

PREPARED BY: STABILIS LENDING, LLC

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Parcel Tax Serial No. 06-093-0076

Space above for Recorder's Use

TERM LOAN DEED OF TRUST,
ASSIGNMENT OF RENTS AND LEASES,
SECURITY AGREEMENT,
AND FIXTURE FILING

THIS TERM LOAN DEED of TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FUNDING (the "Deed of Trust") is made and entered into effective as of the 30th day of May, 2023, by and among **D WOOD HOTEL, LLC**, a UTAH limited liability company, ("Trustor"), in favor of **METRO NATIONAL TITLE, INC.**, a Utah corporation, as trustee, with a business address of 345 East 300 South, Salt Lake City, Utah 84111 ("Trustee"), and in favor of or of **STABILIS LENDING LLC**, a Delaware limited liability company, as beneficiary and secured party, with a business address at c/o Stabilis Capital Management, LP, 2 Grand Central Tower, 140 East 45th Street, Suite 22-C, New York, New York, 10017, Attn: General Counsel (together with its successors and assigns, "Beneficiary").

RECITALS:

A. Whereas, this Security Instrument is given to secure the obligations of Amandeep Dhillon, an adult individual and Jagmohan Dhillon, an adult individual (together the "**Guarantor**") under that certain Non-Recourse Carveout Guaranty made by Guarantor in favor the Beneficiary dated May 18, 2022 (as amended, supplemented, or otherwise modified from time to time, the "**Guaranty**");

B. Whereas the Guaranty was given to secure a loan in the maximum aggregate original principal amount of TWENTY-THREE MILLION ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$23,100,000.00) (the "**Loan**") which was advanced to D SAN JOSE LLC, a California limited liability Company ("**Borrower (San Jose)**") pursuant to that certain

Loan Agreement dated May 18, 2022 and any amendments thereto;

C. Whereas, an Event of Default occurred and is continuing and a Forbearance Agreement dated May 10, 2023 (the "**Forbearance Agreement**" and together with Loan Agreement dated May 18, 2022 and any amendments thereto, as the same may be amended or supplemented from time to time, the "**Loan Agreement**") was entered into by and among D BOULDER LLC, a Nevada limited liability company ("**Borrower (Boulder)**"), D MARTIN LLC, a Nevada limited liability company ("**Borrower (Martin)**"), D CALI, LLC, a Nevada limited liability company ("**Borrower (Cali)**"); D WOOD HOTEL, LLC, a Utah limited liability company ("**Borrower (Wood)**"); D MURRAY, LLC, a Utah limited liability company ("**Borrower (Murray)**"), and Borrower (San Jose) (Borrower (Boulder), Borrower (Martin), Borrower (Cali), Borrower (Wood), Borrower (Murray) and Borrower (San Jose) are, individually and collectively, "**Borrower**"), and Beneficiary and evidenced by that certain Promissory Note, dated May 18 2022, given by Borrower to Beneficiary (as amended, restated, supplemented, or otherwise modified from time to time, the "**Note**");

D. Capitalized terms used but not defined herein shall have the meaning given to them in the Loan Agreement;

E. Trustor is the owner of a fee simple interest in and to certain real property located in Davis County, Utah, as more particularly described on **Exhibit A** attached hereto and incorporated by reference in this Deed of Trust (the "Property");

F. Trustor desires to secure Guarantor's obligations under the Guaranty which Guaranty secures the performance and payment of the outstanding Principal Balance of the Loan, together with all Interest accrued and unpaid thereon and all other fees, late charges, and other amounts due to Beneficiary in respect of the Loan, and all other Indebtedness owed to Beneficiary under the Loan Documents, including, without limitation, this Security Instrument, and the performance of all of the obligations under the Loan Agreement, the Note, this Security Instrument, and the other Loan Documents (collectively, the "**Debt**"); and

G. Beneficiary has committed to extending the financing terms under the Loan Agreement to Trustor, provided the Beneficiary obtains second position deed of trust lien against the Property.

NOW, THEREFORE, upon the terms, covenants and conditions set forth in this Deed of Trust, entering into the Forbearance Agreement and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, TRUSTOR HEREBY CONVEYS AND WARRANTS TO TRUSTEE, IN TRUST, WITH POWER OF SALE, and hereby grants to Beneficiary, as a secured party, a security interest in the following described real and personal property :

GRANTING CLAUSE:

Property Conveyed. For the purpose of securing payment and performance of the Obligations (as hereinafter defined), Trustor does hereby irrevocably grant, bargain, sell, pledge,

assign, warrant, transfer, and convey to Trustee, IN TRUST for the benefit of Beneficiary and its successors and assigns, with POWER OF SALE and right of and possession, and creates and grants a security interest in to Beneficiary, all of Trustor's right, title, and interest in and to the following property, rights, interests, and estates now owned or hereafter acquired by Trustor (collectively, the "Property"):

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (the "Land");

(b) Additional Land. All additional lands, estates, and development rights hereafter acquired by Trustor for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental deed of trust, or otherwise be expressly made subject to the lien of this Security Instrument;

(c) Improvements. The building, rental units, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements, and improvements now or hereafter erected or located on the Land (collectively, the "Improvements");

(d) Appurtenances. All of Trustor's right and interest in and to (i) all air, light, lateral support, and development rights now or hereafter pertaining to or used in connection with the Land; (ii) all and singular, the tenements, hereditaments, rights of way, easements, appendages, and appurtenances and property now or hereafter belonging or in any way appertaining to the Land; and (iii) all estate, right, title, claim, or demand whatsoever, either at law or in equity, in possession or expectancy, of, in, and to the Land (collectively, the "Appurtenances");

(e) Lease Rights. All of Trustor's right, title, and interest under and pursuant to any lease or rental agreement now or hereafter affecting the Property as and when entered into by Trustor;

(f) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights, and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments, and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating, or pertaining to the Land or the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road, or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof, and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim, and demand whatsoever, both at law and in equity, of Trustor of, in, and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(g) Equipment. All "equipment", as such term is defined in Article 9 of the Uniform Commercial Code, as adopted and enacted by the State of New York (as amended from time to time, the "Uniform Commercial Code"), now owned or hereafter acquired by Trustor, which is used at or in connection with the Improvements or the Land or is located thereon or therein (including, but not limited to, all machinery, equipment, appliances, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Trustor) and any

and all additions, substitutions, and replacements thereof, together with all attachments, components, parts, equipment, and accessories installed thereon or affixed thereto (collectively, the "**Equipment**");

(h) Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, by Trustor and which is so related to the Land and the Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration, or repair of or installation on the Improvements or the Land, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures, and other items now or hereafter attached to, installed in, or used in connection with (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, plumbing, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Trustor's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments, and substitutions for any of the foregoing and the proceeds thereof (collectively, the "**Fixtures**");

(i) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights, any affiliate contracts, any plans and specifications, governmental approvals (to the extent permitted by Applicable Laws), accounts, accounts receivable, franchises, licenses, bonds, certificates and permits, and all other personal property of any kind or character whatsoever (as defined in and subject to the provisions of the Uniform Commercial Code), other than Fixtures, which are now or hereafter owned by Trustor and which are located within or about the Land and the Improvements, together with all accessories, replacements, and substitutions thereto or therefor and all proceeds and products of any of the foregoing (collectively, the "**Personal Property**");

(j) Leases and Rents. All leases, subleases or subsubleases, lettings, licenses, concessions, or other agreements to which Trustor is a party (whether written or oral) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Land and the Improvements, and every modification, amendment, or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions, and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into, whether before or after the filing by or against Trustor of any petition for relief under 11 U.S.C. § 101 et seq. (the "**Bankruptcy Code**"), as the same may be amended, restated, supplemented, extended, renewed, replaced, or otherwise modified from time to time (collectively, the "**Leases**"), and all right, title, and interest of Trustor therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder, and all proceeds from the

sale or other disposition of the Leases, and all rents, additional rents, revenues, issues, and profits (including, without limitation, all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements whether paid or accruing before or after the filing by or against Trustor of any petition for relief under the Bankruptcy Code (collectively, the “**Rents**”);

(k) Condemnation Awards. All awards or payments, including, without limitation, interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including, without limitation, any transfer made in lieu of or in anticipation of the exercise of such right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(l) Insurance Proceeds. All proceeds received in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, or judgments or settlements made in lieu thereof, for damage to the Property;

(m) Tax Certiorari. All refunds, rebates, or credits received in connection with any reduction in taxes or other charges charged against the Property as a result of tax certiorari proceedings or any other applications or proceedings for reduction or otherwise;

(n) Rights. The right, in the name and on behalf of Trustor, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Beneficiary in the Property;

(o) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications, and other documents, now or hereafter entered into (including, without limitation, any architect, expeditor, or engineer agreements), and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management, or operation of the Land and any part thereof and any Improvements or respecting any business or activity conducted on the Land, and any part thereof, and all right, title, and interest of Trustor therein and thereunder, and all proceeds and products of any of the foregoing;

(p) Intellectual Property. All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, URLs or other online media, books and records, and all other general intangibles relating to or used in connection with the operation of the Property;

(q) Accounts. All reserves, escrows, and deposit accounts maintained by Trustor with respect to the Property, including, without limitation, the Operating Accounts and all accounts established or maintained pursuant to the Loan Agreement or any other Loan Document, together with all deposits or wire transfers made to such accounts, and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments, and other property held therein from time to time, and all proceeds, products, distributions, dividends, and/or substitutions thereon and thereof;

(r) Uniform Commercial Code Property. All documents, instruments, chattel paper, and general intangibles, as the foregoing terms are defined in the Uniform Commercial Code, relating to the Property;

(s) Minerals; Vegetation. All minerals, crops, timber, trees, shrubs, flowers, and landscaping features now or hereafter located on, under, or above the Land;

(t) Proceeds. All proceeds and products of any of the foregoing, including, without limitation, all amounts paid or payable (including, without limitation, forfeited deposits) under contracts for the sale of any portion of the Land and the Improvements; and

(u) Other Rights. Any and all other rights of Trustor in and to the items set forth in Subsections (a) through (t) above.

AND, without limiting any of the other provisions of this Security Instrument, Trustor expressly grants to Beneficiary, as secured party, a security interest in the portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and the Fixtures are part and parcel of the Land (the Land, the Improvements, and the Fixtures are collectively referred to as the "**Real Property**") appropriated to the use thereof and, whether affixed or annexed to the Land or the Improvements or not, shall for the purposes of this Security Instrument be deemed conclusively to be real estate and mortgaged hereby.

TO HAVE AND TO HOLD the Property, unto Trustee and Trustee's successors, substitutes or assigns, in trust and for the uses and purposes herein set forth, forever, together with all rights, privileges, hereditaments and appurtenances in anywise appertaining or belonging thereto, subject only to the Permitted Exceptions (herein so called), and Trustor, for Trustor and Trustor's successors, hereby agrees to generally warrant and forever defend, all and singular, the Property unto Trustee and trustee's successors or substitutes in this trust against the claim or claims of all persons claiming or to claim the same or any part thereof, subject, however, as aforesaid.

