

2016-007560

Klamath County, Oregon

07/18/2016 12:55:41 PM

Fee: \$182.00

THIS INSTRUMENT WAS PREPARED BY:

Daniel Marinberg, Esq., General Counsel  
VB-S1 Assets, LLC  
750 Park of Commerce Drive  
Suite 200  
Boca Raton, FL 33487  
(561) 923- 0734

Klamath County, OR

DEED OF TRUST, FIXTURE FILING, SECURITY AGREEMENT AND ASSIGNMENT OF  
LEASES AND RENTS

from

VB-S1 ASSETS, LLC, Grantor

To

Fidelity National Title Company of Oregon, Trustee

for the use and benefit of

DEUTSCHE BANK TRUST COMPANY AMERICAS, as Indenture Trustee, Beneficiary

DATED AS OF JUNE 17, 2016

*\* Loan Amount \$ 325,659.00*

THIS INSTRUMENT IS TO BE INDEXED AS BOTH A  
DEED OF TRUST AND AS A FIXTURE FILING

After recording, please return to:

Fidelity National Title Group  
Commercial Lender-Search Finance Services  
Richmond, VA 23226

Site ID: US-OR-5001 - # 19097462

## DEED OF TRUST, FIXTURE FILING, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS

This DEED OF TRUST, FIXTURE FILING, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS, dated as of June 17, 2016, is made by VB-S1 ASSETS, LLC, a Delaware limited liability company ("Grantor"), whose address is 750 Park of Commerce Dr., Suite 200, Boca Raton, FL 33487, to Fidelity National Title Company of Oregon (in such capacity, "Trustee"), whose address is 1120 NW Couch Street, Portland, OR 9720, for the use and benefit of DEUTSCHE BANK TRUST COMPANY AMERICAS, as Indenture Trustee on behalf of the Noteholders referred to below (in such capacity, "Beneficiary", which term shall be deemed to include successors and assigns as beneficiary under this Deed of Trust), whose address is 60 Wall Street, New York, NY 10005, Attention: GSS Corporate Services – Louis Bodi – Deal ID: SB9587. References to this "Deed of Trust" shall mean this instrument and any and all renewals, modifications, amendments, supplements, restatements, extensions, consolidations, substitutions, spreaders and replacements of this instrument.

### Background

A. Grantor is the owner of (i) the fee simple estate in the parcel(s) of real property, if any, described on Schedule A attached (the "Owned Land"), and/or (ii) a leasehold estate, easement estate, or easement in gross in the parcel(s) of real property, if any, described on Schedule B-2 attached (the "Occupied Land"; the Owned Land and the Occupied Land are sometimes referred to herein collectively as the "Land") pursuant to the agreement(s) and instruments described on Schedule B-1 attached hereto (as the same may be amended, supplemented or otherwise modified from time to time, collectively, the "Occupancy Agreements"); and, other than buildings, improvements, structures and fixtures owned by lessees under Leases (as defined below), owns, leases or otherwise has the right to use all of the buildings, improvements, structures and fixtures now or subsequently located on the Land (the "Improvements"; the Land and the Improvements being collectively referred to as the "Real Estate").

B. Pursuant to that certain Indenture dated as of the date hereof, among Beneficiary, VB-S1 Issuer, LLC, a Delaware limited liability company (the "Issuer"), Grantor, and certain other parties named therein (as the same may be amended, restated, replaced, supplemented, substituted, or otherwise modified from time to time, the "Indenture"), Issuer has incurred indebtedness evidenced by promissory notes, and may from time to time incur additional indebtedness and issue additional promissory notes in connection with the provisions of the Indenture (as such notes may be amended, restated, replaced, supplemented, substituted, or otherwise modified from time to time, and any notes issued pursuant to the Indenture after the date hereof, collectively, the "Notes"). The holders of the Notes from time to time and their successors and assigns are hereinafter referred to as the "Noteholders." The terms of the Indenture are incorporated by reference in this Mortgage as if the terms thereof were fully set forth herein. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Indenture. References in this Mortgage to the "Default Rate" shall mean the weighted average of the Note Rates from time to time applicable to the Notes.

C. Pursuant to the Indenture, Grantor has unconditionally and irrevocably guaranteed to each Noteholder, the Indenture Trustee and the Servicer the Guaranteed Obligations (as the same may be amended, restated, replaced, supplemented, substituted, or otherwise modified from time to time, the "Guarantee").

D. Pursuant to the Indenture, Grantor has executed and delivered this Mortgage for the benefit of the Noteholders and such other parties designated in the Indenture from time to time as holding Obligations (defined below).

Now, Therefore, in consideration of the premises, Grantor hereby agrees as follows:

#### Granting Clauses

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to secure the following obligations (collectively, the "Obligations"):

- (a) the due and punctual payment and performance by Grantor of all its obligations and liabilities, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of or otherwise in connection with the Transaction Documents (as such term is defined below) (including without limitation all Guaranteed Obligations (as defined in the Indenture));
- (b) the payment of all other obligations and liabilities of Grantor, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Deed of Trust or any other document securing payment of the Obligations (collectively, the "Security Documents"), any other financial accommodation (including, without limitation, any interest rate swap, cap, collar, floor or similar derivative product) that is designated pursuant to the Indenture as being secured by this Deed of Trust, any indemnity agreement, any management agreement pursuant to which assets of Grantor and/or the proceeds thereof are managed or administered, any other guarantee of the Obligations, or any other Transaction Document, and any amendments, supplements, extensions, renewals, restatements, replacements or modifications of any of the foregoing (the Indenture, the Notes, the Guarantee, this Mortgage, the other Security Documents, any such other financial accommodation, indemnity agreement and management agreement and all other documents and instruments from time to time evidencing, securing or guaranteeing the payment and performance of the Obligations, as any of the same may be amended, supplemented, extended, renewed, restated, replaced or modified from time to time, are collectively referred to as the "Transaction Documents"), in each case whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise (including, without limitation, all reasonable fees, charges and disbursements of counsel to Beneficiary that are required to be paid by

Grantor pursuant to the terms of the Indenture, this Deed of Trust or any other Transaction Document); and

- (c) the performance and observance of each obligation, term, covenant and condition to be performed or observed by Grantor under, in connection with or pursuant to the provisions of the Transaction Documents.

