

19016922

DEED OF TRUST

SECURITY AGREEMENT AND FIXTURE FILING

Dated as of August 14, 1998

in the amount of: \$1,333,000.00

Giver Gain, LLC, a Limited Liability Company

having its principal office at

2755 E. Desert Inn Road, Suite 100, Las Vegas, NV 89121

(the "Grantor");

Fidelity National Title Agency of Nevada, Inc.

500 N. Rainbow Boulevard, #100, Las Vegas, NV 89107

(the "Trustee"); and

AT&T COMMERCIAL FINANCE CORPORATION, a Delaware corporation, having an office at 44 Whippany Road, Morristown, New Jersey 07962-1983

(the "Beneficiary").

LOCATION OF PREMISES

Town of Alamo, Lincoln County, State of Nevada

Record and Return to:

Portfolio Administration/Business Finance
AT&T Commercial Finance Corporation
2 Gatehall Drive
Parsippany, New Jersey 07054

3

STATE OF NEVADA
 COUNTY OF CLARK

DEED OF TRUST AND SECURITY AGREEMENT AND FIXTURE FILING

KNOW ALL MEN BY THESE PRESENTS:

THIS DEED OF TRUST (hereinafter referred to as this "Deed") is made and entered into as of the 14th day of August, 1998, by and among Givers Gain, LLC, a limited liability company, having as a mailing address 2755 E. Desert Inn Road, Suite 100, Las Vegas, NV 89121 (hereinafter referred to as Grantor"), Fidelity National Title Agency of Nevada, Inc. having as a mailing address 500 N. Rainbow Boulevard, Suite 100, Las Vegas, NV 89107 (hereinafter referred to as the "Trustee") and AT&T COMMERCIAL FINANCE CORPORATION, a Delaware corporation, having a mailing address of 44 Whippany Road, Morristown, New Jersey 07962-1983, (hereinafter referred to as the "Beneficiary").

In order to secure the payment, performance and observance of the indebtedness and other obligations of Grantor hereinafter set forth, Grantor has granted and conveyed, and does by these present mortgage, grant, warrant, assign, convey, pledge and set over unto the Trustee, IN TRUST, WITH POWER OF SALE, all of the following described land and interests in land, estates, easements, rights, improvements, property, fixtures, equipment, furniture, furnishings, appliances and appurtenances (hereinafter collectively referred to as the "Premises"):

- (a) All those certain tracts, or parcels of land more particularly described in **Exhibit "A"** attached hereto and by this reference made a part hereof (hereinafter referred to as the "Land").
- (b) All buildings, and improvements of every nature whatsoever now or hereafter situated on the Land.
- (c) All construction materials, vaults, gas, electric and other utility fixtures, radiators, heaters, engines, machinery, boilers, ranges, elevators, plumbing and heating fixtures, draperies, carpeting and other floor coverings, fire extinguishers and any other safety equipment, washers, dryers, water heaters, water fountains, mirrors, mantels, air conditioning apparatus, refrigerating plants, refrigerators, cooking apparatus and appurtenances, window screens, awnings and storm sashes, which are or shall be attached to said buildings, structures or improvements and all other furnishings, furniture, goods which are or are to become fixtures, machinery, equipment, inventory, supplies, appliances, and tangible personal property of every kind and nature whatsoever now or hereafter owned by Grantor and located in, on or about, or used or intended to be used with or in connection with the use, operation or enjoyment of the Premises, and all attachments, additions, improvements, after-acquired property, renewals, proceeds and replacements of any of the foregoing and all the right, title and interest of Grantor in any of the foregoing property which is subject to or covered by any conditional sales contract, chattel mortgage or similar lien or claim, together with the benefit of any deposits or payments now or hereafter made by Grantor or on behalf of Grantor, all of which are hereby declared and shall be deemed to be fixtures and accessions to the freehold and a part of the Premises as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the indebtedness herein described and to be secured by this Deed.

- (d) All now owned or hereafter acquired Easements, rights-of-way, strips, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining to the Premises or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, and the reversions, remainders, rents, issues, profits, revenues, accounts, contract rights and general intangibles of or arising from the Premises (including without limitation all payments under room occupancy agreements, all leases or tenancies, proceeds of insurance, prepaid insurance premiums, condemnation payments, tenant security deposits, escrow funds and payments from motel guests), and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Grantor of, in and to the same.
- (e) Any and all leases, subleases, rental agreements, occupancy agreements, licenses, concessions, entry fees, other agreements which grant a possessory interest in all or any part of the Premises, together with all rents, issues, profits, revenues, proceeds, awards, accounts, security deposits and other benefits now or hereafter arising from the use and enjoyment of the Premises or any part thereof.

TO HAVE AND TO HOLD the Premises, with all privileges and appurtenances thereunto belonging, unto the Trustee, forever. Grantor covenants that Grantor is lawfully seized and possessed of the Premises as aforesaid, and has all requisite right and authority to convey the same, that the same is unencumbered except for those matters expressly set forth in Exhibit "B" attached hereto and by this reference made a part hereof, and that Grantor does warrant and will forever defend the title thereto to the Trustee and the Beneficiary against the claims of all persons whomsoever, except as to those matters set forth in said Exhibit "B".

This Deed is given to secure the following described indebtedness (collectively the "Indebtedness"):

- (a) All sums evidenced by that certain Promissory Note (hereinafter referred to as the "Note" dated of even date herewith, made by Grantor, payable to the order of the Beneficiary in the principal face amount of One Million Three Hundred Thirty Three Thousand Dollars (\$1,333,000.00), together with interest thereon, with the final payment being due on May 1, 2024, [unless extended as provided in the Note]; together with any and all modifications, renewals and/or extensions of the Note.
- (b) Any and all additional advances made by the Beneficiary to protect or preserve the Premises or the lien hereof on the Premises, or for taxes, assessments or insurance premiums as hereinafter provided (whether or not the original Grantor remains the owner of the Premises at the time of such advances).
- (c) Any and all other sums owed by Grantor to the Beneficiary hereunder, under the Note, or any and all other indebtedness, liabilities, or obligations of Grantor to the Beneficiary, of any nature whatsoever, whether now existing or hereafter created, whether direct, indirect or secondary, and any and all modifications, extensions or renewals thereof, including without limitation sums owed under any other instrument evidencing, securing or in any way concerning the debt evidenced by the Note, including but not limited to any indebtedness, liabilities or obligations owed to Beneficiary by Givers Gain, LLC in connection with a certain promissory note in the original principal amount of \$1,000,000.00 made by Givers Gain, LLC in favor of AT&T Small Business Lending Corporation

The Note, this Deed and the following instruments (if applicable) which evidence, secure and/or relate to the loan evidenced by the Note are hereinafter referred to as the "Security Documents."

- (a) Assignment of Leases and Rents dated of even date herewith by Grantor as assignor in favor of Beneficiary as assignee;
- (b) Security Agreement dated of even date herewith by Grantor as debtor in favor of Beneficiary as secured party;
- (c) Guaranty Agreement dated of even date herewith by Michael W. Knapp, JoAnn M. Knapp, Rapport Leadership International as guarantor (the "Guarantor") in favor of the Beneficiary (the "Guaranty"); and
- (d) All other documents, instruments or agreements now or hereafter securing, evidencing and/or relating to the debt secured by the Note.

Should the Indebtedness be paid according to the tenor and effect thereof when the same shall become due and payable, and should Grantor perform all covenants, terms and conditions herein contained in a timely manner, then this conveyance shall be null and void and may be canceled of record at the request and the expense of Grantor.