1) Assignment of Rents. Trustor hereby absolutely and unconditionally assigns to Beneficiary all of Trustor's right, title, and interest in and to all current and future Leases and Rents; it being intended by Trustor that this assignment constitutes a present, absolute, and unconditional assignment and not a collateral assignment or an assignment for additional security only. Nevertheless, until the occurrence and during the continuance of an Event of Default and subject to the terms of the Assignment of Leases and Rents and Section 11.1(h) of this Security Instrument, Beneficiary grants to Trustor a revocable license, which license may not be revoked absent an Event of Default, to collect, receive, use, and enjoy the Rents. Trustor shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums.

2) Security Agreement. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code of Utah. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Trustor in the Property. By executing and delivering this Security Instrument, Trustor hereby grants to Beneficiary, as security for the Obligations (as hereinafter defined), a security interest in the Fixtures, the Equipment, the Personal Property and the other property constituting the Property to the full extent that the Fixtures, the Equipment, the Personal Property and such other property may be subject to the Uniform Commercial Code (said portion

of the Property so subject to the Uniform Commercial Code being called the “**Collateral**”). If an Event of Default shall occur and be continuing, Beneficiary, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Beneficiary may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Beneficiary after the occurrence and during the continuance of an Event of Default, Trustor shall, at its expense, assemble the Collateral and make it available to Beneficiary at a convenient place (at the Land if Equipment, Fixtures, or tangible property) reasonably acceptable to Beneficiary. Trustor shall pay to Beneficiary within five (5) Business Days following written demand any and all expenses, including, without limitation, reasonable attorneys’ fees and costs, incurred or paid by Beneficiary in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default. Any notice of sale, disposition or other intended action by Beneficiary with respect to the Collateral sent to Trustor in accordance with the provisions hereof at least ten (10) days prior to such action shall constitute commercially reasonable notice to Trustor. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by Applicable Laws, be applied by Beneficiary to the payment of the Debt in any order, proportion, and priority as Beneficiary may determine in its sole and absolute discretion.. For purposes of this Security Instrument, the principal places of business for Trustor and Beneficiary are as set forth in Paragraph 3, below.

3) Fixture Filing. Certain of the Property is or will become “fixtures” (as that term is defined in the Uniform Commercial Code) on the Land or the Improvements, described or referred to in this Security Instrument, and this Security Instrument, upon being filed of record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement naming Trustor as the Debtor and Beneficiary as the Secured Party filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures. As to all of the above described Property which is or which hereafter becomes a “fixture” under Applicable Laws, this Security Instrument constitutes a fixture filing under the Uniform Commercial Code. This Security Instrument creates a security interest in the Collateral, and, to the extent the Collateral is not real property, this Security Instrument constitutes a security agreement from Trustor to Beneficiary under the Uniform Commercial Code.

Name of Debtor: D WOOD HOTEL, LLC, a Utah limited liability company

Debtor’s Address: 8762 Preston Trace Blvd., Frisco, TX 75033

Debtor’s Jurisdiction of Organization: Utah

Name of Secured Party: STABILIS LENDING LLC, a Delaware limited liability company

Secured Party’s Address: c/o Stabilis Capital Management, LP, 2 Grand Central Tower, 140 East 45th Street, Suite 22-C, New York, New York 10017, Attn: General Counsel

Collateral Covered by Financing Statement: As described in Paragraph 3 above.

Place of Filing: To be filed in the Real Property Records of the County recorder Davis County, Utah

Description of Real Property to which Collateral is Related: See attached Exhibit A

Owner of Record of the Real Property is: Debtor

- 4) Pledges of Monies Held. Trustor hereby pledges to Beneficiary and grants Beneficiary a security interest in any and all monies now or hereafter held by Beneficiary in connection with the Loan, including, without limitation, any sums deposited in the Operating Account and the Net Proceeds, as additional security for the Obligations until expended or applied as provided in this Security Instrument and the Loan Documents.
- 5) Grants to Trustee and Beneficiary. This Security Instrument and the grants, assignments, and transfers made to Trustee and Beneficiary in this Granting Clause shall inure to the benefit of Beneficiary and its successors and assignees.

CONDITIONS TO GRANT

These presents are upon the express condition that, if Grantor shall well and truly pay and perform the Obligations at the time and in the manner provided in this Security Instrument, the Guaranty and the other Loan Documents, and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Guaranty and the other Loan Documents, these presents and the estate hereby granted shall cease, terminate, and be void; provided, however, that all of Grantor's obligations to indemnify, defend, and hold harmless Trustee and Beneficiary shall survive any such payment or termination for the periods set forth in the Loan Documents.

ARTICLE I DEFINITIONS

Unless the context clearly indicates otherwise, certain terms used in this Deed of Trust shall have the meanings in the Loan Agreement:

"Access Laws" means, collectively, the Americans with Disabilities Act of 1990, the Fair Housing Amendments Act of 1988, and any other federal, state or local laws or ordinances related to disabled access; or any statute, rule, regulation, ordinance, order of governmental bodies and regulatory agencies, or order or decree of any court adopted or enacted with respect thereto, as now existing or hereafter amended or adopted.

"Event of Default" means the occurrence and continuance of any one of the events listed in Loan Agreement.

"Hazardous Materials" includes, but shall not be limited to, substances defined as "*hazardous substances*," "*hazardous wastes*," "*hazardous materials*," "*extremely hazardous waste*," "*restricted hazardous waste*," or "*toxic substances*," or words of similar import under any applicable local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. Section 5101 et seq., the Resource Conservation and Recovery Act, as amended 42 U.S.C. 6901 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq.; Chapters 2, 3, 4, 5 and 6 of the Utah Environmental Quality Code, Title 19, Utah Code Annotated (1953), as the same may be

amended from time to time; and in all rules adopted and regulations promulgated pursuant to any of the foregoing.

"Impositions" means all real property taxes and assessments, general and special, and all other taxes, assessments and other governmental, municipal or other charges or impositions of any kind or nature whatsoever (including, without limitation, charges and assessments on water or water stocks used on or with the Property and levies or charges resulting from covenants, conditions and restrictions affecting the Property) which are assessed or imposed upon the Property, or become due and payable, and which create or may create a lien upon the Property or any portion of the Property, equipment or other facility used in the construction, renovation, operation or maintenance of the Property.

"Material Adverse Change" means any set of circumstances or events which (a) has or could reasonably be expected to have any material adverse effect whatsoever upon the validity or enforceability of this Deed of Trust, (b) is or could reasonably be expected to be material and adverse to the business, Properties, assets, financial condition, results of operations or prospects of Trustor taken as a whole, (c) impairs materially or could reasonably be expected to impair materially the ability of Trustor taken as a whole to duly and punctually pay or perform its obligations or the underlying Loan, or (d) impairs materially or could be reasonably expected to impair materially the ability of Beneficiary, to the extent permitted, to enforce its legal remedies pursuant to this Deed of Trust.

"Obligations" means the obligations of Trustor described in Article II of this Deed of Trust, the payment and performance of which are secured by this Deed of Trust.

"Obligor" means Trustor and any Guarantor of the Loan.

"Permitted Encumbrances" means those liens, encumbrances and matters affecting the Property listed on **Exhibit B** attached to and incorporated by reference in this Deed of Trust.

"Person" means an individual, corporation, limited liability company, nonprofit corporation, partnership, limited partnership, joint venture, trust, joint stock company or other business entity.

"Personalty" means all tangible and intangible personal property of Trustor listed in Granting Clause of this Deed of Trust used in connection with the Property or incorporated into the Improvements.

"Property" means all of the items, documents, interests and properties referred to in Granting Clause of this Deed of Trust.

ARTICLE II
DEBT AND OBLIGATIONS SECURED

2.1 Obligations. This Security Instrument and the grants, assignments and transfers made in the Granting's Clause are given for the purpose of securing the Obligations, including, but not limited to, the Guaranty.

2.2 Other Obligations. This Security Instrument and the grants, assignments and transfers made in the Granting's Clause are also given for the purpose of securing the following (collectively, the "**Other Obligations**"):

- (a) the performance of all obligations of Trustor contained herein;

2.3 Other Obligations. The Guarantor's obligations for the unconditional payment and performance of the Guaranty and the performance of the Other Obligations shall be referred to collectively herein as the "**Obligations.**"

2.4 Future Advances. The amount of the Obligations secured hereby may decrease or increase from time to time pursuant to the Loan Agreement. Beneficiary hereby reserves the right to make future advances and extensions of any or all of the Obligations as permitted by the Loan Agreement. The right of Beneficiary to make such future advances and extensions of any of the Obligations shall be independent of each of the other Obligations and any future advances or extensions of any of the Obligations shall not create or give rise to an obligation by Beneficiary to make future advances or extensions of any of the other Obligations. Trustor shall make all payments of the Obligations when due and in accordance with this Security Instrument, the Note, the Loan Agreement, and the other Loan Documents.

ARTICLE III REPRESENTATIONS AND WARRANTIES

3.1 Property. Trustor represents and warrants to Beneficiary as follows:

- (a) Except for the Permitted Encumbrances, Trustor is, or simultaneously with the execution of this Deed of Trust shall become, the owner of fee simple title in and to the Property; this Deed of Trust;

- (b) Trustor possesses all requisite power and authority to execute and deliver this Deed of Trust;

- (c) Except for the Permitted Encumbrances, Trustor shall defend title to the Property against all claims and demands whatsoever;

- (d) The Property is free and clear of and from any and all liens, claims, encumbrances, restrictions, encroachments and interests whatsoever, in favor of any third party, other than the Permitted Encumbrances;

- (e) The lien created by this Deed of Trust upon the Property is a valid and subsisting first position lien against the Property, subject only to the Permitted Encumbrances;

(f) Any and all obligations incurred by Trustor in connection with the acquisition of all or any portion of the Property are current and without default on the part of Trustor; and

(g) To the best of Trustor's actual knowledge: (1) the Property is not in violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions on, under or about the Property, including, without limitation, soil and ground water conditions; (2) there are no Hazardous Materials constructed, deposited, stored, disposed, placed or located in, on or under the Property; and (3) Trustor has not received notice from any federal, state or local agency or department regarding the noncompliance by Trustor or the Property with respect to any federal, state or local law, ordinance or regulation governing the use, handling, storage, generation, transportation or disposal of Hazardous Material or the mere presence of Hazardous Material on the Property.

3.2 Personalty. Trustor represents and warrants to Beneficiary as follows:

(a) Trustor is the owner, or upon acquisition thereof, will be the owner of all Personalty used by Trustor in connection with or incorporated into the Improvements on the Property;

(b) The Personalty is, or upon acquisition of title thereto by Trustor will be, free and clear of all liens, claims, encumbrances, restrictions, charges and security interests in favor of any third party other than the Permitted Encumbrances;

(c) Trustor will not create, permit or suffer to exist, any lien, claim, encumbrance, restriction, charge or security interest in or to the Personalty without the prior written consent of Beneficiary; and

(d) Trustor shall defend the Personalty and take such other action as is necessary to remove any lien, claim, encumbrance, restriction, charge or security interest in or to the Personalty superior to the security interest in Beneficiary created hereunder, except the Permitted Encumbrances.

