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TO BE RECORDED IN THE
REAL ESTATE RECORDS OF
HARRIS COUNTY, TEXAS

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Voya Loan No. 30075

Common Address: 8030 W Airport, Houston, Texas 77071

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

THIS DEED OF TRUST, ASSIGNMENT OF LEASES, SECURITY AGREEMENT AND FIXTURE FILING (hereinafter, as it may be from time to time amended, modified, extended, renewed, substituted and/or supplemented, referred to as this "Deed of Trust") is made this 10th day of September, 2021, by **THE TOWNHOMES OWNER LP**, a Delaware limited partnership, having an address at c/o July Residential Group, LLC, 575 Madison Avenue, 22nd Floor, New York, New York 10022 (hereinafter referred to as the "Grantor"), in favor of **GARY S. FARMER**, as trustee, having an address at 401 Congress Avenue, Suite 1500, Austin, Texas 78701 (hereinafter referred to as the "Trustee"), for the benefit of **VOYA INVESTMENT MANAGEMENT LLC**, a Delaware limited liability company, having an address located at 5780 Powers Ferry Road, NW, Suite 300, Atlanta, Georgia 30327-4349, in its capacity as the administrative agent for the "Lenders" (as such term is hereinafter defined) (hereinafter, together with its successors and/or assigns in such capacity, referred to as the "Beneficiary").

RP-2021-522946

WITNESSETH:

WHEREAS, the Grantor is the owner of a fee simple estate and interest in that certain real property located at 8030 W Airport, Houston, Texas 77071, all as more fully described on Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Land"); and

WHEREAS, pursuant to the terms, conditions, and provisions of that certain Loan Agreement dated of even date herewith, executed by and among the Grantor and Casa Grande Owner LP, a Delaware liability company, Shadowtree Owner LP, a Delaware liability company, Airport Crossing Owner LP, a Delaware liability company and Plaza at Hobby Owner LP, a Delaware liability company (collectively, the "Borrower"), certain lenders party thereto from time to time (hereinafter collectively referred to as the "Lenders"), and the Beneficiary (hereinafter, as it may be from time to time amended, modified, extended, renewed, substituted and/or supplemented, referred to as the "Loan Agreement"), the Lenders have agreed to make available to the Borrower a commercial mortgage loan facility in the aggregate maximum principal amount of up to **EIGHTY-ONE MILLION FOUR HUNDRED FIFTY-TWO THOUSAND FOUR HUNDRED AND 00/100 (\$81,452,400.00) DOLLARS** (hereinafter, as it may be from time to time amended, modified, extended, renewed, substituted, and/or supplemented, referred to as the "Loan"); and

WHEREAS, capitalized terms used but not otherwise expressly defined herein shall have the same meanings when used herein as set forth in the Loan Agreement; and

WHEREAS, as of the date hereof, the Loan is evidenced by the Notes; and

WHEREAS, the Lenders are desirous of securing the prompt payment of the Loan together with interest, charges and prepayment fees, if any, thereon in accordance with the terms, conditions, and provisions of the Loan Agreement, and any additional indebtedness accruing to the Beneficiary or to any of the Lenders on account of any future payments, advances, or expenditures made by the Beneficiary or any of the Lenders pursuant to the Loan Agreement or this Deed of Trust and any additional sums with interest thereon which may be loaned to the Borrower by the Beneficiary or any of the Lenders or advanced under the Loan Documents (hereinafter all such amounts shall sometimes be collectively referred to as the "Indebtedness").

NOW, THEREFORE, the Grantor, to secure the payment of the Indebtedness and the performance of the covenants and agreements herein contained to be performed by the Grantor, for good and valuable consideration in hand paid, the receipt and sufficiency whereof are hereby acknowledged, and intending to be legally bound, hereby agrees and covenants as follows:

1. **Granting Clauses.** The Grantor has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does GRANT, BARGAIN, SELL and CONVEY, unto the Trustee, in trust, WITH POWER OF SALE, all of the Grantor's present and hereafter acquired estate, right, title, and interest in, to and under the following (hereinafter collectively referred to as the "Mortgaged Premises"):

(a) The Land, together with all buildings, structures and improvements now or hereafter erected on the Land, together with all fixtures and items that are to become fixtures thereto (hereinafter collectively referred to as the "Improvements"); and

(b) All and singular easements, rights-of-way, licenses, permits, rights of use or occupancy, privileges, tenements, appendages, hereditaments, and appurtenances, and other rights and privileges attached or belonging to the Land and/or the Improvements or in any way appertaining thereto,

whether now or in the future, and all of the rents, issues, income, and profits from the Land and/or the Improvements; and

(c) The land lying within any street, alley, avenue, roadway or right-of-way open or proposed or hereafter vacated in front of or adjoining the Land; and all rights, title and interests, if any, of the Grantor in and to any strips and gores adjoining the Land; and

(d) All machinery, apparatus, equipment, goods, systems, building materials, carpeting, furnishings, fixtures, fittings, furniture, and property of every kind and nature whatsoever, now or hereafter located in or upon or affixed to the Land and/or the Improvements, or any part thereof, or used or usable in connection with any construction on or any present or future operation of the Land or the Improvements, now owned or hereafter acquired by the Grantor, including, without limitation, the following: all heating, lighting, refrigerating, ventilating, air-conditioning, air-cooling, electrical, fuel, garbage, sanitary drainage, dust removal, refuse or garbage, fire extinguishing, plumbing, cleaning, telephone, communications and power equipment, systems and apparatus; and all elevators, switchboards, motors, pumps, screens, awnings, floor coverings, cabinets, partitions, conduits, ducts and compressors; and all cranes and craneways, oil storage, sprinkler/fire protection and water service equipment; and also including any of such property stored on the Land and/or the Improvements or in warehouses and intended to be used in connection with or incorporated into the Land and/or the Improvements or for the pursuit of any other activity in which the Grantor may be engaged on the Land and/or the Improvements, and including, without limitation, all tools, musical instruments and systems, audio or video equipment, cabinets, awnings, window shades, venetian blinds, drapes and drapery rods and brackets, screens, carpeting and other window and floor coverings, decorative fixtures, plants, cleaning apparatus, and cleaning equipment, refrigeration equipment, cables, computers and computer equipment, software, books, supplies, kitchen equipment, appliances, tractors, lawn mowers, ground sweepers and tools, swimming pools, whirlpools, and recreational or play equipment, together with all substitutions, accessions, repairs, additions, and replacements to any of the foregoing, it being understood and agreed that all such machinery, equipment, apparatus, goods, systems, fixtures, and property are a part of the Improvements and are declared to be a portion of the security for the Indebtedness (whether in single units or centrally controlled, and whether physically attached to real property or not); and

(e) Any and all awards, payments, and insurance proceeds, including interest thereon, and the right to receive the same, which may be paid or payable with respect to the Land and/or the Improvements or other properties described above as a result of any of the following or otherwise: (i) the exercise of the right of eminent domain or action in lieu thereof; or (ii) the alteration of the grade of any street; or (iii) any fire, casualty, accident, damage or other injury to or decrease in the value of the Land and/or the Improvements or other properties described above, to the extent of all amounts which may be secured by this Deed of Trust at the date of receipt of any such award or payment by the Grantor or the Beneficiary, and the attorneys' fees, costs, and disbursements incurred by the Grantor or the Beneficiary or any of the Lenders in connection with the collection of such award or payment. The Grantor hereby covenants and agrees to execute and deliver, from time to time, such further instruments as may be requested by the Beneficiary or any of the Lenders to confirm such assignment to the Beneficiary, for the benefit of the Lenders, of any such award, payment, or proceeds.

The parties intend the definition of Mortgaged Premises to be broadly construed and in the case of doubt as to whether a particular item is to be included in the definition of Mortgaged Premises, the doubt should be resolved in favor of inclusion.

TO HAVE AND TO HOLD the Mortgaged Premises with all rights, privileges, and appurtenances thereunto belonging, and all income, rents, royalties, revenues, issues, profits, and proceeds therefrom, unto the Trustee, its successors and assigns, forever, in trust, for the uses and

purposes herein expressed and the Grantor does hereby bind the Grantor and its successors and assigns, to warrant and forever defend the Mortgaged Premises unto the Trustee, its successors and assigns, forever, against the claim or claims of all persons whomsoever claiming or to claim the same, or any part thereof.

THIS DEED OF TRUST IS GIVEN TO SECURE: Payment of the Indebtedness and payment of such additional sums with interest thereon which may hereafter be loaned to the Grantor by the Beneficiary or any of the Lenders pursuant to the Loan Agreement, the Notes, or this Deed of Trust or otherwise advanced under the Loan Documents, including, without limitation, advances made by the Beneficiary or by any of the Lenders to protect the Mortgaged Premises or the lien of this Deed of Trust or to pay taxes, assessments, insurance premiums, and all other amounts that the Grantor has agreed to pay pursuant to the provisions hereof or that the Beneficiary or any of the Lenders has incurred by reason of the occurrence of an "Event of Default" (as such term is defined in the Loan Agreement), including, without limitation, advances made to enable completion of any of the Improvements or any restoration or repair thereof, even though the aggregate amount outstanding at any time may exceed the original principal balance stated herein and in the Notes; and the due, prompt, and complete performance of each and every covenant, condition, and agreement contained in the Loan Documents. The Grantor hereby warrants that (a) the Grantor has good and indefeasible fee simple title to the Mortgaged Premises, is lawfully seized and possessed of the Mortgaged Premises and every part thereof, and has the right to convey same, (b) the Grantor shall forever warrant and defend the title to the Mortgaged Premises unto the Beneficiary against the claims of all persons whomsoever, and (c) the Mortgaged Premises are unencumbered except as set forth on the Title Insurance Policy regarding the Mortgaged Premises.

2. **Stamp Tax.** To the fullest extent permitted by law, if, by the laws of the United States of America, or of any state having jurisdiction over the Grantor, any tax is due or becomes due in respect of the issuance of the Notes hereby secured and/or this Deed of Trust, the Grantor hereby covenants and agrees to pay such tax in the manner required by any such Law. To the fullest extent permitted by law, the Grantor hereby further covenants and agrees to reimburse the Beneficiary and any of the Lenders for any sums which the Beneficiary or any of the Lenders expends by reason of the imposition of any tax on the issuance of the Notes and/or this Deed of Trust.

3. **Lease Assignment; Observance of Lease Assignment.**

(a) To ensure the payment of the Indebtedness and the faithful performance of the terms, conditions, and provisions contained herein, the Grantor, as landlord, hereby irrevocably and absolutely assigns to the Beneficiary, for the benefit of the Lenders, all of the Grantor's rights, title, and interests in, to, and under: (i) all Leases of all or any portion of the Mortgaged Premises, whether now existing or entered into after the date hereof; and (ii) all of the Rents of the Mortgaged Premises, including, without limitation, all amounts payable and all rights and benefits accruing to the Grantor under the Leases and all termination payments. The term "Leases" as used herein shall also include all guarantees of and security for the tenants' performance thereunder, and all amendments, extensions, renewals, or modifications thereto. This is a present and absolute assignment, not an assignment for security purposes only, and the Beneficiary's rights in and to the Leases and the Rents is not contingent upon, and may be exercised without possession of, the Mortgaged Premises.

