



2021-016784

Klamath County, Oregon

11/05/2021 03:03:01 PM

Fee: \$202.00

Recording Requested By and
When Recorded, Mail To:

Farmers and Merchants Bank
2411 E. Coast Highway, Suite 300
Corona del Mar, California 92625
Attn: Traci Dawson
Loan No.: 90-290-0363-4

**DEED OF TRUST, ASSIGNMENT OF RENTS AND FIXTURE FILING
(4000 Round Lake Road)**

THIS DEED OF TRUST, ASSIGNMENT OF RENTS AND FIXTURE FILING (this "**Security Instrument**"), dated as of October 25, 2021, is made by ROUND LAKE MHP, LLC, a Delaware limited liability company ("**Borrower**"), whose mailing address is 2950 Airway Avenue, Suite A9, Costa Mesa, California 92626, Attn: Thomas E. Larkin III, to FARMERS AND MERCHANTS TRUST COMPANY OF LONG BEACH, a California corporation ("**Trustee**"), whose mailing address is P.O. Box 891, Long Beach, California 90801, for the benefit of FARMERS AND MERCHANTS BANK OF LONG BEACH, a California corporation ("**Lender**"), whose mailing address is 2411 E. Coast Highway, Suite 300, Corona del Mar, California 92625, Attention: Richard Robinson, Loan No. 90-290-0363-4.

This Security Instrument is given, inter alia, for the purpose of securing a Loan (as hereinafter defined) from Lender, as lender, to Borrower, as borrower, the proceeds of which are to be used to finance the real property having a street address of 4000 Round Lake Road, located in the City of Klamath Falls, County of Klamath, State of Oregon, more particularly described in Exhibit A attached hereto and by this reference incorporated herein (the "**Property**"). (All initially-capitalized terms used herein without definition shall have the meanings given such terms in the Loan Agreement (as hereinafter defined).)

THIS DOCUMENT CONSTITUTES A FIXTURE FILING IN ACCORDANCE WITH ORS 79.0502.

Maturity Date: December 1, 2024, exclusive of options to renew or extend, if any.

The information required in connection with the Fixture Filing is as follows

1. Name and Address of Lender: Farmers and Merchants Bank of Long Beach
2411 E. Coast Highway,
Suite 300
Corona del Mar, California 92625
Loan No. 90-290-0363-4

2. Name and Address of Debtor: Round Lake MHP, LLC
2950 Airway Avenue, Suite A9
Costa Mesa, California 92626
Attention: Thomas E. Larkin III

3. Debtor's Organizational Identification Number: 7339447.

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Borrower hereby irrevocably grants, transfers, conveys and assigns to Trustee, **IN TRUST WITH POWER OF SALE AND RIGHT OF ENTRY**, for the benefit of Lender, under and subject to the terms and conditions hereinafter set forth, the Property;

TOGETHER WITH:

(a) All buildings and improvements now or hereafter erected on the Property (expressly excluding any and all mobile homes, modular homes or manufactured homes owned by Borrower and located on the Property (collectively, the **"Park Owned Homes"**) and any personal property owned by Borrower and used solely in connection with the furnishing of the Park Owned Homes for rental), including, without limitation, fixtures, tenements, attachments, appliances, equipment, building systems, machinery, and other articles now or hereafter attached to such buildings and improvements (collectively, the **"Improvements"**), all of which shall be deemed to be part of the Property; and

(b) All rents, additional rent, termination payments, escalations, issues, profits, revenue, royalties, income, proceeds, deposits, security deposits, letters of credit, letter of credit proceeds, escrow deposits, insurance proceeds, earnings and other benefits and payments, including, without limitation, prepaid rents and prepaid deposits (all of the foregoing collectively, the **"Rents"**), derived from any lease, sublease, rental agreement, RV Use Agreement, license, franchise, occupancy or other agreement now existing or hereafter created affecting all or any portion of the Project (as hereinafter defined), any Park Owned Home or the use or occupancy thereof, including, without limitation, all guaranties, modifications, amendments, extensions and renewals thereof and all rights and privileges incident thereto (collectively, the **"Leases"**); provided that the inclusion of insurance proceeds in the foregoing definition of Rents shall not affect or limit the provisions of the Loan Agreement or this Security Instrument with respect to Insurance/Condemnation Proceeds; and

(c) All estate, right, title and interest of Borrower in, to and under all of the Leases; and

(d) All easements, tenements, hereditaments, appurtenances, rights-of-way and rights now owned or hereafter acquired by Borrower and used or useful in connection with the Project or as a means of access thereto, whether public or private, including, without limitation, all transferable entitlements and development rights, all usage rights, all privileges and royalties, all rights to the use of common drive entries, all oil, gas and other hydrocarbons, all other minerals, all air space and air rights, and all water and water rights and shares of stock evidencing the same; and

(e) All right, title and interest of Borrower now owned or hereafter acquired in and to any land lying within the right-of-way of any street, roads and public places, open or proposed, adjoining the Project and any and all sidewalks, vaults, alleys and strips and gores of land adjacent to or used in connection with the Project; and

(f) All proceeds from and rights (including, without limitation, payments, judgments, awards, settlements, contract rights, profits, general intangibles, rebates and benefits and rights at law and in equity) (i) to any insurance policies now or hereafter in effect with respect to the Project, including, without limitation, casualty insurance, rental loss or business interruption insurance and flood and earthquake insurance, whether or not such policies contain a Mortgage Clause/Lender's loss payable endorsement in

favor of Lender and whether or not such policies are required to be maintained by Borrower pursuant to the Loan Documents, (ii) on account of any damage to any of the Project, including, without limitation, for loss and diminution in value and/or any damage arising from any defect in or with respect to the design or construction of any of the Improvements, and (iii) to all Insurance/Condemnation Proceeds; and

(g) All estate, interest, right, title, other claim or demand, both at law and in equity which Borrower now has or may hereafter acquire in any and all awards or settlements made for any Condemnation Event (as hereinafter defined) of the Project or any portion thereof or interest therein, including, without limitation, any awards or settlements resulting from a change of grade of streets and awards or settlements for severance damages; and

(h) All refunds, rebates, reimbursements, reserves, deferred payments, deposits, cost savings, subsidy payments, credits, waivers and payments, whether in cash or in kind, due from or payable by any federal, state, municipal or other governmental or quasi-governmental court, agency, authority or district (each, a "**Governmental Agency**") relating to any or all of the Project or the Park Owned Homes or arising out of the satisfaction of any conditions imposed upon or the obtaining of any approvals for the development, ownership, occupancy, use or operation of the Project or the Park Owned Homes; and

(i) All refunds, rebates, reimbursements, credits and payments of any kind due from or payable by any Governmental Agency for any taxes, special taxes, assessments, or similar governmental or quasi-governmental charges or levies imposed upon Borrower with respect to the Project or the Park Owned Homes or upon any or all of the Project itself and the Park Owned Homes or arising out of the satisfaction of any conditions imposed upon or the obtaining of any approvals for the development, ownership, occupancy, use or operation of the Project and the Park Owned Homes; and

(j) All refunds, rebates, reimbursements, credits, deposits made by Borrower, advance payments and other payments of any kind due from or payable by any Person with respect to (i) insurance policies now or hereafter in effect with respect to the Project and the Park Owned Homes, (ii) utility service for any or all of the Project, (iii) cleaning, maintenance, repair or similar services for any or all of the Project, (iv) refuse removal or sewer service for any or all of the Project, (v) rental of equipment, and (vi) parking or similar services or rights afforded to any or all of the Project; and

(k) All rights, title, interests, estates or other claims, both in law and in equity, which Borrower now has or may hereafter acquire in the Project or any portion thereof, including, without limitation, all remainders, reversions, homesteads and any greater estate in the Project or any portion thereof.

The entire estate, property and interest hereby conveyed to Trustee is collectively referred to herein as the "**Project**."