GRANTOR HEREBY CONVEYS TO TRUSTEE AND HEREBY GRANTS, ASSIGNS, TRANSFERS AND SETS OVER TO TRUSTEE, IN TRUST, FOREVER, WITH POWER OF SALE FOR THE USE AND BENEFIT OF BENEFICIARY, AND GRANTS TRUSTEE AND BENEFICIARY A SECURITY INTEREST IN:

- (A) the Owned Land and all Improvements thereon;
- (B) the leasehold, easement, easement in gross, or other estate created under and by virtue of the Occupancy Agreement(s), any interest in any fee, easement, easement in gross, or other greater or lesser title to the Occupied Land and Improvements located thereon that Grantor may own or hereafter acquire (whether acquired pursuant to a right or option contained in any Occupancy Agreement or otherwise and whether acquired in connection with a termination of any Occupancy Agreement or otherwise), and all credits, deposits, options, privileges and rights of Grantor under any Occupancy Agreement (including all rights of use, occupancy and enjoyment) and under any amendments, supplements, extensions, renewals, restatements, replacements and modifications thereof (including, without limitation (i) the right to give consents, (ii) the right to receive moneys payable to Grantor, (iii) the right, if any, to renew or extend the Occupancy Agreements for a succeeding term or terms, (iv) the right, if any, to purchase the Occupied Land and Improvements located thereon and (v) the right to terminate or modify the Occupancy Agreements); all of Grantor's claims and rights to the payment of damages arising under the Bankruptcy Code (as defined below) from any rejection of the Occupancy Agreements by the lessor thereunder or any other party;
- (C) all right, title and interest Grantor now has or may hereafter acquire in and to the Improvements or any part thereof (whether owned in fee by Grantor or held pursuant to any Occupancy Agreement or otherwise) and all the estate, right, title, claim or demand whatsoever of Grantor, in possession or expectancy, in and to the Real Estate or any part thereof;
- (D) all right, title and interest of Grantor in, to and under all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water and riparian rights, development rights, air rights, mineral rights and all estates, rights, titles, interests, privileges, licenses, tenements, hereditaments and appurtenances belonging, relating or appertaining to the Real Estate, and any reversions, remainders, rents, issues, profits and revenue thereof and all land lying in the bed of any street, road or avenue, in front of or adjoining the Real Estate to the center line thereof;
- (E) all of the fixtures, chattels, business machines, machinery, apparatus, equipment, furnishings, fittings and articles of personal property of every kind and nature

whatsoever, and all appurtenances and additions thereto and substitutions or replacements thereof (together with, in each case, attachments, components, parts and accessories) currently owned or subsequently acquired by Grantor and now or subsequently attached to, or contained in or used or usable in any way in connection with any operation or letting of the Real Estate, including but without limiting the generality of the foregoing, all heating, electrical, and mechanical equipment, lighting, switchboards, plumbing, ventilating, air conditioning and air-cooling apparatus, loading and unloading equipment and systems, communication systems (including satellite dishes and antennae), computers, sprinkler systems and other fire prevention and extinguishing apparatus and materials, security systems, motors, engines, machinery, pipes, pumps, tanks, conduits, appliances, fittings and fixtures of every kind and description (all of the foregoing in this paragraph (E) being referred to as the "Equipment");

(F) all right, title and interest of Grantor in and to all substitutes and replacements of, and all additions and improvements to, the Real Estate and the Equipment, subsequently acquired by or released to Grantor or constructed, assembled or placed by Grantor on the Real Estate, immediately upon such acquisition, release, construction, assembling or placement, including, without limitation, any and all building materials whether stored at the Real Estate or offsite that are being incorporated into the Improvements, and, in each such case, without any further mortgage, conveyance, assignment or other act by Grantor;

(G) all right, title and interest of Grantor in, to and under all leases, subleases, underlettings, concession agreements, management agreements, licenses and other agreements relating to the use or occupancy of the Real Estate or the Equipment or any part thereof, now existing or subsequently entered into by Grantor and whether written or oral and all guarantees of any of the foregoing (collectively, as any of the foregoing may be amended, restated, extended, renewed or modified from time to time, the "Leases"), and all rights of Grantor in respect of cash and securities deposited thereunder and the right to receive and collect the revenues, income, rents, issues and profits thereof, together with all other rents, royalties, issues, profits, revenue, income and other benefits arising from the use and enjoyment of the Trust Property (as defined below) (collectively, the "Rents");

(H) all unearned premiums under insurance policies now or subsequently obtained by Grantor relating to the Real Estate or Equipment and Grantor's interest in and to all such insurance policies and all proceeds of such insurance policies, including the right to collect and receive such proceeds, subject to the provisions relating to insurance generally set forth herein and in the Indenture; and all awards and other compensation, including the interest payable thereon and the right to collect and receive the same, made to the present or any subsequent owner of the Real Estate or Equipment for the taking by eminent domain, condemnation or otherwise, of all or any part of the Real Estate or any easement or other right therein, subject to the provisions relating to such awards and compensation generally set forth herein and in the Indenture;

(I) to the extent assignable, all right, title and interest of Grantor in and to (i) all contracts from time to time executed by Grantor or any manager or agent on its behalf

relating to the ownership, construction, maintenance, repair, operation, occupancy, sale or financing of the Real Estate or Equipment or any part thereof and all option, purchase and sale and other agreements relating to the purchase or lease of any portion of the Real Estate, together with the right to exercise the options thereunder and all leases of Equipment, (ii) all consents, licenses, building permits, certificates of occupancy and other governmental approvals relating to construction, completion, occupancy, use or operation of the Real Estate or any part thereof and (iii) all drawings, plans, specifications and similar or related items relating to the Real Estate;

(J) any and all monies now or subsequently on deposit for the payment of real estate taxes or special assessments against the Real Estate or for the payment of premiums on insurance policies covering the foregoing property or otherwise on deposit with or held by Beneficiary as provided in this Deed of Trust; and

(K) all proceeds, both cash and noncash, of the foregoing.

Said property is warranted free from all encumbrances and against any adverse claims, except for Permitted Encumbrances. (All of the foregoing property and rights and interests now owned or held or subsequently acquired by Grantor and described in the foregoing clauses (A) through (F) are collectively referred to as the "Premises", and those described in the foregoing clauses (A) through (K) are collectively referred to as the "Trust Property").

TO HAVE AND TO HOLD the Trust Property and the rights and privileges hereby granted and conveyed unto Trustee, its successors and assigns for the uses and purposes set forth, until the Obligations are fully paid and performed.

Upon condition, however, that if the indebtedness secured by this Deed of Trust is paid and satisfied in full, and the interest thereon and all other Obligations under this Deed of Trust are fulfilled, then this conveyance shall be null and void and Beneficiary will, at Grantor's cost and expense, deliver a discharge or assignment without representation or warranty except as to outstanding principal balance.

#### Terms and Conditions

Grantor further represents, warrants, covenants and agrees with Trustee and Beneficiary as follows:

1. Warranty of Title. Grantor warrants that it has good record title in fee simple to the Owned Property, a valid leasehold or easement interest in the Occupied Land, and a valid ownership interest in the rest of the Trust Property, subject only to the matters and liens expressly permitted by the Indenture (the "Permitted Encumbrances"). Grantor shall warrant, defend and preserve such title and the lien of this Deed of Trust and such lien's priority against all claims of all persons and entities. Grantor represents and warrants that (a) it has the right to encumber the Trust Property with this Deed of Trust; (b) each Occupancy Agreement, if applicable, is in full force and effect and Grantor is the holder of the lessee's, tenant's or grantee's interest thereunder; (c) Grantor has paid all rents and other charges to the extent due and payable under any Occupancy Agreement (except to the extent Grantor is contesting in good faith by appropriate proceedings any such rents and other charges in accordance with and to the

extent permitted by the terms of the relevant Occupancy Agreement and the Indenture), is not in default under any Occupancy Agreement, has received no notice of default from the lessor thereunder and knows of no material default by the lessor thereunder; and (d) the granting of this Deed of Trust does not violate the terms of any Occupancy Agreement.

2. Payment of the Obligations. Grantor shall pay and perform the Obligations at the times and places and in the manner specified in the Transaction Documents.

3. Insurance. Grantor shall maintain or cause to be maintained on all of the Premises such insurance in such amounts as is required pursuant to the Indenture. In the event of foreclosure of this Deed of Trust or other transfer of title to the Trust Property, all right, title and interest of Grantor in and to any insurance policies then in force shall pass to the purchaser or grantee to the extent assignable. Grantor shall cause all proceeds of any insurance policies insuring against loss or damage to the Trust Property to be applied in accordance with the Transaction Documents.