3.3 No Conflicts. The execution, delivery and performance of this Deed of Trust and other Loan Documents by Trustor will violate no charter, bylaw, lease, indenture, agreement, instrument, law, ordinance, regulation, order or administrative ruling to which Trustor is subject or a party or that affects or relates to the Property.

3.4 Proceedings. Except as has been accurately and completely described in writing in the Affidavit of Title, there is no action, application, petition, proceeding or hearing pending or threatened against any Obligor or the Property that might (a) adversely affect any Obligor's ability to perform this Deed of Trust or any other Loan Document, (b) involve the possibility of any Material Adverse Change in any Obligor's economic condition, (c) relate to any land use variance, subdivision, zoning or other matters, (d) involve the possibility of any limitation on any intended uses of the Property, or (e) impair the lien or security of this Deed of Trust or the value of the Property.

3.5 Compliance with Laws. Trustor and the Property are in compliance with all laws, regulations, ordinances, and codes that are applicable to the use and operation of the Property, including, without limitation, all Environmental Laws. To the best of Trustor's knowledge, all present and planned uses and of the Property are in full compliance with applicable zoning, environmental and building laws, ordinances, regulations and codes. Trustor and all tenants of the Property have obtained all certificates of occupancy and, to the best of Trustor's knowledge, all building and other permits that are required for all intended uses of, and for any construction, renovations and repairs with respect to, the Property.

3.6 Condition of Property. To the best of Trustor's knowledge, the Property is structurally sound, in good condition and suitable for its intended use.

3.7 Taxes. All property taxes and assessments due and owing in connection with the Property have been paid in full through the date of this Deed of Trust, including any penalties, deficiency assessments and interest. Trustor has filed all tax returns and reports required to be filed by it and has paid all taxes that are due and owing, including penalties, deficiency assessments and interest.

3.8 Financial Information and Condition. The financial statements of Trustor previously provided to Beneficiary truly set forth the financial condition of Trustor and the results of operations as of that date and there has been no Material Adverse Change since then. All other statements, representations and warranties made by or on behalf of Trustor to Beneficiary have been, and as of the date of the Deed of Trust are, accurate and complete and no information has been omitted that would make any of them misleading or incomplete. Immediately prior to and after the making of, this Deed of Trust, Trustor was not, nor will be, "insolvent" as that term is defined in N.Y. Debt. & Cred. Law § 271 or 11 U.S.C.A. §101(32).

3.9 Leases. There do not exist any leases with respect to the Property other than those leases with the tenants set forth on Exhibit B annexed hereto, true copies of which has been delivered to Beneficiary. Each of those leases is in full force and effect and has not been amended or modified, except as disclosed to Beneficiary. There has not occurred, and there is no circumstance or state of facts that with notice or lapse of time would constitute, a default under any such lease. If any current lease expires before the maturity of the Loan, then the Beneficiary must receive an executed replacement lease which must be satisfactory to the Beneficiary, no later than ninety (90) days prior to the expiration of the current lease.

3.10 Survival. All representations and warranties made by, or on behalf of, Trustor in this Deed of Trust or otherwise made to Beneficiary shall survive the closing of this Deed of Trust and any independent investigation by Beneficiary.

3.11 Purpose of Loan. The proceeds of the Loan shall be used solely to refinance certain debt on the Property.

3.12 Payment of Debt. To the extent applicable, Trustor shall pay and perform its obligations under the Guaranty and perform the other Obligations at the time and in the manner

provided in the Loan Agreement, the Note, this Security Instrument and the other Loan Documents.

3.13 Loan Agreement Governs. In the event of any inconsistency between any provision of this Security Instrument and any provision of the Loan Agreement, the provision of the Loan Agreement shall govern; provided, however, that the provisions of all of the Loan Documents shall be construed as an integrated set of provisions governing the Obligations and, accordingly, shall be interpreted and construed liberally to give the maximum validity, enforceability, and effect to all of such provisions.

3.14 Waste. Trustor shall not commit or suffer any waste of the Property, or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that would reasonably be expected to invalidate or allow the cancellation of any insurance policy covering the Property, or do or permit to be done thereon anything that would reasonably be expected to materially impair the value, use or utility of the Property or the security of this Security Instrument. Trustor will not, without the prior written consent of Beneficiary, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

3.15 Payment for Labor and Materials. Trustor (a) will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials incurred in connection with the Property, and (b) never create or permit to exist in respect of the Property, or any part thereof, any lien or security interest, even though inferior to the liens and security interests created hereby and by the other Loan Documents, other than Permitted Liens.

3.16 Performance of Other Agreements. Trustor shall observe and perform each and every term, covenant, and provision to be observed or performed by Trustor pursuant to the Loan Agreement, the other Loan Documents, and any other agreement or recorded instrument affecting or pertaining to the Property, and any amendments, changes, or other modifications thereto,

ARTICLE IV MAINTENANCE OF PROPERTY

Trustor shall: (a) maintain the Property at all times in good condition and repair; (b) not commit any waste of the Property, or, except with the prior written permission of Beneficiary, remove, damage, demolish or structurally alter any of the Improvements now on the Property, or to be constructed on the Property hereafter; (c) complete promptly and in good and workmanlike manner the Improvements, or any other improvements on the Property, which may for any reason be constructed; (d) restore promptly and in good and workmanlike manner any of the Improvements, or any portion of the Property, which may for any reason be damaged or destroyed; (e) comply at all times with all laws, ordinances, regulations, covenants and restrictions in any manner affecting the Property; (f) not commit or knowingly permit any act upon the Property in violation of law; and (g) do all acts which by reason of the character or use of the Property may be reasonably necessary to maintain and care for the same, the specific enumeration herein not excluding the general.

ARTICLE V
INSURANCE

Trustor shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Trustor as well as the Property and the Property as required pursuant to the Loan Agreement.

ARTICLE VI
INDEMNIFICATION AND OFF-SET

6.1 General Indemnification. The provisions of Section 11.12 of the Loan Agreement are hereby incorporated by reference as if set forth at length herein.

6.2 Mortgage and/or Intangible Tax. Trustor shall, at its sole cost and expense, protect, defend, indemnify, release, and hold harmless the Trustee and the Indemnitees from and against any and all Losses imposed upon or incurred by or asserted against the Trustee or any Indemnitees and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Security Instrument, the Note, or any of the other Loan Documents.

6.3 ERISA Indemnification. Trustor shall, at its sole cost and expense, protect, defend, indemnify, release, and hold harmless the Trustee and the Indemnitees from and against any and all Losses (including, without limitation, reasonable attorneys' fees and costs incurred in the investigation, defense, and/or settlement of Losses incurred in correcting any prohibited transaction or in the sale of a prohibited loan or in obtaining any individual prohibited transaction exemption under ERISA that may be required in Beneficiary's sole and absolute discretion) that the Trustee or any Indemnitee may incur, directly or indirectly, as a result of a breach of Section 5.20 of the Loan Agreement.

6.4 Duty to Defend: Attorneys' Fees and Other Fees and Expenses. Upon written request by the Trustee or any Indemnitee, Trustor shall defend the Trustee or such Indemnitee (if requested by the Trustee or such Indemnitee, in the name of the Trustee or such Indemnitee) against any claim for which indemnification is required hereunder, by attorneys and other professionals reasonably approved by Beneficiary. Notwithstanding the foregoing, (a) upon the occurrence and during the continuation of an Event of Default, or (b) if the Trustee or such Indemnitee determines that (i) Trustor's attorneys and professionals are not defending any claim or proceeding in a manner acceptable to the Trustee or such Indemnitee, or (ii) the Trustee's or such Indemnitee's interests, in connection with any claims or proceedings, conflict with those of Trustor, the Trustee or such Indemnitee may engage its own respective set of attorneys and other professionals for such claim to defend or assist it, Trustor's attorneys shall consult in all respects with the Trustee's or such Indemnitee's law firm with respect to such claim or proceeding and no compromise or settlement shall be entered without the Trustee's or such Indemnitee's consent. Promptly following receipt of written invoices therefor, but in no event more than five (5) Business Days after such receipt, Trustor shall pay or, in the sole and absolute discretion of the Trustee and the Indemnitees, reimburse the Trustee and the Indemnitees for the payment of, the fees and disbursements of attorneys, engineers, environmental consultants, laboratories, and other professionals retained by the Indemnified pursuant to this Section 6.4.

ARTICLE VII
IMPOSITIONS

7.1 Payment of Impositions. Subject to Section 7.3 of this Deed of Trust, Trustor shall pay, prior to delinquency, all Impositions. However, if, by law, any imposition is payable, or may at the election of the taxpayer be paid in installments, Trustor may pay the same together with any accrued interest on the unpaid balance of such Imposition in installments as the same become due and before any fine, penalty, interest or cost may be added thereto for the nonpayment of any such installment and interest.

7.2 Evidence of Payment. Trustor shall, upon request by Beneficiary, furnish to Beneficiary, within thirty (30) days after the date upon which such Imposition is due and payable by Trustor, official receipts of the appropriate taxing authority, or other proof satisfactory to Beneficiary, evidencing the payments thereof.

7.3 Right to Contest. Trustor shall have the right, before any date set for forfeiture, whether at tax sale, foreclosure on a tax lien or otherwise, to contest or object to the amount or validity of any Imposition by appropriate legal proceedings, but such contest shall not be deemed or construed in any way as relieving, modifying or extending Trustor's covenant to pay any such Imposition at the time and in the manner provided in Section 7.1, unless Trustor has given prior written notice to Beneficiary of Trustor's intent so to contest or object to an Imposition, and unless, at Beneficiary's option: (a) Trustor shall demonstrate to Beneficiary's satisfaction that the legal proceedings shall conclusively operate to prevent the sale of the Property, or any part thereof, to satisfy such Imposition prior to final determination of such proceedings; or (b) Trustor shall furnish good and sufficient undertaking and sureties as may be required or permitted by law to accomplish a stay of such proceedings.

7.4 Tax on Deed of Trust. If at any time after the date hereof there shall be assessed or imposed: (a) a tax or assessment on the Property in lieu of or in addition to the Impositions payable by Trustor; or (b) a license fee, tax or assessment imposed on Beneficiary and measured by or based in whole or in part upon the amount of the outstanding Obligations or upon payments on the Note (whether principal or interest); then all such taxes, assessments, and fees shall be deemed to be included within the term "Impositions" as defined in Article I of this Deed of Trust, and Trustor shall pay and discharge the same as herein provided with respect to the payment of Impositions. Trustor shall have no obligation to pay any franchise, income, excess profits or similar tax levied on Beneficiary or on the Obligations secured hereby.

