

The undersigned hereby affirms that this document submitted for recording does not contain a Social Security Number.

APN: 008-261-05, 008-251-03, 008-261-09, 008-251-04



When recorded mail to:

NV HOLDING GROUP, LLC
13835 N. Northsight Blvd., Suite 100
Scottsdale, AZ 85260
Attention: Paul E. Mashni

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

THIS DEED OF TRUST, FIXTURE FILING AND SECURITY AGREEMENT WITH ASSIGNMENT OF LEASES AND RENTS (this "*Deed of Trust*") is made on the date stated below among the Trustor as debtor, Lender as lender, and Trustee who are identified and whose addresses are stated below. By signing this Deed of Trust, Trustor agrees to the terms and conditions and makes the covenants stated in this Deed of Trust.

EFFECTIVE DATE: JUNE 30, 2015

TRUSTOR: **GAEA THEOS, LLC,**
a Nevada limited liability company
1645 Village Center Circle, Suite 170
Las Vegas, NV 89134
Attention: Tim DeRosa

LENDER: **NV HOLDING GROUP, LLC,**
a Nevada limited liability company
13835 N. Northsight Blvd., Suite 100
Scottsdale, AZ 85260
Attention: Paul E. Mashni

TRUSTEE: **WESTERN TITLE COMPANY**
5390 Keitzke Lane, Suite 101
Reno NV 89511

NOTE: That certain **PROMISSORY NOTE** dated as of the Effective Date, in the original principal amount of **EIGHT MILLION FIVE HUNDRED FIFTEEN THOUSAND AND NO/100 DOLLARS (\$8,515,000.00)** executed by Trustor and payable to Lender as stated therein (as the same may be amended, modified or restated from time to time, the "*Note*").

LAND: The land described in Exhibit A attached hereto and made a part hereof for all purposes (the "*Land*").



ARTICLE I SECURITY

1.01 CONVEYANCE IN TRUST. For value received, the receipt and sufficiency of which Trustor acknowledges, and to secure the payment of the Indebtedness described in Section 2.01 and performance of the covenants and agreements of Trustor stated in this Deed of Trust and in the Loan Documents (as hereafter defined), Trustor does hereby **GRANT, BARGAIN SELL AND CONVEY** the Property described in Section 1.02, including without limitation, the Land, to the Trustee in trust, with power of sale and the right of entry, **TO HAVE AND TO HOLD** the Property, together with the rights, privileges, and appurtenances thereto belonging unto the Trustee and the Trustee's substitutes or successors forever. Trustor binds itself and its heirs, executors, administrators, personal representatives, successors, and assigns to **WARRANT AND FOREVER DEFEND** the Property unto the Trustee, and the Trustee's substitutes or successors and assigns, against the claim or claims of all persons claiming or to claim the same or any part thereof. As additional security for the full and timely payment of the Indebtedness (as defined in Section 2.01) Trustor does hereby grant to lender a security interest in the Property, including but not limited to the Personality and Personal Property as defined in Section 1.02 and does hereby further grant, bargain, convey, assign, transfer and set over to Trustee acting as both a Trustee and agent for Beneficiary under the terms hereof a security interest in and to all of Trustor's right, title and interest in and to under the Property, Improvements, Personality, Personal Property and Land (to the extent characterized as personal property) all of as defined in Section 1.02 to secure the full and timely payment of the Indebtedness.

1.02 PROPERTY. The Property covered by this Deed of Trust includes the Land and the following items described in this Section 1.02, whether now owned or hereafter acquired, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the Property covered by this Deed of Trust, and all rights, hereditaments and appurtenances pertaining thereto, all of which are referred to as the "Property":

(a) Any and all buildings, improvements (including, but not limited to, roads, curbs, gutters, public utilities, and drainage systems), and tenements now or hereafter attached to or placed, erected, constructed, or developed on the Land (the "Improvements");

(b) All equipment, fixtures, furnishings, inventory, and articles of personal property (the "Personalty") now or hereafter attached to or used in or about the Improvements or that are necessary or useful for the complete and comfortable use and occupancy of the Improvements for the purposes for which they were or are to be attached, placed, erected, constructed or developed, or which Personalty is or may be used in or related to the planning, development, financing or operation of the Improvements, and all renewals of or replacements or substitutions for any of the foregoing, whether or not the same are or shall be attached to the Land or Improvements;

(c) All water and water rights, timber, crops, and mineral interest pertaining to the Land;

(d) All building materials and equipment now or hereafter delivered to and intended to be installed in or on the Land or the Improvements;

(e) All plans and specifications for the Improvements and for any future development of or construction on the Land and all contracts and subcontracts relating to the construction of the Improvements on the Land;

(f) All of Trustor's rights (but not Trustor's obligations) under any contracts relating to the Land, the Improvements or the Personalty;

(g) All deposits (including tenant security deposits), bank accounts, funds, deeds of trust, notes or chattel paper arising from or by virtue of any transactions related to the Land, the Improvements or the Personalty;

(h) All Trustor's rights (but not Trustor's obligations) under any documents, contract rights, accounts, commitments, construction contracts (and all payment and performance bonds, statutory or otherwise, issued by any surety in connection with any such construction contracts, and the proceeds of such bonds), architectural contracts, engineering contracts, and general intangibles (including without limitation trademarks, trade names, and symbols) arising from or by virtue of any transactions related to the Land, the Improvements, or the Personalty;

(i) All permits, licenses, franchises, certificates, and other rights and privileges now owned or held or hereafter obtained in connection with the Land, the Improvements, or the Personalty;

(j) All development rights, utility commitments, water and wastewater taps, living unit equivalents, capital improvement project contracts, utility construction agreements with any governmental authority, including municipal utility districts, or with any utility companies (and all refunds and reimbursements thereunder) relating to the Land or the Improvements;

(k) All proceeds arising from or by virtue of the sale, lease or other disposition of the Land, the Improvements, or the Personalty;

(l) All proceeds (including premium refunds) of each policy of insurance relating to the Land, the Improvements, or the Personalty;

(m) All proceeds from the taking of any of the Land, the Improvements, the Personalty or any rights appurtenant thereto by right of eminent domain or by private or other purchase in lieu thereof, including change of grade of streets, curb cuts or other rights of access, for any public or quasi-public use under any law;

(n) All right, title, and interest of Trustor in and to all streets, roads, public places, easements, and rights-of-way, existing or proposed, public or private, adjacent to or used in connection with, belonging or pertaining to the Land;

(o) All of the Leases (as hereafter defined), rents, royalties, bonuses, issues, profits, revenues, or other benefits of the Land, the Improvements, or the Personalty, including without limitation cash or securities deposited pursuant to leases to secure performance by the tenants of their obligations thereunder (subject to the Assignment of Rents below);

(p) All consumer goods located in, on, or about the Land or the Improvements or used in connection with the use or operation thereof; however, neither the term "consumer goods" nor the term "Personalty" includes clothing, furniture, appliances, linens, china, crockery, kitchenware, or personal effects used primarily for personal, family, or household purposes;

(q) All other interest of every kind and character that Trustor now has or at any time hereafter acquires in and to the Land, Improvements, and Personalty and all property that is used or useful in connection therewith, including rights of ingress and egress and all reversionary rights or interests of Trustor with respect to such property and all of Trustor's rights (but not Trustor's obligations) under any covenants, conditions, and restrictions for the Land, as the same may be amended from time to time, including Trustor's rights, title, and interests thereunder as declarant or developer, if applicable; and



(r) All products and proceeds of the Personalty described in this Section 1.02 (the Personalty and other personal property described in this Section 1.02 being sometimes collectively referred to as the "Personal Property").

ARTICLE II INDEBTEDNESS AND PAYMENTS

2.01 INDEBTEDNESS. The indebtedness secured by this Deed of Trust (the "Indebtedness") shall mean and include the following:

(a) The Indebtedness (as such term is defined in the Loan Agreement), including, any and all sums becoming due and payable pursuant to the Note, as the same may be amended, modified or restated from time to time;

(b) Any and all other sums becoming due and payable by Trustor to Lender as a result of advancements made by Lender pursuant to the terms and conditions of this Deed of Trust or any other Loan Documents securing or executed in connection with or otherwise relating to the Note, including without limitation the repayment of any future advances made by Lender to Trustor as provided in paragraph (c) below and the repayment of any sums advanced for the protection of Lender's security pursuant to this Deed of Trust;

(c) Trustor and Lender contemplate that Lender will, from time to time, engage in various transactions and that from time to time other circumstances may arise, in which Trustor becomes obligated to Lender. Trustor understands that some of those transactions and circumstances may be of a type that is very different from the loan transaction evidenced in part by the Note and the circumstances connected therewith. Trustor desires and intends that Lender engage in all such transactions, and deal generally with Trustor with the assurance that any and all indebtedness and obligations now owed, and that may hereafter become owing, to Lender from Trustor, will be secured by the liens arising hereunder. Therefore, the conveyance made by this Deed of Trust, in addition to being made to secure payment of the Note, is also made in trust to secure and enforce the payment of all other indebtedness and obligations of Trustor to Lender whether presently existing, or in any manner or means hereafter incurred by Trustor, and evidenced in any manner whatsoever, either by notes, advances, overdrafts, bookkeeping entries, guaranty agreements, liens or security interest, deeds of trust, or any other method or means including any renewal and extension of the Note, or of any part of any present or future indebtedness or other obligations, of Trustor and including any further loans and advances made by Lender to Trustor. The fact of repayment of all Indebtedness, and performance of all other obligations, of Trustor, to Lender shall not terminate the lien arising hereunder unless the same be released by Lender at the request of Trustor; but otherwise it shall remain in full force and effect to secure all future advances, indebtedness and other obligations, regardless of any additional security that may be taken as to any past or future indebtedness or other obligations. In no event shall this conveyance secure payment of any installment loan or any open-end line of credit established; and

(d) Any and all renewals, extensions, replacements, rearrangements, substitutions, or modifications of the Indebtedness, or any part of the Indebtedness.