(b) Notwithstanding the foregoing Paragraph 3(a) to the contrary, the Beneficiary hereby confers upon the Grantor a revocable license (hereinafter referred to as the "License") to exercise the rights as landlord under the Leases and to collect and retain the Rents as they become due and payable, for so long as no Event of Default exists. Upon the occurrence of an Event of Default, the License shall be automatically revoked and the Beneficiary shall be entitled to collect and apply the Rents pursuant to Paragraph 9 of this Deed of Trust without any notice and without taking possession of the Mortgaged Premises. At such time, if at all, as such Event of Default is waived by the Beneficiary (if the

Beneficiary, in its sole and absolute discretion, agrees in writing to waive said Event of Default) or if the cure of said Event of Default shall have been accepted in writing by the Beneficiary, the License shall be reinstated on the terms contained in this Paragraph 3. The Grantor hereby irrevocably authorizes and directs the tenants under the Leases to rely upon and comply with any notice or demand given by or on behalf of the Beneficiary in accordance with the terms of this Paragraph 3 for the payment to the Beneficiary of any rental or other sums which may at any time become due under the Leases, or for the performance of any of the tenants' undertakings under the Leases, and the tenants shall have no right or duty to inquire as to whether any Event of Default has actually occurred or is then existing hereunder. The Grantor hereby relieves the tenants from any liability to the Grantor by reason of relying upon and complying with any such notice or demand by the Beneficiary.

(c) Except as expressly set forth and provided for in the Loan Agreement, all Leases entered into after the date hereof are subject to the prior express written approval of the Beneficiary as to form and content, and the Grantor shall not enter into any Lease without the prior express written consent of the Beneficiary (not to be unreasonably withheld, conditioned or delayed).

(d) The Grantor shall not, without the prior express written consent of the Beneficiary execute an assignment or pledge of any Rents and/or any Leases.

(e) The Grantor shall not permit any Lease or any part thereof to become subordinate to any lien other than the lien hereof and liens in favor of the Beneficiary.

(f) The Grantor shall not (i) conduct directly any on-site dry cleaning operations on any portion of the Mortgaged Premises, (ii) enter into any new Lease or amend any existing Lease that would permit any tenant to commence any on-site dry cleaning operations on any portion of the Mortgaged Premises that are not currently being conducted as of the date hereof, and (iii) permit any tenant to conduct any on-site dry cleaning operations on any portion of the Mortgaged Premises that (A) are not currently permitted under or pursuant to the provisions of the tenant's existing Lease or (B) are in violation of any applicable law or governmental regulation. Nothing in this Paragraph 3(f) shall be deemed to be a consent or approval by the Beneficiary or by any of the Lenders of any environmental condition at the Mortgaged Premises that may have been caused by the operation of any on-site dry cleaning operation (whether presently or in the past), or as a waiver by the Beneficiary or any of the Lenders, in each case, of any of their respective rights under Article V of the Loan Agreement or under the Environmental Indemnity.

4. **Effect of Extension of Time.** If the payment of the Indebtedness, or any part thereof, is extended or varied, or if any part of any security for the payment of the Indebtedness is released, or if any person or entity liable for the payment of the Indebtedness is released, or if the Beneficiary takes other or additional security for the payment of the Indebtedness, or if the Beneficiary waives or fails to exercise any right granted herein, in the Loan Agreement, or in the Notes, or in any other instrument given to secure the payment hereof, then all persons now or at any time hereafter liable for the payment of the Indebtedness, or any part thereof, or interested in the Mortgaged Premises shall be held to assent to such extension, variation, release, waiver, failure to exercise, or the taking of additional security, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by the Beneficiary, notwithstanding such extension, variation, release, waiver, failure to exercise, or the taking of additional security.

5. **Effect of Changes in Laws Regarding Taxation.** In the event of the enactment after the date hereof of any law of the State of Texas (hereinafter referred to as the "State") deducting from the value of the Mortgaged Premises for the purpose of taxing any lien thereon, or imposing upon the Beneficiary or any of the Lenders, in each case, the payment of the whole or any part of the Impositions

or Liens required to be paid by the Grantor under the Loan Agreement or this Deed of Trust, or changing in any way the laws relating to the taxation of mortgages, deeds of trust, or debts secured by mortgages or deeds of trust or the interest of the Beneficiary in the Mortgaged Premises, or the manner of collection of taxes, so as to affect this Deed of Trust or the debt secured hereby or the holders thereof, then, and in any such event, the Grantor, upon demand by the Beneficiary, shall pay such Impositions, or reimburse the Beneficiary or any of the Lenders therefor if the Beneficiary or any of the Lenders pays such Impositions and submits proof of payment to the Grantor; provided, however, that if, in the opinion of counsel for the Beneficiary: (a) it might be unlawful to require the Grantor to make such payment; or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by Law; then and in such event, the Beneficiary may elect, by notice in writing given to the Grantor, to declare all of the Indebtedness to be and become due and payable ninety (90) days from the giving of such notice, without the payment of the applicable Prepayment Premium.

6. **Beneficiary's Performance of Defaulted Acts.** Upon the occurrence and during the continuance of an Event of Default, the Beneficiary may, but need not, and whether electing to declare the whole of the Indebtedness due and payable or not, and without waiver of any other remedy, make any payment or perform any act herein required of the Grantor in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior Lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Mortgaged Premises or contest any tax or assessment or cure any default of the Grantor as landlord under any Lease. To the fullest extent permitted by law, all monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, costs, and expenses, and any other monies advanced by the Beneficiary or any of the Lenders in regard to any tax referred to in Paragraphs 2 and 5 of this Deed of Trust, or to protect the Mortgaged Premises or the lien hereof, shall be additional Indebtedness and shall become immediately due and payable without notice and with interest thereon at the Default Rate. Inaction of the Beneficiary or the Lenders shall never be considered as a waiver of any right accruing to it on account of any Event of Default on the part of the Grantor.

7. **Acceleration of Indebtedness in Event of Default.** It is expressly understood and agreed by the Grantor that time is of the essence hereof and that the whole of the Indebtedness shall become immediately due and payable without notice to the Grantor at the option of the Beneficiary upon the occurrence and during the continuance of any Event of Default, together with a Prepayment Premium in the amount, if any, required to be paid pursuant to the terms of the Loan Agreement in the event of a prepayment.

8. **Acceleration of Indebtedness; Remedies.**

(a) **Primary Remedies.** If an Event of Default shall occur and be continuing, the Beneficiary and, to the extent applicable, the Trustee may declare the Indebtedness to be and the same shall be, immediately due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived and without regard to the value of the Mortgaged Premises held as security for the Indebtedness or the solvency of any person liable for the payment of such Indebtedness; and/or exercise any other right, power or remedy available to it at law or in equity, hereunder or under any other Loan Document without demand, protest or notice of any kind, all of which are hereby expressly waived, except such as is expressly required hereby or by such other Loan Document. Without limiting the generality of the foregoing, the Beneficiary and, to the extent applicable, the Trustee may:

(i) without demand, presentment for payment, notice of nonpayment, grace, protest, notice of protest, notice of intent to accelerate the Indebtedness, notice of acceleration of the Indebtedness, or any other notice, all of which are hereby expressly waived by the Grantor to

the extent permitted by applicable law and except as otherwise expressly provided herein, may declare the entire unpaid balance and accrued interest on the Loan and any other unpaid Indebtedness immediately due and payable, whereupon it shall be so due and payable;

(ii) with or without notice, and without releasing the Grantor from obligation hereunder, and without becoming a mortgagee in possession, to cure any breach or Event of Default of the Grantor and, in connection therewith, to enter upon the Mortgaged Premises and do such acts and things as the Beneficiary or the Trustee deem necessary or desirable to protect the security hereof, including, without limitation: (A) to appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or the rights or powers of the Beneficiary or the Trustee under this Deed of Trust; (B) to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the sole judgment of either the Beneficiary or the Trustee, is or may be senior in priority to this Deed of Trust, the judgment of the Beneficiary or the Trustee being conclusive as between the parties hereto absent manifest error; (C) to obtain insurance required under this Deed of Trust; (D) to pay any premiums or charges with respect to insurance required to be carried under this Deed of Trust; or (E) to employ counsel, accountants, contractors and other appropriate persons;

(iii) to commence and maintain (A) a non-judicial foreclosure through the Trustee in accordance with the laws and procedures applicable to foreclosures in the State and/or (B) an action or actions in any court of competent jurisdiction to foreclose this instrument as a mortgage or to obtain specific enforcement of the covenants of the Grantor hereunder, and the Grantor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy and that for the purposes of any suit brought under this subsection, the Grantor waives the defense of laches and any applicable statute of limitations for purposes of this subparagraph;

(iv) to apply to a court of competent jurisdiction for the appointment of a receiver of the Mortgaged Premises as a matter of strict right and without regard to the adequacy of the security for the repayment of the Indebtedness, the existence of a declaration that the Indebtedness is immediately due and payable, or the filing of a notice of default, and the Grantor hereby consents to such appointment;

(v) to execute a written notice of such Event of Default and of its election to cause the Mortgaged Premises to be sold in accordance with Paragraph 8(c) below to satisfy the Indebtedness. As a condition precedent to any such sale, the Beneficiary shall provide the Trustee with all information and documents to enable the Trustee to give and record such notice as the law then requires. Any person, including the Grantor or the Beneficiary may purchase the Mortgaged Premises at the sale;

(vi) to resort to and realize upon the security hereunder and any other security now or later held by the Beneficiary concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both, and to apply the proceeds received upon the Indebtedness all in such order and manner as the Trustee and the Beneficiary, or either of them, determine in their sole discretion;

(vii) upon sale of the Mortgaged Premises at any judicial or non-judicial foreclosure, to credit bid (as determined by the Beneficiary in its sole and absolute discretion) all or any portion of the Indebtedness. In determining such credit bid, the Beneficiary may, but is not obligated to, take into account all or any of the following: (A) appraisals of the Mortgaged Premises as such appraisals may be discounted or adjusted by the Beneficiary in its sole and

absolute underwriting discretion; (B) expenses and costs incurred by the Beneficiary with respect to the Mortgaged Premises prior to foreclosure; (C) expenses and costs which the Beneficiary anticipates will be incurred with respect to the Mortgaged Premises after foreclosure, but prior to resale, including, without limitation, costs of structural reports and other due diligence, costs to carry the Mortgaged Premises prior to resale, costs of resale (e.g. commissions, reasonable attorneys' fees, and taxes), costs of any hazardous materials clean-up and monitoring, costs of deferred maintenance, repair, refurbishment and retrofit, costs of defending or settling litigation affecting the Mortgaged Premises, and lost opportunity costs (if any), including the time value of money during any anticipated holding period by the Beneficiary; (D) declining trends in real property values generally and with respect to properties similar to the Mortgaged Premises; (E) anticipated discounts upon resale of the Mortgaged Premises as a distressed or foreclosed property; (F) the fact of additional collateral (if any), for the Indebtedness; and (G) such other factors or matters that the Beneficiary (in its sole and absolute discretion) deems appropriate. In regard to the above, the Grantor acknowledges and agrees that: (1) the Beneficiary is not required to use any or all of the foregoing factors to determine the amount of its credit bid; (2) this Paragraph 8 does not impose upon the Beneficiary any additional obligations that are not imposed by law at the time the credit bid is made; (3) the amount of the Beneficiary's credit bid need not have any relation to any loan-to-value ratios specified in the Loan Documents or previously discussed between the Grantor and the Beneficiary; and (4) the Beneficiary's credit bid may be (at the Beneficiary's sole and absolute discretion) higher or lower than any appraised value of the Mortgaged Premises;

