

2009006525 00104

FORSYTH CO, NC FEE \$126.00
PRESENTED & RECORDED:

02-20-2009 11:42 AM

C. NORMAN HOLLEMAN

REGISTER OF DEEDS
BY: PATSY RUTH DAVIS
DPT

BK: RE 2874

PG: 2866-2900



Drafted by: K. Lee Riley, Jr., Esquire
Shapiro Sher Guinot & Sandler
36 S. Charles Street, Suite 2000
Baltimore, MD 21201

ENVELOPE

**DEED OF TRUST, SECURITY AGREEMENT
AND ASSIGNMENT OF LEASES AND RENTS**

THIS DEED OF TRUST, SECURITY AGREEMENT, AND ASSIGNMENT OF LEASES AND RENTS (this "Deed of Trust") is made this 20 day of February, 2009, by LIBERTY PLAZA, LLC and FLIPS LIBERTY, LLC, each a North Carolina limited liability company, their respective successors and assigns (collectively, the "Grantor"), and WILLENE COMBS, as Trustees and their successors and assigns (the "Trustees").

WHEREAS, the Grantor has agreed to borrow from Premier Federal Credit Union, its successors and assigns (the "Lender"), the sum of Seven Million Dollars (\$7,000,000) (the "Principal Sum"), for which Principal Sum the Grantor has issued a promissory note of even date herewith, payable to the order of the Lender in the amount of the Principal Sum (which promissory note, together with any extensions or renewals thereof or substitutions therefor, is hereinafter referred to as the "Note"; and the Lender, or any other Person who may at any time or from time to time be the holder of the Note, is hereinafter sometimes referred to as the "Beneficiary"); and

WHEREAS, the Grantor wishes and intends, by the execution and delivery of this Deed of Trust, to secure (a) the full and punctual payment of (i) the Principal Sum, all interest thereon and all late charges and other fees and expenses due pursuant to the terms of the Note, and (ii) certain other indebtedness as hereinafter set forth, and (b) the performance of, and compliance with, all of the terms, covenants, conditions, stipulations and agreements contained in the Note, this Deed of Trust and all other documents executed and/or delivered in connection with the borrowing hereinabove described.

NOW, THEREFORE, THIS DEED OF TRUST WITNESSETH, that the Grantor, in consideration of the premises and the sum of One Dollar (\$1.00) lawful money of the United States of America, to the Grantor in hand paid, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell and convey all of the fee simple or leasehold interest (as indicated in the Title Policy) in the Land (as more fully described on Exhibit A attached hereto and made a part hereof) unto the Trustees, the survivors or survivor of them and their or his successors or successor in the trust.

TOGETHER with all right, title and interest of the Grantor, including any after-acquired title or reversion, in and to the beds of the ways, streets, avenues and alleys adjoining the Land.

TOGETHER with all and singular the rights, alleys, ways, tenements, hereditaments, easements, appurtenances, passages, waters, water rights, water courses, riparian rights, liberties, advantages, accessions and privileges now or hereafter appertaining to the Property or any part thereof, including, but not limited to, any homestead or other claim at law or in equity, the reversion or reversions, remainder or remainders thereof, and also all the estate, property, claim, right, title or interest now owned or hereafter acquired by the Grantor in or to the Property or any part thereof.

TOGETHER with all improvements, alterations, structures and buildings now existing or hereafter erected or placed on the Land or any portion thereof (the "Improvements").

TOGETHER with all of the Grantor's right, title and interest in and to the property described on Exhibit B attached hereto and made a part hereof. All of the Equipment, so far as permitted by law, shall be deemed to be fixtures and part of the Land and of the Improvements, and as to any part of the Equipment not deemed or permitted by law to be fixtures, this Deed of Trust shall also constitute a security agreement under the U.C.C. and, pursuant thereto, and in order to secure the repayment of the Indebtedness and the performance of the obligations intended to be secured by this Deed of Trust, the Grantor hereby grants to the Beneficiary a security interest under the U.C.C. in and to such part of the Equipment not deemed or permitted by law to be fixtures, and the proceeds (cash and non-cash) thereof, including the Net Proceeds. With respect to the part of the Equipment not deemed or permitted by law to be fixtures, the Beneficiary shall have all the rights and remedies of a secured party under the U.C.C.

TOGETHER with all proceeds (cash and non-cash), products and conversions of the Property; all improvements, accessions, additions, appurtenances and betterments to, extensions, renewals and replacements of, and/or substitutions for the Property; all of the Property, whether now or hereafter owned or acquired by the Grantor or (except as otherwise provided herein) others; and all books and records respecting all of the Property and the foregoing, all of the property described in this paragraph being included within the Property.

TO HAVE AND TO HOLD the Property and all other interests described above unto the Trustees, the survivors and the survivor of them, and their or his successor or successors in the trust.

IN TRUST to secure to the Beneficiary and to the Trustees for the benefit of the Beneficiary (a) the payment of the Indebtedness and (b) the performance of the Obligations.

PROVIDED, HOWEVER, that until the occurrence of an Event of Default hereunder, and subject to any provisions hereof to the contrary, the Grantor shall have the right to remain in peaceful possession of the Property, and the license to collect, receive and retain the rents, revenues, profits, proceeds, income and royalties therefrom.

PROVIDED, FURTHER, that if the Grantor shall pay or cause to be paid to the Beneficiary the Indebtedness in full at the time and in the manner stated in the Note and in this Deed of Trust and the other Loan Documents at any time before the sale hereinafter provided for, and shall well and truly perform the Obligations, then these presents and the estate granted hereby shall cease, determine and become void, and upon proof given to the satisfaction of the Beneficiary that the Indebtedness has been so paid or satisfied in full and that the Obligations have been fully performed, the Trustees shall (upon the receipt of the written request of the Beneficiary and at the expense of the Grantor) release and discharge the lien and terminate the security interest of this Deed of Trust of record upon payment to the Trustees of a fee for the release and reconveyance of the Property or any partial release and reconveyance thereof.

AND THIS DEED OF TRUST FURTHER WITNESSETH, that the Grantor hereby represents, warrants, covenants and agrees as follows, and stipulates that a breach of any of the following representations, warranties, covenants and agreements shall be deemed a breach of a material condition of this Deed of Trust and of the other Loan Documents.

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The capitalized terms used in this Deed of Trust shall have the meanings indicated below unless the specific context in which such terms are used in this Deed of Trust requires a different meaning. All capitalized terms which are not otherwise defined herein and which are defined in Title 9 of the U.C.C. shall have the meanings set forth therein.

"Accounts," "Chattel Paper," "Contract Rights," "Documents," "Equipment," "Fixtures," "General Intangibles," "Goods," and "Instruments" shall have the same respective meanings as are applicable to those terms in the North Carolina Uniform Commercial Code-Secured Transactions, N.C. Gen. Stat. §25-9-101, et seq., as amended. The term "Fixtures" shall have the meaning provided by the common law of the state in which the fixtures are physically located.

"Affiliate" means (a) any officer, owner of any interest, or director of the Grantor ("Affiliated Individuals"); (b) any member of the immediate family of any Affiliated Individual; (c) any Subsidiary of the Grantor (d) any Person which, directly or indirectly, controls, is controlled by or is under common control or ownership with the Grantor and (e) any Person which is under the control of Affiliated Individuals. For the purposes of this definition, the term "control" means the ownership of ten percent (10%) or more of the beneficial interests in the firm or entity referred to, and the term "immediate family" means spouses, ancestors, lineal descendants, and brothers and sisters of the person in question including those adopted.

"Award" has the meaning given such term in Exhibit B to this Deed of Trust.

"Building" means, collectively, the buildings and other structures and improvements located on the Land.

"Business Day" means any day other than a Saturday or Sunday or a day that is a legal holiday or on which banks are authorized to close.

"Capital Expenditures" means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities and including expenditures for Capital Lease Obligations) by the Grantor during such periods that are required by G.A.A.P. to be included in or reflected by the property, plant, or Equipment or similar fixed asset, accounts in the balance sheet of the Grantor.

"Capital Lease" means a lease with respect to which the lessee's obligations thereunder should, in accordance with G.A.A.P., be capitalized and reflected as a liability on the balance sheet of the lessee.

"Capital Lease Obligations" means any indebtedness incurred as a lessee pursuant to a Capital Lease.

"Closing Date" means the date of this Deed of Trust.

"Collateral" means all of the property, real, personal and mixed, with respect to which the Grantor has granted a security interest to the Beneficiary pursuant to this Deed of Trust.

"Debt Service Coverage Ratio" means the ratio of Net Operating Income from the Property for the period of computation to debt service (both principal and interest) on the Loan for the period of computation.

"Deed of Trust" means this Deed of Trust dated the Closing Date executed by the Grantor in favor of the Beneficiary, as beneficiary, as security for the Note, together with all supplements hereto and modifications hereof.

"Environmental Requirements" has the meaning given such term in Section 4.27 of this Deed of Trust.

"Equipment" has the meaning given this term in Exhibit B to this Deed of Trust.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations and published interpretations thereof.

"ERISA Affiliate" means: (a) any corporation included with the Grantor in a controlled group of corporations within the meaning of Section 414(b) of the Code; (b) any trade or business (whether or not incorporated) which is under common control with the Grantor within the meaning of Section 414(c) of the Code; (c) any member of an affiliated service group of which the Grantor is a member within the meaning of Section 414(m) of the Code; or (d) any other Person treated as an affiliate of the Grantor by the Internal Revenue Service under Section 414(o) of the Code.

"Event of Default" and "default" mean those events described in Article VII hereof, and any default or event of default under any other Loan Document.

"G.A.A.P." means generally accepted accounting principles consistently applied and maintained throughout the period indicated and consistent with the prior financial practices of the Grantor, except for changes mandated by the Financial Accounting Standards Board or any similar accounting authority of comparable standing. Whenever any accounting term is used in the Loan Documents which is not specifically defined in the Loan Documents, it shall be interpreted in accordance with G.A.A.P.

"Hazardous Materials" means (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended from time to time, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended from time to time, and regulations promulgated thereunder; (iii) any "oil, petroleum products and their by-products" as defined by North Carolina Environment Code, as amended from time to time, and regulations promulgated thereunder; (iv) any "hazardous substance" as defined by the North Carolina Environment Code, as amended from time to time, and regulations promulgated thereunder; (v) any "asbestos material" as defined by the North Carolina Environment Code, as amended from time to time, and regulations promulgated thereunder, and/or as defined by 40 C.F.R. Section 61.141, as amended from time to time; (vi) any "radon gas" in excess of levels recommended in U.S. Environmental Protection Agency Guidance Documents, as modified from time to time, or lower levels as provided by any applicable law or regulation now or hereafter in effect; (vii) any "infectious waste" as defined by North Carolina Environment Code, as amended from time to time, and regulations promulgated thereunder; (viii) any substance the presence of which on any property attributable to the operations of the Borrower is prohibited, restricted or regulated by any law or regulation similar to those laws, regulations and/or other documents set forth above, including without limitation, polychlorinated biphenyls (PCBs) and lead-based paints; and (ix) any other substance which by law or regulation requires special handling in its collection, generation, storage, transportation, treatment or disposal.

"Improvements" has the meaning given such term in the granting clauses of the Deed of Trust.

"Indebtedness" means as to the Grantor all items of indebtedness, obligation or liability, whether matured or unmatured, liquidated or unliquidated, direct or contingent, joint or several, including the Obligations and including, but not limited to:

(a) All indebtedness guaranteed, directly or indirectly, in any manner or endorsed (other than for collection or deposit in the ordinary course of business) or discounted with recourse;

(b) All indebtedness in effect guaranteed, directly or indirectly, through agreements, contingent or otherwise (1) to purchase such indebtedness or (2) to purchase, sell or lease (as lessee or lessor) property, products, materials or supplies or to purchase or sell services, primarily for the purpose of

enabling the debtor to make payment of such indebtedness or to assure the owner of the indebtedness against loss, or (3) to supply funds to or in any manner to invest in the debtor;

(c) All indebtedness secured by (or for which the holder of such indebtedness has a right, contingent or otherwise, to be secured by) any mortgage, deed of trust, pledge, lien, security interest or other charge or encumbrance upon property owned or acquired subject thereto, whether or not the liabilities secured thereby have been assumed; and

(d) All indebtedness incurred as the lessee of goods or services under leases that, in accordance with G.A.A.P., should not be reflected on the balance sheet of the lessee.

"Inspector" means an independent engineer licensed to practice in the State and appointed by the Beneficiary.

"Land" means the parcels of land described on Exhibit A to this Deed of Trust.

