

3458176  
BK 7950 PG 1308

E 3458176 B 7950 P 1308-1329  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
2/18/2022 1:43:00 PM  
FEE \$40.00 Pgs: 22  
DEP eCASH REC'D FOR GT TITLE SERVICES-SALT L

WHEN RECORDED, MAIL TO:

Iron Bridge Mortgage Fund LLC  
9755 SW Barnes Road, Suite 420  
Portland, OR 97225

FORWARD TAX STATEMENTS TO:

Limitless Investment Group, LLC  
3855 South 500 West, Suite C  
Salt Lake City, UT 84115

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

SL47935S

LINE OF CREDIT INSTRUMENT  
TRUST DEED, ASSIGNMENT OF RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING

Limitless Investment Group, LLC  
a(n) Utah Limited Liability Company

"Grantor" or "Borrower"

Address: 3855 South 500 West, Suite C, Salt Lake City, UT 84115

Griffiths & Turner / GT Title Services Inc

"Trustee"

Address: 5295 So. Commerce Dr., Ste. 150, Salt Lake City, UT 84107

Iron Bridge Mortgage Fund LLC

"Beneficiary" or "Lender"

Address: 9755 SW Barnes Road, Suite 420, Portland, OR 97225

Loan Name: 1700-162-Limitless-UT  
Loan Number: 14760

This TRUST DEED, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (sometimes referred to as this "Security Instrument") is dated as of Feb. 17, 2022.

Maximum principal amount to be advanced pursuant to the Note described herein: \$10,000,000.

The maximum principal amount to be advanced pursuant to the Note described herein may be exceeded by advances to complete construction pursuant to ORS 86.155(2)(c).

Term or maturity date of such Note, exclusive of any option to renew or extend such term of maturity date:  
8/21/2022

**NOTE: THE OBLIGATIONS SECURED BY THIS SECURITY INSTRUMENT MAY PROVIDE FOR ONE OR MORE OF THE FOLLOWING: (1) A VARIABLE RATE OF INTEREST AND/OR CHANGES IN THE INSTALLMENT PAYMENTS DUE DURING THE TERM OF THE LOAN; (2) A BALLOON PAYMENT AT MATURITY; (3) CAPITALIZATION OF INTEREST, SO INTEREST ACCRUES ON INTEREST; (4) INCREASES IN THE UNPAID PRINCIPAL BALANCE OF THE OBLIGATIONS SECURED HEREBY RESULTING FROM THE ADDITION OF UNPAID INTEREST AND/OR INTEREST ACCRUING ON INTEREST; AND/OR (5) REVOLVING CREDITS, SO THAT WITHIN THE AMOUNT AND TIME SPECIFIED IN THE LOAN DOCUMENTS ONE OR MORE OBLIGORS MAY BORROW, REPAY AND REBORROW SUMS THEREUNDER.**

1. **Grant.** Borrower, in consideration of the acceptance by Trustee of the trust hereunder, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to secure the obligations described in Section 2 (including all subsections) below, irrevocably grants, bargains, sells, assigns and conveys to Trustee and its successors in trust and assigns, forever, in trust, with power of sale, all of Borrower's estate, right, title, interest, claim and demand in and to the property in the county of Davis, state of Utah, described as follows, whether now existing or hereafter acquired (all of the property described in all parts and subsections of this Section 1 shall be referred to as the "Property").

1.1 **Land and Appurtenances.** The land described on Exhibit A hereto (the "Land"), and all tenements, hereditaments, rights of way, easements, appendages and appurtenances thereto belonging or in any way appertaining, including without limitation all of the right, title and interest of Borrower in and to any avenues, streets, ways, alleys, vaults, strips or gores of land adjoining the Land, all water, water courses and

water rights (whether or not appurtenant) and shares of stock pertaining to such water or water rights, ownership of which affects the Land, all drains, drainage and air rights relating to the Land, all shrubs, trees, crops, and plants, all adjacent lands included in enclosures or occupied by buildings located partly on the Land, and all claims or demands of Borrower either in law or in equity in possession or expectancy of, in and to the Land. The street address of the Land is **162 W 1700 S, Bountiful, UT 84010**; this address is provided for reference only and shall in no way limit the description of the real and personal property otherwise described throughout this Section 1 (including all subsections).

and

**1.2 Improvements and Fixtures.** All buildings, structures and other improvements now or hereafter erected on the property described in Section 1.1 above, and all facilities, fixtures, machinery, appliances, apparatus, installations, goods, equipment, inventory, furniture, building materials and supplies and other articles of real or personal property of every kind and nature, whether or not physically attached or affixed to the Land and now or hereafter installed or placed thereon, now or hereafter located in or used or procured for use in connection with that property (including, but not limited to, all apparatus and equipment used to provide or supply air-cooling, air-conditioning, heat, gas, water, light, power, laundry, garbage disposal, fire prevention and extinguishing equipment, elevators, antennas, pool equipment, window coverings, floor coverings, ranges, ovens, dishwashers, and water heaters), it being the intention of the parties that all property of the character described above that is now owned or hereafter acquired by Borrower and that is affixed or attached to, stored upon or used in connection with the property described in Section 1.1 above shall be covered by and subject to the lien of this Security Instrument, and shall be conclusively deemed to be affixed to and to be part of the Property that is conveyed hereby (all of the herein above described property called the "**Improvements**").

and

**1.3 Contracts and Intangibles** All contracts, agreements, permits, plans, specifications, drawings, surveys, engineering reports and other work products relating to the construction of the existing or any future Improvements on the Property, any and all rights of Borrower in, to or under any architect's contracts or construction contracts relating to the construction of the existing or any future Improvements on the Property, and any performance and/or payment bonds issued in connection therewith, together with all trademarks, trade names, copyrights, computer software and other intellectual property used by Borrower in connection with the Property. Nothing herein shall be deemed to be an assumption by Lender of any obligation of Borrower with respect to such plans and specifications or under any such construction or other agreement, nor shall Lender otherwise incur any liability with respect thereto unless and until Lender, in its sole and absolute discretion, shall hereafter expressly agree in writing.

and

**1.4 Leases, Rents and Profits.** All of Borrower's right, title and interest now existing and hereafter arising in and to all leases, subleases, concessions, licenses, franchises, occupancy agreements, tenancies, subtenancies and other agreements, either oral or written, whether written or oral and whether for a definite term or month to month or otherwise, now existing and hereafter arising which affect the Land or any portion thereof, Borrower's interest therein or any improvements located thereon, including all renewals and extensions thereof, together with any and all security deposits, guaranties of the lessees' or tenants' obligations (including any and all security therefor), and other security under any such leases, subleases, concessions, licenses, franchises, occupancy agreements, tenancies, subtenancies and other agreements, and all supporting obligations, letters of credit (whether tangible or electronic) and letter of credit rights guaranteeing or supporting any of the foregoing (all of the foregoing, and any and all extensions, modifications and renewals thereof, shall be referred to, collectively, as the "**Leases**"), and all the income, rents, issues, profits, royalties and proceeds from the Land or the Leases, or any business conducted on the Land, and any and all prepaid rent and security deposits thereunder shall be collectively referred to as the "**Rents and Profits**." The term "**Rents and Profits**" includes, but is not limited to all minimum rents, additional rents, percentage rents, deficiency rents, common area maintenance charges, lease termination payments, purchase option payments, refunds of any type, prepayment of rents, settlements of litigation, settlements of past due rents, and liquidated damages following default, refunds from taxing authorities, utilities and insurers, and all proceeds payable under any policy of insurance covering loss of rents, together with any and all rights and claims of any kind that Borrower may have against any tenant under the Leases or any other occupant of the Property, including but not limited to any and all rights of Borrower in or to make claim for, collect, receive and receipt for any of the foregoing, and all mineral, oil and gas rights and profits. The Property shall include the Rents and Profits and the Leases. The immediately foregoing provision shall, to the extent permitted by applicable law, constitute an absolute, present and executed assignment of the Rents and Profits, subject, however, to the conditional license given to Borrower to collect, hold and use such Rents and Profits to the extent provided in Section 15 hereof. In accepting this Security Instrument neither Lender nor Trustee assumes any liability for the performance of any Lease.

and

**1.5 Claims, Insurance and Condemnation Proceeds and other Choses in Action.** All claims, demands and causes of action of every kind (including proceeds of settlements of any such claim, demand, or cause of action of any kind and which are subject to Section 8 below) which Borrower now has or may hereafter acquire arising out of acquisition or ownership of the Land, including insurance proceeds of any kind (whether or not Lender requires such insurance and whether or not Lender is named as an additional insured or loss payee of such insurance), and any condemnation awards and other moneys, payable or receivable from or on account of any of the Property, including interest thereon (whether or not eminent domain proceedings have been instituted), and all rights to enforce all provisions of any other agreement (including those described in Section 1.3 above) affecting or relating to any of the Property, to bring any suit in equity, action at law or other proceeding for the collection of such moneys or for the specific or other enforcement of any such agreement, award or judgment, in the name of Borrower or otherwise, and to do any and all things that Borrower is or may

be or become entitled to do with respect thereto, provided, however, that no obligation of Borrower under the provisions of any such agreements, awards or judgments shall be impaired or diminished by virtue hereof, nor shall any such obligation be imposed upon Trustee or Lender.

and

1.6 **Accounts, Income and Intangibles.** Any and all rights of Borrower in any and all accounts, rights to payment, contract rights, chattel paper, documents, instruments, licenses, contracts, installments of money payable pursuant to any agreement for sale of the Land or any part thereof or interest therein and any release, termination or "buy-out" consideration now or hereafter payable to Borrower with respect to any lease, rental, tenancy, occupancy or other agreement, and all other agreements and general intangibles relating to any of the Property of any nature whatsoever, including, without limitation, income and profits derived from the operation of any business on the Property or attributable to services that occur or are provided on the Property or generated from the use and operation of the Property.

and

1.7 **Books and Records.** All books and records of Borrower relating to the foregoing, of any nature and in any form whatsoever.

and

1.8 **Security Agreement.** To the extent any of the property described anywhere in Section 1 is personal property, Borrower, as debtor, grants to Lender, as secured party, a security interest therein together with a security interest in all other personal property of whatsoever nature that is located on or used or to be used in connection with any of the property described in Section 1 (including all subsections), and any products or proceeds of any thereof, pursuant to the Uniform Commercial Code in the jurisdiction in which the property is located or in which Borrower resides or is formed or organized, as applicable (the "**Uniform Commercial Code**"), on the terms and conditions contained herein. Lender hereby assigns such security interest to Trustee, in trust, for the benefit of Lender to be dealt with as a portion of the "Property" except as otherwise specified herein. Borrower hereby authorizes Lender to file any financing statement, fixture filing or similar filing to perfect the security interests granted in this Security Instrument without Borrower's signature.

2. **OBLIGATIONS SECURED.** This Security Instrument is given for the purpose of securing all of the following, which shall be collectively referred to as the "**Indebtedness**":

2.1 **Performance and Payment.** The performance of the obligations contained herein and the timely performance of the following:

a. The timely payment of all amounts owing (including but not limited to principal, interest, costs and attorney fees) pursuant to the following Secured Promissory Notes payable to Lender (collectively, the "**Note**"), according to the terms thereof, and any and all extensions, renewals, re-finances, modifications or replacements thereof, whether the same be in greater or lesser amounts:

Loan Name: **1700-162-Limitless-UT** Loan Amount: **\$385,000.00**  
Funding Date: **2/18/2022** Maturity Date: **8/21/2022**

Loan Name: **1280-8292-Limitless-UT** Loan Amount: **\$315,000.00**  
Funding Date: **11/8/2021** Maturity Date: **5/8/2022**

and

b. The timely performance of all obligations pursuant to a **Master Loan and Security Agreement dated 11/5/2021** (the "**Loan Agreement**").

The latest of the Maturity Dates set out above shall be referred to as the "**Maturity Date**." All of the Borrower's obligations to Lender pursuant to the Note, and each of them, or any of the Loan Documents (as defined in Section 2.3 of this Security Instrument) shall be collectively referred to as the "**Loan**."