(viii) terminate or modify any management agreements, contracts, or agents/managers responsible, for the property management of the Mortgaged Premises, if, in the sole and absolute discretion of the Beneficiary, such property management is unsatisfactory in any respect;

(ix) foreclose this Deed of Trust, at the option of the Beneficiary, by judicial or non-judicial foreclosure, for the entire unpaid amount of the Indebtedness, or only as to the sum past due, with interest and costs without injury to this Deed of Trust or the displacement or impairment of the remainder of the lien thereof, and at such foreclosure sale the Mortgaged Premises shall be sold subject to all remaining items of the Indebtedness and the Beneficiary may again foreclose, in the same manner, as often as there may be any sum past due. In case of sale in any action or proceeding to foreclose this Deed of Trust, the Beneficiary shall have the right to sell the Mortgaged Premises covered hereby in parts or as an entirety. It is intended hereby to give to the Beneficiary the widest possible discretion permitted by law with respect to all aspects of any such sale or sales; and/or

(x) if an Event of Default occurs due to the nonpayment of the Indebtedness, or any part thereof, as an alternative to the right of foreclosure for the full Indebtedness after acceleration thereof, the Beneficiary shall have the right to institute proceedings, either judicial or non-judicial, at the Beneficiary's option, for partial foreclosure with respect to the portion of said Indebtedness so in default, as if under a full foreclosure, and without declaring the entire Indebtedness due (such proceedings being hereinafter referred to as "Partial Foreclosure"), and provided that if a foreclosure sale is made because of an Event of Default in the payment of a part of the Indebtedness, such sale may be made subject to the continuing lien of this Deed of Trust for the unmatured part of the Indebtedness; and it is agreed that such sale pursuant to a Partial Foreclosure, if so made, shall not in any manner affect the unmatured part of the Indebtedness, but as to such unmatured part, this Deed of Trust and the lien thereof shall remain in full force and effect just as though no foreclosure sale had been made under the provisions of this paragraph. Notwithstanding any Partial Foreclosure to the contrary, the Beneficiary may elect, at

any time prior to sale pursuant to such Partial Foreclosure, to discontinue such Partial Foreclosure and to accelerate the Indebtedness by reason of any Event of Default upon which such Partial Foreclosure was predicated or by reason of any other further Event of Default, and proceed with full foreclosure proceedings. It is further agreed that several foreclosures may be made pursuant to Partial Foreclosure without exhausting the right of full or Partial Foreclosure sale for any unmatured part of the Indebtedness, it being the purpose to provide for a Partial Foreclosure sale of the Indebtedness hereby secured without exhausting the power to foreclose and to sell the Mortgaged Premises pursuant to any such Partial Foreclosure for any other part of the Indebtedness, whether matured at the time or subsequently maturing, and without exhausting any right of acceleration and full foreclosure.

(b) Receiver. If an Event of Default shall occur and be continuing, the Beneficiary shall be entitled as a matter of right to the appointment of a receiver of the Mortgaged Premises and the rents, revenues, issues, profits, royalties, income and benefits thereof, without notice or demand, and without regard to the adequacy of the security for the Indebtedness, the value of the Mortgaged Premises or the solvency of the Grantor, either before or after any sale, and the Beneficiary or any Lender may be appointed as such receiver. Such receiver shall have, without limitation, the power: (i) to collect the rents, issues and profits of the Mortgaged Premises during the pendency of any foreclosure proceedings whether by judicial or non-judicial foreclosure, and, in case of a sale and a deficiency, for such time when the Grantor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, to the maximum time and extent permitted by law; (ii) to extend or modify any then existing Leases and to make new Leases, which extensions, modifications and new Leases may provide for terms to expire, or for options to Leases to extend or renew terms to expire, beyond the Maturity Date and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Leases, and the options or other such provisions to be contained therein, shall be binding upon the Grantor and all persons whose interests in the Mortgaged Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the secured obligations, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; and (iii) all other powers which may be necessary or are usual in such case for the protection, possession, control, management, and operation of the Mortgaged Premises during the whole of said period. The court from time to time may authorize the receiver to apply the net income in the receiver's hands in payment in whole or in part of: (A) the Indebtedness and all obligations hereunder, or by any decree foreclosing this Deed of Trust, or in accordance with applicable non-judicial foreclosure provisions, any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree; and (B) if this is a leasehold mortgage, all rents due or which may become due under the underlying lease.

(c) Sales by Parcels. In any sale made under or by virtue of this Deed of Trust or pursuant to any judgment or decree of court, the Mortgaged Premises may be sold in one or more parts or parcels or as an entirety and in such order as the Beneficiary may elect, without regard to the right of the Grantor, or any person claiming under it, to the marshaling of assets. To the full extent permitted by Law, the Grantor waives the marshaling of assets.

(d) Effect of Sale. The purchaser at any sale made under or by virtue of this Deed of Trust or pursuant to any judgment or decree of court shall take title to the Mortgaged Premises or the part thereof so sold free and discharged of the estate of the Grantor therein, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including the Beneficiary, may purchase at any such sale. The Beneficiary is hereby irrevocably appointed the attorney-in-fact of the Grantor in its name and stead to make all appropriate transfers and deliveries of the Mortgaged Premises or any portions thereof so sold and, for this purpose, the Beneficiary may execute all appropriate instruments of transfer, and may substitute one or more persons with like power, the Grantor

hereby ratifying and confirming all that its said attorneys or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, promptly upon the written request of the Beneficiary, the Grantor shall ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to the Beneficiary or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of the Beneficiary, for the purpose, and as may be designated, in such request. Any sale or sales made under or by virtue of this Deed of Trust shall operate to divest all the estate, rights, title, interests, property, claim and demand whatsoever, whether at law or in equity, of the Grantor in, to and under the Mortgaged Premises, or any portions thereof so sold, and shall be a perpetual bar both at law and in equity against the Grantor, its successors and assigns, and against any and all persons claiming or who may claim the same, or any part thereof, by, through or under the Grantor, or its successors or assigns. The powers and agency herein granted are coupled with an interest and are irrevocable.

(e) Eviction of Grantor After Sale. If the Grantor fails or refuses to surrender possession of the Mortgaged Premises after any sale thereof, the Grantor shall be deemed a tenant at sufferance, subject to eviction by means of forcible entry and detainer proceedings, provided, that this remedy is not exclusive or in derogation of any other right or remedy available to the Beneficiary or any purchaser of the Mortgaged Premises under any provision of this Deed of Trust or pursuant to any judgment or decree of court.

(f) Insurance Policies. In the event of a foreclosure sale pursuant to this Deed of Trust or other transfer of title or assignment of the Mortgaged Premises in extinguishment, in whole or in part, of the Indebtedness, all rights, title and interests of the Grantor in and to all policies of insurance required under the provisions of the Loan Agreement shall inure to the benefit of and pass to the successor in interest of the Grantor or the purchaser or grantee of the Mortgaged Premises or any part thereof so transferred.

(g) Foreclosure; Expense of Litigation. When the Indebtedness hereby secured, or any part thereof shall become due, whether by acceleration or otherwise, the Beneficiary shall have the right to foreclose the lien hereof for such Indebtedness or part thereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of the Beneficiary for reasonable attorneys' fees, appraiser's fees, actual costs of environmental reviews or audits, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as the Beneficiary may deem reasonably necessary either to prosecute such action or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Mortgaged Premises. All expenditures and expenses of the nature in this paragraph mentioned and such expenses and fees as may be incurred in the protection of the Mortgaged Premises and the maintenance of the lien of this Deed of Trust, including the reasonable fees of any attorneys employed by the Beneficiary in any litigation or proceeding affecting this Deed of Trust, the Loan Agreement, or the Mortgaged Premises, including appellate, probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceedings or threatened suit or proceeding shall be immediately due and payable by the Grantor, with interest thereon at the Default Rate and shall be secured by this Deed of Trust.

9. Application of Proceeds. The proceeds of any sale made either under the power of sale hereby given or under a judgment, order or decree made in any action to foreclose or to enforce this Deed of Trust, shall be applied:

(a) first to the payment of (i) all costs and expenses of such sale, including reasonable attorneys' fees and costs, environmental site assessors' fees and costs, appraisers' fees and costs of procuring title searches, title insurance policies and similar items and (ii) all charges, expenses and advances incurred or made by the Beneficiary or by any of the Lenders in order to protect the lien or estate created by this Deed of Trust or the security afforded hereby including any expenses of entering, taking possession of and operating the Mortgaged Premises and any mortgage recording taxes;

(b) then to the payment of any other Indebtedness in such order as the Beneficiary may determine until the same have been paid in full; and

(c) any balance thereof shall be paid to the Grantor, or to whosoever shall be legally entitled thereto, or as a court of competent jurisdiction may direct.

10. **Rights and Remedies Cumulative.** Each right, power and remedy herein conferred upon the Beneficiary is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Beneficiary, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy and no delay or omission of the Beneficiary in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

11. **Reconveyance.** Upon the Grantor's written request following the indefeasible repayment of the Indebtedness in full, and upon surrender to the Trustee for cancellation of this Deed of Trust or a certified copy thereof and any note, instrument, or instruments setting forth all obligations secured hereby, the Beneficiary shall reconvey, without warranty, the Mortgaged Premises or that portion thereof then held hereunder. To the extent permitted by law, the reconveyance may describe the grantee as "the person or persons legally entitled thereto" and the recitals of any matters or facts in any reconveyance executed hereunder shall be prima facie proof of the truthfulness thereof. Neither the Trustee nor the Beneficiary shall have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance. When the Mortgaged Premises has been fully reconveyed, the last such reconveyance shall operate as a reassignment of all future rents, issues and profits of the Mortgaged Premises to the person or persons legally entitled thereto.

12. **Giving of Notice.** All notices, demands, requests, and other communications desired or required to be given hereunder, including, without limitation, notices to the Beneficiary from a person claiming priority of a Lien over the lien of this Deed of Trust for any future advances made under the Loan Agreement (hereinafter collectively referred to as "Notices", and individually referred to as a "Notice"), shall be in writing and shall be given in accordance with the requirements of Section 10.1 of the Loan Agreement.

13. **Waiver of Defense.** No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law or in equity upon the Indebtedness.