4. Condemnation/Eminent Domain. Promptly upon obtaining knowledge of the institution of any proceedings for the condemnation of the Trust Property, or any portion thereof, Grantor will notify Beneficiary of the pendency of such proceedings. Grantor shall cause all condemnation awards to be applied in accordance with the Transaction Documents.

5. Leases. Except as may be expressly permitted under the Indenture, Grantor shall not execute an assignment or pledge of any Lease relating to all or any portion of the Trust Property other than in favor of Beneficiary.

6. Further Assurances. To the extent permitted under applicable law, and to further assure Beneficiary's and Trustee's rights under this Deed of Trust, Grantor agrees, within fifteen (15) business days after demand of Beneficiary or Trustee, to do any act or execute any additional documents (including, but not limited to, security agreements on any personalty included or to be included in the Trust Property and a separate assignment of each Lease in recordable form) as may be reasonably required by Beneficiary or Trustee to confirm the lien of this Deed of Trust and all other rights or benefits conferred on Beneficiary or Trustee by this Deed of Trust.

7. Changes In Tax, Obligations, Credit And Documentary Stamp Laws. If any law is enacted or adopted or amended after the date of this Deed of Trust which deducts the Obligations from the value of the Real Estate for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Obligations or Beneficiary's interest in the Real Estate, Grantor will pay the tax, with interest and penalties thereon, if any.

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 Notes, this Deed of Trust, or any of the other Transaction Documents or impose any other tax or charge on the same, Grantor will pay for the same, with interest and penalties thereon, if any.

Grantor will not claim or demand or be entitled to any credit or credits on account of the Obligations for any part of the Impositions assessed against the Real Estate, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Real

Estate, or any part thereof, for real estate tax purposes by reason of this Deed of Trust or the Obligations.

8. Beneficiary's Right to Perform. If Grantor fails to perform any of the covenants or agreements of Grantor hereunder or under any other Transaction Document within the applicable notice and grace period, if any, Beneficiary or Trustee, without waiving or releasing Grantor from any obligation or default under this Deed of Trust, may, at any time (but shall be under no obligation to) pay or perform the same, and the amount or cost thereof, with interest at the Default Rate, shall immediately be due from Grantor to Beneficiary or Trustee. All, such amounts or costs, together with interest thereon at the Default Rate, shall be added to the Obligations and shall be secured by this Deed of Trust and shall be a lien on the Trust Property prior to any right, title to, interest in, or claim upon the Trust Property attaching subsequent to the lien of this Deed of Trust. No payment or advance of money by Beneficiary or Trustee under this Section shall be deemed or construed to cure Grantor's default or waive any right or remedy of Beneficiary or Trustee. Upon the occurrence and during the continuance of any Event of Default or if Grantor fails to make any payment or to do any act as herein provided, Beneficiary may, but without any obligation to do so and without notice to or demand on Grantor and without releasing Grantor from any obligation hereunder, make or do the same in such manner and to such extent as Beneficiary may deem necessary to protect the security hereof. Beneficiary is authorized to enter upon the Real Estate for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Trust Property or to foreclose this Deed of Trust or collect the Obligations, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest at the Default Rate, shall constitute a portion of the Obligations and shall be due and payable to Beneficiary upon demand. All other costs and expenses incurred by Beneficiary in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding (including reasonable attorneys' fees to the extent permitted by law) shall bear interest at the Default Rate, for the period after notice from Beneficiary that such cost or expense was incurred to the date of payment to Beneficiary. All such other costs and expenses incurred by Beneficiary together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Obligations and be secured by this Deed of Trust and the other Transaction Documents and shall be immediately due and payable upon demand by Beneficiary therefor.

9. Remedies.

(a) Upon the occurrence and during the continuance of any Event of Default, in addition to any other rights and remedies Beneficiary may have pursuant to the Transaction Documents, or as provided by law, and without limitation, Beneficiary may immediately take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Grantor and in and to the Trust Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such manner as Beneficiary may determine, without impairing or otherwise affecting the other rights and remedies of Beneficiary:

(i) Beneficiary may direct Trustee to exercise Trustee's power of sale with respect to the Trust Property in a non-judicial procedure as permitted by applicable law. Trustee may sell all or any part of the Trust Property at public auction upon such terms



and conditions (including cash on the day of sale) as the said Trustee may deem appropriate, selling the Trust Property as an entirety or in such parcels as the Trustee acting may elect, and make due conveyance to the purchaser or purchasers, with general warranty binding the Grantor; and out of the money arising from such sale, the Trustee acting shall pay first, all the expenses of advertising the sale and making the conveyance, including the reasonable hourly fees of the Trustee and Trustee's counsel, and then to Beneficiary the full amount of the Obligations and other sums hereby secured, with interest at the Default Rate to the date of payment, rendering the balance of the sales price, if any, to Grantor; and the recitals in the conveyance to the purchaser or purchasers shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against Grantor, Grantor hereby expressly waiving all rights and equities of redemption, dower and homestead in and to the Trust Property, and agreeing that the purchaser or purchasers shall have rights therein free of any interest or claim of the Grantor. The oath and bond of the Trustee are expressly waived.

In the event a sale hereunder should be commenced by the Trustee, or his substitute or successor, Beneficiary may at any time before the sale of all or any part of the Trust Property direct the Trustee to cancel the scheduled sale and re-schedule the sale or abandon the sale, whereupon Beneficiary may then institute suit for the collection of the Obligations and other sums secured hereby, and for the foreclosure of this deed of trust lien; it is further agreed that if Beneficiary should institute a suit for the collection of the Obligations and other sums secured hereby, and for a foreclosure of this deed of trust lien, that he may at any time before the entry of a final judgment in said suit dismiss the same and request the Trustee, his substitute or successor, to sell the Premises in accordance with the provisions of this Deed of Trust.

(ii) Beneficiary may, to the extent permitted by applicable law, (A) institute and maintain an action of mortgage foreclosure against all or any part of the Trust Property, (B) institute and maintain an action under the Indenture or any other Transaction Document, (C) sell all or part of the Trust Property (Grantor expressly granting to Beneficiary the power of sale), or (D) take such other action at law or in equity for the enforcement of this Deed of Trust or any of the Transaction Documents as the law may allow. Beneficiary may proceed in any such action to final judgment and execution thereon for all sums due hereunder, together with interest thereon at the Default Rate and all costs of suit, including, but not limited to, reasonable attorneys' fees and disbursements. Interest at the Default Rate shall be due on any judgment obtained by Beneficiary from the date of judgment until actual payment is made of the full amount of the judgment;

(iii) Beneficiary may personally, or by its agents, attorneys and employees and without regard to the adequacy or inadequacy of the Trust Property or any other collateral as security for the Obligations enter into and upon the Trust Property and each and every part thereof and exclude Grantor and its agents and employees therefrom without liability for trespass, damage or otherwise (Grantor hereby agreeing to surrender possession of the Trust Property to Beneficiary upon demand at any such time) and use, operate, manage, maintain and control of the Trust Property and every part thereof. Following such entry

and taking of possession, Beneficiary shall be entitled, without limitation, (A) to lease all or any part or parts of the Trust Property for such periods of time and upon such conditions as Beneficiary may, in its discretion, deem proper, (B) to enforce, cancel or modify any Lease and (C) generally to execute, do and perform any other act, deed, matter or thing concerning the Trust Property as Beneficiary shall deem appropriate as fully as Grantor might do;