The Note and the Loan Agreement may provide for one or more of the following: (a) a variable rate of interest; or (b) a balloon payment at maturity. Borrower acknowledges that the terms of the Note may provide that the interest rate is subject to adjustment, both upward and downward, which may increase or decrease the amount of periodic payments or may extend or shorten the term of this Security Instrument, or both. The priority of this Trust Deed shall not be affected by such terms.

2.2 **Future Advances.** The repayment of any and all sums advanced or expenditures made by Lender subsequent to the execution of this Security Instrument for the maintenance or preservation of the Property or advanced or expended by Lender pursuant to any provision of this Security Instrument subsequent to its execution, together with interest thereon.

2.3 **Other Amounts.** All other obligations and amounts now or hereafter owing by Borrower to Lender under this Security Instrument, the Note, the Loan Agreement or any other document, instrument or agreement evidencing, securing or otherwise relating to the loan evidenced by the Note and any and all extensions, renewals, re-finances, modifications or replacements of any thereof (collectively, the "**Loan Documents**"). In limitation of the foregoing, that this Security Instrument does not and shall not in any event be deemed to, secure the obligations owing to Lender under any Guaranty of such loan, or any Hazardous Substances Agreement (both as defined in the Loan Agreement). Notwithstanding the foregoing, this Security Instrument shall not be construed to secure any agreement or obligation of Borrower contained in any documents or agreements which expressly provide that the same either are unsecured or are not secured by this Security Instrument.

2.4 **Other Obligations; Cross-Collateralization.** Payment of such additional sums with interest thereon as may be hereafter borrowed from Lender by Borrower or by the then record owner of the Property, which are evidenced by a promissory note or notes reciting it is or they are secured by this Security Instrument, and all modifications, extensions, renewals and/or replacements thereof.

2.5 **Covenants, Conditions and Restrictions.** Payment by Borrower of each and every monetary provision to be performed by Borrower under any declaration of covenants, conditions, and restrictions pertaining to the Property, and upon written request of Lender, the enforcement by Borrower of any covenant to pay maintenance or other charges, which enforcement shall include, if the same have not been paid within 30 days after such written request is made, valid legal steps to enforce such payment.

**BORROWER COVENANTS AND AGREES WITH LENDER AS FOLLOWS:**

1. **PERFORMANCE OF NOTE AND OTHER LOAN DOCUMENTS.** Borrower shall perform, observe and comply with all provisions hereof, of the Note, the Loan Agreement and every other Loan Document and will promptly pay to Lender the principal with interest thereon and all other sums required to be paid by Borrower under the Note and pursuant to the provisions of this Security Instrument and of every other Loan Document when payment shall become due, provided that nothing herein shall be construed to cause this Security Instrument to secure any covenant or other obligation of Borrower under any Loan Document which is expressly stated to be an unsecured obligation of Borrower or to be an obligation of Borrower which is not secured by this Security Instrument.

2. **GENERAL REPRESENTATIONS, COVENANTS AND WARRANTIES; INDEMNIFICATION.** Borrower represents, covenants and warrants that as of the date hereof and at all times hereafter during the term hereof: (a) Borrower is the lawful owner of good and marketable fee simple title to the Property, free and clear of all liens and encumbrances other than those set forth on the attached **Exhibit B** (collectively, the "Permitted Exceptions"), and has good right and authority to grant, bargain, sell, convey, transfer, and assign the Property, and is the owner of the Improvements hereby secured, and has good right to grant, bargain, sell, convey, transfer, and assign the same as security under this Security Instrument. (b) Borrower will warrant and forever defend the title to the Property against the claims of all persons whomsoever claiming the same or any part thereof, and this warranty of title shall survive the foreclosure of this Security Instrument and shall inure to the benefit of and be enforceable by any person who may acquire title to the Property pursuant to foreclosure. (c) Borrower is now able to meet its debts as they mature, the fair market value of its assets exceeds its liabilities, no bankruptcy or insolvency proceedings are pending or contemplated by or against Borrower, no assignment to creditors has been made by Borrower and no portion of Borrower's assets are presently subject to any attachment, execution or judicial seizure, and Borrower covenants immediately to provide notice to Lender in the event that any change in any of the circumstances described in this sentence should occur. (d) All reports, statements and other data furnished by or on behalf of Borrower, or any partner, officer, employee or agent of Borrower or any guarantor in connection with the Loan are true, correct and complete in all material respects and do not omit to state any fact or circumstance necessary to make the statements contained therein not misleading. (e) Borrower is duly organized, validly existing and in good standing under the laws of the state of its organization and is qualified and authorized to do business in the state where the Property is located, and has full power and authority to own its property, to carry on its business as presently being conducted and as contemplated to be conducted hereunder and to execute, deliver and perform its obligations under this Security Instrument, the Note and the other Loan Documents. The person(s) executing this Security Instrument, the Note and the other Loan Documents on behalf of Borrower have been duly authorized to execute and deliver this Security Instrument, the Note and other Loan Documents on behalf of Borrower. This Security Instrument, the Note and the other Loan Documents constitute legally valid and binding obligations of Borrower enforceable in accordance with their terms; and the execution, delivery and performance of this Security Instrument, the Note and the other Loan Documents by Borrower will not conflict with, or constitute a breach of, or default under, Borrower's governing instruments or any indenture, mortgage, deed of trust, note, lease, commitment, agreement or other instrument or obligation to which Borrower is a party or by which Borrower or its properties is bound. The Loan is primarily for commercial, industrial or business purposes and is not primarily for personal, family or household purposes. (f) There are no actions, suits or proceedings pending, or to the knowledge of Borrower threatened, against or affecting Borrower, the Property or Borrower's title to or rights in the Property, of any nature whatsoever. (g) Borrower is not in default under the terms of any instrument evidencing or securing any indebtedness of Borrower and there has occurred no event which would, if uncured or uncorrected, constitute a default under any such instrument with the giving of notice, passage of time or both. (h) Electric, gas, sewer, water facilities, and any other necessary utilities, are available and shall continue to be available in sufficient capacity to service the Property satisfactorily for its intended uses. (i) The Property, including without limitation the Improvements thereon, comply with and will continue throughout the term hereof to comply with all applicable restrictive covenants, applicable zoning and subdivision ordinances and building codes, all applicable health, disability and environmental laws and regulations and all other applicable laws, ordinances, rules and regulations, including permits, licenses and/or certificates that may be necessary from time to time to comply with any of these requirements. The Property is free from damage and no matter has come to Borrower's attention (including, but not limited to, knowledge of any construction defects or nonconforming work) that would materially impair the value of the Property as security. (j) Borrower will preserve and protect the priority of this Security Instrument as a first lien on the Property. (k) The Property is not currently or primarily used for agricultural, farming, timber or grazing purposes. If Borrower fails to do so, Lender may take any and all actions necessary or appropriate to do so and all sums expended by Lender in so doing shall be treated as part of the obligations secured by this Security Instrument, shall be paid by Borrower upon demand by Lender and shall bear interest at the highest rate borne by any of the obligations secured by this Security Instrument.

Borrower shall hold Lender and Trustee and their respective directors, officers, employees, agents, and attorneys, harmless from and indemnify them for any and all claims, demands, damages, liabilities, and expenses, including but not limited to attorney fees and court costs, arising out of or in connection with Trustee's or Lender's interest under this Security Instrument, except Borrower shall not be liable for acts performed by Lender or Trustee in violation of applicable law.

3. **SECURITY AGREEMENT AND FINANCING STATEMENTS.** Borrower (as Debtor) hereby grants to Lender (as Creditor and Secured Party) a security interest in all of the Property which is tangible or intangible personal property, including without limitation, fixtures, goods, accounts, deposit accounts, instruments, chattel paper, documents, letters of credit, letter of credit rights, supporting obligations, and general intangibles described hereinabove and all additions, substitutions and proceeds (cash and noncash) of the foregoing.

Borrower shall execute any and all such documents as Lender may request, including without limitation, financing statements pursuant to the Uniform Commercial Code to preserve and maintain the priority of the lien created hereby on property which may be deemed personal property or fixtures, and shall pay to Lender on demand any expenses incurred by Lender in connection with the preparation, execution and filing of any such documents. Said financing statements shall be filed in the real estate records of the county in which the Property is located and such other offices as Lender deems advisable under the Uniform Commercial Code. Borrower hereby authorizes Lender to file all financing statements, refilings, continuations and amendments thereof as Lender deems necessary or advisable to create, preserve and protect said lien and security interest. Borrower shall cooperate with Lender in obtaining control of deposit accounts, letter of credit rights and any other collateral for which control is necessary for perfection under the Uniform Commercial Code. This Security Instrument constitutes a security agreement for any and all items of Property which are personal property and fixtures and which, under applicable law, may be subject to a security interest pursuant to the applicable Uniform Commercial Code and which are not herein effectively made part of the Land. Borrower hereby grants Lender a security interest in said property, and in all additions, substitutions and proceeds (cash and noncash) thereof, for the purpose of securing all indebtedness and obligations of Borrower now or hereafter secured by this Security Instrument. The remedies available to Lender for violations of the covenants, terms and conditions set forth in this security agreement shall be (i) as set forth in this Security Instrument and (ii) as permitted under applicable law, including the Uniform Commercial Code. Each of these remedies shall be distinct and cumulative as to all other rights or other remedies and may be exercised concurrently, independently or successively, as Lender may elect.

This Security Instrument constitutes a financing statement filed as a fixture filing in the Official Records of the County Recorder of the county in which the Property is located with respect to any and all fixtures included within the term "Property" as used herein and with respect to any goods or other personal property that may now be or hereafter become such fixtures.

Borrower and Lender agree that neither the filing of a financing statement in the public records normally having to do with personal property nor the taking of any other action described in the above Section shall be construed in any way as derogating from or impairing the express declaration and intention of the parties hereto, hereinabove stated, that everything used in connection with the production of income from the Property and/or adapted for use therein and/or which is described or reflected in this Security Instrument is, and at all times and for all purposes and in all proceedings both legal or equitable, shall be regarded, to the extent permitted by applicable law, as part of the real estate encumbered by this Security Instrument irrespective of whether (i) any such item is physically attached to the Improvements, (ii) any such item is referred to or reflected in any such financing statement so filed at any time. Similarly, the mention in any such financing statement of (1) rights in or to the proceeds of any fire and/or hazard insurance policy, or (2) any award in eminent domain proceedings for a taking or for loss of value, or (3) Borrower's interest as lessor in any present or future lease, rental agreement, tenancy agreement or occupancy agreement or right to income growing out of the use and/or occupancy of the Property, whether pursuant to lease or otherwise, shall never be construed as in any way altering any of the rights of Lender as determined by this Security Instrument or impugning the priority of Lender's lien granted hereby or by any other recorded document, but such mention in the financing statement is declared to be for the protection of Lender in the event any court or judge shall at any time hold with respect to clauses (1), (2), and (3) of this Section 3 that notice of Lender's priority of interest to be effective against a particular class of persons, including but not limited to the federal government and any subdivisions or entity of the federal government, must be filed in such public records. Serial numbers in any such financing statement or other document or in any list filed with Lender are used for the better identification of certain equipment or other items capable of being thus identified shall not be deemed to limit the generality of the security interest in equipment or other personal property granted hereby.

Borrower represents, covenants and warrants that as of the date hereof and at all times hereafter during the term hereof as follows: Borrower's full, correct and exact legal name is set forth at the end of this Security Instrument. Borrower is an organization of the type and is incorporated in, organized or formed under the laws of the state specified in the introductory paragraph to this Security Instrument. In the event of any change in name or identity of Borrower, Borrower shall notify Lender in writing of such change at least 30 days prior to the effective date of such change and hereby authorizes Lender to file such Uniform Commercial Code forms as are necessary to maintain the priority of Lender's lien upon the Property which may be deemed personal property or fixtures, including future replacement thereof, which serves as collateral under this Security Instrument, and shall pay all expenses in connection with the filing and recording of such forms. Borrower's principal place of business and chief executive office, and the place where Borrower keeps its books and records, including recording data of any kind and nature including, without limitation, software, writings, plans, specifications and schematics concerning the Property, has for the preceding five (5) years (or, if less, the entire period of existence of Borrower) been and will continue to be (unless Borrower notifies Lender of any change in writing at least 30 days prior to the date of such change) the address of Borrower set forth at the end of this Security Instrument.