"Leases" means any and all existing and future leases or subleases for all or any portion of the Security.

"Lessees" means any and all present and future lessees or sublessees of all or any portion of the Security.

"Loan" or "Loan Proceeds" means the maximum total principal amount which the Lender has agreed to lend to the Grantor under this Deed of Trust, which is Seven Million Dollars (\$7,000,000).

"Loan Documents" means all documents executed and/or delivered by the Grantor or others in connection with Loan, including but not limited to, the Note, this Deed of Trust, and any financing statements.

"Multiemployer Plan" means a Plan described in Section 4001(a)(3) of ERISA which covers employees of the Grantor or of any ERISA Affiliate.

"Net Operating Income" means the amount, if any, by which income derived from the operations of the Property (on an annualized basis) exceeds the operating expenses of the Property (on an annualized basis) approved by the Beneficiary, in the Beneficiary's sole but reasonable judgment, including reasonable reserves approved by the Beneficiary for contingencies and replacement of capital items, the amount of such Net Operating Income to be certified to the Beneficiary by the chief financial officer or the managing member of the Grantor.

"Net Proceeds" means the amount of each Award, less all costs and expenses of the Beneficiary in collecting, negotiating and compromising the Award.

"Obligations" means the absolute obligation of the Grantor to pay to the Beneficiary (a) any and all sums due to the Beneficiary under the stated terms of the Loan, this Deed of Trust or the Loan Documents, (b) any and all sums advanced by the Beneficiary to preserve or protect the Security and the value of the Security or to preserve, protect or perfect the Beneficiary's security interest or lien in the Security, (c) in the event of any proceeding to enforce the collection of the obligations, or any of them, after default, the expenses of retaking, holding, preparing for sale, selling or otherwise disposing of or realizing on the Security or of any exercise by the Beneficiary of the Beneficiary's rights in the Event of Default, together with attorneys' fees, expenses of collection and court costs, as provided in the Loan Documents, (d) any obligations or liability of the Grantor to the Beneficiary arising out of any letter of credit issued by the Beneficiary for the account or benefit of the Grantor, and (e) any other indebtedness or liability of the Grantor to the Beneficiary, whether direct or indirect, joint or several, absolute or contingent, now or hereafter existing so long as the Loan is in effect, however created or arising, and however evidenced.

"PBGC" means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

"Permitted Liens" means:

- (a) Liens for taxes, assessments or similar charges incurred in the ordinary course of business that are not yet due and payable.
- (b) Pledges or deposits made in the ordinary course of business to secure payment of workmen's compensation or to participate in any fund in connection with workmen's compensation, unemployment insurance, old age pensions or other Social Security programs.
- (c) Good faith pledges or deposits made in the ordinary course of business to secure performance of bids, tenders, contracts (other than for repayment of borrowed money) or leases, not in excess of ten percent (10%) of the aggregate amount due thereunder, or to secure statutory obligations, or a surety, appeal, indemnity, performance or other similar bonds required in the ordinary course of business.
- (d) Encumbrances consisting of zoning restrictions, easements or other restrictions on the use of real property, none of which impairs the use of the Property by the Grantor in the operation of the business of the Grantor and none of which is violated in any material respect by existing or proposed structures or land uses.
- (e) Liens in favor of the Beneficiary, including the lien of this Deed of Trust.
- (f) Existing liens previously disclosed to the Beneficiary and consented to by the Beneficiary in writing and as set forth in the Title Policy.

"Person" means any individual, corporation, partnership, association, joint stock company, trust, unincorporated organization, joint venture, court or government or political subdivision or agency thereof.

"Plan" means any employee benefit plan or other plan established, maintained or to which contributions have been made by the Borrower or any ERISA Affiliate and covered by Title IV of ERISA, or subject to the minimum funding standards under Section 412 of the Code.

"Prohibited Transaction" means any transaction set forth in Section 4975 of the Internal Revenue Code of 1986, as amended or Section 406 of ERISA.

"Property" means the Land, the Building and all other property, whether real, personal or mixed, described in this Deed of Trust and all improvements thereto and betterments thereon, including all of the Collateral deemed to be fixtures.

"Records" means correspondence, memoranda, tapes, discs, papers, books and other documents, or transcribed information of any type, whether expressed in ordinary, computer or machine language.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, or dumping.

"Remedial Action" means (a) the clean-up or removal of Hazardous Substances; (b) such action as may be necessary to monitor, assess, or evaluate the Release or threatened Release of Hazardous Substances; (c) the proper disposal or removal of Hazardous Substances; (d) the taking of such other actions as may be necessary to prevent, minimize, or mitigate the damages caused by a Release or threatened Release of Hazardous Substances to the public health or welfare or to the environment; and (e) the providing of emergency assistance after a Release. Remedial Actions include but are not limited to such actions at the location of a Release as: storage; confinement; perimeter protection using dikes, trenches, or ditches; clay cover; neutralization; clean-up of Hazardous Substances or contaminated materials; recycling or reuse; diversion; destruction; segregation of reactive wastes; dredging or excavations; repair or replacement of leaking containers; collection of leachate and runoff; onsite treatment or incineration; providing alternative

water supplies; and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment.

"Reportable Event" means any of the events set forth in Section 4003 of ERISA.

"Security" means, collectively, the Property and the Collateral.

"Solvent" means, as to any Person, that such Person at the time of determination (a) owns assets whose fair saleable aggregate value is greater than the amount required to pay all of its liabilities; (b) is able to pay all of its liabilities as such liabilities mature; and (c) has paid in and unimpaired capital sufficient to carry on its business and transactions and all business and transactions in which it engages or is about to engage.

"State" means the State of North Carolina.

"Subsidiary" means any corporation of which the Grantor directly or indirectly owns or controls at the time: (a) at least a majority of the outstanding stock having under ordinary circumstances (not dependent upon the happening of a contingency) voting power to elect a majority of the board of directors (in the case of a corporation having directors); or (b) a majority of the voting stock of any corporation not having directors. The term "Subsidiary" also means any general or limited partnership or other entity of which more than fifty percent (50%) of the outstanding partnership interests or ownership interests shall, at the time of determination, be owned directly, or indirectly through one or more intermediaries, by the Grantor.

"Taxes" means all taxes, water rents, sewer rents, assessments, utility charges (whether public or private) and other governmental or municipal or public or private dues, charges and levies and any prior liens (including federal tax liens) for such which are or may be levied, imposed or assessed upon the Security or any part thereof or upon the rents, issues, income or profits thereof, whether any or all of the aforementioned be levied directly or indirectly or as excise taxes or as income taxes.

"Title Policy" means the title insurance policy, binder or commitment issued by a title company acceptable to the Beneficiary with respect to the Property, which Title Policy shall be acceptable and updated through the Closing Date and the date on which the Deed of Trust has been recorded among the appropriate land records office.

"Trustees" means the individual trustees named in this Deed of Trust, and their respective successors and assigns or substitutions therefor.

"U.C.C." means the North Carolina Uniform Commercial Code, as codified in the Commercial Law Article of the Code of North Carolina, and as amended, supplemented or modified from time to time.

Section 1.02. Rules of Construction. The words "hereof," "herein," "hereunder," "hereto," and other words of similar import refer to this Deed of Trust in its entirety.

The terms "agree" and "agreement" contained herein are intended to include and mean "covenant" and "covenants."

References to Articles, Sections, and other subdivisions of this Deed of Trust are to the designated Articles, Sections, and other subdivisions of this Deed of Trust as originally executed.

The headings of this Deed of Trust are for convenience only and shall not define or limit the provisions hereof.

The use of the word "including" is intended to set forth examples and not constitute a limitation on the general statement preceding such use of the word "including" and shall be deemed to mean "including but not limited to" unless expressly set forth to the contrary.

ARTICLE II

TERMS OF THE LOAN

Section 2.01. Terms of the Loan. Upon the terms and subject to the conditions contained herein and in the Loan Documents, the Beneficiary shall advance the Principal Sum to the Grantor, for the purposes herein described, in accordance with the Loan Documents.

Section 2.02. Payments to the Beneficiary. All sums payable to the Beneficiary hereunder shall be paid, on or before the date on which the same become due and payable, to the Beneficiary (or as otherwise directed by the Beneficiary) in immediately available funds.

Section 2.03. Purpose of the Loan. The purpose of the Loan is described in the Loan Documents.

Section 2.04. Payments are Provisional. All payments made by the Grantor to the Beneficiary on any of the Obligations shall be provisional and shall not be considered final unless and until such payment is not subject to avoidance under any provision of the United States Bankruptcy Code, as amended, including Sections 547 and 550, or any state law governing insolvency or creditors' rights. If any payment is avoided or set aside under any provision of the United States Bankruptcy Code, including Section 547 and 550, or any state law governing insolvency or creditors' rights, the payment shall be considered not to have been made for all purposes of this Deed of Trust, and the Beneficiary shall adjust its records to reflect the fact that the avoided payment was made and has not been credited against the Obligations.

ARTICLE III

REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

To induce the Beneficiary to make the Loan and to enter into this Deed of Trust, the Grantor makes the representations and warranties set forth in this Article III. The Grantor acknowledges the Beneficiary's justifiable right to rely upon these representations and warranties.

Section 3.01. Status. The Grantor is validly organized under the Laws of the State of North Carolina and its operations and affairs have been effectively and validly commenced. The Grantor has the power to own its properties, conduct its business and affairs, and enter into the Loan and perform the Obligations. The Grantor's entry into the Loan with the Beneficiary has been validly and effectively approved by its authorizing members as may be required by its organizational documents and applicable laws. All copies of the organizational documents and authorizing resolutions of the Grantor submitted to the Beneficiary are true, accurate, and complete and no action has been taken in diminution or abrogation thereof. The Grantor has not changed its name, been the surviving corporation or partnership in a merger, or changed the location of its chief executive office within the last twelve (12) years. The Grantor does not trade under any trade or fictitious names.

Section 3.02. Warranty of Title. The Grantor represents and warrants that, at the time of the execution and delivery of this Deed of Trust, the Grantor is the owner of the fee simple legal title to, and is lawfully seized and possessed of, the Property. The Grantor has the right and authority to convey the Property and does hereby warrant specially, and agrees to defend, the Property and the title thereto, whether now owned or hereafter acquired, against all claims and demands of the Grantor and every Person claiming by, through or under Grantor.

Section 3.03. Subsidiaries. The Grantor represents that it has no Subsidiaries.

Section 3.04. Authority. The Grantor has full power and authority to enter into and execute and deliver this Deed of Trust and each of the other Loan Documents executed and delivered by it and to incur and perform the Obligations provided for herein and therein (including the borrowing under the Loan). No further consent or approval of any other Person or public authority or regulatory body is required as a

condition to the validity or enforceability of this Deed of Trust or any of the other Loan Documents, or if required, the same has been obtained.

Section 3.05. Binding Agreements. This Deed of Trust and each of the other Loan Documents executed and delivered by the Grantor have been duly and properly executed by the Grantor, constitute the valid and legally binding obligations of the Grantor and are fully enforceable against the Grantor in accordance with their respective terms.

Section 3.06. Litigation. There is no litigation or proceeding pending or, so far as the Grantor knows, threatened, before any court or administrative agency which will materially adversely affect the financial condition of the Grantor or the authority of the Grantor to enter into, or the validity or enforceability of, this Deed of Trust or any of the other Loan Documents or the ability of the Grantor to perform the Obligations.

Section 3.07. No Conflicting Agreements. There is (i) no provision in any existing mortgage, indenture, contract or agreement binding on the Grantor or affecting any property of the Grantor, (ii) no provision of law or order of court binding upon the Grantor or affecting any property of the Grantor which would conflict with or in any way prevent the execution, delivery or performance of the terms of this Deed of Trust or of any of the other Loan Documents executed and delivered by the Grantor or which would be in default or violated as a result of such execution, delivery or performance.

Section 3.08. Financial Position. The financial statements of the Grantor heretofore delivered to the Beneficiary are complete and correct and fairly present the financial position of the Grantor as of the dates and for the periods referred to therein and have been prepared accurately to reflect the assets and liabilities of the Grantor. There are no liabilities, direct or indirect, fixed or contingent, of the Grantor as of the date of such financial statements, which are not reflected therein or in the notes thereto, and the assets set forth therein are valued in accordance with G.A.A.P. There has been no material adverse change in the financial condition or operations of the Grantor since the date of such financial statements (and to the Grantor's knowledge no such material adverse changes are pending or threatened), and the Grantor has not guaranteed the obligations of, or made any investment in or loans to, a Person or other entity except as disclosed in such financial statements. The Grantor has good and marketable title to all of its properties and assets, and all such properties and assets are free and clear of mortgages, pledges, liens, charges and other encumbrances, except as reflected in such financial statements or in the notes thereto, and except for Permitted Liens.