Grantor hereby further covenants and agrees as follows:

ARTICLE I

1.01 Payment of Indebtedness. Grantor will pay the Note according to the tenor thereof and all other sums now or hereafter secured hereby promptly as the same shall become due.

1.02 Taxes, Liens and Other Charges.

- (a) In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of the Indebtedness or this Deed or the manner of collecting taxes so as to adversely affect the Beneficiary (exclusive of any tax of Beneficiary's net income), Grantor will promptly pay any such tax. If Grantor fails to make such prompt payment or if, in the opinion of the Beneficiary, any such state, federal, municipal, or other governmental law, order, rule or regulation prohibits Grantor from making such payment or would penalize the Beneficiary if Grantor makes such payment or if, in the opinion of the Beneficiary, the making of such payment might result in the imposition of interest beyond the maximum amount permitted by applicable law, then the entire balance of the principal sum secured by this Deed and all interest accrued thereon shall, at the option of the Beneficiary, become immediately due and payable.
- (b) Grantor will pay (to the extent same are not paid from the escrowed funds provided for in Paragraph 1.04), before the same become delinquent, all taxes, liens, assessments and charges of every character including all utility charges, now or hereafter be levied or assessed upon the Premises; and upon demand will furnish the Beneficiary received bills evidencing such payment.
- (c) Grantor will not suffer or permit any mechanic's, materialman's, laborer's, statutory or other lien to remain outstanding upon all or any part of the Premises.
- (d) Grantor, at its expense, may contest, after prior written notice to Beneficiary, by appropriate legal proceedings conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of any taxes, liens, assessments or charges levied or assessed upon the Premises or any mechanic's, materialman's, laborer's, statutory or other lien filed against the Premises, so long as such proceedings operate to prevent the collection or other realization thereon, the sale or

forfeiture of the Premises or any part thereof to satisfy the same or the impairment of Beneficiary's lien; provided that (i) during such contest the Grantor shall, at the option of the Beneficiary, provide Beneficiary with security satisfactory to the Beneficiary, assuring the payment of the Indebtedness and of any additional interest charge, penalty or expense arising from or incurred as a result of such contest, and (ii) if at any time payment of any obligation imposed upon the Grantor under this Paragraph 1.02 shall become necessary to prevent the sale or forfeiture of the Premises or any part thereof to satisfy the same, then Grantor shall pay the same in sufficient time to prevent sale or forfeiture.

1.03 Insurance. Grantor agrees to keep the Premises insured against loss or damage by fire and other casualty with extended coverage and against any other risks or hazards which in the opinion of Beneficiary should be insured against, and in any case against all risks which persons engaged in the same business as is carried on at the Premises customarily insure against, with the minimum amount of said insurance to be no less than the amount of the Note. Grantor shall also carry insurance against the risk of rental or business interruption at the Premises, in an amount deemed satisfactory by Beneficiary. All of such insurance shall be placed with a company or companies and in such form and with such endorsements as may be approved or required by Beneficiary. Loss under all such insurance shall be payable to Beneficiary in accordance with this paragraph, and all such insurance policies shall be endorsed with a standard, non-contributory Beneficiary's clause in favor of Beneficiary. Grantor shall also carry public liability insurance, in such form, amount and with such companies as Beneficiary may from time to time require, naming Beneficiary as an additional insured. The policy or policies evidencing all insurance referred to in this paragraph and receipts for the payments of premiums thereon shall be delivered to and held by Beneficiary. All such insurance policies shall contain a provision requiring at least thirty (30) days notice to Beneficiary prior to any cancellation or modification. Grantor shall give Beneficiary satisfactory evidence of renewal of all such policies with premiums paid at least thirty (30) days before expiration. Grantor agrees to pay all premiums on such insurance as they become due, and will not permit any condition to exist on or with respect to the Premises which would wholly or partially invalidate any insurance thereon. Beneficiary shall not by the fact of approving, disapproving, accepting, preventing, obtaining or failing to obtain any such insurance, incur any liability for the form or legal sufficiency or absence of insurance contracts, solvency of insurers, or payment of losses, and Grantor hereby expressly assumes full responsibility therefor and all liability, if any, thereunder. Effective upon any default hereunder, all of Grantor's right, title and interest in and to all such policies and any unearned premiums paid thereon are hereby assigned to Beneficiary, which shall have the right, but not the obligation, to assign the same to any purchaser of the Premises at any foreclosure sale or other disposition thereof. The requirements of Beneficiary for insurance under the provisions of this paragraph may be modified or amended in whole or in part by Beneficiary, in its reasonable discretion, and Grantor agrees, upon any expiration of any existing policy or policies of insurance, to provide a replacement policy or policies which shall meet such amended or modified insurance standards. In the event of a loss, Grantor shall give immediate written notice to the insurance carrier and Beneficiary. Grantor hereby appoints Beneficiary its attorney-in-fact for the purposes hereinafter set out, and authorizes and empowers Beneficiary, at Beneficiary's option and in Beneficiary's sole discretion as attorney-in-fact for Grantor, to make proof of loss, to adjust and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Beneficiary's expenses incurred in the collection of such proceeds. Grantor understands and agrees that the power of attorney hereby granted to Beneficiary is a power coupled with an interest and is irrevocable until Beneficiary's interest hereunder is terminated by the payment and performance of all of Grantor's obligations and indebtedness secured hereby. Grantor further authorizes Beneficiary, at Beneficiary's option, (a) to hold all or any portion of such proceeds to be used to reimburse Grantor for the costs of reconstruction or repair of the Premises, or (b) to apply all or any portion of such proceeds to the payment of the sums secured by this Deed, whether or not then due. In the event Beneficiary elects to require repair, restoration or rebuilding as provided herein, Grantor shall deposit with Beneficiary any funds which may be required for such repair, restoration or rebuilding in excess of the net insurance proceeds received, which funds shall be deposited with Beneficiary and held and disbursed by Beneficiary, together with the net insurance proceeds received, in accordance

with the usual practices of Beneficiary or other lenders making construction loans. In the event Beneficiary elects to require repair, restoration or rebuilding hereunder, within thirty (30) days after notice to Grantor of such election Grantor shall deliver to Beneficiary plans and specifications for such rebuilding, restoration or repair acceptable to Beneficiary, which acceptance shall be evidenced by Beneficiary's written consent thereto, and Grantor shall thereafter commence the rebuilding, restoration or repair and complete same, all in substantial accordance with the plans and specifications, within four (4) months after the date of the damage or destruction. In the event Beneficiary elects to require rebuilding, restoration or repair hereunder and Grantor fails to comply with the requirements of this Deed with respect thereto, Beneficiary may accelerate payment of the indebtedness secured hereby and demand immediate payment of all of such indebtedness, and may apply the net insurance proceeds received, to the payment of such indebtedness. If the insurance proceeds are applied to the payment of the sums secured by this Deed, any such application of proceeds to principal shall be in such order as Beneficiary may determine and, if after so applying such insurance proceeds Beneficiary reasonably determines the remaining security to be inadequate to secure the remaining indebtedness, Grantor shall upon written demand from Beneficiary prepay on principal such an amount as will reduce the remaining indebtedness to a balance for which adequate security is present.