4. **REPAIR AND MAINTENANCE OF PROPERTY.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Borrower shall ensure that the Property is maintained in order to prevent the Property from deteriorating or decreasing in value due to its

condition. Borrower covenants and agrees with Lender to cause the Property to be managed in a first class manner satisfactory to Lender; to keep the Property in good condition and repair, including, without limitation, maintaining all structures on the Property free of any liquid water and/or water vapor intrusion into the structures in amounts that could support the growth of fungus and/or mold inside the structures and free of any sites of growing fungus and/or mold inside the structures; not substantially to alter, remove or demolish any buildings or other Improvements except when incident to the replacement of fixtures, machinery or appliances with items of like kind and of at least equivalent value; to restore promptly and in a good and workmanlike manner to no less than the equivalent of its condition on origination of the Loan any buildings or other Improvements which may be damaged or destroyed, including, without restricting the generality of the foregoing, damage from termites and earth movement, whether or not insurance proceeds are available to cover any part of the cost of such restoration and repair; to pay when due all claims for labor performed and materials furnished in connection with the Property and not to permit any mechanic's or materialman's lien to be filed or remain against the Property; to comply with all laws affecting the Property or the operation or leasing thereof or requiring any alterations or improvements to be made thereon, including, without limitation, the Americans with Disabilities Act of 1990; to fully remedy in a manner acceptable to Lender any notice of violation or any other notice issued by any governmental entity having jurisdiction over the Property within thirty (30) days of the date of such notice; not to commit or permit waste thereon; not to commit, suffer or permit any act upon the Property in violation of law; to cultivate, irrigate, fertilize, fumigate and prune all landscaping on the Property; and to do all other acts that from the character or use of the Property may be reasonably necessary to keep the Property in the same or better condition (reasonable wear and tear excepted) as at the date of this Security Instrument. Without the prior written consent of Lender, Borrower shall not (i) initiate or acquiesce in a change in the zoning classification of and/or restrictive covenants affecting the Property or seek any variance under existing zoning ordinances, (ii) use or permit the use of the Property in a manner which may result in the use of the Property becoming a non-conforming use under applicable zoning ordinances, or (iii) subject the Property to restrictive covenants.

5. **INSURANCE.** At all times, Borrower is to provide, and maintain in force, and pay the cost of property, commercial general liability, and other types and forms of insurance coverage with respect to such Property or the Loan as may be required by Lender in accordance with Lender's insurance requirements as delivered to Borrower from time to time, including but not limited to the following:

**PROPERTY ALL-RISK INSURANCE.** Each policy of insurance shall be in an amount, for a term and in a form and content, shall insure against such risks of loss or damage as are commonly covered by all risk extended coverage policies of insurance and such other risks as Lender may from time to time designate for coverage under Borrower's policies, and shall be provided through such insurance companies, as may be satisfactory to Lender, with loss payable to Lender and shall, if required by Lender, be delivered to and remain in the possession of Lender as further security for the performance by Borrower under this Security Instrument. Such policy of insurance shall include a Lender's Loss Payable Endorsement or Mortgagee Clause in favor of and in form acceptable to Lender.

The amount of such insurance shall in no event be less than (i) the original amount of the Note and be in compliance with any co-insurance requirements of such insurance, or (ii) an amount equal to the highest insurable value of the Property, whichever is the lesser.

Borrower hereby assigns to Lender all unearned premiums on any such policy, and agrees that any and all unexpired insurance shall inure to the benefit of, and pass to, Lender upon acquisition by Lender of the Property through foreclosure proceedings or any purchaser of the Property pursuant to such foreclosure proceedings. Pursuant to its rights granted hereunder in all proceeds from any insurance policies, Lender is hereby authorized and empowered at its option to adjust or compromise any loss under any insurance policies on the Property and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone and not to Borrower and Lender jointly. So long as Borrower is not in default under the Loan Documents, Borrower shall be entitled to participate in the adjustment or compromise of any insurance loss.

**COMMERCIAL GENERAL LIABILITY INSURANCE AND LOSS OF INCOME INSURANCE.** Borrower shall, at its sole expense, purchase and maintain commercial general liability insurance coverage for the ownership, maintenance and use of the Property. Lender may require such policies to: (a) be no less than a certain minimum amount; (b) insure against such risks of liability as are commonly covered by broad form commercial liability policies in general use for owners of properties similar to the Property and such other risks as Lender may from time to time designate for coverage under Borrower's policies; (c) be provided through such insurance companies as may be satisfactory to Lender; and (d) include Lender and its successors and assigns, as additional insured or additional loss payees.

Lender may further require that Borrower provide, and maintain in force, at Borrower's sole expense, loss of rental income insurance, loss of earnings insurance, business interruption insurance or other forms of coverage to protect the income or earnings of the Property, in form, coverage and liability amount acceptable to Lender.

**OTHER INSURANCE.** Borrower shall, at its sole expense, obtain and maintain such additional insurance coverages as Lender may from time to time require against other insurable hazards or risks, including but not limited to, environmental impairment liability coverage; provided that Lender may only require coverage for risks not required by Lender at origination of the Loan if such hazards or risks are commonly insured against, and provided such insurance is reasonably available, for property similarly situated, due regard being given to the height and type of any buildings, their construction, use and occupancy.

Borrower shall promptly pay all premiums when due on any such policies and renewals thereof and shall furnish Lender with written evidence of such payment. At least 30 days prior to the expiration of any such policies required by Lender, a policy form renewing or extending such expiring insurance shall be delivered to Lender if Lender requests delivery of such policies to it.

In the event Borrower fails to provide insurance complying with the provisions hereof, Lender may, but without obligation so to do, without notice to Borrower, without demand upon Borrower, without releasing Borrower from any obligation hereof, and without curing any default of Borrower, obtain insurance, in any amounts determined by Lender, through or from any insurance agency or insurer or insurance underwriter acceptable to Lender, and pay the premium therefor, and Lender by doing so shall not be chargeable with obtaining or maintaining such insurance or for the collection of any insurance monies or for any insolvency of any insurer or insurance company.

Lender, from time to time, may furnish to any insurance agency or company, or any other person, any information contained in or extracted from any insurance policy theretofore delivered to Lender pursuant hereto and any information concerning the Loan, Borrower, or the Property.

Borrower hereby assigns to Lender all insurance proceeds from each and every kind of insurance obtained by Borrower related to the Property, including without limitation, all proceeds from insurance not specifically required by Lender at the origination of the Loan or thereafter but which may be carried by Borrower from time to time with respect to the Property or the ownership, operation or income thereof, including, without limitation, earthquake insurance. If at any time Borrower obtains insurance related to the Property or the ownership, operation or income thereof, which is not specifically required by Lender, including, without limitation, earthquake insurance, then Borrower shall nevertheless include Lender and its successors and assigns as additional insureds or additional loss payees thereto.

**WARNING:**

Unless you (Borrower) provide us (Lender) with evidence of insurance coverage as required by our contract or loan agreement, we may purchase insurance at your expense to protect our interest. This insurance may, but need not, also protect your interest. If the collateral becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you obtained property coverage elsewhere.

You are responsible for the cost of any insurance purchased by us. The cost of this insurance may be added to your contract or loan balance. If the cost is added to your contract or loan balance, the interest rate on the underlying contract or loan will apply to this added amount. The effective date of coverage may be the date your prior coverage lapsed or the date you failed to provide proof of coverage.

The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage coverage or any mandatory liability insurance imposed by applicable law.

**6. DISPOSITION OF THE PROCEEDS OF ANY INSURANCE POLICY, CONDEMNATION OR OTHER RECOVERY.** The amount received by Lender pursuant to this Security Instrument under any insurance policy, or in connection with any condemnation for public use of the Property, or for injury or damage to the Property, or in connection with the transaction financed by the Loan secured hereby (collectively, the "Proceeds"), at the option and in the sole discretion of Lender, and without regard to the adequacy of Lender's security, may be (a) applied by Lender upon any indebtedness secured hereby and in such order as Lender may determine, or (b) without reducing the indebtedness secured hereby, used by Lender or, with Lender's express prior written consent, by Borrower to replace, restore, or reconstruct the Property to a condition satisfactory to Lender, or (c) released by Lender to Borrower, or (d) divided by Lender in any manner among any such application, use or release. No such application, use or release shall cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice (or alter the amount of any payment provided under the Note, this Security Instrument, or any other Loan Document or postpone or extend the due date of any payment due under the Note, this Security Instrument or any other Loan Document).

Notwithstanding the foregoing provisions of this Section 6, Lender shall permit Borrower to use the Proceeds to replace, restore or reconstruct the Property (herein "Restoration") following any injury or damage to the Property or condemnation of a portion of the Property for public use on the following terms and conditions, each of which must be satisfied as determined by Lender in its reasonable judgment:

(i) the Proceeds shall first be applied to reimburse Lender for all costs and expenses incurred by Lender in recovering the Proceeds and Restoration of the Property, including without limitation, reasonable attorneys' fees, and the balance of the Proceeds (herein "Net Claims Proceeds") shall be used by Borrower only to pay the actual reasonable costs of Restoration;

(ii) the Improvements affected by such injury, damage or condemnation shall be replaced, restored or reconstructed to at least the same condition as the Improvements in existence on the Property immediately prior to the injury, damage or condemnation, in full compliance with all applicable zoning, building, health and safety, and other laws, ordinances and governmental requirements applicable to the Restoration;

(iii) the plans, specifications, cost breakdown, architect and engineering agreements, construction contracts, construction schedule, contractors, major subcontractors, and any payment and performance bonds required by Lender, shall be approved by Lender in its reasonable discretion;

(iv) if the Net Claims Proceeds are not sufficient, in the reasonable judgment of Lender, to fully pay for all costs of Restoration, Borrower shall deposit with Lender, within ten (10) days following written request, cash in such amount as Lender shall determine to be sufficient at such time for the full payment of all costs of Restoration, and Borrower shall make such additional cash deposits, within ten (10) days following written request, as Lender shall determine from time to time during the course of the Restoration are necessary to ensure that sufficient funds will be available at all times to pay for all costs of Restoration; all such sums deposited by Borrower with Lender shall be held by Lender in a non-interest bearing account at an office of Lender, and Lender shall be granted a first priority security interest therein to secure Borrower's obligation to pay

for all costs of Restoration;

(v) the Net Claims Proceeds and all funds deposited by Borrower to pay for the costs of Restoration as provided in clause (iv) above shall be disbursed by Lender in progress payments (less a ten percent (10%) retention, which shall be disbursed only upon full and final completion of Restoration as determined by Lender in its reasonable judgment) in accordance with and subject to Lender's standard construction loan disbursement procedures and requirements and such additional construction-related requirements as Lender may reasonably impose in connection with the Restoration;

(vi) Lender shall receive satisfactory evidence that (a) the proceeds of existing rental insurance payable on account of the damage or destruction together with the net cash flow from the undamaged portions of the Property will be sufficient to pay debt service on all indebtedness secured by the Property during the full period of Restoration, (b) the continued use of the Property upon completion of Restoration is economically feasible and will be in full compliance with all applicable laws and ordinances, (c) all leases of the Property which Lender may require to be and remain in place following completion of the Restoration will be in full force and effect after such completion, and (d) Restoration will be completed within a reasonable time and in any event no less than six (6) months prior to the Maturity Date; and

(vii) no default under the Note, this Security Instrument or any other Loan Document shall have occurred and be continuing.