FOR THE PURPOSE OF SECURING (collectively, the "**Secured Obligations**");

A. Payment of indebtedness in the total principal amount of Three Million Dollars (\$3,000,000) (the "**Loan**"), with interest thereon, evidenced by that certain Secured Promissory Note of even date herewith, and all supplements, amendments, modifications, extensions, renewals and replacements thereof (collectively, together with all supplements, amendments, modifications, extensions, renewals and replacements thereto, the "**Note**"), executed by Borrower pursuant to that certain Loan and Security Agreement of even date herewith between Borrower and Lender (collectively, together with all supplements, amendments, modifications, extensions, renewals and replacements thereto, the "**Loan Agreement**"), and all late charges, fees, costs, premiums and penalties;

B. Payment of all sums advanced by Lender or Trustee to protect the Project or advanced as provided in this Security Instrument or any of the other Loan Documents, and all other amounts owing

by Borrower to Lender under the Loan Documents (including, without limitation, attorneys' fees and costs), with interest thereon at the rate set forth in the Note;

C. Performance of every obligation, covenant and agreement of Borrower contained herein or in the Loan Agreement, the Note or the other Loan Documents; and

D. Performance of every obligation, covenant and agreement of Borrower contained in any document, instrument or agreement now or hereafter executed by Borrower which recites that the obligations thereunder are secured by this Security Instrument.

Notwithstanding anything to the contrary contained herein or in the other Loan Documents, this Security Instrument does not secure (a) the Environmental Indemnity or any obligations or liabilities arising thereunder, or (b) any of the Guaranties or any obligations or liabilities of Guarantors arising thereunder. It is the express intention of Borrower, Guarantors and Lender that such agreements, and the obligations and liabilities thereunder, be unsecured.

DEFINITIONS: When used herein, the following initially-capitalized terms shall have the following meanings:

"Attorneys' Fees," "Attorneys' Fees and Costs," "attorneys' fees" and "attorneys' fees and costs" are defined in the Loan Agreement.

"Casualty Event" means any damage or destruction to all or any portion of the Project or the Property, whether or not covered by insurance.

"Condemnation Event" means any proceeding or action commenced for the taking of the Property or the Project, or any part thereof or interest therein, for public or quasi-public use under the power of eminent domain, by reason of any public improvement or condemnation proceeding or in any other manner.

"Control" means (with correlative meanings as to the terms "Controlling" and "under common Control with") the ability to affect the management and policies of the Person in question, whether by voting control, contract or otherwise, including, without limitation, the power to elect or appoint a majority of the directors of a corporation or the trustees of a trust.

"Event of Default" means any of the events specified in Section 2.1.

"Environmental Provisions" is defined in Section 2.9.

"Governing State" means the State of Oregon.

"Impositions" means all real estate and personal property taxes and other taxes and assessments, water, sewer, electrical and other utility charges, and all other governmental charges relating to all or any portion of the Project, including, without limitation, any interest, costs or penalties with respect thereto, and charges for any easement or agreement maintained for the benefit of the Project, all of any kind and nature whatsoever that at any time may be assessed, imposed or become a Lien upon the Project or any portion thereof, whether general or special, ordinary, extraordinary or supplemental, foreseen or unforeseen; any and all other charges, expenses, payments or assessments of any nature, if any, which are or may become a Lien upon the Project or any portion thereof (excluding the Loan Documents); and any license fee, tax or assessment (other than Lender's income taxes) imposed on Lender and measured by or based in whole or in part upon the amount of the outstanding Secured Obligations.

"Impounds" is defined in Section 1.4.

"ORS" means Oregon Revised Statutes.

"Section 726.5" is defined in Section 2.9(A).

"Section 736" is defined in Section 2.9(C).

"Transfer" means (a) the direct or indirect, voluntary or involuntary, sale, transfer, conveyance, assignment, encumbrance, hypothecation, lease or other alienation of (i) all or any portion of the Project (excluding the encumbrance of the Project by nondelinquent real estate tax liens related to the Project, normal and customary utility easements and liens with respect to the operation of the Project entered into in accordance with the Loan Documents, and mechanics' and materialmen's liens and encumbrances which are discharged or contested in good faith in accordance with Section 1.12), (ii) any direct or indirect ownership interest (other than stock, limited partnership interests or non-managing member interests in any Member Managed LLC) in any member of the Control Group, (iii) stock in any member of the Control Group, limited partnership interests in any member of the Control Group, or non-managing member interests in any Member Managed LLC which is a member of the Control Group, in each case which results (or could result) in a change in Control of any member of the Control Group, (iv) any direct or indirect change in Control of Borrower, or (v) whether or not Lender consents thereto, any direct or indirect equitable, legal or beneficial interest in Borrower to any Person which is the subject of any of the Anti-Terrorism Laws, or (b) for any member of the Control Group which is a Managed LLC, a change in the manager of such Control Group member, or for any member of the Control Group which is a Member Managed LLC, a change in any of the managing members of such Control Group member. "Transfer" shall not include (x) the leasing of individual office, commercial or retail space, as applicable, in the Project in the ordinary course of Borrower's business in bona fide arms' length transactions and in accordance with the Loan Documents, or (y) transfers of title or interests under will or testament or applicable law of descent to a Person which is not the subject of any of the Anti-Terrorism Laws.

TO PROTECT THE SECURITY OF THIS SECURITY INSTRUMENT, BORROWER HEREBY COVENANTS AND AGREES AS FOLLOWS:

ARTICLE 1

BORROWER'S COVENANTS

1.1 Title. Borrower represents, warrants and covenants that (a) it is and will be the lawful owner of good and indefeasible fee title to the Project, subject only to the title exceptions set forth in the Title Policy and title matters specifically permitted by the terms of the Loan Documents, (b) it will maintain and preserve the lien of this Security Instrument until all of the Secured Obligations have been paid and satisfied in full, (c) it has full power and authority to grant the Project as provided in this Security Instrument, and (d) it will forever warrant and defend its grant made herein against any and all claims and demands whatsoever, except as specifically provided in this Security Instrument.

1.2 Payment of Secured Obligations. Borrower shall pay when due the principal of and the interest on the Loan, all charges, fees and other sums as provided in the Loan Documents, the principal of and interest on any future advances secured by this Security Instrument, and the principal of and interest on any other indebtedness secured by this Security Instrument. Borrower shall diligently perform all of its obligations under the Note and under all instruments and agreements given as additional security for the Secured Obligations.

1.3 Maintenance, Repair and Alterations. Borrower (a) shall keep the Project and the Park Owned Homes in good condition and repair, reasonable wear and tear excepted, and will replace all worn out or obsolete equipment, fixtures and personal property with equipment, fixtures and personal property of similar nature and of equal or greater value, (b) shall pay or cause to be paid when due all utility charges with respect to all or any portion of the Project and the Park Owned Homes and all other assessments or charges of a similar nature, (c) except as expressly provided herein, shall not remove, demolish or substantially alter any of the Improvements or the Park Owned Homes without Lender's prior

written consent, not to be unreasonably withheld, conditioned or delayed, (d) shall complete promptly and in a good and workmanlike manner any Improvement which may be now or hereafter constructed on the Project and all repairs or improvements which Lender requires Borrower to complete in order to keep the Project and the Park Owned Homes in good condition and repair, reasonable wear and tear excepted, (e) shall promptly restore in like manner any portion of the Improvements and any Park Owned Homes which may be damaged or destroyed from any cause whatsoever, reasonable wear and tear excepted, (f) subject to the provisions of Section 1.12, shall pay when due all claims for labor performed and materials furnished for any improvements, repairs or restoration to the Project, the Park Owned Homes or any portion thereof, (g) shall comply with all Laws now or hereafter affecting the Project, the Park Owned Homes or any part thereof, including, without limitation, all Laws requiring any alterations or improvements, and shall pay all expenses, charges and fees of any kind required under any Laws now or hereafter affecting the Project or the Park Owned Homes or any part thereof, (h) shall not commit or permit any waste or deterioration of the Project or the Park Owned Homes and shall not do or suffer any act or omission whereby the value of the Project or the Park Owned Homes, or the lien hereof or of any estate or title covered hereby, may be diminished or impaired in any way, and (i) shall not change the current use of the Project or initiate or acquiesce in any change of zoning applicable to the Project, in each case without Lender's prior written consent, which may be withheld in Lender's sole discretion. Notwithstanding the foregoing, Lender's prior written consent shall not be required for nonstructural improvements or alterations to the Improvements which (x) are required by any Law or the terms of any Lease entered into by Borrower in accordance with the terms of the Loan Documents, or (y) do not exceed One Hundred Thousand Dollars (\$100,000.00) in cost in the aggregate.