2.02 OTHER LOAN DOCUMENTS. In addition to this Deed of Trust and the Note, Trustor and Lender may execute various other documents and agreements relating to the Indebtedness secured by this Deed of Trust; including, but not limited to that certain **LOAN AND SECURITY AGREEMENT** dated as of the Effective Date between Trustor and Lender (as that same may be amended, modified or restated from time to time, the "Loan Agreement"), all of which documents and agreements are referred to herein as the "Loan Documents." This Deed of Trust shall also secure the performance of all obligations and covenants of Trustor under this Deed of Trust and the other Loan Documents.



2.03 PAYMENT OF PRINCIPAL AND INTEREST. Trustor shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, and prepayment and late charges provided in the Note and all other sums secured by this Deed of Trust.

2.04 APPLICATION OF PAYMENTS. Unless applicable law provides otherwise, all payments received by Lender from Trustor under the Note or this Deed of Trust shall be applied by Lender in the following order of priority: (a) amounts payable to Lender by Trustor under this Deed of Trust; (b) sums payable to Lender under the Note, to be applied to principal or interest as Lender may determine in its discretion; and (c) any other sums secured by this Deed of Trust in such order as Lender, at Lender's option, may determine.

2.05 GUARANTOR. The term "Guarantor" shall include any person, company, or entity obligated to pay or guaranteeing collection of all or any portion of the Indebtedness, directly, or indirectly.

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

**ARTICLE III
SECURITY AGREEMENT**

3.01 UNIFORM COMMERCIAL CODE SECURITY AGREEMENT. This Deed of Trust is also intended to be a security agreement between Trustor, as "debtor", and Lender, as "secured party", pursuant to the Uniform Commercial Code as adopted in the State of Nevada (the "UCC") for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the UCC, and Trustor hereby grants Lender a security interest in all such items. Trustor agrees that Lender may file this Deed of Trust, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Deed of Trust or of any other security agreement or financing statement shall be sufficient as a financing statement. Trustor shall pay all costs of filing such financing statement and any extensions, renewals, amendments, and releases thereof and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Without the prior written consent of Lender, Trustor shall not create or suffer to be created pursuant to the UCC any other security interest in said items, including replacements and additions thereto. Upon the occurrence of an Event of Default (as that term is defined below), including the covenants to pay when due all sums secured by this Deed of Trust, Lender shall have the remedies of a secured party under the UCC and, at Lender's option, may also invoke the remedies provided in this Deed of Trust as to such items. In exercising any remedies, Lender may proceed against the items of real property and any items of personal property specified above as part of the property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the UCC or of the remedies provided in this Deed of Trust.

3.02 NOTICES OF CHANGES. Trustor shall give advance notice in writing to Lender of any proposed change in Trustor's name or jurisdiction in which Trustor is organized, and shall execute and deliver



to Lender, prior to or concurrently with the occurrence of any such change, all additional financing statements that Lender may require to establish and maintain the validity and priority of Lender's security interest with respect to any of the Property.

3.03 FIXTURES. Some of the items of the Property are goods that are or are to become fixtures related to the Land. Trustor and Lender intend that, as to those goods, this Deed of Trust shall be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the county in which the Property is situated. Information concerning the security interest created by this Deed of Trust may be obtained from Lender, as secured party, at Lender's address stated above. The mailing address of the Trustor, as debtor, is as stated above.

ARTICLE IV ASSIGNMENT OF LEASES

4.01 ASSIGNMENT OF LEASES. Trustor assigns to Lender, and grants to Lender a security interest in, all of Trustor's rights, but not Trustor's obligations, under existing and future leases, including subleases, and any and all extensions, renewals, modifications, and replacements of such leases, upon any part of the Property (the "Leases") pursuant to the Uniform Assignment of Rents Act, Nevada Revised Statutes ("NRS") Chapter 107A, together with the right of Lender as the assignee to enforce the assignment of rents as provided in that Act. Trustor also assigns to Lender all guaranties of tenant's performance under the Leases. Prior to an Event of Default, Trustor shall have the right, without joinder of Lender, to enforce the Leases, unless Lender directs otherwise.

4.02 WARRANTIES CONCERNING LEASES AND RENTS. Trustor represents and warrants that:

- (a) Trustor has good title to the Leases hereby assigned and authority to assign them, and no other person or entity has any right, title or interest therein;
- (b) All existing Leases are valid, unmodified and in full force and effect, except as indicated herein and no default exists thereunder;
- (c) Unless otherwise provided herein, no Rents (as hereafter defined) or other sums owing under the Leases have been or will be assigned, mortgaged or pledged;
- (d) No Rents have been or will be anticipated, waived, released, discounted, set off or compromised; and
- (e) Except as indicated in the Leases, Trustor has not received any deposits from any tenant that has been applied to the payment of accrued Rents.

4.03 TRUSTOR'S COVENANTS OF PERFORMANCE. Trustor covenants to:

- (a) Perform all of its obligations under the Leases and give prompt notice to Lender of any material failure to do so;
- (b) Following the written request of Lender, give notice to Lender of any notice Trustor receives from any tenant or subtenant under any Leases, specifying any claimed default by any party under such Leases;
- (c) Enforce the tenant's obligations under the Leases in accordance with Trustor's standard business practices;



(d) Defend, at Trustor's expense, any proceeding pertaining to the Leases, including, if Lender so requests, any such proceeding to which Lender is a party; and

(e) Neither creates nor permits any encumbrance upon Trustor's interest as landlord of the leases, except this Deed of Trust and any other encumbrances permitted by this Deed of Trust.

4.04 PRIOR APPROVAL FOR ACTIONS AFFECTING LEASES. Trustor shall not, without the prior written consent of Lender:

(a) Receive or collect Rents under any Lease more than **ONE (1)** month in advance;

(b) Encumber or assign future Rents;

(c) Waive or release any obligation of any tenant under the Leases except in accordance with Trustor's standard business practices;

(d) Cancel, terminate or modify any of the Leases, cause, permit or accept any cancellation, termination or surrender of any of the Leases, or commence any proceedings for dispossession of any tenant under any of the Leases, except upon default by the tenant thereunder or Trustor's standard business practices;

(e) Renew or extend any of the Leases, except pursuant to Trustor's standard business practices;

(f) Permit any assignment of the Leases; or

(g) Enter into any Leases after the date hereof except in accordance with Trustor's standard business practices.

4.05 ATTORNMENT OF TENANTS. All Leases of the Property shall (a) be subordinate to this Deed of Trust; (b) provide that the tenant attorns to Lender, with Landlord's consent, such attornment to be effective upon Lender's acquisition of title to the Property; (c) that the tenant agrees to execute such further evidences of attornment as Lender may from time to time request; and (d) that the attornment of the tenant shall not be terminated by foreclosure.

4.06 SETTLEMENT FOR TERMINATION. Trustor agrees that no settlement for damages for termination of any of the Leases under the Federal Bankruptcy Code, or under any other federal, state, or local statute, shall be made except in accordance with Trustor's standard business practices.

4.07 LENDER IN POSSESSION. Lender's acceptance of this assignment shall not, prior to entry upon and taking possession of the Property by Lender, be deemed to constitute Lender a mortgagee in possession, nor obligate Lender to appear in or defend any proceeding relating to any of the Leases or to the Property, take any action hereunder, expend any money, incur any expenses, or perform any obligation or liability under the Leases, or assume any obligation for any deposits delivered to Trustor by any tenant and not delivered to Lender. Lender shall not be liable for any injury or damage to person or property in or about the Property.

4.08 APPOINTMENT OF ATTORNEY. Trustor hereby appoints Lender its attorney-in-fact, coupled with an interest, empowering Lender to subordinate any Leases to this Deed of Trust.

4.09 INDEMNIFICATION; HOLD HARMLESS. Trustor hereby indemnifies and holds Lender harmless from all liability, damage, or expense incurred by Lender from any claims under the Leases, including

without limitation any claims by Trustor with respect to Rents paid directly to Lender after an Event of Default and claims by tenants for security deposits or for rental payments more than **ONE (1)** month in advance and not delivered to Lender. All amounts indemnified against hereunder, including reasonable attorneys fees, if paid by Lender shall bear interest at the Maximum Lawful Rate, shall be payable to Trustor immediately without demand, and shall be secured by this Deed of Trust.

4.10 RECORDS. Upon request by Lender following the occurrence and continuation of an Event of Default, Trustor shall deliver to Lender executed originals of all Leases and copies of all records relating thereto.

4.11 MERGER. There shall be no merger of the leasehold estates, created by the Leases, with the fee estate of the Land without the prior written consent of Lender.

4.12 RIGHT TO RELY. Trustor authorizes and directs the tenants under the Leases to pay Rents to Lender upon written demand by Lender, without further consent of Trustor and regardless of whether Lender has taken possession of any other portion of the Property, and the tenants may rely upon any written statement by Lender to the tenants. Any such payment to Lender shall constitute payment to Trustor under the Leases, and Trustor appoints Lender as Trustor's lawful attorney-in-fact for giving, and is hereby empowered to give, acquaintances to any tenants for such payments to Lender after an Event of Default.

ARTICLE V ASSIGNMENT OF RENTS

5.01 TRUSTOR'S COVENANTS. Trustor covenants that Trustor has not executed any prior assignment of the Rents or any portion thereof, that Trustor has not performed, and will not perform, any acts and has not executed, and will not execute, any Deed of Trust which would prevent Lender from exercising its rights under this Article V and that at the time of execution of this Deed of Trust there has been no anticipation or prepayment of any of the Rents for more than **THIRTY (30)** days prior to the due dates of such Rents. Trustor covenants that Trustor will not hereafter collect or accept payment of any Rents more than **THIRTY (30)** days prior to the due dates of such Rents without prior written consent of Lender, Trustor further covenants that Trustor will execute and deliver to Lender such further assignments of Rents as Lender may from time to time request.

5.02 APPOINTMENT OF RECEIVER; POSSESSION OF THE PROPERTY. Upon the occurrence of an Event of Default, Lender may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof, including without limitation the execution, cancellation or modification of Leases, the collection of Rents, the making of repairs to the Property, and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Deed of Trust. In the event Lender elects to seek the appointment of a receiver for the Property upon the occurrence of an Event of Default, Trustor consents to the appointment of such receiver. Lender or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

5.03 APPLICATION OF RENTS. All Rents collected subsequent to the occurrence of an Event of Default shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the Rents, including without limitation attorneys' fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments, and other charges on the Property, and to the costs of discharging any obligation or liability of Trustor as landlord of the Property, and then to the sums secured by this Deed of Trust. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those



Rents actually received. Lender shall not be liable to Trustor, anyone claiming under or through Trustor or anyone having an interest in the Property by reason of anything done or left undone by Lender under this Article V.