7.5 Reserves for Taxes and Insurance. In furtherance of Article V and Section 7.1 of this Deed of Trust and anything to the contrary herein notwithstanding, Trustor, upon request by Beneficiary following the occurrence and continuance of an Event of Default, shall pay to Beneficiary, on the date monthly installments of principal and accrued interest are payable under the Note, until the Note is paid in full, an amount equal to one-twelfth of the annual Impositions reasonably estimated by Beneficiary to pay the installment of Impositions next due on the Property; and one-twelfth of the annual aggregate insurance premium on all policies of insurance required in Article V. Upon such request, Trustor shall thereafter cause all bills, statements or

other documents relating to Impositions and insurance premiums to be sent to Beneficiary. Provided Trustor has deposited sufficient funds with Beneficiary pursuant to this Section 7.5, Beneficiary shall pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time and for any reason the funds deposited with Beneficiary pursuant to this Section 7.5 are or will be insufficient to pay such amounts as may then or subsequently be due, then Beneficiary shall notify Trustor and Trustor shall immediately deposit an amount equal to such deficiency with Beneficiary. Nothing contained herein shall cause Beneficiary to be deemed a trustee of such funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this Section 7.5. Beneficiary shall not be obligated to pay any interest on any sums held by Beneficiary pending disbursement or application hereunder, and Beneficiary may impound or reserve for future payment of Impositions and insurance premiums such portion of such payments as Beneficiary, in Beneficiary's absolute discretion, may deem proper. In the event that upon request from Beneficiary pursuant to this Section 7.5 Trustor fails to deposit with Beneficiary sums sufficient to pay fully such Impositions and insurance premiums at least thirty (30) days before delinquency thereof, Beneficiary, at Beneficiary's election, but without any obligation to do so, may advance any amounts required to make up the deficiency, which advances, if any, shall be secured by this Deed of Trust, and shall be repayable to Beneficiary, with interest from the date advanced, at the default rate of interest specified in the Note.

ARTICLE VIII ADDITIONAL COVENANTS

8.1 Payment of Utilities. Trustor shall pay when due all utility charges relating to the Property which may become a lien or charge against the Property or any portion thereof, for gas, electricity, water or sewer services furnished to the Property and all assessments or charges of a similar nature, whether public or private, affecting the Property or any portion thereof, whether or not such assessments or charges are liens thereon.

8.2 Defense of Title. Trustor shall appear in and defend any action or proceeding purporting to affect the security hereof, the Property, or the rights or powers of Beneficiary or Trustee. Should Beneficiary elect in good faith to appear in or defend any such action or proceeding, Trustor shall pay all costs and expenses, including costs of evidence of title and reasonable attorney fees and costs, incurred by Beneficiary or Trustee.

8.3 Performance in Trustor's Stead. Should Trustor fail to make any payment or to do any act as provided in this Deed of Trust, then Beneficiary or Trustee, but without any obligation to do so, without notice to or demand upon Trustor and without releasing Trustor from any obligation hereunder, may: (a) make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof (Beneficiary or Trustee being authorized to enter upon the Property for such purposes); (b) commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; (c) pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either Beneficiary or Trustee appears to be superior to the lien of this Deed of Trust; and (d) in exercising any such powers, incur any liability, expend such reasonable amounts as Beneficiary may deem necessary therefor, including cost of evidence of title, employment of

attorneys, and payment of reasonable attorney fees and costs. All such amounts expended by either or both Trustee or Beneficiary shall, at the election of Beneficiary, be added to the principal indebtedness secured by this Deed of Trust and shall accrue interest in accordance with the terms of the Note.

8.4 Repayment of Advances. Trustor shall immediately repay to Beneficiary all sums, other than Loan proceeds, with interest thereon as provided in the Note, which at any time may be paid or advanced by Beneficiary for the payment of insurance premiums, taxes, assessments, other governmental, municipal, or other charges or impositions, title searches, title reports or abstracts, and any other advances made by Beneficiary which are reasonably necessary to maintain this Deed of Trust as a valid and subsisting lien upon the Property, to preserve and protect Beneficiary's interest in this Deed of Trust, or to preserve, repair or maintain the Property. All such advances shall be wholly optional on the part of Beneficiary, and Trustor's obligation to repay the same, with interest, to Beneficiary shall be secured by the lien of this Deed of Trust.

8.5 No Removal of Fixtures. Trustor shall not, during the existence of this Deed of Trust and without the prior written consent of Beneficiary, remove from the Property any of the Improvements or any of the Personalty belonging to Trustor, except in the ordinary course of Trustor's business and except to the extent replaced by items of comparable quality and value.

8.6 Further Assurance.

a) Recording of Security Instrument, Etc. Trustor forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the other Loan Documents creating a lien or security interest or evidencing a lien and security interest on, in, or to the Property and each instrument of further assurance to be executed, acknowledged, filed, registered, or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien and the security interest on, and the interest of Trustee and Beneficiary in, the Property. Trustor will pay all filing, registration or recording fees, taxes, and all expenses incident to the preparation, execution, acknowledgment, filing, registration, and/or recording of the Note, this Security Instrument, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property, or any instrument of further assurance, and any amendment, supplement, or other modification of any of the foregoing documents, and all federal, state, county, and municipal taxes, duties, imposts, assessments, and charges arising out of or in connection with the execution and delivery of the Note, this Security Instrument, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property, or any instrument of further assurance, and any amendment, supplement, or other modification of any of the foregoing documents.

b) Further Acts, Etc. Trustor will, at the cost of Trustor, and without expense to Trustee or Beneficiary, within ten (10) Business Days after demand by Beneficiary, do, execute, acknowledge, and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers, and assurances as Beneficiary shall, from time to time, require for the better assuring, conveying, assigning, transferring, and confirming unto Trustee and Beneficiary the Property and rights hereby mortgaged, deeded,

granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted, and transferred or intended now or hereafter so to be, or which Trustor may be or may hereafter become bound to convey or assign to Trustee or Beneficiary, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering, or recording this Security Instrument, or for complying with all legal requirements. In the event Trustor shall fail, within ten (10) Business Days of such demand to so execute and deliver any such agreement, instrument, or document, Trustor hereby authorizes Beneficiary to execute, in the name of Trustor or without the signature of Trustor, any such agreement, instrument, or document. Trustor hereby grants to Beneficiary an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Beneficiary at law or in equity, including, without limitation, such rights and remedies available to Beneficiary pursuant to this Section 8.6(b).

c) Changes in Tax, Debt, Credit and Documentary Stamp Laws.

i. If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Beneficiary's interest in the Property, Trustor will pay the tax, with interest and penalties thereon, if any.

ii. Trustor will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the taxes or other charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt.

iii. If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this Security Instrument, or any of the other Loan Documents or shall impose any other tax or charge on the same, Trustor will pay for the same, with interest and penalties thereon, if any.

d) Splitting of Security Instrument. Subject to the terms and conditions contained in the Loan Agreement, this Security Instrument and the Note may, at any time until the same shall be fully paid and satisfied, at the sole election of Beneficiary, be split or divided into two or more notes and two or more mortgages, in such denominations as Beneficiary shall determine in its sole discretion (subject to the following sentence), each of which shall cover all or a portion of the Property to be more particularly described therein. To that end, subject to the terms and conditions contained in the Loan Agreement, including, without limitation, liability for payment of costs associated therewith, Trustor, upon written request of Beneficiary, shall execute, acknowledge and deliver, or cause to be executed, acknowledged, and delivered by the then owner of the Property, to Trustee, Beneficiary, and/or its designee, substitute notes and mortgages in such principal amounts, aggregating not more than the then unpaid principal amount of the Note, and containing the same terms, provisions, and clauses contained herein and in the Note, and such other agreements, instruments, and documents as may be reasonably required by Beneficiary.

e) Replacement Documents. Upon receipt of an affidavit of an officer of Beneficiary as to the loss, theft, destruction, or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of the Note or such other Loan Document, Trustor will issue, in lieu thereof, an identical replacement Note or an identical replacement of such other Loan Document.

8.7 No Further Encumbrances. Except for the Permitted Encumbrances and the lien and encumbrance of this Deed of Trust, Trustor shall not create, permit or suffer to exist, and, at Trustor's expense, will defend the Property and take such other action as is necessary to remove any lien, claim, charge, security interest or encumbrance in or to the Property, or any portion of the Property.

8.8 No Conveyance of Property. Except for the leasing of space in the Improvements on the Property, in the ordinary course of business, Trustor shall not sell, convey or alienate the Property or any portion thereof, or any interest therein to any person or entity, without the prior written consent of Beneficiary. In the event Trustor shall sell, convey or alienate all or any portion of the Property, or any interest therein, in violation of the foregoing, or be divested of title to the Property in any manner, whether voluntarily or involuntarily, then the entire principal indebtedness of the Loan, as evidenced by the Note and the other Loan Documents, and all other Obligations secured by this Deed of Trust, irrespective of the maturity date expressed therein, at the option of Beneficiary, and without prior demand or notice, shall become immediately due and payable.

8.9 Application of Payments. If at any time during the term of this Deed of Trust Beneficiary receives or obtains a payment, installment or sum which is less than the entire amount then due under the Note secured by this Deed of Trust and any of the other Loan Documents, then Beneficiary shall, notwithstanding any instructions which may be given by Trustor, have the right to apply such payment, installment or sum, or any part thereof, to such of the items or Obligations then due from Trustor or to Beneficiary as Beneficiary, in Beneficiary's sole discretion, may determine.

8.10 Hazardous Materials. Trustor shall comply with all applicable federal, state, and local laws, regulations, rules and ordinances governing the handling, storage, generation, transportation and disposal of Hazardous Materials as the same affect or may affect the operation of Trustor's present business on or with respect to the Property. In addition, Trustor shall not without the prior written consent of Beneficiary undertake any new business venture or operation on or affecting the Property which now requires or may hereafter require compliance with any federal, state or local law, regulation, rule or ordinance governing Hazardous Materials. If requested by Beneficiary from time to time during the continuance of this Deed of Trust, then Trustor shall submit to Beneficiary a report, in form satisfactory to Beneficiary, certifying that the Property is not being used in any regulated activities directly or indirectly involving the use, handling, storage, generation, transportation and disposal of Hazardous Materials. Beneficiary reserves the right, in Beneficiary's sole and absolute discretion, to retain, at Trustor's expense, an independent professional consultant to review any report prepared by Trustor and to conduct its own investigation of the Property. Trustor hereby grants to Beneficiary, its agents, employees, consultants and contractors, the right to enter upon the Property and to perform such tests as are reasonably necessary to conduct such a review or investigation.