1.4 Impositions; Impounds.

A. Borrower shall pay all Impositions prior to delinquency. At Lender's written request, Borrower shall provide Lender with reasonable evidence of the payment of such Impositions, together with, to the extent required under applicable Law, reasonable evidence that the payment of such Impositions was made by electronic funds transfer. Without limiting Borrower's obligation to pay all Impositions prior to delinquency, Borrower shall have the right to contest any Imposition assessed against the Project as provided in Section 1.12. Without limiting any of Lender's other rights and remedies, if Borrower fails to pay any Impositions prior to delinquency, Lender may (but shall have no obligation), upon three (3) Business Days prior notice to Borrower, pay, satisfy or discharge any or all of such Impositions, and pay and expend such sums of money as Lender may deem to be necessary therefor, and Lender shall be the sole judge of the legality or validity of such Impositions and the amount necessary to be paid in satisfaction or discharge thereof. Any such amounts paid by Lender shall (i) bear interest at the Default Interest Rate, (ii) be secured hereby, and (iii) be payable upon written demand of Lender.

B. At Lender's written request at any time after the occurrence of any monetary Potential Default or an Event of Default under any of the Loan Documents, Borrower shall pay to Lender, each time a payment is due under the Note, a cash reserve in the amount reasonably estimated by Lender to be equal to the total of the amount next due for all Impositions and insurance premiums for the insurance required by the Loan Agreement, divided by, in each instance, the number of payments required under the Note before such Impositions and insurance premiums will become due, less two (funds deposited for this purpose are referred to herein as "**Impounds**"). In such event Borrower agrees to cause all bills, statements or other documents relating to Impositions or insurance to be delivered to Lender. Subject to Section 1.4(C), upon receipt of such bills, statements or other documents, and provided that Borrower has deposited sufficient Impounds with Lender pursuant to this Section 1.4(B), Lender shall timely pay such amount as may be due thereunder out of the Impounds then on deposit with Lender. If at any time and for any reason the Impounds deposited with Lender are insufficient to pay such amounts, Lender may notify Borrower in writing, and Borrower shall, within ten (10) Business Days after such written notice, deposit an amount equal to such deficiency with Lender. If at the end of any applicable tax year there is an excess amount held by Lender, Lender, at its option, may elect to apply such excess against the subsequent payments to be made by Borrower under this Section 1.4(B) or to refund such amounts to Borrower. Borrower's obligations under this Section 1.4(B) shall be in addition to all other payments required to be made by Borrower under the Loan Documents. The Impounds shall not bear interest.

Lender may commingle the Impounds with its own funds. Without limiting the foregoing, Borrower hereby grants Lender a security interest in the Impounds deposited with Lender to secure the payment and performance of the Secured Obligations. No reference in this Section 1.4 to the occurrence of an Event of Default shall be deemed or construed to afford Borrower any right to cure any Event of Default or to limit or impair any of Lender's rights or remedies under the Loan Documents upon the occurrence of an Event of Default. Borrower's obligations to timely pay all Impositions and to maintain insurance coverage in accordance with the Loan Documents, and Lender's rights and remedies in the event of any default by Borrower in the performance of such obligations, shall not be affected by compliance with this Section 1.4(B), except to the extent such Impositions or insurance premiums are actually paid from Impounds as provided herein.

C. From the occurrence and during the continuance of an Event of Default under any of the Loan Documents (other than, if applicable, an Event of Default which caused Lender to require Impounds as provided in this Section 1.4), Lender may apply the balance of the Impounds to any amounts then due and owing to Lender under the Loan Documents (including, without limitation, amounts then due and owing by acceleration) in such order as Lender may determine in its sole discretion. Should Borrower fail to deposit with Lender (exclusive of any amounts which have been applied by Lender to any of the Secured Obligations) sums sufficient to fully pay such Impositions and insurance premiums at least ten (10) days before delinquency thereof, Lender may, at Lender's election, but without any obligation to do so, advance any amounts required to make up the deficiency, which advances, if any, shall (i) bear interest at the Default Interest Rate, (ii) be secured hereby, and (iii) be payable upon written demand by Lender. Lender shall not be a trustee, special depository or any other fiduciary acting for the benefit of Borrower with respect to the Impounds and Lender shall have no obligations with respect to the Impounds, any Impositions or any insurance coverage except as expressly provided in this Section 1.4.

1.5 Insurance. Borrower shall at all times maintain and keep in force or caused to be maintained and kept in force, at no expense to Trustee or Lender, policies of insurance in accordance with the terms of the Loan Agreement.

1.6 Casualty Events; Condemnation Events.

A. Borrower shall promptly notify Lender of any Casualty Event, any actual Condemnation Event and/or any Condemnation Event which has been threatened in writing. Borrower hereby assigns to Lender all Insurance/Condemnation Proceeds. Without regard to the adequacy of Lender's security, Lender is entitled to collect and receive all Insurance/Condemnation Proceeds, and all Insurance/Condemnation Proceeds shall be paid to Lender by the payor thereof or, if the same are nonetheless paid to Borrower or any Borrower Party or any of their Affiliates, by Borrower immediately upon Borrower's, or such Borrower Party's or Affiliate's, receipt thereof, and Borrower hereby authorizes and directs any applicable insurance company, Governmental Agency and/or other payor to make all payments of Insurance/Condemnation Proceeds directly to Lender. Lender may, at its option without regard to the adequacy of its security, commence, appear in and prosecute, in its own name or Borrower's name, any action or proceeding, or make any compromises or settlements, in connection with any Casualty Event or Condemnation Event; provided that, in such event, so long as no Event of Default has occurred and is continuing under the Loan Documents and no uncured Potential Default exists under the Loan Documents, Borrower shall be entitled to reasonably participate in such action, proceeding, compromise or settlement. In no event shall Lender have any liability with respect to any such action, proceeding, compromise or settlement, or any failure to reach or agree upon any terms thereof, and Lender shall be under no obligation to question the amount of any Insurance/Condemnation Proceeds payable with respect to any Casualty Event or Condemnation Event. Borrower shall execute and deliver to Lender, within ten (10) Business Days after Lender's written request, such further assignments of any Insurance/Condemnation Proceeds as Lender may reasonably require.

B. Nothing contained in this Section 1.6 or in Section 1.7 below shall excuse, or be deemed or construed to excuse, Borrower from repairing or maintaining the Project or the Park Owned Homes as required by the Loan Documents, including, without limitation, in Section 1.3 above, or restoring all damage or destruction to the Project or the Park Owned Homes, regardless of whether or not there are

Insurance/Condemnation Proceeds available to Borrower or whether any such Insurance/Condemnation Proceeds are sufficient in amount. The application or release by Lender of any Insurance/Condemnation Proceeds shall not cure or waive any default, Event of Default, or Potential Default, under the Loan Documents, or any notice of default under this Security Instrument or any other Loan Document, or invalidate any act done pursuant to such notice.

1.7 Insurance/Condemnation Proceeds.

A. Lender shall apply all Insurance/Condemnation Proceeds received by Lender and remaining after the deduction of all reasonable expenses of collection and settlement thereof incurred by Lender, including, without limitation, reasonable attorneys' and adjustors' fees and costs, to the restoration of the Project after a Casualty Event and, if Lender reasonably determines that restoration of the Project is necessary and possible after a Condemnation Event, to the restoration of the Project to the maximum extent possible after a Condemnation Event; provided that and so long as all of the following conditions are, and continue to be, satisfied in each such case: (i) no Event of Default shall have occurred under any of the Loan Documents and no uncured Potential Default shall exist under any of the Loan Documents; (ii) Lender in its reasonable judgment, and all applicable Governmental Agencies, shall have approved the final plans and specifications for the restoration of the Project; (iii) Lender shall have approved in its reasonable judgment a construction schedule for such restoration, which schedule shall reasonably show the completion of such restoration no later than the date which is thirty (30) days prior to the then effective maturity date of the Note; (iv) Lender shall have approved in its reasonable judgment a budget of all costs of restoration of the Project, all construction contracts and subcontracts for such restoration and such other documents relating to such restoration as Lender shall reasonably require; (v) Borrower shall have delivered to Lender Builder's All Risk insurance and, if required by Lender, completion and/or performance bonds, in each case in form reasonably acceptable to Lender, and the same shall remain in full force and effect, and there shall not be any insurer's claim of any right of participation in or assignment of rights with respect to any of the indebtedness secured by this Security Instrument; (vi) Lender shall have determined that after the restoration is completed, the value of the Project, as determined by Lender in its good faith sole discretion in the same manner as Lender's original appraisal of the Project, shall be not less than the value of the Project immediately prior to such Casualty Event or Condemnation Event, as applicable; (vii) Borrower shall have delivered to Lender evidence reasonably acceptable to Lender that Borrower has and will have sufficient funds to pay all Monthly Installments (as defined in the Note) and other amounts due under the Note and other Loan Documents during the period of such restoration; (viii) Borrower shall have deposited with Lender in cash, from time to time including, without limitation, as the budgeted restoration costs as reasonably approved by Lender change, the deficiency, if any, between the costs of the restoration of the Project and such net Insurance/Condemnation Proceeds then held by Lender; and (ix) with respect to any Condemnation Event, Lender shall have reasonably determined that such taking will not materially and adversely affect the use, operation and occupancy of the Project from the use, operation and occupancy thereof immediately prior to such taking. All Insurance/Condemnation Proceeds so applied to the restoration of the Project shall be disbursed under such conditions as Lender may reasonably require (including, without limitation, if Lender so elects, disbursements directly to the applicable contractor or other payee), shall be disbursed only as repairs or replacements are effected and as continuing expenses become due and payable and shall be used by Borrower only for the payment of the costs of such restoration as reasonably approved by Lender. Lender may inspect and/or cause its third-party consultant to inspect, such restoration at any time during the performance thereof and/or upon the completion thereof, and in connection with each such inspection Borrower shall pay the reasonable costs and expenses of such third-party consultant. Any surplus which may remain out of such Insurance/Condemnation Proceeds after payment of all costs of the restoration shall, at the option of Lender, be applied to the outstanding principal balance of the Note or the other amounts owing by Borrower to Lender under the Loan Documents or be delivered to Borrower.

