

**2020-016500**

**Klamath County, Oregon**

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Fee: \$457.00

This instrument was prepared by  
and when recorded return to:

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EXECUTION VERSION

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The maximum principal amount to be advanced by Beneficiary pursuant to the Note Agreement (as defined herein) is \$38,064,000. The maturity date of the Notes (as defined herein) is February 25, 2042. This Deed of Trust secures an obligation incurred for the construction of improvements on land and constitutes a construction mortgage as defined in ORS 79.0334.

(LINE OF CREDIT INSTRUMENT)

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

Dated as of December 10, 2020

From

KLAMATH FALLS HOLDINGS, LLC  
(the "*Grantor*")

To

FIDELITY NATIONAL TITLE COMPANY OF OREGON,  
as Deed of Trust Trustee

For the Benefit of

UMB BANK, N.A., AS COLLATERAL TRUSTEE  
(the "*Beneficiary*")

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Tax account numbers of the Property: 3809-032AC-10500-000; 3809-032AC-10500-000

## TABLE OF CONTENTS

SECTION	HEADING	PAGE
ARTICLE I	DEFINITIONS; GRANTING CLAUSES; SECURED INDEBTEDNESS .....	1
Section 1.1.	Principal Secured .....	1
Section 1.2.	Definitions.....	1
Section 1.3.	Granting Clause .....	6
Section 1.4.	Security Interest .....	9
Section 1.5.	Secured Indebtedness, Notes, Operative Agreements, Other Obligations.....	9
Section 1.6.	After-Acquired Property .....	10
ARTICLE II	REPRESENTATIONS; WARRANTIES AND COVENANTS .....	10
Section 2.1.	Representations; Warranties and Covenants.....	10
Section 2.2.	Performance by Beneficiary on Mortgagor's Behalf .....	31
Section 2.3.	Absence of Obligations of Beneficiary or Holder with Respect to Property .....	31
Section 2.4.	Authorization to File Financing Statements; Power of Attorney .....	32
Section 2.5.	Mortgagor Special Purpose Covenants .....	32
Section 2.6.	Due on Sale Clause .....	35
Section 2.7.	Transfer of Ownership of Grantor .....	36
ARTICLE III	ASSIGNMENT OF RENTS AND LEASES .....	37
Section 3.1.	Assignment .....	37
Section 3.2.	Covenants, Representations and Warranties Concerning Leases and Rents.....	37
Section 3.3.	Estoppel Certificate.....	39
Section 3.4.	No Liability of Holder of a Note.....	39
ARTICLE IV	DEFAULT .....	40
Section 4.1.	Events of Default .....	40
Section 4.2.	Notice and Cure .....	44
ARTICLE V	REMEDIES .....	45
Section 5.1.	Certain Remedies .....	45
Section 5.2.	Proceeds of Foreclosure .....	51
Section 5.3.	Purchasers .....	51
Section 5.4.	Foreclosure as to Matured Debt.....	51
Section 5.5.	Remedies Cumulative .....	52
Section 5.6.	Discretion as to Security .....	52
Section 5.7.	Grantor's Waiver of Certain Rights .....	52
Section 5.8.	Delivery of Possession After Foreclosure.....	52

ARTICLE VI	MISCELLANEOUS .....	53
Section 6.1	Scope of Deed of Trust .....	53
Section 6.2	Effective as a Financing Statement .....	53
Section 6.3	Notice to Account Debtors.....	54
Section 6.4	Waiver by Beneficiary .....	54
Section 6.5.	No Impairment of Security .....	54
Section 6.6.	Acts Not Constituting Waiver by Beneficiary .....	54
Section 6.7.	Grantor's Successors .....	55
Section 6.8.	Place of Payment; Forum.....	55
Section 6.9.	Subrogation to Existing Liens.....	55
Section 6.10.	Application of Payments to Certain Indebtedness .....	55
Section 6.11.	Nature of Borrowing; Compliance with Usury Laws .....	56
Section 6.14.	Releases.....	56
Section 6.13.	Notices .....	57
Section 6.14.	Invalidity of Certain Provisions .....	58
Section 6.15.	Gender; Titles; Construction.....	58
Section 6.16.	Reporting Compliance .....	59
Section 6.17.	Grantor .....	59
Section 6.18.	Execution; Recording.....	59
Section 6.19.	Successors and Assigns; Third-Party Beneficiaries.....	60
Section 6.20.	Modification or Termination.....	60
Section 6.21.	No Partnership, Etc .....	60
SECTION 6.22.	APPLICABLE LAW; JURISDICTION; WAIVER OF JURY TRIAL.....	60
Section 6.24.	Entire Agreement .....	61
Section 6.25.	Future Indebtedness .....	62
Section 6.26.	Interpretation .....	62
Section 6.27.	Concerning the Beneficiary .....	62
Section 6.29.	Limitations of Liability .....	62
Section 6.30.	Cooperation .....	63
ARTICLE VII	STATE SPECIFIC PROVISIONS .....	63
Section 7.1.	Commercial Trust Deed .....	63
ARTICLE VIII	DEED OF TRUST PROVISIONS .....	65
Section 8.1.	Concerning the Deed of Trust Trustee .....	65
Section 8.2.	Trustee's Fees .....	65
Section 8.3.	Certain Rights .....	65
Section 8.4.	Retention of Money .....	66
Section 8.5.	Perfection of Appointment.....	66
Section 8.6.	Succession Instruments .....	66

THIS (LINE OF CREDIT INSTRUMENT) DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING (this "*Deed of Trust*") is dated this 10<sup>th</sup> day of December, 2020, by KLAMATH FALLS HOLDINGS, LLC, an Oregon limited liability company (the "*Grantor*"), to FIDELITY NATIONAL TITLE COMPANY OF OREGON, as deed of trust trustee ("*Deed of Trust Trustee*"), whose address is 1433 SW 6th Avenue, Portland, Oregon 97201, for the benefit of UMB BANK, N.A., as Collateral Trustee under that certain Trust Indenture and Security Agreement defined below, whose address is 6440 S. Millrock Drive, Suite 400, Salt Lake City, Utah, 84121, Attention: Corporate Trust and Escrow Services (the "*Beneficiary*").

#### RECITALS

WHEREAS, Grantor is the fee simple owner of the Property (as hereinafter defined) and has leased the Property to the State of Oregon, by and through its Department of Human Services (the "*Tenant*"), under and pursuant to the terms of that certain State of Oregon Lease, dated March 27, 2018 (such lease as it may heretofore or hereafter be assigned, amended, supplemented or modified and any replacement thereof is herein referred to as the "*Lease*"), by and between Grantor and Tenant, and is assigning all of its right, title and interest in and to the Lease to the Beneficiary pursuant to this Deed of Trust.

WHEREAS, pursuant to the Lease the Grantor, as landlord, is obligated to construct on the Property certain improvements, including a three-story office building, comprising approximately 92,000 rentable square feet, a related parking area and certain other structures, fixtures, additions, enlargements, extensions, modifications, improvements and appurtenances (collectively with any other buildings, structures, improvements, alterations or appurtenances now or hereafter situated or to be situated on the Land, the "*Improvements*") in accordance with the terms of the Lease.

WHEREAS, pursuant to a Note Purchase Agreement dated as of the date hereof among the Grantor and the Purchasers listed in Schedule A thereto (the "*Note Agreement*") the Company has agreed to offer and sell to the Purchasers and the Purchasers have agreed to purchase from Grantor, Grantor's Notes, due on the Maturity Date (as defined therein), in an aggregate principal amount not to exceed \$38,064,000 (the "*Notes*").

#### ARTICLE I

##### DEFINITIONS; GRANTING CLAUSES; SECURED INDEBTEDNESS

*Section 1.1. Principal Secured.* This Deed of Trust secures the aggregate principal amount of THIRTY-EIGHT MILLION SIXTY-FOUR THOUSAND DOLLARS (\$38,064,000.00) plus all other Secured Indebtedness (as defined below) and all other obligations of the Grantor hereunder or under any other Operative Agreement, together with interest thereon.

*Section 1.2. Definitions.* (a) In addition to other terms defined herein, and to terms used but not defined herein, each of which shall have the meaning given to such term in the Note Agreement, each of the following terms shall have the meaning assigned to it, such definitions to be applicable equally to the singular and the plural forms of such terms and to all genders:

*"Adverse Sky Lakes Event"* has the meaning given to such term in the Side Letter referred to in clause (i) of such definition in the Note Agreement.

*"Affiliate"* has the meaning given to such term in the Note Agreement.

*"Assets"* shall mean, at any time, the total assets of a Person (except for the Person's interest in the Property and except for intellectual property, good will or any other intangible asset) which would be shown as assets on the balance sheets of such Person as of such time prepared in accordance with either GAAP or federal income tax standards, consistently applied.

*"Assigned Rents"* means all Rents including Rents payable under the Lease.

*"Assignment of Leases and Rents"* means that certain assignment of leases and rents dated the date hereof by and between the Beneficiary and Grantor.

*"Beneficiary"* shall mean means UMB Bank, N.A., as Collateral Trustee under the Trust Indenture, together with any successor trustee thereunder.

*"Collateral"* has the meaning set forth in Section 1.4.

*"Commercial Office Suite"* means that certain commercial office suite comprising approximately 1052 square feet to be leased by Grantor to a commercial use Tenant.

*"Completion Date"* is defined in the Note Agreement.

*"Control"* has the meaning given to such term in the definition of "Affiliate" in the Note Agreement.

*"Creditor"* shall mean a Person (x) to whom the Grantor or any Affiliate thereof has, at any time from and after the date hereof, outstanding indebtedness in an amount equal to or greater than five percent (5%) of the Grantor's or such Affiliate's, as the case may be, total outstanding general unsecured indebtedness at such time, or (y) to whom total payments have been made by the Grantor or such Affiliate during the immediately preceding fiscal year which are equal to or greater than five percent (5%) of the respective gross annual revenues of the Grantor or such Affiliate for such immediately preceding fiscal year.

*"Debtor Relief Laws"* shall mean Title 11 of the United States Code.

*"Debt Service Coverage Ratio"* is defined in the Note Purchase Agreement.

*"Deed of Trust Trustee"* is defined in the Recitals hereto.

*"Environmental Indemnity"* means that certain Environmental Indemnity Agreement dated as of the date hereof from Grantor and Guarantor to the Purchasers.

*"Escrow and Servicing Agreement"* is defined in the Note Agreement.

*"Existing Owner"* shall mean any direct or indirect holder or owner of an equity, ownership, membership, partnership, or voting interest in the Grantor.

*"Family Transfer"* shall mean any transfer of the Property to family members of an Existing Owner.

*"GAAP"* shall mean generally acceptable accounting principles as in effect from time to time in the United States of America.

*"Granted Property"* has the meaning set forth in Section 1.3.

*"Grantor"* shall mean Klamath Falls Holdings, LLC, an Oregon limited liability company, whose address is 2870 Nansen Drive, Medford, Oregon 97504, and its permitted successors and assigns.

*"Guarantor"* is defined in the Note Agreement.

*"Holder"* is defined in the Note Agreement.

*"Indemnified Matters"* shall mean any and all claims, demands, liabilities (including strict liability), losses, damages (excluding special, indirect, consequential or punitive damages except to the extent that the indemnified persons are obligated to pay such special, indirect, consequential or punitive damages to any third party), causes of action, judgments, penalties, fines, costs and expenses (including, without limitation, reasonable fees and expenses of attorneys and other professional consultants and experts, and of the investigation and defense of any claim, whether or not such claim is ultimately defeated, and the settlement of any claim or judgment, including all value paid or given in settlement, and further including costs and expenses of enforcing any right of indemnification hereunder) of every kind, known or unknown, foreseeable or unforeseeable, which may be imposed upon, asserted against or incurred or paid by Beneficiary or any Holder of a Note and/or Trustee at any time and from time to time, whenever imposed, asserted or incurred, because of, resulting from, in connection with, or arising out of any transaction, act, omission, event or circumstance in any way connected with the Property or with this Deed of Trust or any other Operative Agreement, including but not limited to any bodily injury or death or property damage occurring in or upon or in the vicinity of the Property through any cause whatsoever at any time on or before the Release Date, any act performed or omitted to be performed by Grantor hereunder or under any Operative Agreement or any amendment of any Operative Agreement, any breach by Grantor of any representation, warranty, covenant, agreement or condition contained in this Deed of Trust or in any other Operative Agreement, any Default, any claim under or with respect to the Lease or arising under the Environmental Indemnity.

*"Independent Manager"* shall mean an individual who is not at the time of his or her appointment as Independent Manager, has not been at any time during the preceding five (5) years, and does not become subsequently: (i) a direct or indirect legal or beneficial holder of any stock, partnership or other equity interest in the Grantor or any of its Affiliates; (ii) a Creditor, Supplier, employee, officer, director, family member, manager (other than during the individual's tenure as Independent Manager) or contractor of the Grantor or any of its Affiliates; or (iii) an individual

who controls, directly, indirectly or otherwise the Grantor or any of its Affiliates or any Creditor, Supplier, officer, director, member, manager or contractor of such Person or its Affiliates.

*"Law"* means any federal, state or local law, statute, ordinance, code, rule, regulation, license, permit, authorization, decision, order, injunction or decree, domestic or foreign which is applicable to the Property, Grantor, Guarantor or Tenant, as the context may require, including, without limitation the Public Works Requirements.

*"Lease"* shall mean each existing or future lease (including without limitation, the Lease), sublease (to the extent of Grantor's rights thereunder) or other agreement under the terms of which any person has or acquires any right to occupy or use the Property, or any part thereof, or interest therein, and each existing or future guaranty of payment or performance thereunder, and all extensions, renewals, modifications and replacements of each such lease, sublease, agreement or guaranty.

*"Legal Requirement"* means any Law, agreement, covenant, restriction, easement or condition (including, without limitation of the foregoing, any condition or requirement imposed by any insurance or surety company with respect to any insurance policy in effect which insures any part of the Property or the Grantor's interests therein), as any of the same now exists or may be changed or amended or come into effect in the future applicable to the Property or Grantor, including, without limitation the Public Works Requirements.

*"Liabilities"* shall mean the total liabilities of a Person which would be shown as liabilities on the balance sheets of such Person as of such time prepared in accordance with either GAAP or federal income tax standards, consistently applied.

*"No-Fee Transfer"* means a Family Transfer.

*"Note Agreement"* is defined in the Recitals hereof.

*"Notes"* shall mean any note made by Grantor and issued pursuant to the Note Agreement.

*"Operative Agreements"* has the meaning set forth in the Note Agreement.

*"Parent"* means Rubicon Investments Corporation, an Oregon corporation.

*"Permitted Encumbrances"* is defined in Section 2.1(b).

*"Public Works Requirements"* has the meaning set forth in the Note Agreement.

*"Purchasers"* has the meaning set forth in the Note Agreement.

*"Release Date"* means the earliest of the following three dates: (i) the date on which the Secured Indebtedness and other obligations secured by this Deed of Trust have been paid and performed in full; (ii) the date that the Property is released from the lien of this Deed of Trust pursuant to Defeasance made in accordance with Section 2.9 of the Note Agreement, or (iii) the

date on which the lien of this Deed of Trust is fully and finally foreclosed or a conveyance by deed in lieu of such foreclosure is fully and finally effective and possession of the Property has been given to the purchaser or Beneficiary (or its designee) free of occupancy and claims to occupancy by Grantor and their heirs, devisees, representatives, successors and assigns; *provided* that, if such payment, performance, release, foreclosure or conveyance is challenged, in bankruptcy proceedings or otherwise, the Release Date shall be deemed not to have occurred until such challenge is validly released, dismissed with prejudice or otherwise barred by law from further assertion.

*"Rents"* shall mean all of the rents, revenue, income, profits and proceeds derived and to be derived from the Property (other than with respect to the Commercial Office Suite) or arising from the use or enjoyment of any portion thereof or from the Lease, including but not limited to the proceeds from any negotiated lease termination or buyout of the Lease, liquidated damages following default under the Lease, all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by damage to any part of the Property, all of Grantor's rights to recover monetary amounts from any tenant in bankruptcy including, without limitation, rights of recovery for use and occupancy and damage claims arising out of Lease defaults, including rejections, under any applicable Debtor Relief Law, together with any sums of money that may now or at any time hereafter be or become due and payable to Grantor by virtue of any and all royalties, overriding royalties, bonuses, delay rentals and any other amount of any kind or character arising under any and all present and all future oil, gas, mineral and mining leases covering the Property or any part thereof, and all proceeds and other amounts paid or owing to Grantor under or pursuant to any and all contracts and bonds relating to the construction or renovation of the Property.

*"Required Holders"* means the Holders holding at least 51% of the aggregate principal amount of the Notes at the time outstanding.

*"Right of Contest"* has the meaning set forth in the Note Agreement.

*"Secured Indebtedness"* is defined in Section 1.5 hereof.

*"Sky Lakes Lawsuit"* has the meaning given to such term in the Side Letter referred to in clause (i) of such definition in the Note Agreement.

*"SNDA Agreement"* shall mean the Subordination, Non-disturbance and Attornment Agreement dated as of the date hereof by and among Grantor, Beneficiary and Tenant.

*"Special Risk Insurance Policy"* shall mean a special risk insurance policy issued by an insurer acceptable to Required Holders that will repay all amounts due on the Notes upon the termination of the Lease as in accordance with its terms following a casualty or condemnation event, or such other insurance policy for the benefit of, and acceptable to, Required Holders which insures the repayment of all amounts due under the Notes following a casualty or condemnation which results in a termination of the Lease.

"*Supplier*" shall mean a Person who provides or has provided goods or services to the Grantor and any Affiliate thereof such that the total payments received by or due to such Person by the Grantor and such Affiliate during such Person's immediately preceding fiscal year are equal to or greater than ten percent (10%) of such Person's total annual gross revenue for such Person's immediately preceding fiscal year.

"*Tangible Net Worth*" shall mean, at any time, (A) the Assets of a Person, *minus* (B) the Liabilities of such Person.

"*Tenant*" is defined in the Recitals hereto.

"*Timbermill Shores CC&Rs*" has the meaning set forth in the Note Agreement.

"*Transfer Documents*" has the meaning set forth in the Note Agreement.

"*Transfer Fee*" shall mean (i) in connection with any conveyance, transfer, sale or disposition that is a No-Fee Transfer, \$0.00 (i.e. a No-Fee Transfer is free) and (ii) in connection with each conveyance, transfer, sale or disposition that is not a No-Fee Transfer, a fee equal to \$100,000, which fee shall be allocated by Beneficiary among the Holders based on each Holder's percentage of ownership of the Notes then outstanding.

"*Transferred Parcel*" has the meaning set forth in the Note Agreement.

"*Trust Indenture*" has the meaning set forth in the Note Agreement.

(b) Any term used or defined in the Oregon Uniform Commercial Code, as in effect from time to time, and not defined in this Deed of Trust has the meaning given to the term in the Oregon Uniform Commercial Code, as in effect from time to time, when used in this Deed of Trust.