5.04 INSUFFICIENT RENTS. If Rents are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the Rents, any funds expended by Lender for such purposes shall become an Indebtedness of Trustor to Lender secured by this Deed of Trust. Unless Lender and Trustor agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Trustor requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Note, unless payment of such interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest non-usurious rate which may be collected from Trustor under applicable law.

5.05 NO WAIVER; TERM. Any entering upon and taking and maintaining of control of the Property by Lender or the receiver and any application of Rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Lender under applicable law or provided herein. This assignment of the Rents shall terminate at such time as this Deed of Trust ceases to secure the Indebtedness held by Lender.

ARTICLE VI TRUSTOR'S REPRESENTATIONS, WARRANTIES, COVENANTS, AND AGREEMENTS

Trustor covenants, warrants, represents to and agrees with Lender as follows:

6.01 PAYMENT AND PERFORMANCE. Trustor shall make all payments on the Indebtedness when due and shall punctually and properly perform all of Trustor's covenants, obligations and liabilities under this Deed of Trust and the other Loan Documents.

6.02 TITLE TO PROPERTY AND LIENS OF THIS DEED OF TRUST. Trustor has good and indefeasible title to the Land and the Improvements and good and marketable title to the Personal Property, free and clear of any liens, charges, encumbrances, security interests, and adverse claims whatsoever, except for the matters, if any, set forth on Schedule B to the Lender's Policy of Title Insurance (the "Scheduled Encumbrances") to the extent the same are valid and subsisting and affect the Property. If the interest of Lender in the Property or any part thereof shall be endangered or shall be attacked, directly or indirectly, Trustor authorizes Lender, at Trustor's expense, to take all necessary and proper steps for the defense of such interest, including the employment of attorneys, the prosecution or defense of litigation, and the compromise or discharge of claims made against such interest.

6.03 TITLE INSURANCE. Trustor shall, at its sole cost and expense, obtain and maintain a Lender's Policy of Title Insurance (in the form of a commitment, binder, or policy as Lender may require) in form acceptable to Lender, together with any endorsements thereto Lender may require, in an amount equal to the amount of the Note.

6.04 INSURANCE. Trustor will, at its own expense, maintain insurance with respect to the Property in such amounts, against such risks, in such form and with such insurers, as shall be satisfactory to Lender from time to time. Each policy of insurance maintained by Trustor shall (a) name Trustor and Lender as insured parties thereunder (without any representation or warranty by or obligation upon Lender) as their interests may appear, (b) contain the agreement by the insurer that any loss thereunder shall be payable to Lender notwithstanding any action, inaction or breach of representation or warranty by Trustor, (c) provide that there shall be no recourse against Lender for payment of premiums or other amounts with respect thereto, and (d) provide prior written notice of cancellation or of lapse shall be given to Lender by the insurer in accordance with the insurer's commercial practices as adopted from time to time.



6.05 TAXES AND ASSESSMENTS. Trustor shall pay all taxes and assessments against or affecting the Property as the same become due and payable, and, upon request by Lender, Trustor shall deliver to Lender such evidence of the payment thereof as Lender may require. If Trustor fails to do so, Lender may pay them, together with all costs and penalties thereon, at Trustor's expense; provided, however, that Trustor may in good faith, in lieu of paying such taxes and assessments as they become due and payable, by appropriate proceedings, contest their validity. Pending such contest, Trustor shall not be deemed in default under this Deed of Trust because of such nonpayment if: (a) prior to delinquency of the asserted tax or assessment, Trustor furnishes Lender an indemnity bond secured by a deposit in cash or other security acceptable to Lender, or with a surety acceptable to Lender, in the amount of the tax or assessment being contested by Trustor plus a reasonable additional sum to pay all costs, interest and penalties that may be imposed or incurred in connection therewith, conditioned that such tax or assessment, with interest, cost and penalties, be paid as herein stipulated; and (b) Trustor promptly pays any amount adjudged by a court of competent jurisdiction to be due with all costs, penalties and interest thereon, on or before the date such judgment becomes final. In any event, the tax, assessment, penalties, interest, and costs shall be paid prior to the date on which any writ or order is issued under which the Property or any part of the Property may be sold in satisfaction thereof.

6.06 TAX AND INSURANCE ESCROW. Following the existence and during the continuation of an Event of Default, Trustor agrees to establish reserve accounts for real estate taxes, insurance premiums, and other impositions as may be reasonably requested by Lender from time to time.

6.07 CONDEMNATION.

(a) Trustor assigns to Lender all judgments, decrees, and awards for injury or damage, direct or consequential, to the Property, and all awards pursuant to proceedings for condemnation or other taking, whether direct or indirect, of the Property or any part of the Property. Lender may apply any condemnation proceeds to the Indebtedness in such manner as Lender may elect. Trustor shall promptly notify Lender of any action or proceeding (or threatened action or proceeding) relating to any condemnation or other taking, whether direct or indirect, of all or any part of the Property. Trustor shall, unless otherwise directed by Lender in writing, file or defend its claim under any such action and prosecute the same with due diligence to its final disposition and shall cause any awards or settlements to be paid over to Lender for disposition pursuant to the terms of this Deed of Trust. Trustor authorizes Lender, at Lender's option, as attorney-in-fact for Trustor, to commence, appear in, and prosecute, in Lender's or Trustor's name, any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment, or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender. Lender shall be entitled to participate in, control, and be represented by attorneys of Lender's own choice in any such action. Trustor shall deliver, or cause to be delivered, to Lender such instruments as may be requested by it from time to time to permit such participation.

(b) Trustor authorizes Lender to apply such awards, payments, proceeds, or damages, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to restoration or repair of the Property, or to payment of the sums secured by this Deed of Trust, whether or not then due, in the order of application set forth in Section 2.04, with the balance, if any, to Trustor.

(c) In the event Lender, as a result of any such judgment, decree, or award, reasonably believes that the payment or performance of any obligation secured by this Deed of Trust is impaired, Lender may, without notice, declare all of the Indebtedness immediately due and payable.



(d) Trustor waives any legal or equitable interest in any condemnation award and any right to require apportionment of the award. Trustor agrees that Lender is entitled to apply any condemnation award in accordance with this Section 6.07 without demonstrating that its security has been impaired.

6.08 TAXES ON NOTE OR DEED OF TRUST. If at any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Deed of Trust, or upon any rights, title, liens, or security interests created by this Deed of Trust, or upon the Note, or any part of the Indebtedness, Trustor shall immediately pay all such taxes; provided that, if it is unlawful for Trustor to pay such taxes, Trustor shall prepay the Note in full without penalty within **THIRTY (30)** days after demand therefor by Lender.

6.09 STATEMENTS BY TRUSTOR. At the request of Lender, Trustor shall furnish promptly a written statement or affidavit, in such form as may be required by Lender, stating the unpaid balance of the Note, the date to which interest has been paid and that there are no offsets or defenses against full payment of the Note and performance of the terms of the Loan Documents, or, if there are such offsets or defenses, specifying them.

6.10 REPAIR, WASTE, ALTERATIONS, ETC. Trustor shall keep every part of the Property in good operating order, repair, and condition and shall not commit or permit any waste thereof. Trustor shall make promptly all repairs, renewals, and replacements necessary to such end. Trustor shall discharge all claims for labor performed and material furnished therefor, and shall not suffer any lien of mechanics or materialmen to attach to any part of the Property. Trustor shall have the right to contest in good faith the validity of any such mechanic's or materialman's lien, provided Trustor shall first furnish Lender a bond or other security satisfactory to Lender in such amount as Lender shall reasonably require, but not more than **ONE HUNDRED TWENTY PERCENT (120.00%)** of the amount of the claim, and provided further that Trustor shall thereafter diligently proceed to cause such lien to be removed and discharged. If Trustor shall fail to discharge any such lien, then, in addition to any other right or remedy of Lender, Lender may, but shall not be obligated to, discharge the lien, either by paying the amount claimed to be due, or by procuring the discharge of such lien by depositing in court a bond for the amount claimed, or otherwise giving security for such claim, or by taking such action as may be prescribed by law. Trustor shall guard every part of the Property from removal, destruction, and damage, and shall not do or suffer to be done any act whereby the value of any part of the property may be lessened. Trustor or any tenant or other person shall not materially alter the Property without the prior written consent of Lender.

6.11 NO DRILLING OR EXPLORATION. Without the prior written consent of Lender, there shall be no drilling or exploring for or extraction, removal, or production of minerals from the surface or subsurface of the Land. The term "minerals" as used in this Deed of Trust shall include without limitation oil, gas, casing head gas, coal, lignite, hydrocarbons, methane, carbon dioxide, helium, uranium and all other natural elements, compounds and substances, including sand and gravel.

6.12 COMPLIANCE WITH LAWS. Trustor, the Property, and Trustor's use of the Property shall comply with all laws, rules, ordinances, regulations, covenants conditions, restrictions, orders and decrees of any governmental authority or court applicable to Trustor or the Property and its use, and Trustor shall pay all fees or charges of any kind in connection therewith. Trustor shall not initiate, participate in, or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

6.13 CERTAIN REPORTS AND INFORMATION. Trustor shall promptly deliver such information concerning Trustor and the Property as Lender may request.

6.14 HOLD HARMLESS. Except for Lender's breach of the terms and covenants set forth in the Loan Documents, Trustor shall defend, at Trustor's own cost and expense, and hold Lender harmless from, any proceeding or claim in any way relating to the Property or the Loan Documents. All costs and expenses



incurred by Lender in protecting its interest under this Deed of Trust, including all court costs and reasonable attorneys' fees and expenses, shall be borne by Trustor. The provisions of this Section shall survive the payment in full of the Indebtedness and the release of this Deed of Trust for a period of **TWELVE (12)** months as to events occurring and causes of action arising before such payment and release.