14. **Waiver of Statutory Rights.** The Grantor shall not apply for or avail itself of any homestead, appraisalment, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust, but hereby waives the benefit of such laws. The Grantor, for itself and all who may claim through or under it, hereby expressly, knowingly, and voluntarily waives any and all right to have

the property and estates comprising the Mortgaged Premises marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Premises sold as an entirety. The Grantor does hereby expressly, knowingly, and voluntarily waive any and all rights of redemption from sale under any order or decree of foreclosure of this Deed of Trust on behalf of the Grantor, the trust estate and all persons beneficially interested therein and each and every person, acquiring any interest in or title to the Mortgaged Premises subsequent to the date of this Deed of Trust.

15. **Filing and Recording Fees.** The Grantor shall pay all filing, registration, or recording fees and all reasonable expenses incident to the execution and acknowledgment of this Deed of Trust and all federal, state, county and municipal taxes and other taxes (including, without limitation, mortgage recording taxes, but excluding the income taxes of the Beneficiary and the Lenders), duties, imposts, assessments, and charges arising out of or in connection with the execution and delivery of the Loan Agreement, the Notes, and/or this Deed of Trust.

16. **Security Agreement.** The Grantor and the Beneficiary hereby agree that this Deed of Trust shall constitute a security agreement within the meaning of the UCC with respect to all sums on deposit with the Beneficiary with respect to insurance proceeds or condemnation proceeds (hereinafter collectively referred to as the "Deposits") and with respect to any personal property included in the definition herein of the word "Mortgaged Premises" in the granting clause of Paragraph 1 of this Deed of Trust, which property may not be deemed to form a part of the real estate described in Exhibit "A" attached hereto and made a part hereof, and all replacements of such property, substitutions, and additions thereto and the proceeds thereof, all such property being sometimes hereinafter collectively referred to as the "Collateral", and that a security interest in and to the Collateral and the Deposits is hereby granted to the Beneficiary and the Deposits and all of the Grantor's rights, title, and interests therein are hereby assigned to the Beneficiary, for the benefit of the Lenders, all to secure payment of the Indebtedness and to secure performance by the Grantor of the terms, covenants and provisions hereof. Upon the occurrence of an Event of Default, the Beneficiary, pursuant to the appropriate provisions of the UCC, shall have the option of proceeding with respect to the Collateral in accordance with its rights and remedies with respect to the real property, in which event the default provisions of the UCC shall not apply. The parties agree that, in the event the Beneficiary shall elect to proceed with respect to the Collateral separately from the real property, ten (10) days' notice of the sale of the Collateral shall be reasonable notice. The costs and expenses of retaking, holding, preparing for sale, selling and the like incurred by the Beneficiary shall include, without limitation, attorneys' fees, costs, and expenses incurred by the Beneficiary or any of the Lenders. It is hereby expressly understood and agreed that all replacements of the Collateral and any additions to the Collateral shall be and become immediately subject to the security interest of this Deed of Trust and covered hereby. The Grantor hereby covenants and represents that all Collateral, and all replacements thereof, substitutions therefor or additions thereto, now are and will be and remain free and clear of Liens (other than the lien of taxes not yet due or payable). The Grantor shall, upon demand, authorize, execute, and deliver, as applicable, to the Beneficiary such financing statements and other documents in form satisfactory to the Beneficiary, and will do all such acts and things as the Beneficiary may at any time, or from time to time, request or as may be necessary or appropriate to establish and maintain a first perfected security interest in the Deposits and Collateral, subject to no Liens (other than the lien of taxes not yet due or payable).

This Deed of Trust also constitutes a financing statement for the purpose of the UCC and shall constitute a "fixture filing" under such statutes and shall be filed in the real estate records of the County in which the Land is located. The Grantor hereby authorizes the Beneficiary to file all financing statements evidencing the security interest granted to the Beneficiary in the Collateral with all appropriate filing jurisdictions. For such purpose information concerning the debtor and the secured party is set forth below:

Name of Grantor: The Townhomes Owner LP

Grantor's Mailing Address: c/o July Residential Group, LLC
575 Madison Avenue, 22nd Floor
New York, New York 10022

The Grantor is an organization, being a limited partnership organized under the laws of the State of Delaware.

Name of Secured Party: Voya Investment Management LLC

Address of Secured Party: Voya Investment Management LLC
5780 Powers Ferry Road, NW, Suite 300
Atlanta, Georgia 30327-4349
Attention: Mortgage Loan Servicing Department

and

Voya Investment Management LLC
5780 Powers Ferry Road, NW, Suite 300
Atlanta, Georgia 30327-4349
Attention: Real Estate Law Department

This financing statement covers the Collateral. Some of the items or types of property comprising the Collateral are or are to become fixtures on the real property described in this Deed of Trust. The Grantor is the record owner of the real property described herein upon which the foregoing fixtures and other items and types of property are located.

17. **Due on Sale or Further Encumbrance.** Other than in connection with transfers permitted pursuant to Article IV of the Loan Agreement, if, without the Beneficiary's prior express written consent: (a) the Mortgaged Premises or any part thereof or any direct or indirect interest in the Mortgaged Premises or in the Grantor is sold, transferred, or otherwise conveyed; (b) title to the Mortgaged Premises or any part thereof or any direct or indirect interest in the Mortgaged Premises or in the Grantor is divested; (c) the Mortgaged Premises or any part thereof or any direct or indirect interest in the Mortgaged Premises or any part thereof or in the Grantor is further encumbered or pledged; (d) any Lease which gives the tenant any option to purchase the Mortgaged Premises or any part thereof is entered into; or (e) without limiting the generality of clause (a) above, the ownership of shares of the Grantor, if a corporation, or of any corporate general partner of the Grantor, if a partnership, or the general partnership interests in any partnership which is a general partner of the Grantor, or any membership interest in the Grantor which is a limited liability company, or any beneficial or fiduciary interest in the Grantor which is a trust or trustee is sold, conveyed, or pledged, the Beneficiary, in its sole and absolute discretion, shall be entitled to accelerate the Indebtedness and declare the then unpaid principal balance and all accrued interest and other sums due and payable under the Notes to be immediately due and payable and exercise all rights and remedies available to the Beneficiary under the Loan Agreement and the Loan Documents. The Grantor understands that the present ownership of the Mortgaged Premises and the Improvements is a material inducement to the Lenders in making the Loan available to the Grantor. Other than as set forth in the Loan Agreement, any consent by the Beneficiary or any of the Lenders to a change in ownership or to a change in the composition of the Grantor may be conditioned upon payment of a transfer fee equal to one percent (1.0%) of the then outstanding

Indebtedness for processing such request for consent, upon an increase in the rate of interest on the unpaid balance of the Indebtedness to a then current market rate, and/or other terms and conditions as the Beneficiary or the Lenders may impose in their sole and absolute discretion.

18. **Captions.** The captions or headings preceding the text of the paragraphs or subparagraphs of this Deed of Trust are inserted only for convenience of reference and shall not constitute a part of this Deed of Trust, nor shall they in any way affect its meaning, construction or effect.

19. **No Waiver; Modifications in Writing.** No failure or delay on the part of the Beneficiary or any of the Lenders in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available to any party at law or in equity or otherwise. No amendment, modification, supplement, termination or waiver of or to any provision of this Deed of Trust, nor consent to any departure therefrom, shall be effective unless the same shall be in writing and signed by or on behalf of the party to be charged with the enforcement thereof. Any amendment, modification or supplement of or to any provision of this Deed of Trust, any waiver of any provision of this Deed of Trust, and any consent to any departure from the terms of any provision of this Deed of Trust, shall be effective only in the specific instance and for the specific purpose for which made or given.

20. **Relationship.** The Beneficiary is only the administrative agent for the Lenders under the Loan Documents and each Lender is only a lender under the Loan Documents, and nothing contained in this Deed of Trust or the other Loan Documents and no action taken by the parties pursuant hereto shall be deemed to constitute the Beneficiary, any Lender, or any of the other parties to the Loan Documents, including, without limitation, any of the Lenders, a partnership, an association, a joint venture or other entity, nor constitute the Beneficiary or any Lender as a fiduciary for any of said parties.

21. **Governing Law.** This Deed of Trust shall be governed by, and construed in accordance with, the laws of the State, without regard to conflicts of law principles of State law.

22. **Time of Essence.** Time is of the essence in the performance by the parties of this Deed of Trust.

23. **Construction; Terms of Loan Agreement.** The Grantor has been represented by its own counsel in this transaction, and this Deed of Trust shall not be construed more strongly against any party regardless of who was more responsible for its preparation. All of the terms, conditions, and provisions set forth and contained in the Loan Agreement are hereby made part of this Deed of Trust to the same extent and with the same force as if they were fully set forth herein, *mutatis mutandis*.

24. **Gender; Number; Terms.** Words and phrases herein shall be construed as in the singular or plural number and as masculine, feminine or neuter gender, according to the context. The use of the words "herein," "hereof," "hereunder" and other similar compounds of the word "here" shall refer to this entire Deed of Trust and not to any particular section, paragraph or provision.

25. **Integration.** This Deed of Trust, together with the other Loan Documents, constitute the entire agreement between the parties hereto pertaining to the subject matters hereof and thereof and supersede all negotiations, preliminary agreements and all prior or contemporaneous discussions and understandings of the parties hereto in connection with the subject matters hereof and thereof.

26. **Successors and Assigns; Construction.** This Deed of Trust and all provisions hereof shall extend to and be binding upon the Grantor and its successors and assigns, any subsequent owner or owners of the Mortgaged Premises and all persons claiming under or through the Grantor (but this clause shall not be construed as constituting the consent by the Beneficiary or any of the Lenders to the transfer of any interest in the Mortgaged Premises), and the word “Grantor” when used herein shall include any such person and all persons liable for the payment of the Indebtedness or any part thereof, whether or not such persons shall have executed the Loan Agreement, any of the Notes, or this Deed of Trust. The word “Beneficiary”, when used herein, shall include the successors and assigns of the Beneficiary, in its capacity as the administrative agent for the Lenders, and the term “Lenders”, when used herein, shall include the holder or holders, from time to time, of the Notes secured hereby, and their respective successors, assigns, and participants. In addition, in the event the Grantor is a land trust or similar entity, the term “Grantor” as used herein shall include the beneficiary or beneficiaries of such land trust or similar entity.

27. **Severability.** In the event one or more of the provisions contained in this Deed of Trust shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall, at the option of the Beneficiary, not affect any other provision of this Deed of Trust, and this Deed of Trust shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein or therein.

28. **Further Assurances.** The Grantor will, from time to time, upon ten (10) Business Days prior written request from the Beneficiary, make, execute, acknowledge, and deliver to the Beneficiary such supplemental mortgages, deeds of trust, certificates and other documents, including, without limitation, UCC financing statements, as may be necessary for better assuring and confirming to the Beneficiary the Mortgaged Premises, or for more particularly identifying and describing the Mortgaged Premises, or to preserve or protect the priority of this lien, and generally do and perform such other acts and things and execute and deliver such other instruments and documents as may reasonably be deemed necessary or advisable by the Beneficiary to carry out the intentions of this Deed of Trust.