Section 3.09. Tax Returns. The Grantor has filed all required federal, state and local tax or information returns and have paid all taxes required to be shown on such returns as they have become due, and there is no current on-going audit of any of them by either the State or federal governments.

Section 3.10. Place of Business of the Grantor. The Grantor currently has offices in Winston-Salem, North Carolina. Other than the places listed in this Section, the Grantor has no other places of business which are located in other counties or states.

Section 3.11. Name. The Grantor has never operated under or used any other name or trade name in its business and operations.

Section 3.12. Title to Collateral. The Grantor owns the Collateral subject only to the Permitted Liens.

Section 3.13. This section intentionally deleted.

Section 3.14. Non-existence of Defaults. The Grantor is not in default, nor shall the passing of time or the giving of notice result in the occurrence of a default with respect to any of its existing Indebtedness.

Section 3.15. Regulation "U". The Grantor neither owns nor presently intends to acquire any "margin stock" as defined in 12 CFR Part 221 (Regulation "U") of the Board of Governors of the Federal

Reserve System, and none of the sums to be advanced pursuant to the Loan provided for herein shall be used, directly or indirectly, for the purpose of acquiring or maintaining any "margin stock" or retiring any existing obligation that was incurred to purchase or maintain any "margin stock."

Section 3.16. Leases in Good Standing. The Grantor enjoys peaceful and undisturbed possession under all Leases under which it is now operating, and all said Leases are valid, subsisting and in full force and effect and the Grantor is not in violation of any material term of any such Lease. Each such Lease contains terms acceptable to the Grantor.

Section 3.17. Patents, Trademarks, Etc. The Grantor owns, possesses, or has the right to use all necessary patents, patent rights, licenses, trademarks, trademark rights, trade names, trade name rights and copyrights to conduct its business as now conducted, without known conflict with any patent, patent right, license, trademark, trademark right, trade name, trade name right or copyright of any other Person or entity.

Section 3.18. Labor Matters. There are no strikes or other labor disputes involving or against the Grantor pending, or to the Grantor's knowledge, threatened against the Grantor. Hours worked by and payments made to employees of the Grantor, have not been in violation of the Fair Labor Standards Act or any other law dealing with such matters in any material respects. For the purpose of this subsection, "material respects" means that there are no violations which expose the Grantor to penalties, fines, damages or liabilities which in the aggregate exceed Five Thousand Dollars (\$5,000).

Section 3.19. Public Utilities. The Grantor has not received any notification that any Public Utility, the receivables of which are or are requested to be part of the basis for an advance under the Loan, is the subject of any federal or state insolvency proceedings.

Section 3.20. Compliance with ERISA. Neither the Grantor nor any other trade or business which together with the Grantor would be considered a "single employer" within the meaning of Section 4001 of ERISA provides any benefits to employees other than salaries or wages, including, without limitation any benefits under:

- (i) any qualified or non-qualified profit sharing 401(k), deferred compensation, bonus, stock option, stock purchase, health, welfare or incentive plan or agreement;
- (ii) any qualified or non-qualified employee pension plan or agreement;
- (iii) any plan or policy providing for employee benefits, including, but not limited to, vacation, holiday, disability, sick leave, medical, retirement, medical hospitalization, life insurance, or other insurance plans, severance pay or other benefits; or
- (iv) any "employee benefit plan" as defined in Section 3(3) of ERISA.

Section 3.21. No Labor Agreements. The Grantor is not subject to any collective bargaining agreement or any agreement, contract, decree or order requiring it to recognize, deal with or employ any Persons organized as a collective bargaining unit or other form of organized labor.

Section 3.22. Franchises. The Grantor possesses all franchises, approvals, contracts, merchandising agreements and merchandising contracts necessary for it lawfully to conduct its business and operation.

Section 3.23. Debt. The Grantor has no credit agreements, indentures, purchase agreements, guaranties, Capital Leases, or other investments, agreements, and arrangements presently in effect providing for or relating to extensions of credit (including agreements and arrangements for the issuance of letters of credit or for acceptance financing) in respect of which the Grantor or any Subsidiary of the Grantor is in any manner directly or contingently obligated.

Section 3.24. Solvency. The Grantor will be Solvent both before and after the Closing Date, after giving full effect to the Loan and all of the Grantor's Indebtedness. The Grantor knows of no reason which is likely to cause it to be unable to maintain such Solvent financial condition, giving full effect to the Obligations, as long as any of the Obligations remain unsatisfied. The Grantor has sufficient capital to carry on its business and transactions as now conducted and as planned in the future.

Section 3.25. No Hazardous Substances. To the best of the Grantor's knowledge and belief, the Property has never been and is not being used to make, store, handle, treat, dispose of, generate, or transport Hazardous Substances in violation of any applicable law. To the best of the Grantor's knowledge and belief, there has not been a Release of Hazardous Substances on, from, or near the Property. The Grantor has never received any notification, citation, complaint, violation, or notice of any kind from any Person relating or pertaining to the making, storing, handling, treating, disposing, generating, transporting, or Release of Hazardous Substances.

Section 3.26. Fair Labor Standards Act. The Grantor has complied in all material respects with the Fair Labor Standards Act of 1938, as amended.

Section 3.27. Ownership. The outstanding membership interests of the Grantor are duly authorized, validly issued, fully paid and nonassessable. There are no warrant agreements, option agreements, or membership interest agreements relating or pertaining to the membership interests of the Grantor.

Section 3.28. Purpose. The Grantor represents and warrants that the Loan evidenced and secured by the Loan Documents is a "commercial loan" as defined in the Commercial Law Article of the Code of North Carolina.

Section 3.29. Tax Assessment. The Property is assessed for purposes of Taxes as a separate and distinct parcel from any other real property so that the Property shall never become subject to the lien of any Taxes levied or assessed against any real property other than the Land and Improvements described in this Deed of Trust.

Section 3.30. Compliance with Environmental Requirements. The Grantor represents and warrants that the Grantor has not done or caused anything to be done to the Security which would cause the Security to be in violation of or in non-compliance with the Environmental Requirements. The Grantor further represents and warrants that the Security is in compliance with and does not violate any Environmental Requirements.

ARTICLE IV

COVENANTS AND AGREEMENTS

Section 4.01. Payment of Indebtedness and Performance. The Grantor will punctually pay to the Beneficiary the principal of and interest on the Note according to the terms of the Note and all other Indebtedness secured hereby as the same shall become due, and shall punctually keep and perform each and every term, provision, covenant and agreement contained in the Loan Documents.

Section 4.02. Indemnification. The Grantor will pay all expenses and charges, legal or otherwise (including all court costs and reasonable attorneys' fees and expenses) paid or incurred by the Trustees or Beneficiary in reliance upon this Deed of Trust, in realizing upon any of the obligations hereby secured or in enforcing this Deed of Trust or any agreement or covenant referred to herein, and in each of the other Loan Documents. The Grantor further agrees to indemnify and hold harmless the Beneficiary and the Trustees from any loss (including reasonable attorneys' fees) resulting from any default by the Grantor under the terms of this Deed of Trust.

Section 4.03. Insurance. The Grantor shall, at all times that any Obligations remain outstanding under the Loan and at the Grantor's sole cost and expense, maintain or cause to be maintained insurance

coverage in accordance with customary insurance practices of businesses similar to the business carried on by the Grantor. The Grantor shall promptly pay when due any and all premiums on such insurance, and such insurance shall be written in such manner and with such insurers as may be approved by the Beneficiary. The policies of such insurance and all renewals thereof are hereby assigned to, and shall be deposited with and held by, the Beneficiary, as collateral and further security for the Indebtedness and have attached thereto standard noncontributing, non-reporting mortgagee clauses in favor of and entitling the Beneficiary, without contribution, to collect any and all proceeds payable under such insurance as its interest may appear, all to be in form acceptable to the Beneficiary. The Grantor hereby authorizes the Beneficiary, at the option of the Beneficiary, to collect, adjust and compromise any losses or claims under any of such insurance, and after deducting costs and expenses of collection (including without limitation, attorneys' fees and expenses) to apply all or part of the proceeds collected by the Beneficiary (if any) at the sole discretion of the Beneficiary as set forth herein. Not less than thirty (30) days prior to the expiration date of each such policy, the Grantor will deliver to the Beneficiary a renewal policy or policies marked "premium paid" or accompanied by other evidence of payment satisfactory to the Beneficiary. In the event of a sale of all or any part of the Property pursuant to the provisions of this Deed of Trust, the Beneficiary shall succeed to all the rights and interest of the Grantor, including any right to unearned premiums in and to all such policies of insurance. The Grantor will immediately notify the Beneficiary of any cancellation of or change in any insurance policy, and each such policy shall contain the agreement of the insurer that such policy will not be adversely modified or canceled without thirty (30) days prior written notice to the Beneficiary. If the Grantor fails to so insure the Security or fails to deliver such policies to the Beneficiary, the Beneficiary may, at its option, effect such insurance from time to time and pay the premiums therefor, and the Grantor shall repay the Beneficiary for any premiums so paid, with interest thereon, as provided herein.

Section 4.04. Taxes. (a) Subject to the provisions of the next succeeding sentence, the Grantor will promptly pay in full and discharge before delinquency and before any penalty for non-payment attaches thereto all Taxes whether such Taxes be levied directly or indirectly or as excise taxes or as income taxes. The Grantor shall be permitted to contest any such Taxes provided that Grantor first (a) delivers written notice of the Grantor's intent to so contest and (b) provides the Beneficiary with a surety or other security to the satisfaction of the Beneficiary. Upon payment of the Taxes, the Grantor will exhibit to the Beneficiary, upon demand, the receipted bills therefor, prior to the day upon which the same shall become delinquent. If the Grantor fails to pay the Taxes at the times or in the manner provided in this Section, the Beneficiary may, at its option, pay such Taxes, and the Grantor shall pay to the Beneficiary the amount of any Taxes so paid, with interest thereon, as provided herein.

The Grantor shall pay to the Beneficiary or its designee monthly in advance one-twelfth (1/12) of the estimated insurance premiums required to be paid pursuant to this Deed of Trust and Taxes required to be paid pursuant to this section, which moneys shall be held in an escrow reserve by the Beneficiary or as designated by the Beneficiary for the purpose of paying such amounts when due.

(b) In the event of the passage of any Federal, State, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of deeds of trust or debts secured by deeds of trust or the manner of collecting any such taxes so as to adversely affect the Beneficiary (including, without limitation, a requirement that additional internal revenue stamps be affixed to the Note or to this Deed of Trust), the Grantor will promptly pay any such tax. If the Grantor fails to make such prompt payment, or if any such Federal, State, municipal or other governmental law, order, rule or regulation prohibits the Grantor from making such payment or would penalize the Beneficiary if the Grantor makes such payment, then the entire unpaid balance of the Principal Sum secured by this Deed of Trust and all unpaid interest accrued thereon shall, without notice, immediately become due and payable at the option of the Beneficiary. In no event, however, shall any income taxes of the Beneficiary or franchise taxes of the Beneficiary measured by income, or taxes in lieu of such income taxes or franchise taxes, be required to be paid by the Grantor.

Section 4.05. Maintenance and Repair of the Property. The Grantor, at the Grantor's sole expense, will (a) keep and maintain the Security and each part thereof in good condition, working order and repair, and (b) make all necessary or appropriate repairs, replacements and renewals to the Security so that each part of the Security shall at all times, be in good condition, fit and proper for the respective purposes for

which they were originally intended, erected, or installed. To the extent that Awards are made available to the Grantor, the Grantor will promptly repair, restore, replace, or rebuild any part of the Security which may be damaged or destroyed by any casualty whatsoever or which may be affected by any taking by eminent domain or alteration of the Security or any part thereof by public or quasi-public authority or corporation.

Section 4.06. Removal, etc. of Equipment and Improvements. No Improvements or Equipment now or hereafter covered by the lien and security interest of this Deed of Trust shall be removed, demolished or materially altered, without the prior written consent of the Beneficiary, except that the Grantor shall have the right, without such consent, to remove and dispose of, free from the lien and security interest of this Deed of Trust, such Equipment as from time to time may become worn out or obsolete, provided that either (a) simultaneously with or prior to such removal any such Equipment is replaced with other Equipment of value at least equal to that of the replaced Equipment and free from the lien or security interest of any title retention or security agreement or other encumbrance, and by such removal and replacement the Grantor shall be deemed to have subjected such replacement Equipment to the lien and security interest of this Deed of Trust, or (b) such Equipment is sold at fair market value for cash and the net cash proceeds received from such disposition are paid over promptly to the Beneficiary to be applied to the payment of the Indebtedness in the manner and order determined by the Beneficiary.