B. If any one or more of the conditions set forth in Section 1.7(A) are not satisfied at any time, Lender shall not be obligated to disburse any, or any further, Insurance/Condemnation Proceeds and: (i) Lender shall be entitled to apply all Insurance/Condemnation Proceeds then held by Lender to the prepayment of the outstanding balance of the Note, together with accrued interest, and the other amounts

owed to Lender under the Loan Documents in such order as Lender may elect, notwithstanding that such amounts may not be due and payable; (ii) if the Insurance/Condemnation Proceeds are not sufficient to repay the Note in full, Borrower shall immediately pay to Lender the remaining balance, together with interest accrued thereon, and all other amounts owing to Lender under the Loan Documents; and (iii) if there are Insurance/Condemnation Proceeds remaining after the repayment of the foregoing amounts, such remaining proceeds shall be paid over to the Persons legally entitled thereto.

C. If there are no Insurance/Condemnation Proceeds available after any Casualty Event, for any reason whatsoever, then upon written notice to Borrower, the outstanding balance of the Note, together with accrued interest, shall become immediately due and payable, unless all of the conditions set forth in Section 1.7(A) are satisfied, including, without limitation, that Borrower deposits with Lender, in cash, such funds as Lender deems necessary for the repair and restoration of all damage to the Project in connection with such Casualty Event.

D. In the event of a Condemnation Event as to which Lender reasonably determines that repair or restoration of the Project is not necessary or is not possible: (i) Lender shall not be obligated to disburse any Insurance/Condemnation Proceeds and Lender shall be entitled to apply all Insurance/Condemnation Proceeds to the repayment of the outstanding principal balance of the Note, together with accrued interest, and the other amounts owed to Lender under the Loan Documents in such order as Lender may elect, notwithstanding that such amounts may not be due and payable, and if there are Insurance/Condemnation Proceeds remaining after the repayment of the foregoing amounts, such remaining proceeds shall be paid over to the Persons legally entitled thereto; and (ii) if Lender determines, in its good faith sole discretion in the same manner as Lender's original appraisal of the Project, that the sum of (x) the Insurance/Condemnation Proceeds received by Lender with respect to such Condemnation Event, plus (y) the value of the Project after such Condemnation Event, is less than the value of the Project immediately prior to such Condemnation Event, and if such Insurance/Condemnation Proceeds are not sufficient to repay the Note in full, Borrower shall immediately pay to Lender the remaining balance, together with interest accrued thereon, and all other amounts owing to Lender under the Loan Documents.

1.8 Liens and Encumbrances. Borrower shall pay, when due, all obligations and claims or demands of any Person which, if unpaid, might result in or permit the creation of any Lien on the Project or Collateral or any portion thereof, including, without limitation, all claims of mechanics, materialmen, laborers and others for work performed at, or materials or supplies furnished to, the Project. Borrower shall pay and promptly discharge, at Borrower's cost and expense, all Liens against the Project or the Collateral or any portion thereof or interest therein, except Liens expressly permitted under the Loan Documents. Without limiting Borrower's obligation to pay and discharge any such Lien, Borrower shall have the right to contest Liens as provided in Section 1.12. If Borrower fails to discharge any Lien or to contest the same as provided in the immediately preceding sentence, Lender may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due (or any lesser amount) or by bonding or taking other action, and all amounts expended by Lender in connection therewith shall (a) bear interest at the Default Interest Rate, (b) be secured hereby, and (c) be payable upon written demand by Lender. No such payment by Lender shall constitute a cure of any Event of Default or Potential Default arising from Borrower's failure to comply with this Security Instrument with respect to such Lien.

1.9 Actions Affecting Project. Borrower shall promptly give Lender written notice of, and shall appear in and contest, any action or proceeding purporting to affect the Project, the Personal Property, any other Collateral or the security of this Security Instrument or any of the other Loan Documents or the rights or powers of Lender or Trustee. Without limiting Borrower's obligations, Lender or Trustee may (but shall not be obligated to) appear in any such action or proceeding, and retain counsel therein and defend the same, or otherwise take such action therein as Lender or Trustee may reasonably deem advisable, and may settle or compromise the same, and for any of the foregoing may spend such funds therefor as deemed advisable by Lender or Trustee. Borrower shall pay upon demand all costs and expenses, including, without limitation, title costs and reasonable attorneys' fees and costs, incurred by Lender or Trustee in any such action or proceeding in which Lender or Trustee may appear, together

with any other amounts incurred by Lender or Trustee in connection with any action or proceeding covered by this Section 1.9, including, without limitation, for any settlement or compromise thereof.

1.10 Transfer of Project.

A. Borrower acknowledges that the financial stability and managerial and operational ability of the Borrower Parties are a substantial and material inducement for Lender's agreement to make the Loan to Borrower. In order to induce Lender to make the Loan, Borrower agrees that, in the event of any Transfer without the prior written consent of Lender (which may be withheld in Lender's sole and absolute discretion except as expressly provided in Section 1.10(B)), such Transfer shall constitute an Event of Default hereunder and under the other Loan Documents without the need for notice or an opportunity to cure and Lender shall have the absolute right, at its option, without notice and without demand, to declare all of the Secured Obligations immediately due and payable. Lender may grant or deny such consent in its sole and absolute discretion except as expressly provided in Section 1.10(B) and, if Lender shall give such consent, any such Transfer shall be subject to this Security Instrument and the other Loan Documents. No Transfer shall release Borrower, any other Borrower Party, any Guarantor or any other party from any liability under the Loan Documents or the Environmental Indemnity without Lender's prior written consent, which may be withheld in Lender's sole and absolute discretion. Consent to one such Transfer shall not be deemed to be a waiver of the right to require consent to future or successive Transfers.

B. Notwithstanding the foregoing, Lender agrees that it will not unreasonably withhold its consent to (1) a transfer of direct or indirect interests in Borrower to an intervivos trust so long as (i) the transferor remains as the trustee of the trust, (ii) Lender receives evidence reasonably satisfactory to Lender that such transfer complies with this Section 1.10(B), (iii) the transferee is not a Prohibited Person, (iv) there is no change in Control of the interests of the transferor in such trust, and (v) to the extent that the transferor executed any guaranty, indemnity or other agreement in connection with the Loan (including, without limitation, any of the Guaranties or the Environmental Indemnity), at Lender's election in its sole and absolute discretion, the trustees of such trust shall execute a similar guaranty, indemnity or other agreement; provided that in no event shall such transferor be released from any of its obligations under any such guaranty, indemnity or other agreement (including, without limitation, any of the Guaranties or the Environmental Indemnity) in connection with such transfer, or (2) a transfer of direct or indirect interests in Borrower so long as (I) Thomas E. Larkin or Thomas E. Larkin and any one or more of Joel Farkas and Patrick Wood Control of Borrower following such transfer, (II) there is no reduction in the aggregate direct or indirect interests in Borrower held by Thomas E. Larkin, (IV) Lender receives evidence reasonably satisfactory to Lender that such transfer complies with this Section 1.10(B), and (V) the transferee is not a Prohibited Person. Notwithstanding any provision herein to the contrary, if any such transfer would cause the transferee to increase its direct or indirect interest in Borrower to an amount which equals or exceeds twenty percent (20%) of the ownership interests in Borrower in the case of a domestic Person or ten percent (10%) in the case of a foreign Person, such transferee shall comply with Lender's then-current U.S. Patriot Act requirements, and upon request by Lender, Borrower shall give to Lender such information as reasonably necessary for Lender's know-your-customer identification process, Lender's Patriot Act compliance and similar searches on the transferee and its relevant equity holders within ten (10) Business Days of Lender's request therefor.