29. **Reliance on Other Property.** The Grantor shall not by act or omission permit any building or other improvement on any premises not subject to the lien of this Deed of Trust to rely on the Mortgaged Premises or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and the Grantor hereby assigns to the Beneficiary any and all rights to give consent for all or any portion of the Mortgaged Premises or any interest therein to be so used. Similarly, no building or other Improvement on the Mortgaged Premises shall rely on any premises not subject to the lien of this Deed of Trust or any interest therein to fulfill any governmental or municipal requirement. The Grantor shall not by act or omission impair the integrity of the Mortgaged Premises as a single zoning lot separate and apart from all other premises. Any act or omission by the Grantor which would result in a violation of any of the provisions of this Paragraph 29 shall be null and void and of no force or effect.

30. **Estoppel.** The Grantor will, from time to time, upon ten (10) Business Days prior written request by the Beneficiary, execute, acknowledge, and deliver to the Beneficiary, a certificate stating that this Deed of Trust is unmodified and in full force and effect (or, if there have been modifications, that this Deed of Trust is in full force and effect as modified and setting forth such modifications) and stating the principal amount secured hereby and the interest accrued to date on such principal amount. The estoppel certificate from the Grantor shall also state, to the best knowledge of the Grantor, whether any offsets or defenses to the Indebtedness exist and if so shall identify them.

31. **Late Charge as part of the Indebtedness.** The Loan Agreement includes provisions for the assessment of a Late Charge, as defined therein. Said Late Charge shall be secured hereby as Indebtedness, as that term is used herein.

32. **Joinder of Tenants in Foreclosure.** The Beneficiary shall have the right and option to exercise power of sale or to commence a civil action to foreclose this Deed of Trust and to obtain a decree of foreclosure. The failure to join any tenant or tenants as party defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by the Grantor as a defense in any civil action instituted to collect the Indebtedness, or any part thereof, or any deficiency remaining unpaid after foreclosure and sale of the Mortgaged Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

33. **Priority of Insurance Proceeds or Condemnation Awards.** At the option of the Beneficiary, this Deed of Trust shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any award in condemnation), to any one or more or to all Leases upon the execution by the Beneficiary and recording or registration thereof, at any time hereafter, in the Office of the Recorder in and for the county wherein the Mortgaged Premises are situated, or such other office as determined by the Beneficiary, of a unilateral declaration to that effect.

34. **Tender of Payment; Prepayment Premium.** In the event that maturity of the Indebtedness is accelerated by the Beneficiary because of the occurrence of an Event of Default hereunder and a tender of payment is made by or on behalf of the Grantor in the amount necessary to satisfy the Indebtedness at any time prior to judicial confirmation or other conclusion if confirmation is not required, of a foreclosure sale or sale under a power of sale, then such tender shall constitute a prepayment under the Loan Agreement and shall, to the extent specified in the Loan Agreement, require payment of the Prepayment Premium provided for in the Loan Agreement.

35. **Margin Stock.** The Grantor hereby covenants and agrees that it shall constitute an Event of Default hereunder if the proceeds of the Loan will be used, or were used, as the case may be, for the purpose (whether immediate, incidental or ultimate) of purchasing or "carrying" any "margin stock" as such terms are defined in Regulation U of the Board of Governors of the Federal Reserve System (12 CFR Part 221) or for the purpose of reducing or retiring any indebtedness which was originally incurred for any such purpose.

36. **Future Advances.** This Deed of Trust secures, and the Indebtedness includes, to the extent permitted by law, all advances made by the Beneficiary or by any of the Lenders with respect to the Mortgaged Premises for the payment of impositions, maintenance charges, insurance premiums or costs incurred for the protection of the Mortgaged Premises or the lien of this Deed of Trust.

37. **Recourse Liability.** The provisions of Sections 7.1 and 7.2 of the Loan Agreement are hereby incorporated by reference into this Deed of Trust to the same extent and with the same force as if fully set forth herein.

38. **Beneficiary's Right of Inspection.** Subject to the terms and conditions of the Loan Agreement and the rights of tenants under the Leases, the Beneficiary shall, upon reasonable notice to the Grantor, have the right to inspect the Mortgaged Premises at all reasonable times and access thereto shall be permitted for that purpose.

39. **Acceptance of Trust; Powers and Duties of Trustee.**

(a) The Trustee accepts this trust when this Deed of Trust is recorded. The Trustee or the Beneficiary may from time to time apply to any court of competent jurisdiction for aid and direction in the execution of the trust hereunder and the enforcement of the rights and remedies available

hereunder, and may obtain orders or decrees directing or confirming or approving acts in the execution of said trust and the enforcement of said remedies.

(b) The Trustee shall not be required to take any action toward the execution and enforcement of the trust hereby created or to institute, appear in, or defend any action, suit, or other proceeding in connection therewith where, in his opinion, such action would be likely to involve him in expense or liability, unless requested so to do by a written instrument signed by the Beneficiary and, if the Trustee so requests, unless the Trustee is tendered security and indemnity satisfactory to the Trustee against any and all cost, expense, and liability arising therefrom. The Trustee shall not be responsible for the execution, acknowledgment, or validity of the Loan Documents, or for the proper authorization thereof, or for the sufficiency of the lien and security interest purported to be created hereby, and the Trustee makes no representation in respect thereof or in respect of the rights, remedies, and recourses of the Beneficiary.

(c) With the prior express written approval of the Beneficiary, the Trustee shall have the right to take any and all of the following actions: (i) to select, employ, and advise with counsel (who may be, but need not be, counsel for the Beneficiary) upon any matters arising hereunder, including the preparation, execution, and interpretation of the Loan Documents, and shall be fully protected in relying as to legal matters on the advice of counsel, (ii) to execute any of the trusts and powers hereof and to perform any duty hereunder either directly or through his agents or attorneys, (iii) to select and employ, in and about the execution of his duties hereunder, suitable accountants, engineers and other experts, agents and attorneys-in-fact, either corporate or individual, not regularly in the employ of the Trustee, and the Trustee shall not be answerable for any act, default, negligence, or misconduct of any such accountant, engineer or other expert, agent or attorney-in-fact, if selected with reasonable care, or for any error of judgment or act done by the Trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever, and (iv) any and all other lawful action as the Beneficiary may instruct the Trustee to take to protect or enforce the Beneficiary's rights hereunder. The Trustee shall not be personally liable in case of entry by the Trustee, or anyone entering by virtue of the powers herein granted to the Trustee, upon the Mortgaged Premises for debts contracted for or liability or damages incurred in the management or operation of the Mortgaged Premises. The 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 the Trustee hereunder, believed by the Trustee in good faith to be genuine. The Trustee shall be entitled to reimbursement for expenses incurred by the Trustee in the performance of the Trustee's duties hereunder and to reasonable compensation for such of the Trustee's services hereunder as shall be rendered. **THE GRANTOR WILL PAY THE COMPENSATION DUE TO THE TRUSTEE HEREUNDER AND REIMBURSE THE TRUSTEE FOR, AND INDEMNIFY AND HOLD HARMLESS THE TRUSTEE AGAINST, ANY AND ALL LIABILITY AND EXPENSES WHICH MAY BE INCURRED BY THE TRUSTEE IN THE PERFORMANCE OF THE TRUSTEE'S DUTIES HEREUNDER.**

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

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

(f) By accepting or approving anything required to be observed, performed, or fulfilled or to be given to the Trustee pursuant to the Loan Documents, including without limitation, any deed, conveyance, instrument, officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, the Trustee shall not be deemed to have warranted, consented to, or affirmed the sufficiency, legality, effectiveness, or legal effect of the same, or of any term, provision, or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or affirmation with respect thereto by the Trustee.

40. **Compensation; Exculpation; Indemnification.**

(a) The Grantor shall pay the Trustee's fees and reimburse the Trustee for expenses in the administration of this trust, including attorneys' fees, incurred by the Trustee hereunder. The Beneficiary shall not, directly or indirectly, be liable to the Grantor or any other Person as a consequence of any of the following: (i) the exercise of the rights, remedies or powers granted to the Beneficiary in this Deed of Trust; (ii) the failure or refusal of the Beneficiary to perform or discharge any obligation or liability of the Grantor under any agreement related to the Mortgaged Premises or Collateral or under this Deed of Trust; or (iii) any loss sustained by the Grantor or any third party resulting from the Beneficiary's failure (whether by malfeasance, nonfeasance or refusal to act) to lease the Mortgaged Premises after the occurrence of an Event of Default or from any other act or omission (regardless of whether same constitutes negligence) of the Beneficiary in managing the Mortgaged Premises after an Event of Default, and no such liability shall be asserted against or imposed upon the Beneficiary, and all such liability is hereby expressly waived and released by the Grantor.

(b) **THE GRANTOR HEREBY EXPRESSLY INDEMNIFIES THE TRUSTEE AND THE BENEFICIARY AGAINST, AND HOLDS THE TRUSTEE AND THE BENEFICIARY HARMLESS FROM, ALL LOSSES, DAMAGES, LIABILITIES, CLAIMS, CAUSES OF ACTION, JUDGMENTS, COURT COSTS, REASONABLE ATTORNEYS' FEES AND OTHER LEGAL EXPENSES, COST OF EVIDENCE OF TITLE, COST OF EVIDENCE OF VALUE, AND OTHER EXPENSES WHICH EITHER MAY SUFFER OR INCUR: (i) BY REASON OF THIS DEED OF TRUST; (ii) BY REASON OF THE EXECUTION OF THIS DEED OF TRUST OR IN PERFORMANCE OF ANY ACT REQUIRED OR PERMITTED HEREUNDER OR BY LAW; (iii) AS A RESULT OF ANY FAILURE OF THE GRANTOR TO PERFORM THE GRANTOR'S OBLIGATIONS; OR (iv) BY REASON OF ANY ALLEGED OBLIGATION OR UNDERTAKING ON THE BENEFICIARY'S PART TO PERFORM OR DISCHARGE ANY OF THE REPRESENTATIONS, WARRANTIES, CONDITIONS, COVENANTS OR OTHER OBLIGATIONS CONTAINED IN ANY OTHER DOCUMENT RELATED TO THE MORTGAGED PREMISES. THE ABOVE OBLIGATION OF THE GRANTOR TO INDEMNIFY AND HOLD HARMLESS THE TRUSTEE AND THE BENEFICIARY SHALL SURVIVE THE RELEASE AND CANCELLATION OF THE INDEBTEDNESS AND THE RELEASE AND RECONVEYANCE OR PARTIAL RELEASE AND RECONVEYANCE OF THIS DEED OF TRUST.**

(c) The Grantor shall pay all amounts and indebtedness arising under this Paragraph 40 promptly upon written demand by the Trustee or the Beneficiary together with interest thereon from the date the indebtedness arises at the Default Rate.

41. **Substitution of Trustees.** From time to time, by a writing, signed and acknowledged by the Beneficiary and recorded in the Office of the Clerk of the Circuit Court for the County in which the Mortgaged Premises is situated, the Beneficiary may appoint another trustee to act in the place and stead of the Trustee or any successor. Such writing shall set forth any information required by law. The recordation of such instrument of substitution shall discharge the Trustee herein named and shall appoint

the new trustee as the trustee hereunder with the same effect as if originally named the Trustee herein. A writing recorded pursuant to the provisions of this Paragraph 41 shall be conclusive proof of the proper substitution of such new Trustee.