6.15 TRADE NAMES. At the request of Lender, Trustor shall execute a certificate in a form satisfactory to Lender listing the trade names under which Trustor intends to operate the Property and representing and warranting that Trustor does business under no other trade name with respect to the Property except as set forth herein. Trustor shall immediately notify Lender in writing of any change in any trade name, and shall, upon request of Lender, execute any additional financing statements and other certificates required to reflect a change in trade names and shall execute and file any assumed name certificate required by applicable laws.

6.16 FURTHER ASSURANCES. Trustor, upon the request of Lender, shall execute, acknowledge, deliver, and record such further instruments and do such further acts as may be necessary, desirable, or proper to carry out the purposes of this Deed of Trust or the other Loan Documents and to subject to the liens and security interests created by this Deed of Trust or the other Loan Documents any Property intended to be covered by this Deed of Trust and the other Loan Documents pursuant to their terms, including without limitation any renewals, additions, substitutions, replacements, improvements, or appurtenances to the Property.

6.17 RECORDING AND FILING. Trustor shall cause this Deed of Trust and the other recordable Loan Documents and all amendments, supplements, extensions, and substitutions thereof to be recorded, filed, re-recorded, and refiled in such manner and in such places as Lender shall reasonably request. Trustor shall pay all such recording, filing, re-recording, and re-filing fees, title insurance premiums, and other charges.

6.18 PAYMENT OF DEBTS. Trustor shall promptly pay when due all obligations regarding the ownership and operation of the Property, except any such obligations which are being diligently contested in good faith by appropriate proceedings and as to which Trustor, if requested by Lender, shall have furnished to Lender security satisfactory to Lender.

6.19 MODIFICATION BY SUBSEQUENT OWNERS. Trustor agrees that Trustor shall be bound by any modification of this Deed of Trust or any of the other Loan Documents made by Lender and Trustor.

6.20 INSPECTION. Lender may make or cause to be made reasonable entries upon and inspection of the Property.

6.21 PROTECTION OF LENDER'S SECURITY.

(a) If Trustor fails to perform the covenants and agreements contained in this Deed of Trust, or any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including without limitation eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, Lender, at Lender's option may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including without limitation, (i) disbursement of attorneys' fees, (ii) entry upon the Property to make repairs, and (iii) procurement of satisfactory insurance as provided herein.

(b) Any amounts disbursed by Lender pursuant to this Section 6.21 with interest thereon, shall become additional indebtedness of Trustor secured by this Deed of Trust. Unless Trustor and Lender agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the



date of disbursement at the rate stated in the Note unless collection from Trustor of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest non-usurious rate which may be collected from Trustor under applicable law. Trustor covenants and agrees that Lender shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the Indebtedness. Nothing contained in this Section 6.21 shall require Lender to incur any expense or take any action under this Deed of Trust.

6.22 SUBORDINATE DEED OF TRUST. Trustor shall not, without the prior written consent of Lender, grant any lien, security interest, or other encumbrance (a "Subordinate Deed of Trust") covering any of the Property. If Lender consents to a Subordinate Deed of Trust or if the foregoing prohibition is determined by a court of competent jurisdiction to be unenforceable, any such Subordinate Deed of Trust shall contain express covenants to the effect that:

- (a) The Subordinate Deed of Trust is unconditionally subordinate to this Deed of Trust;
- (b) If any action (whether judicial or pursuant to a power of sale) shall be instituted to foreclose or otherwise enforce the Subordinate Deed of Trust, no tenant of any of the Leases shall be named as a party defendant, and no action shall be taken that would terminate any occupancy or tenancy without the prior written consent of Lender;
- (c) Rents, if collected by or for the holder of the Subordinate Deed of Trust, shall be applied first to the payment of the Indebtedness then due and expenses incurred in the ownership, operation, and maintenance of the Property in such order as Lender may determine, prior to being applied to any indebtedness secured by the Subordinate Deed of Trust; and
- (d) Written notice of default under the Subordinate Deed of Trust and written notice of the commencement of any action (whether judicial or pursuant to a power of sale) to foreclose or otherwise enforce the Subordinate Deed of Trust shall be given to Lender with or immediately after the occurrence of any such default or commencement.

6.23 LIENS. Trustor shall promptly discharge any lien which has, or may have, priority over or equality with, the lien of this Deed of Trust, and Trustor shall pay, when due, the claims of all person supplying labor or materials to or in connection with the Property. Without Lender's prior written permission, Trustor shall not allow any lien inferior to this Deed of Trust to be perfected against the Property.

6.24 BUSINESS USE. Trustor warrants and represents to Lender that the proceeds of the Note will be used solely for business or commercial purposes, other than agricultural purposes, and in no way will the proceeds be used for personal, family or household purposes.

6.25 NON-HOMESTEAD. Trustor warrants and represents to Lender that the Property is not the business or residential homestead of Trustor or any other person. Trustor has no present intent to occupy in the future or use or claim in the future the Property either as business or residential homestead.

6.26 APPRAISAL. After the occurrence and during the continuation of an Event of Default, Lender may at its option obtain at Trustor's expense an appraisal of the Property or any part thereof by a third-party appraiser selected and instructed by Lender. The costs of each such appraisal obtained pursuant to this Section 6.26 shall be payable by Trustor to Lender on demand (which obligation Trustor hereby promises to pay) and shall be a part of an obligation of Trustor to Lender secured by this Deed of Trust, unless prohibited by applicable law. Trustor agrees to cooperate fully with Lender, Lender's agents, and any appraiser selected by Lender in connection with any appraisal desired or required pursuant to this Section 6.26.



ARTICLE VII EVENTS OF DEFAULT

The occurrence of an Event of Default (as such term is defined in the Loan Agreement) shall be a default under this Deed of Trust.

ARTICLE VIII DEFAULT AND REMEDIES

8.01 ACCELERATION AND WAIVER OF NOTICES. Upon the occurrence of an Event of Default, Lender, at Lender's option, may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law or provided herein. Additionally, Lender shall not be required to make any further advances on the Note or other Loan Documents upon the occurrence of an Event of Default or an event which, with the giving of notice or passing of time, would constitute an Event of Default. Trustor acknowledges that the power of sale granted to Lender may be exercised by Lender without prior judicial hearing. Trustor and each Guarantor (by the execution and delivery of Guarantor's guaranty), surety, and endorser of all or any part of the Indebtedness expressly waive all presentations for payment, notices of intention to accelerate maturity, notices of acceleration of maturity, notices of intention to demand payment, demands for payment, protests, and notices of protest. Trustor and each Guarantor, surety, and endorser acknowledge and understand that by these waivers they waive any right they may have to receive notices of default under this Deed of Trust, the Note, and the other Loan Documents, as well as any opportunity to cure any such default.

8.02 ENTRY ON MORTGAGED PROPERTY. Lender may enter upon the Property and take exclusive possession thereof and of all books, records, and accounts relating thereto without notice and without being guilty of trespass; provided, however, that before taking possession of such books, records and accounts, Lender shall permit Trustor to make copies thereof. If Trustor remains in possession of all or any part of the Property after an Event of Default and without Lender's prior written consent thereof, Lender may, without notice to Trustor, invoke any and all legal remedies to dispossess Trustor, including specifically one or more actions for forcible entry and detainer, trespass to try title and writ of restitution. Nothing contained in the foregoing sentence shall, however, be construed to impose any greater obligation or any prerequisites to acquiring possession of the Property after an Event of Default than would have existed in the absence of such sentence.

8.03 OPERATION OF MORTGAGED PROPERTY. Lender may hold, lease, manage, operate or otherwise use or permit the use of the Property, either itself or by other persons, firms or entities, in such manner, for such time and upon such other terms as Lender may deem to be prudent and reasonable under the circumstances (making such repairs, alterations, additions and improvements thereto and taking any and all other action with reference thereto, from time to time, as Lender shall deem necessary or desirable), and apply all Rents and other amounts collected by Trustee in connection therewith in accordance with the provisions of Section 8.13 below.

8.04 FORECLOSURE AND SALE.

(a) Lender may, by and through the Trustee, or otherwise, sell or offer for sale the Property in such portions, order and parcels as Lender may determine, with or without having first taken possession of same, to the highest bidder, for cash at public auction.

(b) Lender may, at its option, accomplish all or any of the aforesaid in such manner as permitted or required by the Nevada Revised Statutes 107.080 et seq. regarding foreclosure of real estate and the Nevada Uniform Commercial Code regarding foreclosure of personal property. Nothing contained in this section shall be construed to limit in any way Trustee's right to sell the Property by private sale if, and to the extent that such



private sale is permitted under the laws of the state where the Property (or that portion thereof to be sold) is located or by public or private sale after entry of a judgment by any court of competent jurisdiction ordering same. At any such sale:

(i) whether made under the power herein contained, any other Legal Requirement or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it shall not be necessary for Trustee to have physically present, or to have constructive possession of, the Property (Trustor shall deliver to trustee any portion of the Property not actually or constructively possessed by Trustee immediately upon demand by Trustee) and the title to and right of possession of any such property shall pass to the purchaser thereof as completely as if the same had been actually present and delivered to purchaser at such sale;

(ii) each and every recital contained in any instrument of conveyance made by Trustee shall conclusively establish the truth and accuracy of the matters recited therein, including without limitation, nonpayment of the Indebtedness, advertisement and conduct of such sale in the manner provided herein and otherwise by law and appointment of any successor Trustee hereunder;

(iii) any and all prerequisites to the validity thereof shall be conclusively presumed to have been performed;

(iv) the receipt of Trustee or of such other party or officer making the sale shall be sufficient to discharge the purchaser or purchasers for his or their purchase money, and no such purchaser or purchasers, or his or their assigns or personal representatives, shall thereafter be obligated to see to the application of such purchase money or be in any way answerable for any loss, misapplication or nonapplication thereof;

(v) to the fullest extent permitted by law, Trustor shall be completely and irrevocably divested of all of its right, title, interest, claim and demand whatsoever, either at law or in equity, in and to the property sold, and such sale shall be a perpetual bar, both at law and in equity, against Trustor and against all other persons claiming or to claim the property sold or to any part thereof by, through or under Trustor; and

(vi) to the extent and under such circumstances as permitted by law, Lender may be a purchaser at any such sale.