Borrower agrees that in no event shall Lender's consent to or approval of any Restoration be deemed to extend the due date of any payments owing under the Note or any other Loan Document, or otherwise be construed to cure or waive any default of Borrower under the Note, this Security Instrument or any other Loan Document. In the event that, prior to completion of Restoration, Borrower is in default under the Note, this Security Instrument or any other Loan Document, then without limiting any other rights and remedies of Lender, Lender shall have the right to apply any funds of Borrower held on deposit with Lender as provided in clause (iv) above against such obligations of Borrower under the Note, this Security Instrument or any other Loan Document as Lender may determine in its sole discretion.

Borrower hereby specifically, unconditionally and irrevocably waives all rights of a property owner granted under applicable law, which provides for allocation of condemnation proceeds between a property owner and a lienholder, and any other law of successor statute of similar import.

**7. TAXES, LIENS, AND OTHER SUMS DUE.** Borrower covenants and agrees with Lender to pay, satisfy and discharge: (a) at least 10 days before delinquency, all general and special city and county taxes, and all assessments on water stock, affecting the Property, (b) when due, all special assessments for public improvements on or benefiting the Property, (c) on demand of Lender but in no event later than the date such amounts and/or performance become due (1) all encumbrances, charges and liens (including, without limitation, income tax liens, or liens of a similar character, imposed or levied by the United States Government, the state in which the Property is located, any municipality or county, or an agency of any of them), with interest, on such Property, or any part thereof which are, may be or appear to Lender to be prior to or superior to this Security Instrument, (2) all costs, fees and expenses under this Security Instrument whether or not described herein, (3) fees or charges for any statement regarding the obligation secured hereby in any amount demanded by Lender not to exceed the maximum amount allowed by law therefor at the time when such request is made, (4) Lender's and Trustee's fees, charges and expenses for any other statement, information or services furnished by Lender or Trustee in connection with the obligations secured hereby (said services may include, but shall not be limited to, the processing by Lender or Trustee, or both, of assumptions, substitutions, modifications, extensions, renewals, subordinations, rescissions, changes of owners, recordation of maps, plats or records of survey, grants of easements, and full and partial reconveyances, and the obtaining by Lender of any policies of insurance pursuant to any of the provisions contained in this Security Instrument), (5), and (6) any sums advanced or paid by Lender or Trustee under any clause or provision of this Security Instrument. Should Borrower fail to make any such payment, Lender, without contesting the validity or amount, may elect, but without obligation to do so, to make or advance such payment together with any costs, expenses, fees, or charges relating thereto, including employing counsel and paying attorneys' fees. Any such sum, until so repaid, shall be secured hereby and bear interest from the date it was advanced or paid at the default rate as set out in the Note, and shall be secured by this Security Instrument. Borrower agrees to notify Lender immediately upon receipt by Borrower of notice of any increase in the assessed value of the Property and agrees that Lender, in the name of Borrower, may contest by appropriate proceedings such increase in assessment. Borrower will obtain the written consent of Lender prior to permitting any issuance of any improvement bond for unpaid special assessments. Borrower agrees to notify Lender and appropriate taxing authorities immediately upon the happening of any event which does or may affect the value of Property, the amount or basis of assessment of the Property, or the availability of any exemption to which Borrower is or may be entitled. If any state, federal, municipal or other governmental law, order, rule or regulation, passed subsequent to the date hereof, in any manner changes or modifies existing laws governing the taxation of deeds of trust or debts secured by deeds of trust, or the manner of collecting taxes so as to materially and adversely affect the rights of Lender, the entire balance of the Indebtedness and other sums secured by this Security Instrument and all interest accrued thereon shall, without notice, become due and payable forthwith at the option of Lender.

Notwithstanding the foregoing, Borrower shall have the right to contest diligently and in good faith the validity or amount of any tax, assessment or charge affecting the Property or any part thereof, and, so long as the validity or amount thereof is being contested diligently and in good faith, Borrower may, to the extent permitted by law, defer payment of such tax, assessment or charge, provided Borrower protects the Property against any lien arising out of any such tax, assessment or charge or out of any such contest by either (a) depositing with Lender, in a non-interest bearing account, as additional security for the Loan, an amount equal to 120% of the amount of the tax, assessment or charge being contested, or (b) a surety bond in form and substance satisfactory to Lender and issued by a corporate surety satisfactory to Lender.



Borrower will pay when due and payable, all appraisal fees, recording fees, taxes, brokerage fees and commissions, abstract fees, title policy fees, escrow fees, attorneys' fees, fees of inspecting architect(s) and engineer(s), fees of environmental engineers and consultants, and all other costs and expenses of every character which have been incurred or which may hereafter be incurred by Lender in connection with the issuance of its commitment for the Loan, the preparation and execution of Loan Documents, the funding of the Loan, and the administration and enforcement of this Security Instrument, the Note and the other Loan Documents. During the term of the Loan, Borrower will, upon demand by Lender, reimburse Lender for all such expenses, together with accrued interest at the Default Rate, which have been incurred or which shall be incurred by Lender, and Borrower will defend, indemnify and hold harmless Lender and Trustee from and against, and reimburse them for, all claims, demands, liabilities, losses, damages, judgments, penalties, costs, and expenses (including, without limitation, attorneys' fees) which may be imposed upon, asserted against, or incurred or paid by Lender or Trustee by reason of, on account of or in connection with any bodily injury or death or property damage occurring in or upon or in the vicinity of the Property through any cause whatsoever or asserted against them on account of any act performed or omitted to be performed hereunder or on account of any transaction arising out of or in any way connected with the Property, or with this Security Instrument or any of the Indebtedness evidenced by the Note.

8. **CLAIMS, DEMANDS AND ACTIONS.** Borrower covenants and agrees with Lender: (a) To give Lender immediate notice of any claim, demand, action or proceeding purporting to affect the Property (including, without limitation, loan funds, whether or not disbursed) or purporting to affect the security hereof (whether or not it affects the security hereof) or the condition and integrity of the Improvements constructed thereon or purporting to affect the rights or powers of Lender or Trustee or which are Commercial Tort Claims (as defined in the Uniform Commercial Code) arising in favor of Borrower, (b) to defend any such action or proceeding; and (c) to file and prosecute all necessary claims and actions to prevent or recover for any damage to or destruction of the Property, and enforce against others each and every obligation to be performed by them under any declaration of covenants, conditions, and restrictions pertaining to the Property. Both Trustee and/or Lender are hereby authorized, without obligation so to do, to commence, appear in, and defend any action or proceeding, whether or not brought by or against Borrower to exercise or enforce any other right, remedy, or power available or conferred hereunder, whether or not judgment be entered in any action or proceeding. Trustee and/or Lender may appear or intervene in any action or proceeding, and retain counsel therein, and take such action therein as either may deem advisable, and may settle, compromise or pay the same or any other claims and, for any of said purposes, may expend and advance such sums of money as either may deem necessary. Borrower covenants that, in addition to the present assignment of actions, claims, damages and awards set forth herein, Borrower will execute and deliver to Lender such assignments of actions, claims, damages, and awards as Lender may, from time to time, request, including but not limited to, assignments to Lender in such form as Lender may require of all such claims, demands and actions which are Commercial Tort Claims (as defined in the Uniform Commercial Code). Borrower hereby authorizes Lender to file all financing statements, refilings, continuations and amendments thereof as Lender deems necessary or advisable under the Uniform Commercial Code in connection with such assignments. Whether or not Borrower so appears or defends, Borrower shall pay on demand all costs and expenses of Lender and Trustee, including without limitation, costs of evidence of title and attorneys' fees in a reasonable sum, in any such action or proceeding in which Lender or Trustee may appear by virtue of being made a party defendant or otherwise and irrespective of whether the interest of Lender or Trustee in the Property is directly questioned by such action including, but not limited to, any action for the condemnation or partition of the Property and any suit brought by Lender to foreclose this Security Instrument. Lender may apply, use or release such monies so received by it in the same manner as in Section 6 provided for the proceeds of insurance.

9. **ACCUMULATION ACCOUNT.** Borrower covenants and agrees with Lender that if Lender shall so require, Borrower at the time of making each installment payment, whether of principal or interest or both, on the Indebtedness, or at such other intervals as Lender reasonably may designate, shall deposit with Lender such sum as Lender reasonably may estimate to be necessary, for the purpose of establishing an account (the "Accumulation Account") for payment of any or all taxes, assessments, special assessments, fire, casualty, liability, loss of rental income, and other insurance premiums, encumbrances and leasehold payments, security deposits, or other obligations secured by this Security Instrument or required to be paid with respect to the Property (hereafter in this Section referred to as "Impositions"). Borrower shall deliver promptly to Lender all bills and notices of such Impositions. If the amounts paid to Lender under the provisions of this Section are not sufficient to pay such Impositions as they become due, Borrower shall pay to Lender promptly upon demand the amount of the deficiency. All monies paid to Lender under this Section shall not be held in trust and may be intermingled with other monies of Lender and such amounts held by Lender shall earn only such interest as prescribed by law, if any. Lender may pay such Impositions before or after they become due and payable, but before delinquency. In the event of a default in the payment of any note secured by this Security Instrument, default of any obligation secured hereby, or default in the performance of any of the covenants and obligations of this Security Instrument, then any balance remaining from monies paid Lender under the provisions of this Section may, at the option of Lender, be applied to the payment of principal, interest or obligations secured hereby in lieu of being applied to any of the purposes for which the Accumulation Account is established. At all times, any negative balance in the Accumulation Account shall constitute a secured advance made by Lender to protect its security under this Security Instrument and shall accrue interest at the Default Rate defined in the Note. Lender will make such reports of the Accumulation Account as are required by law. Lender shall have no obligation with respect to such sums other than to account to Borrower for receipt and application thereof. Upon any transfer by Lender of its rights or interests in the Indebtedness or of this Deed of Trust, Lender may turn over to such transferee such of those sums as Lender then holds, and Lender's responsibilities with respect thereto thereupon shall terminate. Upon any transfer by Borrower of the Realty, Borrower's interest in any such

sums shall be deemed automatically transferred to such transferee.

10. **SALES, TRANSFERS, FURTHER ENCUMBRANCES AND OTHER EVENTS.** Lender shall have the right, at its option, to declare all sums secured hereby immediately due and payable, if (a) Borrower or any successor in interest to Borrower conveys, transfers or assigns the Property or any part thereof, or interest therein, or agrees to do so, whether by deed, contract of sale, lease with option to buy, or otherwise, and whether such conveyance, transfer or assignment is to an unrelated third party or a related entity, including without limitation an entity that shares a common ownership with Borrower or an entity that is a subsidiary of Borrower; or (b) Borrower or any successor in interest to Borrower further encumbers or alienates the Property or any part thereof, or interest therein; or (c) Borrower or any successor in interest to Borrower leases the Property or any part thereof without the prior written consent of Lender; or (d) Borrower suffers its title or any interest therein to be divested, whether voluntarily or involuntarily; or (e) without the written consent of Lender, Borrower or any successor in interest to Borrower changes or permits to be changed the character or use of the Property from the character or use contemplated by Borrower and Lender upon execution of this Security Instrument, as specified in Borrower's application to Lender and other documents executed by Borrower in connection with the Loan, including, without limitation, drilling or extracting oil, gas, or other hydrocarbon substances, or any mineral of any kind or character; or (f) suit be commenced to condemn the Property as being unfit for human use and occupancy or to abate as a nuisance activities or conditions found thereon (and Lender reasonably believes that its security under this Security Instrument may be impaired by such suit or the activities or conditions which are the subject of such suit) or for the partition or sale of the Property; or (g) any of the partners' or members' interests in Borrower or any portion thereof are sold, transferred or assigned, whether voluntarily or involuntarily, other than to such partners' or members' respective family revocable trusts; or (h) any limited partnership interests or any portion thereof consisting of more than twenty percent (20%) ownership interest in Borrower are sold, transferred or assigned, whether voluntarily or involuntarily, other than to such partners' respective family revocable trusts, or any of the general partners' general partnership interests or the general partners' limited partnership interests in Borrower or any portion thereof are sold, transferred or assigned, whether voluntarily or involuntarily, other than to such general partners' respective family revocable trusts or (i) more than twenty percent (20%) of the capital stock in Borrower is sold, transferred or assigned, whether voluntarily or involuntarily, other than to the shareholders' respective family revocable trusts; or (j) Borrower or any successor in interest to Borrower has made any oral or written material misrepresentations or failed to disclose any material fact, in order to induce Lender to enter into the transaction evidenced by the Note or any agreements which this Security Instrument secures; or (k) Borrower or any successor in interest to Borrower has disbursed funds collected from Rents and Profits to itself or its equity owners for personal use without first reserving sufficient funds to be used for the protection or preservation of the Property, for maintaining the Property in good condition, and for making such capital improvements and replacements to the Property as are reasonably foreseeable to be required within a period of twelve (12) months following the date of such distribution of funds.