42. **WAIVER OF JURY TRIAL.** THE GRANTOR AND, BY ITS ACCEPTANCE HEREOF, THE BENEFICIARY, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED ON OR ARISING OUT OF THIS DEED OF TRUST, OR ANY RELATED INSTRUMENT OR AGREEMENT, OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR ANY COURSE OF CONDUCT, DEALING, STATEMENTS, WHETHER ORAL OR WRITTEN, OR ACTION OF ANY PARTY HERETO. NO PARTY SHALL SEEK TO CONSOLIDATE BY COUNTERCLAIM OR OTHERWISE, ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THESE PROVISIONS SHALL NOT BE DEEMED TO HAVE BEEN MODIFIED IN ANY RESPECT OR RELINQUISHED BY THE GRANTOR OR THE BENEFICIARY EXCEPT BY A WRITTEN INSTRUMENT EXECUTED BY THE GRANTOR AND THE BENEFICIARY.

43. **State-Specific Provisions.** The state-specific provisions set forth and contained in this Paragraph 43, to the extent inconsistent with the remaining terms, conditions, and provisions of this Deed of Trust, shall supersede said inconsistent provisions and, in the event of such conflict, govern and control:

(a) **Financing Statement.** Without limiting any provision of this Deed of Trust, this Deed of Trust shall also constitute and be effective as a financing statement covering accounts to the fullest extent available under applicable law.

(b) **Waiver of Notice of Acceleration.** Without limiting the foregoing, the Grantor hereby waives, relinquishes and agrees not to assert or take advantage of any requirement for notice of intent to accelerate and/or notice of acceleration, to the extent permitted under applicable law.

(c) **Waiver of Homestead.** The Mortgaged Premises forms no part of any property owned, used or claimed by the Grantor as a residence or business homestead and is not exempt from forced sale under the laws of the State of Texas. The Grantor hereby disclaims and renounces each and every claim to all or any portion of the Mortgaged Premises as a homestead.

(d) **Security Deposits.** To the extent required under the law of the State of Texas, all security deposits shall be held in a segregated account and the Grantor shall comply with all legal requirements relating to such security deposits.

(e) **Additional Remedies.** In addition to (and without limiting in any manner) the remedies provided under this Deed of Trust, upon the occurrence of any Event of Default, this Deed of Trust is subject to foreclosure as provided by law and the Beneficiary may, at its option and by or through a trustee, nominee, assignee or otherwise, to the fullest extent permitted by law, exercise any or all of the following rights, remedies and recourses, either successively or concurrently:

(i) Accelerate the maturity date of the Notes and declare any or all of the Indebtedness secured hereby to be immediately due and payable without any presentment, demand, protest, notice, notice of nonpayment or nonperformance, notice of protest, notice of

intent to accelerate, notice of acceleration or any other notice or action of any kind whatever (each of which is hereby expressly waived by the Grantor), whereupon the same shall become immediately due and payable. Upon any such acceleration, payment of such accelerated amount shall constitute a voluntary prepayment of the principal balance of the Notes and any applicable prepayment fee provided for in the Notes shall then be immediately due and payable.

(ii) Either in person or by agent, with or without bringing any action or proceeding, prior or subsequent to the initiation of any foreclosure proceedings or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Mortgaged Premises, or any part thereof, without force or with such force as is permitted by law and without notice or process or with such notice or process as is required by law, unless such notice and process is waivable, in which case the Grantor hereby waives such notice and process, and do any and all acts and perform any and all work which may be desirable or necessary in the Beneficiary's judgment to complete any unfinished construction on the Land, to preserve the value, marketability or rentability of the Mortgaged Premises, to increase the income therefrom, to manage and operate the Mortgaged Premises or to protect the security hereof, and all sums expended by the Beneficiary therefor, together with interest thereon at the Default Rate, shall be immediately due and payable to the Beneficiary by the Grantor on demand and shall be secured hereby and all of the Loan Documents securing all or any part of the Indebtedness evidenced by the Note.

(iii) With or without taking possession of the Mortgaged Premises, sue or otherwise collect the Rents (including those past due and unpaid) and enforce the Beneficiary's interest in the Leases.

(iv) Institute a proceeding or proceedings, by advertisement, judicial process or otherwise, as provided under applicable law, pursuant to the requirements of Section 51.002 of the Texas Property Code, for the complete or partial foreclosure of this Deed of Trust or the complete or partial sale of the Mortgaged Premises under the power of sale hereunder or under any applicable provision of law:

(1) Should the Beneficiary or any Lender have elected to accelerate the Indebtedness secured hereby, the Beneficiary or such Lender may initiate foreclosure of the Mortgaged Premises by requesting the Trustee to effectuate a non-judicial foreclosure sale. The Trustee of this Deed of Trust shall then sell, or offer for sale, the Mortgaged Premises at public sale to the highest bidder for cash during a three hour period between the hours of ten o'clock a.m. and four o'clock p.m. whose earliest point in time is specified, on the first Tuesday of any month (or if such first Tuesday is January 1 or July 4, the first Wednesday of such month), at the area officially designated for holding such sales at the courthouse of any county in the State of Texas in which any part of the Mortgaged Premises is situated, after having given notice of the date, the time period, place and terms of said sale in accordance with the laws of the State of Texas then in force and governing said sales of real property and improvements under powers conferred by deeds of trust. The Land shall be sold by posting, or causing to be posted, at least twenty-one (21) consecutive days prior to the date of said sale, written or printed notice thereof at the courthouse door in each of the counties in which the Mortgaged Premises is situated, designating the county where the Mortgaged Premises will be sold and designating the date, the time period, the place and the terms of sale. A copy of such notice shall also be filed in the office of the County Clerk in each county of the State of Texas in which any part of the Mortgaged Premises is situated at least twenty-one (21) consecutive days before the date of said sale of the Mortgaged Premises. The

Beneficiary or any Lender shall have the right to become the purchaser at any sale held by any Trustee or substitute or successor Trustee, or by any receiver or public officer. The Beneficiary or any Lender purchasing at any such sale shall have the right to credit the secured Indebtedness owing to the Beneficiary and the Lenders upon the amount of its bid entered at such sale to the extent necessary to satisfy such bid. Said Trustee may appoint a substitute trustee (with the same powers as the Trustee and who may be an attorney) to act in its stead as Trustee to conduct sale as hereinbefore provided. The Grantor authorizes and empowers the Trustee to sell the Mortgaged Premises, in lots or parcels or as a whole, and to execute and deliver to the purchaser or purchasers thereof good and sufficient deeds of conveyance thereto of the estate of title then existing on the Mortgaged Premises and bills of sale with covenants of general warranty. The Grantor binds himself to warrant and forever defend the title of such purchaser or purchasers when so made by the Trustee, and agrees to accept proceeds of said sale, if any, which are payable to the Grantor as provided herein. In addition to the posting and filing of notices hereinabove provided, and for so long as required by law, no foreclosure under the power of sale herein contained shall be held unless the Beneficiary or any Lender, at least twenty-one (21) days preceding the date of sale and in the manner prescribed by law, shall have served written notice of the proposed sale which designates the County where the Mortgaged Premises will be sold and designates the date, time period, the place and the terms of sale by certified mail on the Grantor. Service of such a notice by certified mail shall be completed upon deposit of such notice, postage prepaid and properly addressed to each such person or entity at the address for the Grantor indicated on the first page of this Deed of Trust, in a Post Office of the United States Postal Service or in an official depository under the care and custody of the United States Postal Service. The affidavit of a person knowledgeable of the facts to the effect that such service was completed shall be prima facie evidence of the fact of service. In the alternative, such notice and sale may be accomplished in such manner as permitted or required by Title 5, §51.002 of the Property Code relating to the sale of real property under contract lien and/or by Chapter 9 of the Texas Business and Commerce Code relating to the sale of collateral after default by a debtor (as said title and chapter now exist or may be hereafter amended or succeeded), or by any other present or subsequent laws or regulations relating to same.

(2) Should the Beneficiary or any Lender have not elected to accelerate the Indebtedness secured hereby, the Beneficiary or such Lender may nonetheless proceed with foreclosure in satisfaction of such Event of Default, either through the courts or by directing the Trustee to proceed as if under a full foreclosure, conducting sale as hereinbefore provided, but without declaring the entire Indebtedness secured by this Deed of Trust due, and provided that if said sale is made because of such Event of Default, such sale may be made subject to the unmatured part of the secured Indebtedness. Such sale, if so made, shall not in any manner affect the unmatured part of the debt secured by this Deed of Trust, but as to such unmatured part, this Deed of Trust shall remain in full force as though no sale had been made. Several sales may be made without exhausting the right of sale with respect to any unmatured part of the secured Indebtedness, it being the purpose and intent hereof to provide for a foreclosure and the sale of the Mortgaged Premises for any matured portion of said secured Indebtedness without exhausting the power of foreclosure.

(3) In the event foreclosure proceedings are instituted or filed by the Beneficiary or any Lender, all expenses incident to such proceedings, including, but not limited to, attorneys' fees and costs, shall be paid by the Grantor and secured by this

Deed of Trust and by all of the other Loan Documents securing all or any part of the Indebtedness evidenced by the Notes. The secured Indebtedness and all other obligations secured by this Deed of Trust, including, without limitation, interest at the Default Rate, any prepayment charge, fee or premium required to be paid under the Notes in order to prepay principal (to the extent permitted by applicable law), reasonable attorneys' fees and any other amounts due and unpaid to the Beneficiary and the Lenders under the Loan Documents, may be bid by the Beneficiary or any Lender in the event of a foreclosure sale hereunder.

(v) Sell the Mortgaged Premises and all estate, right, title and interest of the Grantor therein as a whole or in separate parcels, at one or more sales, at such time and place and upon such terms and conditions as may be required by applicable law,

(vi) Take such steps to protect and enforce rights, whether by action, suit or proceeding in equity or at law, for the specific performance of any provision in the Loan Documents, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy the Beneficiary and the Lenders shall elect,

(vii) Upon, or at any time prior or after, initiating the exercise of any power of sale, instituting any judicial foreclosure or instituting any other foreclosure of the liens and security interests provided for herein or any other legal proceedings hereunder, make application to a court of competent jurisdiction for appointment of a receiver for all or any part of the Mortgaged Premises, as a matter of strict right and without notice to the Grantor and without regard to the adequacy of the Mortgaged Premises for the repayment of the Indebtedness secured hereby or the solvency of the Grantor or any person or persons liable for the payment of the Indebtedness secured hereby, and the Grantor does hereby irrevocably consent to such appointment, waive any and all notices of and defenses to such appointment and agree not to oppose any application therefor by the Beneficiary, but nothing herein is to be construed to deprive the Beneficiary of any other right, remedy or privilege the Beneficiary may now have under the law to have a receiver appointed, provided, however, that the appointment of such receiver, trustee or other appointee by virtue of any court order, statute or regulation shall not impair or in any manner prejudice the rights of the Beneficiary to receive payment of the Rents pursuant to other terms and provisions hereof. Any such receiver shall have all of the usual powers and duties of receivers in similar cases, including, without limitation, the full power to hold, develop, rent, lease, manage, maintain, operate and otherwise use or permit the use of the Mortgaged Premises upon such terms and conditions as said receiver may deem to be prudent and reasonable under the circumstances as more fully set forth in this Deed of Trust and the other Loan Documents. Such receivership shall, at the option of the Beneficiary, continue until full payment of all of the Indebtedness secured hereby or until title to the Mortgaged Premises shall have passed by foreclosure sale under this Deed of Trust or deed in lieu of foreclosure,

(viii) Apply any monies or securities on deposit with the Beneficiary or any depository designated by the Beneficiary and the Lenders as required to be maintained under this Deed of Trust to the Indebtedness in such order and manner as the Beneficiary and the Lenders may elect.