Section 4.07. Other Liens. At all times the Grantor will keep the Security free from all liens, mortgages, security interests, encumbrances and claims of every kind and nature (other than Permitted Liens). The Grantor shall give the Beneficiary notice of any default in any permitted junior or subordinated lien, mortgage, security interest or encumbrance on the Security and notice of any foreclosure or threat of foreclosure of such permitted junior or subordinated lien, mortgage, security interest or encumbrance.

Section 4.08. Compliance with Laws. The Grantor will comply with and not violate, or cause to be complied with and not violated, all present and future laws, statutes, ordinances, rules, regulations, decrees and orders of any governmental or other authority or regulatory body relating to the Security or any part thereof or to the use and operation of the Security or any part thereof.

Section 4.09. Inspection. The Grantor will permit the Beneficiary or its agents to enter upon the Property and make inspections of the Security or any part thereof at all reasonable times and as often as may be reasonably requested by the Beneficiary.

Section 4.10. Transfer of Security. Without the prior written consent of the Beneficiary and except as otherwise provided in this Deed of Trust, the Grantor will not transfer sell, lease, convey, assign, transfer or in any manner dispose of all or any part of the Security.

Section 4.11. Restrictive Covenants, Zoning, etc. Without the prior written consent of the Beneficiary, the Grantor will not initiate, join in, or consent to any change in, any restrictive covenant, easement, zoning ordinance, or other public or private restrictions, limiting or defining the uses which may be made of the Property or any part thereof. The Grantor will promptly perform and observe, or cause to be performed and observed, all of the terms, covenants and conditions of all instruments of record affecting the Property, non-compliance with which may affect the security of this Deed of Trust, or which may impose any duty or obligation upon the Grantor or any Lessee or other occupant of the Property, or any part thereof, and the Grantor shall do or cause to be done all things necessary to preserve intact and unimpaired any and all easements, appurtenances and other interests and rights in favor of, or constituting any portion of, the Property.

Section 4.12. Management. The Grantor at all times shall provide competent and responsible management and operation of the Property. Any management contract or contracts involving the Property, or any part thereof, must be approved in writing by the Beneficiary prior to the execution of the same, shall be collaterally assigned to the Beneficiary and shall require the management agent to accept such assignment.

Section 4.13. Books and Records. (a) The Grantor will keep and maintain full and accurate records and books administered in accordance with G.A.A.P., consistently applied, showing in detail the earnings and expenses of the Property and the operation thereof, and shall permit the Beneficiary or any

Person or Persons authorized by the Beneficiary to inspect and examine such records and books and all supporting vouchers and data and to make copies and extracts therefrom or thereof at all reasonable times and as often as may be reasonably requested by the Beneficiary at the offices of the Grantor, or at the office of such other Person keeping and maintaining such books and records in the County of Forsyth, or at some other location as may be mutually agreed upon.

(b) The Grantor will furnish to the Beneficiary, such financial statements and other financial data of the Grantor required to be delivered to the Beneficiary as provided herein. At the same time, the Grantor will furnish to the Beneficiary similar financial statements, prepared as aforesaid, for each guarantor of the Note.

Section 4.14. Condemnation or Casualty-General Provisions. The Beneficiary is hereby authorized, at its option, to commence, appear in and prosecute, in its own or the Grantor's name, any action or proceeding relating to any condemnation, taking or casualty to the Security, and to settle or compromise any claim in connection therewith. Provided the Grantor is not in default hereunder, the Beneficiary shall not settle or compromise any claim in connection with any damage or taking through condemnation without the prior written consent of the Grantor, which consent shall not be unreasonably withheld. No settlement for the damages sustained thereby shall be made by the Grantor without the Beneficiary's prior written approval thereof. Notwithstanding any taking by eminent domain, alteration of the grade of any street or injury or other casualty to or decrease in value of the Security, the Grantor will continue to pay the Indebtedness as and when the same shall become due and payable, and any reduction in the Principal Sum resulting from the application by the Beneficiary of the Awards shall be deemed to take effect only on the date of such receipt and application in accordance with the provisions of this Section. The Net Proceeds from all or any part of any Awards so received by the Beneficiary shall be applied as set forth herein, provided that (i) the Beneficiary shall not be obligated to see to the application of any of Net Proceeds paid over to the Grantor, and (ii) the Net Proceeds so paid over shall not be deemed a payment on any of the Indebtedness secured hereby. If, prior to the receipt by the Beneficiary of such Award, the Security or any part thereof shall have been sold pursuant to the default provisions of this Deed of Trust, the Beneficiary shall have the right to receive such Award to the extent of any deficiency found to be due upon such sale, with legal interest thereon, whether or not a deficiency judgment on this Deed of Trust shall have been sought or recovered or denied, and of the counsel fees, costs and disbursements incurred by the Beneficiary in connection with the collection of such Award. The Grantor agrees to execute and deliver, from time to time, upon the request of the Beneficiary, such further instruments or documents as may be requested by the Beneficiary to confirm the grant and assignment to the Beneficiary of any such Award.

Section 4.15. Damage and Destruction; Condemnation; Application of Net Proceeds. If, at any time prior to the repayment in full of all of the Indebtedness, (a) the Security or any part thereof is damaged by fire or other casualty, or (b) title to, or the use of, the Security or any part thereof, or the interest of the Grantor in the Security or any part thereof, shall be taken or altered under the exercise of the power of eminent domain by any governmental body or by any Person acting under governmental authority, either temporarily or permanently, the Grantor shall be obligated to continue to pay the Indebtedness in the manner provided herein, and the Net Proceeds resulting from any event described in this Section will be deposited in an escrow fund and applied, at the sole option of the Beneficiary, to one of the following purposes:

(i) The repair, rebuilding, restoration or alteration, as appropriate, of that portion of the Security so damaged or destroyed by fire or other casualty, or of that portion of the remaining Security which may have been altered as a result of a taking or condemnation, and/or to the acquisition by the Grantor, by construction or otherwise, of other lands or improvements suitable for the Grantor's operations at the Property (which land or improvements shall be acquired by the Grantor, subject to no liens or encumbrances, as evidenced by a mortgagee's land title insurance policy acceptable to the Beneficiary, and shall be deemed part of the Property and subject to the lien of this Deed of Trust), in either of which event such Net Proceeds shall be deposited into an escrow fund to be held by the Beneficiary, or by such other Person as may be approved by the Beneficiary, and the Grantor will (A) proceed promptly to repair, rebuild, restore or alter that part of the Security so damaged or destroyed or of that portion of the remaining Security which may have been altered as a result of a taking or condemnation, to substantially the same condition as it existed prior to the event causing such damage, destruction, or prior to such taking with such

changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Grantor and approved by the Beneficiary and as will not impair the operating unity or productive capacity of the Security, and (B) cause withdrawals to be made from such escrow fund to pay the costs of such repair, rebuilding, restoration, or alterations, as appropriate, either on completion thereof or as the work progresses. In order to receive advances from such escrow fund for such purposes, the Grantor will be required to furnish to the Beneficiary, or to such other Person, a certificate signed by the Grantor specifying in reasonable detail the items of cost to be reimbursed from such escrow fund and certifying that the Grantor is not in default under this Deed of Trust or any of the other Loan Documents. The balance, if any, of such Net Proceeds remaining after the payment of all of the costs of such repair, rebuilding, restoration or alterations, as appropriate, shall, first, be applied by the Beneficiary to the prepayment of the Indebtedness and, second, be reimbursed by the Beneficiary to the Grantor; or

(ii) First, to the prepayment of the Indebtedness and, next, towards the performance of the Obligations and, thereafter, the balance shall be reimbursed to the Grantor.

The Grantor expressly waives any right or privilege now granted or created under the provisions of any of the real property laws of the State or any similar law, rule or regulation now or hereafter in effect relating to the condemnation of the Property or the damage or destruction of the Property from any cause and agrees that the foregoing provisions of this Article shall govern in lieu thereof.

All Net Proceeds received by any Person shall be held in trust by the recipient thereof to be applied in accordance with the terms of this Article. In the event the Net Proceeds are not sufficient to pay in full the costs of repairing, rebuilding, altering and restoring the Security or acquiring additional property, as provided in this Section, the Grantor will nonetheless complete the work or acquisition thereof and pay that portion of the costs thereof in excess of the amount of such Net Proceeds. The Grantor shall not, by reason of the payment of such excess costs (whether by direct payment thereof or payment to the Beneficiary therefor) be entitled to any reimbursement from the Beneficiary or to any abatement or diminution of the payments payable hereunder.

Section 4.16. Additional Improvements. The Grantor will not construct any additional improvements on the Land without the prior written consent of the Beneficiary. The Grantor will complete and pay for, within a reasonable time, any permitted structure at any time in the process of construction on the Land. The Grantor will construct and erect any permitted improvements on any part of the Land (a) strictly in accordance with all applicable ordinances and statutes and in accordance with the requirements of all regulatory authorities having jurisdiction, (b) entirely on lots or parcels of the Land, (c) so as not to encroach upon any easement or right of way or upon the land of others, (d) wholly within the building restriction lines however established, and (e) so as not to violate use and other restrictions contained in prior conveyances, zoning ordinances or restrictions.

Section 4.17. Leases. (a) The Grantor will carry out all of its covenants and agreements under all Leases which it has executed or may hereafter execute in connection with the Security, or any portion thereof. The Grantor will not enter into any Lease without the written consent of the Beneficiary. At any time within thirty (30) days after notice and demand by the Beneficiary, the Grantor will deliver to the Beneficiary a written statement in such reasonable detail as the Beneficiary may request, certified by the Grantor, of all of the Leases relating to the Security or any part thereof, including the names of all Lessees, the terms of all Leases and the rentals payable under all Leases, and, on demand, the Grantor will furnish to the Beneficiary executed counterparts of any such Leases. If any of such Leases provide for the giving by the Lessee of certificates with respect to the status of such Leases, the Grantor shall exercise its right to require such certificates within ten (10) days after any request therefor by the Beneficiary.

(b) The Grantor hereby grants, assigns, transfers and sets over unto the Trustees, all of Grantor's right, title and interest in and to any Leases, or any portion thereof, now or hereinafter entered into, together with all of the rents, royalties, issues, profits, revenues, income and other benefits of the Security including, without limitation, any security deposits thereunder or guaranties to secure performance by the Lessees of their obligations thereunder, whether such security deposits are to be held until the expiration of the terms of such Leases or applied to one or more installments of rent coming due immediately prior to the

expiration of such terms; reserving in the Grantor a license to collect and receive the same until there is a default under this Deed of Trust.

(c) So long as there shall exist no default under this Deed of Trust, the Grantor shall have a license, terminable by the Beneficiary upon the occurrence of a default hereunder, to collect upon, but not prior to accrual, the rents under the Leases, such rents to be held in trust for the Beneficiary. Each month, upon the Grantor's compliance with all of its obligations required under the Loan Documents, the Grantor may retain such rents as were collected that month and held in trust for the Beneficiary. Upon the occurrence of a default hereunder, the license granted to the Grantor shall be automatically and immediately revoked without any requirement of notice. Upon revocation of such license and following notification to the Lessees under such Leases by the Beneficiary or the Trustees that rents are to be paid to the Beneficiary, all rents shall be paid directly to the Beneficiary and not through the Grantor, it being understood that a demand by the Beneficiary or the Trustees on any Lessee under such Leases for the payment of rent following any default claimed by the Beneficiary shall be sufficient to warrant such Lessee making future payments of rent to the Beneficiary without the necessity of further consent by the Grantor.

(d) The Grantor will, at its sole cost and expense, use its best efforts to enforce or secure, or cause to be enforced or secured, the performance of each and every obligation and undertaking of the respective Lessees under any Leases, or any portion thereof, and will appear in and defend, at its sole cost and expense, any action or proceeding arising under or in any manner connected with such Leases or the obligations and undertakings of any Lessee thereunder.

(e) The Grantor will not further assign the whole or any part of the rents, income or profits arising from the Security or any part thereof without the prior written consent of the Beneficiary, and any assignment thereof without such consent shall be null and void.