C. Without limiting the generality of this Section 1.10, in the event ownership to the Project, or any part thereof, becomes vested in a Person or Persons other than Borrower, without the prior written consent of Lender as provided herein, Lender may, in its sole and absolute discretion and without obligation to do so, and without notice to Borrower or Guarantors, waive such Event of Default and/or deal with such successor(s) in interest with respect to the Loan Documents and the Environmental Indemnity, without in any way releasing, discharging or otherwise affecting the liability of Borrower, Guarantors or any other party under the Loan Documents or the Environmental Indemnity or for any of the Secured Obligations.

1.11 Assumption. The Loan is not assumable.

1.12 Contesting Impositions and Liens. Without limiting Borrower's obligation to pay all Impositions as provided in Section 1.4 or to pay and discharge all Liens as provided in Section 1.8, Borrower shall have the right, at Borrower's expense and in Borrower's name, to contest in good faith any Imposition or Lien against the Project by appropriate legal or administrative proceedings which are not prejudicial to Lender's rights if (a) Borrower shall have demonstrated to Lender's reasonable satisfaction that such proceedings shall conclusively operate to prevent enforcement prior to final determination of any such proceedings, and (b) Borrower shall have furnished to Lender such bond, surety or other security in connection therewith as is reasonably satisfactory to Lender. In the event that, by any such contest, the security of this Security Instrument or any of the other Loan Documents is endangered or the Project or any portion thereof or any other material Collateral is subject to imminent loss or forfeiture, such Impositions or Liens, as applicable, shall be immediately paid by Borrower. Borrower hereby indemnifies and agrees to defend and hold the Indemnitees harmless for, from and against all expenses, loss, claims, damage or liability imposed or resulting from any contest under this Section 1.12 or any resulting loss.

1.13 Assignment of Rents. In order to further secure payment of the Secured Obligations, Borrower absolutely, presently and unconditionally grants, assigns and transfers to Lender all of Borrower's right, title, interest and estate in, to and under the Leases and the Rents. Borrower acknowledges that it is permitted to collect the Rents, and exercise the rights under the Leases, pursuant to the revocable license provided in, and subject to the terms and conditions of, the Assignment of Rents.

1.14 Further Assurances. At the request of Lender and/or Trustee, Borrower shall, at Borrower's sole cost and expense, promptly correct any defect or error which may be discovered in the contents of the Note and/or any of the other Loan Documents to which Borrower is a party, and promptly do, execute, acknowledge and deliver any and all such further acts, conveyances, mortgages, deeds of trust, assignments, estoppel certificates, financing statements, security agreements, and similar instruments and certificates as Lender and/or Trustee may reasonably require from time to time in order to carry out the purposes of this Security Instrument or the other Loan Documents, to make subject to the lien and security interest hereby created any of Borrower's properties, rights or interests covered or intended to be covered hereby or by the Loan Documents, to perfect and maintain any such lien and security interest, and/or to confirm the rights and interests of Lender and/or Trustee in any and all of the foregoing.

ARTICLE 2

EVENTS OF DEFAULT; REMEDIES

2.1 Events of Default. Borrower's failure to pay any principal, interest or other monies due under the Note, this Security Instrument or any other Loan Document (other than amounts due on the Maturity Date) within ten (10) days after such amount is due, or Borrower's failure to pay any amounts due under the Loan Documents on the Maturity Date, shall constitute an Event of Default under this Security Instrument automatically and with no notice from Lender required. Further, an Event of Default under any of the other Loan Documents (as "Event of Default" is defined in such other Loan Documents) shall constitute an Event of Default under this Security Instrument automatically and with no notice from Lender required.

2.2 Acceleration and Other Remedies. From and after the occurrence of an Event of Default under the Loan Documents, Lender may, at its option, declare all of the Secured Obligations to be immediately due and payable without any presentment, demand, protest or notice of any kind. Thereafter Lender may:

A. Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Property, the Project, the Personal Property, or any other Collateral or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Property, the Project, the Personal Property, or any

other Collateral including, without limitation (i) taking possession of Borrower's books and records with respect to the Property, the Project, the Personal Property or any other Collateral, (ii) completing the construction of any Improvements, (iii) maintaining or repairing the Improvements, the Property, the Personal Property, or any other Collateral (iv) increasing the income from the Property, the Project, the Personal Property, or any other Collateral with or without taking possession of the Property, the Project, the Personal Property, or any other Collateral, (v) entering into, modifying, enforcing or terminating Leases or any agreements affecting any or all of the Project or other Collateral, (vi) suing for or otherwise collecting the Rents or other amounts owing to Borrower, including, without limitation, Rents past due and unpaid damages for breach of Leases, and (vii) applying the same, less costs and expenses of operation and collection including, without limitation, reasonable attorneys' fees and compensation for the services of Trustee or Lender, to any of the Secured Obligations, all in such order as Lender may determine in its sole discretion. The entering upon and taking possession of the Property, the Project, the taking possession of any Personal Property or any other Collateral, the collection of such Rents and the application thereof as aforesaid, shall not cure or waive any default, Event of Default, or Potential Default, under any of the Loan Documents or notice of default hereunder or thereunder;

B. Commence an action to foreclose this Security Instrument and its security interests under the other Loan Documents as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof and thereof;

C. Deliver to Trustee a written declaration of default and demand for sale and a written notice of default and election to cause Borrower's interest in the Project and, at Lender's election any other Collateral to be sold, which notice Trustee or Lender shall cause to be duly filed for record in the Recording Location; and/or

D. Exercise all other rights and remedies provided herein, in any Loan Document or other document or agreement now or hereafter securing all or any portion of the Secured Obligations, or by law or equity.

2.3 Foreclosure by Power of Sale. Should Lender elect to foreclose by exercise of the power of sale herein contained, Lender shall notify Trustee and shall deposit with Trustee this Security Instrument and the Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

A. Lender or Trustee shall give such notice of default and election to sell as is then required by applicable law. Trustee shall, without demand on Borrower, after lapse of such time as may then be required by law and after recordation of such notice of default and after notice of sale having been given as required by law, sell the Project and other applicable Collateral at the time and place of sale fixed by it in such notice of sale, either as a whole, or in separate lots or parcels or items as Lender shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof a trustee's deed conveying the property so sold, which shall not contain any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any Person, including, without limitation, Borrower, Trustee or Lender, may purchase at such sale and, notwithstanding the foregoing, Lender shall be entitled to pay the purchase price by crediting the Secured Obligations against the purchase price of the property. Borrower hereby covenants to warrant and defend the title of such purchaser or purchasers.

B. After deducting all costs, fees and expenses of Trustee and of this trust, including costs of evidence of title in connection with sale, appraisals and environmental audits, Trustee shall apply the proceeds of sale in the following priority, to payment of: (i) first, all sums expended under the terms hereof and not then repaid, including, without limitation, reasonable attorneys' fees and compensation for the services of Trustee or Lender, all with accrued interest at the Default Interest Rate; (ii) second, all other sums then secured hereby; and (iii) the remainder, if any, to the Person or Persons legally entitled thereto.

C. Trustee may postpone sale of all or any portion of the Project by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement or subsequently noticed sale, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale.

2.4 Personal Property.

A. Concurrently herewith, Borrower has executed and delivered to Lender the Loan Agreement which grants Lender a security interest in certain Personal Property described therein. From and after the occurrence of an Event of Default, Lender may proceed at its election, in any sequence: (i) to dispose of any Personal Property separately from the sale of real property in accordance with Article 9 of the Governing State Uniform Commercial Code or other applicable law; (ii) to dispose of some or all of the Project and the Personal Property in any combination consisting of both real and personal property together in one or more sales to be held in accordance with the provisions of Section 9604(a)(1) of the Governing State Uniform Commercial Code¹ or other applicable law; and (iii) to exercise any remedies of a secured party under the Governing State Uniform Commercial Code or any other applicable law. Expenses of retaking, holding, preparing for sale, selling or the like shall include Lender's reasonable attorneys' fees and costs.