If any of the events described in this Section 10 occur and if Lender consents to the same, then such consent must be in writing and signed by Lender to be effective. Lender, at its sole option, may condition such consent on an increase to the interest rate provided for with respect to the indebtedness evidenced by the Note or by any other Loan Document, to such amount as may be set by Lender, in Lender's sole discretion. Such written consent shall not be deemed or construed as a waiver of any of Lender's rights or as a cure of any default by Borrower pertaining to any subsequent occurrences of any event described in this Section 10 and the written consent of Lender shall be required on all subsequent occurrences. Furthermore, if any event described in this Section 10 occurs and if Lender does not give its written consent to same but fails to exercise its right to declare all sums secured hereby due and payable, such failure shall not be deemed or construed as a waiver of any of Lender's rights or as a cure of any default of Borrower pertaining to the occurrence of such event or any subsequent occurrences of any event described in this Section 10. The right of Lender to declare all sums secured hereby immediately due and payable if any of the events described in this Section 10 occur shall not be construed or deemed to be exclusive of any other rights of Lender set forth in this Security Instrument or the Loan Documents, or any rights at law or in equity now or hereafter existing, to declare all sums secured hereby immediately due and payable, but all such rights shall be cumulative.

11. **PREPAYMENT FEE.** Should the Note or any other obligation secured hereby provide any fee for prepayment of any of the indebtedness secured hereby, whether such prepayment is made prior to or following the occurrence of any default of Borrower or the institution of any foreclosure proceedings by Lender, Borrower covenants and agrees with Lender to promptly pay said fee notwithstanding Borrower shall have defaulted in any obligation secured hereby and Lender, by reason thereof, shall have declared all sums secured hereby immediately due and payable.

12. **WAIVERS AND CONSENTS PERTAINING TO NOTE.** Borrower waives presentment, demand, protest and notice of nonpayment of the Note, and consents to delays, changes in time of payment, and the amount of installments due under the Note, and, to the extent provided in the Note, to the reduction or increase of the interest rate thereof.

13. **TIME OF THE ESSENCE; WAIVER OF STATUTE OF LIMITATIONS.** Time is of the essence in all Borrower's obligations hereunder, and to the fullest extent permitted by law, Borrower waives the right to assert any present or future statute of limitation with respect to any debt, demand or obligation secured hereunder in any action or proceeding for the purpose of enforcing this Security Instrument, the Note or any other Loan Document or any rights or remedies hereunder.

14. **INSPECTION AND BUSINESS RECORDS; APPRAISALS.** Lender or any authorized representative or agent of Lender (including, but not limited to, appraisers, environmental consultants and construction consultants) or any person or entity interested in acquiring all or any part of or any interest in the Loan may enter upon and inspect the Property at any reasonable time during the term of this Security

Instrument. If the Property is now or hereafter used for commercial or residential income purposes, Borrower will promptly deliver to Lender within 60 days after the end of each calendar year, such financial statements, gross income and expense statements, and profit and loss statements of such types as may be required from time to time by Lender which will be certified and prepared according to generally accepted accounting principles or other principles and practices acceptable to Lender, which statements shall cover the financial operations relating to the Property (collectively, "Financial Statements") for the immediately preceding calendar year. Borrower shall also deliver to Lender such Financial Statements as may be requested by Lender from time to time, which shall be current as of 60 days prior to Lender's request and shall be delivered within 30 days of Lender's request. Borrower further agrees when requested by Lender promptly to deliver in writing such further additional information as may be required by Lender relating to any such Financial Statements or to Borrower's assets, liabilities, business, or financial condition.

Borrower shall furnish to Lender a rent schedule on or before January 30 of each year during the term of the Loan, which shall be current as of December 31 of the immediately preceding calendar year. Borrower shall also furnish to Lender a rent schedule as may be requested from time to time by Lender, which shall be current as of 30 days prior to the date of Lender's request and shall be delivered within 15 days of Lender's request. Such rent schedule shall be certified by Borrower, showing the name of each tenant and the space occupied, the lease expiration date, the rent and additional rent due and payable, prepaid rent, if any, security deposit paid, the last date to which rent was paid and whether or not such tenant was then in default under any of the terms of the lease. In the event Borrower fails to comply with the provisions of this Section, Lender shall have the right to have Borrower's books and records audited by an independent certified public accountant, and the cost of such audit shall be the obligation of Borrower secured by this Security Instrument. In addition, Borrower's failure to comply may, at the option of Lender, be deemed a default under this Security Instrument and Lender may exercise any and all of its remedies under this Security Instrument.

Borrower shall pay the cost of all appraisals which Lender, in its sole discretion, requires because: (i) Lender, in its sole discretion, believes there has been or may have been a material adverse change in the value of any of Lender's collateral; or (ii) Lender, in its sole discretion, determines that such appraisals are necessary or appropriate to comply with: (a) any applicable legal requirement, including but not limited to the requirements of any statute or regulation; (b) any request or directive (whether or not having the force of law) of any regulatory authority with or claiming jurisdiction over Lender; or (c) any policy of Lender concerning appraisals of collateral (whether now existing, or hereafter adopted or amended). All such appraisal costs shall become a part of the indebtedness secured by all security interests and collateral held by Lender, including this Security Instrument. Lender shall notify Borrower promptly of the amount of any appraisal costs. Such appraisal costs shall be payable on demand, but any appraisal costs not paid within ten days after demand shall bear interest thereon from the date of demand until paid, at the default rate in the Note.

**15. RIGHT TO COLLECT AND RECEIVE RENTS AND PROFITS.** The assignment of Rents and Profits set forth hereinabove shall be fully operative without any further action on the part of either party. Notwithstanding that Borrower has made a present, absolute and executed assignment of the Rents and Profits to Lender, Lender hereby grants a revocable license (the "License") to Borrower to collect, hold, apply and retain the Rents and Profits of the Property as they become due and payable, so long as Borrower is not in default under the Note, this Security Instrument or any of the other Loan Documents. The License given to Borrower hereunder to collect, apply and retain such Rents and Profits shall be automatically revoked and terminated, without notice or demand of any kind, upon and after default by Borrower under the Note, the Security Instrument or any of the other Loan Documents. **Notwithstanding the foregoing, in the event that Lender is required by any provision of law to give Borrower notice or to make a demand to terminate the License or to enforce the assignment granted by Borrower to Lender hereunder, such notice, if not otherwise given by Lender in such other manner as may be permitted or required by applicable law, shall be deemed to have been given by Lender and actually received by Borrower when Lender sends to Borrower, in the manner set forth in Section 26 hereof, a written notice of default or demand for payment of the amount in default whether or not such notice or demand specifically refers to or contains a termination of the License.** Borrower shall immediately turn over to Lender upon receipt or collection any Rents and Profits collected or received by Borrower after the termination of said License or after default by Borrower under the Note, this Security Instrument or any of the other Loan Documents. Any such Rents and Profits not turned over by Borrower to Lender as required hereby shall be held by Borrower in trust for Lender. After Borrower's default under the Note, this Security Instrument or any of the other Loan Documents, Lender, either in person, by agent, or by receiver to be appointed by the court, and without regard to the adequacy of any security for the indebtedness hereby secured may, in the sole discretion of Lender and without regard to the adequacy of its security: (i) use and possess, without rental or charge, the personal property of Borrower located on the Property and used in the operation or occupancy thereof; (ii) **apply the Rents and Profits, and any sums recovered by Lender on account thereof, less costs and expenses of operation and collection including reasonable attorneys' fees, upon any indebtedness secured hereby and in such order as Lender may determine (except for such application, Lender shall not be liable to any person for the collection or non-collection of any rents, income, issues or profits, nor for failure to assert or enforce any of the foregoing rights);** (iii) take possession of the Property, manage and operate the Property and Borrower's business thereon, and take possession of and use all books of accounts and financial records of Borrower and its property managers or representatives relating to the Property; (iv) execute new leases of any part of the Property, including leases that extend beyond the term of this Security Instrument, and cancel or alter any existing leases; (v) sign the name of Borrower and bind Borrower on all papers and documents relating to the operation, leasing and maintenance of the Property; (vi) **demand payment from Borrower of all Rents and Profits collected by Borrower from the date of the default, which Rents and Profits shall, from and after the occurrence of such default, be deemed held by Borrower in trust for Lender;** (vii) demand, receive, and sue for payment of Rents and Profits directly from Borrower's tenants, including serving notice

upon any or all tenants for the payment directly to Lender of all rents and other monetary obligations owing under such tenants' leases; (viii) bring an action against Borrower for turnover of Rents and Profits collected by Borrower after Borrower's default under the Note, this Security Instrument or any of the other Loan Documents; (ix) to bring an action against Borrower to obtain the appointment of a receiver to collect and pay over to Lender the Rents and Profits from the Property; and/or (x) take any and all other actions with respect to the Property and the Rents and Profits as may be permitted under or authorized by applicable law or any of the Loan Documents. Lender may, in its sole and absolute discretion, seek the appointment of a receiver solely to collect the Rents and Profits from the Property, or may seek the appointment of a receiver to operate the Property and collect the Rents and Profits. Borrower hereby stipulates to the Court appointing a receiver and consent to such appointment, if at the time of Lender's request Borrower is in default hereunder, or under the Note, the Security Instrument or any of the other Loan Documents. The entering upon and taking possession of the Property, the collection of any Rents and Profits, the doing of other acts herein authorized and the application thereof as aforesaid shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. Nothing herein contained shall be construed as constituting Lender a mortgagee in possession in the absence of the actual taking of possession of the Property by Lender or as constituting an action, rendering any of Borrower's obligations to Lender unenforceable, in violation of any of the provisions of applicable law, or otherwise limiting any rights available to Lender.

**Direction to Tenants.** Borrower hereby irrevocably authorizes and directs the tenants under all Tenant Leases (as defined in Section 16) to pay all amounts owing to Borrower thereunder to Lender following receipt of any written notice from Lender that states that an Event of Default remains uncured and that all such amounts are to be paid to Lender. Borrower further authorizes and directs all such tenants to pay all such amounts to Lender without any right or obligation to inquire as to the validity of Lender's notice and regardless of the fact that Borrower has notified any such tenants that Lender's notice is invalid or has directed any such tenants not to pay such amounts to Lender.

**Attorney-in-Fact.** Borrower irrevocably constitutes and appoints Lender, and each of Lender's officers, as its true and lawfully attorney-in-fact, with power of substitution, to undertake and execute any and all of the rights, powers, and authorities described in this Section 15 with the same force and effect as if undertaken or performed by Borrower, and Borrower ratifies and confirms any and all such actions that may be taken or omitted to be taken by Lender, its employees, agents, and attorneys.