(f) The Grantor will not, without the prior written consent of the Beneficiary, (i) cancel, terminate, accept a surrender of, reduce the payment of rent under, or accept any prepayment of rent (other than is customary) under, any present or future Lease, (ii) lease all or any part of the Security except upon lease forms which shall have been approved by the Beneficiary, or (iii) permit a lien or encumbrance on the Security or any part thereof superior to any such Lease other than this Deed of Trust.

(g) If the Grantor has leased or shall hereafter lease the Security or any part thereof by Lease or Leases, any such Lease or Leases shall be subject to the condition that in the event of any sale of the Security, or any part thereof, pursuant to the default provisions of this Deed of Trust, such Lease or Leases shall, at the sole option of Beneficiary, continue in full force and effect, and the Lessees thereunder will, upon request, attorn to and acknowledge in writing the purchaser or purchasers at such sale or sales as landlord or lessor thereunder, unless the Beneficiary or such purchaser or purchasers or the Trustees, shall, at or prior to the time of such sale or sales or within sixty (60) days thereafter, notify the Lessees, in writing, to vacate and surrender the leased premises within ninety (90) days from the date of such sale or sales, in the event of which notice any such Lease or Leases shall fully terminate and expire at the end of such period of ninety (90) days from and after the date of such sale or sales; provided, however, that any such purchaser or purchasers shall not be bound by any payment of rent in advance or any amendment or modification of the Lease made without the prior written consent of the Beneficiary and such purchaser or purchasers.

(h) Neither the Trustees nor the Beneficiary shall be obligated to perform or discharge any obligation or duty to be performed or discharged by the Grantor under any Lease or Leases for all or any part of the Security, and the Grantor shall indemnify the Trustees and the Beneficiary for, and save them harmless from, any and all liability arising from any such Lease or Leases, or from any assignment thereof, and any such assignment shall not place the responsibility for the control, care, management or repair of the Security or any part thereof upon the Trustees or the Beneficiary, nor make the Trustees or the Beneficiary liable for any negligence in the management, operation, upkeep, repair or control of the Security or any part thereof resulting in loss or injury or death to any Lessee, agent or stranger.

Section 4.18. Use of Loan Proceeds. The proceeds of the Note advanced to the Grantor shall be employed and used by the Grantor solely for the purposes set forth herein.

Section 4.19. Estoppel Certificates. Within ten (10) days after any request by the Beneficiary or a proposed assignee or purchaser of the Note, the Grantor shall certify, by a written statement, to the Beneficiary or to any proposed assignee or purchaser of the Note, the then unpaid balance of the Indebtedness (including but not limited to the unpaid balance of the Principal Sum with interest accrued but unpaid) and the existence of any offsets or defenses which exist against the Indebtedness secured hereby.

Section 4.20. Additions to Security. All right, title and interest of the Grantor in and to all extensions, renewals and replacements of, and all substitutions for, and all improvements, accessions, additions, appurtenances and betterments to the Security, hereinafter acquired by or released to the Grantor, or constructed, assembled or placed by the Grantor on the Property, and all proceeds (cash and non-cash), products and conversions of the Security immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case, without any further deed of trust, conveyance, assignment or other act by the Grantor, shall become subject to the lien of this Deed of Trust as fully and completely, and with the same effect, as though now owned by the Grantor and specifically described in the granting clauses hereof, but at any and all times the Grantor will execute and deliver to the Trustees any and all such further assurances, deeds of trust, conveyances or assignments thereof as the Trustees or the Beneficiary may require for the purpose of expressly and specifically subjecting the same to the lien of this Deed of Trust.

Section 4.21. Subrogation. To the extent permitted by law, the Beneficiary shall be subrogated, notwithstanding their release of record, to any mechanic's or vendor's lien or liens, superior titles, mortgages, deeds of trust, liens, encumbrances, rights, equities, and charges of all kinds heretofore or hereafter existing on the Security to the extent that the same are paid or discharged by the Beneficiary whether or not from the proceeds of the Note; provided, however, this Section shall not be deemed or construed to obligate the Beneficiary to pay or discharge the same.

Section 4.22. Security Agreement. This Deed of Trust creates, and the Grantor hereby grants to the Beneficiary, a security interest in the Equipment and other Security to the extent the same is not real property or is subject to the U.C.C., and this Deed of Trust constitutes a security agreement from the Grantor to the Beneficiary under the U.C.C. with respect to the same. The Grantor hereby agrees to execute and deliver on demand, and hereby irrevocably constitutes and appoints the Beneficiary the attorney-in-fact of the Grantor, to execute, deliver and, if appropriate, to file with the appropriate filing office or offices, such financing statements or other instruments as the Beneficiary may request or require in order to perfect the security interest granted hereby or to continue the effectiveness of the same.

Section 4.23. Right to Perform. If the Grantor shall fail to make any payment or perform, observe, or comply with any of the conditions and covenants herein contained, the Beneficiary, without notice to or demand upon the Grantor, and without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of the Grantor, and may enter upon the Property or any part thereof for that purpose and take all such action thereon as the Beneficiary may consider necessary or appropriate for such purpose. All such sums so paid or advanced by the Beneficiary and all costs and expenses (including, without limitation, attorneys' fees and expenses) so incurred, together with interest thereon, shall be repaid by the Grantor to the Beneficiary as provided herein.

Section 4.24. Utilities. The Grantor shall pay when due all utility charges, if any, which are incurred for the benefit of the Security or which may become a charge or lien against the Property for gas, electricity, water or sewer services furnished to the Property and all other assessments or charges of a similar nature, whether public or private, affecting the Security or any portion thereof, whether or not such taxes, assessments or charges are liens thereon.

Section 4.25. Survival of Warranties. The Grantor shall fully and faithfully satisfy and perform the Obligations, and each agreement of the Grantor incorporated by reference therein or herein, and any modification or amendment thereof. All representations, warranties and covenants of the Grantor contained in the Loan Documents or incorporated therein or herein by reference shall survive the Closing Date and

shall remain continuing obligations, warranties and representations of the Grantor during any time when any portion of the Obligations secured by this Deed of Trust remains outstanding.

Section 4.26. Trade Names. At the request of the Beneficiary, the Grantor shall execute a certificate in form satisfactory to the Beneficiary listing the trade names which Grantor intends to use in connection with the Security, and representing and warranting that the Grantor does business under no other trade names with respect to the Security. The Grantor shall immediately notify the Beneficiary in writing of any change in such trade names, and will, upon request of the Beneficiary, execute any additional financing statements and other certificates revised to reflect the change in trade names.

Section 4.27. Environmental Requirements. The Grantor hereby represents and warrants to the Beneficiary that the Security (including the land, surface soil, subsurface strata, surface water, drinking water supply, ground water, and any improvement thereon including, but not limited to, any facility, building, structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, ditch or impoundment) is free and clear of waste or debris and of any contamination from Hazardous Materials (collectively, the "Environmental Requirements"). The Grantor further covenants and warrants that the Grantor will not place or permit, nor cause or suffer to be placed or permitted, any Hazardous Materials on or about the Property at any time while the Beneficiary has any interest in the Security by virtue of this Deed of Trust. The Grantor shall indemnify and save harmless the Beneficiary for all claims, causes of action, damages, costs and expenses of any nature whatsoever arising out of or resulting from the existence or alleged existence of Hazardous Materials attributable to the operations of the Grantor. The Grantor further covenants and agrees that, if at any time it is determined that there are Hazardous Materials, the existence of which is attributable to the operations of the Grantor which require their collection, storage, treatment or disposal to be conducted or maintained in a specific or particular manner, the Grantor agrees to take or cause to be taken, at its sole expense, such actions as may be necessary to comply with Federal, State, local or municipal requirements for the collection, storage, treatment or disposal of all Hazardous Materials. If the Grantor fails to take such action, the Beneficiary may make advances or payments toward performance or satisfaction of the same, but shall be under no obligation to do so; and all sums so advanced or paid, including all sums advanced or paid in connection with any judicial or administrative investigation or proceeding relating thereto, including without limitation, all attorneys' fees, fines or other penalties, shall be at once repayable by the Grantor and shall bear interest at the Default Rate of Interest, from the date the same shall become due and payable until the date paid, and all sums so advanced or paid, with interest aforesaid, shall become a part of the Obligations of the Grantor pursuant to this Deed of Trust.

Section 4.28. Financial Statements and Reports. The Grantor shall furnish to the Beneficiary:

(a) Within ninety (90) days of the end of each fiscal year of the Grantor, a rent roll and operating statement for the Property. In addition, the Grantor agrees that it shall promptly furnish to the Beneficiary such additional reports and information deemed appropriate by the Beneficiary in its review of the financial condition of the Grantor, including unconsolidated figures and information on the Grantor. The Beneficiary may, at any time, for good cause and in its sole discretion, obtain an audit of Grantor's Accounts performed by an independent public accountant selected by the Beneficiary, at the Grantor's cost and expense.

(b) Within thirty (30) days after the timely filing thereof with the Internal Revenue Service, copies of its tax returns (including all schedules).

(c) Such additional information, reports or statements as the Beneficiary may from time to time reasonably request, including, but not limited to, such cash flow projections and financial statements of the Grantor which the Beneficiary may request in its sole and absolute discretion.

(d) If requested by the Beneficiary, contemporaneously with each year-end financial report required to be provided by Paragraph (a) above, a certificate signed by an appropriate authorized representative of the Grantor stating that the signer has individually reviewed the provisions of this Agreement and that a review of the activities of the Grantor during such year has been made by or under the supervision of the signer of such certificate with a view to determining whether the Grantor has observed, and

performed all of the Obligations under this Agreement and that, to the best of the signer's knowledge, information and belief, the Grantor is not at the time in default in the observance or performance of any of the terms and conditions hereof or, if the Grantor shall be so in default, specifying all such defaults and events of which the signer may have knowledge.

Section 4.29. Notice of Existence of Default. The Grantor shall promptly advise the Beneficiary of the existence of any condition or event, or the expected existence of any condition or event, which is or which will be with the passage of time or the giving of notice, an Event of Default under this Deed of Trust or any of the Loan Documents.

Section 4.30. Further Assurances. The Grantor agrees to execute such other and further documents, including without limitation, promissory notes, security agreements, agreements, financing statements, continuation statements, and similar instruments as may from time to time, in the sole opinion of the Beneficiary or the Beneficiary's counsel, be necessary, proper or convenient, to perfect, confirm, establish, re-establish, continue or complete the security interest in the Collateral and the purposes and intentions of this Deed of Trust, it being the intention of the Grantor to hereby provide a full and absolute warranty of further assurance to the Beneficiary. In the event the Grantor shall fail for any reason to execute, within ten (10) days of the Beneficiary's demand, any document of the aforementioned type which the Beneficiary requests the Grantor to execute, the Grantor shall and hereby irrevocably and automatically appoints the Beneficiary as the Grantor's attorney-in-fact to execute such document in the Grantor's name, place and stead and on the Grantor's behalf, and such power of attorney shall constitute a power of attorney coupled with an interest and shall be irrevocable unless and until the subject document is fully and effectively executed.

Section 4.31. Advancements. If the Grantor shall fail to perform any of the affirmative covenants contained in this Article or to protect or preserve its assets and properties, or if the Grantor shall fail to protect or preserve the Collateral or the status and priority of the security interest of the Beneficiary in the Collateral, the Beneficiary may, if the Grantor fails to make payments required to be made pursuant to any such covenants or to protect or preserve such assets or properties, make advances to perform the same on behalf of the Grantor or to protect or preserve the assets and properties of the Grantor or to protect and preserve the Collateral or the status and priority of the security interest of the Beneficiary in the Collateral, and all sums so advanced shall immediately upon advancement become secured by the security interest created by this Deed of Trust, and the terms and provisions of this Deed of Trust and all of the Loan Documents. The Grantor shall repay on demand all sums so advanced on the Grantor's behalf, plus any expenses or costs incurred by the Beneficiary, including attorneys' fees, with interest thereon at the Default Rate of Interest. The provisions of this Section shall not be construed to prevent the institution of the rights and remedies of the Beneficiary upon the occurrence of an Event of Default by the Grantor. Notwithstanding anything in this Section to the contrary, the authorization contained in this Section shall impose no duty or obligation on the Beneficiary to perform any action or to make any advancement on behalf of the Grantor and is for the sole benefit and protection of the Beneficiary.