1.04 Impounds. Grantor shall, if requested by Beneficiary, deposit with Beneficiary or Beneficiary's designee on each monthly payment date as set forth in the Note one-twelfth (1/12) of the reasonably estimated amount of real estate taxes assessed or to be assessed against the Premises for the then current year, together with one-twelfth (1/12) of the reasonably estimated total of all insurance premiums required to be paid for the then current year, as estimated by Beneficiary, together with any extra amount necessary so that the next installments of real property taxes and insurance premiums may be paid from the deposit. Such moneys shall at proper times be progressively returned to Grantor for use in the actual payment of said taxes and said insurance premiums or, at the sole election of Beneficiary, Beneficiary may use said moneys in actual payment of such taxes and premiums, but nothing in this paragraph shall release Grantor from its obligations to pay said taxes as the same become due and payable under the provisions hereof and to maintain in force all insurance policies as required hereby. All impounds required under this paragraph shall be deposited in a non-interest bearing account of Beneficiary, to be withdrawn by Beneficiary at such times and in such amounts as shall be deemed appropriate by Beneficiary. All amounts deposited under this paragraph are hereby assigned to Beneficiary as additional security for all indebtedness secured by this Deed, and so long as any Default as set forth herein including a default in the payment of any money or the performance of any covenant or obligation herein contained or secured hereby exists, then any deposits made by Grantor under this paragraph may, at the option of Beneficiary, be applied to the payment of principal and interest or other indebtedness secured hereby, in lieu of being applied to any of the purposes of this paragraph 1.04 previously stated.

1.05 Condemnation and Other Awards. If the Premises or any part thereof is taken or diminished in value, or if a consent settlement is entered, by or under threat of such proceeding, the award or settlement payable to Grantor by virtue of its interest in the Premises shall be, and by these presents is, assigned, transferred and set over unto, and to be held by Beneficiary subject to the lien and security interest of this Deed, and disbursed at Beneficiary's option, (a) to hold all or any portion of such proceeds to be used to reimburse Grantor for the costs of reconstruction or repair of the Premises, or (b) to apply all or any portion of such proceeds to the payment of the sums secured by this Deed, whether or not then due. In the event Beneficiary elects to require repair, restoration or rebuilding as provided herein, Grantor shall deposit with Beneficiary any funds which may be required for such repair, restoration or rebuilding in excess of the net funds received in respect of the taking or diminution in value, which funds shall be deposited with Beneficiary and held and disbursed by Beneficiary, together with the net funds received in respect of the taking or diminution in value, in accordance with usual practices of Beneficiary or other lenders making construction loans. In the event Beneficiary elects to require repair, restoration or rebuilding hereunder, within thirty (30) days after notice to Grantor of such election Grantor shall deliver to Beneficiary plans and specifications for such rebuilding, restoration or repair acceptable to Beneficiary, which acceptance shall be evidenced by

Beneficiary's written consent thereto, and Grantor shall thereafter commence the rebuilding, restoration or repair and complete same, all in substantial accordance with the plans and specifications, within four (4) months after the date of the taking or diminution in value. In the event Beneficiary elects to require rebuilding, restoration or repair hereunder and Grantor fails to comply with the requirements of this Deed with respect thereto, Beneficiary may accelerate payment of the indebtedness secured hereby and demand immediate payment of all of such indebtedness, and may apply the net funds received in respect of the taking or diminution in value to the payment of such indebtedness. If the proceeds are applied to the payment of the sums secured by this Deed, any such application of proceeds to principal shall be in such order as Beneficiary may determine and, if after so applying such proceeds Beneficiary reasonably determines the remaining security to be inadequate to secure the remaining indebtedness, Grantor shall upon written demand from Beneficiary prepay on principal such an amount as will reduce the remaining indebtedness to a balance for which adequate security is present.

1.06 Care of Premises.

- (a) Grantor will keep the buildings, parking areas, roads and walkways, recreational facilities, landscaping and all other improvements of any kind now or hereafter erected on the Land or any part thereof, and the fixtures, furnishings and equipment therein and thereon, in good condition and repair, will not commit or suffer any waste and will not do or suffer to be done anything which will increase the risk of fire or other hazard to the Premises or any part thereof.
- (b) Grantor will not remove or demolish or alter the structural character of any improvement located on the Land without the written consent of the Beneficiary.
- (c) If the Premises or any part thereof is damaged by fire or any other cause, Grantor will give immediate written notice thereof to the Beneficiary.
- (d) The Beneficiary, Trustee or their respective representatives are hereby authorized to enter upon and inspect the Premises at any time during normal business hours or, upon an occurrence of an Event of Default, at any time.
- (e) Grantor will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Premises or any part thereof. Grantor will deliver to the Beneficiary within ten (10) days after Grantor's receipt thereof copies of any additional governmental permits or approvals or disapprovals or notices issued with regard to the Premises or any portion thereof.
- (f) If all or any part of the Premises shall be damaged by fire or other casualty, Grantor will promptly restore the Premises to the equivalent of its original condition; and if a part of the Premises shall be damaged through condemnation, Grantor will promptly restore, repair or alter the remaining portions of the Premises in a manner satisfactory to the Beneficiary. Notwithstanding the foregoing, Grantor shall not be obligated to so restore unless in each instance, the Beneficiary agrees to make available to Grantor (pursuant to a procedure satisfactory to the Beneficiary) any net insurance or condemnation proceeds actually received by the Beneficiary hereunder in connection with such casualty loss or condemnation, to the extent such proceeds are required to defray the expense of such restoration; provided, however, that the unavailability or insufficiency of any such insurance or condemnation proceeds to defray the entire expense of restoration shall in no way relieve Grantor of its obligation to restore. In the event all or any portion of the Premises shall be damaged or destroyed by fire or other casualty or by condemnation, Grantor shall promptly deposit with the Beneficiary a sum equal to the amount by which an architect's estimate (acceptable to Beneficiary) of cost of the restoration of the Premises exceeds the actual net insurance or condemnation proceeds received by the Beneficiary in connection with such damage or destruction.

1.07 Leases and Other Agreements Affecting Property. Grantor will duly and punctually perform all terms, covenants, conditions and agreements binding upon it under any lease, sublease, rental agreement, occupancy agreement or any other agreement of any nature whatsoever which involves or affects the Premises or any part thereof. Grantor will furnish the Beneficiary with executed copies of all leases, subleases, rental agreements or occupancy agreements now or hereafter created upon the Premises or any part thereof. Grantor will not without the express written consent of the Beneficiary, enter into any lease, sublease or occupancy agreements with respect to the Premises or any portion thereof. Grantor will not, without the express written consent of the Beneficiary, terminate or modify either orally or in writing, any lease, sublease, rental agreement or occupancy agreement now existing or hereafter created upon the Premises or any part thereof, nor will Grantor permit any assignment or a subletting by any Tenant without the prior express written consent of the Beneficiary. In order to further secure payment of the Note and the observance, performance and discharge of Grantor's obligations, Grantor hereby assigns, transfers and sets over unto the Beneficiary, and grants the Beneficiary a security interest in, all of Grantor's right, title and interest in, to and under all leases, subleases, rental agreements, occupancy agreements, licenses, concessions, entry fees, other agreements which grant a possessory interest and other contracts now or hereafter affecting the Premises or any part thereof and in and to all of the rents, issues, profits, revenues, proceeds, awards and other benefits now or hereafter arising from the use and enjoyment of the Premises or any part thereof; provided, however, that Beneficiary hereby licenses back to Grantor the right to collect the same so long as Grantor is not in default hereunder.