*Section 1.3. Granting Clause.* In consideration of the provisions of this Deed of Trust and of the sum of TEN DOLLARS (\$10.00) cash in hand paid and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by the Grantor, Grantor does hereby GRANT, WARRANT, MORTGAGE, ASSIGN, PLEDGE, SELL, DEMISE, BARGAIN, CONVEY, TRANSFER, SET OVER AND HYPOTHECATE unto the Deed of Trust Trustee, for the use and benefit of the Beneficiary, its successors and assigns, forever, WITH POWER OF SALE, and grants (with respect to such of the Granted Property as is personal property) to the Beneficiary, its successors and assigns, forever, a security interest in and to all and singular the following described properties, rights, interest and privileges and all of the Grantor's estate, right, title and interest therein, thereto and thereunder (all of which properties, rights, interests and privileges hereby granted, warranted, mortgaged, assigned, pledged, sold, demised, bargained, conveyed, transferred, set over and hypothecated or intended so to be are hereinafter collectively referred to as the "*Granted Property*");

(a) the real property described in *Exhibit A* which is attached hereto and incorporated herein by reference (the "*Land*") together with:

(i) the Improvements; and

(ii) all right, title and interest of Grantor, now owned or hereafter acquired, in and to (1) all streets, roads, alleys, easements, rights of way, licenses, rights of ingress and egress, vehicle parking rights and public places, existing or proposed, abutting, adjacent, used in connection with or pertaining to the Land or the Improvements; (2) any strips or gores between the Land and abutting or adjacent properties; (3) all options to purchase or lease the Land or the Improvements or any portion thereof or interest therein, and any greater estate in the Land or the Improvements; and (4) all water and water rights, timber, crops and mineral interests on or pertaining to the Land (the Land, Improvements and other rights, titles and interests referred to in this clause (a) being herein sometimes collectively called the "*Premises*");

(b) all fixtures, equipment, systems, machinery, furniture, furnishings, appliances, inventory, goods, building and construction materials, supplies, and articles of personal property, of every kind and character, tangible and intangible (including software embedded therein), now owned or hereafter acquired by Grantor, which are now or hereafter attached to or situated in, on or about the Land or the Improvements, or used in or necessary to the complete and proper planning, development, use, occupancy or operation thereof, or acquired (whether delivered to the Land or stored elsewhere) for use or installation in or on the Land or the Improvements, and all renewals and replacements of, substitutions for and additions to the foregoing (the properties referred to in this clause (b) being herein sometimes collectively called the "*Accessories*" all of which are hereby declared to be permanent accessions to the Land);

(c) all

(i) plans and specifications for the Improvements;

(ii) to the extent assignable, Grantor's rights, but not liability for any breach by Grantor, under all commitments (including any commitments for financing to pay any of the Secured Indebtedness, as defined below), insurance policies, contracts and agreements for the design, construction, operation or inspection of the Improvements and other contracts and general intangibles (including but not limited to trademarks, trade names, goodwill, software and symbols) related to the Premises or the Accessories or the operation thereof;

(iii) deposits (including but not limited to Grantor's rights in any tenant's security deposits, deposits with respect to utility services to the Premises, and any deposits or reserves hereunder or under any other Operative Agreements for taxes, insurance or otherwise), rebates or refunds of impact fees or other taxes, assessments or charges, money, accounts, instruments, documents, promissory notes and chattel paper (whether tangible or electronic) arising from or by virtue of any transactions related to the Premises or the Accessories;

(iv) to the extent assignable, permits, licenses, franchises, certificates, development rights, commitments and rights for utilities, and other rights and privileges obtained in connection with the Premises or the Accessories;

(v) leases, Rents, royalties, bonuses, issues, profits, revenues and other benefits of the Premises and the Accessories (without derogation of Article 3 hereof);

(vi) as extracted collateral produced from or allocated to the Land including, without limitation, oil, gas and other hydrocarbons and other minerals and all products processed or obtained therefrom, and the proceeds thereof; and

(vii) engineering, accounting, title, legal, and other technical or business data concerning the Property which are in the possession of Grantor or in which Grantor can otherwise grant a security interest; and

(d) all

(i) accounts and proceeds (cash or non-cash) of or arising from the properties, rights, titles and interests referred to above in this Section 1.3, including but not limited to, all proceeds of the Notes contained in any construction escrow account, all proceeds of any sale, lease or other disposition thereof, proceeds of each policy of insurance relating thereto (including premium refunds), proceeds of the taking thereof or of any rights appurtenant thereto, including change of grade of streets, curb cuts or other rights of access, by condemnation, eminent domain or transfer in lieu thereof for public or quasipublic use under any law, and proceeds arising out of any damage thereto;

(ii) all letter-of-credit rights (whether or not the letter of credit is evidenced by a writing) Grantor now has or hereafter acquires relating to the properties, rights, titles and interests referred to in this Section 1.3;

(iii) all commercial tort claims Grantor now has or hereafter acquires relating to the properties, rights, titles and interests referred to in this Section 1.3; and

(iv) other interests of every kind and character which Grantor now has or hereafter acquires in, to or for the benefit of the properties, rights, titles and interests referred to above in this Section 1.3 and all property used or useful in connection therewith, including but not limited to rights of ingress and egress and remainders, reversions and reversionary rights or interests; and if the estate of Grantor in any of the property referred to above in this Section 1.3 is a leasehold estate, this conveyance shall include, and the lien and security interest created hereby shall encumber and extend to, all other or additional title, estates, interests or rights which are now owned or may hereafter be acquired by Grantor in or to the property demised under the lease creating the leasehold estate;

TO HAVE AND TO HOLD the foregoing rights, interests and properties, and all rights, estates, powers and privileges appurtenant thereto (herein collectively, together with the Lease and the Rents and any other amounts payable thereunder, called the "*Property*"), unto the Deed of Trust Trustee, for the benefit of Beneficiary and its successors and assigns, subject to the terms, provisions and conditions herein set forth, to secure the obligations of Grantor under the Notes and Operative Agreements and all other indebtedness and matters defined as "Secured Indebtedness" in Section 1.5 of this Deed of Trust. PROVIDED NEVERTHELESS, that if Grantor pays to Beneficiary all of the Secured Indebtedness and fully performs all of the Grantor's obligations under the Operative Agreements, in accordance with all the terms and conditions of this Deed of Trust and the other Operative Agreements, then this Deed of Trust, shall be discharged, but otherwise shall remain in full force.

*Section 1.4. Security Interest.* Grantor hereby grants to Beneficiary a security interest in all of the Property which constitutes real property, personal property or fixtures, all proceeds and products thereof, and all supporting obligations ancillary to or arising in any way in connection therewith (herein sometimes collectively called the "*Collateral*") to secure the obligations of Grantor under the Notes and Operative Agreements and all other indebtedness and matters defined as Secured Indebtedness in Section 1.5 of this Deed of Trust. In addition to its rights hereunder or otherwise, Beneficiary shall have all of the rights of a secured party under the Oregon Uniform Commercial Code, as in effect from time to time, or under the Uniform Commercial Code in force, from time to time, in any other state to the extent the same is applicable law.

*Section 1.5. Secured Indebtedness, Notes, Operative Agreements, Other Obligations.* This Deed of Trust is made to secure and enforce the payment and performance of the following promissory notes, obligations, indebtedness, duties and liabilities and all renewals, extensions, supplements, increases, and modifications thereof in whole or in part from time to time (collectively the "*Secured Indebtedness*");

(a) the Notes and all other promissory notes given in substitution therefor or in modification, supplement, increase, renewal or extension thereof, in whole or in part;

(b) all indebtedness, liabilities, duties, premiums, covenants, promises and other obligations whether joint or several, direct or indirect, fixed or contingent, liquidated or unliquidated, and the cost of collection of all such amounts, owed by Grantor to any Holder now or hereafter incurred or arising pursuant to or permitted by the provisions of the Notes or the Note Agreement, this Deed of Trust, the Trust Indenture, or any other document now or hereafter evidencing, governing, guaranteeing, securing or otherwise executed in connection with the Notes or the indebtedness evidenced thereby, including but not limited to any loan or credit agreement, note purchase agreement letter of credit or reimbursement agreement, triparty financing agreement or other agreement between Grantor and Beneficiary or any Holder, or among Grantor, any Holder and any other party or parties, pertaining to the repayment or use of the proceeds of the Notes or the indebtedness evidenced thereby;

(c) all other additional sums, indebtedness and future advances made by any Holder to Grantor in connection with the Operative Agreements and all other debts,

obligations and liabilities of Grantor of every kind and character now or hereafter existing in favor of any Holder in connection with the Operative Agreements, whether direct or indirect, primary or secondary, joint or several, fixed or contingent, secured or unsecured, and whether originally payable to a Holder or to a third party and subsequently acquired by a Holder, it being contemplated that Grantor may hereafter become indebted to a Holder for such further debts, obligations and liabilities in connection with the Operative Agreements; *provided, however*, and notwithstanding the foregoing provisions of this clause (c), this Deed of Trust shall not secure any such other loan, advance, debt, obligation or liability with respect to which any Holder is by applicable law prohibited from obtaining a lien on real estate nor shall this clause (c) operate or be effective to constitute or require any assumption or payment by any person, in any way, of any debt of any other person to the extent that the same would violate or exceed the limit provided in any applicable usury or other law; and

(d) payment of all sums advanced by Beneficiary (acting at the direction of the Required Holders) or any Holder to protect the Granted Property or any portion thereof, whether or not any such advance is specifically authorized by the provisions of this Deed of Trust or any of the other Operative Agreements, with interest thereon at the Default Rate (as defined in the Note Agreement).

*Section 1.6. After-Acquired Property.* Any and all property described or referred to in the granting clauses hereof which is hereafter acquired by the Grantor shall *ipso facto*, and without any further conveyance, assignment or act on the part of the Grantor or Beneficiary, become and be subject to the lien and security interest herein granted as fully and completely as though specifically described herein, but nothing contained in this Section 1.6 shall be deemed to modify or change the obligation of the Grantor under Sections 2.1(h) and 2.1(n).

## ARTICLE II

### REPRESENTATIONS; WARRANTIES AND COVENANTS

*Section 2.1.* Grantor represents, warrants and covenants as follows:

(a) *Payment and Performance.* Grantor will make due and punctual payment of the Secured Indebtedness. Grantor will timely and properly perform and comply with all of the covenants, agreements, and conditions imposed upon it by this Deed of Trust and the other Operative Agreements and will not permit a Default to occur hereunder or thereunder. Time shall be of the essence in this Deed of Trust.

(b) *Title and Permitted Encumbrances.* Grantor has, in Grantor's own right, and Grantor covenants to maintain, lawful, good and marketable title to the Property, is lawfully seized and possessed of the Property and every part thereof, and has the right to convey the same, free and clear of all liens, charges, claims, security interests, and encumbrances except for (i) the matters set forth in Schedule B of Beneficiary's mortgage title insurance policy issued contemporaneously with the execution and delivery of this Deed of Trust, and such other title exception matters as approved by the Required Holders

from time to time, only to the extent the same are valid and subsisting and affect the Property, (ii) the liens and security interests evidenced by this Deed of Trust and the Operative Agreements, (iii) statutory liens for real estate taxes, assessments levies or similar charges on the Property which are not yet delinquent or which are subject to Grantor's Right of Contest, (iv) utility easements consistent with the plans and specifications approved by the Required Holders, and (v) other liens and security interests (if any) in favor of Beneficiary (the matters described in the foregoing clauses (i), (ii), (iii), (iv) and (v) being herein called the "*Permitted Encumbrances*"). Grantor, and Grantor's successors and assigns, will warrant generally and forever and defend title to the Land and Improvements, subject as aforesaid, to Beneficiary and its successors or substitutes and assigns, against the claims and demands of all persons claiming or to claim the same or any part thereof. Grantor will punctually pay, perform, observe and keep all covenants, obligations and conditions in or pursuant to any Permitted Encumbrance and will not modify or permit modification of any Permitted Encumbrance without the prior written consent of the Required Holders, which consent shall not be unreasonably withheld, conditioned or delayed. Inclusion of any matter as a Permitted Encumbrance does not constitute approval or waiver by the Required Holders of any existing or future violation or other breach thereof by Grantor, by the Property or otherwise. No part of the Property constitutes all or any part of the principal residence of Grantor if Grantor is an individual. If any right or interest of Beneficiary in the Property or any part thereof shall be endangered or questioned or shall be attacked directly or indirectly, Beneficiary (whether or not named as a party to legal proceedings with respect thereto), is hereby authorized and empowered to take such steps as in its reasonable discretion may be proper for the defense of any such legal proceedings or the protection of such right or interest of Beneficiary, including but not limited to the employment of independent counsel, the prosecution or defense of litigation, and the compromise or discharge of adverse claims. All expenditures so made of every kind and character shall be a demand obligation (which obligation Grantor hereby promises to pay) owing by Grantor to Beneficiary (as the case may be), and the party making such expenditures shall be subrogated to all rights of the person receiving such payment.

(c) *Taxes and Other Impositions.* Subject to Grantor's Right of Contest, Grantor will pay, or cause to be paid, all taxes, assessments and other charges or levies imposed upon or against or with respect to the Property or the ownership, use, occupancy or enjoyment of any portion thereof, or any utility service thereto, as the same become due and payable, including but not limited to all real estate taxes assessed against the Property or any part thereof, and shall deliver promptly to each Holder such evidence of the payment thereof as any Holder may require.

(d) *Insurance.* The Grantor must provide insurance policies and certificates of insurance for types of insurance described below all of which must be reasonably satisfactory to the Required Holders as to form of policy, amounts, deductibles, sublimits, types of coverage, exclusions and the companies underwriting these coverages. In no event shall such policies be terminated or otherwise allowed to lapse. The Grantor shall be responsible for the payment of all deductibles with respect to insurance carried by Grantor. The Grantor shall also pay for any insurance, or any increase of policy limits, not described

in this Deed of Trust which the Grantor requires for its own protection or for compliance with government statutes. The Grantor's insurance shall be primary and without contribution from any insurance procured by Beneficiary. Policies of insurance shall be delivered to Beneficiary in accordance with the following requirements:

(1) Property insurance on the Improvements and the personal property owned by Grantor (which may be satisfied by the insurance required by subparagraph (5), below, during the initial construction of the Improvements) insuring against any peril now or hereafter included within the classification "All Risk" or "Special Perils," including coverage for wind, hail and mold risks (coverage for mold risk only required from and after the date that Tenant occupies the Property) (i) in an amount equal to "Full Replacement Cost" (as hereinafter defined) of the Improvements and personal property with a Replacement Cost Endorsement; (ii) containing an agreed amount endorsement with respect to the Improvements and personal property waiving all co-insurance provisions; (iii) providing for no deductible in excess of \$100,000.00; and (iv) containing Ordinance or Law Coverage, Operation of Building Laws, Demolition Costs and Increased Cost of Construction in an amount reasonably required by Lender. During the existence of a Default, Full Replacement Cost shall be determined from time to time by an appraiser or contractor designated and paid by the Grantor and approved by the Required Holders or by an engineer or appraiser in the regular employ of the insurer. The "Full Replacement Cost" for purposes of this Section 2.1(d) shall mean the estimated total cost of construction required to replace the Improvements with a substitute of like utility, and using modern materials and current standards, design and layout. For purposes of calculating Full Replacement Cost direct (hard) costs shall include, without limitation, labor, materials, supervision and contractor's profit and overhead and indirect (soft) costs shall include, without limitation, fees for architect's plans and specifications and construction financing costs.

(2) Commercial General Liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Property, such insurance (i) to be on the "occurrence" form with limits of not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate and an umbrella policy with a limit of not less than \$20,000,000; (ii) to continue at not less than this limit until required to be changed by the Required Holders in writing by reason of changed economic conditions making such protection inadequate if reasonably attainable; and (iii) to cover at least the following hazards: (a) premises and operations; (b) products and completed operations on an "if any" basis; (c) acts or omissions by independent contractors; (d) contractual liability; and (e) contractual liability covering the indemnities contained in this Deed of Trust to the extent available.

(3) Business Rental Income insurance in an amount sufficient to prevent any Grantor from becoming a co-insurer within the terms of the applicable policies (which covers loss due to unavailability of utility service), and sufficient to recover twenty-four (24) months "Business Income" (as hereinafter defined) and with an Extended Period of Indemnity of 6 months. "Business Income" shall mean the sum of (i) the total anticipated gross income from occupancy of the Property, (ii) the amount of all charges (such as, but

not limited to, operating expenses, insurance premiums and taxes) which are the obligation of tenants or occupants to the Grantor, (iii) the fair market rental value of any portion of the Property which is occupied by Grantor, and (iv) any other amounts payable to Grantor or to any Affiliate of Grantor pursuant to the Lease.

(4) If any part of the Property is located in an area identified on a Flood Hazard Boundary Map or Flood Insurance Rate Map issued by the Federal Emergency Management Agency as having special flood hazards and flood insurance has been made available, the Grantor will maintain a flood insurance policy meeting the requirements of the current guidelines of the Federal Insurance Administration with a generally acceptable insurance carrier, in an amount not less than the lesser of (i) "Full Replacement Cost" or (ii) the maximum amount of insurance which is available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as amended.

(5) During the period of any construction or renovation or alteration of the Improvements, the Grantor shall provide or shall cause to be provided a so-called "Builder's All Risk" insurance policy in non-reporting form for any Improvements under construction, renovation or alteration including, without limitation, for demolition and increased cost of construction or renovation, in an amount reasonably approved by the Required Holders including an Occupancy Endorsement if a portion of the building will be occupied prior to the completion of the Improvements and Worker's Compensation Insurance covering all persons engaged in the construction, renovation or alteration in an amount at least equal to the minimum required by statutory limits of the State of Oregon.

(6) To the extent that Grantor shall have any employees, worker's compensation insurance subject to the statutory limits of the State of Oregon, and employer's liability insurance with a limit of at least \$1,000,000 per accident and per disease per employee, and \$1,000,000 for disease in the aggregate in respect of any work or operations on or about the Property, or in connection with the Property or its operations (if applicable).

(7) Boiler & Machinery, or Equipment Breakdown Coverage, insurance covering the major components of the central heating, air conditioning and ventilating systems, boilers, other pressure vessels, high pressure piping and machinery, elevators and escalators, if any, and other similar equipment installed in the Improvements, in an amount equal to one hundred percent the full replacement cost of all equipment installed in, on or at the Improvements. These policies shall insure against physical damage to and loss of occupancy and use of the Improvements arising out of an accident or breakdown.

(8) Insurance from and against all losses, damages, costs, expenses, claims and liabilities related to or arising from acts of terrorism of such types, in such amounts, with such deductibles, issued by such companies, and on such forms of insurance policies as may be reasonably required by the Required Holders. For so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 ("TRIPRA") or a similar or subsequent statute is in effect, terrorism insurance for foreign and domestic acts (as such terms are

defined in TRIPRA or similar or subsequent statute) in an amount equal to the full replacement cost of the Property (plus rental loss and/or business interruption insurance coverage). Notwithstanding the foregoing or anything to the contrary set forth in this Deed of Trust, with respect to any terrorism coverage included in the property insurance policy or with respect to any such stand-alone policy covering terrorist acts, in the event TRIPRA expires or is otherwise no longer in effect for any reason, Grantor shall not be required to pay (on a going forward basis after TRIPRA expires or is otherwise no longer in effect for any reason and following expiration of the applicable policies then in place providing such terrorism insurance coverage) any insurance premiums solely with respect to such terrorism coverage for any applicable policy period after the date TRIPRA expires or is otherwise no longer in effect for any reason in excess of the applicable Terrorism Premium Cap (hereinafter defined); provided that if the insurance premiums payable with respect to such terrorism coverage exceeds the Terrorism Premium Cap, Grantor shall purchase a terrorism insurance policy providing the maximum amount of coverage for acts of terrorism as is available with funds equal to the Terrorism Premium Cap. As used herein, "Terrorism Premium Cap" means, for any applicable policy period, an amount equal to 1.5 times the amount of the insurance premiums that would then be payable under policies obtained at such time in respect of property and business interruption/rental loss insurance required under this Deed of Trust (excluding terrorism and earthquake components of such property and business interruption/rental loss insurance) obtained as of the date the applicable new terrorism insurance is being obtained and provided, however, that in no event shall any Insurance Premiums paid with respect to policies in effect prior to the date TRIPRA expires or is otherwise no longer in effect for any reason be included for purposes of determining whether the amount of terrorism insurance premiums paid by Grantor for any applicable period meet or exceed the Terrorism Premium Cap.

(9) If Grantor uses any vehicles in connection with the Property, Business Automobile Insurance with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury and property damage arising out of the use of owned, non-owned, hired and/or leased automotive equipment when such equipment is operated by Grantor, any of Grantor's employees, any of Grantor's agents in connection with the Property or any Affiliate of Grantor.

(10) Mortgagee title insurance issued to Beneficiary covering the Property as required by Purchasers.

(11) Prepaid Special Risk Insurance Policy.

(12) Such other insurance (i) as may from time to time be reasonably required by the Required Holders to replace coverage against any hazard, which as of the date hereof is insured against under any of the insurance policies described in Subsections (1) through (11) of this Section 2.1(d) and (ii) as may from time to time be reasonably required by the Required Holders against other insurable hazards, provided that any such insurance shall cover risks that are customarily insured by prudent landlords with respect to similar properties in similar locations.

The insurance companies must have a general policy rating of A- or better and a financial class of VII or better by A.M. Best Company, Inc. and a claims paying ability of A- or better according to Standard & Poors. So called "Cut-through" endorsements shall not be permitted and in any case all such insurance shall be issued and maintained by insurers, in amounts, with deductibles, and in form reasonably satisfactory to each Holder, and shall require not less than thirty (30) days' prior written notice to Beneficiary of any cancellation and with a ten (10) day notice of any cancellation due to non-payment of premium. Additionally, Grantor shall reasonably promptly provide notice to Beneficiary of any reduction in coverage to the extent Grantor receives notice of same from its insurers.

All insurance policies maintained, or caused to be maintained, by Grantor with respect to the Property, except for public liability insurance, shall provide that each such policy shall be primary without right of contribution from any other insurance that may be carried by Grantor or any Holder and that all of the provisions thereof, except the limits of liability, shall operate in the same manner as if there were a separate policy covering each insured. If any insurer which has issued a policy of title, hazard, liability or other insurance required pursuant to this Deed of Trust or any other Operative Agreement becomes insolvent or the subject of any bankruptcy, receivership or similar proceeding or if in any Holder's or Beneficiary's reasonable opinion the financial responsibility of such insurer is or becomes inadequate, Grantor shall, in each instance promptly upon the request of any Holder and at Grantor's expense, obtain and deliver to Beneficiary a like policy (or, if and to the extent permitted by each Beneficiary, a certificate of insurance) issued by another insurer, which insurer and policy meet the requirements of this Deed of Trust or such other Operative Agreement, as the case may be. Without limiting the discretion of Holders with respect to required endorsements to insurance policies, all such policies for loss of or damage to the Property shall contain a standard mortgagee clause (without contribution) naming Beneficiary as mortgagee with loss proceeds payable to Beneficiary notwithstanding (i) any act, failure to act or negligence of or violation of any warranty, declaration or condition contained in any such policy by any named insured; (ii) the occupation or use of the Property for purposes more hazardous than permitted by the terms of any such policy; (iii) any foreclosure or other action by Beneficiary or any other Person under the Operative Agreements; or (iv) any change in title to or ownership of the Property or any portion thereof, such proceeds to be held for application as provided in the Operative Agreements.

A satisfactory certificate or evidence of insurance on the appropriate ACORD form shall be delivered to each Holder and Beneficiary at the time of execution of this Deed of Trust, with premiums fully paid, and each renewal certificate or evidence on the appropriate ACORD form shall be delivered to Beneficiary at least ten (10) days prior to the termination of the policy it renews or replaces. The Grantor shall, at any Holder's request, deliver to each Holder and Beneficiary copies of insurance policies. Grantor shall pay all premiums on policies required hereunder as they become due and payable and, upon request, promptly deliver to each Holder and Beneficiary evidence satisfactory to the Required Holders of the timely payment thereof.

If any loss occurs at any time when Grantor has failed to perform Grantor's covenants and agreements in this Section 2.1(d), Beneficiary shall nevertheless be entitled to the benefit of all insurance proceeds covering the loss and held by or for Grantor, to the same extent as if it had been made payable to Beneficiary. Upon any foreclosure hereof or transfer of title to the Property in extinguishment of the whole or any part of the Secured Indebtedness, all of Grantor's right, title and interest in and to the insurance policies referred to in this Section 2.1(d) (including unearned premiums) and all proceeds payable thereunder shall thereupon vest in the purchaser at foreclosure or other such transferee, to the extent permissible under such policies.