8.11 Fixture Filing. This Deed of Trust shall be effective as a fixture filing from the date of recordation hereof in accordance with Section 70A-9a-502 of the Utah enactment of the Uniform Commercial Code. In connection therewith, the addresses of Trustor, as debtor ("Debtor"), and of Beneficiary, as secured party ("Secured Party"), are set forth below. The following address of Beneficiary, as the Secured Party, is also the address from which information concerning the security interest may be obtained by any interested party:

- | | | |
|-----|---|--|
| (a) | Name and address of Debtor. | D Wood Hotel, LLC
8762 Preston Trace Blvd.
Frisco, Texas 75033 |
| (b) | Name and address of Secured Pany: | Stabilis Lending, LLC
c/o Stabilis Capital Management, LP
2 Grand Central Tower
140 East 45 th Street, Suite 22-C
New York, New York 10017
Attn: General Counsel |
| (c) | Description of the types (or items) of property covered by this fixture Filing: | See pages 1 through 5 above. |
| (d) | Description of real estate subject to this Fixture Filing, to which the collateral is attached or upon which it is located: | See Exhibit A hereto. |

Some of the above-described collateral is or is to become fixtures upon the above-described real estate, and this Fixture Filing is to be filed for record in the public real estate records. This Deed of Trust secures an obligation secured by real property and any fixtures thereon and shall be governed by the provisions of Section 70A-9a-502 of the Utah enactment of the Uniform Commercial Code.

8.12 Access Laws. Trustor makes the following covenants with Beneficiary with respect to Access Laws:

(a) Trustor and the Property shall at all times strictly comply with the requirements of all Access Laws. At any time, Beneficiary may require a certificate of compliance with the Access Laws and indemnification agreement in a form reasonably acceptable to

Beneficiary. Beneficiary may also require a certificate of compliance from an architect, engineer or other third party acceptable to Beneficiary.

(b) Notwithstanding any provisions set forth herein or in any security instrument, Trustor shall not alter or permit any tenant or other person to alter the Property in any manner which would increase Trustor's responsibilities for compliance with the Access Laws without the prior written approval of Beneficiary. In connection with such approval, Beneficiary may require a certificate of compliance with the Access Laws from an architect, engineer or other party acceptable to Beneficiary.

(c) Trustor shall give prompt written notice to Beneficiary of the receipt by Trustor of any claims of violation of any of the Access Laws and of the commencement of any proceedings or investigations which relate to compliance with the Access Laws.

(d) Trustor shall indemnify and hold harmless Beneficiary from and against any and all claims, demands, damages, costs, expenses, losses, liabilities, penalties, fines and other proceedings, including, without limitation, reasonable attorney fees and expenses arising directly or indirectly from or out of or in any way connected with any failure of the Property to comply with the Access Laws. The obligations and liabilities of Trustor under this subsection shall survive any termination, satisfaction, assignment, judicial or non-judicial foreclosure proceeding, or delivery of a deed in lieu of foreclosure with respect to this Deed of Trust, any security instrument or the Property.

8.13 Financial Reporting. Immediately notify Beneficiary of any Material Adverse Change in the financial condition of Trustor. Trustor shall deliver to the Beneficiary the following:

(a) annually, as soon as available but no later than 90 days after the close of each fiscal year, a current rent roll for the Property;

(b) annually, within 30 days of filing but in any event no later than October 15th, copies of Trustor's and each Guarantor's federal and state income tax returns prepared by a Certified Public Accountant acceptable to the Beneficiary, together with any schedules filed therewith;

(c) annually or more often if requested by the Beneficiary, a signed, dated and totally completed personal financial information form provided by the Beneficiary and executed by each individual Guarantor; and

(d) such other information about Trustor, its Affiliates or any Guarantor as Beneficiary reasonably requests.

8.14 Leasing, Covenants. As to all leases and rentals, comply with each of the following:

(a) accept no payments more than 30 days in advance of the due date under any leases relating to the Property; and

- (b) permit no use of the Property that would violate any provision of this Deed of Trust, including all provisions relating to environmental matters; and
- (c) abide by and perform all duties of the landlord under any leases affecting the Property.

8.15 Beneficiary Reliance. Trustor acknowledges that Beneficiary has examined and relied on the experience of Trustor in agreeing to make the Loan and will continue to rely on Trustor's ownership of the Property as a means of maintaining the value of the Property as security for the payment and performance of the Obligations, including, without limitation, the repayment of the Debt. Trustor acknowledges Beneficiary has a valid interest in maintaining the value of the Property so as to ensure that, after the occurrence and during the continuance of an Event of Default, Lender can recover the Debt by a sale of the Property.

8.16 No Transfer. Trustor shall not permit or suffer any Transfer of the Property to occur, except in accordance with the express terms of the Loan Agreement.

ARTICLE IX CONDEMNATION AWARDS

Trustor shall promptly give notice to Beneficiary of any condemnation proceeding or any taking for public improvements. If the Property or any portion thereof should be taken or damaged by reason of any public improvement or condemnation proceeding, then Beneficiary shall be entitled: (1) to receive all compensation, awards and other payments or relief for such taking or condemnation; (2) at Beneficiary's option and in Beneficiary's own name, to commence, appear in and prosecute in Beneficiary's own name any action or proceeding relating to such taking or condemnation; and (3) to make any compromise or settlement in connection with any such taking or condemnation. All such compensation, awards, damages, causes of action, proceeds or other payments shall be deemed part of the security for the Obligations and are hereby assigned to Beneficiary. Beneficiary, after deducting therefrom all costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit or before or after judgment), including reasonable attorney fees incurred by Beneficiary in connection with such compensation, shall apply any and all moneys so received by Beneficiary to restore or repair damage to the remaining Property, provided that any proceeds not so applied may be applied by Beneficiary, at Beneficiary's option, to reduce the indebtedness secured by this Deed of Trust (whether or not then due). The application or release by Beneficiary of any condemnation awards or other compensation shall not cure or waive any default or notice of default under this Deed of Trust or invalidate any act done pursuant to such notice. Subject to the foregoing, Trustor shall execute and deliver to Beneficiary such further assignments of such compensation, awards, damages, causes of action, proceeds or other payments as Beneficiary may from time to time require.

ARTICLE X INTENTIONALLY OMITTED

ARTICLE XI RIGHT AND REMEDIES UPON DEFAULT

11.1 Remedies. Upon the occurrence and during the continuance of an Event of Default, Trustor agrees that Trustee and Beneficiary may, at Beneficiary's option, take such lawful action, without notice or demand, as Beneficiary deems advisable to protect and enforce its rights against Trustor and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Beneficiary may determine, in its sole and absolute discretion, without impairing or otherwise affecting the other rights and remedies of Trustee or Beneficiary:

- a) declare the entire unpaid Debt to be immediately due and payable;
- b) institute proceedings for the complete foreclosure of this Security Instrument under any applicable provision of law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner. To the extent permitted by law, Beneficiary shall be entitled to possession of the Project during any redemption period allowed under the laws of the State of Utah;
- c) with or without entry, to the extent permitted and pursuant to the procedures provided by Applicable Laws, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Obligations not then due and payable, unimpaired and without loss of priority;
- d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title, and interest of Trustor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof, as Beneficiary may determine in its sole discretion or as may be required or permitted by Applicable Laws; and, without limiting the foregoing:

(i) In connection with any sale or sales hereunder, Beneficiary shall be entitled to elect to treat any of the Property which consists of (x) a right in action, or (y) Property that can be severed from the Real Property covered hereby, or (z) any Improvements or Fixtures (without causing structural damage thereto), as if the same were Personal Property, and dispose of the same in accordance with Applicable Laws, separate and apart from the sale of the Real Property. Where the Property consists of Real Property, Personal Property, Equipment, or Fixtures, whether or not such Personal Property or Equipment is located on or within the Real Property, Beneficiary shall be entitled to elect to exercise its rights and remedies against any or all of the Real Property, the Personal Property, the Equipment, and the Fixtures in such order and manner as Beneficiary may determine in its sole discretion or as may be required or permitted by Applicable Laws;

(ii) Beneficiary shall be entitled to elect to proceed against any or all of the Real Property, the Personal Property, the Equipment, and the Fixtures in any manner as Beneficiary may determine in its sole discretion or as may be required or permitted by Applicable Laws; and if Beneficiary so elects pursuant to Applicable Laws, the power of sale herein granted shall be exercisable with respect to all or any of the Real Property, the Personal Property, the Equipment, and the Fixtures covered hereby, as designated by Beneficiary, and Trustee and Beneficiary is hereby authorized and empowered to conduct any such sale of any Real Property, any Personal

Property, any Equipment, and any Fixtures in accordance with the procedures applicable to Real Property;

(iii) Should Beneficiary elect to sell any portion of the Property which is Real Property or which is Personal Property, Equipment, or Fixtures that Beneficiary has elected under Applicable Laws to sell together with Real Property in accordance with the laws governing a sale of the Real Property, Beneficiary shall give such notice of the occurrence of an Event of Default, if any, and its election to sell such Property, each in the time period required by Applicable Laws. Thereafter, upon the expiration of such time and the giving of such notice of sale, subject to the terms hereof and of the other Loan Documents, and without the necessity of any demand on Trustor, Trustee and Beneficiary, at the time and place specified in the notice of sale, shall sell such Property or part thereof at public auction to the highest bidder for cash in lawful money of the United States. Trustee and Beneficiary may from time to time postpone any sale hereunder by public announcement thereof at the time and place noticed for any such sale; and

(iv) If the Property consists of several lots, parcels, or items of property, Trustee and Beneficiary shall, subject to Applicable Laws, (A) designate the order in which such lots, parcels, or items shall be offered for sale or sold, or (B) elect to sell such lots, parcels, or items through a single sale, or through two or more successive sales, or in any other manner Beneficiary designates in Beneficiary's sole discretion. Beneficiary may purchase at any sale hereunder by credit bid or otherwise. Should Beneficiary desire that more than one sale or other disposition of the Property be conducted, Trustee and Beneficiary shall, subject to Applicable Laws, cause such sales or dispositions to be conducted simultaneously, or successively, on the same day, or at such different days or times and in such order as Beneficiary may designate, and no such sale shall terminate or otherwise affect the lien and security interest of this Security Instrument on any part of the Property not sold until all the Obligations have been satisfied in full. In the event Beneficiary elects to dispose of the Property through more than one sale, except as otherwise provided by Applicable Laws, Trustor agrees to pay the costs and expenses of each such sale and of any judicial proceedings wherein such sale may be made;

e) institute an action, suit, or proceeding in equity for the specific performance of any covenant, condition, or agreement contained herein, in the Note, in the Loan Agreement, or in the other Loan Documents;

f) recover judgment on the Note either before, during, or after any proceedings for the enforcement of this Security Instrument or the other Loan Documents;

g) apply for the appointment of a receiver, trustee, liquidator, or conservator of the Property, without notice and without regard for the adequacy of the security and collateral for the Debt and without regard for the solvency of Trustor, any guarantor, or indemnitor with respect to the Loan or any Person otherwise liable for the payment of the Debt or any part thereof; and TRUSTOR HEREBY IRREVOCABLY CONSENTS TO AND WAIVES ANY RIGHT TO OBJECT TO OR OTHERWISE CONTEST THE APPOINTMENT OF A RECEIVER, TRUSTEE, LIQUIDATOR, OR CONSERVATOR OF THE PROPERTY AFTER THE OCCURRENCE AND DURING THE CONTINUANCE OF AN EVENT OF DEFAULT; AND TRUSTOR GRANTS SUCH WAIVER AND CONSENT KNOWINGLY AFTER HAVING DISCUSSED THE IMPLICATIONS THEREOF WITH COUNSEL, ACKNOWLEDGES