B. From and after the occurrence of an Event of Default, in addition to Lender's rights under the Governing State Uniform Commercial Code, Lender may, but shall not be obligated to, at any time and at the expense of Borrower (i) give notice to any person of Lender's rights hereunder and enforce such rights; (ii) insure, protect, defend and preserve the Personal Property and any rights or interests of Lender therein; (iii) inspect the Personal Property; and (iv) endorse, collect and receive any right to payment of money owing to Borrower under or from the Personal Property. Lender shall have no duty or obligation to make or give any presentments, demands for performance, notices of non-performance, notices of protest or notices of dishonor in connection with any of the Personal Property.

C. Any disposal of the Personal Property may, at Lender's election, be at public disposition or private disposition, without having the Personal Property at the place of sale or other disposition, and upon terms and in such manner as Lender may determine in its sole discretion. Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender shall give Borrower at least ten (10) days prior written notice of the time and place of any public disposition of the Personal Property or of the time after which any other disposition is to be made. Such notice may be mailed to Borrower as provided in Section 3.15. Lender may be a purchaser at any such public sale of the Personal Property.

D. In connection with any exercise of Lender's remedies under this Section 2.4, Lender or Trustee may take immediate and exclusive possession of the Personal Property, or any part thereof, and with or without judicial process, enter upon any property on which the Personal Property, or any part thereof, may be situated and remove the same without any liability therefor or, at Lender's option, Borrower shall assemble the Personal Property and make it available to Lender at the time and place designated by Lender and reasonably convenient to Borrower and Lender. Lender shall be entitled to operate, hold, maintain, repair, preserve and prepare the Personal Property for sale or Lender may, without removal, render the Personal Property unusable and dispose of the Personal Property on Borrower's property. Lender may exercise all rights and powers of Borrower with respect to the Personal Property or any portion thereof and Borrower hereby irrevocably constitutes and appoints Lender as Borrower's true and lawful attorney-in-fact (which power is coupled with an interest and is deemed to be non-cancelable, with full power of substitution), to enforce, in the name of Borrower or Lender, all rights and powers of Borrower with respect to such Personal Property. Lender and its agents and representatives shall have the right to enter upon any or all of Borrower's property to exercise Lender's rights hereunder.

¹ OR counsel to confirm statutory references.

2.5 Appointment of Receiver. From and after the occurrence of an Event of Default, Lender, as a matter of right and without notice to Borrower or anyone claiming under Borrower, and without regard to the then value of the Project or the adequacy of any security for the Secured Obligations, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers for the Project, and Borrower hereby irrevocably consents to such appointment, waives notice of any application therefor and agrees that the appointment of such receiver or receivers may be continued during the pendency of any nonjudicial foreclosure under power of sale of the Property, the Project, the Personal Property, or any other Collateral notwithstanding entry of judgment in any action. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Lender in case of entry as provided herein. Borrower agrees to promptly deliver to any such receiver all Leases, Rents, Project Documents, documents, financial data and other information requested by such receiver in connection with the Property, the Project, the Personal Property, or any other Collateral and, without limiting the foregoing, Borrower hereby authorizes Lender to deliver to any such receiver any or all of the Leases, Rents, Project Documents, documents, data and information in Lender's possession relating to the Property, the Project, the Personal Property, or any other Collateral.

2.6 Remedies Not Exclusive. Trustee and Lender, and each of them, shall be entitled to enforce payment and performance of any of the Secured Obligations and to exercise all rights and powers under this Security Instrument or under any Loan Document or other agreement or any Laws now or hereafter in force, notwithstanding that some or all of the Secured Obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, security instrument, pledge, lien, assignment or otherwise. Neither the acceptance of this Security Instrument nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Lender's right to realize upon or enforce any other security now or hereafter held by Trustee or Lender, it being agreed that Trustee and Lender, and each of them, shall be entitled to enforce this Security Instrument and any other security now or hereafter held by Lender or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Lender is intended to be exclusive of any other remedy herein or by law or under any other Loan Document provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing under any Loan Document, at law or in equity or by statute. Every power or remedy given by any of the Loan Documents to Trustee or Lender or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Lender and either of them may pursue inconsistent remedies.

2.7 Request for Notice. Borrower hereby requests a copy of any notice of default and that any notice of sale hereunder be mailed to it at the address set forth above in this Security Instrument.

2.8 Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy hereunder or under any of the other Loan Documents, or otherwise afforded by applicable Law, shall not be a waiver of or preclude the exercise of any right or remedy or estop Lender or Trustee from exercising any such right or remedy on any subsequent default by Borrower. The procurement of insurance or the payment of any Impositions or other Liens or charges by Lender shall not be a waiver of Lender's right to declare an Event of Default or to accelerate the maturity of any of the Secured Obligations nor shall Lender's receipt of any awards, proceeds or damages under this Security Instrument or any other Loan Document operate to cure or waive Borrower's default in payment of any of the Secured Obligations.

2.9 Intentionally Omitted.

2.10 No Mortgagee in Possession. In no event shall Lender, in the exercise of the rights and remedies provided in this Security Instrument (including, without limitation, in connection with the appointment of a receiver and the entry of such receiver onto all or any part of the Project) or the other Loan Documents (including, without limitation, the Assignment of Rents), be deemed a "mortgagee in

possession," and neither Lender nor Trustee shall in any way be made liable for any act or omission in connection with the exercise of such rights and remedies.

2.11 Continuation of Events of Default. The provisions of Section 8.5 of the Loan Agreement, are incorporated herein by this reference as if set forth in full herein, and are applicable to this Security Instrument.

ARTICLE 3

MISCELLANEOUS PROVISIONS

3.1 Acceptance of Trust, Notice of Indemnification. Trustee accepts this trust when this Security Instrument, duly executed and acknowledged, becomes a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust, mortgage or security instrument or of any action or proceeding in which Borrower, Lender or Trustee shall be a party. Trustee shall not be liable or responsible with respect to its acts or omissions hereunder, except for Trustee's own gross negligence or willful misconduct;

3.2 Powers of Trustee. From time to time upon written request of Lender, without affecting the personal liability of any Person for payment of any indebtedness or performance of the obligations secured hereby, Trustee may, without liability therefor and without notice: (a) reconvey all or any part of the Project; (b) consent to the making of any map or plat thereof; (c) join in granting an easement thereon; (d) join in any declaration of covenants and restrictions; or (e) join in any extension agreement or any agreement subordinating the lien or charge hereof. Trustee or Lender may from time to time apply in any court of competent jurisdiction for aid and direction in the execution of the trusts hereunder and the enforcement of the rights and remedies available hereunder, and Trustee or Lender may obtain orders or decrees directing or confirming or approving acts in the execution of such trusts and the enforcement of such remedies available hereunder. Borrower shall pay to Trustee reasonable compensation and reimbursement for services and expenses in the administration of the trusts created hereunder, including reasonable attorneys' fees and costs. Borrower hereby indemnifies and agrees to defend and hold Trustee and the Indemnitees harmless for, from and against all expenses, loss, claims, demands, and liabilities which any of them may incur, suffer, or sustain in the execution of the trusts created hereunder or in the performance of any act required or permitted hereunder or by Law, unless, with respect to each indemnified party, caused by the gross negligence or willful misconduct of the indemnified party.

3.3 Substitution of Trustee. From time to time, by a writing signed and acknowledged by Lender and filed for record in the Recording Location, Lender may appoint another trustee to act in the place and stead of Trustee or any successor. The recordation of such instrument of substitution shall discharge Trustee herein named and shall appoint the new trustee as the Trustee hereunder with the same effect as if originally named Trustee herein. A writing recorded pursuant to this Section shall be conclusive proof of the proper substitution of such new trustee.

3.4 Inspections. Subject to the rights of tenants at the Project, if any, during normal business hours and upon reasonable advance notice (except in the event of an emergency or from and after the occurrence of an Event of Default under the Loan Documents, in which event entry shall not be limited to normal business hours and no advance notice shall be necessary) Lender, or its agents, employees or representatives, are authorized to enter upon or in any part of the Project for the purpose of inspecting the same and performing any of the acts Lender is authorized to perform hereunder or under the terms of any of the Loan Documents. Without limiting the generality of the foregoing, Borrower agrees that Lender will have the same right, power and authority to enter and inspect the Project as is granted to a secured lender under Oregon law, and that Lender will have the right to appoint a receiver to enforce the right to enter and inspect the Project to the extent such authority is provided under Oregon law. Borrower shall pay all costs incurred by Lender in connection with any such inspections.