Beneficiary shall have the right (but not the obligation) to make proof of loss for, settle and adjust any claim under, and receive the proceeds of, all insurance for loss of or damage to the Property, and the reasonable expenses incurred by Beneficiary in the adjustment and collection of insurance proceeds shall be a part of the Secured Indebtedness and shall be due and payable to Beneficiary on demand. Subject to the terms of the Special Risk Insurance Policy, Beneficiary shall not exercise its right to make proof of loss for, settle or adjust any claim prior to the occurrence of a Default, *provided* that Grantor shall diligently pursue the same in good faith, and promptly provide to Beneficiary such information with respect thereto as Beneficiary may from time to time request. Notwithstanding the foregoing, Beneficiary (with the prior written consent of the Required Holders) shall have the right to approve any settlement or adjustment involving a loss in excess of \$500,000, which approval shall not be unreasonably withheld, conditioned or delayed. Beneficiary shall not be, under any circumstances, liable or responsible for failure to collect or exercise diligence in the collection of any of such proceeds or for the obtaining, maintaining or adequacy of any insurance or for failure to see to the proper application of any amount paid over to Grantor. Other than with respect to the Special Risk Insurance Policy which shall be handled in accordance with Section 4.2(g) of the Escrow and Servicing Agreement, any such proceeds received by Beneficiary shall, after deduction therefrom of all reasonable expenses actually incurred by Beneficiary in the collection of the same, at Grantor's option (unless a Default or any event or condition which, upon the giving of notice or the passage of time, or both, would constitute a Default shall have occurred hereunder, or the amount of such proceeds exceeds \$500,000 and Grantor is not obligated to repair or restore the Property by the terms of the Lease; in which event such decision shall be exercised by the Beneficiary at the written direction of the Required Holders in their sole and absolute discretion) be (1) applied (upon compliance with the terms and conditions hereinafter more particularly set forth) to repair or restoration, of the Property so damaged, (2) applied to the payment of the Secured Indebtedness in such order and manner as Required Holders, in their sole discretion, may elect, whether or not due, but subject to Trust Indenture or, (3) applied in accordance with Section 4.2(g) of the Escrow and Servicing Agreement in the case of proceeds from the Special Risk Insurance Policy. In any event, the unpaid portion of the Secured Indebtedness shall remain in full force and effect and the payment thereof shall not be excused.

Grantor shall at all times comply with the requirements of the insurance policies required hereunder and of the issuers of such policies and of any board of fire underwriters or similar body as applicable to or affecting the Property, including, without limitation, the

Special Risk Insurance Policy. In the event that, and to the extent that, insurance proceeds are to be applied to the restoration of the Property, each of the following conditions must also be met and complied with:

(i) Grantor presents sufficient evidence to Beneficiary that there are sufficient funds from the insurance proceeds and from equity funds, if needed, to completely restore the Property to its use, value and condition immediately prior to the casualty.

(ii) Grantor presents sufficient evidence to Beneficiary that the Property will be completely restored prior to the maturity date of the Notes.

(iii) Such insurance proceeds and, if necessary, additional deposits made by Grantor, which, in the reasonable judgment of Beneficiary (as evidenced by the written consent of the Required Holders), are sufficient to restore the Property to its use, value and condition immediately prior to the casualty shall be deposited in accordance with Section 3.3 of the Escrow and Servicing Agreement. Beneficiary shall be entitled, at the expense of Grantor, to consult such professionals as the Required Holders may deem necessary, in their sole discretion, to determine the total costs of restoring the Property. Grantor hereby assigns to, and grants to Beneficiary a security interest in, such escrow account and the funds therein to secure the payment and performance of the Secured Indebtedness.

(iv) The Lease must continue in full force and effect (subject to rent abatement during restoration as may be provided in the Lease). If the Tenant has the right to terminate the Lease due to the casualty, and has not exercised that right, the Tenant shall have confirmed in writing to each Holder its irrevocable waiver of such termination right.

(v) Proceeds from rental loss or business interruption insurance, or both, or other moneys of the Grantor, must be available to the Grantor in such amounts as the Required Holders, in their judgment, consider sufficient to pay the debt service under the Notes, and all property assessments, insurance premiums and other sums becoming due from Grantor pursuant to this Deed of Trust, the Note Agreement and the Notes during the time required for restoration.

(vi) All restoration will be conducted under the supervision of an architect or engineer, or both, selected and paid for by Grantor but approved in advance by the Required Holders, and by a general contractor who must be acceptable in all respects to the Required Holders and who shall have executed a fixed price contract.

(vii) The restoration will be performed pursuant to plans and specifications approved by the Required Holders and the Tenant provided that the Lease requires Tenant's consent and Tenant remains the tenant in the Improvements leased to the Tenant.

(viii) If required by the Required Holders at their sole option, the contractor or contractors responsible for the restoration shall have obtained payment and performance bonds from a corporate surety acceptable to the Required Holders and naming Beneficiary as dual obligee.

(ix) All guaranties provided in accordance with the Operative Agreements shall remain in full force and effect and all guarantors shall so confirm to each Holder.

If any of the foregoing conditions are not satisfied within sixty (60) days of receipt of the insurance proceeds, the Required Holders may direct the Beneficiary, in their sole discretion, to apply all insurance proceeds to the payment of the Secured Indebtedness, but subject to Section 2.8 of the Note Agreement. Furthermore, if applied to restoration, all insurance proceeds (and any other funds required to be deposited with Beneficiary) shall be disbursed from time to time in accordance with the terms and conditions of the Note Agreement, and subject also to the following conditions (which shall control in the event of any conflict with the provisions of such Note Agreement):

(i) Restoration shall commence within sixty (60) days following receipt of the insurance proceeds by Beneficiary and shall be completed within such time as may reasonably be determined by the Required Holders in view of the extent of the casualty but, in any event, shall be completed within a reasonable period after the date the insurance proceeds are received.

(ii) At the time of each disbursement, (x) the Lease shall not have been terminated, and (y) no Default shall have occurred.

(iii) With respect to each disbursement and accompanying each request therefor, there shall be delivered to Beneficiary a certificate addressed to Beneficiary from the architect or engineer supervising the restoration stating that such disbursement is to pay the cost of restoration not paid previously by any prior disbursement, that all restoration completed to the date of such certificate has been completed in accordance with applicable laws and the approved plans and specifications, and that the amount of such disbursement, together with all other disbursements, conforms to the advance provisions contained in Section 2.3 of the Note Agreement *mutatis mutandis*, and evidence satisfactory to the Required Holders that all claims then existing for labor, services and materials have been paid in full or will be paid in full from the proceeds of the disbursement requested.

(iv) The final holdback shall be disbursed only upon delivery to Beneficiary, in addition to the items required in paragraph (iii) above, of the following:

(1) Final waivers of liens from all contractors and subcontractors.

(2) A certificate of the architect or engineer stating that the restoration has been completed in a good and workmanlike manner, in accordance with the plans and specifications approved by Beneficiary and in accordance with all applicable laws.

(3) An estoppel affidavit from each tenant occupying or leasing space in the Property stating that its Lease is in full force and effect.

(v) Immediately upon the occurrence of any Default, Beneficiary may apply all insurance proceeds (other than the proceeds from the Special Risk Insurance Policy which shall be applied in accordance with Section 4.2(g) of the Escrow and Servicing Agreement) and any other sums deposited with Beneficiary to the repayment of the Secured Indebtedness, but subject to Section 2.8 of the Note Agreement.

(e) *Reserves.* Grantor shall maintain certain reserves at such times and in such amounts as provided by the terms of the Escrow and Servicing Agreement.

(f) *Condemnation.* Grantor shall notify each Holder and Beneficiary immediately of any threatened or pending proceeding for condemnation affecting the Property or arising out of damage to the Property, and Grantor shall, at Grantor's expense, diligently prosecute any such proceedings. Beneficiary shall have the right (but not the obligation) to participate in any such proceeding and to be represented by counsel of its own choice. Beneficiary shall be entitled to receive all sums which may be awarded or become payable to Grantor (except for any sums that are required to be paid to Tenant pursuant to the Lease) for the condemnation of the Property, or any part thereof, for public or quasi-public use, or by virtue of private sale in lieu thereof, and any sums which may be awarded or become payable to Grantor for injury or damage to the Property. Grantor shall, promptly upon request of Beneficiary, execute such additional assignments and other documents as may be necessary from time to time to permit such participation and to enable Beneficiary to collect and receipt for any such sums. All such sums are hereby assigned to Beneficiary, and shall be deposited to the Special Risk Insurance Proceeds Subaccount (as such term is defined in the Escrow and Servicing Agreement), and shall, after deduction therefrom of all expenses actually incurred by Beneficiary, including reasonable attorneys' fees, be applied (upon compliance with such terms and conditions as may be required by the Required Holders) to repair and restoration of the Property so affected, or applied to the payment of the Secured Indebtedness in such order and manner as the Required Holders, in their sole discretion, may elect, whether or not due, but subject to Section 2.8 of the Note Agreement. In any event the unpaid portion of the Secured Indebtedness shall remain in full force and effect and the payment thereof shall not be excused. Beneficiary shall not be, under any circumstances, liable or responsible for failure to collect or to exercise diligence in the collection of any such sum or for failure to see to the proper application of any amount paid over to Grantor. Beneficiary is hereby authorized, in the name of Grantor, to execute and deliver valid acquittances for, and to appeal from, any such award, judgment or decree. All costs and expenses (including but not limited to reasonable attorneys' fees) incurred by Beneficiary in connection with any condemnation

shall be a demand obligation owing by Grantor (which Grantor hereby promises to pay on demand) to Beneficiary pursuant to this Deed of Trust.

(g) *Compliance with Legal Requirements.* The Property and the use, operation and maintenance thereof and all activities thereon do and shall at all times comply with all applicable Legal Requirements. The Property is not, and shall not be, dependent on any other property or premises or any interest therein other than the Property to fulfill any Legal Requirement. Grantor shall not, by act or omission, permit any building or other improvement not subject to the lien of this Deed of Trust to rely on the Property or any interest therein to fulfill any Legal Requirement. No improvement upon or use of any part of the Property constitutes a nonconforming use under any zoning law or similar law or ordinance. Grantor has obtained and shall preserve in force all requisite zoning, utility, building, health, environmental and operating permits from the governmental authorities having jurisdiction over the Property. No portion of the Premises has been or will be purchased, improved, equipped, fixtured, or furnished with proceeds of any criminal or other illegal activity and to the best of Grantor's knowledge, there are no illegal activities or activities relating to controlled substances at the Premises.

If Grantor receives a notice or claim from any person that the Property, or any use, activity, operation or maintenance thereof or thereon, is not in compliance with any Legal Requirement, Grantor will promptly furnish a copy of such notice or claim to each Holder and Beneficiary. As of the date of this Deed of Trust, Grantor has received no notice and has no knowledge of any such noncompliance.

(h) *Maintenance, Repair and Restoration.* Grantor will keep the Property or cause the Property to be kept in first class order, repair, operating condition and appearance, causing all necessary repairs, renewals, replacements, additions and improvements to be promptly made, including but not limited to maintaining compliance with Grantor's carpet repair/floor covering replacement and repainting obligations under Section 14 of the Lease, and will not allow any of the Property to be misused, abused or wasted or to deteriorate. Notwithstanding the foregoing, Grantor will not, without the prior written consent of the Required Holders, (i) remove from the Property any fixtures or personal property covered by this Deed of Trust except such as is replaced by Grantor by an article of equal suitability and value, owned by Grantor, free and clear of any lien or security interest (except that created by this Deed of Trust), or (ii) make any structural alteration to the Property or any other alteration thereto which impairs the value thereof, except as required pursuant to the Lease. If any act or occurrence of any kind or nature (including any condemnation or any casualty for which insurance was not obtained or obtainable) shall result in damage to or loss or destruction of the Property, Grantor shall give prompt notice thereof to each Holder and Beneficiary and Grantor shall promptly, at Grantor's sole cost and expense and regardless of whether insurance or condemnation proceeds (if any) shall be available or sufficient for the purpose, secure the Property as necessary and commence and continue diligently to completion to restore, repair, replace and rebuild the Property as nearly as possible to its value, condition and character immediately prior to the damage, loss or destruction.

(i) *No Other Liens.* Other than the lien of the Trust Indenture entered into in accordance with the limitations set forth in Section 5.1 of the Note Agreement, Grantor will not, without the prior written consent of Required Holders, create, place or permit to be created or placed, or through any act or failure to act, acquiesce in the placing of, or allow to remain, any deed of trust, mortgage, voluntary or involuntary lien, whether statutory, constitutional or contractual, security interest, encumbrance or charge, or conditional sale or other title retention document, against or covering the Property, or any part thereof, other than the Permitted Encumbrances, and regardless of whether the same are expressly or otherwise subordinate to the lien or security interest created in this Deed of Trust, and should any of the foregoing become attached hereafter in any manner to any part of the Property without the prior written consent of the Required Holders, subject to Grantor's Right of Contest, Grantor will cause the same to be promptly discharged and released. Grantor will own all parts of the Property and will not acquire any fixtures, equipment or other property (including software embedded therein) forming a part of the Property pursuant to a lease, license, security agreement or similar agreement, whereby any party has or may obtain the right to repossess or remove same, without the prior written consent of Required Holders.

(j) *Operation of Property.* Grantor will operate the Property or cause the Property to be operated in a good and workmanlike manner and in accordance with the Timbermill Shores CC&Rs and all Legal Requirements and will pay all fees or charges of any kind in connection therewith. Grantor will keep the Property occupied so as not to impair the insurance carried thereon. Grantor will not use or occupy or conduct any activity on, or allow the use or occupancy of or the conduct of any activity on, the Property in any manner which violates any Legal Requirement or which constitutes a public or private nuisance or which makes void, voidable or cancelable, or increases the premium of, any insurance then in force with respect thereto. Grantor will not initiate or consent to any zoning reclassification of the Property or seek any variance under existing zoning ordinances applicable to the Property or use or permit the use of the Property in such a manner which would result in such use becoming a nonconforming use under applicable zoning ordinances or other Legal Requirements. Grantor will not impose any easement, restrictive covenant or encumbrance upon the Property, execute or file any subdivision plat or condominium declaration affecting the Property or consent to the annexation of the Property to any municipality, without the prior written consent of the Required Holders. Grantor will not do or suffer to be done any act whereby the value of any part of the Property may be lessened. Grantor will preserve, protect, renew, extend and retain all material rights and privileges granted for or applicable to the Property. Without the prior written consent of the Required Holders, there shall be no drilling or exploration for or extraction, removal or production of any mineral, hydrocarbon, gas, natural element, compound or substance (including sand and gravel) from the surface or subsurface of the Land regardless of the depth thereof or the method of mining or extraction thereof. Subject to Grantor's Right of Contest, Grantor will cause all debts and liabilities of any character (including without limitation all debts and liabilities for labor, material and equipment (including software embedded therein) and all debts and charges for utilities servicing the Property) incurred in the construction, maintenance, operation and development of the Property to be promptly paid.

(k) *Financial Matters.* Grantor is solvent after giving effect to all borrowings contemplated by the Operative Agreements and no proceeding under any Debtor Relief Law is pending (or, to Grantor's knowledge, threatened) by or against Grantor, or any Affiliate of Grantor, as a debtor. All reports, statements, plans, budgets, applications, agreements and other data and information heretofore furnished or hereafter to be furnished by or on behalf of Grantor to the Beneficiary or the Holders in connection with the indebtedness evidenced by the Operative Agreements (including, without limitation, all financial statements and financial information) are and will be true, correct and complete in all material respects as of their respective dates and do not and will not omit to state any fact or circumstance necessary to make the statements contained therein not misleading. No material adverse change has occurred since the dates of such reports, statements and other data in the financial condition of Grantor or, to Grantor's knowledge, of any tenant under any lease described therein. For the purposes of this paragraph k, "*Grantor*" shall also include any person liable directly or indirectly for the Secured Indebtedness or any part thereof and any joint venturer or general partner of Grantor.

(l) *Status of Grantor; Suits and Claims; Operative Agreements.* Grantor is and will continue to be (i) duly organized, validly existing and in good standing under the laws of its state of organization, (ii) authorized to do business in, and in good standing in, each state in which the Property is located, and (iii) possessed of all requisite power and authority to carry on its business and to own and operate the Property.

Each Operative Agreement executed by Grantor has been duly authorized, executed and delivered by Grantor, and the obligations thereunder and the performance thereof by Grantor in accordance with their terms are and will continue to be within Grantor's power and authority (without the necessity of joinder or consent of any other person), are not and will not be in contravention of any Legal Requirement, any organizational document of the Grantor or any other document or agreement to which Grantor or the Property is subject, and do not and will not result in the creation of any encumbrance against any assets or properties of Grantor, or any other person liable, directly or indirectly, for any of the Secured Indebtedness, except as expressly contemplated by the Operative Agreements.

There is no suit, action, claim, investigation, inquiry, proceeding or demand pending (or, to Grantor's knowledge, threatened) against Grantor or against any other person liable directly or indirectly for the Secured Indebtedness or which affects the Property (including, without limitation, any which challenges or otherwise pertains to Grantor's title to the Property) or the validity, enforceability or priority of any of the Operative Agreements. There is no judicial or administrative action, suit or proceeding pending (or, to Grantor's knowledge, threatened) against Grantor, or against any other person liable directly or indirectly for the Secured Indebtedness, except as has been disclosed in writing to each Holder and Beneficiary in connection with the Notes.

The Operative Agreements constitute legal, valid and binding obligations of Grantor enforceable in accordance with their terms, except as the enforceability thereof may be limited by Debtor Relief Laws and except as the availability of certain remedies may be limited by general principles of equity. Grantor is not a "foreign person" within the

meaning of the Internal Revenue Code of 1986, as amended, Sections 1445 and 7701 (*i.e.*, Grantor is not a nonresident alien, foreign corporation, foreign partnership, foreign trust or foreign estate as those terms are defined therein and in any regulations promulgated thereunder).

The indebtedness evidenced by the Notes is solely for business and/or investment purposes, and is not intended for personal, family, household or agricultural purposes. Grantor further warrants that the proceeds of the Notes shall be used for commercial purposes and stipulates that the indebtedness evidenced by the Notes shall be construed for all purposes as commercial indebtedness.

Grantor's exact legal name is correctly set forth at the end of this Deed of Trust. Grantor is an organization of the type set forth at the end of this Deed of Trust and is organized under the laws of the State of Oregon. Grantor's organizational identification number, assigned by its state of organization, is 1242400-94. Grantor is and will continue to be a "registered organization" (as defined in and for purposes of the Uniform Commercial Code in force, from time to time, in Oregon) organized solely under laws of the State of Oregon. Grantor's "location" (as defined in and for purposes of the Uniform Commercial Code in force, from time to time, in Oregon) is Oregon. Grantor shall not change its organizational identification number or name or organization type or "location" (as defined in and for purposes of the Uniform Commercial Code in force, from time to time, in Oregon and any other state to the extent the same is applicable law).

(m) *Certain Environmental Matters.* Grantor shall comply with the terms and covenants of the Environmental Indemnity.

(n) *Further Assurances.* Grantor will, promptly on request of any Holder, (i) correct any defect, error or omission which may be discovered in the contents, execution or acknowledgment of this Deed of Trust or any other Operative Agreement; (ii) execute, acknowledge, deliver, procure and record and/or file such further documents (including, without limitation, further deeds of trust, security agreements, financing statements, financing statement amendments, continuation statements, and assignments of rents or leases) and do such further acts as may be necessary, desirable or proper to carry out more effectively the purposes of this Deed of Trust and the other Operative Agreements, to more fully identify and subject to the liens and security interests hereof any property intended to be covered hereby (including specifically, but without limitation, any renewals, additions, substitutions, replacements, or appurtenances to the Property) or as deemed advisable by any Holder to protect the lien or the security interest hereunder or under any other Operative Agreement against the rights or interests of third persons; and (iii) provide such certificates, documents, reports, information, affidavits and other instruments and do such further acts as may be necessary, desirable or proper in the reasonable determination of any Holder to enable such Holder to comply with the requirements or requests of any agency having jurisdiction over such Holder or any examiners of such agencies with respect to the indebtedness secured hereby, Grantor or the Property. Grantor shall pay all costs incurred in connection with any of the foregoing, which shall be a demand obligation owing by

Grantor (which Grantor hereby promises to pay) to any applicable Holder pursuant to this Deed of Trust.

(o) *Fees and Expenses.* Without limitation of any other provision of this Deed of Trust or of any other Operative Agreement and to the extent not prohibited by applicable law, Grantor will pay, and will reimburse each Holder or Beneficiary on demand to the extent paid by such Holder or Beneficiary: (i) all appraisal fees, filing, registration and recording fees, recordation, transfer and other taxes, brokerage fees and commissions, abstract fees, title search or examination fees, title policy and endorsement premiums and fees, uniform commercial code search fees, judgment and tax lien search fees, escrow fees, reasonable attorneys' fees, architect fees, engineer fees, construction consultant fees, environmental inspection fees, survey fees, and all other costs and expenses of every character incurred by Grantor or any Holder or Beneficiary in connection with the preparation of the Operative Agreements, the evaluation, the purchase of the Notes, closing and funding of the indebtedness evidenced by the Operative Agreements, and any and all amendments and supplements to this Deed of Trust, the Notes or any other Operative Agreements or any approval, consent, waiver, release or other matter requested or required hereunder or thereunder, or otherwise attributable or chargeable to Grantor as owner of the Property, including the fees and disbursements of the Beneficiary in connection with its duties under the Trust Indenture and any other Operative Agreement and (ii) all costs and expenses, including reasonable attorneys' fees and expenses, incurred or expended by Beneficiary in connection with the exercise of any right or remedy, or the defense of any right or remedy or the enforcement of any obligation of Grantor, hereunder or under any other Operative Agreement.

(p) *Indemnification.* (i) Grantor will indemnify and hold harmless each Holder and Beneficiary from and against, and reimburse them on demand for, any and all Indemnified Matters. For purposes of this paragraph (p), the terms "*Holder*" and "*Beneficiary*" shall include each Holder, the Beneficiary and any persons owned or controlled by, owning or controlling, or under common control or Affiliated with any Holder or the Beneficiary and the directors, officers, partners, employees, attorneys, agents and representatives of each of them. Such indemnities shall not apply to a particular indemnified party to the extent that the subject of the indemnification is caused by or arises out of the gross negligence or willful misconduct of that indemnified party. Any amount to be paid under this paragraph (p) by Grantor to any Holder or the Beneficiary shall be reasonably documented and actually incurred by the indemnified party, and shall constitute a demand obligation owing by Grantor (which Grantor hereby promises to pay) to such Holder or Beneficiary pursuant to this Deed of Trust. Nothing in this paragraph, elsewhere in this Deed of Trust or in any other Operative Agreement shall limit or impair any rights or remedies of any Holder or Beneficiary (including without limitation any rights of contribution or indemnification) against Grantor or any other person under any other provision of this Deed of Trust, any other Operative Agreement, any other agreement or any applicable Legal Requirement.