THAT THE UNCONTESTED RIGHT TO HAVE A RECEIVER, TRUSTEE, LIQUIDATOR, OR CONSERVATOR APPOINTED FOR THE PROPERTY IS CONSIDERED ESSENTIAL BY BENEFICIARY IN CONNECTION WITH THE ENFORCEMENT OF ITS RIGHTS AND REMEDIES HEREUNDER AND UNDER THE LOAN DOCUMENTS, AND THE AVAILABILITY OF SUCH APPOINTMENT AS A REMEDY WAS A MATERIAL FACTOR IN INDUCING BENEFICIARY TO ACCEPT THIS SECURITY INSTRUMENT, AND TRUSTOR AGREES TO ENTER INTO ANY AND ALL STIPULATIONS IN ANY LEGAL ACTIONS, OR AGREEMENTS OR OTHER INSTRUMENTS IN CONNECTION WITH THE FOREGOING AND TO COOPERATE FULLY WITH BENEFICIARY IN CONNECTION WITH THE ASSUMPTION AND EXERCISE OF CONTROL BY THE RECEIVER, TRUSTEE, LIQUIDATOR, OR CONSERVATOR OVER ALL OR ANY PORTION OF THE PROPERTY;

h) revoke the license granted to Trustor under Granting Clause Paragraph 2 hereof, enter into or upon the Property, either personally or by its representatives, nominees, or attorneys, and dispossess Trustor and its representatives and servants therefrom, without liability for trespass, damages, or otherwise and exclude Trustor and its representatives or servants wholly therefrom, and take possession of all books, records, and accounts relating thereto, and Trustor agrees to surrender possession of the Property and of such books, records, and accounts to Beneficiary upon demand, and thereupon Beneficiary may (i) use, operate, manage, control, insure, maintain, repair, restore, and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Beneficiary deems advisable; (iii) make alterations, additions, renewals, replacements, and improvements to or on the Property; (iv) exercise all rights and powers of Trustor with respect to the Property, whether in the name of Trustor or otherwise, including, without limitation, the right to make, cancel, enforce, or modify Leases, obtain and evict tenants, and demand, sue for, collect, and receive all Rents of the Property and every part thereof; (v) require Trustor to pay monthly in advance to Beneficiary, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Trustor; (vi) require Trustor to vacate and surrender possession of the Property to Beneficiary or to such receiver and, in default thereof, Trustor may be evicted by summary proceedings or otherwise; (vii) enter into contracts for the sale of units and consummate the sale of any units substantially in accordance with the contracts for the sale thereof; and (viii) apply the receipts from the Property to the payment and performance of the Obligations (including, without limitation, the payment of the Debt), in such order, priority, and proportions as Beneficiary shall deem appropriate in its sole and absolute discretion after deducting therefrom all expenses (including, without limitation, reasonable attorneys' fees and costs) incurred in connection with the aforesaid operations and all amounts necessary to pay the taxes, other charges, insurance premiums, and other expenses in connection with the Property, as well as reasonable compensation for the services of Trustee, its counsel, Beneficiary, its counsel, and Trustee and Beneficiary's employees;

i) exercise any and all rights and remedies granted to a secured party upon default under the Utah enactment of the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Fixtures, the Equipment, and/or the Personal Property, or any part thereof, and to take such other measures as Beneficiary may deem necessary for the care, protection and preservation of the Fixtures, the Equipment, and the

Personal Property, and (ii) request that Trustor, at its sole cost and expense, assemble the Fixtures, the Equipment, and/or the Personal Property and make it available to Beneficiary at a convenient place acceptable to Beneficiary (which place shall be the Land to the extent same is already located there). Any notice of sale, disposition, or other intended action by Beneficiary with respect to the Fixtures, the Equipment, and/or the Personal Property sent to Trustor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Trustor;

j) apply any sums then deposited or held in the Operating Accounts, or in escrow or otherwise by or on behalf of Beneficiary in accordance with the terms of the Loan Agreement, this Security Instrument, or any other Loan Document to the payment of the following items in any order, priority and proportions as Beneficiary shall deem to be appropriate in its sole and absolute discretion:

- i. Taxes and other charges;
- ii. Insurance premiums;
- iii. Interest on the unpaid principal balance of the Note;
- iv. Amortization of the unpaid principal balance of the Note; and/or
- v. All other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument, or the other Loan Documents, and advances made by Beneficiary pursuant to the terms of this Security Instrument;

k) pursue such other rights and remedies as Beneficiary may have under Applicable Laws; and/or

l) apply the undisbursed balance of any deposit with Beneficiary, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Beneficiary shall deem to be appropriate in its sole and absolute discretion.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

11.2 Application of Proceeds. The purchase money proceeds and avails of any disposition of the Property or any part thereof by Beneficiary, or any other sums collected by Beneficiary pursuant to its rights and remedies under this Security Instrument, may be applied by Beneficiary to the payment of the Obligations in such order, priority and proportions as Beneficiary shall deem to be appropriate in its sole and absolute discretion.

11.3 Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default, Beneficiary may, but without any obligation to do so and without notice to or demand on Trustor, and without releasing Trustor from any Obligation, perform such obligations in such manner and to such extent as Beneficiary may deem necessary or appropriate to protect and preserve the Property or the security hereof. Beneficiary is authorized to enter upon the

Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or to collect the Debt, and the cost and expense thereof (including, without limitation, reasonable attorneys' fees and expenses), with interest as provided in this Section 11.3, shall constitute a portion of the Debt and shall be due and payable to Beneficiary within five (5) Business Days of Trustor's receipt of written demand therefor. All such costs and expenses actually incurred by Beneficiary in remedying any Event of Default, or in appearing in, defending, or bringing any such action or proceeding, as hereinabove provided, if not repaid in full by the fifth (5th) Business Day after demand by Beneficiary for payment thereof, shall bear interest at the Default Rate until repaid in full. All such costs and expenses, together with interest thereon calculated at the Default Rate, shall be deemed to constitute a portion of the Debt and to be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Beneficiary therefor.

11.4 Actions and Proceedings. Trustee and Beneficiary shall have the right to appear in and defend any action or proceeding brought with respect to the Property and, if Trustor should fail to do so after prior written notice from Beneficiary and the expiration of fifteen (15) Business Days (or such lesser time as may be required to preserve Trustee's or Beneficiary's rights), to bring any action or proceeding to protect their interests in the Property, in the name and on behalf of Trustor, which Beneficiary, in its sole and absolute discretion, decides should be brought to protect their interests in the Property.

11.5 Recovery of Sums Required to be Paid. Beneficiary shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Trustee or Beneficiary thereafter to bring an action of foreclosure, or any other action, for any Event of Default by Trustor existing at the time such earlier action was commenced.

11.6 Examination of Books and Records. At reasonable times and upon reasonable prior written notice, Beneficiary, and its representatives, accountants, and attorneys, shall have the right to examine and audit the records, books, and other papers of Trustor which reflect upon its financial condition or pertain to the income, expenses, and operation of the Property, either at the Property or at any office regularly maintained by Trustor where such books, records, and other papers are located. Beneficiary shall have the right to make copies and extracts from the foregoing books, records, and other papers and to share such information with an assignee (or proposed assignee), participant (or proposed participant), underwriter, investor (or proposed investor), lender (or proposed lender), accountants, and/or attorneys, employees, or representatives of any of the foregoing, and anyone else permitted to receive such information under the Loan Agreement.

11.7 Other Rights, Etc.

11.7.1 The failure of Trustee or Beneficiary to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Trustor shall not be relieved of Trustor's Obligations by reason of (i) the failure of Beneficiary to comply with any request of Trustor or any guarantor or indemnitor with respect to the Loan to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole

or any part of the Property, or of any Person liable for the Obligations or any portion thereof, or (iii) any agreement or stipulation by Beneficiary extending the time of payment of the Debt or otherwise modifying or supplementing the terms of the Note, this Security Instrument, or the other Loan Documents.

11.7.2 It is agreed that the risk of loss or damage to the Property is on Trustor, and Trustee and Beneficiary shall have no liability whatsoever for any decline in value of the Property, for failure to maintain insurance policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Trustee or Beneficiary shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property not in Trustee's or Beneficiary's possession.

11.7.3 Beneficiary may resort for the payment and performance of the Obligations (including, but not limited to, the payment of the Debt) to any other security or collateral held by Beneficiary in connection with the Loan in such order and manner as Beneficiary, in its sole and absolute discretion, may elect. Beneficiary may take action to recover the Debt, or any portion thereof, or to enforce the Other Obligations or any covenant hereof, without prejudice to the right of Trustee or Beneficiary thereafter to foreclose this Security Instrument. The rights of Trustee and Beneficiary under this Security Instrument shall be separate, distinct, and cumulative, and none shall be given effect to the exclusion of the others. No act of Trustee or Beneficiary shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Trustee and Beneficiary shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

11.8 Right to Release Any Portion of the Property. Beneficiary may release any portion of the Property for such consideration as Beneficiary may require without, as to the remainder of the Property, in any way impairing or affecting the lien, security interest, or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the Debt shall have been reduced by the actual monetary consideration, if any, received by Beneficiary for such release, and Beneficiary may accept by assignment, pledge, or otherwise any other property or assets in place thereof as Beneficiary may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

11.9 Division of Property. Upon the occurrence and continuance of an Event of Default and if there are Hazardous Materials then present on the Property, Beneficiary, at Beneficiary's election and without any obligation to do so, may divide the Property into any number of parcels to facilitate the sale of the Property at a foreclosure sale. In connection therewith, Beneficiary may: (a) enter upon the Property and conduct or cause to be conducted inspections and surveys of the Property; (b) divide the Property in such manner as to segregate any Hazardous Materials into one or more distinct parcels; and (c) elect to sell at foreclosure sale only those portions of the Property that are not contaminated by or do not contain Hazardous Materials. Trustor hereby consents to such division and sale of the Property.

11.10 Violation of Laws. If the Property is not in compliance with any legal requirements in any manner reasonably likely to have a Material Adverse Effect, Beneficiary may impose

additional requirements upon Trustor in connection herewith reasonably necessary to address any such noncompliance, including, without limitation, monetary reserves or financial equivalents.

