability whatsoever for any decline in value of the Secured 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 Beneficiary shall 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 Beneficiary's possession.

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

Section 7.9 Right to Release Any Portion of the Property. Beneficiary may release any portion of the Secured Property for such consideration as Beneficiary may require without, as to the remainder of the Secured 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 indebtedness evidenced by the Note shall have been reduced by the actual monetary consideration, if any, received by Beneficiary for such release, and Beneficiary may accept by assignment, pledge or otherwise any other property in place thereof as Beneficiary may require without being accountable for so doing to any other lienholder. This Deed of Trust shall continue as a Lien and security interest in the remaining portion of the Secured Property.

Section 7.10 Violation of Laws. If the Secured Property is not in full compliance with all Legal Requirements, Beneficiary may impose additional requirements upon Grantor in connection herewith, including, without limitation, monetary reserves or financial equivalents.

Section 7.11 Right of Entry. Upon reasonable notice (which may be given verbally) to Grantor, Beneficiary and its agents shall have the right to enter and inspect the Property at all reasonable times.

ARTICLE VIII

INDEMNIFICATION

Section 8.1 General Indemnification. Grantor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Beneficiary, its directors, officers,

employees, agents, contractors, subcontractors, licensees, invitees, successors and assigns (collectively, the "Indemnified Parties") from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, punitive damages and foreseeable and unforeseeable consequential damages, of whatever kind or nature (including, but not limited to, reasonable attorneys' fees and other costs of defense) (collectively, the "Losses"), imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) ownership of this Deed of Trust, the Property or any interest therein or receipt of any Rents; (b) all reasonable and actual costs and expenses (including reasonable attorneys' fees and disbursements) incurred by Beneficiary in connection with the negotiation, preparation, execution, delivery and administration of any amendment to, or restructuring of, the Secured Obligations (including, but not limited to, the Note, the Loan Agreement, this Deed of Trust and/or any other Loan Document; (c) all actual costs and expenses (including attorneys' fees and disbursements) incurred by Beneficiary in connection with the enforcement of this Deed of Trust or the Loan Agreement or the Note or any of the other Loan Documents, whether or not suit is filed in connection with same, or in connection with Grantor, any guarantor or indemnitor and/or any partner, member, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any failure on the part of Grantor to perform or to be in compliance with any of the terms of this Deed of Trust; (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (f) the failure of any Person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with this Deed of Trust, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Deed of Trust is made; (g) all actual costs and expenses (including attorneys' fees and disbursements) incurred by Beneficiary in connection with the enforcement by any of the Indemnified Parties of the provisions of this Article VIII; (h) any and all claims and demands whatsoever which may be asserted against Beneficiary by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any Lease (including the Lease and the Operating Lease); or (i) any misrepresentation made by Grantor in this Deed of Trust. Any amounts payable to Beneficiary by reason of the application of this Section 8.1 shall become immediately due and payable and shall bear interest at the Default Rate from the date any Loss is sustained by Beneficiary until such amounts and any applicable interest are paid.

Section 8.2 Instrument and/or Intangible Tax. Grantor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Deed of Trust, the Note or any of the other Loan Documents, but excluding any income, franchise or other similar taxes.

Section 8.3 ERISA Indemnification. Grantor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against

any and all Losses (including, without limitation, reasonable attorneys' fees and costs incurred in the investigation, defense and/or settlement of Losses incurred in correcting any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Beneficiary's sole discretion) that Beneficiary may incur, directly or indirectly, as a result of a default under Section 4.2.13 of the Loan Agreement.

Section 8.4 Duty to Defend; Attorneys' Fees and Other Fees and Expenses. Upon written request by any Indemnified Party, Grantor shall defend such Indemnified Party (if requested by any Indemnified Party, in the same of the Indemnified Party) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, if the defendants in any such claim or proceeding include both Grantor and any Indemnified Party and Grantor and such Indemnified Party shall have reasonably concluded that there are any legal defenses available to it and or other Indemnified Parties that are different from or in addition to those available to Grantor, such Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Indemnified Party, provided that no compromise or settlement shall be entered without Grantor's consent, which consent shall not be unreasonably withheld or delayed. Upon demand, Grantor shall pay or, in the sole and absolute discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of the reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

ARTICLE IX

WAIVERS

Section 9.1 Marshalling and Other Matters. Grantor hereby waives the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or an part thereof or any interest therein. Further, to the extent permitted by applicable law, Grantor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Deed of Trust on behalf of Grantor, and on behalf of each and every Person acquiring any interest in or title to the Secured Property subsequent to the date of this Deed of Trust.

Section 9.2 Waiver of Notice. Grantor shall not be entitled to any notices of any nature whatsoever from Beneficiary, except with respect to matters for which this Deed of Trust or the other Loan Documents specifically and expressly provide for the giving of notice by Beneficiary to Grantor, and except with respect to matters for which Beneficiary is required by applicable law to give notice, and Grantor hereby expressly waives the right to receive any notice from Beneficiary with respect to any matter for which this Deed of Trust does not specifically and expressly provide for the giving of notice by Beneficiary to Grantor.