(ii) The indemnities in this paragraph (p) shall not terminate upon the Release Date or upon the release, foreclosure or other termination of this Deed of Trust but will

survive the Release Date, foreclosure of this Deed of Trust or conveyance in lieu of foreclosure, the repayment of the Secured Indebtedness, the discharge and release of this Deed of Trust and the other Operative Agreements, any bankruptcy or other debtor relief proceeding, and any other event whatsoever.

(q) *Records and Financial Reports.* Grantor will keep accurate books and records in accordance with sound accounting principles in which full, true and correct entries shall be promptly made with respect to the Property and the operation thereof, and will permit all such books and records, and all recorded data of any kind or nature, regardless of the medium of recording, including, without limitation, all software, writings, plans, specifications and schematics to be inspected and copied, and the Property to be inspected and photographed, by any Holder and its representatives during normal business hours and at any other reasonable times. Grantor shall furnish or cause to be furnished to each Holder and Beneficiary the financial statements and other information required pursuant to the Note Agreement and the other Operative Agreements. Grantor will furnish to each Holder and Beneficiary at Grantor's expense all evidence which any Holder may from time to time reasonably request as to compliance with all provisions of the Operative Agreements. Any inspection or audit of the Property or the books and records, including recorded data of any kind or nature, regardless of the medium of recording, including, without limitation, software, writings, plans, specifications and schematics of Grantor, or the procuring of documents and financial and other information, by or on behalf of any Holder shall be for such Holder's protection only, and shall not constitute any assumption of responsibility to Grantor or anyone else with regard to the condition, construction, maintenance or operation of the Property nor any Holder's or Beneficiary's approval of any certification given to such Holder nor relieve Grantor of any of Grantor's obligations. Any Holder may from time to time assign or grant participations in the Secured Indebtedness held by such Holder and Grantor consents to the delivery by any Holder to any acquirer or prospective acquirer of any interest or participation in or with respect to all or part of the Secured Indebtedness held by such Holder such information as such Holder now or hereafter has relating to the Property, Grantor, any party obligated for payment of any part of the Secured Indebtedness, any tenant or guarantor under any lease affecting any part of the Property and any agent or guarantor under any management agreement affecting any part of the Property; provided that in each case each such acquirer or prospective acquirer will be informed of the confidential nature of the information provided by such Holder and shall be instructed to keep such information confidential in accordance with safe and sound financial institution practices. Notwithstanding anything to the contrary in the foregoing paragraph, Grantor shall not be required to deliver or provide any information or materials to any Holder, Purchaser or Beneficiary that is protected by attorney-client privilege or other legal privilege and no such privilege is waived by Grantor by its entry into the Operative Agreements.

(r) *Taxes on Notes or Deed of Trust.* Grantor will promptly pay all income, franchise and other taxes owing by Grantor and any stamp, documentary, recordation and transfer taxes or other taxes (unless such payment by Grantor is prohibited by law) which may be required to be paid with respect to any Notes, the Note Agreement, this Deed of Trust or any other instrument evidencing or securing any of the Secured Indebtedness. In

the event of the enactment after this date of any law of any governmental entity applicable to any Holder, Beneficiary, any Note, the Note Agreement, the Property or this Deed of Trust deducting from the value of property for the purpose of taxation any lien or security interest thereon, or imposing upon any Holder or Beneficiary the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Grantor, or changing in any way the laws relating to the taxation of deeds of trust or mortgages or security agreements or debts secured by deeds of trust or mortgages or security agreements or the interest of the Beneficiary or secured party in the property covered thereby, or the manner of collection of such taxes, so as to adversely affect this Deed of Trust or any Operative Agreement or the Secured Indebtedness or any Holder, then, and in any such event, Grantor, upon demand by any Holder, shall pay such taxes, assessments, charges or liens, or reimburse such Holder therefor; *provided, however*, that if in the opinion of counsel for such Holder (i) it might be unlawful to require Grantor to make such payment or (ii) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then, and in such event, such Holder may elect, by notice in writing given to Grantor, to declare all of the Secured Indebtedness owing to such Holder to be and become due and payable ninety (90) days from the giving of such notice; *provided, however*, that such ninety (90) day period may be extended by up to an additional thirty (30) days if Grantor has provided evidence to the Holders and Beneficiary demonstrating that it has used good faith efforts to pursue a refinancing and that Grantor has a reasonably likely pathway to close a refinancing within such additional thirty (30) day period, as determined by the Required Holders in their reasonable discretion.

(s) *Statement Concerning Notes or Deed of Trust.* Grantor shall at any time and from time to time furnish within seven (7) days of request by any Holder a written statement in such form as may be required by such Holder stating (i) each Note, this Deed of Trust and the other Operative Agreements are valid and binding obligations of Grantor, enforceable against Grantor in accordance with their terms, except as the enforceability thereof may be limited by Debtor Relief Laws and except as the availability of certain remedies may be limited by general principles of equity; (ii) the unpaid aggregate principal balance of the Notes; (iii) the date to which interest on the Notes is paid; (iv) the Notes, this Deed of Trust and the other Operative Agreements have not been released, subordinated or modified; and (v) there are no offsets or defenses against the enforcement of the Notes, this Deed of Trust or any other Operative Agreement. If any of the foregoing statements are untrue, Grantor shall, alternatively, specify the reasons therefor.

(t) *Letter-of-Credit Rights.* If Grantor is at any time a beneficiary under a letter of credit relating to the properties, rights, titles and interests referred to in Section 1.3 of this Deed of Trust now or hereafter issued in favor of Grantor, Grantor shall promptly notify each Holder and Beneficiary thereof and, at the request and option of Beneficiary, Grantor shall, pursuant to an agreement in form and substance reasonably satisfactory to the Beneficiary, either (i) arrange for the issuer and any confirmer of such letter of credit to consent to an assignment to Beneficiary of the proceeds of any drawing under the letter of credit or (ii) arrange for Beneficiary to become the transferee beneficiary of the letter of

credit, with Beneficiary agreeing, in each case, that the proceeds of any drawing under the letter of credit are to be applied as provided in Section 5.2 of this Deed of Trust.

(u) *Appraisal.* Beneficiary may obtain, from time to time, an appraisal of all or any part of the Premises prepared in accordance with written instructions from Beneficiary by a third-party appraiser engaged directly by Beneficiary. The cost of any such appraisal shall be borne by Grantor if such appraisal is the first appraisal after the Completion Date (as defined in the Note Agreement), and, thereafter, the first appraisal in any rolling twenty-four (24) month period, and, in all events, if Beneficiary obtains such appraisal after the occurrence of a Default, and such cost is due and payable by Grantor on demand and shall be a part of the Secured Indebtedness.

(v) *Payment for Labor and Materials.* Grantor will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials incurred in connection with the Premises and never permit to exist in respect of the Premises or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Premises or any part thereof any other or additional lien or security interest other than the liens or security interests hereof, except for the Permitted Encumbrances and subject to Grantor's Right of Contest.

(w) *Litigation.* There are no proceedings pending or, to the knowledge of the Grantor, threatened against or affecting the Grantor in any court or before any governmental authority or arbitration board or tribunal. The Grantor is not in default with respect to any order of any court or governmental authority or arbitration board or tribunal. There are no federal tax claims or liens assessed or filed against the Grantor or any Affiliate, or any principal thereof, and there are no judgments against the Grantor unsatisfied of record or docketed in any court of the state in which the Premises are located or in any other court located in the United States and no petition in bankruptcy has ever been filed by or against the Grantor or any Affiliate or any principal thereof and neither the Grantor nor any Affiliate or principal thereof has ever made any assignment for the benefit of creditors or taken advantage of any insolvency act or any act for the benefit of debtors. Neither the Grantor, nor any member of the Grantor, is currently (a) the subject of or a party to any completed or pending bankruptcy, reorganization or insolvency proceeding; or (b) the subject of any judgment unsatisfied of record or docketed in any state court or in any other court located in the United States.

(x) *No Change in Facts or Circumstances.* All information or any portion thereof submitted to any Holder in connection with the Notes or any Operative Agreements and in all financial statements, rent rolls, reports, certificates and other documents submitted in connection with the Notes or any Operative Agreement or in satisfaction of the terms thereof, are accurate, complete and correct in all respects. There has been no adverse change in any condition, fact, circumstance or event that would make any such information inaccurate, incomplete or otherwise misleading.

(y) *Full Disclosure.* No written statement furnished to any Holder by the Grantor or any person, agent or other entity authorized or employed by the Grantor as financial advisor, agent, broker, dealer or otherwise in connection with the issuance of the Notes and furnished by the Grantor or any such person, agent or other entity to any Holder in connection with the negotiation of the transactions contemplated by the Note Agreement or any other Operative Agreement, contain any untrue statement of a material fact or omit a material fact necessary to make the statements contained therein or herein not materially misleading. There is no fact peculiar to the Grantor which the Grantor has not disclosed to you in writing which materially affects adversely nor, so far as the Grantor can now foresee, will materially affect adversely the properties, business, prospects, profits or condition (financial or otherwise) of the Grantor or the ability of the Grantor to perform its obligations under the Operative Agreements to which it is a party or any Notes.

(z) *Special Purpose Entity; Indebtedness.* The Grantor does not own any real property or material assets other than the Premises and cash and cash-like equivalents and does not engage in any business other than the development, management, leasing, financing and operation of the Premises. The Grantor has no indebtedness, guaranties, liabilities or other obligations other than as set forth in the Operative Agreements and unsecured trade payables incurred in the ordinary course of business of operating the Property not to exceed \$50,000 at any time following the Completion Date, such limit subject to annual adjustment in the same percentage as the "Consumer Price Index for All Urban Consumers" published by the U.S. Department of Labor, Bureau of Labor Statistics adjusts from a given prior year to the subject year; *provided, that*, for the avoidance of doubt, capital expenditures shall not constitute ordinary course trade payables. Grantor agrees to comply with the terms and provisions of Article 9 of its Operating Agreement, dated as of December 10, 2020 and Grantor further agrees not to amend such Section without the prior written consent of the Required Holders.

(aa) *Governmental Consent.* Except those necessary in connection with the construction of the Improvements, which shall be obtained in accordance with the terms of the Operative Agreements, no approval, consent or withholding of objection on the part of any regulatory body, state, Federal, state or local, is necessary in connection with the execution, delivery or performance by the Grantor of this Deed of Trust or any other Operative Agreement or compliance by the Grantor with any of the provisions of any of the Operative Agreements.

(bb) *Use of Proceeds.* The proceeds from the issuance of the Notes will be used for closing costs and to finance the construction of the Improvements. None of the transactions contemplated in the Note Agreement (including without limitation thereof, the use of proceeds from the issuance of the Notes) will violate or result in the violation of Section 7 of the Securities Exchange Act of 1934, as amended, or any regulation issued pursuant thereto, including, without limitation, Regulations U, T and X of the Board of Governors of the Federal Reserve System, 12 C.F.R., Chapter II. The Grantor does not own or intend to carry or purchase any "margin security" or "margin stock" within the meaning of said Regulation U. None of the proceeds from the issuance of the Notes will

be used to purchase any "security" within the meaning of the Securities Exchange Act of 1934, as amended.

(cc) *Investment Company Act Status.* The Grantor is not an "investment company" required to be registered under the Investment Company Act of 1940, as amended.

(dd) *Compliance with Law.* The Grantor is not in violation of any applicable Law to which it is subject, including, without limitation, the Public Works Requirements, nor, to the knowledge of the Grantor, is the Tenant in violation of any such Laws relating to the Premises to which it is subject, including in each case without limitation, the Occupational Safety and Health Act of 1970, as amended, the violation of which would materially and adversely affect the properties, business, prospects, profits or condition (financial or otherwise) of the Grantor.

(ee) *Rent.* The aggregate amount of the fixed rental installments payable under the Lease will, on each date for the payment thereof set forth in the Lease, be sufficient, if paid when due, to make each payment of the interest and principal due on the Notes on the scheduled due date immediately following such rent payment date, except for the balloon payment of principal on the Notes in the amount of \$1,776,936.70 that is due on the Maturity Date.

(ff) *Trading with the Enemy Act.* Neither the issuance of the Notes nor the use of the proceeds thereof will violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or the Anti-Terrorism Order or any enabling legislation or executive order relating to any of the same. Without limiting the generality of the foregoing, neither the Grantor nor any of its Affiliates (a) is or will become a blocked person described in Section 1 of the Anti-Terrorism Order or (b) engages or will engage in any dealings or transactions or be otherwise associated with any such blocked person. For purposes hereof, "Anti-Terrorism Order" means Executive Order No. 13,224, 66 Fed. Reg. 49,079 (2001), issued by the President of the United States.

(gg) *Management Contracts.* The Grantor shall not execute any additional contract or agreement or become party to any arrangement for the management of the Property without the prior written consent of the Required Holders. For any such management agreement approved by the Required Holders, the Grantor shall execute and deliver to the Beneficiary, or cause to be executed and delivered to the Beneficiary, a subordination of management agreement, in form and substance satisfactory to the Required Holders, pursuant to which the party who shall act as manager of the Property under such management agreement shall, among other things, subordinate its right to payment for services rendered in managing the Property to the payment of the debt service to the Purchasers with respect to the Notes.

(hh) *[Reserved].*

(ii). *Delivery Timelines.* The Grantor shall, prior to construction of each portion of the Improvements for which a permit is required, obtain all building permits required to construct such Improvements.

(jj). *Filing and Recording Fees.* The Grantor will pay all taxes, recording fees and other fees and charges required by applicable law to be paid in connection with filing the UCC-1 Financing Statement to be filed with the State of Oregon Secretary of State and recordation of this Deed of Trust.

(kk). *Priority of Liens and Payments.* The Grantor and the Beneficiary recognize and agree that the security interests and other liens securing the Secured Indebtedness pursuant to this Deed of Trust shall be first priority perfected security interests and liens and any other liens created by the other Operative Agreements (other than the Lease), subject to the Permitted Encumbrances, and shall rank *pari passu* with the security interests and other liens securing each other obligation secured hereby and thereby, regardless of the time, order, method or manner of attachment, identity of secured party, filing or perfection of any and all of such security interests or other liens.

(ll). *Transfers or Encumbrances of the Facilities.* Except as otherwise expressly permitted in this Deed of Trust (including in accordance with the terms of Section 2.6 or Section 2.7) or the other Operative Agreements, the Property may not be further encumbered by any lien and may not be sold, transferred, conveyed or pledged. If the encumbering or sale, transfer, conveyance or pledge of any of the Property shall be permitted by one Operative Agreement and prohibited by another Operative Agreement, such encumbering, sale, transfer, conveyance or pledge shall be deemed prohibited hereunder.

(mm). *Continuation Statements.* The Beneficiary (or its designee) shall file all filings necessary to maintain the effectiveness of the original Uniform Commercial Code Financing Statement described in Exhibit A to the Trust Indenture which are necessary under the Uniform Commercial Code as in effect in any relevant jurisdiction to perfect the pledge and assignment in such property in favor of Beneficiary, including, without limitation, continuation statements. Unless otherwise notified by the Holders, the Beneficiary may conclusively rely upon the original UCC-1 Financing Statements delivered to it in filing any continuation statement hereunder.

(nn). *Operating Plan.* For each year that funds remain in the Escrow Account (as such term is defined in the Escrow and Servicing Agreement), the Grantor shall provide Beneficiary and each Purchaser with (i) a copy of the annual Property operating budget for such year, which shall be prepared in accordance with the terms of the Lease (each an "Operating Plan") for the Property within thirty (30) days after the beginning of each calendar year, and (ii) a comparison to the Operating Plan from the prior year (for every year after the first year for which an Operating Plan is produced) within thirty (30) days after the beginning of each calendar year.

*Section 2.2. Performance by Beneficiary on Grantor's Behalf.* Grantor agrees that, if Grantor fails to perform any act or to take any action which under any Operative Agreement Grantor is required to perform or take prior to the expiration of any applicable cure period, or, with respect to conditions to which Grantor's Right of Contest applies subject to Grantor's Right of Contest, to pay any money which under any Operative Agreement Grantor is required to pay prior to the expiration of any applicable cure period, and in the case of an emergency that has been described to Grantor in writing by Beneficiary (which writing in the case of emergency may be via email), whether or not the failure then constitutes a Default hereunder, and whether or not there has occurred any other Default or Defaults hereunder or the Secured Indebtedness has been accelerated, Beneficiary, in Grantor's name or its own name, may, but shall not be obligated to, perform or cause to be performed such act or take such action or pay such money, and any expenses so incurred by Beneficiary and any money so paid by Beneficiary shall be a demand obligation owing by Grantor to Beneficiary (which obligation Grantor hereby promises to pay subject to Beneficiary's delivery to Grantor of the prior written notice of emergency described above), shall be a part of the Secured Indebtedness, and Beneficiary, upon making such payment, shall be subrogated to all of the rights of the person, entity or body politic receiving such payment. Beneficiary and its designees shall have the right to enter upon the Property for any purpose at any time and from time to time, subject to the rights of tenants in possession of the Property and upon reasonable prior notice, except in cases of emergency, for which only email notice shall be required. No such payment or performance by Beneficiary shall waive or cure any Default or waive any right, remedy or recourse of any Holder. Any such payment may be made by Beneficiary in reliance on any statement, invoice or claim without inquiry into the validity or accuracy thereof. Each amount due and owing by Grantor to any Holder pursuant to this Deed of Trust shall bear interest, from the date such amount becomes due until paid, at the Default Rate (as defined in the Note Agreement) but never in excess of the maximum non-usurious amount permitted by applicable law, which interest shall be payable to such Holder on demand; and all such amounts, together with such interest thereon, shall automatically and without notice be a part of the Secured Indebtedness. The amount and nature of any expense by any Holder hereunder and the time when paid shall be fully established by the certificate of such Holder or Beneficiary's officers or agents.

*Section 2.3. Absence of Obligations of Beneficiary or Holder with Respect to Property.* Notwithstanding anything in this Deed of Trust to the contrary, including, without limitation, the definition of "Property" and/or the provisions of Article 3 hereof, (i) to the extent permitted by applicable law, the Property is composed of Grantor's rights, title and interest therein but not Grantor's obligations, duties or liabilities pertaining thereto, (ii) no Holder assumes or shall have any obligations, duties or liabilities in connection with any portion of the items described in the definition of "Property" herein, either prior to or after obtaining title to such Property, whether by foreclosure sale, the granting of a deed in lieu of foreclosure or otherwise, and (iii) each Holder may, at any time prior to or after the acquisition of title to any portion of the Property as above described, advise any party in writing as to the extent of such Holder's or Beneficiary's interest therein and/or expressly disaffirm in writing any rights, interests, obligations, duties and/or liabilities with respect to such Property or matters related thereto. Without limiting the generality of the foregoing, it is understood and agreed that no Holder shall have any obligations, duties or liabilities prior to or after acquisition of title to any portion of the Property, as lessee under any lease or purchaser or seller under any contract or option unless such Holder elects otherwise by

written notification or in accordance with a subordination, non-disturbance and attornment or similar agreement executed by such Holder and any tenant of the Property or any portion thereof.