1.08 Security Agreement and Fixture Filing. Insofar as (i) any of the property listed in paragraphs (b) through (e) on pages 2 and 3 hereof and, (ii) all other personal property either referred to or described in this Deed, or in any way connected with the use or enjoyment of the Premises (hereinafter all collateral defined in Sections (i) and (ii) hereof shall be collectively referred to as "Collateral") this Deed, in compliance with the provisions of the Uniform Commercial Code as enacted in the State of Colorado as it may be amended from time to time (the "UCC"), is hereby made and declared to be: (x) a security agreement, encumbering the Collateral and (y) a fixture filing. Grantor does hereby grant to the Beneficiary a continuing lien and security interest in and to all of said Collateral and all replacements, substitutions, additions and proceeds thereof and all after-acquired property relating thereto. A financing statement or statements reciting this Deed to be a security agreement, affecting all of said Collateral aforementioned, shall be executed by Grantor and the Beneficiary and appropriately filed. Grantor covenants and agrees that, prior to changing its name, identity or structure, it will so notify the Beneficiary and will promptly execute any financing statements or other instruments deemed necessary by the Beneficiary to prevent any filed financing statement from becoming seriously misleading or losing its perfected status. The remedies for any violation of the covenants, terms and conditions of the security agreement herein contained shall be (i) as prescribed herein, or (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory consequences now or hereafter enacted and specified in the UCC, all at the Beneficiary's sole election. Grantor and the Beneficiary agree that the filing of such financing statement(s) in the records normally having to do with personal property shall never be construed in anywise derogating from or impairing this declaration and hereby stated intention of Grantor and the Beneficiary that everything used in connection with the production of income from the Premises, adapted for use therein, and/or which is described in this Deed, is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (a) any such item is physically attached to the improvements, (b) serial numbers are used for the better identification of certain items capable of being thus identified in a recital contained herein, or (c) any such item is referred to or reflected in any such financing statement(s) so filed at any time. Similarly, the mention in any such financing statement(s) of the rights in and to (aa) the proceeds of any insurance policy relating to the Premises, or (bb) any award in eminent domain proceedings for a taking or for loss of value, or (cc) Grantor's interest as lessor in any present or future lease, sublease, or rights to income growing out of the use and/or occupancy of the Premises, whether pursuant to lease, sublease, or otherwise, shall never be construed as in anywise altering any of the rights of the Beneficiary as determined by this instrument or impugning the priority of the Beneficiary's lien granted hereby or by any other recorded document, but such mention in such financing statement(s) is declared

to be for the protection of the Beneficiary in the event any court shall at any time hold with respect to the foregoing (aa), (bb) or (cc), that notice of the Beneficiary's priority of interest to be effective against a particular class of persons, must be filed in the UCC records. The information contained herein is provided in order that this Deed shall comply with the requirements of the UCC for instruments to be filed as financing statements. The "Debtor" is the Grantor hereunder; the "Secured Party" is the Beneficiary herein, the principal place of business of the "Debtor" is as set forth on Page 1 of this Deed, the mailing addresses of the "Debtor and "Secured Party" are as set forth on Page 1 of this Deed, and the types or items of collateral are as described hereinabove.

1.09 Further Assurances: After Acquired Property. At any time, and from time to time, upon request by the Beneficiary, Grantor will make, execute and deliver or cause to be made, executed and delivered, to the Beneficiary and, where appropriate, cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by the Beneficiary, any and all such other and further deeds to secure debt, security agreements, financing statements, continuation statements, instruments of further assurance, certificates and other documents as may, in the opinion of the Beneficiary, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve (a) the obligation of Grantor under the Note and under this Deed, and (b) the lien of this Deed as a lien upon and security title in and to all of the Premises, whether now owned or hereafter acquired by Grantor. Upon any failure by Grantor so to do, the Beneficiary may make, execute, record, file, re-record and/or refile any and all such deeds to secure debt, deeds of trust, security agreements, financing statements, continuation statements, instruments, certificates, and documents for and in the name of Grantor and Grantor hereby irrevocably appoints the Beneficiary the agent and attorney-in-fact of Grantor so to do. The lien hereof will automatically attach, without further act, to all after acquired property attached to and/or used in the operation of the Premises or any part thereof.

1.10 Expenses.

- (a) If any action or proceeding is commenced to which action or proceeding the Beneficiary or the Trustee is made a party or in which it becomes necessary to defend or uphold the lien of this Deed, the Grantor shall, on demand, reimburse the Beneficiary and the Trustee for all expenses (including, without limitation, reasonable attorneys' fees and appellate attorneys' fees) incurred by the Beneficiary and/or the Trustee in any such action or proceeding. In any action or proceeding to foreclose this Deed or to recover or collect all or any portion of the Indebtedness, the provisions of law relating to the recovering of costs, disbursements and allowances shall remain unaffected by this covenant.
- (b) The Grantor shall pay when due all payments and charges on all liens, encumbrances, ground and other leases, and security interests which may be or become superior or inferior to the lien of this Deed, and, if Grantor shall not make such payments and charges and the Grantor shall, on demand, reimburse the Beneficiary for amounts so paid. In addition, upon default of the Grantor in the performance of any other terms, covenants, conditions or obligations by it to be performed under any such prior or subordinate lien, encumbrance, lease or security interest, the Beneficiary shall have the right, but shall not be obligated, to cure such default in the name and on behalf of the Grantor. All sums advanced and reasonable expenses incurred at any time by the Beneficiary pursuant to this Paragraph 1.10 or as otherwise provided under the terms and provisions of this Deed or under applicable law shall bear interest from the date that such sum is advanced or expense incurred, to and including the date of reimbursement, computed at an interest rate equal to the lesser of the Default Rate under the Note, or the highest lawful contract rate.
- (c) The Grantor agrees to bear and pay all expenses (including reasonable attorneys' fees and appellate attorneys' fees actually incurred) of or incidental to the enforcement of

any provision hereof, or the enforcement, compromise or settlement of this Deed or the Indebtedness, and for the curing thereof, or for defending or asserting the rights and claims of the Beneficiary in respect thereof, by litigation or otherwise. All rights and remedies of the Beneficiary shall be cumulative and may be exercised singly or concurrently. Notwithstanding anything herein contained to the contrary, the Grantor, being an experienced developer and participant in sophisticated real estate ventures, and having consulted with counsel of its choosing: (a) hereby waives trial by jury in any action brought by Beneficiary to enforce any provisions of this Deed; (b) will not (i) at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any stay or extension or moratorium law, any exemption from execution or sale of the Premises or any part thereof, wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Deed, nor (ii) claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision herein, or pursuant to the decree, judgment or order of any court of competent jurisdiction, nor (iii) after any such sale or sales, claim or exercise any right under any statute heretofore or hereafter enacted to redeem the property so sold or any part thereof; (c) hereby expressly waives all benefit or advantage of any such law or laws referred to in subparagraph (b) above; and (d) covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Beneficiary, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted. The Grantor, for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the Premises marshalled upon any foreclosure hereof.

1.11 Estoppel Affidavits. Grantor, upon fifteen (15) days prior written notice, shall furnish to the Beneficiary a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the Indebtedness and whether or not any offsets or defenses are claimed to exist against such principal and interest, and such other information as may be requested by the Beneficiary.

1.12 Subrogation. The Beneficiary shall be subrogated to the claims and liens of all parties whose claims or liens are discharged or paid with the proceeds of the Indebtedness.