(iv) Beneficiary may declare the entire unpaid Obligations to be immediately due and payable in accordance with the terms of the Indenture;

(v) Beneficiary may institute proceedings, judicial or otherwise, for the complete foreclosure of this Deed of Trust under any applicable provision of law, in which case the Real Estate or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;

(vi) Beneficiary may with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Deed of Trust for the portion of the Obligations then due and payable, subject to the continuing lien and security interest of this Deed of Trust for the balance of the Obligations not then due, unimpaired and without loss of priority;

(vii) Beneficiary may sell for cash or upon credit the Real Estate or any part thereof and all estate, claim, demand, right, title and interest of Grantor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;

(viii) Beneficiary may institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Notes, the Indenture or in the other Transaction Documents;

(ix) Beneficiary may recover judgment on the Notes either before, during or after any proceedings for the enforcement of this Deed of Trust or the other Transaction Documents;

(x) Beneficiary may apply for the appointment of a receiver, trustee, liquidator or conservator of the Real Estate, without notice and without regard for the adequacy of the security for the Obligations and without regard for the solvency of Grantor, any guarantor, indemnitor with respect to the Obligations or of any Person otherwise liable for the payment of the Obligations;

(xi) the rights granted to Grantor under Section 15 hereof shall automatically be revoked and Beneficiary may enter into or upon the Real Estate, either personally or by its agents, nominees or attorneys and dispossess Grantor and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Grantor and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Grantor agrees to surrender possession of the Real Estate and of such books, records and accounts to Beneficiary upon demand, and thereupon

Beneficiary may (A) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Trust Property and conduct the business thereat; (B) complete any construction on the Real Estate in such manner and form as Beneficiary deems advisable; (C) make alterations, additions, renewals, replacements and improvements to or on the Real Estate; (D) exercise all rights and powers of Grantor with respect to the Trust Property, whether in the name of Grantor or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Real Estate and every part thereof; (E) require Grantor to pay monthly in advance to Beneficiary, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Real Estate as may be occupied by Grantor; (F) require Grantor to vacate and surrender possession of the Real Estate to Beneficiary or to such receiver and, in default thereof, Grantor may be evicted by summary proceedings or otherwise; and (G) apply the receipts from the Trust Property to the payment of the Obligations, in such order, priority and proportions as Beneficiary shall deem appropriate after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the taxes, other charges, insurance and other expenses in connection with the Trust Property, as well as just and reasonable compensation for the services of Beneficiary, its counsel, agents and employees;

(xii) Beneficiary may exercise any and all rights and remedies granted to a secured party upon default under the Code (as defined below), including, the right to take possession of the fixtures, the equipment and any portion of the Trust Property which is personal property (the "Personal Property"), or any part thereof, and to take such other measures as Beneficiary may deem necessary for the care, protection and preservation of the fixtures, the equipment and the Personal Real Estate. Any notice of sale, disposition or other intended action by Beneficiary with respect to the Equipment and/or the Personal Real Estate sent to Grantor in accordance with the provisions hereof at least fifteen (15) days prior to such action, shall constitute commercially reasonable notice to Grantor;

(xiii) Beneficiary may apply any sums then deposited or held in escrow or otherwise by or on behalf of Beneficiary in accordance with the terms of the Indenture, this Deed of Trust or any other Transaction Document to the payment of the following items in any order in its uncontrolled discretion:

- (A) Impositions;
- (B) insurance premiums;
- (C) interest on the unpaid principal balance of the Notes;
- (D) amortization of the unpaid principal balance of the Notes;
- (E) all other sums payable pursuant to the Notes, the Indenture, this Deed of Trust and the other Transaction Documents, including, but not limited to, advances made by Beneficiary pursuant to the terms of this Deed of Trust; and

(xiv) pursue such other remedies as Beneficiary may have under applicable law.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of the Trust Property, this Deed of Trust shall continue as a lien and security interest on the remaining portion of the Trust Property unimpaired and without loss of priority.

(b) Beneficiary, in any action to foreclose this Deed of Trust in a judicial procedure or in connection with the exercise of any non-judicial power of sale by Trustee, shall be entitled to the appointment of a receiver. In case of a trustee's sale or a foreclosure sale, the Real Estate and the related Personal Property may be sold in one parcel or in more than one parcel and Trustee is specifically empowered (without being required to do so, and in its discretion) to cause successive sales of portions of the Trust Property to be held.

(c) In the event of any breach of any of the covenants, agreements, terms or conditions contained in this Deed of Trust beyond the applicable notice and grace period, if any, Beneficiary or Trustee shall be entitled to enjoin such breach and obtain specific performance of any covenant, agreement, term or condition and Beneficiary and Trustee shall have the right to invoke any equitable right or remedy as though other remedies were not provided for in this Deed of Trust.

10. Right of Beneficiary to Credit Sale. Upon the occurrence of any sale made under this Deed of Trust, whether made under the power of sale or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Beneficiary may bid for and acquire the Trust Property or any part thereof. In lieu of paying cash therefor, Beneficiary may make settlement for the purchase price by crediting upon the Obligations or other sums secured by this Deed of Trust the net sales price after deducting therefrom the expenses of sale and the cost of the action and any other sums which Beneficiary is authorized to deduct under this Deed of Trust. In such event, this Deed of Trust, the Indenture, and documents evidencing expenditures secured hereby may be presented to the person or persons conducting the sale in order that the amount so used or applied may be credited upon the Obligations as having been paid.

11. Appointment of Receiver. If an Event of Default shall have occurred and be continuing, Beneficiary as a matter of right and without notice to Grantor, unless otherwise required by applicable law, and without regard to the adequacy or inadequacy of the Trust Property or any other collateral as security for the Obligations or the interest of Grantor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers or other manager of the Trust Property, and Grantor hereby irrevocably consents to such appointment and waives notice of any application therefor (except as may be required by law). Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided in this Deed of Trust, including, without limitation and to the extent permitted by law, the right to enter into leases of all or any part of the Trust Property, and shall continue as such and exercise all such powers until the date of confirmation of sale of the Trust Property unless such receivership is sooner terminated.

12. Extension, Release, etc.

(a) Without affecting the lien or charge of this Deed of Trust upon any portion of the Trust Property not then or theretofore released as security for the full amount of the Obligations, Beneficiary may, from time to time and without notice, agree with Grantor to (i) release any person liable for the Obligations, (ii) extend the maturity or alter any of the terms of the Obligations, (iii) grant other indulgences, (iv) release or reconvey, or cause to be released or reconveyed at any time at Beneficiary's option any parcel, portion or all of the Trust Property, (v) take or release any other or additional security for any obligation herein mentioned, or (vi) make compositions or other arrangements with debtors in relation thereto. If at any time this Deed of Trust shall secure less than all of the principal amount of the Obligations, it is expressly agreed that any repayments of the principal amount of the Obligations shall not reduce the amount of the lien of this Deed of Trust until the lien amount shall equal the principal amount of the Obligations outstanding. No recovery of any judgment by Beneficiary and no levy of an execution under any judgment upon the Trust Property or upon any other property of Grantor shall affect the lien of this Deed of Trust or any liens, rights, powers or remedies of Beneficiary or Trustee hereunder, and such liens, rights, powers and remedies shall continue unimpaired.