Section 9.3 Waiver of Jury Trial. GRANTOR AND BENEFICIARY EACH WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON OR RELATED TO THE SUBJECT MATTER OF THIS DEED OF TRUST OR

ANY OF THE OTHER LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS RELATED TO ANY OF THE LOAN DOCUMENTS. THIS WAIVER IS KNOWINGLY, INTENTIONALLY AND VOLUNTARILY MADE BY GRANTOR AND BENEFICIARY AND EACH ACKNOWLEDGES THAT NEITHER OF THE OTHER PARTIES NOR ANY PERSON ACTING ON BEHALF OF SUCH OTHER PARTIES HAS OR HAVE MADE ANY REPRESENTATIONS OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WANT TO MODIFY OR NULLIFY ITS EFFECT. EACH PARTY ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED (OR HAD HAD THE OPPORTUNITY TO BE REPRESENTED) IN THE SIGNING OF THIS DEED OF TRUST AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL AND THAT EACH HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL. GRANTOR AND BENEFICIARY EACH AGREES THAT THE OBLIGATIONS SECURED BY THIS DEED OF TRUST ARE EXEMPTED TRANSACTIONS UNDER THE TRUTH-IN-LENDING ACT, 15 U.S.C. SECTION 1601, ET SEQ.

Section 9.4 Survival. The indemnifications made pursuant to Article VIII herein and the representations and warranties, covenants, and other obligations arising under the Environmental Indemnification Agreement, shall continue indefinitely in full force and effect and shall survive and shall in no way be impaired by (a) any satisfaction, release or other termination of this Deed of Trust or any other Loan Document, (b) any assignment or other transfer of all or any portion of this Deed of Trust or any other Loan Documents or Beneficiary's interest in the Secured Property (but, in such case, such indemnifications shall benefit both the Indemnified Parties and any such assignment or transferee), (c) any exercise of Beneficiary's rights and remedies pursuant hereto, including, but not limited to, foreclosure or acceptance of a deed in lieu of foreclosure, any exercise of any rights and remedies pursuant to the Loan Agreement, the Note or any of the other Loan Documents, any transfer of all or any portion of the Property (whether by Grantor or by Beneficiary following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), (d) any amendment to this Deed of Trust, the Loan Agreement, the Note or any other Loan Document, and/or (e) any act or omission that might otherwise be construed as a release or discharge of Grantor from the Secured Obligations or any portion thereof.

ARTICLE X

APPLICABLE LAW

Section 10.1 Governing Law; Jurisdiction; Service of Process.

(a) THIS INSTRUMENT AND THE OBLIGATIONS ARISING HEREFTER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF OREGON APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS THAT WOULD DEFER TO THE SUBSTANTIVE LAWS OF ANOTHER JURISDICTION) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA. TO THE FULLEST EXTENT PERMITTED BY LAW, GRANTOR HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT

THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS DEED OF TRUST AND/OR THE OTHER LOAN DOCUMENTS, AND THIS INSTRUMENT AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF OREGON.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST BENEFICIARY OR GRANTOR ARISING OUT OF OR RELATING TO THIS DEED OF TRUST MAY, AT BENEFICIARY'S OPTION, BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE COUNTY OF OKLAHOMA, STATE OF OKLAHOMA, OR THE COUNTY OF KLAMATH, STATE OF OREGON, AS ELECTED BY BENEFICIARY, AND GRANTOR WAIVES ANY OBJECTIONS WHICH IT MAY HAVE BASED ON VENUE AND/OR FORUM NONCONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND GRANTOR HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING. GRANTOR DOES HEREBY DESIGNATE AND APPOINT:

**Sky Lakes SNF, LLC
Attn: William Bryan
1437 7th Street, Suite 200
Santa Monica, California 90401**

AS ITS AUTHORIZED AGENT TO ACCEPT AND ACKNOWLEDGE ON ITS BEHALF SERVICE OF ANY AND ALL PROCESS WHICH MAY BE SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY FEDERAL OR STATE COURT IN OKLAHOMA COUNTY, STATE OF OKLAHOMA, OR KLAMATH COUNTY, STATE OF OREGON, AS BENEFICIARY MAY ELECT, AND AGREES THAT SERVICE OF PROCESS UPON SAID AGENT AT SAID ADDRESS AND WRITTEN NOTICE OF SAID SERVICE MAILED OR DELIVERED TO GRANTOR IN THE MANNER PROVIDED IN THE LOAN AGREEMENT SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON GRANTOR. IN ANY SUCH SUIT, ACTION OR PROCEEDING IN THE STATE OF OKLAHOMA, GRANTOR (i) SHALL GIVE PROMPT NOTICE TO BENEFICIARY OF ANY CHANGED ADDRESS OF ITS AUTHORIZED AGENT HEREUNDER; (ii) MAY AT ANY TIME AND FROM TIME TO TIME DESIGNATE A SUBSTITUTE AUTHORIZED AGENT (WHICH SUBSTITUTE AGENT AND OFFICE SHALL BE DESIGNATED AS THE PERSON AND ADDRESS FOR SERVICE OF PROCESS); AND (iii) SHALL PROMPTLY DESIGNATE SUCH A SUBSTITUTE IF ITS AUTHORIZED AGENT IS DISSOLVED WITHOUT LEAVING A SUCCESSOR. NOTHING CONTAINED HEREIN SHALL AFFECT THE RIGHT OF BENEFICIARY TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST GRANTOR IN ANY OTHER JURISDICTION.