1.13 Financial Statements and Other Disclosures. Grantor represents and warrants to Beneficiary that all financial statements and credit applications delivered by Grantor to Beneficiary accurately reflect the financial condition and operations of Grantor at the times and for the periods therein stated. So long as this Deed is in force and effect, Grantor agrees to deliver to Beneficiary, within 90 days after the end of each of Grantor's fiscal years, an income statement on the use and operation of the Premises, a complete and accurate copy of Grantor's financial statements, including consolidated statements of cash flow, and a consolidated balance sheet and statement of income, together with all schedules, all prepared in accordance with generally accepted accounting principles reviewed by an independent accountant and certified by an officer of the Grantor, showing the consolidated financial position of Grantor at the close of such fiscal year, and concurrently therewith a certificate of its president or chief financial officer to the effect that such officer is not aware of any condition or event which constitutes a default under this Deed, or a default under any franchise agreement which Grantor is a party, or under any notes or obligations or which, with the mere passage of time or notice, or both, would constitute a default under this Deed or a default under any such franchise agreement or under any notes or obligations of the Grantor. Grantor hereby agrees to immediately notify Beneficiary in writing as to the existence of any notes payable by Grantor, or any related person or entity to any franchisor for unpaid royalties or other unpaid obligations to such franchisor.

1.14 Limit of Validity. All agreements between the Grantor and the Beneficiary are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the proceeds of the Note, acceleration of maturity of the unpaid principal balance of the Note or otherwise, shall the amount paid or agreed to be paid to the Beneficiary for the use, forbearance

or detention of the money to be advanced hereunder exceed the highest lawful rate permissible under applicable usury laws. If, from any circumstances, whatsoever fulfillment of any provision hereof or of the Security Documents shall involve transcending the limit of validity prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, and, if from any circumstance the Beneficiary shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due under the Note and not to the payment of interest. This provision shall control every other provision of all agreements between the Grantor and the Beneficiary.

1.15 No Further Encumbrances. Grantor shall not, directly or indirectly (including, without limitation, by equipment leasing or similar arrangements, or by pledging or hypothecation of partnership interests in Grantor), further encumber the Premises, or any part thereof, it being understood by Grantor that the Premises, and all parts thereof, shall remain free and clear of any and all debt instruments or other obligations for repayment of money except those given in connection with the loan evidenced by the Note.

1.16 Restrictions on Transfers.

- (a) Grantor shall not, without first obtaining the prior written consent of the Beneficiary (which consent may be given or withheld by the Beneficiary in the Beneficiary's sole discretion), whether voluntarily or involuntarily by operation of law or otherwise (i) transfer, sell, convey or assign all or any portion of the Premises, or contract to do any of the foregoing, including, without limitation, options to purchase and installment sales contracts, land contracts, real estate contracts or contracts for deed, (ii) (except as permitted by Section 1.07 of this Deed) lease all or any portion of the Premises or change the legal possession or use thereof, (iii) except as provided in this Paragraph, permit the dilution, transfer, pledge, hypothecation or encumbrance of any partnership interest of Grantor, or of any stock, partnership or beneficial interests in any partner of Grantor which is a corporation, partnership or a trust (exclusive of Grantor limited partner transfers), or (iv) permit the assignment, transfer, delegation, change, modification or any diminution of the duties or responsibilities of Grantor as manager of the Premises (except to a professional management company or companies acceptable to Beneficiary, in Beneficiary's sole discretion). Without limiting the generality of the preceding sentence, the prior written consent of the Beneficiary shall be required for (i) any transfer made to a subsidiary or affiliate entity of Grantor, (ii) any transfer made to a reconstituted general or limited partnership, (iii) transfers by any partnership to its individual partners or vice versa, (iv) any transfer by any corporation to its stockholders or vice versa, (v) any corporate merger or consolidation. In the event that the Beneficiary, in the Beneficiary's sole discretion, is willing to consent to a transfer which would otherwise be prohibited by this Paragraph 1.16(a), the Beneficiary may condition its consent on such terms as it desires, including, without limitation, an increase in the interest rate of the Note (and recalculation of the amortization provisions thereof), and the requirement that Grantor pay a transfer fee, together with any expenses incurred by the Beneficiary in connection with the granting of such consent (including, without limitation, attorneys' fees).
- (b) If Grantor violates the terms of Paragraph 1.16(a) hereof, in addition to any other rights or remedies which Grantor may have herein, in any other Security Document, or at law or in equity, Beneficiary may increase the interest rate charged on the Indebtedness up to the Default Rate, such interest being due on demand and being secured by this Deed.

1.17 Representations and Warranties. As a special inducement to the Beneficiary to make the loan evidenced by the Note, and with knowledge that the Beneficiary will rely thereon, Grantor represents and warrants to the Beneficiary as follows:

- (a) There exist no leases or subleases, occupancy agreements or similar arrangements affecting all or any portion of the Premises other than those identified on Exhibit "C" attached hereto and by this reference made a part hereof;
- (b) There are no license, franchise, commission, management, service, maintenance, or other contracts or agreements in existence affecting in any way the operation, maintenance or conduct of business at the Premises other than those identified on Exhibit "C".
- (c) There are no equipment leases, rental agreements or similar arrangements affecting in any way the operating, maintenance or conduct of business at the Premises other than those identified on Exhibit "C".
- (d) All licenses, permits and other approvals necessary or appropriate for conduct of the business carried out at the Premises have been obtained by Grantor and same are current and in full force and effect.
- (e) All sales and payroll tax obligations of Grantor which are due and payable have been satisfied.
- (f) There are no UCC Financing Statements which affect or encumber any portion of the Premises or any other security for the Indebtedness other than those in favor of Beneficiary.

1.18. Environmental Representations and Warranties. Grantor represents and warrants to Beneficiary that: (a) during the period of Grantor's ownership of the Premises, there has not been, nor will there be in the future, any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance by any person or entity on, or about the Premises; (b) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Beneficiary in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance by any prior owners or occupants of the Premises or (ii) any actual or threatened litigation or claims of any kind by any person or entity relating to such matters; and (c) except as previously disclosed to and acknowledged by Grantor in writing, (i) neither Grantor nor any tenant, contractor, agent, or other authorized user of the Premises shall use, generate, manufacture, store, treat, dispose of, or release any hazardous waste or substance on, under, or about the Premises and (ii) all such activity shall be conducted in full compliance with all applicable federal, state, and local laws, regulations and ordinances. Grantor, at any time during usual business hours, authorizes Beneficiary and its agents to enter upon the Premises to make such inspections and tests, including, without limitation, intrusive tests, at Grantor's expense, as Beneficiary may deem appropriate to determine compliance with this section of the Deed and the absence of any hazardous waste or hazardous substance on or near the Premises. Any inspections or tests made by Beneficiary shall be for Beneficiary's purposes only and shall not be construed to create any responsibility or liability on the part of Beneficiary. Grantor hereby (a) releases and waives any future claims against Beneficiary for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs associated therewith, and (b) agrees to indemnify and hold harmless Beneficiary against any and all claims, losses, liabilities, damages, penalties, and expenses, which Beneficiary may directly or indirectly sustain or suffer resulting from a breach of this section of the Deed or as a consequence of any use, generation, manufacture, storage, disposal, release, or threatened release occurring prior to Grantor's ownership or interest in the Premises, whether or not the same was or should have been known to Grantor. The provisions of this paragraph of the Deed, including the obligation to indemnify, shall survive the payment of the indebtedness secured herein and the satisfaction and reconveyance of the lien of this Deed and shall not be affected by Beneficiary's acquisition of any interest in the Premises, whether by foreclosure or otherwise. The terms "hazardous waste," "disposal," "release," and "threatened release," as used in this Deed shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of

1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA") the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation Act, 49 U.S.C. Section 6901 et seq., as amended, or other applicable state or federal laws, rules or regulations adopted pursuant to any of the foregoing. The term "hazardous waste" and "hazardous substance" shall also include, without limitation, petroleum and petroleum by-products and asbestos.