(b) If Beneficiary shall have the right to foreclose this Deed of Trust or to direct the Trustee to exercise its power of sale, Grantor authorizes Beneficiary at its option to foreclose the lien created by this Deed of Trust (or direct the Trustee to sell the Trust Property, as the case may be) subject to the rights of any tenants of the Trust Property. The failure to make any such tenants parties to or defendants in any such foreclosure proceeding and to foreclose their rights, or to provide notice to such tenants as required in any statutory procedure governing a sale of the Trust Property by Trustee, or to terminate such tenant's rights in such sale will not be asserted by Grantor as a defense to any proceeding instituted by Beneficiary to collect the Obligations or to foreclose the lien created by this Deed of Trust.

(c) Unless expressly provided otherwise, in the event that Beneficiary's interest in this Deed of Trust and title to the Trust Property or any estate therein shall become vested in the same person or entity, this Deed of Trust shall not merge in such title but shall continue as a valid lien on the Trust Property for the amount secured hereby.

13. Security Agreement under Uniform Commercial Code.

(a) It is the intention of the parties hereto that this Deed of Trust shall constitute a "security agreement" within the meaning of the Uniform Commercial Code of the State in which the Premises are located (the "Code"). If an Event of Default shall occur, and during the continuance of such Event of Default, then in addition to having any other right or remedy available at law or in equity, Beneficiary shall have the option of either (i) proceeding under the Code and exercising such rights and remedies as may be provided to a secured party by the Code with respect to all or any portion of the Trust Property which is personal property (including, without limitation, taking possession of and selling such property) or (ii) treating such property as real property and proceeding with respect to both the real and personal property constituting the Trust Property in accordance with Beneficiary's rights, powers and remedies with respect to the real property (in which event the default provisions of the Code shall not apply). If Beneficiary shall elect to proceed under the Code, then fifteen (15) days' notice of sale of the

personal property shall be deemed reasonable notice and the reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by Beneficiary shall include, but not be limited to, reasonable actual attorneys' fees and legal expenses.

(b) Grantor and Beneficiary agree, to the extent permitted by law, that: (i) all of the goods described within the definition of the word "Equipment" are fixtures on the Real Estate; (ii) this Deed of Trust upon recording or registration in the real estate records of the proper office shall constitute a financing statement filed as a "fixture filing" within the meaning of the Code; (iii) Grantor is the record owner of the Owned Land if applicable and the record owner of the Occupied Land, if applicable, is set forth on Exhibit B-2 attached hereto; and (iv) the addresses of Grantor and Beneficiary are as set forth on the first page of this Deed of Trust.

(c) Grantor, upon request by Beneficiary from time to time or as otherwise necessary, shall execute, acknowledge and deliver to Beneficiary one or more separate security agreements, in form satisfactory to Beneficiary, covering all or any part of the Trust Property and confirming the provisions of this Section 13 and will further execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any financing statement, affidavit, continuation statement, amendment or certificate or other document as Beneficiary may reasonably request or as otherwise necessary in order to perfect, preserve, maintain, continue or extend the security interest under and the priority of this Deed of Trust and such security instrument. Grantor further agrees to pay to Beneficiary promptly after demand all costs and expenses incurred by Beneficiary in connection with the preparation, execution, recording, filing and re-filing of any such document and all reasonable costs and expenses of any record searches for financing statements Beneficiary shall reasonably require. In addition, Grantor hereby authorizes (without obligation) Beneficiary to file any such financing and continuation statements and amendments. The filing of any financing or continuation statements or amendments in the records relating to personal property or chattels shall not be construed as in any way impairing the right of Beneficiary to proceed against any personal property encumbered by this Deed of Trust as real property, as set forth above.

14. Trustee's Powers (and Liabilities). (a) Beneficiary may substitute, for any reason whatsoever, a successor Trustee or successor Trustees for the Trustee hereunder from time to time by an instrument in writing in any manner now or hereafter provided by law. Such right of substitution may be exercised at any time and more than once for so long as any part of the Obligations remains unpaid. Such writing, upon recordation, shall be conclusive proof of proper substitution of each such successor Trustee or Trustees, who shall thereupon and without conveyance from the predecessor Trustee, succeed to all its title, estate, rights, powers and duties hereunder. The making of oath and giving bond by Trustee or any successor Trustee is hereby expressly waived by Grantor. The Trustee may sell and convey said property under the power set out herein, to any person, firm or corporation, although said Trustee has been, may now be or may hereafter be attorney for or agent of Beneficiary.

(b) At any time or from time to time, without liability therefor, and without notice, upon the written request of Beneficiary and presentation of this Deed of Trust for endorsement, without affecting the liability of any person for the payment of the Obligations secured hereby, and without affecting the lien created by the Deed of Trust upon the Trust Property for the full amount of all amounts secured hereby, upon Beneficiary's request Trustee may (i) release all or

any part of the Trust Property, (ii) consent to the making of any map or plat thereof, (iii) join in granting any easement thereon or in creating any covenants or conditions restricting use or occupancy thereof, or (iv) join in any extension agreement or in any agreement subordinating the lien or charge hereof.

(c) If more than one Trustee is appointed hereunder, either Trustee may act in the execution of this Trust; the authority and power of any Trustee so acting shall be as full and complete as if the powers and authority granted to Trustees herein jointly had been granted to such Trustee alone; and either Trustee may act by agent or attorney. It is not necessary for either Trustee to be personally present at any foreclosure sale.

15. Assignment of Rents. Grantor hereby assigns to Trustee, for the benefit of the Beneficiary, the Rents as further security for the payment and performance of the Obligations, and Grantor grants to Trustee and Beneficiary the right to enter the Trust Property for the purpose of collecting the same and to let the Trust Property or any part thereof, and to apply the Rents on account of the Obligations. The foregoing assignment and grant is present and absolute and shall continue in effect until the Obligations are paid and performed in full, but Beneficiary and Trustee hereby waive the right to enter the Trust Property for the purpose of collecting the Rents and Grantor shall be entitled to collect, receive, use and retain the Rents until the occurrence of and during the continuance of an Event of Default; such right of Grantor to collect, receive, use and retain the Rents may be revoked by Beneficiary upon the occurrence of and during the continuance of any Event of Default by giving not less than fifteen (15) days' written notice of such revocation to Grantor; in the event such notice is given, Grantor shall pay over to Beneficiary, or to any receiver appointed to collect the Rents, any lease security deposits, and shall pay monthly in advance to Beneficiary, or to any such receiver, the fair and reasonable rental value as determined by Beneficiary for the use and occupancy of the Trust Property or of such part thereof as may be in the possession of Grantor or any affiliate of Grantor, and upon default in any such payment Grantor and any such affiliate will vacate and surrender the possession of the Trust Property to Beneficiary or to such receiver, and in default thereof may be evicted by summary proceedings or otherwise. Grantor acknowledges and agrees that upon recordation of this Deed of Trust Trustee, for the benefit of the Beneficiary, shall have a valid and fully perfected present assignment of the Rents arising out of the Leases and all security for such Leases. Grantor acknowledges and agrees that upon the recordation of this Deed of Trust, Trustee's interest in the Rents shall be deemed to be fully perfected, "choate" and enforced as to Grantor and to the extent permitted under applicable law, all third parties, including, without limitation, any subsequently appointed trustee in any case under Title 11 of the Bankruptcy Code, without the necessity of commencing a foreclosure action with respect to this Deed of Trust, making formal demand for the Rents, obtaining the appointment of a receiver or taking any other affirmative action. Without limitation of the absolute nature of the assignment of the Rents hereunder, Grantor, Trustee and Beneficiary agree that (a) this Deed of Trust shall constitute a "security agreement" for purposes of Section 552(b) of the Bankruptcy Code, (b) the security interest created by this Deed of Trust extends to property of Grantor acquired before the commencement of a bankruptcy case (including any case under the Bankruptcy Code) and to all amounts paid as Rents and (c) such security interest shall extend to all Rents acquired by the estate after the commencement of any bankruptcy case (including any case under the Bankruptcy Code).