16. **LEASES AFFECTING THE PROPERTY.** Borrower warrants, represents and covenants as to each lease between Borrower and its tenant (a "Tenant Lease") now or hereafter covering all or any part of the Property, that (i) each Tenant Lease is in full force and effect, valid and enforceable in accordance with its terms and has not been modified, amended or altered, whether in writing or orally; (ii) no default exists on the part of the tenant under such Tenant Lease or Borrower thereunder and to the best of Borrower's knowledge, no event has occurred and is continuing which would result in default but for the requirement that notice be given in accordance with the terms of such Tenant Lease; (iii) no rent has been collected more than one (1) month in advance; (iv) no Tenant Lease, or any interest therein, nor Rents and Profits arising therefrom, has been previously assigned or pledged; (v) no tenant has any defense, setoff or counterclaim against Borrower under any Tenant Lease; (vi) all rent due under each Tenant Lease has been collected and no concession has been granted to any tenant under a Tenant Lease in the form of a waiver, release, reduction, discount or other alteration of rent due or to become due thereunder; (vii) no Tenant Lease grants to the tenant thereunder, or anyone else, an option to purchase, or a right of first refusal to purchase, any part of the Property; (viii) Borrower is the sole owner of the entire landlord's interest in all Tenant Leases and it has not and will not perform or fail to perform any acts or execute any other instruments which might prevent Lender from fully exercising its rights under the terms, covenants and conditions of this Security Instrument; (ix) Borrower has full right, power and authority/ to assign the Tenant Leases and the Rents and Profits to Lender and Borrower has not done any act which might prevent Lender from exercising its rights under this Security Instrument; (x) the premises demised under each Tenant Lease have been completed and the tenant under each Tenant Lease has accepted the same and have taken possession of the same on a rent-paying basis; and (xi) no person or entity has any possessory interest in, or right to occupy the Property, except under and pursuant to a valid Tenant Lease.

The assignment of leases set forth hereinabove shall not be deemed to impose upon Lender any of the obligations or duties of Borrower provided in any such lease (including, without limitation, any liability under the covenant of quiet enjoyment contained in any lease), and Borrower shall comply with and observe its obligations as landlord under all leases affecting the Property or any part thereof.

Without the prior written consent of Lender, Borrower shall not (i) amend, modify, cancel, terminate (except following a default by the tenant thereunder which has not been cured within the period, if any, expressly provided for such cure in the Tenant Lease) any Tenant Lease, (ii) waive, excuse, or in any manner release or discharge any tenant or guarantors from their obligations with respect to any Tenant Lease, (iii) extend the term of any Tenant Lease on the Property entered prior to the date hereof, or (iv) enter into any new Tenant Lease on the Property after the date hereof. Borrower shall not accept payment of rent more than one (1) month in advance without the prior written consent of Lender. Lender shall have the right to require at any time and from time to time that Borrower promptly furnish to Lender original or certified copies of all Tenant Leases now existing or hereafter created.

Borrower will immediately notify Lender when any release, termination or "buy-out" consideration is due and payable to Borrower by any tenants or guarantors with respect to any lease, rental, tenancy or occupancy agreement. Notwithstanding anything to the contrary set forth in this Security Instrument or any of the Loan Documents, Lender may, in its sole and absolute discretion, require that any such release, termination or "buy-out" consideration be paid immediately to Lender as proceeds of its collateral. In its absolute and sole discretion and without regard to the adequacy of Lender's security, Lender may apply such payments to reduce the unpaid principal balance of the Loan or deposit such payments in a non-interest bearing account established with

Lender which account shall be held as additional security for the Loan.

With respect to the assignment of leases hereinabove set forth, Borrower shall, from time to time upon request of Lender, execute one or more separate specific lease assignment or assignments in such form as may be approved by Lender, assigning to Lender all right, title and interest of Borrower in and to any and all leases now or hereafter on or affecting the Property, together with all security therefor and all monies payable thereunder, subject to the conditional License hereinabove given to Borrower to collect the Rents and Profits under any such lease. Borrower shall also execute and deliver to Lender any notification, financing statement or other document reasonably required by Lender to perfect the foregoing assignment as to any such leases. Lender shall have the right, at any time and from time to time, to notify any tenant of the rights of Lender as provided in the assignment by Borrower to Lender of all leases relating to the Property and to the Rents and Profits.

In the event of the occurrence of any default by Borrower under any Loan Document and the institution by Lender of any foreclosure, receivership or other proceeding for the enforcement of Lender's rights or remedies under this Security Instrument, Lender may elect at any time prior to consummation of a foreclosure sale of the Property, and the purchaser at such foreclosure sale (including Lender) may elect at any time within thirty (30) days following the consummation of such foreclosure sale, to declare any or all Tenant Leases to be prior and superior to the lien of this Security Instrument and to recognize the rights of the tenant(s) thereunder, in which event such Tenant Lease(s) shall survive such foreclosure sale and shall be and remain in full force and effect, and the tenant(s) thereunder shall be obligated to attorn to Lender or such purchaser and to execute and deliver such instruments of attornment as Lender or such purchaser shall require. Any such election shall be in the sole discretion of Lender or such purchaser, and shall be evidenced by written notice from Lender to Borrower and/or to the applicable tenant(s) delivered either prior to or within thirty (30) days following such foreclosure sale, by a statement of such election contained in the notice of the foreclosure sale, and/or by announcement at such foreclosure sale.

**17. DEFAULT.** Any Event of Default, as defined in the Loan Agreement, shall constitute an "Event of Default" as that term is used in this Security Instrument (and the term "Default" shall mean any event which, with any required lapse of time or notice, may constitute an Event of Default, whether or not any such requirement for notice or lapse of time has been satisfied).

**17.1 Lender's and Trustee's Right to Perform.** After the occurrence and during the continuance of any Event of Default, Lender or Trustee, but without the obligation so to do and without notice to or demand upon Borrower and without releasing Borrower from any obligations hereunder, may: make any payments or do any acts required of Borrower hereunder in such manner and to such extent as either may deem necessary to protect the security hereof, Lender or Trustee being authorized to enter upon the Property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Lender or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien in accordance with the following paragraph; and in exercising any such powers, pay necessary expenses, employ counsel and pay a reasonable fee therefor. All sums so expended shall be payable on demand by Borrower, be secured hereby and bear interest at the default rate of interest specified in the Note from the date advanced or expended until repaid.

Lender or Trustee, in making any payment herein, is hereby authorized, in the place and stead of Borrower, in the case of a payment of taxes, assessments, water rates, sewer rentals and other governmental or municipal charges, fines, impositions or liens asserted against the Property, to make such payment in reliance on any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of the bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; in the case of any apparent or threatened adverse claim of title, lien, statement of lien, encumbrance, deed of trust, mortgage, claim or charge Lender or Trustee, as the case may be, shall be the sole judge of the legality or validity of same; and in the case of a payment for any other purpose herein and hereby authorized, but not enumerated in this paragraph, such payment may be made whenever, in the sole judgment and discretion of Trustee or Lender, as the case may be, such advance or advances shall seem necessary or desirable to protect the full security intended to be created by this Security Instrument, provided further, that in connection with any such advance, Lender at its option may and is hereby authorized to obtain a continuation report of title prepared by a title insurance company, the cost and expenses of which shall be repayable by Borrower without demand and shall be secured hereby.

**17.2 Remedies on Default.** Upon the occurrence of any Event of Default, at the option of Lender, all sums secured hereby shall become immediately due and payable, without notice or demand, and Lender may:

(a) Lender may have a receiver appointed as a matter of right on an ex parte basis without notice to Borrower and without regard to the sufficiency of the Property or any other security for the indebtedness secured hereby and, without the necessity of posting any bond or other security. Such receiver shall take possession and control of the Property and shall collect and receive the Rents. If Lender elects to seek the appointment of a receiver for the Property, Borrower, by its execution of this Security Instrument, expressly consents to the appointment of such receiver, including the appointment of a receiver ex parte if permitted by applicable law. Borrower hereby further agrees to the extent permitted by law that the pendency of any action brought by Lender for the appointment of a receiver shall not prevent the foreclosure of this Security Instrument. The receiver shall be entitled to receive a reasonable fee for managing the Property, which fee may be deducted from the Rents or may be paid by Lender and added to the indebtedness secured by this Security Instrument. Immediately upon appointment of a receiver, Borrower shall surrender possession of the Property to the receiver and shall deliver to the receiver all documents, records (including records on electronic or magnetic media), accounts, surveys, plans, and specifications relating to the Property and all security deposits. If the Rents are not sufficient to pay the costs of taking control of and managing the Property and collecting the Rents, any funds expended by Lender, or advanced by Lender to the receiver, for such purposes shall become an additional part

of the indebtedness secured by this Security Instrument. The receiver may exclude Borrower and its representatives from the Property.

Borrower hereby agrees that the receiver may be granted the power to market and sell the Property, subject to such rights to notice and opportunity for hearing as may be required by generally applicable law or by the court. Borrower acknowledges and agrees that the exercise by Lender of any of the rights conferred under this Section 17.2 shall not be construed to make Lender a mortgagee in possession of the Property so long as Lender has not itself entered into actual possession of the Property.

(b) Foreclose this Security Instrument pursuant to a judicial foreclosure proceeding or otherwise realize upon the Property.

(c) Cause Trustee to exercise its power of sale. The power of sale herein granted shall be exercisable with respect to all or any of the Land, as designated by Lender, and the Trustee is hereby authorized and empowered to conduct any such sale of any of the Land, in accordance with the procedures applicable to real property. If Lender elects more than one sale of separate parcels of the Property, Lender may, at its option, cause the same to be conducted simultaneously or successively, on the same day or at such different days or times and in such order as Lender may deem to be in its best interests, and until all indebtedness secured hereby has been fully paid no such sale shall terminate or otherwise effect the first lien of this Security Instrument or Trustee's power of sale hereunder, or the first lien of or Trustee's power of sale under any other deed of trust, security agreement or other instrument or agreement representing a lien of any nature whatsoever on any other property which may secure the Note. If Lender elects to dispose of the Property through more than one sale, Borrower shall pay the costs and expenses of each such sale and of any proceedings where the same may be made or conducted.

(d) Sue on the Note as permitted under applicable law.

(e) With respect to all or any part of the Property which constitutes personal property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code. Any such sale of any personal property shall be conducted in the manner permitted by ORS 79.0604 or any other applicable law. Whether or not such personal property is located on or within the Land, Lender may elect in its discretion to exercise its rights and remedies against any or all of the Property (including but not limited to the Land) in such order and manner as is now or hereafter permitted by applicable law. Borrower agrees that such a sale of personal property together with real property constitutes a commercially reasonable sale of the personal property.

(f) Avail itself of any other right or remedy available to it under the terms of this Security Instrument, the other Loan Documents or applicable law.

**17.3 Remedies Cumulative; Deficiency; Subrogation.** The rights and remedies accorded by this Security Instrument shall be in addition to, and not in substitution of, any rights or remedies available under now existing or hereafter arising applicable law. All rights and remedies provided for in this Security Instrument or afforded by law or equity are distinct and cumulative and may be exercised concurrently, independently or successively. Without limiting the generality of any provision of this Section 17.3, Lender may, elect to proceed against any or all of the Property, in any manner permitted under applicable law. No sale or other disposition of all or any part of the Property pursuant to this Section 17 shall be deemed to relieve Borrower of any of Borrower's obligations pursuant to the Note or any Loan Document, except to the extent that the proceeds are applied to the payment of such obligations. If the proceeds of a sale, a collection, or other realization of or upon the Property are insufficient to cover the costs and expenses of such realization and the payment in full of the obligations secured hereby, Borrower shall remain liable for any deficiency to the fullest extent permitted by law. The failure on the part of Lender to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver of any Default or Event of Default shall not constitute a waiver of any subsequent or other Default or Event of Default. Lender shall be subrogated to the claims and liens of those whose claims or liens are discharged or paid with the loan proceeds hereof.