1.19 Management of the Premises. Grantor agrees that so long as this Deed is in effect, the Premises may not be managed by any entity except by Grantor, unless the Beneficiary has given its prior written approval to the respective professional management company (the "Managing Agent") and the management contract (the "Management Contract"). In such event, Grantor shall collaterally assign its rights under the Management Contract to Beneficiary. Additionally, the Managing Agent shall enter into the Beneficiary's then-current "Consent to Collateral Assignment of Management Agreement" which shall provide, *inter alia*, that (i) the Management Contract may not be modified or terminated so long as this Deed is in effect without the prior written consent of the Beneficiary; (ii) in the event of an Event of Default hereunder, all amounts due and payable to the Managing Agent under the Management Contract shall be subordinate to the Indebtedness and (iii) in the event of a default by the Grantor under the Management Contract, the Managing Agent shall provide the Beneficiary with prompt written notice of such default, and the Beneficiary shall have the right, but not the obligation, to cure such default within a reasonable period of time.

1.20 Use of Premises. Grantor represents and warrants that as of the date of this Deed, the Premises are used for [office, retail, restaurant, and parking] uses only. Grantor covenants that Grantor will not allow any other uses on the Premises unless Beneficiary has given its prior written consent thereto.

ARTICLE II

2.01 Events of Default. The terms "Event of Default" or "Events of Default", wherever used in this Deed, shall mean any one or more of the following events:

- (a) Failure by Grantor to pay within ten (10) days after due, as and when due and payable any sum due under the Note, this Deed, or any payment of tax or insurance premium when due; or
- (b) Failure by Grantor to duly observe, comply with or perform within ten (10) days after written notice of such failure is given to Grantor, any other term, covenant, condition or agreement of this Deed not requiring the payment of money by Grantor except Paragraphs 1.15 and 1.16; or
- (c) The occurrence of a default or event of default under or failure by Grantor or any Guarantor to perform any of its or their obligations under any of the Security Documents, which is not cured within any applicable cure period; or
- (d) Any warranty or representation of Grantor contained in this Deed or in any other instrument, document, transfer, conveyance, assignment, loan agreement or financial statement given by Grantor with respect to the Indebtedness secured hereby, is incomplete, untrue or misleading in any material respect; or
- (e) The filing by Grantor, its general partners (if any) or any Guarantor of a voluntary petition in bankruptcy or adjudication of Grantor or any Guarantor as a bankrupt or insolvent, or the filing by Grantor or any Guarantor of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the seeking or consenting to or acquiescing in the appointment of any

trustee, receiver or liquidator of Grantor or any Guarantor or of all or any substantial part of the Premises or of any or all of the rents, issues, profits or revenues thereof, or the making by Grantor or any Guarantor of any general assignment for the benefit of creditors, or the admission in writing by Grantor or any Guarantor of its inability to pay its debts generally as they become due; or

- (f) The entry by a court of competent jurisdiction of an order, judgment or decree approving a petition, filed against Grantor or any Guarantor, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or other relief under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, which order, judgment or decree remains unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or the appointment of any trustee, receiver or liquidator of Grantor, or any Guarantor, or of all or any substantial part of the Premises or of any or all of the rents, issues, profits or revenues thereof without the consent or acquiescence of Grantor, which appointment shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive); or
- (g) Failure by Grantor to comply with the terms of Paragraphs 1.15 or 1.16 hereof; or
- (h) The termination, liquidation or dissolution of Grantor; or
- (i) Failure to maintain any license, permit, or contract necessary or appropriate for conduct of any business now or hereafter being operated at the Premises, or the failure timely to pay any sales, employment or similar tax imposed on Grantor or the Premises; or
- (j) If the manager of the Premises is changed without Beneficiary's prior written consent; or
- (k) Any default which shall occur by Grantor under any other loan or extension of credit (including, without limitation, equipment leases) for which Grantor is responsible for making payments, whether or not such loan or extension of credit is made by the Beneficiary or others; or
- (l) Any default under any note or mortgage, evidencing or securing indebtedness of an entity affiliated with Grantor in favor of the Beneficiary or its affiliates; or

2.02 Acceleration of Maturity. If any Event of Default shall have occurred, then the entire Indebtedness shall, at the option of the Beneficiary, immediately become due and payable without notice or demand, time being of the essence of this Deed, and no omission on the part of the Beneficiary to exercise such option when entitled to do so shall be construed as a waiver of such right.

2.03 Beneficiary's Right to Enter and Take Possession, Operate and Apply Revenues.

- (a) If any Event of Default shall have occurred, Grantor upon demand of the Beneficiary, shall forthwith surrender to the Beneficiary the actual possession of the Premises, and if, and to the extent, permitted by law, the Beneficiary itself, or by such officers or agents as it may appoint, may enter and take possession of all the Premises without the appointment of a receiver, or an application therefor, and may exclude Grantor and its agents and employees wholly therefrom, and may have joint access with Grantor to the books, papers and accounts of Grantor.
- (b) If Grantor shall for any reason fail to surrender or deliver the Premises or any part thereof after such demand by the Beneficiary, the Beneficiary may obtain a judgment or decree conferring upon the Beneficiary the right to immediate possession or

requiring Grantor to deliver immediate possession of the Premises to the Beneficiary, to the entry of which judgment or decree Grantor hereby specifically consents. Grantor will pay to the Beneficiary, upon demand, all expenses of obtaining such judgment or decree, including reasonable compensation to the Beneficiary, its attorneys and agents; and all such expenses and compensation shall, until paid, be secured by the lien of this Deed.

- (c) Upon every such entering upon or taking of possession, the Beneficiary may hold, store, use, operate, manage and control the Premises and conduct the business thereof, and, from time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property; (ii) insure or keep the Premises insured; (iii) manage and operate the Premises and exercise all the rights and powers of Grantor to the same extent as Grantor could in its own name or otherwise with respect to the same; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted the Beneficiary, all as the Beneficiary from time to time may determine to be in its best interest. The Beneficiary may collect and receive all the rents, issues, profits and revenues from the Premises, including those past due as well as those accruing thereafter, and shall have the benefit of all operating expenses and deposits prepaid by Grantor, and, after deducting (aa) all out-of-pocket and administrative expenses of taking, holding, managing and operating the Premises (including compensation for the services of all persons employed for such purposes); (bb) the cost of all such maintenance, repairs, renewals, replacements, additions, improvements, purchases and acquisitions; (cc) the cost of such insurance; (dd) such taxes, assessments and other similar charges as the Beneficiary may at its option pay; (ee) other proper charges upon the Premises or any part thereof; and (ff) the reasonable compensation, expenses and disbursements of the attorneys and agents of the Beneficiary, and (gg) the payment of deposits required in Paragraph 1.04, the Beneficiary shall apply the remainder of the moneys so received by the Beneficiary as set forth in the Note.
- (d) If an Event of Default shall have occurred, the Beneficiary shall have the right, in its sole discretion, on Grantor's behalf, to terminate any management agreements, contracts or agents/managers responsible for property management of the Premises, and any such contracts, agreements, managers or agents shall expressly so agree.
- (e) Whenever all Events of Default have been cured if the Beneficiary in the Beneficiary's sole discretion shall have accepted such cure, the Beneficiary shall surrender possession of the Premises to Grantor, its successors or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

2.04 Performance by the Beneficiary of Defaults by Grantor. If Grantor shall default in the payment, performance or observance of any term, covenant or condition of this Deed, the Beneficiary may, at its option, without waiving the right to accelerate the maturity of the Indebtedness, pay, perform or observe the same. The Beneficiary shall be the sole judge of the necessity for any such actions and of the amounts to be paid. The Beneficiary is hereby empowered to enter and to authorize others to enter upon the Premises or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to Grantor or any person in possession holding under Grantor.