*Section 2.4. Authorization to File Financing Statements; Power of Attorney.* Grantor hereby authorizes each Holder and its attorneys, and the Beneficiary and its attorneys (with respect to continuation statements pursuant to Section 2.1(mm)) at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements with or without signature of Grantor as authorized by applicable law, as applicable to the Collateral or the Property, which financing statements, amendments thereto and continuation statements may indicate the collateral (i) as all assets of Grantor or words of similar effect or (ii) as being of an equal, greater or lesser scope, or with greater or lesser detail, than as set forth in this Deed of Trust. For purposes of such filings, Grantor agrees to furnish any information requested by Beneficiary promptly upon request by Beneficiary. Grantor also ratifies its authorization for Beneficiary to have filed any like initial financing statements, amendments thereto or continuation statements if filed prior to the date of this Deed of Trust. Grantor hereby irrevocably constitutes and appoints Beneficiary and any officer or agent thereof irrevocable power and authority in the place and stead of Grantor or in Grantor's own name to execute in Grantor's name any such documents and to otherwise carry out the purposes of this Section 2.4, to the extent that Grantor's authorization above is not sufficient. To the extent permitted by law, Grantor hereby ratifies all acts said attorneys-in-fact shall lawfully do, have done in the past or cause to be done in the future by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

*Section 2.5. Grantor Special Purpose Covenants.* (a) The Grantor represents, warrants and covenants that it:

(1) has not owned, does not own and will not own any assets other than the Property and cash and proceeds from the sale of the Notes, cash equivalents and incidental personal property and proceeds therefrom (other than (i) the Transferred Parcel which has been transferred to Lake Ewauna Holdings, LLC as of December 4, 2020 pursuant to the Transfer Documents, and (ii) Timbermill Shores Lot 7, Klamath Falls, Klamath County, Oregon 97603, which was sold in April 2019 by Grantor to a third-party);

(2) has not engaged and will not engage in any business or activity other than (i) as permitted and conditioned by the terms of the Operative Agreements, (ii) selling the Notes, (iii) entering into the Operative Agreements to which it is a party and (iv) entering into the Lease and any lease for the Commercial Office Suite with a commercial use tenant;

(3) will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the Notes, and unsecured trade payables incurred in the ordinary course of business, except as otherwise permitted under the Operative Agreements;

(4) will use commercially reasonable efforts to remain solvent and has maintained and intends to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

- (5) has not made and will not make any loans or advances to or acquire obligations or securities of any other Person;
- (6) has not knowingly failed and will not knowingly fail to correct any known misunderstanding regarding its separate identity;
- (7) has continuously maintained and shall continuously maintain its existence and has been and will be qualified to do business in all states necessary to carry on its business (if any);
- (8) has conducted and operated and will conduct and operate its business as presently conducted and operated and as contemplated by the Operative Agreements and in its own name;
- (9) has maintained and will maintain books, records, bank accounts, accounting records and other entity documents separate from those of its partners, members, shareholders, trustees, beneficiaries, principals, Affiliates, and any other Person, or if Grantor's financial statements are consolidated with those of any other Person, as permitted or required by GAAP, such consolidated financial statements shall contain a footnote to the effect that the Grantor is a separate legal entity, the assets of which are not available to satisfy the debts or obligations of any other Person;
- (10) has been and will be, and at all times has held and will hold itself out to the public as, a legal entity separate and distinct from any other Person (including any of its partners, members, shareholders, trustees, beneficiaries, principals and Affiliates, and any Affiliates of any of the same), and not as a department or division of any other Person (except to the extent Grantor is disregarded for Federal income tax purposes);
- (11) has filed and will file such tax returns with respect to itself as may be required under applicable law and has prepared and will prepare separate financial statements;
- (12) has paid and shall pay its own liabilities, indebtedness, and obligations of any kind, as the same shall become due, from its own separate assets, rather than from those of other Persons, including but not limited to Members of the Grantor, except to the extent set forth in the Indemnity and Guaranty Agreement and the Environmental Indemnity and except to the extent the manager or any member pays out-of-pocket expenses of the Grantor for which expenses the manager or member will be reimbursed and has not paid and will not pay from its assets any liabilities, indebtedness, and obligations of any kind of any other Person;
- (13) has not commingled and will not commingle or permit to be commingled its funds or other assets or liabilities with those of any other Person; and has held and will hold title to its assets in its own name;

(14) has maintained and will maintain its assets and liabilities in such a manner that it is not costly or difficult to segregate, ascertain or identify its individual assets or liabilities from those of any other Person;

(15) has not and will not hold itself or its assets out to be responsible for the debts or obligations of any other Person;

(16) has observed and will observe, as applicable, all limited liability Grantor formalities and record keeping;

(17) has allocated and will allocate fairly and reasonably the costs associated with common employees, if any, and any overhead for shared office space and, to the extent utilized, has used and will use separate stationery, invoices and checks;

(18) has not and will not conduct the business of or act on behalf of any other Person (except as required by the Operative Agreements);

(19) has not and will not make any contributions, payments or distributions or transfer any assets to any other Person in violation of its Operating Agreement and the Operative Agreements;

(20) shall not (i) to the fullest extent permitted by applicable law, liquidate or dissolve, in whole or in part; (ii) consolidate, merge or enter into any form of consolidation with or into any other Person, nor, except as require or permitted by the Operative Agreements, convey, transfer or lease its assets substantially as an entirety to any Person nor permit any Person to consolidate, merge or enter into any form of consolidation with or into itself; or (iii) amend any provisions of its organizational documents containing provisions similar to those contained in this Section 2.5(a).

(b) To the fullest extent permitted by law, the written consent or affirmative vote of at least one Independent Manager of Grantor shall be required to:

(1) change the ownership or capital structure of the Grantor in violation of the provisions of Operative Agreements;

(2) acquire all, or substantially all, of the assets or capital stock or other ownership interest of any corporation or other entity;

(3) to the fullest extent permitted by applicable law, dissolve or liquidate, in whole or in part, consolidate or merge with or into any other entity or convey or transfer its properties and assets substantially as an entirety to any entity;

(4) institute proceedings to be adjudicated bankrupt or insolvent, consent to the institution of bankruptcy or insolvency proceedings against it, or file, or consent to, a petition seeking reorganization or relief under any applicable federal or state law relating to bankruptcy or insolvency, or consent to the appointment of a receiver, liquidator,

assignee, trustee, sequestrator (or other similar official) of the Grantor or any substantial part of its property, or make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts generally as they become due, or take corporate action in furtherance of any such action; or

(5) authorize the amendment of Grantor's Operating Agreement to: (i) provide for the removal and/or substitution of the Grantor's Independent Manager provided for hereunder unless a new Independent Manager is appointed and accepts such appointment; (ii) enlarge or alter the permitted business purposes of Grantor as provided in the Operating Agreement above; (iii) if an Independent Manager is required to be appointed pursuant to the Operative Agreements, remove the Grantor's Independent Manager (even upon the insolvency or institution of bankruptcy proceedings involving Grantor) unless a new Independent Manager is appointed and accepts such appointment; or (iv) to the fullest extent permitted by applicable law, permit or cause Grantor to dissolve or to liquidate.

(c) The Grantor's Independent Manager shall be (i) given and entitled to receive all notices as and when given or to be given under the Operating Agreement to any manager or member and (ii) entitled to participate in all meetings or votes of the members or managers, in each case, to the extent that the Grantor's Independent Manager's vote would be required by this Section 2.5 and shall be notified of all action on the part of the managers and members as to which the Grantor's Independent Manager's votes are required in connection with such action.

*Section 2.6. Due on Sale Clause.*

(a) Except as expressly set forth in this Section 2.6 or Section 2.7, any sale, lease, conveyance, assignment, pledge, monetary encumbrance, or transfer of all or any part of the Property or any interest therein, voluntarily or involuntarily, whether by operation of law or otherwise, without the prior written approval of Beneficiary at the direction of the Required Holders, shall be void ab initio. The Required Holders may direct the Beneficiary, in their sole discretion, to waive a Default under this paragraph, but they shall have no obligation to do so, and any waiver may be conditioned upon such one or more of the following (if any) which Required Holders may require: the proposed successor Grantor's integrity, reputation, character, creditworthiness and management ability being satisfactory to Required Holders in their sole judgment and the proposed successor Grantor executing, prior to such sale or transfer, a written assumption agreement containing such terms as the Required Holders may require, including without limitation, that the proposed successor Grantor shall have assumed all of the Grantor's obligations under the Special Risk Insurance Policy, an increase in the rate of interest payable under the Notes, a transfer fee, a modification of the term of the Notes, and any other modification of the Operative Agreements which the Required Holders may require.

(b) Notwithstanding the foregoing, the Property may be transferred to other persons or entities up to three (3) times prior to the Maturity Date of the Notes (provided that the Property may be transferred pursuant to a Family Transfer any number of times and no Family Transfer shall count towards such three (3) transfer limitation), following the date on which rent payments have commenced under the Lease, so long as in connection with each such transfer (i) the proposed Acceptable Replacement Guarantor (as such term is defined in the Indemnity and Guaranty

Agreement), is a permitted owner of the Property under the terms of the Lease, (ii) the Holders receive the Transfer Fee, (iii) after giving effect to such transfer, the Grantor shall be in compliance with this Deed of Trust and no Default or Event of Default shall have occurred which shall then be continuing and (iv) if required under the Special Risk Insurance Policy the Grantor shall have obtained the consent of the provider of the Special Risk Insurance Policy. Grantor shall also provide to each Holder and the Beneficiary (i) all then applicable "know your customer" information required by the Beneficiary and each Holder and (ii) such other information and documents as any Holder may request from time to time with respect to each such transfer, including legal opinions in form and substance acceptable to the Required Holders. Grantor shall notify each Holder and Beneficiary within thirty (30) days prior to any transfer and shall describe the nature of the transfer and the name and ownership of the proposed successor Grantor. Additionally, the Commercial Office Suite may be leased to the commercial use tenant upon no later than five (5) Business Days' prior written notice to Beneficiary.

*Section 2.7. Transfer of Ownership of Grantor.* The sale, pledge, encumbrance, assignment or transfer, voluntarily or involuntarily, whether by operation of law or otherwise, of any interest in Grantor (if Grantor is not a natural person but is a corporation, partnership, limited liability company, trust or other legal entity), without the prior written consent of Beneficiary at the direction of the Required Holders is strictly prohibited (including, without limitation, if Grantor is a partnership or joint venture, the withdrawal from or admission into it of any general partner or joint venture). Notwithstanding the foregoing, (i) the membership interests in Grantor owned as of the date hereof by any person who is a Guarantor as of the date hereof may be transferred from time to time to any other person who is a Guarantor as of the date hereof, (ii) the membership interests in Grantor owned as of the date hereof by any person who is a Guarantor as of the date hereof may be transferred from time to time to lineal descendants of such person for tax or estate planning purposes, provided that in all such cases described in (i) and (ii), the Parent shall continue to own or Control Grantor, (iii) the transfer of non-controlling, indirect interests in Grantor shall be permitted with notice to Beneficiary but without the prior consent of Beneficiary to the extent that (1) such transfer would not constitute a change of Control, and (2) Grantor provides such information to the Beneficiary regarding the proposed transferees as is required for then current OFAC and other "know your customer" standards of Beneficiary and the Holders, and such proposed transferees meet such standard, or (iv) any membership interests in Grantor may be transferred to other persons or entities up to three (3) times prior to the Maturity Date (other than those persons or entities described in clauses (i), (ii) or (iii)), each a "Successor Owner", provided that (1) the transfer occurs after the date that rent payments have commenced under the Lease, (2) the Successor Owner of such membership interests is reasonably acceptable to the Required Holders (as evidenced by their written consent), (3) such Successor Owner's integrity, reputation, character, creditworthiness and management ability is satisfactory to the Required Holders in their sole judgment, (4) such Successor Owner has provided all then applicable "know your customer" information required by the Beneficiary and each Holder and any other information and documents as any Holder may request from time to time with respect to each such transfer, (5) such Successor Owner executes, prior to such transfer, a written assumption agreement containing such terms as the Required Holders may require with respect to any obligations or agreements of the applicable transferor, including without limitation, that the Successor Owner shall have assumed all of the Grantor's obligations under the Special Risk Insurance Policy, (6) that an Acceptable Replacement Guarantor executes an Indemnity and Guaranty Agreement and an Environmental Indemnity in

favor of Beneficiary, (7) no Default or Event of Default shall exist immediately before or after or be caused by such transfer and (8) in connection with a transfer of a majority of the membership interests or ownership interest in the Grantor, the Holders receive the Transfer Fee. Grantor shall notify each Holder and Beneficiary within thirty (30) days prior to any transfer and shall describe the nature of the transfer and the name and ownership of the proposed Successor Owner. Grantor shall also provide to each Holder and Beneficiary such other information as any Holder may request from time to time with respect to each proposed Successor Owner. "Control" for purposes of this Section 2.7 means more than fifty percent (50%) ownership of the equity of the entity in question.

### ARTICLE III

#### ASSIGNMENT OF RENTS AND LEASES

*Section 3.1. Assignment.* Grantor hereby assigns to Beneficiary all Assigned Rents and all of Grantor's rights in and under the Lease. All Assigned Rents shall be paid directly to Beneficiary, and not through the Grantor, all without the necessity of any further action by Beneficiary, including, without limitation, any action to obtain possession of the Land, Improvements or any other portion of the Property or any action for the appointment of a receiver. Grantor hereby authorizes and directs the Tenant under the Lease to pay Assigned Rents to Beneficiary, regardless of whether Beneficiary has taken possession of any portion of the Property, and the Tenant may rely upon any written statement delivered by Beneficiary to the Tenant. Any such payments to Beneficiary, shall constitute payments to Grantor under the Lease, and Grantor hereby irrevocably appoints Beneficiary as its attorney-in-fact to do all things, after a Default, which Grantor might otherwise do with respect to the Property and the Lease thereon, including, without limitation, (i) collecting Assigned Rents with or without suit and applying the same, less expenses of collection, to any of the obligations secured hereunder or to expenses of operating and maintaining the Property (including reasonable reserves for anticipated expenses), at the option of Beneficiary, all in such manner as may be determined by the Required Holders, holding the same as security for the payment of the Secured Indebtedness, (ii) leasing, in the name of Grantor, the whole or any part of the Property which may become vacant, and (iii) employing agents therefor and paying such agents reasonable compensation for their services. The powers and rights granted in this paragraph shall be in addition to the other remedies herein provided for upon the occurrence of a Default and may be exercised independently of or concurrently with any of said remedies. Nothing in the foregoing shall be construed to impose any obligation upon Beneficiary to exercise any power or right granted in this paragraph or to assume any liability under the Lease of any part of the Property and no liability shall attach to Beneficiary for failure or inability to collect any Assigned Rents under any the Lease. The assignment contained in this Section shall become null and void upon the release of this Deed of Trust.

*Section 3.2. Covenants, Representations and Warranties Concerning Leases and Rents.* Grantor covenants, represents and warrants that:

- (a) Grantor has good title to, and is the owner of the entire landlord's interest in, the Rents hereby assigned and authority to assign them;

(b) the Lease is valid and enforceable, and in full force and effect, and is unmodified except as stated therein;

(c) Grantor is not in default under the Lease, and Grantor has not received notice of any default by Tenant under the Lease, nor does Grantor have actual knowledge of any such default (and no event has occurred which with the passage of time or notice or both would result in a default under the Lease) or is the subject of any bankruptcy, insolvency or similar proceeding;

(d) neither the Lease nor any Rents have been or will be assigned, mortgaged, pledged or otherwise encumbered and no other person has or will acquire any right, title or interest in the Lease or such Rents, except for certain Rents that have been assigned pursuant to this Deed of Trust;

(e) except as described in Section 1.10 of the Lease, no Rents have been waived, released, discounted, set off or compromised;

(f) except as stated in the Lease, Grantor has not received any funds or deposits from Tenant for which credit has not already been made on account of accrued Rents;

(g) Grantor shall perform all of its obligations under the Lease and enforce the Tenant's obligations under the Lease to the extent enforcement is prudent under the circumstances;

(h) Grantor will not without the prior written consent of Beneficiary, (i) enter into any lease after the date hereof other than a lease for the Commercial Office Suite to a commercial use tenant, or (ii) waive, release, discount, set off, compromise, reduce or defer any Rent, receive or collect Rents more than one (1) month in advance, or grant any rent free period to Tenant, or (iii) reduce any Lease term, or waive compliance with, grant any consent or release under, or otherwise modify any other material obligation under the Lease, modify amend, renew or extend the Lease except in accordance with a right of the Tenant in the Lease which does not require consent of the landlord, or (iv) approve or consent to an assignment of the Lease or a subletting of any part of the premises covered by the Lease except as permitted under the Lease, or (v) settle or compromise any claim against Tenant under the Lease in bankruptcy or otherwise;

(i) Grantor will not, without the prior written consent of Beneficiary, modify, amend, terminate or consent to the cancellation or surrender of the Lease;

(j) Grantor will not execute any lease for the Property except in accordance with the Operative Agreements and for actual occupancy by the tenant thereunder; *provided that* the Grantor may lease the Commercial Office Suite to the commercial use tenant;

(k) Grantor shall give prompt notice to each Holder and Beneficiary, as soon as Grantor first obtains notice, of any, claim, or the commencement of any action, by Tenant

or any other tenant or subtenant under or with respect to the Lease regarding any claimed damage, default, diminution of or offset against Rent, cancellation of the Lease, or constructive eviction, and Grantor shall defend, at Grantor's expense, any proceeding pertaining to the Lease, including, if any Holder so requests, any such proceeding to which such Holder is a party. Grantor shall as often as requested by Beneficiary upon Default, within ten (10) days of each request, deliver to Tenants (with a copy to each Holder) obligated under the Lease specified by Beneficiary written notice of the assignment in Section 3.1 hereof in form and content satisfactory to Beneficiary;

(l) promptly upon request by any Holder, Grantor shall deliver to each Holder and Beneficiary executed copies of the Lease and copies of all records relating thereto;

(m) there shall be no merger of the leasehold estate, created by the Lease, with the fee estate of the Land without the prior written consent of Beneficiary; and

(n) Beneficiary may at any time and from time to time by specific written instrument intended for the purpose, unilaterally subordinate the lien of this Deed of Trust to the Lease, without joinder or consent of, or notice to, Grantor, Tenant or any other person, and notice is hereby given to Tenant of such right to subordinate. No such subordination shall constitute a subordination to any lien or other encumbrance, whenever arising, or improve the right of any junior lien beneficiary; and nothing herein shall be construed as subordinating this Deed of Trust to the Lease.

*Section 3.3. Estoppel Certificate.* The Lease shall require the Tenant to execute and deliver to Beneficiary an estoppel certificate in form and substance acceptable to Beneficiary subject to the terms of the Lease.

*Section 3.4. No Liability of Holder of a Note.* Beneficiary's acceptance of this assignment shall not be deemed to constitute any Holder a "mortgagee in possession," nor obligate any Holder to appear in or defend any proceeding relating to the Lease or to the Property, or to take any action hereunder, expend any money, incur any expenses, or perform any obligation or liability under the Lease, or assume any obligation for any deposit delivered to Grantor by any tenant and not as such delivered to and accepted by any Holder. No Beneficiary or Holder shall be liable for any injury or damage to person or property in or about the Property, or for any Beneficiary's or such Holder's failure to collect or to exercise diligence in collecting Rents, but shall be accountable only for Rents that it shall actually receive. Neither the assignment of the Lease and the Rents nor enforcement of Beneficiary's rights regarding the Lease and the Rents (including collection of Rents) nor possession of the Property by any Holder nor Beneficiary's consent to or approval of the Lease (nor all of the same), shall render any Holder liable on any obligation under or with respect to the Lease or constitute affirmation of, or any subordination to, the Lease, occupancy, use or option.

If Beneficiary seeks or obtains any judicial relief regarding Rents or the Lease, the same shall in no way prevent the concurrent or subsequent employment of any other appropriate rights or remedies nor shall same constitute an election of judicial relief for any foreclosure or any other purpose. No Holder has or assumes any obligations as lessor or landlord with respect to the Lease.

The rights of Beneficiary under this Article 3 shall be cumulative of all other rights of any Holder under the Operative Agreements or otherwise.

#### ARTICLE IV

##### DEFAULT

*Section 4.1. Events of Default.* The occurrence of any one of the following shall be a default under this Deed of Trust ("default" or "Default"):

(a) *Failure to Pay Indebtedness.* Any payment of interest or principal or Make-Whole Amount (if any) on the Notes is not paid when due, or any other payment of Secured Indebtedness is not paid within five (5) Business Days of when due, regardless of how such amount may have become due.

(b) *Nonperformance of Covenants.* The Grantor defaults in the performance of or compliance with Sections 2.1(b), 2.1(d), 2.1(i) or 2.1(z) hereof.

(c) *Nonperformance of Covenants With Cure.* The Grantor defaults in the performance of or compliance with any term contained herein (other than those covenants otherwise addressed in another paragraph of this Section) or any other Operative Agreement (other than those covenants otherwise addressed in specific default provisions of such Operative Agreement) and such default is not remedied within 30 days after the occurrence thereof (*provided*, that in the case of any such failure which cannot be cured by the payment of money and cannot with diligence be cured within such thirty (30) day period, if the Grantor shall commence promptly to cure the same and thereafter prosecute the curing thereof with diligence, the time within which such failure may be cured shall be extended for an additional period not to exceed ninety (90) days as is necessary to complete the curing thereof with diligence, and the Grantor shall proceed diligently with efforts to cure such failure, *provided further*, that the Grantor shall keep the Purchasers reasonably and timely informed of its efforts to cure such failure).

(d) *Representation.* Any statement, representation or warranty in any of the Operative Agreements or in any financial statement or any other writing heretofore or hereafter delivered to any Holder in connection with the Secured Indebtedness is false, misleading or erroneous in any material respect on the date as of which such statement, representation or warranty is made or deemed made and such statement, representation or warranty continues to be false, misleading or erroneous in any material respect for more than thirty (30) days after written notice is delivered to Grantor thereof.

(e) *Bankruptcy or Insolvency.* The Tenant, Grantor, any Guarantor or any person liable, directly or indirectly, for any of the Secured Indebtedness:

(i) (A) Executes an assignment for the benefit of creditors, or takes any action in furtherance thereof; or

(B) admits in writing its inability to pay, or fails to pay, its debts generally as they become due; or

(C) as a debtor, files a petition, case, proceeding or other action pursuant to, or voluntarily seeks the benefit or benefits of, Title 11 of the United States Code as now or hereafter in effect or any other federal, state or local law, domestic or foreign, as now or hereafter in effect relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement, composition, extension or adjustment of debts, or similar laws affecting the rights of creditors, or takes any action in furtherance thereof; or

(D) seeks the appointment of a receiver, trustee, custodian or liquidator of the Property or any part thereof or of any significant portion of its other property; or

(ii) Suffers the filing of a petition, case, proceeding or other action against it as a debtor under any Debtor Relief Law or seeking appointment of a receiver, trustee, custodian or liquidator of the Property or any part thereof or of any significant portion of its other property; and

(A) admits, acquiesces in or fails to contest diligently the material allegations thereof; or

(B) the petition, case, proceeding or other action results in entry of any order for relief or order granting relief sought against it; or

(C) in a proceeding under Debtor Relief Laws, the case is converted from one chapter to another; or

(D) fails to have the petition, case, proceeding or other action permanently dismissed or discharged on or before the earlier of trial thereon or ninety (90) days next following the date of its filing; or

(iii) Conceals, removes, or permits to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors or any of them, or makes or suffers a transfer of any of its property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law; or makes any transfer of its property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid; or suffers or permits, while insolvent, any creditor to obtain a lien (other than as described in subparagraph (iv) below) upon any of its property through legal proceedings which are not vacated and such lien discharged prior to enforcement thereof and in any event within sixty (60) days from the date thereof; or

(iv) Fails to have discharged within a period of thirty (30) days any attachment, sequestration, or similar writ levied upon any of its property; or

(v) Fails to have discharged, bonded or insured to the satisfaction of Beneficiary within thirty (30) days after entry any final money judgment in excess of \$100,000 against Grantor or in excess of \$500,000 against any Guarantor.

(f) *Transfer of the Property.* Any sale, lease, conveyance, assignment, pledge, encumbrance, or transfer of all or any part of the Property or any interest therein, voluntarily or involuntarily, whether by operation of law or otherwise, except as permitted by and if accomplished in strict compliance with Section 2.6 or Section 2.7 hereof.