Section 4.32. ERISA. The Grantor shall furnish to Beneficiary: (a) within ten (10) days after it has reason to know that it or any ERISA Affiliate has incurred withdrawal liability under Sections 4201, 4203, 4204 or 4205 of ERISA, or that any Multiemployer Plan is in reorganization (within the meaning of Section 4241(a) of ERISA), or that any Reportable Event has occurred with respect to any Plan, or that any Prohibited Transaction has occurred with respect to any Plan or other employee benefit plan, as described in Section 3(3) of ERISA, of the Grantor or any ERISA Affiliate, or that PBGC has instituted or will institute proceedings under Title IV of ERISA to terminate any Plan or to appoint a trustee to administer any Plan, a statement setting forth the details as to such withdrawal liability, reorganization, Reportable Event, Prohibited Transaction or termination or appointment proceedings and the action which it (or the Multiemployer Plan sponsor or Plan sponsor if other than the Grantor) proposes to take with respect thereto, together with a copy of any notice of withdrawal liability or reorganization given to the Grantor or any ERISA Affiliate and a copy of the notice of such Reportable Event given to PBGC if a copy of such notice is available to the Grantor or any of its ERISA Affiliates; and (b) promptly after receipt thereof, a copy of any notice the Grantor or any of its ERISA Affiliates or the sponsor of any Plan receives from PBGC or the Internal Revenue Service which sets forth or proposes any action or determination with respect to the Plan. The Grantor shall notify the Beneficiary

promptly of any taxes, assessments, charges or levies which have been assessed or which the Grantor or any of its ERISA Affiliates has reason to believe may be assessed against the Grantor or any of its ERISA Affiliates by the Internal Revenue Service with respect to any Plan or Multiemployer Plan. Within the time required for notice to the PBGC under Section 302(f)(4)(A) of ERISA, the Grantor shall notify the Beneficiary of any lien arising under Section 302(f) of ERISA in favor of any Plan.

Section 4.33. Notice of Security Interest. Upon the request of the Beneficiary, the Grantor shall stamp or otherwise inscribe on the Grantor's Records pertaining to the Collateral, a notation or designation, in form satisfactory to the Beneficiary, of the Beneficiary's security interest and shall label or identify its Equipment and other Collateral as being subject to the Beneficiary's security interests.

Section 4.34. Fair Labor Standards Act. The Grantor shall comply in all material respects with the Fair Labor Standards Act of 1938, as amended.

ARTICLE V.

NEGATIVE COVENANTS

The Grantor covenants and agrees that, during the term of the Loan and until all of the Obligations have been fully performed to the satisfaction of the Beneficiary, it will not do or permit to be done or to cause to occur any of the acts or happenings set forth below without the prior written consent of the Beneficiary.

Section 5.1. Merger, Etc. The Grantor shall not enter into any merger, consolidation, share exchange, reorganization or recapitalization.

Section 5.2. Sale or Transfer of Assets. Except as otherwise provided herein, the Grantor shall not sell, transfer, lease or otherwise dispose of all or (except in the ordinary course of business for adequate consideration) any material portion of its assets. For purposes of this Section, a sale, transfer, lease or other disposition shall be material if it amounts to more than Five Thousand Dollars (\$5,000) when aggregated with all previous sales, transfers, leases and dispositions made by the Grantor after the date of this Deed of Trust.

Section 5.3. Encumbrance of Assets. The Grantor shall not mortgage, pledge, assign, grant or permit to exist any liens, claims, encumbrances or security interests in or upon any of its assets of any kind, whether now or hereafter acquired except for Permitted Liens.

Section 5.4. Guaranties. The Grantor shall not become liable, directly or indirectly, as guarantor or otherwise, for any obligation of any other Person, except for the endorsement of commercial paper for deposit or collection in the ordinary course of business.

Section 5.5. Indebtedness. The Grantor shall not incur, create, assume or permit to exist any indebtedness to any creditor other than the Beneficiary that would cause the Grantor (or either of them) to be in violation of Section 5.31 of the Loan Agreement.

Section 5.6. Dividends and Distributions. The Grantor shall not make any dividends or other distributions to, or loan any sums to, any of its members that would cause the Grantor (or either of them) to be in violation of Section 5.31 of the Loan Agreement.

Section 5.7. Investments and Loans. The Grantor shall not form any subsidiary or make any investment in or make any loan in the nature of any investment to any Person except as permitted by this Deed of Trust. The Grantor shall not acquire any membership interests in, or all or substantially all of the assets of, any Person. The Grantor shall not become a corporation.

Section 5.8. Assignment of this Deed of Trust. The Grantor shall not assign or attempt to assign this Deed of Trust to any Person.

Section 5.9. This section intentionally deleted.

Section 5.10. This section intentionally deleted.

Section 5.11. No Alteration of Structure or Operations. The Grantor shall not amend or change materially its capital structure or its line or scope of business, nor shall it engage in business ventures other than those in which it is presently engaged.

Section 5.12. Changes of Ownership. The Grantor shall not undergo a change in ownership or control of any of the issued and outstanding membership interests of the Grantor, including without limitation as a result of the issuance of membership interests or other securities or the transfer or the issuance of exercise of options therefor. The Grantor shall not modify its organizational documents to permit the members of preferred or other membership interests to cause the Grantor to redeem such membership interests.

ARTICLE VI.

CONDITIONS PRECEDENT TO THE OBLIGATIONS

The Beneficiary shall not be obligated to make any disbursements to the Grantor of the Loan Proceeds until it shall have received all of the items or documents referred to in this Article and until the following conditions precedent shall have been fully met and complied with in all respects.

Section 6.1. No Event of Default. No Event of Default shall have occurred hereunder and all representations and warranties set forth herein shall be true and correct.

Section 6.2. Loan Documents. The Loan Documents shall have been duly executed, acknowledged (where required), delivered and recorded (where required), including, but not limited to, landlord waivers acceptable to the Beneficiary from all landlords leasing any property to the Grantor.

Section 6.3. Legal Matters. All legal matters incidental to the making of the Loan shall be satisfactory in all respects to the Beneficiary's Counsel, including an opinion of the Grantor's counsel in form and content satisfactory to the Beneficiary.

Section 6.4. Delivery of Required Items. The Grantor shall have provided to the Beneficiary, not less than ten (10) Business Days prior to the Closing Date, copies of all items, documents or instruments required to be delivered to the Beneficiary prior to the Closing Date, each of which shall in all respects be satisfactory to the Beneficiary and the Beneficiary's counsel.

Section 6.5. Payment of Fees. The Grantor shall have delivered to the Beneficiary all the fees required on or before the Closing Date; provided, however, that with respect to any fees to be paid to the Beneficiary by the Grantor on an annual basis, the Grantor shall be required to pay in advance to the Beneficiary on the Closing Date only that portion of such annual fee which represents the fee for the first annual period. Any annual fees thereafter shall be paid by the Grantor directly to the Beneficiary in advance, on or before each anniversary of the Closing Date.

ARTICLE VII

EVENTS OF DEFAULT

The occurrence of one or more of the following events (herein sometimes referred to as "Events of Default," or singularly an "Event of Default") shall constitute an Event of Default hereunder, and all such Events of Default are individually and collectively included in the term "default" as used herein:

Section 7.01. Failure to Pay Principal and Interest. The Grantor shall fail to pay promptly any payment of the Principal Sum or of any interest thereon as and when the same is due and payable in accordance with the terms of the Note, and such failure shall continue for five (5) calendar days. The failure

by the Borrower to pay any of the Obligations as and when due; and such failure shall continue for five (5) calendar days. The Beneficiary is not obligated to give the Grantor prior written notice of default under this section; however, upon the occurrence of a payment default by the Grantor and its discovery by the Beneficiary, the Beneficiary will use reasonable efforts to alert the Grantor of such default.

Section 7.02. Failure to Pay Other Indebtedness. The Grantor shall fail to pay promptly any of the other Indebtedness secured hereby as and when the same shall be due and payable in accordance with the terms hereof or of the Note, and such failure shall continue for five (5) calendar days. The Beneficiary is not obligated to give the Grantor prior written notice of default under this section; however, upon the occurrence of a payment default by the Grantor and its discovery by the Beneficiary, the Beneficiary will use reasonable efforts to alert the Grantor of such default.

Section 7.03. Breach of Representations and Warranties. Any representation, warranty, opinion or statement made by the Grantor (or counsel for the Grantor) or any other Person herein or in any of the Loan Documents or any certificate, opinion or other writing executed and delivered in connection therewith, shall prove to have been untrue in any respect at the time made.

Section 7.04. Failure to Comply with Requirements. The Grantor shall fail to duly and promptly perform, comply with or observe the terms, covenants, conditions, representations, warranties and agreements set forth herein.

Section 7.05. Other Defaults. The Grantor shall fail to duly and promptly perform, comply with or observe any one or more of the other terms, covenants, conditions, agreements and stipulations contained in this Deed of Trust and such failure shall continue for a period of thirty (30) days after the occurrence of such event; provided, however, that such grace period shall not apply to a failure to comply with the provisions pertaining to insurance or the Environmental Requirements.

Section 7.06. Default Under Other Loan Documents. An event of default shall occur under any of the other Loan Documents, and such event of default is not cured within any applicable grace period provided therein.

Section 7.07. Receiver; Bankruptcy. The Grantor or any guarantor shall (a) apply for, or consent in writing to, the appointment of a receiver, trustee or liquidator of the Grantor, or any guarantor or of the Security or of all or substantially all of the Grantor's or any guarantor's other assets, or (b) file, or have filed involuntarily against it, a petition for relief in bankruptcy or admit in writing its inability to pay the Grantor's or any guarantor debts as they become due, or (c) make a general assignment for the benefit of creditors, or (d) file a petition or an answer seeking a reorganization (other than a reorganization not involving the liabilities of the Grantor or any guarantor) or an arrangement with creditors or take advantage of any insolvency law, or (e) file an answer admitting the material allegations of a petition filed against the Grantor or any guarantor in any bankruptcy, reorganization or insolvency proceeding, or (f) if not an individual, be dissolved as a result of any adversary suit or proceeding.

Section 7.08. Execution; Attachment. (a) Any execution or attachment shall be levied against the Security, or any part thereof, and such execution or attachment shall not be set aside, discharged or stayed within thirty (30) days after the same shall have been levied, or (b) an order, judgment or decree shall be entered by any court of competent jurisdiction on the application of a creditor adjudicating the Grantor a bankrupt or insolvent, or appointing a receiver, trustee or liquidator of the Grantor or of the Security, or of all or substantially all of the Grantor's other assets, and such order, judgment or decree shall continue unstayed and in effect for a period of thirty (30) days or shall not be discharged within 10 days after the expiration of any stay thereof.

Section 7.09. Judgment. Unless adequately insured in the sole opinion of the Beneficiary, the entry of a final judgment against the Grantor for the payment of money in excess of Five Thousand Dollars (\$5,000) which remains unpaid, undischarged, unbonded or undismissed for a period of thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered, or to secure a stay of execution pending appeal of such judgment.

Section 7.10. Change in Zoning. Any change in any zoning ordinance or regulation or any other public restriction shall be enacted, adopted or implemented, limiting or defining the uses which may be made of the Property, or any portion thereof, such that the intended use of the Property, as specified in the Loan Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed.

Section 7.11. Default Under Other Mortgages or Deeds of Trust. An Event of Default (as defined therein) should exist or occur under any other mortgage, deed of trust or other instrument encumbering all or any portion of the Security regardless of whether or not the creation of such mortgage, deed of trust or other encumbrance has been previously consented to by Beneficiary.

Section 7.12. Material Adverse Change. The Grantor suffers a material adverse change, as determined by the Lender in good faith, in the financial condition of the Grantor from that indicated by the financial statements of the Grantor most recently submitted to and received by the Lender as of the date of this Deed of Trust.

ARTICLE VIII

RIGHTS AND REMEDIES

If one or more of the Events of Default set forth in Article VII above shall occur, then in each and every such case, the Beneficiary, may at any time thereafter exercise or, where appropriate, direct the Trustees to exercise, any or all of the following powers, privileges, discretions, rights or remedies:

Section 8.01. Acceleration. Declare (without notice to the Grantor) the entire unpaid balance of the Principal Sum of the Note and all other Indebtedness secured hereby to be immediately due and payable, whereupon the same, together with interest and any other charges accrued or due thereon and unpaid, shall forthwith become due and payable, without presentment, demand, protest or notice of protest or of dishonor, all of which the Grantor hereby waives.