11.11 Recourse and Choice of Remedies. The provisions of Article 9 of the Loan Agreement are hereby incorporated by reference as if set forth at length herein. Notwithstanding any other provision of this Security Instrument, the Loan Agreement, or the other Loan Documents, including, without limitation, Article 9 of the Loan Agreement, Beneficiary is entitled to enforce the Obligations of (a) Grantor contained in the Loan Documents and (b) to the extent that the Obligation is one which is the responsibility of a guarantor or indemnitor pursuant to any guaranty or indemnity signed by such guarantor or indemnitor, any guarantor or indemnitor with respect to such instrument, in each case, without first resorting to or exhausting any security or collateral and without first having recourse to the Note or any of the Property, through foreclosure, acceptance of a deed in lieu of foreclosure or otherwise, and in the event Trustee and/or Beneficiary commence a foreclosure action against the Property, Trustee and/or Beneficiary shall be entitled to pursue a deficiency judgment against (a) Grantor with respect to the Debt and (b) any guarantor or indemnitor with respect to their respective Obligations under the Loan Documents (if any), in each case, as applicable and any guarantor hereby waives (a) all rights and defenses arising from Lender's election of remedies, even though that election, such as non-judicial foreclosure with respect to Collateral or other security for the Indebtedness, has destroyed Guarantor's rights of subrogation and reimbursement against Borrower; and (b) all rights and defenses that the guarantor may have because the debtor's debt is secured by real property. Guarantor acknowledges that the waivers provided herein are made with Guarantor's full knowledge of the significance and consequence of such waivers, and that Lender is relying on such waivers.. The liability of Grantor with respect to the Obligations is not limited to the original principal amount of the Note to the extent additional funds are advanced under the Loan Documents. Notwithstanding the foregoing, nothing herein shall inhibit or prevent Trustee and/or Beneficiary from foreclosing or exercising any other rights and remedies pursuant to the Loan Agreement, the Note, this Security Instrument, and/or the other Loan Documents, whether simultaneously with foreclosure proceedings or in any other sequence. A separate action or actions may be brought and prosecuted against Grantor with respect to the Obligations, whether or not an action is brought against any other Person and whether or not any other Person is joined in such action or actions. In addition, Beneficiary shall have the right but not the obligation to join and participate in, as a party if it so elects, any administrative or judicial proceedings or actions initiated in connection with any matter addressed in the Environmental Indemnity.

11.12 Right of Entry. Beneficiary and its representatives shall have the right to enter and inspect the Property at all reasonable times upon reasonable prior notice to Trustor.

11.13 Rights of Trustee. Trustee shall be entitled to rely on the instructions given by Beneficiary to Trustee relating to the exercise of the private power of sale authorized by this Deed of Trust. Trustor hereby acknowledges and agrees that Trustee shall act at the direction of Beneficiary and that Trustee is entitled to rely on directions from Beneficiary as to whether to commence non-judicial foreclosure of the Property, when to record a Notice of Default, whether and when to issue a Notice of Trustee's Sale, whether to postpone, conduct, cancel or re-notice any Trustee's Sale, and how much to bid on behalf of Beneficiary at any Trustee's Sale. Trustee shall have no authority, acting alone and without direction from Beneficiary, to commence, postpone, cancel, conduct or re-notice a Trustee's Sale, and may rely on information received from

Beneficiary without independent investigation or confirmation of the facts as represented by Beneficiary. Trustor hereby waives any liability, damage, claim or cause of action Trustor might have or assert against Trustee resulting from or arising out of Trustee's good faith reliance on the directions Trustee receives from Beneficiary.

ARTICLE XII
MISCELLANEOUS PROVISIONS

12.1 Notices. Except as otherwise provided in this Deed of Trust or in any other Loan Document, whenever Beneficiary or Trustor desire to give or serve any notice, demand, request or other communication with respect to this Deed of Trust or any other Loan Document, each such notice shall be in writing and shall be effective only if the notice is delivered by personal service, by nationally recognized overnight courier, by facsimile, or by mail, postage prepaid, addressed as follows:

If to Trustor, to:	D Wood Hotel, LLC 8762 Preston Trace Blvd. Frisco, Texas 75033
If to Beneficiary, to:	Stabilis Lending, LLC c/o Stabilis Capital Management, LP 2 Grand Central Tower 140 East 45 th Street, Suite 22-C New York, New York 10017 Attn: General Counsel
If to Trustee, to:	Metro National Title, Inc. 345 East 300 South Salt Lake City, Utah 84111

Any notice delivered personally or by courier shall be deemed to have been given when delivered. Any notice sent by facsimile shall be presumed to have been received on the date transmitted. Any notice sent by mail shall be presumed to have been received five (5) business days after deposit in the United States mail, with postage prepaid and properly addressed. Any party may change its address by giving notice to the other party of its new address in the manner provided above.

12.2 Severability. If any provision of this Deed of Trust shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions contained in this Deed of Trust or render the same invalid, inoperative or unenforceable to any extent whatsoever.

12.3 Amendments, Changes and Modifications. This Deed of Trust may not be amended, changed, modified, altered or terminated without the prior written consent of both Beneficiary and Trustor.

12.4 Governing Law; Jurisdiction; Service of Process.

(a) This Security Instrument was negotiated in New York, and accepted by Trustor and Beneficiary in the State of New York, which State the parties agree has a substantial relationship to the parties and to the underlying transaction embodied hereby, and in all respects, including, without limiting the generality of the foregoing, matters of construction, validity, and performance, this Security Instrument and the obligations arising hereunder shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts made and performed in such State and any applicable law of the United States of America, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of New York; provided, however, that the provisions of this Security Instrument related to the creation, perfection, and enforcement of the lien and the security interest created pursuant to this Security Instrument (including, without limitation, the exercise of any provisional remedies and the power of foreclosure or power of sale procedures) shall be governed and construed according to the laws of the State in which the Land is located, it being understood that, to the fullest extent permitted by the law of such State, the law of the State of New York shall govern the construction, validity, and enforceability of all Loan Documents and all of the Obligations arising hereunder and thereunder. To the fullest extent permitted by law, Trustor hereby unconditionally and irrevocably waives any claim to assert that the law of any other jurisdiction governs this Security Instrument, and this Security Instrument shall be governed by and construed in accordance with the laws of the State of New York pursuant to § 5-1401 of the New York General Obligations Law.

(b) Trustor hereby agrees that all actions or proceedings arising directly or indirectly from this Security Instrument or the other Loan Documents if initiated by Trustor, shall be, at Beneficiary's sole election, either (i) litigated in the appropriate State or Federal Court in New York, pursuant to § 5-1402 of the New York General Obligations Law, or (ii) be heard in the Commercial Division, New York State Supreme Court, as described in (b) below, or if initiated by Beneficiary shall be, at Beneficiary's sole election, litigated in any of the foregoing courts, any other court which has jurisdiction, or in the Commercial Division, New York State Supreme Court, as described in (b) below. Trustor hereby expressly and irrevocably submits and consents in advance to jurisdiction in any action or proceeding commenced by Beneficiary in any of such courts. Trustor irrevocably waives any claim that New York County, New York, or the Federal District Court for the Southern District of New York, is an inconvenient forum or an improper forum based on lack of venue should Beneficiary initiate litigation in such forum. Trustor hereby agrees that service of process upon Trustor mailed or delivered to Trustor in the manner provided herein for notices shall be deemed in every respect effective service of process upon Trustor in any suit, action, or proceeding. Should Trustor, after being so served, fail to appear or answer to any summons, complaint, process, or papers so served within the number of days prescribed by law after the delivery thereof, Trustor shall be deemed in default and an order and/or judgment may be entered by the court against Trustor as demanded or prayed for in such summons, complaint, process, or papers. The exclusive choice of forum for Trustor set forth in this section shall not be deemed to preclude the enforcement by Beneficiary of any order or judgment in any other appropriate jurisdiction, and Trustor hereby waives the right, if any, to collaterally attack any such order or judgment.

(c) Should Beneficiary so elect, and subject to the requirements for a case to be heard in the

Commercial Division, Trustor hereby agrees to submit to the exclusive jurisdiction of the Commercial Division, New York State Supreme Court, and to the application of the Court's accelerated procedures, in connection with any dispute, claim or controversy arising out of or relating to this Security Instrument or the other Loan Documents, or the breach, termination, enforcement or validity thereof. For reference only, see Rule 9 of the Rules for Practice for the Commercial Division (22 NYCRR § 202.70).

(b) TRUSTOR DOES HEREBY DESIGNATE AND APPOINT:

Cogency Global Inc.
122 East 42nd Street, 18th Floor
New York, New York 10168

AS ITS AUTHORIZED AGENT TO ACCEPT AND ACKNOWLEDGE ON ITS BEHALF SERVICE OF ANY AND ALL PROCESS WHICH MAY BE SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY FEDERAL OR STATE COURT IN NEW YORK, NEW YORK, AND AGREES THAT SERVICE OF PROCESS UPON SAID AGENT AT SAID ADDRESS AND WRITTEN NOTICE OF SAID SERVICE MAILED OR DELIVERED TO TRUSTOR IN THE MANNER PROVIDED HEREIN SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON TRUSTOR IN ANY SUCH SUIT, ACTION OR PROCEEDING IN THE STATE OF NEW YORK. TRUSTOR (I) SHALL GIVE PROMPT NOTICE TO BENEFICIARY OF ANY CHANGED ADDRESS OF ITS RESPECTIVE AUTHORIZED AGENT HEREUNDER, AND (II) MAY AT ANY TIME AND FROM TIME TO TIME DESIGNATE A SUBSTITUTE AUTHORIZED AGENT (WHICH SUBSTITUTE AGENT AND OFFICE SHALL BE DESIGNATED AS THE PERSON AND ADDRESS FOR SERVICE OF PROCESS).

12.5 Interpretation. Whenever the context shall require, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The article and section headings contained in this Deed of Trust are for purposes of reference only and shall not limit, expand or otherwise affect the construction of any provisions hereof.

12.6 Binding Effect. This Deed of Trust shall be binding upon shall inure to the benefit of the respective successors and assigns of Beneficiary and Trustor.

12.7 Waivers.

(a) Marshaling and Other Matters. To the extent permitted by Applicable Laws, Trustor hereby waives the benefit of all appraisal, valuation, stay, extension, reinstatement, and redemption laws, now or hereafter in force and all rights of marshaling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, to the extent permitted by Applicable Laws, Trustor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Trustor, and on behalf of each and every Person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument.

(b) Waiver of Notice. To the extent permitted by Applicable Laws, Trustor shall not be entitled to any notices of any nature whatsoever from Beneficiary, except with respect to matters for which this Security Instrument or the Loan Documents specifically and expressly provide for the giving of notice by Beneficiary to Trustor, and except with respect to matters for which Beneficiary is required by Applicable Laws to give notice, and Trustor hereby expressly waives the right to receive any notice from Beneficiary with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Beneficiary to Trustor.

(c) Waiver of Statute of Limitations. To the extent permitted by Applicable Laws, Trustor hereby expressly waives and releases its right to plead any statute of limitations as a defense to the payment and performance of the Obligations (including, without limitation, the payment of the Debt).

(d) Notwithstanding the express selection of New York law set forth in Section 12.4 above, to the extent a court or other adjudicating body of competent jurisdiction deems California law applicable to any Guarantor as it may apply, Guarantor hereby waives:

- i. Guarantor's rights of subrogation, reimbursement, indemnification, and contribution and any other rights and defenses that are or may become available to Guarantor by reason of California law;
- ii. all rights and defenses arising out of an election of remedies by Lender, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, has destroyed Guarantor's rights of subrogation and reimbursement against Borrower by the operation of California law or otherwise; and
- iii. any rights or defenses Guarantor may have because Borrower's note, debt or other obligation is secured by real property or an estate for years – these rights or defenses include, but are not limited to, any rights or defenses that are based upon, directly or indirectly, the application of California law to Borrower's note, debt or other obligation.