(g) *Transfer of Assets.* Any sale, lease, conveyance, assignment, pledge, encumbrance, or transfer of all or any part of the other assets of Grantor, excluding the Property, voluntarily or involuntarily, whether by operation of law or otherwise, except: (i) sales or transfers in the ordinary course of Grantor's business; and (ii) sales or transfers for which Grantor receives consideration substantially equivalent to the fair market value of the transferred asset.

(h) *Transfer of Ownership of Grantor.* The sale, pledge, encumbrance, assignment or transfer, voluntarily or involuntarily, whether by operation of law or otherwise, of any interest in Grantor, except as permitted by and if accomplished in strict compliance with Section 2.7 hereof.

(i) *Grant of Easement, Etc.* Without the prior written consent of the Required Holders, Grantor grants any easement or dedication, files any plat, condominium declaration, or restriction, or otherwise encumbers the Property, or seeks or consents to any zoning reclassification or variance (other than utility easements that are necessary to bring utilities to the Improvements), unless such action is expressly permitted by the Operative Agreements and does not materially and adversely affect the Property.

(j) *Abandonment.* The owner of the Property abandons any material portion of the Property.

(k) *Default under Other Lien or Operative Agreement.* A Default or Event of Default occurs under any lien, security interest or assignment covering the Property or any part thereof (whether or not Beneficiary or Holders have consented, and without hereby implying Beneficiary's or any Holder's consent, to any such lien, security interest or assignment not created hereunder), and is not cured prior to the expiration of any applicable cure period, or the beneficiary of any such lien, security interest or assignment declares a default or institutes foreclosure or other proceedings for the enforcement of its remedies thereunder. A Default or Event of Default occurs under any other Operative Agreement.

(l) *Destruction.* The Property is so demolished, destroyed or damaged that the Lease is legally and validly terminated by the Tenant.

(m) *Liquidation, Etc.* The liquidation, termination, dissolution, merger, consolidation or failure to maintain valid existence in the State of Oregon and/or the state of incorporation or organization, if different (or in the case of an individual, the death or legal incapacity) of the Grantor, any owner of the Property or any person obligated to pay any part of the Secured Indebtedness.

(n) *Enforceability: Priority.* Any Operative Agreement shall for any reason without each Holder's specific written consent cease to be in full force and effect, or shall be declared null and void or unenforceable in whole or in part, or the validity or enforceability thereof, in whole or in part, shall be challenged or denied by any party thereto other than Beneficiary; or the liens, mortgages or security interests of the Beneficiary in any of the Property become unenforceable in whole or in part, or cease to be of the priority herein required, or the validity or enforceability thereof, in whole or in part, shall be challenged or denied by Grantor or any person obligated to pay any part of the Secured Indebtedness or Tenant or any other tenant under the Lease or any other person; *provided* that, notwithstanding the foregoing, no Default shall occur pursuant to this clause (n) in the event that (i) there is any challenge to the Lease due to the Sky Lakes Lawsuit, or (ii) the Lease is declared void, annulled or unenforceable as a result of an Adverse Sky Lakes Event, and in either such case Tenant continues to timely pay all rent and other amounts owing or to be paid by Tenant under the Lease or under a replacement lease entered into in accordance with the terms of the Lease Amendment No. 2 to the Lease or the Side Letters and has otherwise duly performed and complied with all of its obligations under the Side Letters.

(o) *Default in Payment of Rent.* Failure by Tenant to make monthly payments of Rent under the Lease in violation of the Lease, after commencement of Rent payments under the Lease; *provided* that, notwithstanding the foregoing, no Default shall occur pursuant to this clause (o) in the event that (i) there is any challenge to the Lease due to the Sky Lakes Lawsuit, or (ii) the Lease is declared void, annulled or unenforceable as a result of an Adverse Sky Lakes Event, and in either such case Tenant continues to timely pay all rent and other amounts owing or to be paid by Tenant under the Lease or under a replacement lease entered into in accordance with the terms of Lease Amendment No. 2 to the Lease or the Side Letters and has otherwise duly performed and complied with all of its obligations under the Side Letters.

(p) *Default under the Lease.* (i) The occurrence of any default by Grantor or the Tenant with respect to any term of the Lease (other than as provided for in clause (n) above), (ii) the occurrence of any other default by Grantor or of the Tenant under the Lease and the lapse of the applicable notice and/or cure periods, if any, specified therein, or (iii) termination or modification of the Lease by any party without Required Holders' prior written consent; *provided* that notwithstanding the foregoing, no Default shall occur pursuant to this clause (p) in the event that (i) there is any challenge to the Lease due to the Sky Lakes Lawsuit, or (ii) the Lease is declared void, annulled or unenforceable as a result of an Adverse Sky Lakes Event, and in either such case Tenant continues to timely pay all rent and other amounts owing or to be paid by Tenant under the Lease or under a replacement lease entered into in accordance with the terms of Lease Amendment No. 2 to

the Lease or the Side Letters and has otherwise duly performed and complied with all of its obligations under the Side Letters.

(q) *[Reserved]*.

(r) *Progress of Construction.* Except for delays caused by Force Majeure or the Tenant, construction of the Improvements is not carried on in good faith and with reasonable dispatch or is abandoned or discontinued for a period of more than fifteen (15) consecutive days.

(s) *Disclosure of Contractors.* The Grantor shall fail to disclose to the Beneficiary, upon demand by the Beneficiary, the names of all Persons with whom the Grantor has contracted or intends to contract for the construction of the Improvements or for the furnishing of labor or materials therefor.

(t) *Construction Delay.* (1) The Improvements cannot, in the reasonable judgment of the Required Holders, be completed on or before the Outside Construction Completion Date, (2) the Improvements are not completed on or before the Outside Construction Completion Date, or (3) Tenant either issues a default notice under the Lease or exercises other remedies for construction delay prior to the Outside Construction Completion Date.

(u) *General Contractor Default.* The General Contractor shall have defaulted under the Construction Contract, which default the Required Holders, in their sole discretion, shall deem substantial, and the Grantor, after ten (10) days' notice from the Beneficiary, shall fail to exercise any resulting right or remedy to which it may be entitled thereunder.

(v) *Condemnation.* (i) Any governmental authority shall require, or commence any proceeding for, the demolition of any building or structure comprising a material part of the Premises, or (ii) there is commenced any proceeding to condemn or otherwise take pursuant to the power of eminent domain, or a contract for sale or a conveyance in lieu of such a taking is executed which provides for the transfer of, a material portion of the Premises, including but not limited to the taking (or transfer in lieu thereof) of any portion which would result in the blockage or substantial impairment of access or utility service to the Improvements or which would cause the Premises to fail to comply with any Legal Requirement.

*Section 4.2. Notice and Cure.* If any provision of this Deed of Trust or any other Operative Agreement provides for any Holder to give to Grantor any notice regarding a default or incipient default, then if such Holder shall fail to give such notice to Grantor as provided, the sole and exclusive remedy of Grantor for such failure shall be to seek appropriate equitable relief to enforce the agreement to give such notice and to have any acceleration of the maturity of the Notes and the Secured Indebtedness postponed or revoked and foreclosure proceedings and any other remedies exercised by any Holder in connection therewith delayed or terminated pending or upon the curing of such default in the manner and during the period of time permitted by such agreement,

if any, and Grantor shall have no right to damages or any other type of relief not specifically set out in this Section 4.2 against any Holder, all of which damages or other relief are hereby waived by Grantor. Nothing herein or in any other Operative Agreement shall operate or be construed to add on or make cumulative any cure or grace periods specified in any of the Operative Agreements.

## ARTICLE V

### REMEDIES

*Section 5.1. Certain Remedies.* If a Default described in Section 4.1(a) shall occur, any Holder of a Note may direct the Beneficiary (but shall have no obligation to) to accelerate such Holder's Note and may at any time and from time to time terminate the commitments to advance funds under its Note and the Note Agreement and/or declare any or all of the Secured Indebtedness owing to such Holder immediately due and payable and such commitments shall thereupon be terminated and such Secured Indebtedness shall thereupon be immediately due and payable, without presentment, demand, protest, notice of protest, notice of termination or acceleration or of intention to terminate or accelerate or any other notice or declaration of any kind, all of which are hereby expressly waived by Grantor and all endorsers, guarantors, and other parties who may now or in the future be primarily or secondarily liable for the payment of any Secured Indebtedness. If a Default described in Section 4.1(e) shall occur, the Notes shall automatically accelerate and the commitments of any Holders to advance funds under the Notes shall automatically terminate and all of the Secured Indebtedness owing to the Holders shall thereupon be immediately due and payable, without presentment, demand, protest, notice of protest, notice of termination or acceleration or of intention to terminate or accelerate or any other notice or declaration of any kind, all of which are hereby expressly waived by Grantor and all endorsers, guarantors, and other parties who may now or in the future be primarily or secondarily liable for the payment of any Secured Indebtedness.

If any Default shall occur, the Required Holders may direct the Beneficiary (but shall have no obligation to) exercise any one or more of the following remedies, without notice (unless notice is required by applicable statute):

(a) *Acceleration.* Beneficiary upon the written direction of the Required Holders may at any time and from time to time terminate the obligation to pay the purchase price for the Notes under the Note Agreement and/or declare any or all of the Secured Indebtedness immediately due and payable and such obligations to remit such Purchase Price for the Notes shall thereupon be terminated and such Secured Indebtedness shall thereupon be immediately due and payable, without presentment, demand, protest, notice of protest, notice of termination or acceleration or of intention to terminate or accelerate or any other notice or declaration of any kind, all of which are hereby expressly waived by Grantor and all endorsers, guarantors, and other parties who may now or in the future be primarily or secondarily liable for the payment of any Secured Indebtedness. Without limitation of the foregoing, upon the occurrence of a Default described in subparagraph (i) or (ii) of paragraph (e) of Section 4.1, all such commitments shall thereupon be terminated and all of the Secured Indebtedness shall thereupon be immediately due and payable, without presentment, demand, protest, notice of protest, declaration or notice of

termination or acceleration or intention to terminate or accelerate, or any other notice, declaration or act of any kind, all of which are hereby expressly waived by Grantor and all endorsers, guarantors, and other parties who may now or in the future be primarily or secondarily liable for the payment of any Secured Indebtedness. Furthermore, upon the occurrence of a Default described in paragraph (a) of Section 4.1, any Holder or Holders of the Notes at the time outstanding affected by such default may at any time, at its or their option, by notice or notices to the Grantor, terminate the obligation to pay the purchase price for the Note held by such Holder or Holders and the Note Agreement and/or declare the Note held by such Holder or Holders to be immediately due and payable. Upon the acceleration of any Note, any obligation of the Holder with respect to pay its Purchase Price for such Note under the Note Agreement shall automatically terminate. Without limiting the foregoing, upon any Note becoming due and payable as a result of any Default as aforesaid, the Grantor will forthwith pay to the Holder thereof the entire principal and interest accrued on such Note and, as liquidated damages and not as a penalty, the then applicable Make-Whole Amount (as defined in the Note Agreement) determined as of the date on which such Note shall so become due and payable. The Grantor acknowledges and agrees that each holder of a Note has the right to maintain its investment in the Note free from repayment by the Grantor (except as herein specifically provided for) and that the provision for payment of a Make-Whole Amount in the event that the Note is prepaid or are accelerated as a result of a Default, is intended to provide compensation for the deprivation of such right under such circumstances.

(b) *Enforcement of Assignment of Rents.* In addition to the rights of Beneficiary under Article 3 hereof, prior or subsequent to taking possession of any portion of the Property or taking any action with respect to such possession, Beneficiary may:

(1) collect and/or sue for the Rents in Beneficiary's own name, as collateral trustee under the Trust Indenture and give receipts and releases therefor, and after deducting all expenses of collection, including reasonable attorneys' fees and expenses, apply the net proceeds thereof to the Secured Indebtedness in such manner and order as Beneficiary may elect and/or to the operation and management of the Property, including the payment of management, brokerage and attorney's fees and expenses; and

(2) require Grantor to transfer all security deposits and records thereof to Beneficiary together with an original counterpart of the Lease.

(c) *Foreclosure.* Grantor hereby authorizes and empowers the Beneficiary to take possession of and/or to sell (or in the case of any default of any purchaser or resell) the Property or any part thereof. Prior to any sale of the Property by Beneficiary, Beneficiary shall notify Grantor in accordance with all applicable laws. In the event of a postponement of any sale of the Property, which may be done in the sole discretion of Beneficiary, no new or additional notice need be given by Beneficiary to Grantor for the next scheduled sale of the Property. Any sale made by Beneficiary hereunder may be as an entirety or in such parcels as Beneficiary may deem appropriate at such time and place, and after such previous public advertisement as Beneficiary shall deem advantageous and

proper and at such times and containing such information as required by applicable laws and rules of governmental bodies or agencies, without regard to any right of the Grantor or any other person to the marshalling of assets. Public advertisement prior to foreclosure sale of the time, place and terms of sale by publication once a week for two (2) weeks in a newspaper published or having a general circulation in the city or county in which the Property to be sold, or any portion thereof is located shall be sufficient. No purchaser of the Property shall be required to see to the proper application of the purchase money. To the extent permitted by applicable law, any sale may be adjourned by announcement at the time and place appointed for such sale without further notice except as may be required by law. The sale by Beneficiary of less than the whole of the Property shall not exhaust the power of sale herein granted, and Beneficiary is specifically empowered to make successive sale or sales under such power until the whole of the Property shall be sold; and, if the proceeds of such sale of less than the whole of the Property shall be less than the aggregate of the Secured Indebtedness and the expense of executing this trust as provided herein, this Deed of Trust and the lien hereof shall remain in full force and effect as to the unsold portion of the Property just as though no sale had been made; *provided, however*, that Grantor shall never have any right to require the sale of less than the whole of the Property but Beneficiary shall have the right, at its sole election, to sell less than the whole of the Property. Beneficiary may sell not only the real property but also the Collateral and other interests which are a part of the Property, or any part thereof, as a unit and as a part of a single sale, or may sell any part of the Property separately from the remainder of the Property. It shall not be necessary for Beneficiary to have taken possession of any part of the Property or to have present or to exhibit at any sale any of the Collateral. After each sale, Beneficiary shall make to the purchaser or purchasers at such sale good and sufficient conveyances, conveying the property so sold to the purchaser or purchasers in fee simple, subject to the Permitted Encumbrances (and to the Lease and other matters, if any, as Beneficiary may elect), and shall receive the proceeds of said sale or sales and apply the same as herein provided. Payment of the purchase price to the Beneficiary shall satisfy the obligation of purchaser at such sale therefor, and such purchaser shall not be responsible for the application thereof. The power of sale granted herein shall not be exhausted by any sale held hereunder by Beneficiary, and such power of sale may be exercised from time to time and as many times as Beneficiary may deem necessary until all of the Property has been duly sold and all Secured Indebtedness has been fully paid. In the event any sale hereunder is not completed or is defective in the opinion of Beneficiary, such sale shall not exhaust the power of sale hereunder and the Beneficiary shall have the right to cause a subsequent sale or sales to be made hereunder. Any and all statements of fact or other recitals made in any deed or deeds or other conveyances given by Beneficiary as to nonpayment of the Secured Indebtedness or as to the occurrence of any default, or as to any Holder's or Beneficiary's having declared all or any portion of said indebtedness to be due and payable, or as to the request to sell, or as to notice of time, place and terms of sale and the properties to be sold having been duly given, or as to the refusal, failure or inability to act of Beneficiary, or as to the appointment of any substitute or successor Beneficiary, or as to any other act or thing having been duly done by Beneficiary, shall be taken as *prima facie* evidence of the truth of the facts so stated and recited. To the extent permitted by law, the Beneficiary may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by Beneficiary, including the

posting of notices and the conduct of sale, but in the name and on behalf of Beneficiary. If Beneficiary shall have given notice of sale hereunder, any successor or substitute Beneficiary thereafter appointed may complete the sale and the conveyance of the property pursuant thereto as if such notice had been given by the successor or substitute Beneficiary conducting the sale.

(d) *Uniform Commercial Code.* Without limitation of Beneficiary's rights of enforcement with respect to the Collateral or any part thereof in accordance with the procedures for foreclosure of real estate, Beneficiary may exercise its rights of enforcement with respect to the Collateral or any part thereof under the Oregon Uniform Commercial Code, as in effect from time to time (or under the Uniform Commercial Code in force, from time to time, in any other state to the extent the same is applicable law) and in conjunction with, in addition to or in substitution for those rights and remedies and subject to the terms of the Lease, including, without limitation, the security requirements set forth therein:

(1) Beneficiary may enter upon Grantor's premises to take possession of, assemble and collect the Collateral or, to the extent and for those items of the Collateral permitted under applicable law, to render it unusable;

(2) Beneficiary may require Grantor to assemble the Collateral and make it available at a place Beneficiary designates which is mutually convenient to allow Beneficiary to take possession or dispose of the Collateral;

(3) written notice mailed to Grantor as provided herein at least five (5) days prior to the date of public sale of the Collateral or prior to the date after which private sale of the Collateral will be made shall constitute reasonable notice; *provided that*, if Beneficiary fails to comply with this clause (3) in any respect, their liability for such failure shall be limited to the liability (if any) imposed on it as a matter of law under the Oregon Uniform Commercial Code, as in effect from time to time (or under the Uniform Commercial Code, in force from time to time, in any other state to the extent the same is applicable law);

(4) any sale made pursuant to the provisions of this paragraph shall be deemed to have been a public sale conducted in a commercially reasonable manner if held contemporaneously with and upon the same notice as required for the sale of the Property under power of sale as provided in paragraph (c) above in this Section 5.1;

(5) in the event of a foreclosure sale, whether made by Beneficiary under the terms hereof, or under judgment of a court, the Collateral and the other Property may, at the option of Beneficiary, be sold as a whole;

(6) it shall not be necessary that Beneficiary take possession of the Collateral or any part thereof prior to the time that any sale pursuant to the provisions of this Section is conducted and it shall not be necessary that the Collateral or any part thereof be present at the location of such sale;

(7) with respect to application of proceeds from disposition of the Collateral under Section 5.2 hereof, the costs and expenses incident to disposition shall include the reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like and the reasonable attorneys' fees and legal expenses (including, without limitation, the allocated costs for in-house legal services) incurred by Beneficiary;

(8) any and all statements of fact or other recitals made in any bill of sale or assignment or other instrument evidencing any foreclosure sale hereunder as to nonpayment of the Secured Indebtedness or as to the occurrence of any Default, or as to any Holder having declared all or any portion of such indebtedness to be due and payable, or as to notice of time, place and terms of sale and of the properties to be sold having been duly given, or as to any other act or thing having been duly done by any Holder, shall be taken as *prima facie* evidence of the truth of the facts so stated and recited;

(9) Beneficiary may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by Beneficiary, including the sending of notices and the conduct of the sale, but in the name and on behalf of Beneficiary;

(10) Beneficiary may comply with any applicable state or federal law or regulatory requirements in connection with a disposition of the Collateral, and such compliance will not be considered to affect adversely the commercial reasonableness of any sale of the Collateral;

(11) Beneficiary may sell the Collateral without giving any warranties as to the Collateral, and specifically disclaim any warranties of title, merchantability, fitness for a specific purpose or the like, and this procedure will not be considered to affect adversely the commercial reasonableness of any sale of the Collateral;

(12) Grantor acknowledges that a private sale of the Collateral may result in less proceeds than a public sale; and

(13) Grantor acknowledges that the Collateral may be sold at a loss to Grantor, and that, in such event, no Holder shall have any liability or responsibility to Grantor for such loss.

(e) *Lawsuits.* Beneficiary may proceed by a suit or suits in equity or at law, whether for collection of the indebtedness secured hereby, the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Property under the judgment or decree of any court or courts of competent jurisdiction. Grantor hereby assents to the passage of a decree for the sale of the Property by any equity court having jurisdiction.

(f) *Entry on Property.* Beneficiary is authorized, prior or subsequent to the institution of any foreclosure proceedings, to the fullest extent permitted by applicable law, to enter upon the Property, or any part thereof, and to take possession of the Property and all books and records, and all recorded data of any kind or nature, regardless of the medium of recording including, without limitation, all software, writings, plans, specifications and schematics relating thereto, and to exercise without interference from Grantor any and all rights which Grantor has with respect to the management, possession, operation, protection or preservation of the Property. Beneficiary shall not be deemed to have taken possession of the Property or any part thereof except upon the exercise of its right to do so, and then only to the extent evidenced by its demand and overt act specifically for such purpose. All costs, expenses and liabilities of every character incurred by Beneficiary in managing, operating, maintaining, protecting or preserving the Property shall constitute a demand obligation of Grantor (which obligation Grantor hereby promises to pay) to Beneficiary pursuant to this Deed of Trust. If necessary to obtain the possession provided for above, Beneficiary may invoke any and all legal remedies to dispossess Grantor. In connection with any action taken by Beneficiary pursuant to this Section, Beneficiary shall not be liable for any loss sustained by Grantor resulting from any failure to let the Property or any part thereof, or from any act or omission of Beneficiary in managing the Property unless such loss is caused by the willful misconduct or gross negligence of Beneficiary. Beneficiary shall not be obligated to perform or discharge any obligation, duty or liability of Grantor arising under any lease or other agreement relating to the Property or arising under any Permitted Encumbrance or otherwise arising. Grantor hereby assents to, ratifies and confirms any and all actions of Beneficiary with respect to the Property taken under this Section.

(g) *Receiver.* Beneficiary shall as a matter of right be entitled to the appointment of a receiver or receivers for all or any part of the Property, whether such receivership be incident to a proposed sale (or sales) of such property or otherwise, and without regard to the value of the Property or the solvency of any person or persons liable for the payment of the indebtedness secured hereby, and Grantor does hereby irrevocably consent to the appointment of such receiver or receivers, waives notice of such appointment, of any request therefor or hearing in connection therewith, and any and all defenses to such appointment, agrees not to oppose any application therefor by Beneficiary, and agrees that such appointment shall in no manner impair, prejudice or otherwise affect the rights of Beneficiary to application of Rents as provided in this Deed of Trust. Nothing herein is to be construed to deprive Beneficiary of any other right, remedy or privilege it may have under the law to have a receiver appointed. Any money advanced by Beneficiary in connection with any such receivership shall be a demand obligation (which obligation Grantor hereby promises to pay) owing by Grantor to Beneficiary pursuant to this Deed of Trust.