8.05 REMEDIES WITH RESPECT TO PERSONALTY.

(a) To the extent that this Deed of Trust encumbers both real and personal property, Lender may, in the sole discretion of Lender, either alternatively, concurrently, or consecutively in any order, proceed with any of the following rights and remedies:

(i) Proceed as to both the real and personal property in accordance with Lender's rights and remedies in respect to real property; or

(ii) Proceed as to the real property in accordance with Lender's rights and remedies in respect to real property and proceed as to the Personal Property in accordance with Lender's rights and remedies in respect to personal property. Lender may, in the sole discretion of Lender, appoint Trustee as the agent of Lender for the purpose of disposition of the Personalty in accordance with the Nevada Uniform Commercial Code. Trustor hereby authorizes Trustee to act accordingly.

(b) If Lender should elect to proceed as to both the real and personal property collateral in accordance with Lender's rights and remedies in respect to real property, then the following shall occur:



(i) The Property, including all of the Land, Improvements, Fixtures, Personalty, Personal Property, Leases and Rents may be foreclosed upon and sold by either private sale or judicial action, in the manner provided in this Deed of Trust, in one lot, or in separate lots consisting of any combination or combinations of real and personal property, as the Lender may elect, in the sole discretion of Lender.

(ii) Trustor acknowledges and agrees that a disposition of the Personal Property in accordance with Lender's rights and remedies in respect to real property, as hereinabove provided, is a commercially reasonable disposition of the Personal Property. Lender may, in the sole discretion of Lender appoint Trustee as the agent of Lender for the purpose of disposition of the Personalty in accordance with Lender's rights and remedies in respect to real property. Trustor hereby authorizes Trustee to act accordingly.

(c) If Lender should elect to proceed as to the Personal Property in accordance with Lender's rights and remedies in respect to personal property, Lender shall have all of the rights and remedies conferred upon a secured party by the UCC.

8.06 DIVESTMENT OF RIGHTS; TENANT AT SUFFERANCE. After sale of the Property, or any portion thereof, Trustor will be divested of any and all interest and claim thereto, including any interest or claim to all insurance policies, bonds, loan commitments and other intangible property covered hereby. Additionally, with respect to the Land, Improvements, Fixtures and Personal Property, after a sale of all or any portion thereof, Trustor will be considered a tenant at sufferance of the purchaser of the same, and said purchaser shall be entitled to immediate possession thereof, and if Trustor shall fail to vacate the Property immediately, the purchaser may and shall have the right, without further notice to Trustor, to go into any court of competent jurisdiction in any county in which the Property is located and file an action in forcible entry and detainer with respect to the real property and an action in claim and delivery with respect to the Personal Property, which actions shall lie against Trustor or its assigns or legal representatives, as a tenant at sufferance. This remedy is cumulative of any and all remedies the purchaser may have hereunder or otherwise.

8.07 TRUSTEE OR RECEIVER.

(a) Lender may, by and through the Trustee, or otherwise, make application to a court of competent jurisdiction, as a matter of strict right and without notice to Trustor or regard to the adequacy of the Property as security for the repayment of the Indebtedness, for appointment of a receiver of the Property, and Trustor does hereby irrevocably consent to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Property upon such terms as may be approved by the court, and apply such Rents in accordance with the provisions Article V hereof.

(b) Lender may, by and through the Trustee, or otherwise, exercise any and all other rights, remedies or recourses granted under the Loan Documents or now or hereafter existing in equity, at law, by virtue of statute or otherwise.

8.08 SEPARATE SALES. Trustee may sell all or any portion of the Property together or in lots or parcels and in such manner and order as the Trustee or Lender, in their sole discretion, may elect. The sale or sales by Trustee of less than the whole of the Property shall not exhaust the power of sale herein granted, and Trustee is specifically empowered to make successive sale or sales under such power until the whole of the Property shall be sold; and if the proceeds of such sale or sales of less than the whole of such Property shall be less than the aggregate of the Indebtedness and the expenses of enforcing this Deed of Trust, then the lien, security interest and assignment hereof shall remain in full force and effect as to the unsold portion of the Property just as though no sale or sales had been made; provided, however, that Trustor shall never have any



right to require the sale or sales of less than the whole of the Property, but Lender shall have the right, at its sole election, to request Trustee to sell less than the whole of the Property.

8.09 REMEDIES CUMULATIVE, CONCURRENT AND NON-EXCLUSIVE. Trustee and Lender shall have all rights, remedies and recourses granted in the Loan Documents and available at law or equity (including specifically those granted by the UCC in effect and applicable to the Property or any portion thereof) and the same (a) shall be cumulative, and concurrent; (b) may be pursued separately, successively or concurrently against Trustor, Guarantor or others obligated under the Note, or against the Property, or against any one or more of them at the sole discretion of Lender; (c) may be exercised as often as occasion therefore shall arise, it being agreed by Trustor that the exercise or failure to exercise any of the same shall in no event be construed as a waiver or release thereof or of any other right, remedy or recourse; and (d) are intended to be, and shall be, nonexclusive.

8.10 RELEASE OF AND RESORT TO COLLATERAL. Any part of the Property may be released by Lender without affecting, subordinating or releasing the lien, security interest and assignment hereof against the remainder. The lien, security interest and other rights granted hereby shall not affect or be affected by any other security taken for the same Indebtedness or any part thereof. The taking of additional security, or the rearrangement, extension or renewal of the Indebtedness, or any part thereof, shall not release or impair the lien, security interest and other rights granted hereby or affect the liability of any endorser, guarantor or surety, or improve the right of any permitted junior lien holder; and this Deed of Trust, as well as any instrument given to secure any rearrangement, renewal or extension of the Indebtedness secured hereby, or any part thereof, shall be and remain a first and prior lien, except as otherwise provided herein, on all of the Property not expressly released until the Indebtedness is completely paid.

8.11 WAIVER OF REDEMPTION, NOTICE AND MARSHALING OF ASSETS. To the fullest extent permitted by law, Trustor hereby irrevocably and unconditionally waives and releases (a) all benefits that might accrue to Trustor and/or Guarantor by any present or future law exempting the Property from attachment, levy or sale on execution or providing for any appraisal, valuation, stay of execution, exemption from civil process, redemption or extension of time for payment; (b) all notices of any Event of Default (except as may be provided for under the terms hereof) or of Lender's or Trustee's election to exercise or the actual exercise of any right, remedy or recourse provided for under the Loan Documents; (c) any right to appraisal or marshaling of assets or a sale in inverse order of alienation; (d) the exemption of homestead; and (e) the administration of estates of decedents, or other matter whatever to defeat, reduce or affect the right of Lender under the terms of this Deed of Trust, to sell the Property for the collection of the Indebtedness secured hereby (without any prior or different resort for collection) or the right of Lender, under the terms of this Deed of Trust, to the payment of the Indebtedness out of the proceeds of sale of the Property in preference to every other person and claimant whatever.

8.12 DISCONTINUANCE OF PROCEEDINGS. In case Lender shall have proceeded to invoke any right, remedy or recourse permitted under the Loan Documents and shall thereafter elect to discontinue or abandon the same for any reason, Lender shall have the unqualified right to do so and, in such event, Trustor and Lender shall be restored to their former positions with respect to the Indebtedness, the obligations set forth herein, the Loan Documents, the Property and otherwise, and the rights, remedies, recourses and powers of Lender shall continue as if same had never been invoked.

8.13 APPLICATION OF PROCEEDS. The proceeds of any sale of, and the Rents and other income generated by the holding, leasing, operating or other use of, the Property shall be applied by Lender (or the receiver, if one is appointed) to the extent that funds are so available therefrom, as provided in Section 40.462 of the Nevada Revised Statutes or any substitute Legal Requirement then applicable to the distribution of such proceeds. In the absence of a conflicting Legal Requirement governing the distribution of such proceeds at the time of the sale, the proceeds shall be applied in the following orders of priority: (a) first, to the payment of the costs and expenses of taking possession of the Property and of holding, using, leasing,



maintaining, repairing, improving and selling the same, including, without limitation (i) Trustee's fees, title insurance and receiver's fees; (ii) costs of advertisement and Trustee sale guarantees; (iii) attorneys' and accountants' fees; (iv) court costs; and (v) payment of any and all Impositions and prior liens, security interests or other rights, title or interests on the Property (without in any way implying Lender's prior consent to the creation thereof); (b) second, to the payment of all amounts, other than the principal amount and accrued but unpaid interest under the Note, which may be due to Lender under the Loan Documents, together with interest thereon as provided therein; (c) third, to the payment of all accrued but unpaid interest due on the Note; (d) fourth, to the payment of the principal amount outstanding on the Note; (e) fifth, to the payment of all remaining Indebtedness secured hereby; (f) sixth, to the payment of any Indebtedness or obligation secured by a subordinate deed of trust or security interest on the Property; and (g) seventh, to Trustor or Trustor's successor in interest.

8.14 PURCHASE BY LENDER. Lender shall have the right to become the purchaser at the sale of the Property hereunder or pursuant to any other means and shall have the right to be credited on the amount of its bid therefore all of the Indebtedness and other obligations due and owing as of the date of such sale.

8.15 DISAFFIRMATION OF CONTRACTS. The purchaser at any Trustee's or foreclosure sale hereunder may disaffirm any easement granted, or rental, lease or other contract made in violation of any provisions of this Deed of Trust and may take immediate possession of the Property free from and despite the terms of, such grant of easement and rental, lease or other contract.

8.16 COSTS AND EXPENSES. Lender shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including but not limited to, attorneys' fees and costs of documentary evidence, abstracts, and title reports.

8.17 SUBSTITUTE TRUSTEE. Lender, at Lender's option, with or without cause, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Deed of Trust is recorded, which shall be conclusive proof of the proper appointment of such successor Trustee. Without conveyance of the Property, the successor trustee shall succeed to all title, power, and duties conferred upon the Trustee by this Deed of Trust and by applicable law.

8.18 REMEDIES CUMULATIVE. Each remedy provided in this Deed of Trust is distinct and cumulative to all other rights or remedies under this Deed of Trust or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

8.19 FORBEARANCE BY LENDER NOT A WAIVER. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of any sum secured by this Deed of Trust after the due date of such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the Indebtedness, nor shall Lender's receipts of any awards, proceeds or damages under this Deed of Trust operate to cure or waive Trustor's default in payment of sums secured by this Deed of Trust.