This means, among other things: (1) Lender may collect from Guarantor without first foreclosing on any real or personal property collateral pledged by Borrower and (2) if Lender forecloses on any real property collateral pledged by Borrower: (A) the amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (B) Lender may collect from Guarantor even if Lender, by foreclosing on the real property collateral, has destroyed any right Guarantor may have to collect from Borrower. This is an unconditional and irrevocable waiver of any rights and defenses Guarantor may have because Borrower's debt is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon California law.

12.8 Access. Beneficiary, or Beneficiary's authorized agents and representatives, is hereby authorized and shall have the right, at all reasonable times during the existence of this Deed of Trust and without prior written notice to Trustor, to enter upon the Property or any portion of the Property for the purpose of inspecting the Property or for the purpose of performing any of the acts that Beneficiary is authorized under this Deed of Trust to perform.

12.9 No Partnership. Nothing contained in this Deed of Trust or in any Loan Document shall be construed as creating a joint venture or partnership between Trustor, Trustee and Beneficiary. There shall be no sharing of losses, costs and expenses between Trustor, Trustee and Beneficiary, and neither Beneficiary nor Trustee shall have any right of control or supervision, except as Beneficiary and Trustee may exercise their rights and remedies provided hereunder and in the Loan Documents. In addition, Trustor bears the risk of diminution in value of the Property and the Improvements due to changes in market conditions. Neither Trustee nor Beneficiary shall be liable to Trustor for any loss or potential loss to Trustor that results from Trustor's or Beneficiary's exercise of their remedies under the terms of the Loan Documents, including, but not limited to, claims based on delays in commencing or completing the foreclosure of the Property, claims that the commencement of foreclosure proceedings have adversely affected the marketability of the Property, or otherwise.

12.10 Successor Trustee. Beneficiary may appoint a successor trustee at any time by filing for record in the office of the County Recorder of each county in the State of Utah in which the Property or some part thereof is situated a substitution of Trustee. From the time the substitution is filed of record, the new Trustee shall succeed to all the powers, duties, authority and title of the Trustee named herein or of any successor trustee. Each such substitution shall be executed and acknowledged and notice thereof shall be given and proof thereof made in the manner provided by law of the State of Utah.

12.11 Acceptance of Trust. Trustee accepts this Trust when this Deed of Trust, 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 any action or proceeding in which Trustor, Beneficiary, or Trustee shall be party, unless brought by Trustee.

12.12 Resignation of Trustee. Trustee may resign as Trustee under this Deed of Trust by recording a resignation or trustee in the office of the county recorder of each county in which any part of the Property is located. A resignation of trustee shall not invalidate the lien and encumbrance of this Deed of Trust against the Property, or cause any negative legal consequence to the resigning Trustee.

12.13 Request for Notice of Default. Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at the address set forth in Section 12.1 of this Deed of Trust.

12.14 Counterparts. This Deed of Trust may be executed in any number of counterparts, each of which when so executed and delivered, shall be deemed an original, but all such counterparts taken together shall constitute only one instrument.

12.15 No Jury Trial. **TRUSTOR, TRUSTEE AND BENEFICIARY BY ITS ACCEPTANCE HEREOF, HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FOREVER WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, ANY RIGHT TO TRIAL BY JURY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER**

EXIST, WITH REGARD TO THE LOAN AGREEMENT, THE NOTE, THIS SECURITY INSTRUMENT, OR THE OTHER LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM, OR OTHER ACTION ARISING IN CONNECTION HERewith OR THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY TRUSTOR, TRUSTEE, AND BENEFICIARY AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. TRUSTEE AND BENEFICIARY IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY TRUSTOR.

12.16 No Waivers. Beneficiary shall not be deemed to have waived any of its rights or remedies under this Deed of Trust or any other Loan Document by:

- (a) forbearing or failing to exercise, or delaying in exercising, any rights and remedies; or
- (b) forbearing or failing to insist upon, or delaying in insisting upon, the strict performance of any term or condition of this Deed of Trust or any other Loan Document;
- (c) granting any extension, modification or waiver of any term or condition of this Deed of Trust or any other Loan Document, except to the extent expressly provided in any written extension, modification, or waiver; or
- (d) any other act, omission, forbearance or delay by Beneficiary, its officers, agents, servants or employees; or
- (e) any waiver of any rights or remedies on any one occasion.

12.17 Collection Duties. Beneficiary shall be under no duty or obligation to:

- (a) preserve, protect or marshal any Property or other collateral for any Obligations; or
- (b) preserve or protect any rights in any Property or other Collateral against any person claiming an interest adverse to that of any Trustor or other Obligor; or
- (c) realize upon any Property or other collateral in any particular order or manner or seek repayment of any Obligations from any particular source.

12.18 Waiver of Defense. Trustor hereby waives any defense based on the failure to name any tenant or occupant of the Property as a defendant in any foreclosure action or other litigation with respect to this Deed of Trust.

12.19 Written Changes Only. No change, extension, modification, amendment or waiver of any term or condition of this Deed of Trust or any other Loan Document shall be valid or binding

upon Beneficiary, unless it is in writing and has been executed by duly authorized officer of Beneficiary.

12.20 Correction of Documents. If any Loan Document contains an error or incorrect terms or was improperly prepared or executed, or if a document intended to constitute part of the Loan Documents was inadvertently omitted, then in each such case Trustor agrees to execute property documents promptly.

12.21 Subrogation of Beneficiary. Beneficiary shall be subrogated to the lien of any previous encumbrance of the Property discharged with funds advanced by Beneficiary under the Loan Documents, regardless of whether such previous encumbrance has been released of record.

12.22 Recourse. This debt shall be fully recourse to Trustor.

[END OF TEXT OF DEED OF TRUST - THE SIGNATURE PAGE FOLLOWS]

DATED effective as of the date first above written.

TRUSTOR:

D WOOD HOTEL, LLC,
a Utah limited liability company

By: 
Name: Jagmohan Dhillon
Its: Manager

ACKNOWLEDGMENT

STATE OF TEXAS)
) ss.
COUNTY OF COLLIN)

On the 30 day of May in the year 2023 before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, personally appeared Jagmohan Dhillon, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, who stated that he/she was the Manager of D WOOD HOTEL, LLC, a Utah limited liability company, and was duly authorized in such capacity to execute the foregoing instrument for and in the name of and on behalf of said limited liability company, and further stated and acknowledged to me that he/she had so signed, executed and delivered the said foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 30 day of May, 2023.

(Notarial Seal)


Notary Public

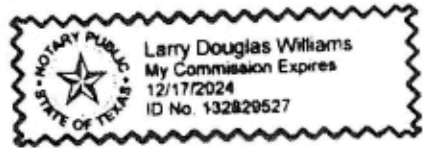


EXHIBIT A
PROPERTY DESCRIPTION

Parcel 1:

Beginning on the East line of a 66 foot street (800 West Street) at a point which is North 00°04'13" East 30.68 feet along the section line and North 89°56'35" West 176.885 feet from the Southeast corner of the Northwest quarter of Section 36, Township 2 North, Range 1 West, Salt Lake Base and Meridian (Davis County Bearing Base as shown on the Township Reference Plat and recorded as Entry No. 370752, September 28, 1972, in the Davis County Recorder's Office); and running thence North 00°03'25" East 230.00 feet along East line of said street; thence South 89°56'35" East 506.170 feet to the Westerly "No Access" Line of Interstate 15 and a point on a 7519.42 foot radius curve to the right; thence along the arc of said curve 212.178 feet, (chord bears South 28°45'22" West 212.178 feet) to a point on the "No Access" Line of the off ramp and a 1850.100 foot radius curve to the right; thence along the arc of said curve 52.021 feet (chord bears South 32°31'41" West 52.019 feet); thence North 89°56'35" West 376.350 feet to the point of beginning.

Parcel 1A:

Together with the use restrictions affecting the adjacent property as disclosed by that certain Declaration of Restrictive Covenant recorded June 13, 1990 as Entry No. 893690 in Book 1356 at page 143 and as amended by that certain Modification of Declaration of Restrictive Covenant recorded August 3, 1994 as Entry No. 1134668 in Book 1787 at page 525 and further amended by that certain Second Modification of Declaration of Restrictive Covenant recorded March 27, 1995 as Entry No. 1171500 in Book 1859 at page 312 of official records.

EXHIBIT B
PERMITTED ENCUMBRANCES

A. The following matters are senior to the lien and encumbrances of the Deed of Trust:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a Public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, that are not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the Public Records.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
7. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I—Requirements are met.

8. Lien of Taxes, now accruing as a lien, but not yet due and payable

Year: 2023

Tax ID No.: 06-093-0076

Prior year: 2022 Paid

Amount: \$68,078.71

9. The land described herein is located within the boundaries of Woods Cross, Weber Basin Water District, Mosquito Abatement District and South Davis Sewer District, and is subject to any assessments levied thereby.

10. Notice of Adoption of Redevelopment Plan Entitled "Woods Cross Neighborhood Development Plan" and Dated August 22, 1986

Recorded: November 21, 1986

Entry No.: 761452

Book/Page: 1125 / 762

11. Each and every right of access together with all rights of abutters to the underlying fee conveyed to:

Grantee: State Road Commission of Utah

Recorded: January 7, 1958

Entry No.: 173178

Book/Page: 135 / 599

Area Affected: Easterly

12. Right of Way

Grantor: John Parkin
Grantee: Mary A Parkin
Dated: March 9, 1917
Recorded: August 9, 1917
Entry No.: 25903
Book/Page: F liens and leases / 122

13. Any loss or claim pursuant to the legal description of the land to South encroaching onto the subject land as disclosed by mesne documents of record including Warranty Deed recorded April 08, 1994 as Entry No. 1109654, in Book 1745 at Page 398 of the official records.

14. Subject to the rights of parties in possession of the subject property under unrecorded leases, rental or occupancy agreements and any claims thereunder.

15. Subject, but not limited, to the following items, as disclosed by a survey prepared Peterson Engineering, P.C., having been certified under the date of December 20, 2021 by David D. Peterson, a Registered Land Surveyor holding License No. 295720, as Job No. A-21-080, including but not limited to the following:

- a. Fence Lines do not match property lines.**
- b. Improvements extend into 25' landscape setback.**
- c. Sign edge is 1'+ West of Easterly property line.**
- d. Matters since date of Survey.**

Survey

16. A Deed of Trust, and the terms and conditions thereof:

Stated Amount: \$6,025,000.00
Trustor: D Wood Hotel, LLC
Trustee: Cottonwood Title Insurance Agency
Beneficiary: Northwest Bank
Dated: April 4, 2023
Recorded: April 5, 2023
Entry No.: 3523677
Book/Page: 8227 / 435

B. The existing Deed of Trust given by Trustor to the Beneficiary and was recorded on January 14, 2022, in the Office of the Davis County Recorder, Entry #3449979, in Book 7926, Page 1174, et seq.