(ix) Proceed by suit or suits, at law or in equity, instituted by the Beneficiary, or the Trustee, upon written request of the Beneficiary, to enforce the payment of the Indebtedness secured hereby or the other obligations of the Grantor hereunder or any of the Loan Documents, to foreclose the liens and security interests of this Deed of Trust as against all or any

part of the Mortgaged Premises, and to have all or any part of the Mortgaged Premises sold under the judgment or decree of a court of competent jurisdiction. This remedy shall be cumulative of any other non-judicial remedies available to the Beneficiary with respect to this Deed of Trust and the Loan Documents. Proceeding with the request or receiving a judgment for legal relief shall not be or be deemed to be an election of remedies or bar any available non-judicial remedy of the Beneficiary.

(x) To the fullest extent permitted by law, apply the proceeds of any sale under this Deed of Trust, to the extent funds are so available, to the following items in such order as the Beneficiary in its discretion may determine:

- (A) To payment of the costs, expenses and fees of taking possession of the Mortgaged Premises, and of holding, operating, maintaining, using, leasing, repairing, improving, marketing and selling the same and of otherwise enforcing the Beneficiary's right and remedies hereunder, under the other Loan Documents, including, but not limited to, a customary and reasonable fee to the Trustee, receivers' fees, court costs, attorneys', accountants', appraisers', managers' and other professional fees, title charges and transfer taxes.
- (B) To payment of all sums expended by the Beneficiary under the terms of this Deed of Trust or any of the Loan Documents and not yet repaid, together with interest on such sums at the Default Rate.
- (C) To payment of the Indebtedness and all other obligations secured by this Deed of Trust, including, without limitation, interest at the Default Rate and, to the extent permitted by applicable law, any prepayment fee, charge or premium required to be paid under the Notes in order to prepay principal, in any order that the Beneficiary chooses in its sole discretion.
- (D) The remainder, if any, of such funds shall be disbursed to the Grantor or to the person or persons legally entitled thereto.

(xi) Upon the occurrence of an Event of Default under any of the Loan Documents, which default is not cured within any applicable grace or cure period, and entry upon the Mortgaged Premises pursuant to the provisions of this Deed of Trust, or any of the other Loan Documents or appointment of a receiver pursuant to the provisions of this Deed of Trust, or any of the other Loan Documents, and under such terms and conditions as may be prudent and reasonable under the circumstances in the Beneficiary's or the receiver's sole discretion, all at the Grantor's expense, the Beneficiary or said receiver, or such other persons or entities as they shall hire, direct or engage, as the case may be, may do or permit one or more of the following, successively or concurrently: (i) enter upon and take possession and control of any and all of the Mortgaged Premises; (ii) take and maintain possession of all documents, books, records, papers and accounts relating to the Mortgaged Premises; (iii) exclude the Grantor and its agents, servants and employees wholly from the Mortgaged Premises; (iv) manage and operate the Mortgaged Premises; (v) preserve and maintain the Mortgaged Premises; (vi) make repairs and alterations to the Mortgaged Premises; (vii) complete any construction or repair of the Improvements; (viii) conduct a marketing or leasing program with respect to the Mortgaged Premises, or employ a marketing or leasing agent or agents to do so, directed to the leasing or sale of the Mortgaged Premises under such terms and conditions as the Beneficiary may in its sole discretion deem

appropriate or desirable; (ix) employ such contractors, subcontractors, materialmen, architects, engineers, consultants, managers, brokers, marketing agents, or other employees, agents, independent contractors or professionals, as the Beneficiary may in its sole discretion deem appropriate or desirable to implement and effectuate the rights and powers herein granted; (x) execute and deliver, in the name of the Beneficiary as attorney-in-fact and agent of the Grantor or in its own name as the Beneficiary, such documents and instruments as are necessary or appropriate to consummate authorized transactions; (xi) enter such leases, whether of real or personal property, or tenancy agreements, under such terms and conditions as the Beneficiary may in its sole discretion deem appropriate or desirable; (xii) collect and receive the Rents from the Mortgaged Premises; (xiii) eject tenants or repossess personal property, as provided by law, for breaches of the conditions of their leases or other agreements; (xiv) sue for unpaid Rents, payments, income or proceeds in the name of the Grantor or the Beneficiary; (xv) maintain actions in forcible entry and detainer, ejectment for possession and actions in distress for rent; (xvi) compromise or give acquittance for Rents, payments, income or proceeds that may become due; (xvii) delegate or assign any and all rights and powers given to the Beneficiary by this Deed of Trust; and (xviii) do any acts which the Beneficiary in its sole discretion deems appropriate or desirable to protect the security hereof and use such measures, legal or equitable, as the Beneficiary may in its sole discretion deem appropriate or desirable to implement and effectuate the provisions of this Deed of Trust. This Deed of Trust shall constitute a direction to and full authority to any lessee, or other third party who has heretofore dealt or contracted or may hereafter deal or contract with the Grantor or the Beneficiary, at the request of the Beneficiary, to pay all amounts owing under any lease, contract, concession, license or other agreement to the Beneficiary without proof of the default relied upon. Any such lessee or third party is hereby irrevocably authorized to rely upon and comply with (and shall be fully protected by the Grantor in so doing) any request, notice or demand by the Beneficiary for the payment to the Beneficiary of any Rents or other sums which may be or thereafter become due under its lease, contract, concession, license or other agreement, or for the performance of any undertakings under any such lease, contract, concession, license or other agreement, and shall have no right or duty to inquire whether any default under this Deed of Trust and the other Loan Documents has actually occurred or is then existing. The Grantor hereby constitutes and appoints the Beneficiary, its assignees, successors, transferees and nominees, as the Grantor's true and lawful attorney-in-fact and agent, with full power of substitution in the Mortgaged Premises, in the Grantor's name, place and stead, to do or permit any one or more of the foregoing described rights, remedies, powers and authorities, successively or concurrently, and said power of attorney shall be deemed a power coupled with an interest and irrevocable so long as any Indebtedness secured hereby is outstanding. Any money advanced by the Beneficiary in connection with any action taken under this section, together with interest thereon at the Default Rate from the date due by the Grantor, shall be a demand obligation owing by the Grantor to the Beneficiary within ten (10) days following the Beneficiary's demand therefor in writing, and shall be secured by this Deed of Trust and by every other instrument securing the secured Indebtedness.

(xii) In the event there is a foreclosure sale hereunder and at the time of such sale, the Grantor or the Grantor's representatives, successors or assigns, or any other persons claiming any interest in the Mortgaged Premises by, through or under the Grantor (except tenants of space in the Improvements subject to leases entered into prior to the date hereof), are occupying or using the Mortgaged Premises, or any part thereof, then, to the extent not prohibited by applicable law, each and all shall, at the option of the Beneficiary or the purchaser at such sale, as the case may be, immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day-to-day, terminable at the will of either landlord or tenant, at a reasonable rental per day based upon the value of the Mortgaged Premises occupied or used, such rental to be due daily to the purchaser. Further, to the extent permitted by applicable law, in the

event the tenant fails to surrender possession of the Mortgaged Premises upon the termination of such tenancy, the purchaser shall be entitled to institute and maintain an action for unlawful detainer of the Mortgaged Premises in the appropriate court of the county in which the Mortgaged Premises is located.

(xiii) The Beneficiary may, at any time when an Event of Default exists, notify the account debtors and obligors of any accounts, chattel paper, negotiable instruments or other evidences of indebtedness to the Grantor included in the Mortgaged Premises to pay the Beneficiary directly. The Grantor shall at any time or from time to time upon the request of the Beneficiary provide to the Beneficiary a current list of all such account debtors and obligors and their addresses.

(xiv) All remedies contained in this Deed of Trust are cumulative and the Beneficiary shall also have all other remedies provided at law and in equity or in any other Loan Documents. Such remedies may be pursued separately, successively or concurrently at the sole subjective direction of the Beneficiary and may be exercised in any order and as often as occasion therefor shall arise. No act of the Beneficiary shall be construed as an election to proceed under any particular provisions of this Deed of Trust to the exclusion of any other provision of this Deed of Trust or as an election of remedies to the exclusion of any other remedy which may then or thereafter be available to the Beneficiary. No delay or failure by the Beneficiary to exercise any right or remedy under this Deed of Trust shall be construed to be a waiver of that right or remedy or of any default hereunder. The Beneficiary may exercise any one or more of its rights and remedies at its option without regard to the adequacy of its security,

(xv) The Grantor shall pay, within ten (10) days following written demand from the Beneficiary, all of the Beneficiary's expenses incurred in any efforts to enforce any terms of this Deed of Trust, whether or not any lawsuit is filed and whether or not foreclosure is commenced but not completed, including, but not limited to, legal fees and disbursements, foreclosure costs and title charges, together with interest thereon from and after the date due until actually paid by the Grantor at the Default Rate, and the same shall be secured by this Deed of Trust, the other Loan Documents securing all or any part of the Indebtedness evidenced by the Note,

(xvi) Take all such other steps and to assert all such other rights and remedies as shall be permitted by applicable law.

(f) Waiver of Deficiency Statute.

(i) Waiver. In the event an interest in any of the Mortgaged Premises is foreclosed upon pursuant to a judicial or nonjudicial foreclosure sale, the Grantor agrees that, notwithstanding the provisions of Sections 51.003, 51.004 and 51.005 of the Texas Property Code (as the same may be amended from time to time), and to the extent permitted by law, the Beneficiary shall be entitled to seek a deficiency judgment from the Grantor and any other party obligated on the Notes equal to the difference between the amount owing on the Notes and the amount for which the Mortgaged Premises was sold pursuant to judicial or nonjudicial foreclosure sale. The Grantor expressly recognizes that this section constitutes a waiver of the above-cited provisions of the Texas Property Code which would otherwise permit the Grantor and other persons against whom recovery of deficiencies is sought or any guarantor independently (even absent the initiation of deficiency proceedings against them) to present competent evidence of the fair market value of the Mortgaged Premises as of the date of the foreclosure sale and offset against any deficiency the amount by which the foreclosure sale price

is determined to be less than such fair market value. The Grantor further recognizes and agrees that this waiver creates an irrebuttable presumption that the foreclosure sale price is equal to the fair market value of the Mortgaged Premises for purposes of calculating deficiencies owed by the Grantor, any guarantor, and others against whom recovery of a deficiency is sought.