2.05 Receiver. If an Event of Default shall have occurred, the Beneficiary, upon application to a court of competent jurisdiction, shall be entitled without notice and without regard to the occupancy or value of any security for the Indebtedness or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Premises and to collect, apply and use the rents, issues, profits and revenues thereof, including those past due as well as those accruing thereafter, and said receiver shall have the benefit of all operating expenses and deposits prepaid by Grantor it being acknowledged by Grantor that if an Event of

Default shall have occurred, that Beneficiary shall have the right to the Premises and that the Premises and the rents and profits therefrom in such event will be in danger of being lost, or materially injured or impaired. The receiver shall have all of the rights and powers permitted under the laws of the state wherein the Land is situated. Grantor will pay to the Beneficiary upon demand all expenses, including receiver's fees, attorney's fees, costs and agent's compensation, incurred pursuant to the provisions of this Paragraph 2.05; and all such expenses shall be secured by this Deed.

2.06 Enforcement.

- (a) Upon the occurrence of an Event of Default, the Beneficiary may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against the Grantor and to the Premises, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as the Beneficiary may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of the Beneficiary: (1) exercise the rights granted in Paragraphs 2.02 through 2.05 hereof, (2) exercise the power of sale and/or institute proceedings for the complete foreclosure of this Deed; (3) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Deed for the portion of the Indebtedness then due and payable, subject to the continuing lien of this Deed for the balance of the Indebtedness not then due; (4) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein or in the Note; (5) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Deed, or (6) pursue such other remedies as Beneficiary may have under applicable law.
- (b) Upon the occurrence of an Event of Default and the election of the Beneficiary to effect a trustee's sale of the Premises in lieu of judicial foreclosure, then the Beneficiary may instruct the Trustee to commence such sale and consummate such sale in the following manner:

The Trustee shall sell the Premises at public auction for cash, after having first given such notice of hearing as to the commencement of foreclosure proceedings and obtaining such findings or leave of court as may be then required by law in giving such notice and advertising the time and place of such sale in such manner as may be provided by law, and upon such and any resales and upon compliance with the law then relating to foreclosure proceedings, to convey title to purchaser as hereinafter set forth.

The Trustee shall deliver to the purchaser at any such Trustee's sale its deed, without warranty, which shall convey to the purchaser the interest in the Premises which the Grantor has or has the power to convey at the time of the execution of this Deed, and such as it may have acquired hereafter. The Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrances.

- (c) The proceeds of any sale made under this Article II, together with any other sums which then may be held by the Beneficiary under this Deed, whether under the provisions of this Article II or otherwise, shall be applied as follows:

First: To the payment of the cost and expenses of any such sale, including reasonable compensation to the Beneficiary, its agents and counsel, of the cost and expenses of any judicial proceedings wherein the same may be made, of any reasonable trustee's commission, and a reasonable auctioneer's fee if such expense has been incurred.

Second: To payment of taxes due and unpaid on the property sold, unless the notice of sale provided that the property be sold subject to special assessments thereon and the property was so sold.

Third: To payment of special assessments, or any installments thereof, against the property sold, which are due and unpaid, unless the notice of sale provided that the property be sold subject to special assessment thereon and the property was so sold.

Fourth: To payment of all expenses, liabilities and advances made or incurred by the Beneficiary under this Deed, together with interest as provided herein on all advances made by the Beneficiary and all taxes or assessments, except any taxes, assessments or other charges subject to which the Premises shall have been sold.

Fifth: To the payment of the whole amount then due, owing or unpaid under the Indebtedness.

Sixth: To the payment of any other sums required to be paid by the Grantor pursuant to any provisions of this Deed or of the Note.

Seventh: To the payment of the surplus, if any, to whomever may be lawfully entitled to receive the same.

The Beneficiary and any receiver of the Premises, or any part thereof, shall be liable to account for only those rents, issues, profits and proceeds actually received by it.

- (d) In case of a sale under this Deed, the Premises, real, personal and mixed, may be sold in one parcel or more than one parcel.
- (e) The purchaser of the Premises sold pursuant to this Deed may, during any redemption period allowed to Grantor or any other party, make such repairs or alterations on said property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the rate of the lesser of the Default Rate under the Note or the highest lawful contract rate shall be added to and become a part of the amount required to be paid for redemption from such sale.
- (f) Upon any sale made under this Deed, the Beneficiary may bid for and acquire the Premises or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Indebtedness the net sale price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which the Beneficiary is authorized to deduct under this Deed.
- (g) No recovery of any judgment by the Beneficiary and no levy of an execution under any judgment upon the Premises or upon any other property of the Grantor shall affect in any manner or to any extent, the lien of this Deed upon the Premises or any part thereof, or any liens, rights, powers or remedies of the Beneficiary hereunder, but such liens, rights, powers, and remedies of the Beneficiary shall continue unimpaired as before.
- (h) In the event of any sale made under or by virtue of this Deed the entire Indebtedness secured hereby, if not previously due and payable, immediately thereupon shall, anything in the Note or in this Deed to the contrary notwithstanding, become due and payable.

2.07 Interest After Default. If any payment due hereunder is not paid when due, then and in such event, the Grantor shall pay interest thereon from and after the date on which such payment first becomes due at the Default Rate provided in the Note and such interest shall be due and

payable, on demand, whether or not any action shall have been taken or proceeding commenced to recover the same or to foreclose this Deed. Nothing in this Paragraph 2.07 or in any other provision of this Deed shall constitute an extension of the time of payment of the Indebtedness.

2.08 Grantor's Actions After Default. After the happening of any Event of Default and immediately upon the commencement of any action, suit or other legal proceeding by the Beneficiary to obtain judgment for the Indebtedness, or any portion thereof, or of any other nature in and of the enforcement of the Note or of this Deed, the Grantor will, if required by the Beneficiary, consent to the appointment of a receiver or receivers of the Premises and of all the earnings, revenues, rents, issues, profits and income thereof.

2.09 Control By Beneficiary After Default. Notwithstanding the appointment of any receiver, liquidator or trustee of the Grantor, or of any of its property, or of the Premises or any part thereof, the Beneficiary shall be entitled to retain possession and control of all property now and hereafter covered by this Deed.

2.10 Waiver of Appraisalment, Valuation, Stay, Execution and Redemption Laws. Grantor agrees to the full extent permitted by law, that in the case of a default on the part of Grantor hereunder, neither Grantor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisalment, valuation, stay, extension, homestead, exemption or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Deed, or the absolute sale of the Premises, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereof, and Grantor, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprised in the security intended to be created hereby marshalled upon any foreclosure of the lien hereof.

2.11 Remedies Cumulative. No right, power or remedy conferred upon or reserved to the Beneficiary by this Deed is intended to be exclusive of any other right, power or remedy, but each and every right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder now or hereafter existing at law or in equity or by statute.