3.5 Borrower Waiver of Rights. Borrower waives, to the extent permitted by law, (a) the benefit of all Laws now existing or that may hereafter be enacted providing for any appraisalment before sale of any portion of the Project or any other Collateral, (b) all rights of redemption, valuation, appraisalment, stay of execution, notice of intent to accelerate, notice of acceleration, notice of election to mature or declare due the whole of the Secured Obligations in the event of foreclosure of the liens hereby created, (c) all rights and remedies which Borrower may have or be able to assert by reason of the Laws of the Governing State pertaining to the rights and remedies of sureties, (d) the right to assert any statute of limitations as a bar to the enforcement of the lien of this Security Instrument or to any action brought to enforce the Note, any other Loan Document or any other Secured Obligation, and (e) any rights, legal or equitable, to require marshaling of assets or to require foreclosure sales in a particular order, including, without limitation, any rights under ORS Chapter 86 and ORS Chapter 88. Lender shall have the right to determine the order in which any or all of the Project shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the Secured Obligations are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower covenants and agrees that in no event shall Lender be liable for consequential damages under or in connection with the Loan or the Loan Documents, and to the fullest extent permitted by law, Borrower expressly waives all existing and future claims that it may have against Lender for consequential damages under or in connection with the Loan or the Loan Documents.

3.6 Lender's Powers. Without affecting the liability of any Person for the payment or performance of any of the Secured Obligations (except to the extent of any Person specifically released in writing by Lender), and without affecting the lien or priority hereof or of any of the other Loan Documents upon any property not released, Lender may, without notice and without obligation, release any Person so liable, extend the maturity or modify the terms of any Secured Obligation, grant other indulgences, release or reconvey or cause to be released or reconveyed at any time all or any part of the Project and/or the Personal Property, take or release any other security or make compositions or other arrangements with debtors, and/or accept additional security, either concurrently herewith or hereafter, and sell the same or otherwise realize thereon either before, concurrently with, or after sale hereunder.

3.7 Non-Waiver. By accepting late payment or performance of any of the Secured Obligations (including, without limitation, after the recordation of a notice of default and/or election to sell), Lender shall not waive its rights against any Person obligated directly or indirectly hereunder or on any of the Secured Obligations, either to require prompt payment when due of all other sums so secured or to declare a Potential Default, or Event of Default, under the Loan Documents for failure to make such prompt payment or exercise any rights or remedies as a result thereof. No exercise of any right or remedy by Trustee or Lender hereunder shall constitute a waiver of any other right or remedy herein contained or provided by Law. No delay or omission of the Trustee or Lender in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein.

3.8 Protection of Security. From and after the occurrence of default by Borrower under any of the Loan Documents or if Borrower shall fail to timely perform any of its obligations under the Loan Documents (including, without limitation, any obligation to maintain the Project), Lender may, without obligation, and without notice to or demand upon Borrower and without releasing Borrower from any of the Secured Obligations, (a) take such actions as Lender may deem necessary to protect the security hereof or of any of the other Loan Documents; (b) commence, appear in and defend any action or proceeding purporting to affect the security hereof or of any of the other Loan Documents, the value thereof or the rights or powers of Lender; or (c) pay, purchase, contest, or compromise any Lien affecting any or all of the Project or any other Collateral, whether the same is prior or junior to the lien of this Security Instrument or any of the other Loan Documents. In exercising any such power, Lender is authorized to enter upon the Project or any other property on which the Personal Property or other Collateral is located and to incur any liability and expend whatever amounts in its absolute discretion it may deem necessary therefor, including cost of evidence of title and reasonable attorneys' fees and costs and consultants' fees and costs. Any expenditures made by Lender under this Section 3.8 shall (w) bear interest at the Default Interest Rate, (x) be secured hereby, and (y) be payable upon written demand by

Lender. No such advance by Lender shall cure or constitute a waiver of any Potential Default or Event of Default.

3.9 No Merger of Lease. If both the lessor's and lessee's estate under any Lease or any portion thereof which constitutes a part of the Project or other security under the Loan Documents shall at any time become vested in one owner, this Security Instrument and the lien created hereby shall not be destroyed or terminated by application of the doctrine of merger unless Lender so elects, in its sole discretion, as evidenced by recording a written declaration so stating, and, unless and until Lender so elects, Lender shall continue to have and enjoy all of the rights and privileges of Lender as to the separate estates. In addition, upon the foreclosure of the lien created by this Security Instrument on the Project pursuant to the provisions hereof, any Leases then existing and affecting all or any portion of the Project shall not be destroyed or terminated by application of the law of merger, unless Lender or any purchaser at such foreclosure sale shall so elect. No act by or on behalf of Lender or any such purchaser shall constitute a termination of any Lease by application of the law of merger unless Lender or such purchaser shall give written notice thereof to the applicable tenant or subtenant.

3.10 Subordination. At the option of Lender, this Security Instrument shall become subject and subordinate in whole or in part (but not with respect to priority of entitlement to any Insurance/Condemnation Proceeds or other compensation resulting from any Casualty Event or any Condemnation Event) to any or all contracts of sale and/or any or all Leases upon the execution by Lender of a unilateral declaration to that effect and the recordation thereof in the Recording Location.

3.11 Reconveyance by Trustee. Upon written request of Lender, provided that all sums secured hereby have been paid in lawful money of the United States of America and Lender's commitment and obligation to disburse Loan proceeds has terminated, Trustee shall reconvey to Borrower, or to the Person or Persons legally entitled thereto, without warranty, any portion of the Project then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto." Such grantee shall pay Trustee a reasonable fee and Trustee's costs incurred in so reconveying the Project.

3.12 Rules of Construction. When the identity of the parties hereto or the circumstances make it appropriate, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. Article and Section headings in this Security Instrument are included herein for convenience of reference only and shall not constitute a part of this Security Instrument for any other purpose or be given any substantive effect. All references in this Security Instrument to a specific Section shall refer to the specified Section of this Security Instrument unless clearly indicated otherwise. Borrower and Lender have each had the opportunity to review and negotiate the terms of this Security Instrument; accordingly, the rule requiring that language be construed against the drafting party shall not be applicable to this Security Instrument.

3.13 Severability. If any term of this Security Instrument or the application thereof to any Person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Security Instrument, or the application of such term to Persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Security Instrument shall be valid and enforceable to the fullest extent.

3.14 Successors and Assigns. Without limiting the terms of this Security Instrument, this Security Instrument shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. If applicable, any married person signing this Security Instrument as Borrower or, if applicable, its general partner, agrees that recourse may be had against his or her community assets and against his or her separate property for the satisfaction of the Secured Obligations. Borrower's rights and obligations or any interest hereunder may not be assigned, including, without limitation, assigned for security purposes, and any purported assignment shall be null and void ab initio. As used herein, "Lender" shall include all holders of the Note, including, without limitation, pledgees of the Note, whether or not named as Lender herein. In exercising any rights hereunder or taking any actions

provided for herein, Lender may act through its employees, agents or independent contractors authorized by Lender.

3.15 Notices. Any notice, or other document or demand, required or permitted under this Security Instrument shall be in writing addressed to the appropriate address set forth above and shall be deemed delivered upon the earliest of (a) actual receipt, (b) the next Business Day after the date when sent by recognized overnight courier for next Business Day delivery, or (c) the second Business Day after the date when sent by certified mail, postage prepaid. Any party may, from time to time, change the address at which such written notice or other documents or demands are to be sent, by giving the other parties written notice of such change in the manner hereinabove provided.

3.16 Governing Law. This Security Instrument shall be governed by, and construed and enforced in accordance with, the laws of the Governing State.

3.17 Amendments and Waivers. This Security Instrument may only be modified in writing signed by Borrower and Lender or their respective successors and assigns. No waiver of any provision of this Security Instrument, or consent to any departure by Borrower therefrom, shall in any event be effective without the written agreement of Lender. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. Except as expressly required by the terms of the Loan Documents, no notice to or demand on Borrower in any case shall entitle Borrower to any other or further notice or demand in similar or other circumstances.