(ii) Alternative to Waiver. Alternatively, in the event the waiver provided for in subsection (1) above is determined by a court of competent jurisdiction to be unenforceable, the provisions of this Section 43(f)(ii) shall be the basis for the finder of fact's determination of the fair market value of the Mortgaged Premises as of the date of the foreclosure sale in proceedings governed by Sections 51.003, 51.004 and 51.005 of the Texas Property Code (as amended from time to time). In such event, (i) the Mortgaged Premises shall be valued in an "as is" condition as of the date of the foreclosure sale, without any assumption or expectation that the Mortgaged Premises will be repaired or improved in any manner before a resale of the Mortgaged Premises after foreclosure; (ii) the valuation shall be based upon an assumption that the foreclosure purchaser desires a resale of the Mortgaged Premises for cash promptly (but no later than 12 months) following the foreclosure sale; (iii) all reasonable closing costs customarily borne by the seller in commercial real estate transactions should be deducted from the gross fair market value of the Mortgaged Premises, including, without limitation, brokerage commissions, title insurance, a survey of the Mortgaged Premises, tax prorations, attorneys' fees, and marketing costs; (iv) the gross fair market value of the Mortgaged Premises shall be further discounted to account for any estimated holding costs associated with maintaining the Mortgaged Premises pending sale, including, without limitation, utilities expenses, property management fees, taxes and assessments (to the extent not accounted for in item (iii) above), and other maintenance, operational and ownership expenses; and (v) any expert opinion testimony given or considered in connection with a determination of the fair market value of the Mortgaged Premises must be given by persons having at least five (5) years' experience in appraising property similar to the Mortgaged Premises and who have conducted and prepared a complete written appraisal of the Mortgaged Premises taking into consideration the factors set forth above.

(g) TEXAS FINANCE CODE SECTION 307.052 COLLATERAL PROTECTION INSURANCE NOTICE:

(i) **THE GRANTOR IS REQUIRED TO: (A) KEEP THE MORTGAGED PREMISES INSURED AGAINST DAMAGE IN THE AMOUNT THE BENEFICIARY SPECIFIES, (B) PURCHASE THE INSURANCE FROM AN INSURER THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE OF TEXAS OR AN ELIGIBLE SURPLUS LINES INSURER; AND (C) NAME THE BENEFICIARY AS THE PERSON TO BE PAID UNDER THE POLICY IN THE EVENT OF A LOSS;**

(ii) **THE GRANTOR MUST, IF REQUIRED BY THE BENEFICIARY, DELIVER TO THE BENEFICIARY A COPY OF THE POLICY AND PROOF OF THE PAYMENT OF PREMIUMS; AND**

(iii) **IF THE GRANTOR FAILS TO MEET ANY REQUIREMENT LISTED IN PARAGRAPH (i) OR (ii) THE BENEFICIARY MAY OBTAIN COLLATERAL PROTECTION INSURANCE ON BEHALF OF THE GRANTOR AT THE GRANTOR'S EXPENSE.**

(h) The definition of Rents shall include all "Rents" as defined or described in Chapter 64 "Assignment of Rents to Lienholder" of the Texas Property Code, commonly referred to as the Texas Assignment of Rents Act (the "TARA"). Furthermore, it is the intent of the parties to comply

with the requirements of TARA in connection with this Deed of Trust. Accordingly, the enforcement of rights pursuant to this Deed of Trust shall be subject to compliance with the provisions of TARA, including, without limitation, the notice requirements of Sections 64.054, 64.055(a) and 64.056 of the Texas Property Code. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, (i) this Deed of Trust and any other assignment of rents granted under any other Loan Document shall constitute and serve as a "security instrument" under TARA, (ii) to the extent this Deed of Trust or any of the other Loan Documents contain any notice or cure period, the date enforcement of Assignee's rights under TARA begins shall not be affected, extended or otherwise modified by reason of such periods and (iii) in the event any provision in this Deed of Trust, or any other Loan Document is prohibited by a provision in TARA, the provisions of TARA shall control.

(i) Counting of Days. Nothing contained in this Section 43 shall be deemed to prohibit or impair the conduct of a non-judicial foreclosure sale on a legal holiday in accordance with the provisions hereof.

(j) Additional Texas Law Provision. The Beneficiary may, at its option, accomplish all or any of the aforesaid in such manner as permitted or required by Section 51.002 of the Texas Property Code relating to the sale of real property or by Chapter 9 of the Texas Business and Commerce Code relating to the sale of collateral after default by a debtor (as said section and chapter now exist or may be hereinafter amended or succeeded), or by any other present or subsequent articles or enactments relating to same.

(k) Rights With Respect to Junior Encumbrances. Any Person or entity purporting to have or to take a junior mortgage or other lien upon the Mortgaged Premises or any interest therein shall be subject to the rights of the Beneficiary to amend, modify, increase, vary, alter or supplement this Deed of Trust, the Notes or any of the other Loan Documents, to extend the Maturity Date, to increase the amount of the Indebtedness secured hereby, to waive or forebear the exercise of any of its rights and remedies hereunder or under any of the other Loan Documents and to release any collateral or security for the Indebtedness secured hereby, in each and every case without obtaining the consent of the holder of such junior lien and without the lien or security interest of this Deed of Trust losing its priority over the rights of any such junior lien.

(l) **NOTICE.** (i) **IN ACCORDANCE WITH SECTION 26.02 OF THE TEXAS BUSINESS AND COMMERCE CODE, THIS DEED OF TRUST AND THE OTHER DOCUMENTS EVIDENCING, SECURING OR PERTAINING TO ALL OR ANY PORTION OF THE LOAN REPRESENT THE FINAL AGREEMENT BETWEEN THE GRANTOR AND THE BENEFICIARY AS TO THE SUBJECT MATTER THEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF SUCH PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN SUCH PARTIES. THE PROVISIONS HEREOF AND THE OTHER LOAN DOCUMENTS MAY BE AMENDED OR WAIVED ONLY BY AN INSTRUMENT IN WRITING SIGNED BY THE GRANTOR AND THE BENEFICIARY.**

(ii) Notwithstanding anything in Section 10.1 of the Loan Agreement to the contrary, any and all notices required to be given under Section 51.002 of the Texas Property Code shall be given in accordance therewith.

(m) Business Purpose. The Loan is solely for the purpose of carrying on or acquiring a business of the Grantor and is not for personal, family, household or agricultural purposes.

(n) Waiver of Consumer Rights. TO THE EXTENT NOW OR HEREAFTER APPLICABLE, THE GRANTOR HEREBY WAIVES THE GRANTOR'S RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES – CONSUMER PROTECTION ACT, SECTION 17.41 ET SEQ., TEXAS BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF THE GRANTOR'S OWN SELECTION, THE GRANTOR VOLUNTARILY CONSENTS TO THIS WAIVER.

(o) Maturity Date. The Maturity Date of the Loan is October 1, 2026.

THE GRANTOR HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DEED OF TRUST AT THE TIME OF EXECUTION HEREOF.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES FOLLOW]**

GRANTOR:

By:
Name: Arihai Daniell
Title: Authorized Signatory

STATE OF New York)
) ss.
COUNTY OF Nassau)

My commission expires: 9/28/2022

Notary Public

EXHIBIT "A"

Legal Description of the Land

Being all of that certain tract or parcel of land containing 2.7222 acres, more or less, situated in the H.T. & B. R. R. Co. Survey, Abstract No. 396, Harris County, Texas.

Said tract being more particularly described as follows:

BEING 2.7222 ACRE TRACT OF LAND OUT OF A 11.6094 ACRE TRACT IN THE PUBLIC RECORDS OF REAL PROPERTY OF HARRIS COUNTY, TEXAS, RECORDED AS FILM CODE NO. 12188-0886 AND FILE NO. F984889 AND BEING SITUATED IN THE H. T. & B. R. R. CO. SURVEY, ABSTRACT NO. 396 AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS: (BEARING BASIS IS THE NORTH RIGHT-OF-WAY LINE OF WEST AIRPORT BOULEVARD BEING SOUTH 77 DEGREES 11 MINUTES 18 SECONDS WEST)

BEGINNING AT A 5/8 INCH IRON ROD FOUND AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF WEST AIRPORT BOULEVARD (100 FEET WIDE) WITH THE WEST LINE OF M. C. FRIEDENHAUS SURVEY, ABSTRACT NO. 1260 AND THE EAST LINE OF THE H. T. & B. R. R. CO SURVEY, ABSTRACT NO. 396 AND BEING THE SOUTHEAST CORNER OF THE SAID 11.6094 ACRE TRACT;

THENCE SOUTH 87 DEGREES 35 MINUTES 54 SECONDS WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF WEST AIRPORT BOULEVARD A DISTANCE OF 618.83 FEET TO A 5/8 INCH IRON ROD FOUND FOR CORNER;

THENCE NORTH 02 DEGREES 18 MINUTES 07 SECONDS WEST, A DISTANCE OF 192.01 FEET TO A 5/8 INCH IRON ROD FOUND, ALSO BEING A POINT IN THE NORTH LINE OF SAID 11.6094 ACRE TRACT;

THENCE NORTH 87 DEGREES 40 MINUTES 23 SECONDS EAST, ALONG THE NORTH LINE OF SAID 11.6094 ACRE TRACT, A DISTANCE OF 618.92 FEET TO A POINT FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT AND ALSO LYING ON THE WEST LINE OF A 30 FOOT WIDE HARRIS COUNTY FLOOD CONTROL EASEMENT, IN THE WEST LINE OF M. C. FRIEDENHAUS SURVEY, ABSTRACT NO. 1260 AND IN THE EAST LINE OF THE H. T. & B. R. R. CO. SURVEY, ABSTRACT NO. 396;

THENCE SOUTH 02 DEGREES 16 MINUTES 34 SECONDS EAST, ALONG THE WEST LINE OF SAID 30 FOOT WIDE HARRIS COUNTY FLOOD CONTROL EASEMENT; THE WEST LINE OF SAID M. C. FRIEDENHAUS SURVEY AND THE EAST LINE OF SAID H. T. & B. R. R. CO. SURVEY, A DISTANCE OF 191.20 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.7222 ACRES OF LAND (118,578 SQUARE FEET).

11-GF# 202102345E JPB
RETURN TO: HERITAGE TITLE
401 CONGRESS, SUITE 1500
AUSTIN, TEXAS 78701

[DEED OF TRUST]

RP-2021-522946

RP-2021-522946
Pages 31
09/13/2021 01:57 PM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
TENESHIA HUDSPETH
COUNTY CLERK
Fees \$134.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically
and any blackouts, additions or changes were present
at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or
use of the described real property because of color or
race is invalid and unenforceable under federal law.
THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in
File Number Sequence on the date and at the time stamped
hereon by me; and was duly RECORDED in the Official
Public Records of Real Property of Harris County, Texas.



Teneshia Hudspeth
COUNTY CLERK
HARRIS COUNTY, TEXAS

RP-2021-522946