Section 10.2 Usury Laws. Notwithstanding anything to the contrary, (a) all agreements and communications between Grantor and Beneficiary are hereby and shall automatically be limited so that, after taking into account all amounts deemed to constitute interest, the interest contracted for, charged or received by Beneficiary shall never exceed the Maximum Legal Rate, (b) in calculating whether any interest exceeds the Maximum Legal Rate, all such interest shall

be amortized, prorated, allocated and spread over the full amount and term of all principal indebtedness of Grantor to Beneficiary, and (c) if through any contingency or event, Beneficiary receives or is deemed to receive interest in excess of the Maximum Legal Rate, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Grantor to Beneficiary, or if there is no such indebtedness, shall immediately be returned to Grantor.

Section 10.3 Provisions Subject to Applicable Law. All rights, powers and remedies provided in this Deed of Trust 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 Deed of Trust invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Deed of Trust or any application thereof shall be invalid or unenforceable, the remainder of this Deed of Trust and any other application of the term shall not be affected thereby.

ARTICLE XI

DEFINITIONS

Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, word used in this Deed of Trust may be used interchangeably in the singular or plural form and the word "Grantor" shall mean "each Grantor and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Beneficiary" shall mean "Beneficiary and any subsequent holder of the Note," the word "Note" shall mean "the Note and any other evidence of indebtedness secured by this Deed of Trust", the word "Property" shall include any portion of the Secured Property and any interest therein, and the phrases "attorneys' fees," "legal fees," and "counsel fees" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels, incurred or paid by Beneficiary in protecting its interest in the Property, the Leases and/or the Rents and/or in enforcing its rights thereunder. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms.

ARTICLE XII

THE LEASE

Section 12.1 With respect to the Lease, Grantor hereby warrants and represents as follows: (i) Grantor is the owner of a valid and subsisting interest as lessee under the Lease; (ii) the Lease is in full force and effect, unmodified by any writing or otherwise; (iii) all rent, additional rent and other charges reserved therein have been paid in full for the remaining term of the Lease; (iv) Grantor enjoys the quiet and peaceful possession of the property demised thereby; (v) Grantor is not in default under any of the terms thereof and there are no defaults under any of the terms thereof beyond the giving of any required notice and the expiration of any applicable cure period; (vi) Grantor has not received notice from lessor under the Lease of a default thereunder, which default has not been timely cured; (vii) to the best of Grantor's knowledge, the lessor under the Lease is not in default under any of the terms or provisions

thereof on the part of the lessor to be observed or performed; and (viii) the Lease or memoranda thereof have been duly recorded.

Section 12.2 Further, with respect to the Lease, Grantor covenants and agrees as follows: (i) to promptly and faithfully observe, perform and comply with all the terms, covenants and provisions thereof on its part to be observed, performed and complied with, at the times set forth therein and to do all things necessary to preserve unimpaired its rights thereunder, (ii) not to do, permit, suffer or refrain from doing anything, as a result of which, there could be a default under any of the terms thereof beyond the giving of any required notice and the expiration of any applicable cure period or a breach of any of the terms thereof; (iii) not to exercise any right or option to cancel or otherwise terminate the Lease; (iv) not to cancel, surrender, modify, amend or in any way alter or permit the alteration of any of the terms thereof and not to release the lessor under the Lease from any obligations imposed upon it thereby; (v) to give Beneficiary immediate written notice of any default by anyone thereunder and to immediately deliver to Beneficiary copies of each notice of default and, after the occurrence of a default, copies of all other notices, communications, plans, specifications and other similar instruments received or delivered by Grantor in connection therewith; and (vi) to furnish to Beneficiary such information and evidence as Beneficiary may reasonably require concerning Grantor's due observance, performance and compliance with the terms, covenants and provisions thereof.

Section 12.3 In the event of any default by Grantor in the performance of any of its obligations under the Lease, then, in each and every case, Beneficiary may, at its option and without notice, cause the default or defaults to be remedied and otherwise exercise any and all of the rights of Grantor thereunder in the name of and on behalf of the Grantor but no such action by Beneficiary shall release Grantor from any default under this Deed of Trust. Grantor shall, on demand, reimburse Beneficiary for all advances made and expenses incurred by Beneficiary in curing any such default (including, without limitation, attorneys' fees and disbursements), together with interest thereon at the default rate of interest specified in the Note, from the date that an advance is made or expense is incurred, to and including the date the same is paid and such monies so expended by Beneficiary with interest thereon shall be secured by this Deed of Trust.