3.18 Subrogation. To the extent that proceeds of the Note are used to pay any outstanding Lien against the Project, such proceeds have been or will be advanced by Lender at Borrower's request and Lender shall be subrogated to any and all rights and Liens held by any owner or holder of such outstanding Liens, irrespective of whether such Liens are released.

3.19 Fixture Filing. This Security Instrument constitutes a financing statement recorded as a fixture filing in the Recording Location with respect to any and all fixtures included within the term "Project" as used herein, and with respect to any goods or other personal property that may now be or hereafter become such fixtures, with Borrower being "Debtor" and Lender being the "Secured Party". Borrower grants to Lender a security interest in all existing and future goods which are now or in the future become fixtures relating to the Project and the proceeds thereof. Borrower covenants and agrees that the recording of this Security Instrument in the Recording Location shall also operate from the date of such recording as a fixture filing in accordance with Sections 9501(a)(1) and 9502(b) and (c) of the Governing State Uniform Commercial Code or other applicable law. Lender is authorized to file this Security Instrument as a financing statement, a separate financing statement or statements without the signature of Borrower and one or more continuation statements in any jurisdiction where Lender deems it necessary, and Borrower will pay the costs of filing or recording them, in all public offices at any time and from time to time whenever filing or recording of this Security Instrument, any financing statement or any continuation statement is deemed by Lender or its counsel to be necessary or desirable. In addition, Lender is expressly authorized to file or record financing statements and continuation statements without the signature of the Borrower in all public offices at any time and from time to time whenever filing or recording of any financing statement or any continuation statement is deemed by Lender or its counsel to be necessary or desirable.

3.20 WAIVER OF JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER AND LENDER EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY CONTROVERSY OR CLAIM, WHETHER ARISING IN TORT OR CONTRACT OR BY STATUTE OR LAW, BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONJUNCTION WITH THIS SECURITY INSTRUMENT (INCLUDING, WITHOUT LIMITATION, THE VALIDITY, INTERPRETATION, COLLECTION OR ENFORCEMENT HEREOF) OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY IN CONNECTION HERewith. EACH PARTY ACKNOWLEDGES AND AGREES THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON TO INDUCE

THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BORROWER'S AND LENDER'S ENTERING INTO THE LOAN DOCUMENTS AND THE PARTIES WOULD NOT HAVE ENTERED INTO THE LOAN DOCUMENTS WITHOUT THIS WAIVER. LENDER AND BORROWER ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION 3.20 IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL.

3.21 Counterparts. This Security Instrument may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Signature and acknowledgment pages may be detached from the counterparts and attached to a single copy of this Security Instrument to physically form one document, which may be recorded.

3.22 Statement of Condition. Lender shall furnish any statement required by law regarding the obligations secured hereby or regarding the amounts held in any trust, escrow or reserve fund hereunder. For any such statement, Lender may charge a reasonable fee, not to exceed the maximum amount permitted by law at the time of the request therefor.

3.23 State-Specific Provisions.

(a) Borrower warrants that this deed of trust is not and will at all times continue not to be a residential deed of trust (as that term is defined in ORS 86.705(6)).

(b) UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY US 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 US TO BE ENFORCEABLE.

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

[Remainder of page left blank]

IN WITNESS WHEREOF, Borrower has executed and delivered this Security Instrument.

ROUND LAKE MHP, LLC,
a Delaware limited liability company

By: Round Lake MHP Member, LLC,
a Delaware limited liability company,
its sole Member

By:



Thomas E. Larkin III
Authorized Signatory

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

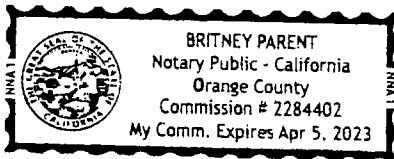
ACKNOWLEDGMENT

STATE OF California)
)
COUNTY OF Orange)

On October 27, 2021, before me, Britney Parent, a Notary Public, personally appeared Thomas E. Larkin III, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



(SEAL)

Britney Parent
Signature

EXHIBIT A

Legal Description

That certain real property located in the City of Klamath Falls, County of Klamath, State of Oregon, having a street address of 4000 Round Lake Road, Klamath Falls, Oregon, more particularly described as follows:

PARCEL 1:

That portion of the S1/2 of the SE1/4 of Section 7, Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, described as follows:

Beginning at the Southeast Section corner of Section 7; thence West along the South line of said Section, a distance of 540 feet to the point of beginning; thence North a distance of 150 feet; thence West a distance of 200 feet; thence South, a distance of 150 feet; thence East along the South line of said Section, a distance of 200 feet to the point of beginning.

PARCEL 2:

A parcel of land situated in Section 7, Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Commencing at the Northeast corner of the Southeast quarter of said Section 7; thence South 00° 07' 28" East along the East line of said Section 7, 661.00 feet; thence leaving said East Section line North 89° 55' 26" West, 180.00 feet to the point of beginning for this description; thence continuing North 89° 55' 26" West, 30.00 feet; thence South 00° 02' 05" West, 369.38 feet; thence South 80° 18' 57" East, 94.30 feet; thence South 47.62 feet; thence East, 71.40 feet; thence North 05° 36' 02" East, 15.07 feet to a point hereinafter referred to as point "A"; thence continuing North 05° 36' 02" East, 50.03 feet; thence North 80° 18' 57" West, 142.73 feet; thence North 00° 02' 05" East, 344.03 feet to the point of beginning. EXCEPTING THEREFROM the Northerly 3.14 feet.

TOGETHER WITH a parcel of land 20.00 feet in width lying 10.00 feet on either side of the following described centerline:

Beginning at point "A" as established in the above description; thence South 89° 07' 21" East, 35.25 feet; thence South 00° 07' 28" East parallel to but 10.00 feet Westerly of the East line of said Section 7, 250 feet, more or less, to the South line of the North half of the Southeast quarter of said Section 7 and the terminus of this description.

PARCEL 3:

The S1/2 of the SW1/4 of Section 7, Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, EXCEPTING THEREFROM the following:

Parts of Lot 3 in the SW1/4 and the SE1/4 of the SW1/4 of Section 7, Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the Southwest section corner of said Section 7; thence North along the West line of said Section a distance of 1091.7 feet to a 1 1/4" iron pipe 30 inches long; thence South 46° 30' East a distance of 425.0 feet to a 1 1/4" iron pipe 30 inches long; thence South 73° 30' East a distance of 831.0 feet to a 1 1/4" iron pipe 30 inches long; thence North 88° East a distance of 691.7 feet to a 1 1/4" iron pipe 30 inches long; thence South 83° 30' East a distance of 367.2 feet to a 1 1/4" iron pipe 30 inches long; thence South 8° 30' East a distance of 90.8 feet to a 1 1/4" iron pipe 30 inches long; thence South 30° 30' East a distance of 67.7 feet to a 3/4" iron pipe 36 inches long; thence South 54° 30' East a

distance of 140.0 feet to a 1 1/4" iron pipe 30 inches long; thence North 81° East a distance of 80.8 feet to a 3/4" iron pipe 40 inches long; thence South 72° 30' East a distance of 101.40 feet to a 1 1/4" iron pipe 30 inches long; thence North 77° 30' East, a distance of 147.8 feet, more or less to a 1 1/4" iron pipe 30 inches long, located at the East line of the SE1/4 of the SW1/4 of said Section; thence South along the East line of the SE1/4 of the SW1/4 of said Section, a distance of 365.0 feet, more or less, to the quarter corner on the South line of said Section 7; thence West along the South line of said Section, a distance of 2640.0 feet, more or less to the point of beginning.

PARCEL 4:

The S1/2 of the SE1/4 of Section 7, Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, EXCEPTING THEREFROM the following:

Beginning at the Southeast section corner of said Section 7; thence West along the South line of said Section, a distance of 540 feet to the point of beginning; thence North a distance of 150 feet; thence West a distance of 200 feet; thence South, a distance of 150 feet; thence East along the South line of said Section, a distance of 200 feet to the point of beginning.

PARCEL 5:

A parcel of land situated in Section 7, Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the Southeast corner of said parcel from which the Southeast corner of the N1/2 of said Section 7 bears South 43° 53' 53" East, 1866.65 feet; thence South 89° 48' 22" West 820.0 feet; thence North 00° 11' 38" West 810.0 feet; thence North 89° 48' 22" East 820.0 feet; thence South 00° 11' 38" East 810.00 feet to the point of beginning.