16. Trust Funds. All lease security deposits of the Real Estate shall be treated as trust funds. Within ten (10) days after request by Beneficiary, Grantor shall furnish Beneficiary satisfactory evidence of compliance with this subsection, together with a statement of all lease security deposits by lessees and copies of all Leases not previously delivered to Beneficiary, which statement shall be certified by Grantor.

17. Additional Rights. The holder of any subordinate lien on the Trust Property shall have no right to terminate any Lease whether or not such Lease is subordinate to this Deed of Trust nor shall any holder of any subordinate lien or subordinate deed of trust join any tenant under any Lease in any trustee's sale or action to foreclose the lien or modify, interfere with, disturb or terminate the rights of any tenant under any Lease. By recordation of this Deed of Trust all subordinate lienholders and the trustees and beneficiaries under subordinate deeds of trust are subject to and notified of this provision, and any action taken by any such lienholder or trustee or beneficiary contrary to this provision shall be null and void. Upon the occurrence of and during the continuance of any Event of Default, Beneficiary may, without regard to the adequacy of its security under this Deed of Trust, apply all or any part of any amounts on deposit with Beneficiary under this Deed of Trust against all or any part of the Obligations. Any such application shall not be construed to cure or waive any Default or Event of Default or invalidate any act taken by Beneficiary on account of such Default or Event of Default.

18. Notices. All notices, requests, demands and other communications hereunder shall be given in accordance with the provisions of the Indenture.

19. No Oral Modification. This Deed of Trust may not be amended, supplemented or otherwise modified except in accordance with the provisions of the Indenture. Any agreement made by Grantor and Beneficiary after the date of this Deed of Trust relating to this Deed of Trust shall be superior to the rights of the holder of any intervening or subordinate deed of trust, lien or encumbrance. Trustee's execution of any written agreement between Grantor and Beneficiary shall not be required for the effectiveness thereof as between Grantor and Beneficiary.

20. Partial Invalidity. In the event any one or more of the provisions contained in this Deed of Trust shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, but each shall be construed as if such invalid, illegal or unenforceable provision had never been included. Notwithstanding anything to the contrary contained in this Deed of Trust or in any provisions of any of the Transaction Documents, the obligations of Grantor and of any other obligor under the any Transaction Document shall be subject to the limitation that Beneficiary shall not charge, take or receive, nor shall Grantor or any other obligor be obligated to pay to Beneficiary, any amounts constituting interest in excess of the maximum rate permitted by law to be charged by Beneficiary.

21. Grantor's Waiver of Rights. To the fullest extent permitted by law, Grantor waives the benefit of all laws now existing or that may subsequently be enacted providing for (a) any appraisalment before sale of any portion of the Trust Property, (b) any extension of the time for the enforcement of the collection of the Obligations or the creation or extension of a period of redemption from any sale made in collecting such debt and (c) exemption of the Trust Property



from attachment, levy or sale under execution or exemption from civil process. To the fullest extent Grantor may do so, Grantor agrees that Grantor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisal, valuation, stay, exemption, extension or redemption, or requiring foreclosure of this Deed of Trust before exercising any other remedy granted hereunder and Grantor, for Grantor and its successors and assigns, and for any and all persons ever claiming any interest in the Trust Property, to the extent permitted by law and except as otherwise provided herein or in the other Transaction Documents, hereby waives and releases all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness and marshalling in the event of exercise by Trustee or Beneficiary of the power of sale or other rights hereby created.

22. Remedies Not Exclusive. Beneficiary, Trustee and Indenture Trustee shall be entitled to enforce payment and performance of the Obligations and to exercise all rights and powers under this Deed of Trust or under any of the other Transaction Documents or any laws now or hereafter in force, notwithstanding some or all of the Obligations may now or hereafter be otherwise secured, whether by deed of trust, mortgage, security agreement, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, shall prejudice or in any manner affect Beneficiary's or Trustee's right to realize upon or enforce any other security now or hereafter held by Beneficiary and Trustee in connection with the Obligations, it being agreed that Beneficiary and Trustee shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in connection with the Obligations in such order and manner as Beneficiary may determine in its absolute discretion. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Transaction Documents to Beneficiary or Trustee or to which either may otherwise be entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Beneficiary or Trustee as the case may be. In no event shall Beneficiary or Trustee, in the exercise of the remedies provided in this Deed of Trust (including, without limitation, in connection with the assignment of Rents to Beneficiary, or the appointment of a receiver and the entry of such receiver on to all or any part of the Trust Property), be deemed a "mortgagee in possession," and neither Beneficiary nor Trustee shall in any way be made liable for any act, either of commission or omission, in connection with the exercise of such remedies except gross negligence or willful misconduct after Beneficiary takes possession or title.

23. Multiple Security. If (a) the Premises shall consist of one or more parcels, whether or not contiguous and whether or not located in the same county, or (b) in addition to this Deed of Trust, Beneficiary shall now or hereafter hold or be the beneficiary of one or more additional mortgages, liens, deeds of trust or other security (directly or indirectly) for the Obligations upon other property in the State in which the Premises are located (whether or not such property is owned by Grantor or by others) or (c) both the circumstances described in clauses (a) and (b) shall be true, then to the fullest extent permitted by law, Beneficiary may, at its election, commence or consolidate in a single trustee's sale or foreclosure action all trustee's sale or foreclosure proceedings against all such collateral securing the Obligations (including the Trust Property), which action may be brought or consolidated in the courts of, or sale conducted