Section 12.4 It is hereby agreed that the fee title and the leasehold estates in the property demised by the Lease shall not merge but shall always be kept separate and distinct, notwithstanding the union of said estates in either the lessor thereunder, Grantor or a third party, whether by purchase or otherwise and Beneficiary shall continue to have and enjoy all of the rights and privileges of the Beneficiary as to the separate estates. If Grantor acquires the fee title, the interest of the lessor thereunder or any other estate, title or interest in the property demised by the Lease, or any part thereof, the lien of this Deed of Trust shall attach to, cover and be a lien upon such acquired estate, title or interest and same shall thereupon be and become a part of the Property with the same force and effect as if specifically encumbered herein. Grantor agrees to execute all instruments and documents which Beneficiary may reasonably require to ratify, confirm and further evidence Beneficiary's lien on the acquired estate, title or interest. Furthermore, Grantor hereby appoints Beneficiary its true and lawful attorney-in-fact to execute and deliver all such instruments and documents in the name and on behalf of Grantor. This power, being coupled with an interest, shall be irrevocable as long as the Secured Obligations

remain unpaid. Grantor shall not purchase the premises demised by the Lease or acquire the interest of the lessor in such premises or sell its interest in the leasehold estate created by the Lease without Beneficiary's prior written consent.

Section 12.5 If the Lease is canceled or terminated, and if Beneficiary or its nominee shall acquire an interest in any new lease of the property demised thereby, Grantor shall have no right, title or interest in or to the new lease or the leasehold estate created by such new lease.

Section 12.6 Beneficiary shall have no liability or obligation under the Lease by reason of its acceptance of this Deed of Trust. Beneficiary shall be liable for the obligations of the lessee arising under the Lease for only that period of time which Beneficiary is in possession of the Property or has acquired by foreclosure or otherwise, and is holding all of the Grantor's rights, title and interest therein.

Section 12.7 No release or forbearance of any of Grantor's obligations under the Lease, pursuant to the Lease or otherwise, shall release Grantor from any of its obligations under this Deed of Trust or the other Loan Documents.

Section 12.8 Grantor shall enforce the obligations of the lessor under the Lease to the end that Grantor may enjoy all of the rights granted to it under the Lease and will immediately notify Beneficiary of any default by the lessor, or by Grantor as lessee, in the performance or observance of any of the terms, covenants and conditions on the part of such lessor or Grantor, as the case may be, to be performed or observed under the Lease and Grantor will immediately advise Beneficiary of the occurrence of any of the events of default enumerated in the Lease and of the giving of any notice by the lessor under the Lease to Grantor of any default by Grantor, as such lessee, in the performance or observance of any of the terms, covenants or conditions of the Lease on the part of Grantor to be performed or observed and will immediately deliver to Beneficiary a true copy of each such notice. If, pursuant to the Lease, the lessor shall deliver to Beneficiary a copy of any notice of default given to Grantor, as lessee under the Lease, such notice shall constitute full authority and protection to Beneficiary for any action taken or omitted to be taken by Beneficiary, in good faith and in reliance thereon.

Section 12.9 Grantor shall give Beneficiary immediate notice of the commencement of any arbitration or appraisal proceeding to which Grantor is a party or of which Grantor has been otherwise notified concerning the provisions of the Lease. Beneficiary shall have the right to intervene and participate in any such proceeding if such proceeding, if adversely determined, would be reasonably expected to have a material adverse effect on Grantor or the Property and Grantor shall confer with Beneficiary and its attorneys and experts and cooperate with them to the extent which Beneficiary deems reasonably necessary for the protection of Beneficiary. Upon the request of Beneficiary, Grantor will exercise all rights of arbitration conferred upon it by the Lease. If at any time such proceeding shall have commenced, Grantor shall be in material default in the performance or observance of any covenant, condition or other requirement of the Lease on the part of Grantor to be performed or observed or a default shall have occurred, Beneficiary shall have, and is hereby granted, the sole and exclusive right to designate and appoint on behalf of the Grantor, the arbitrator or arbitrators, or appraiser, in such proceeding.

Section 12.10 Grantor will, promptly after the execution and delivery of this Deed of Trust, notify the lessor under the Lease, in writing, of the execution and delivery thereof any, to the extent required under the Lease, deliver to lessor a copy of this Deed of Trust.

Section 12.11 If the Lease is rejected in any case, proceeding or other action commenced by or against the lessor under the Lease (or any person or party constituting or having an interest in the Lease) under the Bankruptcy Code or any comparable federal or state statute or law, (i) Grantor, immediately after obtaining notice thereof, shall give notice thereof to Beneficiary, (ii) Grantor, without the prior written consent of Beneficiary, shall not elect to treat the Lease as terminated pursuant to Section 365(h)(I)(A)(i) of the Bankruptcy Code or any comparable federal or state statute or law, and any election by Grantor made without such consent shall be void, and (iii) this Deed of Trust and all the liens, terms, covenants and conditions of this Deed of trust shall extend to and cover Grantor's possessory rights under Section 365(h) of the Bankruptcy Code and to any claim for damages due to lessor's rejection of the Lease. In addition, Grantor hereby assigns to Beneficiary Grantor's rights to remain in possession of the premises demised under the Lease and to offset rents under the Lease under Section 365(h)(I)(A)(ii) of the Bankruptcy Code in the event any case, proceeding or other action is commenced by or against the lessor under the Lease under the Bankruptcy Code or any comparable federal or state statute or law.