ARTICLE IX ENVIRONMENTAL, HEALTH, AND SAFETY MATTERS

9.01 DEFINITIONS. For the purposes of this Deed of Trust, Trustor, Lender, and Trustee agree that, unless the context otherwise specifies or requires, the following terms shall have the following meanings:



(a) “Environmental Claim” means any investigative, enforcement, cleanup, removal, containment, remedial, or other governmental or regulatory action at any time threatened, instituted, or completed pursuant to any Governmental Requirements against Trustor or against or with respect to the Property or its use, and any claim threatened or made by any person against Trustor or against or with respect to the Property or its use relating to damage, contribution, cost recovery, compensation, or injury resulting from any alleged breach or violation of any Governmental Requirements.

(b) “Environmental Condition” means any condition, circumstances, or matter related to or connected with the Property or Trustor’s ownership and use of the Property which is covered by any Governmental Requirements.

(c) “Governmental Requirements” means any and all laws, statutes, ordinances, rules regulations, orders, or determinations of any governmental authority, whether federal, state, county, city, or otherwise pertaining to health, safety, or the environment in effect in any and all Jurisdictions in which Trustor conducts business or where the Property is located, including without limitation: (i) the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 *et seq.*) as amended from time to time including without limitation as amended by the Used Oil Recycling Act of 1980, the Solid Waste Disposal Act Amendments of 1980, and the Hazardous and Solid Waste Amendments of 1984 (“RCRA”), and regulations promulgated thereunder; (ii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601 *et seq.*) as amended from time to time, including without limitation as amended by the Superfund Amendments and Reauthorization Act of 1986 (“CERCLA”), and regulations promulgated thereunder; (iii) the Toxic Substances Control Act (15 U.S.C. § 2601 *et seq.*), as amended from time to time; (iv) the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*) as amended from time to time (“ADA”), and all regulations and guidelines promulgated pursuant to the ADA, and all other similar laws, including without limitation the Architectural Barriers Act of 1968, and the Fair Housing Amendments Act of 1958, and all as amended from time to time and including all regulations promulgated pursuant to any one or more of them; (v) the Endangered Species Act (15 U.S.C. § 1531 *et seq.*) as amended from time to time; (vi) laws, statutes, ordinances, rules, regulations, orders, or determinations relating to wetlands, including without limitation those set forth in the Clean Water Act (33 U.S.C. § 1251 *et seq.*) as amended from time to time; (vii) Chapter 444 of the Nevada Revised Statutes (“NRS”), Sanitation; Chapter 445A of the NRS, Water Control; Chapter 445B of the NRS, Air Pollution; 445C of the NRS, Environmental Requirements; Chapter 459 of the NRS, Hazardous Materials; Title 40 of the NRS, Public Health and Safety; Title 47 of the NRS, Forestry, Forest Products and Flora; and the Uniform Fire Code, as amended from time to time.

(d) “Hazardous Materials” means (i) any “hazardous waste” as defined by RCRA, and regulations promulgated thereunder; (ii) any “hazardous substance” as defined by CERCLA, and regulations promulgated thereunder; (iii) any toxic substance as defined under or regulated by the Toxic Substances Control Act; (iv) asbestos, polychlorinated biphenyls, radon, or explosive or radioactive materials; (v) underground and above ground storage tanks, whether empty, filled or partially filled with any substance, including without limitation any petroleum product or any other “hazardous substance;” (vi) any substance the presence of which on the Property is prohibited by any Governmental Requirements; and (vii) any other substance which by any Governmental Requirements requires special handling or notification of any federal, state, or local governmental entity in its collection, storage, treatment, or disposal, including, but not limited to the hazardous substances defined in Nevada Revised Statutes 40.504.

(e) “Hazardous Materials Contamination” means the contamination (whether presently existing or hereafter occurring) of any improvements, facilities, soil, groundwater, air, or other elements on or of the Property by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air, or other elements on or off any other property as a result of Hazardous Materials at any time (whether before or after the date of this Deed of Trust) emanating from the Property.



9.02 REPRESENTATIONS AND WARRANTIES. Trustor represents and warrants to Lender that:

(a) Trustor has or will obtain all necessary permits, licenses, and authorizations for the Property and Trustor's use of the Property, including without limitation all necessary permits, licenses, and authorizations for Trustor's intended development of the Property, construction of the Improvements, or any other improvements to or construction on the Property, if applicable; and

(b) The Property is in compliance with all Governmental Requirements, and Trustor's intended use of the Property will comply with all Governmental Requirements; and

(c) Not in limitation of the foregoing, that: (i) no Hazardous Materials are now located on the Property, and neither Trustor nor, to the best of Trustor's knowledge and belief after due inquiry, any other person has ever caused or permitted any Hazardous Materials to be placed, held, located, or disposed of on, under, or at the Property or any part thereof; (ii) no part of the Property is being used or to the best of Trustor's knowledge and belief after due inquiry, has been used at any previous time for the disposal, storage, treatment, processing, or other handling of Hazardous Materials, nor is any part of the Property affected by any Hazardous Materials contamination; (iii) to the best of Trustor's knowledge and belief after due inquiry, no property adjoining the Property is being used, or has ever been used at any previous time, for the disposal, storage, treatment, processing, or other handling of Hazardous Materials, nor is any other property adjoining the Property affected by Hazardous Materials Contamination; (iv) to the best of Trustor's knowledge and belief after due inquiry, no investigation, administrative order, consent order and agreement, litigation, or settlement with respect to Hazardous Materials or Hazardous Materials Contamination is proposed, threatened, anticipated or in existence with respect to the Property; and (v) to the best of Trustor's knowledge and belief after due inquiry, the Property is not currently on and has never been on any federal or state "Superfund" or "Superlien" list.

9.03 TRUSTOR'S COVENANTS. Trustor agrees to (a) give notice to Lender immediately upon Trustor's acquiring knowledge of the presence of any Hazardous Materials on the Property or of any Hazardous Materials Contamination with a full description thereof; (b) give notice to Lender immediately upon Trustor's acquiring knowledge of any Environmental Claim; (c) comply at all times with any Governmental Requirements applicable to the Property; (d) require all employees, agents, or representatives of Trustor, all tenants and their agents and employees, and all contractors, subcontractors, suppliers, or other persons performing or involved in the construction or maintenance of the Property and Improvements to comply at all times with all Governmental Requirements; (e) provide Lender with satisfactory evidence of such compliance with Governmental Requirements; and (f) provide Lender, within **THIRTY (30)** days after demand by Lender, with a bond, letter of credit, or similar financial assurance evidencing to Lender's satisfaction that the necessary funds are available to pay the cost of complying with any Governmental Requirements, including without limitation removal, treatment and disposal of Hazardous Materials on the Property or Hazardous Materials Contamination to the Property and discharge of any assessments or liens which may be established on or against the Property as a result thereof.

9.04 SITE ASSESSMENTS. Lender (by its officers, employees, and agents) at any time and from time to time, either prior to or after the occurrence of an Event of Default, may contract for the services of persons (the "Site Reviewers") to perform site assessments ("Site Assessments") on the Property for the purpose of determining whether there exists on the Property any Environmental Condition which could reasonably be expected to result in a violation of any Governmental Requirements or in an Environmental Claim. The Site Assessments may be performed at any time upon reasonable notice to Trustor, and under reasonable conditions established by Trustor which do not impede the performance of the Site Assessments. The Site Reviewers are authorized to enter upon the Property for such purposes. The Site Reviewers are further authorized to perform both above and below the ground testing for environmental damage or the presence of Hazardous Materials on the Property and such other tests on the Property as may be necessary to conduct the Site Assessments in the



reasonable opinion of the Site Reviewers. Trustor will supply to the Site Reviewers such historical and operational information regarding the Property as may be reasonably requested by the Site Reviewers to facilitate the Site Assessments and will make available for meetings with the Site Reviewers appropriate personnel having knowledge of such matters. On request, Lender shall make the results of such Site Assessments fully available to Trustor, which (prior to an Event of Default hereunder) may, at Trustor's election, participate under reasonable procedures in the direction of such Site Assessments and the description of tasks of the Site Reviewers. The cost of performing such Site Assessments shall be paid by Trustor upon demand of Lender and any such obligations shall be Indebtedness secured by this Deed of Trust.

9.05 INDEMNIFICATION. TRUSTOR, FOR VALUABLE CONSIDERATION WHICH TRUSTOR ACKNOWLEDGES RECEIVING, SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS LENDER AND TRUSTEE FROM AND AGAINST ANY AND ALL LIABILITIES (INCLUDING STRICT LIABILITY AND INCLUDING, WITH REGARD TO SITE ASSESSMENTS, LENDER'S OWN NEGLIGENCE), ACTIONS, DEMAND, PENALTIES, LOSSES, COSTS, OR EXPENSES (INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES AND EXPENSES, AND REMEDIAL COSTS), SUITS, COSTS OF ANY SETTLEMENT OR JUDGMENT AND CLAIMS OF ANY AND EVERY KIND WHATSOEVER WHICH MAY NOW OR IN THE FUTURE (WHETHER BEFORE OR AFTER THE RELEASE OF THIS DEED OF TRUST) BE PAID, INCURRED, OR SUFFERED BY OR ASSERTED AGAINST LENDER OR TRUSTEE BY ANY PERSON OR ENTITY OR GOVERNMENTAL AGENCY FOR, WITH RESPECT TO, OR AS A DIRECT OR INDIRECT RESULT OF AND VIOLATION OR BREACH OF ANY GOVERNMENTAL REQUIREMENTS OR ANY ENVIRONMENTAL CLAIM, REGARDLESS OF WHETHER OR NOT CAUSED BY OR WITHIN THE CONTROL OF TRUSTOR, LENDER OR TRUSTEE. THE REPRESENTATIONS, COVENANTS, WARRANTIES, AND INDEMNIFICATION CONTAINED IN THIS ARTICLE IX SHALL SURVIVE THE RELEASE OF THIS DEED OF TRUST FOR A PERIOD OF ONE (1) YEAR.