in, any county in which any of such collateral is located. Grantor acknowledges that the right to maintain a consolidated trustee's sale or foreclosure action is a specific inducement to Beneficiary to extend the indebtedness evidenced by the Indenture, and Grantor expressly and irrevocably waives any objections to the commencement or consolidation of the foreclosure proceedings in a single action and any objections to the laying of venue or based on the grounds of forum non conveniens which it may now or hereafter have. Grantor further agrees that if Trustee or Beneficiary shall be prosecuting one or more foreclosure or other proceedings against a portion of the Trust Property or against any collateral other than the Trust Property, which collateral directly or indirectly secures the Obligations, or if Beneficiary shall have obtained a judgment of foreclosure and sale or similar judgment against such collateral (or, in the case of a trustee's sale, shall have met the statutory requirements therefor with respect to such collateral), then, whether or not such proceedings are being maintained or judgments were obtained in or outside the State in which the Premises are located, Beneficiary may commence or continue any trustee's sale or foreclosure proceedings and exercise its other remedies granted in this Deed of Trust against all or any part of the Trust Property and Grantor waives any objections to the commencement or continuation of a foreclosure of this Deed of Trust or exercise of any other remedies hereunder based on such other proceedings or judgments, and waives any right to seek to dismiss, stay, remove, transfer or consolidate either any action under this Deed of Trust or such other proceedings on such basis. Neither the commencement nor continuation of proceedings to sell the Trust Property in a trustee's sale, to foreclose this Deed of Trust nor the exercise of any other rights hereunder nor the recovery of any judgment by Beneficiary or the occurrence of any sale by the Trustee in any such proceedings shall prejudice, limit or preclude Beneficiary's right to commence or continue one or more trustee's sales, foreclosure or other proceedings or obtain a judgment against (or, in the case of a trustee's sale, to meet the statutory requirements for, any such sale of) any other collateral (either in or outside the State in which the Premises are located) which directly or indirectly secures the Obligations, and Grantor expressly waives any objections to the commencement of, continuation of, or entry of a judgment in such other sales or proceedings or exercise of any remedies in such sales or proceedings based upon any action or judgment connected to this Deed of Trust, and Grantor also waives any right to seek to dismiss, stay, remove, transfer or consolidate either such other sales or proceedings or any sale or action under this Deed of Trust on such basis. It is expressly understood and agreed that to the fullest extent permitted by law, Beneficiary may, at its election, cause the sale of all collateral which is the subject of a single trustee's sale or foreclosure action at either a single sale or at multiple sales conducted simultaneously and take such other measures as are appropriate in order to effect the agreement of the parties to dispose of and administer all collateral securing the Obligations (directly or indirectly).

24. Successors and Assigns. All covenants of Grantor contained in this Deed of Trust are imposed solely and exclusively for the benefit of Beneficiary and Trustee (each on behalf of itself, the Indenture Trustee, and the Noteholders) and their respective successors and assigns, and no other person or entity shall have standing to require compliance with such covenants or be deemed, under any circumstances, to be a beneficiary of such covenants, any or all of which may be freely waived in whole or in part by Beneficiary or Trustee at any time. All such covenants of Grantor shall run with the land and bind Grantor, the successors and assigns of Grantor (and each of them) and all subsequent owners, encumbrancers and tenants of the Trust Property, and shall inure to the benefit of Beneficiary, Trustee and their respective successors and assigns. Without limiting the generality of the foregoing, any successor to Trustee appointed

by Beneficiary shall succeed to all rights of Trustee as if such successor had been originally named as Trustee hereunder. The word "Grantor" shall be construed as if it read "Grantors" whenever the sense of this Deed of Trust so requires and if there shall be more than one Grantor, the obligations of the Grantors shall be joint and several.

25. No Waivers, etc. Any failure by Beneficiary to insist upon the strict performance by Grantor of any of the terms and provisions of this Deed of Trust shall not be deemed to be a waiver of any of the terms and provisions hereof, and Beneficiary or Trustee, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by Grantor of any and all of the terms and provisions of this Deed of Trust to be performed by Grantor. Beneficiary may release, regardless of consideration and without the necessity for any notice to or consent by the beneficiary of any subordinate deed of trust or the holder of any subordinate lien on the Trust Property, any part of the security held for the obligations secured by this Deed of Trust without, as to the remainder of the security, in any way impairing or affecting this Deed of Trust or the priority of this Deed of Trust over any subordinate lien or deed of trust.

26. Governing Law, etc. This Deed of Trust shall be governed by and construed in accordance with the laws of the State in which the Premises are located, and applicable United States Federal Law.

27. Certain Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Deed of Trust shall be used interchangeably in singular or plural form and the word "Grantor" shall mean "each Grantor or any subsequent owner or owners of the Trust Property or any part thereof or interest therein," the word "Beneficiary" shall mean "Beneficiary or any successor Indenture Trustee under the Indenture," the word "Trustee" shall mean "Trustee and any successor hereunder," the word "person" shall include any individual, corporation, partnership, trust, unincorporated association, government, governmental authority, or other entity, and the words "Trust Property" shall include any portion of the Trust Property or interest therein. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa. The captions in this Deed of Trust are for convenience or reference only and in no way limit or amplify the provisions hereof.

28. Occupancy Agreement Provisions.

(a) Grantor covenants and agrees that the fee title to the Occupied Land and the leasehold estate created under any Occupancy Agreement shall not merge but shall always remain separate and distinct, notwithstanding the union of said estates either in Grantor or a third party by purchase or otherwise; and in case Grantor acquires the fee title, an easement interest, or any other estate, title or interest in and to the Occupied Land, the lien of this Deed of Trust shall, without further conveyance, simultaneously with such acquisition, be spread to cover and attach to such acquired estate and as so spread and attached shall be prior to the lien of any deed of trust placed on the acquired estate after the date of this Deed of Trust.

(b) (i) The lien of this Deed of Trust shall attach to all of Grantor's rights and remedies at any time arising under or pursuant to Subsection 365(h) of Title 11 of the United

States Code, as the same may hereafter be amended (the "Bankruptcy Code"), including, without limitation, all of Grantor's rights to remain in possession of the Occupied Land. If an Event of Default shall have occurred and be continuing, Grantor shall not, without Beneficiary's prior written consent, elect to treat any Occupancy Agreement, if any, as terminated under Subsection 365(h)(1)(A)(i) of the Bankruptcy Code. Any such election made without Beneficiary's consent shall be void.

(ii) If an Event of Default shall have occurred and be continuing, Beneficiary shall have the right to proceed in its own name or in the name of Grantor in respect of any claim, suit, action or proceeding relating to the rejection of any Occupancy Agreement by the lessor or any other party, including, without limitation, the right to file and prosecute under the Bankruptcy Code, without joining or the joinder of Grantor, any proofs of claim, complaints, motions, applications, notices and other documents. Any amounts received by Beneficiary as damages arising out of the rejection of any Occupancy Agreement as aforesaid shall be applied first to all costs and expenses of Beneficiary (including, but not limited to, reasonable attorneys' fees) incurred in connection with the exercise of any of its rights or remedies under this paragraph and thereafter in accordance with the Indenture. Grantor acknowledges that the assignment of all claims and rights to the payment of damages from the rejection of any Occupancy Agreement made under the granting clauses of this Deed of Trust constitutes a present irreversible and unconditional assignment and Grantor shall, at the request of Beneficiary, promptly make, execute, acknowledge and deliver, in form and substance reasonably satisfactory to Beneficiary, a UCC Financing Statement (Form UCC-1) and all such additional instruments, agreements and other documents, as may at any time hereafter be required by Beneficiary to carry out such assignment.

(iii) If pursuant to Subsection 365(h)(1)(B) of the Bankruptcy Code, Grantor shall seek to offset against the rent reserved in any Occupancy Agreement the amount of any damages caused by the nonperformance by the lessor or any other party of any of their respective obligations under such Occupancy Agreement after the rejection by the lessor or such other party of such Occupancy Agreement under the Bankruptcy Code, then Grantor shall, if an Event of Default shall have occurred and be continuing, prior to effecting such offset, notify Beneficiary of its intent to do so, setting forth the amount proposed to be so offset and the basis therefor. In such event, Beneficiary shall have the right to object to all or any part of such offset that, in the reasonable judgment of Beneficiary, would constitute a breach of such Occupancy Agreement, and in the event of such objection, Grantor shall not effect any offset of the amounts found objectionable by Beneficiary. Neither Beneficiary's failure to object as aforesaid nor any objection relating to such offset shall constitute an approval of any such offset by Beneficiary.