Section 12.12 Grantor hereby assigns to Beneficiary Grantor's right to seek an extension of the 60-day period within which Grantor must accept or reject the Lease under Section 365 of the Bankruptcy Code or any comparable federal or state statute or law with respect to any case, proceeding or other action commenced by or against Grantor under the Bankruptcy Code or comparable federal or state statute or law. Furthermore, if Grantor shall desire to reject the Lease under the Bankruptcy Code or any comparable federal of state statute or law, Grantor shall, at Beneficiary's request, assign its interest in the Lease to Beneficiary in lieu of rejecting the Lease as described above, upon receipt by Grantor of written notice from Beneficiary of such request together with the agreement of Beneficiary to cure any existing defaults of Grantor under the Lease.

ARTICLE XIII **MISCELLANEOUS PROVISIONS**

Section 13.1 Notices. All notices, demands, requests, consents, approvals or other communications (any of the foregoing, a "Notice") required, permitted or desired to be given hereunder shall be in writing and shall be sent by registered or certified mail, postage prepaid, return receipt requested, or delivered by hand or by reputable overnight courier, addressed to the party to be so notified at its address hereinafter set forth, or to such other address as such party may hereafter specify in accordance with the provisions of this Section 13.1. Any Notice shall be deemed to have been received: (a) three (3) days after the date such Notice is mailed, (b) on the date of delivery by hand if delivered during business hours on a Business Day (otherwise on the next Business Day), or (c) on the next Business Day if sent by an overnight commercial courier, in each case addressed to the parties as follows:

GRANTOR: Sky Lakes SNF, LLC
1437 7th Street, Suite 200
Santa Monica, California 90401
Attn: William Bryan

With a copy to: Tom Wettlaufer, Esq.
625 Hawthorne Ave. SE, Suite 100
Salem, Oregon 97301

BENEFICIARY: BOKF, NA dba Bank of Oklahoma
201 Robert S. Kerr Avenue
Oklahoma City, Oklahoma 73102
Attn: Robert Duncan

With a copy to: J. Dillon Curran, John W. Funk and Justin L. Pybas
Conner & Winters, LLP
One Leadership Square
211 North Robinson, Suite 1700
Oklahoma City, Oklahoma 73102

Section 13.2 No Oral Change. This Deed of Trust, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Grantor or Beneficiary, but only by an agreement in writing signed by the party(ies) against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 13.3 Successors and Assigns. This Deed of Trust shall be binding upon, and shall inure to the benefit of, Grantor and Beneficiary and their respective successors and permitted assigns, as set forth in the Loan Agreement.

Section 13.4 Inapplicable Provisions. If any provision of this Deed of Trust is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Deed of Trust, such provisions shall be fully severable and this Deed of Trust shall be consummated and enforced as if such illegal, invalid or unenforceable provision had never been comprised a part of this Deed of Trust, and the remaining provisions of this Deed of Trust shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Deed of Trust, unless such continued effectiveness of this Deed of Trust, as modified, would be contrary to the basic understandings and intentions of the parties as expressed herein.

Section 13.5 Headings, Etc. The headings and captions of the various Sections of this Deed of Trust are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 13.6 Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Secured Property,

then, to the extent of the funds so used, Beneficiary shall be subrogated to all of the rights, claims, liens, titles and interests existing against the Secured Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles and interests, if any, are not waived, but rather are continued in full force and effect in favor of Beneficiary and are merged with the Lien and security interest created herein as cumulative security for the payment, performance and discharge of the Secured Obligations (including, but not limited to, the payment of the indebtedness evidenced by the Note).

Section 13.7 Entire Agreement. The Note, the Loan Agreement, this Deed of Trust and the other Loan Documents constitute the entire understanding and agreement between Grantor and Beneficiary with respect to the transactions arising in connection with the Secured Obligations and supersede all prior written or oral understandings and agreements between Grantor and Beneficiary with respect thereto. Grantor hereby acknowledges that, except as incorporated in writing in the Note, the Loan Agreement, this Deed of Trust and the other Loan Documents, there are not, and were not, and no Persons are or were authorized by Beneficiary to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Note, the Loan Agreement, this Deed of Trust and the other Loan Documents.

Section 13.8 Limitation on Beneficiary's Responsibility. No provision of this Deed of Trust shall operate to place any obligation or liability for the control, care, management or repair of the Secured Property upon Beneficiary, nor shall it operate to make Beneficiary responsible or liable for any waste committed on the Property by the Tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any Tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Beneficiary a "mortgagee in possession."