**17.4 Trustee's Sale.** If required by Trustee, Lender shall also deposit with Trustee the Security Instrument and Note or other Loan Documents or other agreements and such documents as required by Trustee evidencing expenditures or advances secured hereby. Trustee, upon presentation to it of a statement signed by Lender setting forth facts showing a default by Borrower under any Section or provision contained in this Security Instrument, is authorized to accept as true and conclusive the facts and statements therein and to act thereon hereunder without any independent investigation or further inquiry by Trustee. Borrower hereby agrees to be bound thereby. Lender may rescind any notice of default at any time before Trustee's sale by executing a notice of rescission and recording it. The recordation of the notice will constitute a cancellation of any prior declaration of an event of default and demand for sale and of any acceleration of maturity of the Loan affected by any prior declaration or notice of an Event Of Default. The exercise by Lender of the right of rescission will not constitute a waiver of any default then existing or subsequently occurring, or impair the right of Lender to execute other declarations of default and demand for sale, or notices of default and of election to cause the Property to be sold, nor otherwise affect the Note, or any other obligation secured hereby, or this Security Instrument, or any of the rights, obligations or remedies of Lender or Trustee hereunder or under applicable law. After the lapse of such time as there may be required by law following recordation of a notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder for cash in lawful money of the United States. Trustee may postpone and change the time and place of sale of all or any portion of the Property by public announcement at any time and place fixed by it in said notice of sale and from time to time and place to place thereafter, without any further posting or notice thereof, may postpone such sale in public announcement to the time and place fixed by such postponement, whether or not said place fixed by any postponement be in the same city or other place as fixed in said notice of sale. Trustee shall deliver to such purchaser its deed conveying the Property so sold, but without any covenants or warranty of any nature whatsoever, express or implied. The recital in such

deed of any matters of fact or otherwise shall be conclusive proof of truthfulness thereof. Any person, including Borrower, Trustee or Lender may purchase at such sale. After deducting all costs, fees and expenses of Trustee and of this trust, including cost of evidence of title in connection with such sale, Trustee first shall apply the proceeds of sale to payments of all sums expended under the terms hereof not then repaid, with accrued interest at the default rate then payable under the Note or other obligations secured hereby, then to payment of all other sums secured hereby in such order as Lender may direct, provided that, unless Lender expressly directs Trustee otherwise in writing, no proceeds of sale shall be applied to payment of any obligations of Borrower owing to Lender pursuant to the Unsecured Environmental Indemnity Agreement unless and until all sums secured by this Security Instrument shall have been paid in full, and if thereafter there be any proceeds remaining, distribute them to the person or persons legally entitled thereto. Borrower and all persons dealing with the Property through or under Borrower and their successors and assigns, including, without limitation all subsequent purchasers of all or any portion of the Property and all persons holding or obtaining an interest in the Property which is junior and subordinate to this Security Instrument, by taking and accepting their respective conveyances, encumbrances, security interests, deeds of trust, or liens do hereby acknowledge, covenant and agree with Lender that (i) in the event of any default in the repayment of the Indebtedness secured hereby, or in the event of any default under the terms of this Security Instrument, or under any other deed of trust or security agreement securing the same Indebtedness as is secured by this Security Instrument, whether directly or by virtue of a cross-collateralization agreement or under any other Loan Document, Lender may proceed to seek foreclosure or any other relief available at law or in equity in any order which Lender may determine, in Lender's sole discretion, and Lender may proceed against any property or collateral securing said Indebtedness in any order which Lender elects without regard to any matters which could or might be raised by any subsequent purchaser or by any junior lien or encumbrancer under those certain equitable doctrines known as the doctrine of "marshaling of assets" and the doctrine of "inverse order of alienation", (ii) they will not assert, and they do hereby waive any right to assert, the doctrine of marshaling of assets or any similar equitable doctrines, and (iii) they will not assert, and they do hereby waive any right to assert, the doctrine of inverse order of alienation or any similar equitable doctrines.

**18. Environmental Covenants; Warranties and Compliance.**

**18.1 Definitions.** For purposes of this Section:

**18.1.1 "Environmental Law"** means any federal, state, or local law, statute, ordinance, or regulation pertaining to Hazardous Substances, health, industrial hygiene, or environmental conditions, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 USC §§ 9601-9675, the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., and the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended, 42 USC §§ 6901-6992, and any other federal, state or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or environmental conditions, and any applicable state or Federal rules or regulations adopted pursuant to any of the foregoing.

**18.1.2 "Hazardous Substance"** includes, without limitation: (a) any material, substance, or waste that is or becomes regulated or that is or becomes classified as hazardous, dangerous, or toxic under any federal, state, or local statute, ordinance, rule, regulation, or law, including but not limited to any Environmental Law; and (b) petroleum and petroleum by-products or any fraction thereof, and asbestos.

**18.1.3 "Remedial Work"** means any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature which may at any time be required under any applicable Environmental Law, any judicial order, or by any governmental agency or person because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a Hazardous Substance on, under, or about all or any portion of the Property, or the contamination (whether presently existing or occurring after the date of this Trust Deed) of the buildings, facilities, soil, groundwater, surface water, air, or other elements on or under any other property as a result of Hazardous Substances emanating from the Property. Remedial Work shall not be completed until all applicable courts or governmental agencies have made a final determination to that effect, such as, by way of example, the issuance of a "No Further Action" letter.

**18.1.4 "Use"** of a Hazardous Substance shall include, without limitation, the presence of such Hazardous Substance on, under or about the Property or the Property's groundwater, and any action or activity which uses, generates, manufactures, produces, stores, releases, discharges, or disposes of such Hazardous Substance on, under or about the Property or the Property's groundwater, or transportation of such Hazardous Substance to or from the Property.

**18.2** Borrower shall use any Hazardous Substance and will permit any tenant, contractor, agent or any other authorized user or person to use any Hazardous Substance, only: (a) in the ordinary course of Borrower's business; and (b) in compliance with all Environmental Laws, including but not limited to those relating to licensure, notice, and recordkeeping.

**18.3** Except for existing violations of Environmental Laws heretofore disclosed to Lender in writing, Borrower will keep and maintain the Property in compliance with, and shall not cause or permit all or any portion of the Property, including groundwater, to be in violation of any Environmental Law.

**18.4** Except to the extent heretofore disclosed to Lender in writing, Borrower shall give prompt written notice to Lender of the following, whether presently existing or known, or hereafter arising or discovered:

**18.4.1** Any proceeding, inquiry, or notice by or from any governmental authority with respect to any alleged violation of any Environmental Law, or the presence or possible presence of any Hazardous Substance on the Property, or the migration or possible migration of any Hazardous Substance between the Property and other premises (regardless of whether such migration is from or to the Property);

18.4.2 All known claims made or threatened by any person against Borrower or with respect to the Property or Improvements relating to any loss or injury resulting from any Hazardous Substance or the violation of any Environmental Law;

18.4.3 The existence of any Hazardous Substance on or about all or any portion of the Property; or

18.4.4 Borrower's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could in Borrower's judgment cause any restrictions on the ownership, occupancy, transferability, or use of the Property under any Environmental Law.

18.5 Borrower shall promptly provide to Lender copies of all reports, documents, and notices provided to or received from any agency administering any Environmental Laws. Lender shall have the right to join and participate, in its own name if it so elects, in any legal proceeding or action initiated with respect to the Property or Improvements in connection with any Environmental Law and have its attorney fees in connection with such an action paid by Borrower, if Lender determines that such participation is reasonably necessary to protect its interest in the Trust Property.

18.6 Borrower authorizes Lender or its agents, acting by themselves or through a court-appointed receiver, to enter upon the Property to make such inspections and tests, at Borrower's expense, as Lender may deem appropriate to determine compliance of the Property with this Section of the Deed of Trust. Lender may obtain a court order to enforce Lender's right to enter and inspect the Property, or have a receiver appointed pursuant to applicable law, to enforce Lender's right to enter and inspect the Property for Hazardous Substances. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Borrower or to any other person. At any time (regardless of whether or not Lender has reason to believe that any release, discharge, or disposal of any Hazardous Substance affecting the Property or Improvements has occurred or is threatened, or that a violation of an Environmental Law has occurred or may occur with respect to the Property or Improvements), Lender may require Borrower to obtain or may itself obtain, at Borrower's expense, an environmental assessment of the Property (including but not limited to an assessment of such a condition or threatened condition), by a qualified environmental consultant. Borrower shall promptly provide to Lender a complete copy of any environmental assessment obtained by Borrower.

18.7 In the event that Remedial Work is required with respect to any portion of the Property or in any manner relating to the Property, (whether required now or after the date of this Trust Deed), Borrower shall, within such period of time as may be required under any applicable Environmental Law, other applicable law, regulation, order, or agreement, (or within 30 days after written demand by Lender for Borrower's performance under this provision), commence and thereafter diligently prosecute to completion, all such Remedial Work. All costs and expenses of such Remedial Work shall be paid by Borrower, including, without limitation, Lender's reasonable attorney fees and costs incurred in connection with monitoring or review of the legal aspects of such Remedial Work. In the event Borrower shall fail to timely commence, or cause to be commenced, such Remedial Work, Lender may, but shall not be required to, cause such Remedial Work to be performed. In that event, all costs and expenses incurred in connection with the Remedial Work shall be referred to as "Environmental Costs" and shall become part of the Obligations secured by this Trust Deed and shall bear interest until paid at the default rate provided in the Note. Lender, acting by itself or through a court-appointed receiver, may negotiate with governmental authorities with respect to the Property's environmental compliance and remedial measures; and take any action necessary to enforce compliance with environmental provisions, including but not limited to spending Rents and Profits to abate the problem. Lender shall be entitled to bid, at the sale of all or any portion of the Property held pursuant to this Security Instrument, the amount of any Environmental Costs, including interest thereon, in addition to the amount of the other indebtedness hereby secured.

18.8 Borrower releases and waives any present or future claims against Lender, including but not limited to any claims for indemnity or contribution, in the event Borrower becomes liable for cleanup or other costs under any Environmental Laws. Borrower shall hold Lender, its directors, officers, employees, agents, successors, and assigns, harmless from, indemnify them for, and defend them against any and all losses, damages, liens, costs, expenses, and liabilities directly or indirectly arising out of or attributable to any violation of any Environmental Law, any breach of Borrower's warranties in this Section 18 or any of its subsections, or any actual or threatened Use of a Hazardous Substance on, under, or about the Property, including without limitation the costs of any required Remedial Work or any required repair, cleanup, containment, or detoxification of the Property, the preparation and implementation of any closure, remedial or other required plans, attorney fees and costs (including but not limited to those incurred in any proceeding and in any review or appeal), fees, penalties, and fines.

18.9 Borrower represents and warrants to Lender that:

18.9.1 Neither the Property nor Borrower is in violation of or subject to any existing, pending, or threatened investigation by any governmental authority under any Environmental Law.

18.9.2 Borrower has not and is not required by any Environmental Law to obtain any permit or license other than those it has heretofore obtained to construct or use the Improvements.

18.9.3 To the best of Borrower's knowledge, except as heretofore disclosed to Lender in writing, no Hazardous Substance has ever been Used on, under, or about the Property in violation of any Environmental Law.

18.10 All representations, warranties, and covenants in this Section 18 (including all subsections): (a) shall survive: (i) the satisfaction of the Obligations; and (ii) any termination, satisfaction, reconveyance, assignment, or judicial or non-judicial foreclosure of the lien of this Security Instrument; and (b) shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or delivery of a deed in lieu of foreclosure or otherwise. The representations and warranties contained herein are based on



Borrower's due diligence in investigating the Property for Hazardous Substances.

19. **NO WAIVER OR MODIFICATION UNLESS IN WRITING.** No modification or waiver by Lender of any right under this Security Instrument shall be effective unless in writing. Waiver by Lender of any right granted to Lender under this Security Instrument or under any provision of this Security Instrument as to any transaction or occurrence shall not be deemed a waiver as to any future transaction or occurrence. By accepting payment of any sum secured hereby after its due date, or by making any payment or performing any act on behalf of Borrower that Borrower was obligated hereunder but failed to make or perform, or by adding any payment so made by Lender to the indebtedness secured hereby, or by exercising Lender's rights to receive and collect the rents, issues, profits, security deposits, royalties, tolls, earnings, income and other benefits therefrom, Lender does not waive its right to require prompt payment when due of all sums so secured or to require prompt performance of all acts required hereunder, or to declare a default for failure so to pay or perform.