Section 8.02. Foreclosure. Take possession of and sell the Property, or any part thereof requested by the Beneficiary to be sold, subject to any Lease of all or any part of the Property which the Beneficiary elects and so advertise in accordance with the Code of North Carolina or any substitutions or replacements thereto, and in connection therewith the Grantor hereby AUTHORIZES AND EMPOWERS THE BENEFICIARY TO TAKE POSSESSION OF AND DIRECT THE TRUSTEES TO SELL (OR IN CASE OF ANY DEFAULT OF ANY PURCHASER TO RESELL) THE PROPERTY, OR ANY PART THEREOF, all in accordance with the laws of the State of North Carolina or rule of court relating to deeds of trust, including any amendments thereof, or additions thereto, which do not materially change or impair such remedy. In connection with any foreclosure, the Trustees, on behalf of the Beneficiary, may procure such title reports, surveys, tax histories and appraisals as they deem necessary, and all costs and expenses incurred in connection therewith shall be payable by the Grantor. In case of any sale under this Deed of Trust, by virtue of judicial proceedings or otherwise, the Property may be sold as an entirety or in parcels, by one sale or by several sales, as may be deemed by the Trustees to be appropriate and without regard to any right of the Grantor or any other Person to the marshalling of assets. Any sale hereunder may be made at public auction, at such time or times, at such place or places, and upon such terms and conditions and after such previous public notice as the Trustees shall deem appropriate and advantageous and as required by law. Upon the terms of such sale being complied with, the Trustees shall convey to, and at the cost of, the purchaser or purchasers the interest of the Grantor in the Property so sold, free and discharged of and from all estate, title or interest of the Grantor, at law or in equity, such purchaser or purchasers being hereby discharged from all liability to see to the application of the purchase money. The proceeds of such sale or sales under this Deed of Trust, whether under the assent to a decree, the power of sale, or by equitable foreclosure, shall be held by the Trustees and applied as follows: First, to pay all costs, charges and expenses attending the execution of this trust, of taking possession of the Property or any part thereof, or any sale made as aforesaid, including but not limited to (a) counsel fees of \$5,000 to the attorneys representing the Trustees for conducting the proceedings if without contest, but if legal services be rendered to the Trustees or the Beneficiary in connection with any contested matter in the proceedings, then such other

counsel fees and expenses shall be allowed and paid out of the proceeds of such sale or sales as the court having jurisdiction may deem proper, and (b) a Trustees' commission equal to the commission allowed trustees for making sales of property under decrees of the equity court having jurisdiction; Second, to pay all Indebtedness secured hereby including all interest then due and accrued thereon, which shall include interest through the date of ratification of the auditor's account, in such order and manner as the Beneficiary in its sole discretion may determine; and Lastly, to pay the surplus, if any, to the Grantor or any Person entitled thereto upon surrender and delivery to the purchaser or purchasers of the Property. Immediately upon the filing of any foreclosure proceedings under this Deed of Trust, there shall be and become due and owing by the Grantor all expenses incident to any foreclosure proceedings under this Deed of Trust and a commission on the total amount of the Indebtedness then due equal to one-half of the percentage allowed as commission to trustees making sales under orders or decrees of the equity court having jurisdiction, and no Person shall be required to receive only the aggregate Indebtedness then secured hereby with interest thereon to the date of payment unless the same be accompanied by a tender of such expenses, costs and commission.

Section 8.03. Receiver. As a matter of right and to the extent permitted by law, without notice to the Grantor, and without regard to the adequacy of the security, and upon application to a court of competent jurisdiction, the Beneficiary shall be entitled to the immediate appointment of a receiver for all or any part of the Security, and of the rents, income, profits, issues and proceeds thereof and therefrom, whether such receivership be incidental to a proposed sale of the Security or otherwise, and the Grantor hereby consents to the appointment of such a receiver. The Grantor will pay to the Beneficiary, upon demand, all expenses, including receiver's fees, attorneys' fees, costs and agents' compensation, advanced by the Beneficiary and incurred pursuant to this Section; and all such expenses shall be (a) a lien against and upon the Security, (b) added to the Indebtedness secured by this Deed of Trust, and (c) payable on demand with interest at the default rate of interest under the Note from and including the date each such advance is made.

Section 8.04. Entry and Operation. To the extent permitted by law, and with or without the appointment of a receiver or an application therefor, enter upon, and take possession of (and the Grantor shall surrender actual possession of) the Property or any part thereof, without notice to the Grantor and without bringing any legal action or proceeding, or, if necessary by force, legal proceedings, ejectment or otherwise, and may remove and exclude the Grantor and its agents and employees and all other Persons therefrom, and having and holding the same may make all necessary or proper repairs, replacements and useful or required alterations, additions, betterments or improvements to or upon the same, operate, maintain, control, make secure and preserve the same and receive all earnings, income, profits, rents (including rents accrued and unpaid) and proceeds accruing with respect thereto or any part thereof, such earnings, income, profits, rents and proceeds being hereby assigned to the Beneficiary as additional security for the repayment of the Indebtedness. In so doing, the Trustees or their designees shall have the right to manage the Property and to carry on the business of the Grantor and may exercise all of the rights and powers of the Grantor, either in the name of the Grantor, or otherwise, including, but without limiting the generality of the foregoing, the right to lease the Property or any part thereof, to cancel, modify, renew or extend any Lease and to complete the construction of any unfinished improvements. The Trustees shall be under no liability for or by reason of any such taking of possession, entering, holding, removal, maintaining, operating or managing, except for the Trustees' gross negligence or willful misconduct. Any amounts so received by the Beneficiary or the Trustees shall be applied (i) first, to pay all costs and expenses of so entering upon, taking possession of, holding, operating, maintaining, preserving and managing the Property or any part thereof including, but not in limitation of the foregoing, reasonable compensation to the attorneys, employees or agents of the Trustees engaged or employed with regard thereto, (ii) second, to pay the cost and expense of all repairs, renewals, replacements, alterations, additions, betterments and improvements to or upon the Property or any part thereof, and (iii) the balance, if any, to such part of the Indebtedness as selected by the Beneficiary. The Grantor shall pay on demand to the Trustees the amount of any deficiency between (1) the amounts so received by the Trustees and (2) all moneys paid or advanced and all costs and expenses incurred (including without limitation attorneys' fees and expenses) by the Trustees in exercising the rights provided in this Section, and the same shall bear interest at a rate equal to five percent (5%) in excess of the then applicable interest rate provided in the Note from the date such advance is made and shall be a part of the Indebtedness secured hereby. The exercise of the remedies provided in this Section shall not cure or waive any Event of Default or notice of an Event of Default hereunder or invalidate any act done pursuant to such notice, and the enforcement of such remedies, once commenced, shall continue for

so long as the Beneficiary shall elect, notwithstanding the fact that the exercise of such remedies may have, for a time, cured the original Event of Default.

Section 8.05. Other Remedies. The Beneficiary, or at the Beneficiary's election, the Trustees, shall have the right from time to time to enforce any legal or equitable remedy against the Grantor and to sue the Grantor for any sums whether interest, damages for failure to pay principal or any installments thereof, Taxes, or any other sums required to be paid under the terms of this Deed of Trust, as the same become due, without regard to whether or not the Principal Sum secured or any other Indebtedness secured by this Deed of Trust shall be due, and without prejudice to the right of the Beneficiary thereafter to enforce any appropriate remedy against the Grantor, including an action of foreclosure, or any other action, including an action for specific performance, for a default or defaults by the Grantor existing at the time such earlier action was commenced. Nothing contained in this Deed of Trust shall preclude the Beneficiary from exercising or enforcing any rights it may now or hereafter have under or pursuant to any separate instrument of guaranty.

Section 8.06. U.C.C. Proceed under the U.C.C. as to all or any part of the Security which may come under the jurisdiction of the U.C.C., and in conjunction therewith to exercise all of the rights, remedies and powers of a secured party under the U.C.C. Upon the occurrence of any Event of Default hereunder, the Grantor shall assemble all of the Security which may come under the jurisdiction of the U.C.C. and make the same available on the Property. Any notification required by Section 9-504 of the U.C.C. shall be deemed reasonably and properly given if mailed certified mail, return receipt requested, postage prepaid, by the Beneficiary to the Grantor at the address specified at least five (5) days before any sale or other disposition of such Security, or any portion thereof. Disposition of such Security or any portion thereof shall be deemed commercially reasonable if made pursuant to a public offering advertised at least twice in a newspaper of general circulation in the community where the Property is located.

Section 8.07. Remedies, etc. Cumulative. Each right, power and remedy of the Beneficiary or the Trustees as provided for in this Deed of Trust or in any of the other Loan Documents, shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Deed of Trust or in any of the other Loan Documents, and the exercise or beginning of the exercise by the Beneficiary or the Trustees of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by the Beneficiary or the Trustees of any or all such other rights, powers or remedies.

Section 8.08. No Waiver, etc. NO FAILURE OR DELAY BY THE BENEFICIARY OR THE TRUSTEES TO INSIST UPON THE STRICT PERFORMANCE OF ANY TERM, CONDITION, COVENANT OR AGREEMENT OF THIS DEED OF TRUST OR OF ANY OF THE OTHER LOAN DOCUMENTS, OR TO EXERCISE ANY RIGHT, POWER OR REMEDY CONSEQUENT UPON A BREACH THEREOF, SHALL CONSTITUTE A WAIVER OF ANY SUCH TERM, CONDITION, COVENANT OR AGREEMENT OR OF ANY SUCH BREACH, OR PRECLUDE THE BENEFICIARY OR THE TRUSTEES FROM EXERCISING ANY SUCH RIGHT, POWER OR REMEDY AT ANY LATER TIME OR TIMES. BY ACCEPTING PAYMENT AFTER THE DUE DATE OF ANY AMOUNT PAYABLE UNDER THIS DEED OF TRUST OR UNDER ANY OF THE OTHER LOAN DOCUMENTS, NEITHER THE BENEFICIARY NOR THE TRUSTEES SHALL BE DEEMED TO HAVE WAIVED THE RIGHT EITHER TO REQUIRE PROMPT PAYMENT WHEN DUE OF ALL OTHER AMOUNTS PAYABLE UNDER THIS DEED OF TRUST OR UNDER ANY OF THE OTHER LOAN DOCUMENTS, OR TO DECLARE A DEFAULT FOR FAILURE TO EFFECT SUCH PROMPT PAYMENT OF ANY SUCH OTHER AMOUNT. NEITHER THE GRANTOR NOR ANY OTHER PERSON NOW OR HEREAFTER OBLIGATED FOR THE PAYMENT OF THE WHOLE OR ANY PART OF THE INDEBTEDNESS NOW OR HEREAFTER SECURED BY THIS DEED OF TRUST SHALL BE RELIEVED OF SUCH OBLIGATION BY REASON OF THE FAILURE OF THE BENEFICIARY TO COMPLY WITH ANY REQUEST OF THE GRANTOR OR OF ANY OTHER PERSON SO OBLIGATED TO TAKE ACTION TO FORECLOSE THIS DEED OF TRUST OR OTHERWISE ENFORCE ANY OF THE PROVISIONS OF THIS DEED OF TRUST OR OF ANY OBLIGATIONS SECURED BY THIS DEED OF TRUST, OR BY REASON OF ANY AGREEMENT OR STIPULATION BETWEEN ANY SUBSEQUENT OWNER OR OWNERS OF THE SECURITY OR ANY PART THEREOF, OR BY THE BENEFICIARY EXTENDING THE TIME OF PAYMENT OR MODIFYING THE TERMS OF THE NOTE OR THIS DEED OF TRUST WITHOUT FIRST HAVING OBTAINED THE CONSENT OF THE GRANTOR OR SUCH OTHER PERSON, AND IN THE LATTER EVENT, THE GRANTOR AND ALL SUCH OTHER PERSONS SHALL CONTINUE LIABLE TO

MAKE SUCH PAYMENTS ACCORDING TO THE TERMS OF ANY SUCH AGREEMENT OF EXTENSION OR MODIFICATION UNLESS EXPRESSLY RELEASED AND DISCHARGED IN WRITING BY THE BENEFICIARY. REGARDLESS OF CONSIDERATION, AND WITHOUT THE NECESSITY FOR ANY NOTICE TO OR CONSENT BY THE HOLDER OF ANY SUBORDINATE LIEN ON THE SECURITY, THE BENEFICIARY MAY RELEASE THE OBLIGATION OF ANY PERSON AT ANY TIME LIABLE FOR ANY OF THE INDEBTEDNESS SECURED BY THIS DEED OF TRUST OR ANY PART OF THE SECURITY AND MAY EXTEND THE TIME OF PAYMENT OR OTHERWISE MODIFY THE TERMS OF THE NOTE OR THIS DEED OF TRUST WITHOUT, AS TO THE SECURITY OR THE REMAINDER THEREOF, IN ANYWISE IMPAIRING OR AFFECTING THE LIEN AND/OR SECURITY INTEREST OF THIS DEED OF TRUST OR THE PRIORITY OF SUCH LIEN AND/OR SECURITY INTEREST, AS SECURITY FOR THE PAYMENT OF THE INDEBTEDNESS AS IT MAY BE SO EXTENDED OR MODIFIED, OVER ANY SUBORDINATE LIEN. THE HOLDER OF ANY SUBORDINATE LIEN SHALL HAVE NO RIGHT TO TERMINATE ANY LEASE AFFECTING THE SECURITY WHETHER OR NOT SUCH LEASE IS SUBORDINATE TO THIS DEED OF TRUST. THE BENEFICIARY MAY RESORT FOR THE PAYMENT OF THE INDEBTEDNESS SECURED HEREBY TO THE PROPERTY OR TO ANY OF THE OTHER SECURITY IN SUCH ORDER AND MANNER AS THE BENEFICIARY MAY ELECT.