9.06 LENDER'S RIGHTS. Lender shall have the right, but not the obligation, prior or subsequent to an Event of Default, without in any way limiting Lender's other rights and remedies under this Deed of Trust, to enter onto the Property or to take such other actions as it deems necessary or advisable to clean up, remove, resolve, or minimize the impact of, or otherwise deal with, any Environmental Condition on the Property following receipt of any notice from any person or entity asserting the existence of any Environmental Condition pertaining to the Property or any part thereof which if true, could result in an order, suit, imposition of a lien on the Property, or other action and/or which, in Lender's sole opinion, could jeopardize Lender's security under this Deed of Trust. All costs and expenses paid or incurred by Lender in the exercise of any such rights shall be Indebtedness secured by this Deed of Trust and shall be payable by Trustor upon demand.

9.07 NO WAIVER. Notwithstanding any provision in this Article IX or elsewhere in this Deed of Trust, or any rights or remedies granted by this Deed of Trust, Lender does not waive and expressly reserves all rights and benefits now or hereafter accruing to or available to Lender under the 'security interest exception' set forth in 40 C.F.R. § 300.1100. No action taken by Lender pursuant to this Deed of Trust or any other Loan Document shall be deemed or construed to be a waiver or relinquishment of any rights or benefits under the "secured creditor exemption" or "secured party exemption" under CERCLA.

**ARTICLE X
TRUSTEE PROVISIONS**

10.01 LIABILITY. Trustee shall not be personally liable in case of entry by it or anyone acting by virtue of the powers herein granted it upon the Property for debts contracted or liability or damages incurred in the management or operation of the Property. Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by it hereunder or believed by it



in good faith to be given. Trustee shall be entitled to reimbursement for expenses incurred by it in the performance of its duties hereunder and to reasonable compensation for such of its services hereunder as shall be rendered. Trustor will, from time to time, pay compensation due the Trustee hereunder and reimburse Trustee for and save and hold it harmless from and against any and all loss, cost, liability, damage and expense whatsoever incurred by it in the performance of its duties.

10.02 RETENTION OF MONIES. All monies received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other monies (except to the extent required by law) and Trustee shall be under no liability for interest on any monies received by it hereunder.

10.03 SUCCESSOR TRUSTEE. Trustee may resign by giving of notice of such resignation in writing to Lender. If Trustee shall resign or become disqualified from acting in the execution of this Trust or shall fail or refuse to exercise the same when requested by Lender so to do or if for any reason and without cause Lender shall prefer to appoint a substitute trustee to act instead of the original Trustee named herein, or any prior successor or substitute trustee, Lender shall have full power to appoint a substitute trustee in the manner provided by law and, if preferred, several substitute trustees in succession who shall succeed to all the estate, rights, powers and duties of the Trustee.

10.04 SUCCESSION INSTRUMENTS. Any new Trustees appointed pursuant to any of the provisions hereof shall, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of its or his predecessor in the rights hereunder with like effect as if originally named as Trustee herein; but, nevertheless, upon the written request of Lender or its successor trustee, the Trustee ceasing to act shall execute and deliver an instrument transferring to such successor trustee, upon the trust herein expressed, all the estates, properties, rights, powers and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and monies held by the Trustee to the successor trustee so appointed in its place.

10.05 PERFORMANCE OF DUTIES BY AGENTS. Trustee may authorize one or more parties to act on its behalf to perform the ministerial functions required of it hereunder, including, without limitation, the transmittal and posting of any notices.

ARTICLE XI MISCELLANEOUS PROVISIONS

11.01 RELEASE. Upon payment of all sums and the performance of all obligations secured by this Deed of Trust, Lender shall release this Deed of Trust.

11.02 TRUSTOR AND LIEN NOT RELEASED. From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Trustor, Trustor's successors or assigns or any junior lienholder or Guarantor, without liability on Lender's part and notwithstanding the existence of an Event of Default, extend the time for payment of the Indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of the Indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of the Indebtedness, release from the liens of this Deed of Trust any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, join in any extension or subordination agreement, and agree in writing with Trustor to modify the rate of interest or period of amortization of the Note or change the amount of the installments payable thereunder. Any actions taken by Lender pursuant to the terms of this Section 11.02 shall not affect the obligation of Trustor or Trustor's successors or assigns to pay the sums secured by this Deed of Trust and to observe the covenants of Trustor contained herein, shall not affect the guaranty of any person, corporation, partnership, or other entity for payment of the Indebtedness or any part thereof, and shall not affect



the liens or priority of liens of this Deed of Trust on the Property. Trustor shall pay Lender a reasonable charge, together with such title insurance premiums and attorneys' fees as may be incurred at Lender's option, for any such action if taken at Trustor's request.

11.03 NOTICE. Except for any notice required under applicable law to be given in another manner, (a) any notice to Trustor provided for in the Deed of Trust or in the Note shall be given by mailing such notice by United States mail, postage prepaid, return receipt requested, addressed to Trustor at Trustor's address stated in this Deed of Trust or at such other address as Trustor may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by United States mail, postage prepaid, return receipt requested, addressed to Lender at Lender's address stated in this Deed of Trust or to such other address as Lender may designate by notice to Trustor as provided herein. Any notice provided for in this Deed of Trust or in the Note shall be deemed to have been given to Trustor or Lender when given in the manner designated herein, but actual notice, however given or received, shall always be effective.

11.04 SUCCESSORS AND ASSIGNS BOUND. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Trustor.

11.05 JOINT AND SEVERAL LIABILITY. All covenants and agreements of Trustor (if more than one) shall be joint and several.

11.06 AGENTS. In exercising any rights hereunder or taking any actions provided for herein, Lender may act through its employees, agents or independent contractors as authorized by Lender.

11.07 RECONVEYANCE FEES. Trustor covenants and agrees to pay all reconveyance fees charged by Trustee at the time or times the lien of this Deed of Trust is fully or partially reconveyed, as well as all of Lender's other reasonable costs associated therewith.

11.08 STATUTORY COVENANTS. To the extent not inconsistent with the express provisions of this Deed of Trust, the following covenants of Section 107.030 of the Nevada Revised Statutes are hereby adopted and made a part of this Deed of Trust: Covenant No. 3, Covenant No. 4 (interest, Default Rate), Covenant No. 5, Covenant No. 6, Covenant No. 7 (attorneys' fees, reasonable), and Covenant No. 8.

11.09 PAYMENT FOR LABOR AND MATERIALS. Trustor will promptly pay all bills for labor, materials, and specifically fabricated materials incurred in connection with the Property and never permit to exist in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and security interests hereof, for any such bill, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest on a parity with, superior, or inferior to any of the liens or security interests hereof, except for the Permitted Exceptions. Notwithstanding the foregoing, Trustor shall be entitled to contest any such lien in good faith provided adequate measures have been taken to ensure that the Property is not in danger of foreclosure during the pendency of such contest.

11.10 SURVIVAL OF OBLIGATIONS. Each and all of the obligations set forth herein shall survive the execution and delivery of the Loan Documents and the consummation of the loan called for therein and shall continue in full force and effect until the Indebtedness shall have been paid in full. Trustor's obligations under this Deed of Trust shall be joint and several.

11.11 FURTHER ASSURANCES. Trustor, upon the request of Trustee, or Lender, will execute, acknowledge, deliver and record and/or file such further instruments and do such further acts as may be necessary, desirable or proper to carry out more effectively the purposes of the Loan Documents, to create and perfect the liens and security interests on any property intended by the terms thereof to be covered thereby, including specifically, without limitation, any renewals, additions, substitutions, and replacements or appurtenances to the Property, and to complete, execute, record and file any document or instrument necessary



to place third parties on notice of the liens and security interests granted under the Loan Documents. Trustor hereby irrevocably appoints Lender as its agent to execute and deliver all such instruments and additionally to record and file any of the same as may be necessary.

11.12 RECORDING AND FILING. Trustor will cause the Loan Documents and all amendments and supplements thereto and substitutions therefore to be recorded, filed, re-recorded and refilled in such manner and in such places as Trustee or Lender shall reasonably request and will pay all such recording, filing, re-recording and refiling taxes, fees and other charges.

11.13 LENDER'S RIGHT TO PAY INDEBTEDNESS AND PERFORM OBLIGATIONS. If Trustor or any other party shall fail, refuse or neglect to make any required payment of the Indebtedness or perform any of the Indebtedness or obligations required by the Loan Documents, then at any time and from time to time thereafter and without notice or demand upon Trustor or any other party, and without waiving or releasing any other right, remedy or recourse Lender may have because of the same, Lender may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of Trustor and shall have the right to enter upon the Property for such purpose and to take all such action thereon with respect to the Property as it may deem necessary or appropriate. Trustor shall be obligated to repay Lender for all sums advanced by it pursuant to this Section 11.13 and shall indemnify and hold Lender harmless from and against any and all loss, cost, expense, liability, damage and claims and causes of action, including reasonable attorneys' fees, incurred or accruing by any acts performed by Lender pursuant to the provisions of this Section 11.13 or by reason of any other provision of the Loan Documents. All sums paid by Lender pursuant to this Section 11.13 and all other sums expended by Lender to which it shall be entitled to be indemnified, together with interest thereon at the Highest Lawful Rate per annum from the date of such payment or expenditure shall constitute additions to the Indebtedness and other obligations secured hereby, shall be secured by the Loan Documents and shall be paid by Trustor to Lender upon demand.

11.14 COVENANTS RUNNING WITH THE LAND. All obligations contained in this Deed of Trust and in the other Loan Documents are intended by the parties to be and shall be construed as covenants running with the Property.

11.15 COUNTERPARTS. This Deed of Trust may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute but one instrument.

11.16 SOLE BENEFIT. This Deed of Trust and the other Loan Documents have been executed for the sole benefit of Trustor, Guarantor and Lender and the heirs, successors, assigns and legal representatives of Lender. No other party shall have the rights hereunder nor be entitled to assume that the parties thereto will insist upon strict performance of their mutual obligations hereunder, any of which may be waived from time to time. Trustor shall have no right to assign any of their rights under the Loan Documents to any party whatsoever, including the right to receive advances under the Note or otherwise.