20. **REMEDIES.** No remedy herein provided shall be exclusive of any other remedy herein, or now or hereafter existing by law or in equity, but shall be cumulative. Every power or remedy hereby given to Trustee or to Lender or to which either of them may be otherwise entitled, may be exercised from time to time and as often as may be deemed expedient by them, and either of them may pursue separate remedies. If Lender now or hereafter holds any additional security for any obligation secured hereby, it may enforce any and all remedies with respect thereto at its option, either before, contemporaneously with, or after any trustee's sale or other exercise of remedies is made hereunder. In order to assure the definiteness and certainty of the rights and obligations herein provided, Borrower waives any and all rights of offset of claims and no offset shall relieve Borrower from paying installments on the obligations secured hereby as they become due.

21. **GENERAL PROVISIONS.** (a) As and when used herein, the term "**Borrower**" shall mean and include Borrower above-named and its successors and permitted assigns, and the term "**Lender**" shall mean and include Lender hereinabove named and its successors and assigns; (b) wherever the context so requires, any gender shall include the masculine, feminine and neuter, the singular number shall include the plural and vice-versa; (c) captions and Section headings used herein are for convenience only, are not a part of this Security Instrument, and shall not be used in construing it; (d) Lender shall have the right at any time and from time to time to provide any information it has in its possession relating to Borrower, or any guarantor of the Loan, or any other person or entity now or hereafter liable with respect to the Loan, or the Property, to any party interested in acquiring all or any part of the Loan or any interest therein; (e) in exercising any right or remedy or taking any action provided herein, Lender may act through its employees, agents, counsel, or independent contractors, as authorized by Lender; (f) as and when used herein, the word "**Including**" shall be deemed to mean "**Including without limitation**"; and (g) if more than one person is named as Borrower, each obligation of Borrower hereunder shall be the joint and several obligation of each such person. Without limiting the foregoing, each general partner of Borrower shall be deemed to have agreed, by its execution of this Security Instrument, that such partner is jointly and severally liable with Borrower for the performance of each and every obligation of Borrower under this Security Instrument and the other Loan Documents and that Lender shall not be required to exhaust the assets of Borrower in enforcing any monetary obligation of Borrower to Lender prior to proceeding against the assets of such general partner. The foregoing agreement shall constitute a separate obligation of each general partner.

22. **FURTHER ASSURANCES.** At any time and from time to time, upon Lender's request, Borrower shall make, execute and deliver, or cause to be made, executed and delivered, to Lender and where appropriate shall cause to be recorded or filed, and from time to time thereafter to be re-recorded and refilled at such time and in such offices and places as shall be deemed desirable by Lender, any and all such further deeds of trust, security agreements, instruments of further assurance, certificates, agreements and other documents as Lender may consider necessary or desirable in order to effectuate, complete or perfect, or to continue and preserve the obligations of Borrower under the Note, this Security Instrument or any other Loan Document and the lien of this Security Instrument or any other lien upon or security interest in all of the Property or any other property securing the indebtedness evidenced by the Note, whether now owned or hereafter acquired by Borrower and unto all and every person or persons deriving any estate, right, title or interest under this Security Instrument or the power of sale herein contained. Upon any failure by Borrower to do so, Borrower hereby authorizes Lender to make, execute, record, file, re-record or refile any and all such deeds of trust, instruments, certificates and documents for and in the name of Borrower, and Borrower hereby irrevocably appoints Lender the agent and attorney-in-fact of Borrower to do so.

23. **GOVERNING LAW; SEVERABILITY.** This Security Instrument shall be governed by and construed and enforced in accordance with the laws of the State of Utah, without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than such state. In the event that any provision or clause of this Security Instrument, the Note or any other Loan Document is construed by a court of competent jurisdiction to be void, invalid or unenforceable, such construction shall not affect other provisions of this Security Instrument or the Note or the other Loan Documents which can be given effect without the void, invalid or unenforceable provision, and to this end the provisions of this Security Instrument, the Note and all other Loan Documents are declared to be severable.

24. **NOTICES.** Except for any notice required by applicable law to be given in another manner, all notices provided pursuant to the Note, this Security Instrument or any other Loan Document shall be in writing and shall be deemed to have been duly given if sent by United States certified mail, with return receipt requested, postage prepaid, or by United States Express Mail or other comparable overnight courier service to the parties at the address set forth herein or such other address as the recipient party may have designated by notice given in the manner specified above. Each such notice shall be effective upon the earlier of (i) when given or received in the manner prescribed by applicable law, (ii) when actually received in person by the recipient party or (iii) two calendar days following the mailing of such notice, certified mail, postage prepaid,

return receipt requested to the address set forth herein.

Borrower: Limitless Investment Group, LLC  
3855 South 500 West, Suite C  
Salt Lake City, UT 84115

Lender: Iron Bridge Mortgage Fund LLC  
9755 SW Barnes Road, Suite 420  
Portland, OR 97225

25. **LOST INSTRUMENTS.** In the event that following execution, the Note, this Security Instrument, or any other Loan Document should be lost, destroyed or mutilated, Borrower agrees to execute another original of such Note, Security Instrument or Loan Document.

26. **TRUSTEE.** Trustee accepts appointment hereunder when this Security Instrument, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Borrower, Lender or Trustee shall be a party.

27. **POWER OF TRUSTEE TO RECONVEY OR CONSENT.** Without affecting the liability of any person, including Borrower, for the payment of any indebtedness secured hereby, including such indebtedness as may be due at the time of or after full reconveyance, or the lien of this Security Instrument upon any remainder of the Property for the full amount of any indebtedness then or thereafter secured hereby, or the rights or powers of Lender or Trustee with respect to the remainder of the Property (other than any person or property specifically released by Lender), Lender, or Trustee, if so requested by Lender, from time to time, without liability therefor, and without notice to Borrower, upon written request of Lender and presentation of this Security Instrument and the Note or other agreement secured hereby, together with payment for any fees of Trustee therefor, may do any one or more of the following: (1) release all or any part of the Loan or any indebtedness secured hereby; (2) extend the time or otherwise alter the terms of payment of the Loan or such indebtedness; (3) accept additional security; (4) substitute or release any property securing the Loan or such indebtedness; (5) reconvey all or any part of such property; (6) consent to the making of any map or plat thereof; (7) join in granting any easement thereon; or (8) join in any extension agreement or any agreement subordinating or otherwise affecting the lien or charge hereof. Any reconveyance by Trustee shall be made without warranty. The recitals in any reconveyance of any matters of fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyances may be described as "the person or persons legally entitled thereto". A full reconveyance of this Security Instrument shall operate as a re-assignment of the Leases and the Rents and Profits assigned herein to Lender.

28. **SUBSTITUTION OF TRUSTEE.** Lender may, from time to time, by an instrument in writing, substitute a successor or successors to any trustee named herein or acting hereunder, which instrument, executed and acknowledged by Lender and recorded in the office of the recorder of the county or counties where the Property is situated, shall be conclusive proof of proper substitution of such successor trustee or trustees, who shall, without conveyances from the trustee predecessor, succeed in all its title, estate, rights, powers and duties. Such instrument shall contain the name and address of the new trustee. The procedure herein provided for substitution of trustees shall not be exclusive of other provisions for substitution provided by law.

29. **RECONVEYANCE.** Upon payment of all sums secured by this Security Instrument, including, but not limited to any prepayment premiums or fees due and payable under the Note, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing indebtedness secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled thereto. Such person or persons shall pay Trustee's reasonable costs incurred in so reconveying the Property.

30. **WAIVER OF JURY TRIAL.** To the fullest extent permitted by law, Borrower and Lender **HEREBY WAIVE THEIR RESPECTIVE RIGHT TO TRIAL BY JURY** in any action, proceeding and/or hearing on any matter whatsoever arising out of, or in any way connected with, the Note, this Security Instrument or any of the Loan Documents, or the enforcement of any remedy under any law, statute, or regulation. Neither party will seek to consolidate any such action in which a jury has been waived, with any other action in which a jury trial cannot or has not been waived. Each party acknowledges that it has received the advice of counsel with respect to this waiver.

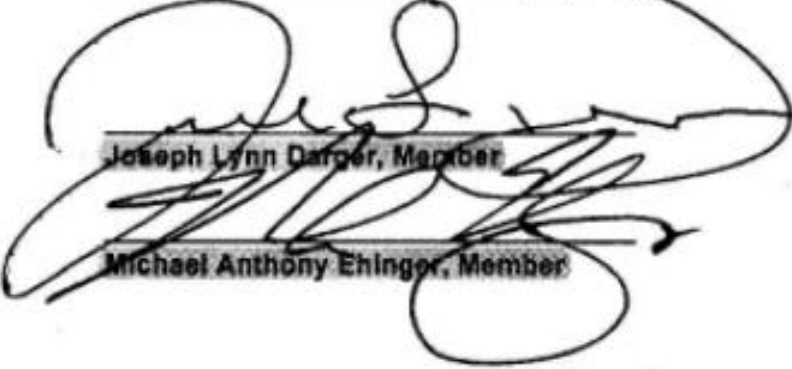
31. **FINAL AGREEMENT.** The Note, the Loan Agreement, this Security Instrument and the other Loan Documents collectively represent the final agreements between Lender and Borrower and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten agreements between Lender and Borrower.

32. **ATTORNEYS' FEES AND LEGAL EXPENSES.** In the event of any Event of Default under this Security Instrument, or in the event that any dispute arises relating to the interpretation, enforcement or performance of any obligation secured by this Security Instrument, Lender shall be entitled to collect from Borrower on demand all fees and expenses incurred in connection therewith, including but not limited to fees of attorneys, accountants, appraisers, environmental inspectors, consultants, expert witnesses, arbitrators, mediators and court reporters. Without limiting the generality of the foregoing, Borrower shall pay all such costs and expenses incurred in connection with: (a) arbitration or other alternative dispute resolution proceedings, trial court actions and appeals; (b) bankruptcy or other insolvency proceedings of Borrower, any guarantor or other party liable for any of the obligations secured by this Security Instrument or any party having any interest in any security for any of those obligations; (c) judicial or nonjudicial foreclosure on, or appointment of a receiver for, any of the Property; (d) post-judgment collection proceedings; (e) all claims, counterclaims, cross-claims and defenses asserted in any of the foregoing whether or not they arise out of or are related to this Security Instrument; (f) all preparation for any of the foregoing; and (g) all settlement negotiations with respect to any of the foregoing.

IN WITNESS WHEREOF, Borrower has executed this Security Instrument on the day in the year first above written.

BORROWER:

Limitless Investment Group, LLC  
a(n) Utah Limited Liability Company



Joseph Lynn Darger, Member  
Michael Anthony Ehinger, Member

Date: 02-17-2022

Date: 2/17/22

ACKNOWLEDGEMENT

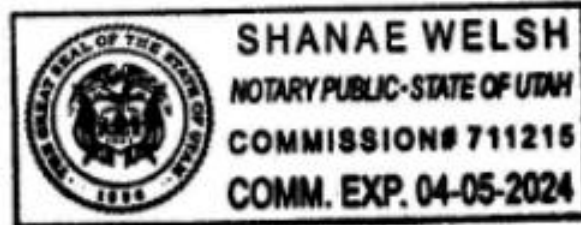
STATE OF Utah )  
County of Salt Lake ) ss

On 02-17-22 before me Shanae Welsh, a Notary Public,  
personally appeared **Joseph Lynn Darger, Member of Limitless Investment Group, LLC; Michael Anthony Ehinger, Member of Limitless Investment Group, LLC;** who provided to me the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature  (SEAL)



3458176  
BK 7950 PG 1328

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

The Land is located in the City of **Bountiful**, County of **Davis**, State of **Utah**, and is described as follows:

**The Land is located in DAVIS County, State of Utah and is described as follows:**

**LOT 3, FELLER DRIVE SUBDIVISION, WHICH SUBDIVISION IS A PART OF BLOCK 37, NORTH MILL CREEK PLAT, BOUNTIFUL TOWNSITE SURVEY, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE DAVIS COUNTY RECORDER'S OFFICE.**

3458176  
BK 7950 PG 1329

**EXHIBIT B**  
**PERMITTED EXCEPTIONS**

None Permitted