2.12 Waiver.

- (a) No delay or omission of the Beneficiary or of any holder of the Note to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein; any every right, power and remedy given by this Deed to the Beneficiary may be exercised from time to time and as often as may be deemed expedient by the Beneficiary. No consent or waiver, express or implied, by the Beneficiary to or of any breach or default by Grantor in the performance of the obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of the same or any other obligations of Grantor hereunder. Failure on the part of the Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by the Beneficiary of its rights hereunder or impair any rights, powers or remedies arising by virtue of any breach or default by Grantor.
- (b) If the Beneficiary (i) grants forbearance or an extension of time for the payment of any sums secured hereby; (ii) takes other or additional security for the payment of any sums secured hereby; (iii) waives or does not exercise any right granted herein or in the Note; (iv) releases any part of the Premises from the lien of this Deed or otherwise changes any of the terms, covenants, conditions or agreements of the Note or this Deed; (v) consents to the filing of any map, plat or replat affecting the Premises; (vi) consents to the granting of any easement or other right affecting the

Premises; or (vii) makes or consents to any agreement subordinating the lien hereof, any such act or omission shall not release, discharge, modify, change or affect the original liability under the Note, this Deed or any other obligation of Grantor or any subsequent purchaser of the Premises or any part thereof, or any maker, co-signer, endorser, surety or guarantor; nor shall any such act or omission preclude the Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in the event of any default then made or of any subsequent default; nor, except as otherwise expressly provided in an instrument or instruments executed by the Beneficiary, shall the lien of this Deed be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Premises, the Beneficiary, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Premises or the Indebtedness, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities or obligations.

2.13 Suits to Protect the Premises. Beneficiary shall have the power:

- (a) to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Premises by any acts which may be unlawful or any violation of this Deed,
- (b) to preserve or protect its interest in the Premises and in the rents, issues, profits and revenues arising therefrom, and
- (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of the Beneficiary.

2.14 Beneficiary May File Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Guarantor, Grantor, or any of them or any of their creditors or property, the Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of the Beneficiary allowed in such proceedings for the entire amount due and payable by Grantor under this Deed at the date of the institution of such proceedings and for any additional amount which may become due and payable by Grantor hereunder after such date.

ARTICLE III

3.01 Credits Waived. Grantor will not claim nor demand nor be entitled to any credit or credits against the Indebtedness for the taxes assessed against the Premises or any part thereof, and no deductions shall otherwise be made or claimed from the taxable value of the Premises or any part thereof by reason of this Deed or the Indebtedness.

3.02 No Release. Grantor agrees that in the event the Premises are sold and the Beneficiary enters into any agreement with the then owner of the Premises extending the time of payment of the Indebtedness, or otherwise modifying the terms hereof, Grantor shall continue to be liable to pay the Indebtedness according to the tenor of any such agreement unless expressly released and discharged in writing by the Beneficiary. Nothing in this Paragraph 3.02 shall be deemed to be a waiver of Paragraph 1.16 hereof.

3.03 Successors and Assigns. The provisions and covenants of this Deed shall run with the land, shall be binding on Grantor, and shall inure to the benefit of and be binding upon Grantor and the Beneficiary and their respective heirs, executors, legal representatives, successors and permitted assigns. Whenever a reference is made in this Deed to Guarantor, the Trustee, Grantor

or the Beneficiary such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and permitted assigns thereof.

3.04 Terminology. All personal pronouns used in this Deed whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit nor amplify the provisions of this Deed itself.

3.05 Severability. If any provision of this Deed or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Deed and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

3.06 Applicable Law. Grantor agrees that this Deed shall be construed, interpreted and enforced in accordance with the laws of the State of Colorado; provided, however, that if any applicable conflict or choice of law rules would choose the law of another state, Grantor waives such rules and agrees that Colorado substantive, procedural and constitutional law shall nonetheless govern. Notwithstanding any provision of this Deed, Note or any other agreement between Grantor or Beneficiary, nothing in this Deed shall require the Grantor to pay, or the Beneficiary to accept, interest in an amount which would subject the Beneficiary to any penalty under applicable law. In the event that the payment of any interest due hereunder would subject the Beneficiary to any penalty under applicable law, then ipso facto the obligations of the Grantor to make payment shall be reduced to the highest rate authorized under applicable law.

3.07 Notices, Demands and Requests. All notices, demands or requests provided for or permitted to be given pursuant to this Deed must be in writing and shall be deemed to have been properly given or served by depositing in the United States Mail, postpaid and registered or certified return receipt requested, and addressed to the addresses set forth on the first page hereof. All notices, demands and requests shall be effective upon being deposited in the United States Mail. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. By giving at least thirty (30) days written notice hereof, Grantor or the Beneficiary shall have the right from time to time and at any time during the term of this Deed to change their respective addresses.

3.08 Time of the Essence. Time is of the essence with respect to each and every covenant, agreement and obligation of Grantor under this Deed.

3.09 Title Acts by Trustee. At any time upon written request of the Beneficiary, payment of its fees and presentation of this Deed and the Note for endorsement (in case of full reconveyance, for cancellation and retention) without affecting the liability of any person for the payment of the Indebtedness secured by this Deed, the Trustee may (a) consent to the making of any map or plat of the Premises, (b) join in granting any easement or creating any restriction thereon, (c) join in any subordination or other agreement affecting this Deed or the lien or charge thereof, (d) reconvey, without warranty, all or any part of the Premises. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto", and the recitals therein of any matters of facts shall be conclusive proof of the truthfulness thereof. The Grantor agrees to pay a reasonable Trustee's fee for full or partial reconveyance, together with a recording fee if the Trustee, at its option, elects to record said reconveyance.

3.10 Successor Trustee. At the option of the Beneficiary, with or without any reason, a successor or substitute trustee may be appointed by the Beneficiary without any formality other than a designation in writing of a successor or substitute trustee, who shall thereupon become vested with and succeed to all the powers and duties given to the Trustee herein named, the same as if the successor or substitute trustee had been named original Trustee herein; and such right to appoint a successor or substitute trustee shall exist as often and whenever the Beneficiary desires.

3.11 Acknowledgments by Grantor. Grantor acknowledges that the information set forth on the cover hereof is incorporated herein by reference and that Grantor has received a true copy of this Deed.

IN WITNESS WHEREOF, Grantor has executed this Deed under seal, as of the day and year first above written.

Givers Gain, LLC

By: Michael W. Knapp
Michael W. Knapp, Member

By: JoAnn M. Knapp
JoAnn M. Knapp, Member

STATE OF NEVADA

COUNTY OF Clark

This instrument was acknowledged before me on the 14th day of August 1998 by Michael W. Knapp and JoAnn M. Knapp, Members of Givers Gain, L.L.C.

Virginia M. Diaz
NOTARY PUBLIC

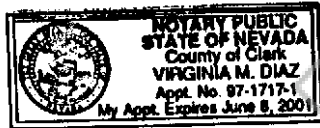


EXHIBIT A

That portion lying in the East Half of Section 31 and the West Half of Section 32, Township 6 South, Range 61 East M.D.B.&M. more particularly described as follows:

Parcel 1 of that certain parcel map recorded February 5, 1997 in the Office of the County Recorder of Lincoln County, Nevada in Book B of Plats page 19 as File No. 108146, Lincoln County, Nevada records.

EXHIBIT "B"

PERMITTED ENCUMBRANCES

None

COPY

EXHIBIT "C"

LEASES, SUBLEASES, CONTRACTS AND AGREEMENTS

Lease dated March 10, 1998 between Givers Gain, LLC as Lessor and Rapport Leadership International as Lessee

COPY

NO. **111450**

FILED AND RECORDED AT REQUEST OF
Cow County Title

August 19, 1998

AT 27 MINUTES PAST 6 O'CLOCK

PM IN BOOK 136 OF OFFICIAL

RECORDS PAGE 445 LINCOLN

COUNTY, NEVADA.

Yuriko Setzer

COUNTY RECORDER
by Jessie Boucher, deputy