(h) *Termination of Commitment to Lend.* Any of Purchasers may terminate any commitment or obligation to lend or disburse funds under any Operative Agreement or enter into any other credit arrangement to or for the benefit of Grantor.

(i) *Other Rights and Remedies.* Any Holder may exercise any and all other rights and remedies which such Holder may have under the Operative Agreements, or at law or in equity or otherwise.

*Section 5.2 Proceeds of Foreclosure.* The proceeds of any sale held by Beneficiary or any receiver or public officer in foreclosure of the liens and security interests evidenced hereby shall be applied in accordance with the requirements of applicable laws and to the extent consistent therewith; FIRST, to the payment of all necessary costs and expenses incident to such foreclosure sale, including but not limited to all reasonable attorneys' fees and legal expenses, advertising costs, auctioneer's fees, costs of title rundowns and lien searches, inspection fees, appraisal costs, fees for professional services, environmental assessment and remediation fees, all court costs and charges of every character, and a reasonable fee (not exceeding \$10,000.00) to Beneficiary acting under the provisions of paragraph (c) of Section 5.1 hereof if foreclosed by power of sale as provided in said paragraph; and SECOND, to the payment of the other Secured Indebtedness, including specifically without limitation, the principal, accrued interest, premium (if any) and reasonable attorneys' fees due and unpaid on the Notes and the amounts due and unpaid and owed to any Holder; and THIRD, the remainder, if any there shall be, shall be paid to Grantor, or to Grantor's heirs, devisees, representatives, successors or assigns, or such other persons (including the holder or beneficiary of any inferior lien) as may be entitled thereto by law; *provided, however*, that if Beneficiary is uncertain which person or persons are so entitled, Beneficiary may interplead such remainder in any court of competent jurisdiction, and the amount of any reasonable attorneys' fees, court costs and expenses incurred in such action shall be a part of the Secured Indebtedness and shall be reimbursable (without limitation) from such remainder.

*Section 5.3 Purchasers.* Any Holder shall have the right to become the purchaser at any sale held by Beneficiary or by any receiver or public officer or at any public sale, and such Holder shall have the right to credit upon the amount of its successful bid, to the extent necessary to satisfy such bid, all or any part of the Secured Indebtedness owing to such Holder in such manner and order as such Holder may elect.

*Section 5.4 Foreclosure as to Matured Debt.* Upon the occurrence of a Default, Beneficiary shall have the right to proceed with foreclosure (judicial or nonjudicial) of the liens and security interests hereunder without declaring the entire Secured Indebtedness due, and in such event any such foreclosure sale may be made subject to the unmatured part of the Secured Indebtedness; and any such sale shall not in any manner affect the unmatured part of the Secured Indebtedness, but as to such unmatured part this Deed of Trust shall remain in full force and effect just as though no sale had been made. The proceeds of such sale shall be applied as provided in Section 5.2 hereof except that the amount paid under clause FIRST thereof shall be only the matured portion of the Secured Indebtedness and any proceeds of such sale in excess of those provided for in clause FIRST (modified as provided above) shall be applied to the prepayment (without penalty) of any other Secured Indebtedness in such manner and order and to such extent as the Required Holders deem advisable, and the remainder, if any, shall be applied as provided in clause SECOND of Section 5.2 hereof. Several sales may be made hereunder without exhausting the right of sale for any unmatured part of the Secured Indebtedness.

*Section 5.5 Remedies Cumulative.* All rights and remedies provided for herein and in any other Operative Agreement are cumulative of each other and of any and all other rights and remedies existing at law or in equity, and Beneficiary shall, in addition to the rights and remedies provided herein or in any other Operative Agreement, be entitled to avail themselves of all such other rights and remedies as may now or hereafter exist at law or in equity for the collection of the Secured Indebtedness and the enforcement of the covenants herein or in any other Operative Agreement and the foreclosure of the liens and security interests evidenced hereby, and the resort to any right or remedy provided for hereunder or under any such other Operative Agreement or provided for by law or in equity shall not prevent the concurrent or subsequent employment of any other appropriate right or rights or remedy or remedies.

*Section 5.6 Discretion as to Security.* Upon a Default hereunder or under any Operative Agreement, Beneficiary may resort to any security given by this Deed of Trust or to any other security now existing or hereafter given to secure the payment of the Secured Indebtedness, in whole or in part, and in such portions and in such order as may seem best to the Required Holders in their sole and uncontrolled discretion, and any such action shall not in anywise be considered as a waiver of any of the rights, benefits, liens or security interests evidenced by this Deed of Trust.

*Section 5.7 Grantor's Waiver of Certain Rights.* To the full 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 appraisalment, valuation, stay, extension or redemption, homestead, moratorium, reinstatement, marshalling or forbearance, and Grantor, for Grantor, Grantor's heirs, devisees, representatives, successors and assigns, and for any and all persons ever claiming any interest in the Property, to the extent permitted by applicable law, hereby waives and releases all rights of redemption, valuation, appraisalment, stay of execution, notice of intention to mature or declare due the whole of the Secured Indebtedness, notice of election to mature or declare due the whole of the Secured Indebtedness and all rights to a marshalling of assets of Grantor, including the Property, or to a sale in inverse order of alienation in the event of foreclosure of the liens and/or security interests hereby created. Grantor shall not have or assert any right under any statute or rule of law pertaining to the marshalling of assets, sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents, or other matters whatsoever to defeat, reduce or affect the right of Beneficiary under the terms of this Deed of Trust to a sale of the Property for the collection of the Secured Indebtedness without any prior or different resort for collection, or the right of Beneficiary under the terms of this Deed of Trust to the payment of the Secured Indebtedness out of the proceeds of sale of the Property in preference to every other claimant whatsoever. Grantor waives any right or remedy which Grantor may have or be able to assert pursuant to any provision of Oregon law pertaining to the rights and remedies of sureties. If any law referred to in this Section and now in force, of which Grantor or Grantor's heirs, devisees, representatives, successors or assigns or any other persons claiming any interest in the Property might take advantage despite this Section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section.

*Section 5.8 Delivery of Possession After Foreclosure.* In the event there is a foreclosure sale hereunder and at the time of such sale, Grantor or Grantor's heirs, devisees, representatives, or successors as owners of the Property are occupying or using the Property, or any part thereof,

each and all shall immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day to day, terminable at the will of purchaser, at a reasonable rental per day based upon the value of the property occupied, such rental to be due daily to the purchaser; and to the extent permitted by applicable law, the purchaser at such sale shall, notwithstanding any language herein apparently to the contrary, have the sole option to demand immediate possession following the sale or to permit the occupants to remain as tenants at will. After such foreclosure, any lease to tenants or subtenants that are subject to this Deed of Trust (either by their date, their express terms, or by agreement of the tenant or subtenant) shall, at the sole option of Beneficiary or any purchaser at such sale, either (i) continue in full force and effect, and the tenant(s) or subtenant(s) thereunder will, upon request, attorn to and acknowledge in writing to the purchaser or purchasers at such sale or sales as landlord thereunder, or (ii) upon notice to such effect from Beneficiary or any purchaser or purchasers, terminate within thirty (30) days from the date of sale. In the event the tenant fails to surrender possession of the Property upon demand, the purchaser shall be entitled to institute and maintain a summary action for possession of the Property (such as an action for forcible detainer) in any court having jurisdiction.

## ARTICLE VI

### MISCELLANEOUS

*Section 6.1 Scope of Deed of Trust.* This Deed of Trust is a mortgage of both real and personal property, a security agreement, an assignment of rents and leases, a financing statement and a collateral assignment, and also covers proceeds and fixtures.

*Section 6.2 Effective as a Financing Statement.* This Deed of Trust shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Property and is to be filed for record in the real estate records of each county where any part of the Property (including said fixtures) is situated. This Deed of Trust shall also be effective as a financing statement covering as-extracted collateral (including oil and gas), accounts and general intangibles under the Oregon Uniform Commercial Code, as in effect from time to time, and the Uniform Commercial Code, as in effect from time to time, in any other state where the Property is situated which will be financed at the wellhead or minehead of the wells or mines located on the Property and is to be filed for record in the real estate records of each county where any part of the Property is situated. This Deed of Trust shall also be effective as a financing statement covering any other Property and may be filed in any other appropriate filing or recording office.

The notice addresses for Grantor and Beneficiary are set forth in Section 6.13 of this Deed of Trust. Grantor authorizes Beneficiary (or its designee) to file from time to time such financing statements, continuation statements and amendments thereto as Beneficiary deems appropriate to perfect its security interests in the Property, which financing statements, continuation statements and amendments thereto may indicate the collateral (i) as all assets of Grantor or words of similar effect or (ii) as being of an equal, greater or lesser scope, or with greater or lesser detail, than as set forth in this Deed of Trust.

*Section 6.3 Notice to Account Debtors.* In addition to the rights granted elsewhere in this Deed of Trust, upon a Default, Beneficiary may at any time notify the account debtors or obligors of any accounts, chattel paper, general intangibles, negotiable instruments or other evidences of indebtedness included in the Collateral to pay Beneficiary directly.

*Section 6.4 Waiver by Beneficiary.* The Beneficiary may at any time and from time to time by a specific writing intended for the purpose: (a) waive compliance by Grantor with any covenant herein made by Grantor to the extent and in the manner specified in such writing; (b) consent to Grantor's doing any act which hereunder Grantor is prohibited from doing, or to Grantor's failing to do any act which hereunder Grantor is required to do, to the extent and in the manner specified in such writing; (c) release any part of the Property or any interest therein from the lien and security interest of this Deed of Trust; or (d) release any party liable, either directly or indirectly, for the Secured Indebtedness or for any covenant herein or in any other Operative Agreement, without impairing or releasing the liability of any other party. No such act shall in any way affect the rights or powers of Beneficiary hereunder except to the extent specifically agreed to by Beneficiary in such writing.

*Section 6.5. No Impairment of Security.* The lien, security interest and other security rights of any Holder hereunder or under any other Operative Agreement shall not be impaired by any indulgence, moratorium or release granted by any Holder including, but not limited to, any renewal, extension or modification which any Holder may grant with respect to any Secured Indebtedness, or any surrender, compromise, release, renewal, extension, exchange or substitution which any Holder may grant in respect of the Property, or any part thereof or any interest therein, or any release or indulgence granted to any endorser, guarantor or surety of any Secured Indebtedness. The taking of additional security by any Holder shall not release or impair the lien, security interest or other security rights of any Holder hereunder or affect the liability of Grantor or of any endorser, guarantor or surety, or improve the right of any junior lienholder in the Property (without implying hereby any Holder's or Beneficiary's consent to any junior lien).

*Section 6.6. Acts Not Constituting Waiver by Beneficiary.* Beneficiary may waive any Default without waiving any other prior or subsequent Default. Beneficiary may remedy any Default without waiving the Default remedied. Neither failure by Beneficiary to exercise, nor delay by Beneficiary in exercising, nor discontinuance of the exercise of any right, power or remedy (including but not limited to the right to accelerate the maturity of the Secured Indebtedness or any part thereof) upon or after any Default shall be construed as a waiver of such Default or as a waiver of the right to exercise any such right, power or remedy at a later date. No single or partial exercise by Beneficiary of any right, power or remedy hereunder shall exhaust the same or shall preclude any other or further exercise thereof, and every such right, power or remedy hereunder may be exercised at any time and from time to time. No modification or waiver of any provision hereof nor consent to any departure by Grantor therefrom shall in any event be effective unless the same shall be in writing and signed by Beneficiary and then such waiver or consent shall be effective only in the specific instance, for the purpose for which given and to the extent therein specified. No notice to nor demand on Grantor in any case shall of itself entitle Grantor to any other or further notice or demand in similar or other circumstances. Remittances in payment of any part of the Secured Indebtedness other than in the required amount in immediately available U.S. funds shall not, regardless of any receipt or credit issued therefor, constitute payment until

the required amount is actually received by the applicable Holder in immediately available U.S. funds and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by any Holder of any payment in an amount less than the amount then due on any Secured Indebtedness shall be deemed an acceptance on account only and shall not in any way excuse the existence of a Default hereunder notwithstanding any notation on or accompanying such partial payment to the contrary.

*Section 6.7. Grantor's Successors.* If the ownership of the Property or any part thereof becomes vested in a person other than Grantor, Beneficiary may, without notice to Grantor, deal with such successor or successors in interest with reference to this Deed of Trust and to the Secured Indebtedness in the same manner as with Grantor, without in any way vitiating or discharging Grantor's liability hereunder or under any other Operative Agreement or for the payment of the indebtedness or performance of the obligations secured hereby, except as expressly set forth herein. No transfer of the Property, no forbearance on the part of any Holder, and no extension of the time for the payment of the Secured Indebtedness given by any Holder shall operate to release, discharge, modify, change or affect, in whole or in part, the liability of Grantor hereunder for the payment of the indebtedness or performance of the obligations secured hereby or the liability of any other person hereunder for the payment of the indebtedness secured hereby. Nothing in this Section or elsewhere in this Deed of Trust shall be construed to imply any Holder's or Beneficiary's consent to any transfer of the Property or any interest in Grantor unless such consent is specifically set forth herein or otherwise provided by such Holder or Beneficiary in writing.

*Section 6.8. Place of Payment; Forum .* All Secured Indebtedness which may be owing hereunder at any time by Grantor shall be payable at the place designated in the Note Agreement.

*Section 6.9. Subrogation to Existing Liens.* To the extent that proceeds of the Notes are used to pay indebtedness secured by any outstanding lien, security interest, charge or prior encumbrance against the Property, such proceeds have been advanced by (or, for purposes of this Section 6.9, deemed advanced by) Beneficiary at Grantor's request, and Beneficiary shall be subrogated to any and all rights, security interests and liens owned by any owner or holder of such outstanding liens, security interests, charges or encumbrances, however remote, irrespective of whether said liens, security interests, charges or encumbrances are released, and all of the same are recognized as valid and subsisting and are renewed and continued and merged herein to secure the Secured Indebtedness, but the terms and provisions of this Deed of Trust shall govern and control the manner and terms of enforcement of the liens, security interests, charges and encumbrances to which Beneficiary is subrogated hereunder. It is expressly understood that, in consideration of the payment of such indebtedness by Beneficiary, Grantor hereby waives and releases all demands and causes of action for offsets and payments in connection with the said indebtedness.

*Section 6.10. Application of Payments to Certain Indebtedness.* If any part of the Secured Indebtedness cannot be lawfully secured by this Deed of Trust or if any part of the Property cannot be lawfully subject to the lien and security interest hereof to the full extent of such indebtedness, then all payments made shall be applied on said indebtedness first in discharge of that portion thereof which is not secured by this Deed of Trust.

*Section 6.11. Nature of Borrowing; Compliance with Usury Laws.* The indebtedness evidenced by the Notes is being made solely for the purpose of carrying on or acquiring a business or commercial enterprise. It is the intent of Grantor, Holders and Beneficiary and all other parties to the Operative Agreements to conform to and contract in strict compliance with applicable usury law from time to time in effect. All agreements between any Holder and Grantor (or any other party liable with respect to any indebtedness under the Operative Agreements) are hereby limited by the provisions of this Section which shall override and control all such agreements, whether now existing or hereafter arising. In no way, nor in any event or contingency (including but not limited to prepayment, default, demand for payment, or acceleration of the maturity of any obligation), shall the interest taken, reserved, contracted for, charged, chargeable, or received under this Deed of Trust, any Note or any other Operative Agreement or otherwise, exceed the maximum non-usurious amount permitted by applicable Law (the "*Maximum Amount*"). If, from any possible construction of any document, interest would otherwise be payable in excess of the Maximum Amount, any such construction shall be subject to the provisions of this Section and such document shall ipso facto be automatically reformed and the interest payable shall be automatically reduced to the Maximum Amount, without the necessity of execution of any amendment or new document. If any Holder shall ever receive anything of value which is characterized as interest under applicable law and which would apart from this provision be in excess of the Maximum Amount, an amount equal to the amount which would have been excessive interest shall, without penalty, be applied to the reduction of the principal amount owing on the Secured Indebtedness in the inverse order of its maturity and not to the payment of interest, or refunded to Grantor or the other payor thereof if and to the extent such amount which would have been excessive exceeds such unpaid principal. The right to accelerate maturity of any Note or any other Secured Indebtedness does not include the right to accelerate any interest which has not otherwise accrued on the date of such acceleration, and the Holders do not intend to charge or receive any unearned interest in the event of acceleration. All interest paid or agreed to be paid to any Holder shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full stated term (including any renewal or extension) of such indebtedness so that the amount of interest on account of such indebtedness does not exceed the Maximum Amount. As used in this Section, the term "*Applicable Law*" shall mean the laws of the State of Oregon or the federal laws of the United States applicable to this transaction, whichever laws allow the greater interest, as such laws now exist or may be changed or amended or come into effect in the future.

*Section 6.12. Releases.*

(a) *Release of Deed of Trust.* If all of the Secured Indebtedness be paid as the same becomes due and payable and all of the covenants, warranties, undertakings and agreements made in this Deed of Trust are kept and performed, or all of the Obligations (as defined in the Note Purchase Agreement) have been defeased in accordance with Section 2.9 of the Note Agreement, and all obligations, if any, of any Holder to pay its Purchase Price for the Notes have been terminated, then, and in that event only, all rights under this Deed of Trust shall terminate (except to the extent expressly provided herein with respect to indemnifications, representations and warranties and other rights which are to continue following the release or termination hereof or are otherwise stated to survive) and the Property shall become wholly clear of the liens, security interests, conveyances and assignments evidenced hereby, and such liens and security interests

shall be released by Beneficiary in due form at Grantor's cost or, in the alternative, the Beneficiary agrees to assign, in whole or in one or more parts, this Deed of Trust to such party as the Grantor shall desire at the Grantor's cost. Without limitation, all provisions herein for indemnity of any Holder or Beneficiary shall survive discharge of the Secured Indebtedness and any foreclosure, release or termination of this Deed of Trust.

(b) *Partial Releases; No Release in Default.* Except as set forth below, there are no terms and provisions for partial releases, to which Beneficiary and Grantor have agreed at this time.

(c) *Effect of Partial Release.* Beneficiary may, regardless of consideration, cause the release of any part of the Property from the lien of this Deed of Trust without in any manner affecting or impairing the lien or priority of this Deed of Trust as to the remainder of the Property.

(d) *Release Fee.* If permitted by applicable law Grantor shall pay to Beneficiary, at the time of each partial or complete release of the lien of this Deed of Trust, a release fee in the amount of Twenty-Five and No/100 Dollars (\$25.00) if the release instrument is delivered to Beneficiary for execution, or Fifty and No/100 Dollars (\$50.00) if Beneficiary is required to prepare the release instrument.

(e) *Street Dedications, Easements and Restrictive Covenants.* Prior to the occurrence of a Default, Grantor shall have the right, subject to Beneficiary's prior approval, in the case of any dedications, releases, easements or other conveyances or restrictive covenants, which approval in each case shall not be unreasonably withheld, conditioned or delayed, to dedicate or otherwise convey streets, public utility easements and common areas and to subject the Land or any portion thereof to restrictive covenants for the mutual benefit of lot owners or lessees. Upon approval of any of the foregoing, Beneficiary shall subordinate the lien of this Deed of Trust to such subdivision plats, deeds, agreements and other instruments as may be necessary to effect the dedication or conveyance of streets, utilities and common areas or to subject the Land or any portion thereof to restrictive covenants and such agreements shall be considered a Permitted Encumbrance, *provided*, that all such plats, deeds, agreements and other instruments are in form and substance reasonably satisfactory to Beneficiary.

*Section 6.13. Notices.* All notices, requests, consents, demands and other communications required or which any party desires to give hereunder or under any other Operative Agreement shall be in writing and, unless otherwise specifically provided in such other Operative Agreement, shall be deemed sufficiently given or furnished if delivered by personal delivery, by nationally recognized overnight courier service, or by registered or certified United States mail, postage prepaid, addressed to the party to whom directed at the addresses specified in this Deed of Trust (unless changed by similar notice in writing given by the particular party whose address is to be changed). Any such notice or communication shall be deemed to have been given either at the time of personal delivery or refusal thereof or, in the case of courier or mail, as of the date of first attempted delivery at the address and in the manner provided herein. Notwithstanding the foregoing, no notice of change of address shall be effective except upon receipt. This Section shall not be construed in any way to affect or impair any waiver of notice or demand provided in any Operative Agreement or to require giving of notice or demand to or upon any person in any situation or for any reason. All notices shall be provided:

KLAMATH FALLS HOLDINGS, LLC

Deed of Trust, Security Agreement, Assignment of  
Rents and Leases and Fixture Filing

If to the Grantor, to:

Klamath Falls Holdings, LLC  
2870 Nansen Drive  
Medford, Oregon 97504  
Attention: Daniel Bunn

and

Perkins Coie LLP  
1201 Third Avenue, Suite 4900  
Seattle, Washington 98101  
Attention: Chian Wu

If to the Beneficiary, to:

UMB Bank, N.A., as Collateral Trustee  
6440 S. Millrock Drive, Suite 400  
Salt Lake City, Utah 84121  
Attention: Corporate Trust and Escrow Services

With copies to:

Elyssa K. McMullen  
Senior Vice President | Lease Finance Group  
Prudential Private Capital  
655 Broad Street, 16<sup>th</sup> Floor  
Newark, New Jersey 07102  
Elyssa.mcmullen@prudential.com

And

Chapman and Cutler LLP  
111 West Monroe Street  
Chicago, Illinois 60603  
Philip M. J. Edison, Esq.  
edison@chapman.com

*Section 6.14. Invalidity of Certain Provisions.* A determination that any provision of this Deed of Trust is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the determination that the application of any provision of this Deed of Trust to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other persons or circumstances.