(iv) Grantor shall, after obtaining knowledge thereof, promptly notify Beneficiary of any filing by or against the lessor or other party with an interest in the Real Estate of a petition under the Bankruptcy Code. Grantor shall promptly deliver to Beneficiary, following receipt, copies of any and all notices, summonses, pleadings, applications and other documents received by Grantor in connection with any such petition and any proceedings relating thereto.

(v) If there shall be filed by or against Grantor a petition under the Bankruptcy Code and Grantor, as lessee under any Occupancy Agreement, shall determine to reject such Occupancy Agreement pursuant to Section 365(a) of the Bankruptcy Code, then Grantor shall give Beneficiary not less than ten (10) days' prior notice of the date on which Grantor shall apply to the Bankruptcy Court for authority to reject such Occupancy Agreement.

29. Successor Trustee. Beneficiary in any event is hereby authorized to appoint a substitute trustee, or a successor trustee, to act instead of the Trustee named herein without other formality than the designation in writing of a substitute or successor trustee, such written designation to be in proper recordable form; and the authority hereby conferred shall extend to the appointment of other successor and substitute trustees successively until the Obligations and other sums hereby secured have been paid in full, or until said property is sold hereunder, and each substitute and successor trustee shall succeed to all of the rights and powers of the original trustee named herein.

30. Last Dollars Secured; Priority. To the extent that this Deed of Trust secures only a portion of the indebtedness owing or which may become owing by the Grantor, the parties agree that any payments or repayments of such indebtedness shall be and be deemed to be applied first to the portion of the indebtedness that is not secured hereby, it being the parties' intent that the portion of the indebtedness last remaining unpaid shall be secured hereby.

31. Attorney-in-Fact. Grantor hereby irrevocably appoints Trustee and Beneficiary as its attorneys-in-fact, which agency is coupled with an interest and with full power of substitution, with full authority in the place and stead of Grantor and in the name of Grantor or otherwise (a) after the occurrence and during the continuance of any Event of Default, to execute and/or record any notices of completion, cessation of labor or any other notices that Trustee or Beneficiary reasonably deems appropriate to protect Trustee's or Beneficiary's interest, if Grantor shall fail to do so within 10 days after written request by Trustee or Beneficiary, (b) upon the issuance of a deed pursuant to the foreclosure of, or the exercise of the power of sale contained in, this Deed of Trust, to execute all instruments of assignment, conveyance or further assurance with respect to the Trust Property or any portion thereof in favor of the grantee of any such deed and as may be necessary or desirable for such purpose, (c) to prepare and file or record financing statements and continuation statements, and to prepare, execute and file or record applications for registration and like papers necessary to create, perfect or preserve Trustee's lien on and security interests and rights in or to any of the Trust Property, and (d) after the occurrence and during the continuance of any Event of Default, to exercise Trustee's or Beneficiary's rights under Section 8 hereof.

32. Waiver of Jury Trial. EACH OF THE PARTIES HERETO WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS DEED OF TRUST OR THE TRANSACTIONS CONTEMPLATED HEREBY

33. Indenture Trustee. The actions of Beneficiary hereunder are subject to the provisions of the Indenture. Beneficiary shall have the right hereunder to make demands, to give notices, to exercise or refrain from exercising any rights, to take or refrain from taking action

(including, without limitation, the release or substitution of Trust Property), and shall be entitled to all the protections, exculpations, immunities and standard of care, in each case in accordance with this Deed of Trust and the Indenture.

34. State Specific Provisions. To the extent of any inconsistency between this Section and the other provisions of this Deed of Trust, the terms and provisions of this Section shall govern and control.

This Deed of Trust is intended to be effective as of the date first above written.

VB-S1 ASSETS, LLC,  
a Delaware limited liability company

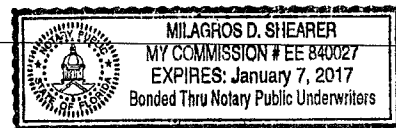
By: \_\_\_\_\_  
Name: Daniel Marinberg  
Title: Vice President

#### ACKNOWLEDGMENT

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of June, 2016, by Daniel Marinberg, as Vice President of **VB-S1 Assets, LLC**, a Delaware limited liability company, on behalf of the company. He is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_



My Commission Expires:

Schedule A

NONE

Schedule B-1

Description of the Occupancy Agreement(s)

**Site ID:** US-OR-5001 – Crescent Butte

**Original Grantor:** American Tower Management, a Delaware corporation

**Current Grantee:** VB-S1 Assets, LLC, a Delaware limited liability company

**Date of Execution:** January 12, 2006

**Recording Info:** Volume M06, Page 01011



Schedule B-2

Site ID: US-OR-5001

An interest in land, said interest being over a portion of the following described parent parcel:

All that portion of the following described parcel which lies wholly within Section 29, Township 24 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

Parcel 1 of Land Partition No. 37-09, being a replat of a portion of Parcel 2, Land Partition NO. 52-91 located in Township 23 South, Ranges 9 & 10 East, Township 24 South, Ranges 9, 10 & 11 and Township 25 South Ranges 9 & 10 East of the Willamette Meridian, Klamath County, Oregon, recorded February 23, 2010 in Volume 2010, Page 002586 Klamath County records.

AND BEING the same property conveyed to the State of Oregon, acting through the Oregon Board of Forestry on behalf of the Oregon Department of Forestry from Cascade Timberlands (Oregon), LLC, a Delaware limited liability company by Special Warranty Deed dated March 02, 2010 and recorded March 08, 2010 in Instrument No. 2010-003027; Correction Deed dated July 13, 2010 and recorded July 21, 2010 in Instrument No. 2010-008699.

Tax Parcel No. State Assessed

Said interest being over land more particularly described by the following description:

An easement over and across lands in Klamath County, Oregon, more particularly described as follow:

A parcel of land in Section 29, Township 24 South, Range 9 East of the Willamette Meridian, the point of beginning of said parcel being N 65° 32' 25"E 1,394.87 feet and N 44° 41' 47" E 141.5 feet from the East 1/4 corner of said Section 29, thence in a Westerly direction on a line bearing N 89° 41' 47" E 200.00 feet; thence N 0° 18' 13" W 200.0 feet; thence S 89° 41' 47" W 200.00 feet; thence S 0° 18' 13" E 200.0 feet to the point of beginning, all being and situated in Klamath County, State of Oregon, Together with rights of access to said parcel of land.

Being the same property described in that certain Easement dated as of July 31, 1967, by Gilchrist Timber Company, Grantor to Pacific Northwest Bell Telephone Company, Grantee, recorded August 7, 1967, in Volume M-67 at Page 6074, records of Klamath County, Oregon; in that certain Assignment of Communication Systems Easements, Rights of Way and Licenses, dated December 13, 1983, by Pacific Northwest, Inc., recorded January 13, 1984, in Volume M-84 at Page 5, records of Klamath County, Oregon; and in the certain Quit Claim Deed for Grant of Easement dated May 31, 2000 by AT & T Communications of the Pacific Northwest, Inc. to American Tower Management, Inc., as recorded July 11, 2000 in Volume M-00 at Page 25210, records of Klamath County Oregon.