Section 13.9 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 Beneficiary and presentation of this Deed of Trust, or a certificate copy thereof, for endorsement, and without affecting the personal liability of any person for payment of any indebtedness or performance of any Secured Obligation, Beneficiary, or Trustee at the direction of Beneficiary, 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 shall be construed to limit, impair or otherwise affect the rights of Grantor in any respect. Except as may otherwise be required by applicable law, Trustee or Beneficiary may from time to time apply to any court of competent jurisdiction for aid and direction in the execution of the trusts hereunder and the enforcement of the rights and remedies available hereunder, and Trustee or Beneficiary may obtain orders or decrees directing or confirming or approving acts in the execution of said trusts and the enforcement of said remedies. Trustee has no obligation to notify any party of any pending sale or any action or proceedings (including, without limitation, actions in which Grantor, Beneficiary or Trustee shall be a party) unless held or commenced and maintained by Trustee under this Deed of Trust.

Trustee shall not be obligated to perform any act required of it hereunder unless the performance of the act is requested in writing and Trustee is reasonably indemnified and held harmless against loss, cost, liability and expense.

Section 13.10 Compensation of Trustee. Grantor shall pay to Trustee reasonable compensation and reimbursement for services and expenses in the administration of this trust, including, without limitation, reasonable attorneys' fees. Grantor shall pay all indebtedness arising under this Section immediately upon demand by Trustee or Beneficiary together with interest thereon from the date the indebtedness arises at the rate of interest then applicable to the principal balance of the Note as specified therein.

Section 13.11 Recitals. The recitals hereof are a part hereof, form a basis for this Deed of Trust and shall be considered prima facie evidence of the facts and documents referred to herein.

Section 13.12 Counterparts. This Deed of Trust may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

Section 13.13 State Specific Provisions.

(a) INSURANCE WARNING. UNLESS YOU (GRANTOR) PROVIDE US (BENEFICIARY) WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY OUR CONTRACT OR LOAN AGREEMENT, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM YOU MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED PROPERTY COVERAGE ELSEWHERE.

YOU ARE RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY US. THE COST OF THE INSURANCE MAY BE ADDED TO YOUR CONTRACT OR LOAN BALANCE. IF THE COST IS ADDED TO YOUR CONTRACT OR LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING CONTRACT OR LOAN WILL APPLY TO THIS ADDED AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR PRIOR COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF OF COVERAGE.

THIS COVERAGE WE PURCHASE MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE YOU CAN OBTAIN ON YOUR OWN AND MAY NOT SATISFY ANY NEED FOR PROPERTY DAMAGE COVERAGE OR ANY MANDATORY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.

(b) LAND USE NOTICE. BEFORE SIGNING OR ACCEPTING THIS DEED OF TRUST, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE

ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS DEED OF TRUST DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS DEED OF TRUST IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS DEED OF TRUST, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

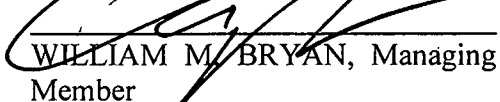
(c) STATUTE OF FRAUDS NOTICE. UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY BENEFICIARY CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE GRANTOR'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY BENEFICIARY TO BE ENFORCEABLE.

IN WITNESS WHEREOF, this Deed of Trust has been executed by Grantor UNDER SEAL as of the day and year first above written.

GRANTOR:

SKY LAKES SNF, LLC, a California limited liability company

By: RBD CAPITAL GROUP, LLC, a California limited liability company, Manager

By: 
WILLIAM M. BRYAN, Managing Member

ACKNOWLEDGMENT

STATE OF California)
) ss.
COUNTY OF Los Angeles)

On this 10th day of September, 2014, before me, a notary public, personally appeared WILLIAM M. BRYAN, Managing Member of RBD CAPITAL GROUP, LLC, a California limited liability company, Manager of SKY LAKES SNF, LLC, a California limited liability company, and being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself/herself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Robin Regina Da Vinci
Notary Public
My Commission Expires: 4/3/15
My Commission Number: 1927994

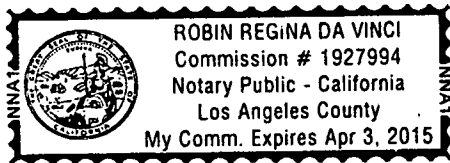


Exhibit "A"

Legal Description

Real property in the City of Klamath Falls, County of Klamath, State of Oregon, described as follows:

PARCEL I:

A TRACT OF LAND SITUATED IN THE SW 1/4 OF THE NE 1/4 OF SECTION 20, TOWNSHIP 38 SOUTH, RANGE 9 EAST, WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, BEING A PORTION OF BLOCKS 7 AND 8 AND VACATED HILLTOP STREET, MCLOUGHLIN HEIGHTS SUBDIVISION, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF MCLOUGHLIN HEIGHTS; THENCE SOUTH 0°46'00" WEST, ALONG THE EAST BOUNDARY OF MCLOUGHLIN HEIGHTS, 100.0 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 0°46'00" WEST, ALONG THE EAST BOUNDARY OF MCLOUGHLIN HEIGHTS 572.30 FEET TO THE NORTH BOUNDARY OF FOOTHILLS BOULEVARD; THENCE 40.57 FEET ALONG THE ARC OF A 20.00 FOOT RADIUS CURVE TO THE RIGHT (THE LONG CHORD OF WHICH BEARS SOUTH 58°53' WEST, 33.97 FEET); THENCE NORTH 63°00'00" WEST, ALONG THE NORTH BOUNDARY OF FOOTHILLS BOULEVARD, 104.35 FEET; THENCE 482.81 FEET ALONG THE ARC OF A 774.83 FOOT RADIUS CURVE TO THE LEFT (THE LONG CHORD OF WHICH BEARS NORTH 80°51'03" WEST, 475.03 FEET); THENCE LEAVING SAID ROAD BOUNDARY NORTH 20°39'40" EAST, 504.11 FEET; THENCE SOUTH 89°21'00" EAST, 420.87 FEET TO THE TRUE POINT OF BEGINNING. TOGETHER WITH THE NORTHERLY ONE-HALF OF VACATED FOOTHILL BOULEVARD ABUTTING THE SOUTHERLY BOUNDARY OF THE ABOVE DESCRIBED PARCEL.

ALSO INCLUDING LOTS 8, 9, 10, 11, 12, 13, 14 AND 15 OF BLOCK 6 OF MCLOUGHLIN HEIGHTS SUBDIVISION, TOGETHER WITH THE SOUTHERLY ONE-HALF OF VACATED FOOTHILL BOULEVARD ABUTTING THE NORTHERLY BOUNDARY OF SAID LOTS 8, 9, 10, 11, 12, 13, 14 AND 15 OF BLOCK 6;

EXCEPTING THEREFROM LOTS 8, 9, 10, 11, 12, 13, 14 AND 15 OF BLOCK 6 OF MCLOUGHLIN HEIGHTS SUBDIVISION, TOGETHER WITH THE SOUTHERLY ONE-HALF OF VACATED FOOTHILL BOULEVARD ABUTTING THE NORTHERLY BOUNDARY OF SAID LOTS 8, 9, 10, 11, 12, 13, 14 AND 15 OF BLOCK 6;

ALSO EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL: COMMENCING AT THE NE 1/16 CORNER OF SECTION 20, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, BEING THE NORTHEAST CORNER OF MCLOUGHLIN HEIGHTS SUBDIVISION; THENCE ALONG THE EAST BOUNDARY OF SAID MCLOUGHLIN HEIGHTS AND THE EAST LINE OF THE SW 1/4 NE 1/4 OF SAID SECTION 20 SOUTH 0°46'00" WEST 100.00 FEET TO THE NORTHEAST CORNER OF THAT PARCEL DESCRIBED AS PARCEL 1 IN DEED VOLUME M91, PAGE 13596, RECORDS OF KLAMATH COUNTY, OREGON; THENCE ALONG THE NORTHERLY BOUNDARY OF SAID PARCEL NORTH 89°21'00" WEST 420.87 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE SOUTH 20°39'40" WEST 504.11 FEET TO THE SOUTHWEST CORNER OF THAT PARCEL DESCRIBED IN DEED VOLUME M75, PAGE 8321, RECORDS OF KLAMATH COUNTY, OREGON AND THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE SOUTH 08°42'06" EAST 25.00 FEET TO THE CENTERLINE OF VACATED FOOTHILL BOULEVARD; THENCE FOLLOWING SAID CENTERLINE ALONG THE ARC OF A 749.83 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT 82.06 FEET, THE LONG CHORD OF WHICH BEARS SOUTH 84°26'01" WEST 82.02 FEET; THENCE LEAVING SAID CENTERLINE NORTH 09°10'20" WEST 12.82 FEET; THENCE SOUTH 80°17'48" WEST 17.62 FEET; THENCE NORTH 09°32'02" WEST 17.40 FEET; THENCE SOUTH 80°54'52" WEST 63.92 FEET TO THE POINT OF BEGINNING;

ALSO EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PORTION OF PARCEL 1 OF DEED VOLUME M91, PAGE 13596, RECORDS OF KLAMATH COUNTY, OREGON: BEGINNING AT A POINT ON THE EAST BOUNDARY OF MCLOUGHLIN HEIGHTS WHICH BEARS SOUTH 0°46'00" WEST 100.00 FEET FROM THE NORTHEAST CORNER THEREOF, SAID POINT BEING THE NORTHEAST CORNER OF SAID PARCEL 1 OF DEED VOLUME M91, PAGE 13596; THENCE NORTH 89°21'00" WEST ALONG THE NORTH LINE OF SAID PARCEL 420.87 FEET TO THE NORTHWEST CORNER THEREOF; THENCE SOUTH 20°39'40" WEST ALONG THE WESTERLY LINE OF SAID PARCEL 173.00 FEET TO A POINT; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL SOUTH 86°54'35" EAST 274.87 FEET; THENCE LEAVING SAID SOUTHERLY LINE NORTH 15°01'01" EAST 28.90 FEET; THENCE NORTH 72°20'55" EAST 13.09 FEET; THENCE SOUTH 69°41'02" EAST 99.96 FEET; THENCE SOUTH 24°30'18" EAST 3.74 FEET TO THE SOUTHERLY LINE OF SAID PARCEL 1; THENCE SOUTH 86°54'35" EAST TO A POINT ON THE EAST LINE OF SAID PARCEL; THENCE NORTH 0°46'00" EAST ALONG SAID EAST LINE 183.00 FEET TO THE POINT OF BEGINNING.