11.17 SUBROGATION. If any or all of the proceeds of the Indebtedness or the other obligations under the Loan Document have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property or to satisfy any indebtedness or obligation secured by a lien or encumbrance of any kind (including liens securing the payment of any Impositions), such proceeds have been advanced by Lender at Trustor's request, and, to the extent of such funds so used, the Indebtedness and obligations in this Deed of Trust shall be subrogated to and extend to all of the rights, claims, liens, titles and interests heretofore existing against the Property to secure the Indebtedness or obligation so extinguished, paid, extended or renewed, and the former rights, claims, liens, titles and interests, if any, shall not be waived, whether or not released of record, but rather shall be continued in full force and effect and in favor of Lender and shall be merged with the lien and security interest created herein as cumulative security for the payment of the Indebtedness and satisfaction of the obligations under the Loan Documents.



11.18 NO MEMBER OR PARTNER. Lender, by its acceptance hereof, does not become a member or partner of or with Trustor, and in no event shall Lender be liable for any of the debts, obligations or liabilities of Trustor, as a result of the execution of this Deed of Trust, the Note, or any other document executed in connection with the loan, nor is Lender liable for any contributions to Trustor. Provided further, and without limiting the generality of the foregoing, nothing contained in this Deed of Trust or any of the Loan Documents shall be deemed to create a partnership and/or a joint venture between Trustor and Lender.

11.19 ACCOMMODATION. Accommodator, if any, has executed this Deed of Trust as an accommodation in order to encumber all of its right, title, and interest in and to the Property.

11.20 WARRANTY OF AUTHORITY. Each individual executing this Deed of Trust on behalf of herself or himself or a trust, partnership, limited liability company, corporation, or other legal entity represents and warrants that she or he has all requisite right, power, and authority to do so and to bind such person or entity to each and all of the terms hereof.

11.21 FIXTURE FILING. The Property includes goods which are, or are to become, fixtures related to the Land and this Deed of Trust is intended to be a fixture filing under NRS 104.9502 as it may be amended, or recodified, from time to time.

11.22 GOVERNING LAW. THIS INSTRUMENT AND THE OTHER LOAN DOCUMENTS, THEIR CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT, AND THE PARTIES' RIGHTS UNDER SUCH DOCUMENTS AND CONCERNING THE PROPERTY, SHALL BE DECIDED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEVADA, INCLUDING, BUT NOT LIMITED TO LENDER'S REMEDIES UNDER ARTICLE VIII AND LENDER'S RIGHTS UNDER THE UNIFORM ASSIGNMENT OF RENTS ACT, NEVADA REVISED STATUTES CHAPTER 107A WHICH SHALL GOVERN THESE MATTERS.

11.22 SEVERABILITY. In the event that any provision of this Deed of Trust or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provisions, and to this end the provisions of this Deed of Trust and the Note are declared to be severable.

11.23 USURY DISCLAIMER. The term "*Maximum Lawful Rate*" means the maximum rate of interest and the term Maximum Lawful Amount means the maximum amount of interest that is permissible under applicable state or federal law for the type of loan evidenced by the Note and the other Loan Documents. Lender does not intend to contract for, charge or receive more than the Maximum Lawful Rate or Maximum Lawful Amount permitted by applicable state or federal law, and to prevent such an occurrence Lender and Trustor agree that all amounts of interest, whenever contracted for, charged or received by Lender, with respect to the loan of money evidenced by the Note or with respect to any other amount payable under this Deed of Trust or any of the other Loan Documents, shall be spread, prorated or allocated over the full period of time the Note is unpaid, including the period of any renewal or extension of the Note. If demand for payment of the Note is made by Lender prior to the full stated term, the total amount of interest contracted for, charged or received to the time of such demand shall be spread, prorated or allocated along with any interest thereafter accruing over the full period of time that the Note thereafter remains unpaid for the purpose of determining if such interest exceeds the Maximum Lawful Amount. At maturity (including maturity due to Lender's acceleration of the Note) or on earlier final payment of the Note, Lender shall compute the total amount of interest that has been contracted for, charged or received by Lender or payable by Trustor under this Note and compare such amount to the Maximum Lawful Amount that could have been contracted for, charged or received by Lender. If such computation reflects that the total amount of interest that has been contracted for, charged or received by Lender or payable by Trustor exceeds the Maximum Lawful Amount, then Lender shall apply such excess to the reduction of the principal balance and not to the payment of interest; or if such excess



interest exceeds the unpaid principal balance, such excess shall be refunded to Trustor. This provision concerning the crediting or refund or excess Interest shall control and take precedence over other agreements between Trustor and Lender so that under no circumstances shall the total interest contracted for, charged or received by Lender exceed the Maximum Lawful Amount.

11.24 PARTIAL INVALIDITY. In the event any portion of the sums intended to be secured by this Deed of Trust cannot be lawfully secured hereby, payments in reduction of such sums shall be applied first to those portions not secured hereby.

11.25 CAPTIONS. The captions and headings of the Articles and Sections of this Deed of Trust are for convenience only and are not to be used to interpret or define the terms and provisions of this Deed of Trust.

11.26 DEFINITIONS. Capitalized terms not otherwise defined in this Deed of Trust shall have the meanings attributed to such terms in Loan Agreement. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

11.27 WAIVER OF JURY TRIAL. TRUSTOR AND LENDER EACH WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (a) UNDER THIS DEED OF TRUST OR ANY RELATED DOCUMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR ANY RELATED DOCUMENT OR (b) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION HERewith, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. TRUSTOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST LENDER OR ANY OTHER PERSON INDEMNIFIED UNDER THIS DEED OF TRUST ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

 _____ - INITIALS OF TRUSTOR

11.28 PATRIOT ACT NOTICE. LENDER HEREBY NOTIFIES TRUSTOR AND EACH GUARANTOR THAT PURSUANT TO THE REQUIREMENTS OF THE USA PATRIOT ACT, 31 U.S.C. § 5318 (THE "ACT"), IT IS REQUIRED TO OBTAIN, VERIFY AND RECORD INFORMATION THAT IDENTIFIES TRUSTOR AND EACH GUARANTOR, WHICH INFORMATION INCLUDES THE NAME AND ADDRESS OF TRUSTOR AND EACH GUARANTOR AND OTHER INFORMATION THAT WILL ALLOW SUCH LENDER TO IDENTIFY TRUSTOR AND EACH GUARANTOR IN ACCORDANCE WITH THE ACT.

11.30 FACT ACT CERTIFICATION. Trustor hereby acknowledges that Lender may report information about the Indebtedness of Trustor to credit bureaus. Late payments, missed payments or other defaults on the Indebtedness may be reflected in Trustor's credit report.

11.31 INCORPORATION OF NOTICE OF FINAL AGREEMENT. It is the intention of Trustor, Guarantor and Lender that the following NOTICE OF FINAL AGREEMENT be incorporated by reference into each of the Loan Documents (as the same may be amended, modified or restated from time to time). Trustor, Guarantor and Lender warrant and represent that the entire agreement made and existing by or among Trustor, Guarantor and Lender with respect to the Indebtedness is and shall be contained within the Loan



Documents, and that no agreements or promises exist or shall exist by or among, Trustor, Guarantor and Lender that are not reflected in the Loan Documents.

NOTICE OF FINAL AGREEMENT

THIS DEED OF TRUST AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES, AND THE SAME MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

NOTICE OF INDEMNIFICATION

TRUSTOR HEREBY ACKNOWLEDGES AND AGREES THAT THIS DEED OF TRUST CONTAINS CERTAIN INDEMNIFICATION PROVISIONS (INCLUDING, WITHOUT LIMITATION, THOSE CONTAINED IN SECTIONS 4.09 AND 9.05 HEREOF) WHICH, IN CERTAIN CIRCUMSTANCES, COULD INCLUDE AN INDEMNIFICATION BY TRUSTOR OF LENDER FROM CLAIMS OR LOSSES ARISING AS A RESULT OF LENDER'S OWN NEGLIGENCE.

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EXECUTED as of the date of the acknowledgement below, but to be effective as of the Effective Date.

TRUSTOR:

GAEA THEOS, LLC, a Nevada limited liability company

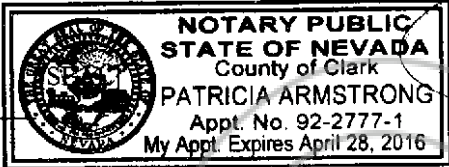
By: JOHN GJONOLA, DBA
EPITIRITIS MANAGEMENT

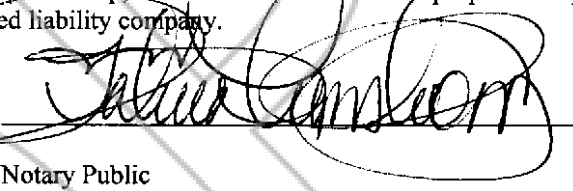
Its: Manager

By: 
Name: John Gjonola
Title: Sole Proprietor

STATE OF Nevada §
COUNTY OF Clark §

THIS instrument was acknowledged before me on JUNE 29, 2015 by JOHN GJONOLA, dba EPITIRITIS MANAGEMENT, a Nevada sole proprietorship, on behalf of such sole proprietorship, as MANAGER of GAEA THEOS, LLC, a Nevada limited liability company.




Notary Public

Instrument Prepared By:

Gardere Wynne Sewell LLP
1601 Elm Street, Suite 3000
Dallas, TX 75201
Attention: Steven S. Camp



**EXHIBIT A
LEGAL DESCRIPTION**

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LINCOLN, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

TOWNSHIP 12 SOUTH. RANGE 71 EAST. M.D.B.& M.

Section 15: Government Lots 5 to 8, inclusive

Section 16: Government Lot 1; the Northeast Quarter (NE ¼); the North Half (N ½) of the Northwest Quarter (NW ¼); the Southeast Quarter (SE ¼) of the Northwest Quarter (NW ¼)

Section 17: Government Lot 1; the East Half (E ½) of the Northeast Quarter (NE ¼); the Northwest Quarter (NW ¼) of the Northeast Quarter (NE ¼)

PARCEL 2:

TOWNSHIP 12 SOUTH. RANGE 71 EAST. M.D.B.& M.

Section 33: Government Lots 1 and 3

Section 34: Government Lot 8

PARCEL 3:

TOWNSHIP 12 SOUTH. RANGE 70 EAST. M.D.B.& M.

Section 25: West Half (W ½)

Section 26: All

Section 27: All

Section 34: All

Section 35: All

Section 36: Northwest Quarter (NW ¼)

APN: 008-261-05, 008-251-03, 008-261-09, 008-251-04