*Section 6.15. Gender; Titles; Construction.* Within this Deed of Trust, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. Titles appearing at

the beginning of any subdivisions hereof are for convenience only, do not constitute any part of such subdivisions, and shall be disregarded in construing the language contained in such subdivisions. The use of the words "herein," "hereof," "hereunder" and other similar compounds of the word "here" shall refer to this entire Deed of Trust and not to any particular Article, Section, paragraph or provision. The term "person" and words importing persons as used in this Deed of Trust shall include firms, associations, partnerships (including limited partnerships), joint ventures, trusts, corporations, limited liability companies and other legal entities, including public or governmental bodies, agencies or instrumentalities, as well as natural persons.

*Section 6.16. Reporting Compliance.* Grantor agrees to comply with any and all reporting requirements applicable to the transaction evidenced by the Notes and the Note Agreement and secured by this Deed of Trust which are set forth in any law, statute, ordinance, rule, regulation, order or determination of any governmental authority, including but not limited to The International Investment Survey Act of 1976, The Agricultural Foreign Investment Disclosure Act of 1978, The Foreign Investment in Real Property Tax Act of 1980 and the Tax Reform Act of 1984 and further agrees upon request of any Holder to furnish each Holder with evidence of such compliance. In furtherance of and without limiting the foregoing, Grantor hereby represents and warrants to, and covenants with, each Holder that as of the date hereof and until the Release Date, Grantor will take all such actions and otherwise cooperate with any request made by such Holder or its special counsel which is reasonably necessary to ensure that the subject transaction or any applicable portion thereof, if any, shall be eligible for "Schedule D" reporting on such Holder's NAIC Annual Statement and, if the National Association of Insurance Commissioners determines that such Holder's investment in the Notes is not eligible for such "Schedule D" reporting, the Grantor will take such actions and otherwise cooperate with any request made by such Holder or its counsel which is reasonably necessary to obtain such eligibility; *provided, however*, that each Holder acknowledges and agrees that the Grantor shall not be required to make any change or amendments which would have a material adverse monetary effect on the Grantor or materially increase the obligations of the Grantor under the Operative Agreements.

*Section 6.17. Grantor.* Unless the context clearly indicates otherwise and subject to Section 6.19 hereof, as used in this Deed of Trust "Grantor" means the Grantor named in Section 1.2 hereof. If Grantor, or any signatory who signs on behalf of Grantor, is a corporation, partnership or other legal entity, Grantor and any such signatory, and the person or persons signing for it, represent and warrant to each Holder and Beneficiary that this instrument is executed, acknowledged and delivered by Grantor's duly authorized representatives.

*Section 6.18. Execution; Recording.* This Deed of Trust has been executed in several counterparts, all of which are identical, and all of which counterparts together shall constitute one and the same instrument. The date or dates reflected in the acknowledgments hereto indicate the date or dates of actual execution of this Deed of Trust, but such execution is as of the date shown on the first page hereof, and for purposes of identification and reference the date of this Deed of Trust shall be deemed to be the date reflected on the first page hereof. Grantor will cause this Deed of Trust and all amendments and supplements hereto and substitutions herefor and all financing statements and continuation statements relating hereto to be recorded, filed, re-recorded and refiled in such manner and in such places as Beneficiary or any Holder shall reasonably request and will pay all such recording, filing, re-recording and re-filing taxes, fees and other charges.

*Section 6.19. Successors and Assigns; Third-Party Beneficiaries.* The terms, provisions, covenants and conditions hereof shall be binding upon Grantor and Beneficiary, and the respective heirs, devisees, representatives, successors and assigns of Grantor and Beneficiary, and shall inure to the benefit of Beneficiary and its successors and assigns and shall constitute covenants running with the Land. All references in this Deed of Trust to Grantor and Beneficiary shall be deemed to include all heirs, devisees, representatives, successors and assigns of Grantor or Beneficiary, as applicable. Each of the Purchasers and subsequent Holder is a third-party beneficiary of, but has no obligations or duties under or with respect to, this Deed of Trust.

*Section 6.20. Modification or Termination.* Except as expressly provided in any other Operative Agreement, this Deed of Trust may only be modified or terminated by a written instrument or instruments intended for that purpose and executed by Beneficiary and each other the party against which enforcement of the modification or termination is asserted. Any alleged modification or termination which is not so documented shall not be effective as to any party.

*Section 6.21. No Partnership, Etc.* The relationship between each Holder and Grantor is solely that of lender and borrower. No Holder has fiduciary or other special relationship with Grantor. Nothing contained in the Operative Agreements is intended to create any partnership, joint venture, association or special relationship between Grantor and any Holder or in any way make any Holder a co-principal with Grantor with reference to the Property. All agreed contractual duties between or among any Purchaser, Holder, Beneficiary, and Grantor are set forth herein and in the other Operative Agreements and any additional implied covenants or duties are hereby disclaimed. Any inferences to the contrary of any of the foregoing are hereby expressly negated.

*Section 6.22. Applicable Law; Jurisdiction; Waiver of Jury Trial.* (A) **GRANTOR AND BENEFICIARY AGREE THAT THE STATE OF NEW YORK HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY AND BY THE OTHER OPERATIVE AGREEMENTS, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS DEED OF TRUST, THE NOTES AND THE OTHER OPERATIVE AGREEMENTS AND THE OBLIGATIONS ARISING HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, PRIORITY AND ENFORCEMENT OF THE LIEN AND SECURITY INTEREST CREATED PURSUANT HERETO AND PURSUANT TO THE OTHER OPERATIVE AGREEMENTS (OTHER THAN WITH RESPECT TO LIENS AND SECURITY INTERESTS IN PROPERTY WHOSE PERFECTION AND PRIORITY IS COVERED BY ARTICLE 9 OF THE UCC (INCLUDING, WITHOUT LIMITATION, ANY ACCOUNTS HELD BY GRANTOR) WHICH SHALL BE GOVERNED BY THE LAW OF THE JURISDICTION APPLICABLE THERETO IN ACCORDANCE WITH SECTIONS 9-301 THROUGH 9-307 OF THE UCC AS IN EFFECT IN THE STATE OF NEW YORK) SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE**

**STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE CONSTRUCTION, VALIDITY AND ENFORCEABILITY OF ALL OPERATIVE AGREEMENTS AND ALL OF THE OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. TO THE FULLEST EXTENT PERMITTED BY LAW, THE GRANTOR HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS DEED OF TRUST, THE NOTES AND THE OTHER OPERATIVE AGREEMENTS, AND THIS DEED OF TRUST, THE NOTES AND THE OTHER OPERATIVE AGREEMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW EXCEPT AS SPECIFICALLY SET FORTH ABOVE.** (b) GRANTOR, TO THE FULL EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, (1) SUBMITS TO PERSONAL JURISDICTION IN THE STATE OF NEW YORK OR IN THE STATE IN WHICH THE PROPERTY IS LOCATED OVER ANY SUIT, ACTION OR PROCEEDING BY ANY PERSON ARISING FROM OR RELATING TO THIS DEED OF TRUST, (2) AGREES THAT ANY SUCH ACTION, SUIT OR PROCEEDING MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION SITTING IN THE STATE OF NEW YORK OR IN THE COUNTY AND STATE IN WHICH THE PROPERTY IS LOCATED, (3) SUBMITS TO THE JURISDICTION OF SUCH COURTS, AND, (4) TO THE FULLEST EXTENT PERMITTED BY LAW, AGREES THAT IT WILL NOT BRING ANY ACTION, SUIT OR PROCEEDING IN ANY OTHER FORUM EXCEPT AS PERMITTED BY ANY OTHER OPERATIVE AGREEMENTS. GRANTOR FURTHER CONSENTS AND AGREES TO SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER LEGAL PROCESS IN ANY SUCH SUIT, ACTION OR PROCEEDING BY REGISTERED OR CERTIFIED U.S. MAIL, POSTAGE PREPAID, TO GRANTOR AT THE ADDRESS SET FORTH HEREIN, AND CONSENTS AND AGREES THAT SUCH SERVICE SHALL CONSTITUTE IN EVERY RESPECT VALID AND EFFECTIVE SERVICE (BUT NOTHING HEREIN SHALL AFFECT THE VALIDITY OR EFFECTIVENESS OF PROCESS SERVED IN ANY OTHER MANNER PERMITTED BY LAW). (c) GRANTOR AND BENEFICIARY EACH, TO THE FULL EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS DEED OF TRUST OR ANY CONDUCT, ACT OR OMISSION OF THE GRANTOR OR BENEFICIARY, OR ANY OF THEIR DIRECTORS, OFFICERS, PARTNERS, MEMBERS, MANAGERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH THE GRANTOR OR BENEFICIARY, IN EACH OF THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE.

*Section 6.23. [Intentionally Deleted].*

*Section 6.24. Entire Agreement.* The Operative Agreements constitute the entire understanding and agreement between Grantor and Beneficiary and Purchasers with respect to the transactions arising in connection with the Secured Indebtedness and supersede all prior written or oral understandings and agreements between Grantor and the Purchasers or Beneficiary with respect to the matters addressed in the Operative Agreements. Grantor hereby acknowledges that, except as incorporated in writing in the Operative Agreements, there are not, and were not, and no persons are or were authorized by any Holder to make, any representations, understandings,

stipulations, agreements or promises, oral or written, with respect to the matters addressed in the Operative Agreements.

*Section 6.25. Future Indebtedness.* This Deed of Trust is given to secure not only existing indebtedness, but also future indebtedness incurred by the Grantor pursuant to or as provided in the Note Agreement and the other Operative Agreements, whether such indebtedness is obligatory or to be made at the option of any Holder, or otherwise, to the same extent as if such future indebtedness were made on the date of execution of this Deed of Trust, although there may be no future indebtedness made at the time of execution hereof, and although there may be no indebtedness outstanding at the time any borrowing is made by the Grantor.

*Section 6.26. Interpretation.* The term "the Purchasers" shall be deemed to include any subsequent holder(s) of a Note.

*Section 6.27. Concerning the Beneficiary.* It is expressly understood and agreed by the parties hereto that (a) Beneficiary is not acting in its individual or personal capacity but solely in its capacity as collateral trustee under the Trust Indenture, in the exercise of the powers and authority conferred and vested in it as collateral trustee under the Trust Indenture, subject to the rights, protections, indemnities and limitations from liability afforded to the trustee thereunder; (b) in no event shall UMB Bank, N.A., in its individual capacity have any liability for the representations, warranties, covenants, agreements or other obligations of the Beneficiary hereunder; (c) nothing contained herein shall be construed as creating any liability on UMB Bank, N.A., individually or personally, to perform any expressed or implied covenant, duty or obligation of any kind whatsoever contained herein; and (d) under no circumstances shall UMB Bank, N.A., be personally liable for the payment of any fees, costs, indebtedness or expenses of any kind whatsoever or be personally liable for the breach or failure of any obligation, representation, agreement, warranty or covenant whatsoever made or undertaken by the Purchasers thereunder, except to the extent of the Beneficiary's willful misconduct or gross negligence (or ordinary negligence in the handling of funds).

Notwithstanding anything contained herein, it is expressly understood that Beneficiary is acting as a trustee, and whenever any consent, approval, calculation, determination of acceptability, or other action of the Beneficiary is contemplated hereby, Beneficiary may act in accordance with the instructions of the appropriate percentage of Holders (pursuant to the Trust Indenture), or otherwise in accordance with the terms and provisions of the documents creating and relative to the administration of the Trust Estate, and not on its own discretion.

*Section 6.28. [Reserved].*

*Section 6.29. Limitations of Liability.* Notwithstanding anything to the contrary contained in the Operative Agreements, except as set forth in the Indemnity and Guaranty Agreement and the Environmental Indemnity, no Person who directly or indirectly owns any membership or other equity interest in the Grantor (each, a "Non-Recourse Person") shall have any personal liability for (i) the payment of any sum of money which is or may be payable under the Notes or any other Operative Agreement, including, but not limited to, the repayment of the Secured Indebtedness or (ii) the performance or discharge of any covenants, obligations,

indemnities, warranties, representations, agreements or undertakings of the Grantor, whether monetary or non-monetary, under any Operative Agreement, and no monetary or deficiency judgment shall be sought or enforced against any Non-Recourse Person with respect thereto. Nothing in this Section 6.29 is intended to or shall in any way affect or invalidate any lien or security interest created by this Deed of Trust. This Section 6.29 shall not be construed to prohibit the joining of the Grantor in any foreclosure procedure involving the Property. This Section 6.29 shall not in any way affect the obligations of either of the Tenants under the Lease.

*Section 6.30. Cooperation.* The Grantor acknowledges that the Beneficiary and its successors and assigns may (a) sell, transfer or assign this Deed of Trust, the Notes and the Operative Agreements to one or more investors as a whole loan, in a rated or unrated public offering or private placement, (b) participate the loan secured by this Deed of Trust (the "Loan") to one or more investors in a rated or unrated public offering or private placement, (c) deposit this Deed of Trust, the Notes and the Operative Agreements with a trust, which trust may sell certificates to investors evidencing an ownership interest in the trust assets in a rated or unrated public offering or private placement, or (d) otherwise sell the Loan or any interest therein to investors in a rated or unrated public offering or private placement (the transactions referred to in clauses (a) through (d) are hereinafter referred to as "*Secondary Market Transactions*"). The Grantor shall, at Beneficiary's expense, reasonably cooperate in good faith with Beneficiary in effecting any such Secondary Market Transaction and shall reasonably cooperate in good faith to implement all requirements reasonably imposed by the participants involved in any Secondary Market Transaction (including without limitation, an institutional purchaser, participant or investor) including, without limitation, but subject to the Lease, the SNDA Agreement and the Operative Agreements, all structural or other changes to the Loan, modifications to any documents evidencing or securing the Loan, delivery of opinions of counsel reasonably acceptable to such other purchasers, participants or investors may require; provided, however, that the Grantor shall not be required to modify any documents evidencing or securing the Loan which would modify (i) the interest rate payable under the Notes, (ii) the stated maturity of the Notes, (iii) the amortization of principal of the Notes, or (iv) any other material terms or covenants of the Loan. Subject to the terms of the Lease, the Grantor shall provide such information and documents relating to the Grantor, the Property and the Tenants as Beneficiary shall reasonably request and that is in the Grantor's possession or reasonably available to the Grantor. The Grantor acknowledges that certain non-confidential information regarding the Loan and the parties thereto and the Property may be included in a private placement memorandum, prospectus or other disclosure documents.

## ARTICLE VII

### STATE SPECIFIC PROVISIONS

*Section 7.1 Commercial Trust Deed.* This Deed of Trust is a commercial trust deed and is not a residential trust deed, as the phrase "residential trust deed" is defined in ORS 86.705, and the provisions of ORS 86.705 through 86.815 applicable to the foreclosure of commercial trust deeds shall apply to this Deed of Trust at the option of Beneficiary. Grantor warrants that the loan secured hereby is for commercial purposes and is not for residential, household, personal or consumer purposes. Grantor further warrants that the Property is not used for agricultural purposes.

**UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY LENDERS CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY LENDER TO BE ENFORCEABLE.**

**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, 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.**

#### **WARNING**

**UNLESS YOU (GRANTOR) PROVIDE US (BENEFICIARY) WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY OUR OPERATIVE AGREEMENTS, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE PROPERTY 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 THIS 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.**

**THE 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.****ARTICLE VIII****DEED OF TRUST PROVISIONS**

*Section 8.1 Concerning the Deed of Trust Trustee.* The Deed of Trust Trustee shall be under no duty to take any action hereunder except as expressly required hereunder or by law, or to perform any act which would involve the Deed of Trust Trustee in any expense or liability or to institute or defend any suit in respect hereof, unless properly indemnified to the Deed of Trust Trustee's reasonable satisfaction. The Deed of Trust Trustee, by acceptance of this Deed of Trust, covenants to perform and fulfill the trusts herein created, being liable, however, only for gross negligence or willful misconduct, and hereby waives any statutory fee and agrees to accept reasonable compensation, in lieu thereof, for any services rendered by the Deed of Trust Trustee in accordance with the terms hereof. The Deed of Trust Trustee may resign at any time upon giving thirty (30) days' notice to the Grantor and to Beneficiary. Beneficiary may remove the Deed of Trust Trustee at any time or from time to time and select a successor trustee. In the event of the death, removal, resignation, refusal to act, or inability to act of the Deed of Trust Trustee, or in its sole discretion for any reason whatsoever Beneficiary may, without notice and without specifying any reason therefor and without applying to any court, select and appoint a successor trustee, by an instrument recorded wherever this Deed of Trust is recorded and all powers, rights, duties and authority of the Deed of Trust Trustee, as aforesaid, shall thereupon become vested in such successor. Such substitute trustee shall not be required to give bond for the faithful performance of the duties of the Deed of Trust Trustee hereunder unless required by Beneficiary. The procedure provided for in this paragraph for substitution of the Deed of Trust Trustee shall be in addition to and not in exclusion of any other provisions for substitution, by law or otherwise.

*Section 8.2 Trustee's Fees.* The Grantor shall pay all reasonable, out of pocket costs, fees and expenses actually incurred by the Deed of Trust Trustee and the Deed of Trust Trustee's agents and counsel in connection with the performance by the Deed of Trust Trustee of its duties hereunder and all such costs, fees and expenses shall be secured by this Deed of Trust.

*Section 8.3. Certain Rights.* With the approval of Beneficiary (which approval shall only be given in accordance with the other provisions of this Deed of Trust), the Deed of Trust Trustee shall have the right to take any and all of the following actions: (i) to select, employ, and advise with counsel (who may be, but need not be, counsel for Beneficiary) upon any matters arising hereunder, including the preparation, execution, and interpretation of the Notes, this Deed of Trust or the other Operative Agreements, and shall be fully protected in relying as to legal matters on the advice of counsel, (ii) to execute any of the trusts and powers hereof and to perform any duty hereunder either directly or through his/her agents or attorneys, (iii) to select and employ, in and about the execution of his/her duties hereunder, suitable accountants, engineers and other experts, agents and attorneys-in-fact, either corporate or individual, not regularly in the employ of the Deed of Trust Trustee, and the Deed of Trust Trustee shall not be answerable for any act,

default, negligence, or misconduct of any such accountant, engineer or other expert, agent or attorney-in-fact, if selected with reasonable care, or for any error of judgment or act done by the Deed of Trust Trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever, except for the Deed of Trust Trustee's gross negligence or bad faith, and (iv) any and all other lawful action as Beneficiary may instruct the Deed of Trust Trustee to take to protect or enforce Beneficiary's rights hereunder. The Deed of Trust Trustee shall not be personally liable in case of entry by the Deed of Trust Trustee, or anyone entering by virtue of the powers herein granted to the Deed of Trust Trustee, upon the Granted Property for debts contracted for or liability or damages incurred in the management or operation of the Granted Property. The Deed of Trust Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting an action taken or proposed to be taken by the Deed of Trust Trustee hereunder, believed by the Deed of Trust Trustee in good faith to be genuine. The Deed of Trust Trustee shall be entitled to reimbursement for actual, reasonable, out of pocket expenses incurred by the Deed of Trust Trustee in the performance of the Deed of Trust Trustee's duties hereunder and to reasonable compensation for such of the Deed of Trust Trustee's services hereunder.

*Section 8.4. Retention of Money.* All moneys received by the Deed of Trust Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by applicable law) and the Deed of Trust Trustee shall be under no liability for interest on any moneys received by the Deed of Trust Trustee hereunder.

*Section 8.5. Perfection of Appointment.* Should any deed, conveyance, or instrument of any nature be required from the Grantor by any the Deed of Trust Trustee or substitute trustee to more fully and certainly vest in and confirm to the Deed of Trust Trustee or substitute trustee such estates rights, powers, and duties, then, upon request by the Deed of Trust Trustee or substitute trustee, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged, and delivered and shall be caused to be recorded and/or filed by the Grantor.

*Section 8.6. Succession Instruments.* Any substitute trustee appointed pursuant to any of the provisions hereof shall, without any further act, deed, or conveyance, become vested with all the estates, properties, rights, powers, and trusts of its or his/her predecessor in the rights hereunder with like effect as if originally named as the Deed of Trust Trustee herein; but nevertheless, upon the written request of Beneficiary or of the substitute trustee, the Deed of Trust Trustee ceasing to act shall execute and deliver any instrument transferring to such substitute trustee, upon the trusts herein expressed, all the estates, properties, rights, powers, and trusts of the Deed of Trust Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such Deed of Trust Trustee to the substitute trustee so appointed in the Deed of Trust Trustee's place.

[Signatures appear on the following page]

KLAMATH FALLS HOLDINGS, LLC

Deed of Trust, Security Agreement, Assignment of  
Rents and Leases and Fixture Filing

IN WITNESS WHEREOF, Grantor has executed this instrument under seal as of the date first  
written on page 1 hereof.

GRANTOR:

KLAMATH FALLS HOLDINGS, LLC, an Oregon  
limited liability company

By: Rubicon Investments Corporation  
Its: Manager

By: 

Name: Daniel L. Burn

Title: President and Chief Executive Officer

STATE OF OREGON;

COUNTY OF Jackson;

On this the 3<sup>rd</sup> day of December, 2020, before me, Abigail Whalen, the undersigned officer, personally appeared Daniel L. Bunn, who acknowledged himself to be the President and Chief Executive Officer of Rubicon Investments Corporation, the Manager of Klamath Falls Holdings, LLC, an Oregon limited liability company, and acknowledged the foregoing instrument as his free act and deed in said capacity and the free act and deed of Klamath Falls Holdings, LLC.

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

Abigail Whalen  
Notary Public

My Commission Expires: April 10, 2022

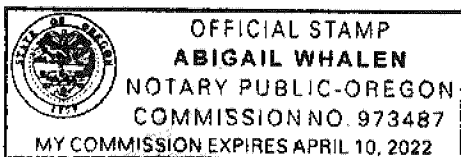


EXHIBIT A

**LEGAL DESCRIPTION**

Lot 10, Tract 1430, Timbermill Shores, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

EXCEPTING THEREFROM the Southeasterly 16 feet thereof.

AND

Lots 12 and 13, Tract 1430, Timbermill Shores, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.