PARCEL II:

A RECIPROCAL ACCESS EASEMENT OVER THE FOLLOWING DESCRIBED PROPERTY:

A STRIP OF LAND 30 FEET IN WIDTH SITUATED IN THE SW 1/4 OF THE NE 1/4 OF SECTION 20, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, BEING 15 FEET, MEASURED AT RIGHT ANGLES, ON BOTH SIDES OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT WHICH BEARS S31°11'02"E 28.00 FEET FROM THE NE 1/16 CORNER OF SAID SECTION 20, (ALSO BEING THE NORTHEAST CORNER OF MCLOUGHLIN HEIGHTS SUBDIVISION) THENCE S10°16'15"E 333.71 FEET; THENCE 203.24 FEET ALONG THE ARC OF A 1230.78 FOOT RADIUS CURVE TO THE LEFT, SAID CURVE HAVING A DELTA ANGLE OF 9°27'40" AND A LONG CHORD WHICH BEARS S5°32'25"W 203.01 FEET; THENCE 14.04 FEET ALONG THE ARC OF A 200.00 FOOT RADIUS CURVE TO THE LEFT, SAID CURVE HAVING A DELTA ANGLE OF 4°01'21" AND A LONG CHORD WHICH BEARS S1°12'06"E 14.04 FEET; THENCE S3°12'47"E 44.14 FEET; THENCE 14.15 FEET ALONG THE ARC OF A 200.00 FOOT RADIUS CURVE TO THE RIGHT, SAID CURVE HAVING A DELTA ANGLE OF 4°03'10" AND A LONG CHORD WHICH BEARS S1°11'12"E 14.14 FEET; THENCE 68.76 FEET ALONG THE ARC OF A 1141.25 FOOT RADIUS CURVE TO THE RIGHT, SAID CURVE HAVING A DELTA ANGLE OF 3°27'08" AND A LONG CHORD WHICH BEARS S2°33'57"W 68.75 FEET; THENCE 74.74 FEET ALONG THE ARC OF A 37.08 FOOT RADIUS CURVE TO THE RIGHT, SAID SURVE HAVING A DELTA ANGLE OF 115°28'49" AND A LONG CHORD WHICH BEARS S62°01'55"W 62.71 FEET; THENCE 134.31 FEET ALONG THE ARC OF A 781.75 FOOT RADIUS CURVE TO THE LEFT, SAID CURVE HAVING A DELTA ANGLE OF 9°50'39" AND A LONG CHORD WHICH BEARS N65°09'00" W 134.15 FEET; THENCE 314.28 FEET ALONG THE ARC OF A 600.00 FOOT RADIUS CURVE TO THE LEFT, SAID CURVE HAVING A DELTA ANGLE OF 30°00'43" AND A LONG CHORD WHICH BEARS N85°04'41"W 310.70 FEET, TO A POINT WHICH BEARS S40°40'12"W 845.96 FEET FROM SAID NE 1/16 CORNER OF SECTION 20; THENCE WESTERLY AS PRESENTLY CONSTRUCTED TO THE EASTERLY RIGHT OF WAY LINE OF DAGGETT AVENUE; THE SIDE LINES OF SAID STRIP TO BE LENGTHENED OR SHORTENED TO TERMINATE AT THE EAST LINE OF SAID SW 1/4 NE 1/4 OF SECTION 20 AND AT SAID EASTERLY RIGHT OF WAY OF DAGGETT AVENUE.

SCHEDULE 1

Lease

1. Restated Lease effective March 9, 2001 by and between Klamath Falls Intercommunity Hospital Authority (the "**Authority**"), owner of the land, as Lessor and Sky Lakes Medical Center, Inc., f/k/a Merle West Medical Center, Inc. (the "**Hospital**"), as Lessee (the "**Prime Lease**").
2. Plum Ridge Sublease dated effective June 8, 2001 from the Hospital, as Sublessor, to Plum Ridge Care Community, LLC ("**Plum Ridge**"), as Sublessee, as amended and as subsequently assigned by Plum Ridge to Sky Lakes SNF, LLC ("**Grantor**") pursuant to that certain Assignment of Leasehold Interest, and Consent to Assignment and Mortgage Assumption and Release dated March 29, 2012 (collectively, the "**Sublease**"), recorded as Document No. 2012-0003340 in the real estate records of Klamath County Oregon.