ARTICLE IX

THE TRUSTEES

Section 9.01. Liability of the Trustees. The Trustees shall be protected in acting upon any notice, request, consent, demand, statement, note or other paper or document believed by them to be genuine and to have been signed by the party or parties purporting to sign the same. The Trustees shall not be liable for any error of judgment, nor for any act done or step taken or omitted, nor for any mistakes of law or fact, nor for anything which the Trustees may do or refrain from doing in good faith, nor generally shall the Trustees have any accountability hereunder except for willful misconduct or gross negligence. The powers and duties of the Trustees hereunder may be exercised through such attorneys, agents or servants as they may appoint, and the Trustees shall have no liability or responsibility for any act, failure to act, gross negligence or willful conduct of such attorney, agent or servant, so long as they were selected without gross negligence or willful misconduct. In addition, the Trustees may consult with legal counsel selected by them and the Trustees shall have no liability or responsibility by reason of any act or failure to act in accordance with the opinions of such counsel. The Trustees may act hereunder and may sell or otherwise dispose of the Security or any part thereof as herein provided, although the Trustees have been, may now be or may hereafter be, attorneys, officers, agents or employees of the Beneficiary, in respect of any matter of business whatsoever. The Trustees, however, shall have no obligation to sell all or any part of the Security upon default or take other action authorized to be taken by them hereunder except upon the request of the Beneficiary.

Section 9.02. Substitution of Trustees. The Beneficiary shall have, and is hereby granted with warranty of further assurances, the irrevocable power to appoint a substitute Trustee or Trustees hereunder (including, in case of death or refusal to act of a Trustee or Trustees or their nonacceptance of the trust, absence or any other reason, to appoint a new or replacement or substitute Trustee or Trustees) to be exercised at any time without notice and without specifying any reason therefor, by filing for record in the office where this instrument is recorded a Deed of Appointment. The power of appointment of a successor Trustee or Trustees may be exercised as often as and whenever the Beneficiary may choose, and the exercise of the power of appointment, no matter how often, shall not be an exhaustion thereof. Upon the recordation of such Deed or Deeds of Appointment, the Trustee or Trustees so appointed shall thereupon, without any further act or deed of conveyance, become fully vested with identically the same title and estate in and to the Security and with all the rights, powers, trusts and duties of their, his or its predecessor in the trust hereunder with like effect as if originally named as Trustee or as one of the Trustees hereunder. Whenever in this Deed of Trust reference is made to the Trustees, it shall be construed to mean the Trustee or Trustees for the time being, whether original or successors or successor in trust; and all title, estate, rights, powers, trusts and duties hereunder given or appertaining to or devolving upon the Trustees shall be in each of the Trustees so that any action hereunder or purporting to be hereunder of any one of the original or any successor Trustees shall for all purposes be considered to be, and as effective as, the action of all the Trustees.

ARTICLE X

MISCELLANEOUS

Section 10.01. Payment by Others. Any payment of the Indebtedness or any part thereof made in accordance with the terms of this Deed of Trust or of the Note by any subsequent owner of the Security, or by any other Person whose interest in the Security might be prejudiced in the event of a failure to make such payment, or by any Person which at any time may be liable for such payment or may own or have such an interest in the Security, shall be deemed as between the Beneficiary and all Persons who at any time may be liable as aforesaid or may own or have an interest in the Security, to have been made on behalf of such Persons.

Section 10.02. Notices. All notices, demands, requests, consents, or approvals required under this Deed of Trust to be in writing, shall be deemed to have been properly given if and when mailed by first class certified mail, return receipt requested, postage prepaid, as follows:

If to Beneficiary: Premier Federal Credit Union
c/o CU Business Capital, LLC, a Florida limited liability company
3700 Lakeside Drive, Suite 470
Miramar, Florida 33027-3255

with a copy to: Shapiro Sher Guinot & Sandler
Suite 2000
36 South Charles Street
Baltimore, Maryland 21201-3147
Attn: K. Lee Riley, Jr., Esquire

If to Grantor: Liberty Plaza, LLC and Flips Liberty, LLC
102 West Third Street
Winston-Salem, North Carolina 27101
Attn: John W. Davis, III, Authorized Representative

with copy to: Bell, Davis & Pitt, P.A.
100 N. Cherry Street, Suite 600
Winston-Salem, North Carolina 27101
Attn: Elizabeth Repetti, Esquire

Section 10.03. Definitions. Wherever used in this Deed of Trust, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, the words "Deed of Trust" shall mean this Deed of Trust and any supplement or supplements hereto, and pronouns of any gender shall include the other genders, and either the singular or plural shall include the other. The Trustees or the Beneficiary may release, compromise, modify or settle with any of the Grantor, in whole or in part, without impairing, lessening or affecting the obligations and liabilities of the others of the Grantor hereunder or under the Note. Any of the acts mentioned aforesaid may be done without the approval or consent of, or notice to, any of the Grantor.

Section 10.04. Successors and Assigns. All of the grants, covenants, terms, provisions and conditions herein shall run with the Land and shall apply to, and bind the successors and assigns of the Grantor (including any permitted subsequent owner of the Security or any portion thereof) and inure to the benefit of the Beneficiary, its successors and assigns, and to the successors in trust of the Trustees.

Section 10.05. Amendments. This Deed of Trust may not be modified or amended except by an agreement in writing, signed by the party against whom enforcement of the change is sought.

Section 10.06. Illegality. If fulfillment of any provision hereof or any transaction related hereto or to the Note, at the time performance of such provisions shall be due, shall involve transcending the limit of validity prescribed by law, then the obligation to be fulfilled shall be reduced to the limit of such validity; and if any clause or provisions herein contained, other than the provisions requiring the Grantor to pay interest, principal, principal and interest, or any other of the Indebtedness secured by this Deed of Trust, operates or would prospectively operate to invalidate this Deed of Trust in whole or in part, then such clause or provision only shall be void, as though not herein contained, and the remainder of this Deed of Trust shall remain operative and in full force and effect; and if such clause or provision requires the Grantor to pay interest, principal, principal and interest or any other of the Indebtedness secured by this Deed of Trust, then at the option of the Beneficiary, the entire unpaid Principal Sum, with all unpaid interest accrued thereon and all other unpaid Indebtedness secured by this Deed of Trust shall become due and payable.

Section 10.07. Governing Law. This Deed of Trust is being executed and delivered in the State and shall be construed, governed and enforced in accordance with the laws in effect from time to time in the State of North Carolina (exclusive of conflicts of laws provisions).

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Grantor has caused this Deed of Trust to be executed under seal by its duly authorized officer(s) as of the date first written above.

LIBERTY PLAZA, LLC

Silkroad Realty Holdings, LLC
f/k/a Silkroad Realty Holdings, Inc.,
its sole Member

By: [Signature] (SEAL)
Matthew G. Roszak
Manager and Authorized Signatory

By: [Signature] (SEAL)
Andrew J. Filipowski
Manager and Authorized Signatory

L.R. Daniel, Inc.,
Manager and Authorized Signatory

By: _____ (SEAL)
Loyd R. Daniel, Jr.
President

FLIPS LIBERTY, LLC

By: [Signature] (SEAL)
Andrew J. Filipowski
Member and Authorized Signatory

~~COOK COUNTY - ILLINOIS~~
~~NORTH CAROLINA - FORSYTH COUNTY~~
I, Meghan S. Walther a Notary Public of Cook County, Illinois do hereby certify that Matthew G. Roszak personally appeared before me this day and acknowledged that he is a member of Silkroad Realty Holdings, LLC f/k/a Silkroad Realty Holdings, Inc., sole Member of Liberty Plaza, LLC, and by authority duly given and as the act of the limited liability company as a Member of Liberty Plaza, LLC, the foregoing instrument was signed in its name by Manager. Witness my hand and official seal, this the 10 day of February, 2012

(Stamp or Seal)



[Signature]
Notary Public

My commission expires: 6/30/2012

IN WITNESS WHEREOF, the Grantor has caused this Deed of Trust to be executed under seal by its duly authorized officer(s) as of the date first written above.

LIBERTY PLAZA, LLC

FLIPS LIBERTY, LLC

SilkRoad Realty Holdings, LLC
Member/Manager

By: _____
Matthew G. Roszak
Member

Andrew J. Filipowski Member/Manager

By: _____
Andrew J. Filipowski
Member

L.R. Daniel, Inc.,
Manager

By: Loyd R. Daniel, Jr.
Loyd R. Daniel, Jr.
President

NORTH CAROLINA - FORSYTH COUNTY

I, _____, a Notary Public of Forsyth County, North Carolina do hereby certify that Matthew G. Roszak personally appeared before me this day and acknowledged that he is a member of SilkRoad Realty Holdings, LLC, Member/Manager of Liberty Plaza, LLC, and by authority duly given and as the act of the limited liability company as a Member/Manager of Liberty Plaza, LLC, the foregoing instrument was signed in its name by Manager. Witness my hand and official seal, this the ____ day of February, 2009.

(Stamp or Seal)

Notary Public

My commission expires: _____

NORTH CAROLINA - FORSYTH COUNTY

I, _____, a Notary Public of Forsyth County, North Carolina do hereby certify that Andrew J. Filipowski personally appeared before me this day and acknowledged that he is a member of SilkRoad Realty Holdings, LLC, Member/Manager of Liberty Plaza, LLC, and by authority duly given and as the act of the limited liability company as a Member/Manager of Liberty Plaza, LLC, the foregoing instrument was signed in its name by Manager. Witness my hand and official seal, this the ____ day of February, 2009.

(Stamp or Seal)

Notary Public

My commission expires: _____

NORTH CAROLINA - FORSYTH COUNTY

I, Meghan S. Walther Cook County, Illinois a Notary Public of ~~Forsyth County, North Carolina~~ do hereby certify that Andrew J. Filipowski personally appeared before me this day and acknowledged that he is a manager of Silkroad Realty Holdings, LLC f/k/a Silkroad Realty Holdings, Inc., sole Member of Liberty Plaza, LLC, and by authority duly given and as the act of the limited liability company as a Member/Manager of Liberty Plaza, LLC, the foregoing instrument was signed in its name by Manager. Witness my hand and official seal, this the 16 day of February, 2009.

(Stamp or Seal)



Meghan S. Walther
Notary Public

My commission expires: 6/30/2012

NORTH CAROLINA - FORSYTH COUNTY

I, _____, a Notary Public of Forsyth County, North Carolina do hereby certify that Loyd R. Daniel, Jr. personally appeared before me this day and acknowledged that he is the President of L.R. Daniel, Inc., Manager of Liberty Plaza, LLC, and by authority duly given and as the act of the corporation as a Manager of Liberty Plaza, LLC, the foregoing instrument was signed in its name by its President. Witness my hand and official seal, this the _____ day of February, 2009.

(Stamp or Seal)

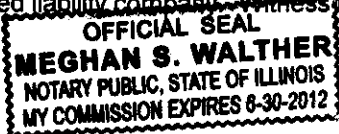
Notary Public

My commission expires: _____

STATE OF NORTH CAROLINA - FORSYTH COUNTY

Illinois, Cook County
I, a Notary Public of the County and State aforesaid, certify that Andrew J. Filipowski personally appeared before me this day and acknowledged the execution of the foregoing instrument, all in his capacity as Member of Flips Liberty, LLC and in the name of and on behalf of Flips Liberty, LLC, a North Carolina limited liability company. Witness my hand and official seal, this the 16 day of February, 2009.

(Stamp or Seal)



Meghan S. Walther
Notary Public

My commission expires: 6/30/2012

South *Harry*
 NORTH CAROLINA - FORSYTH COUNTY

I, *Margaret R Stenard*, a Notary Public of *Forsyth* County, *North* Carolina do hereby certify that
 Loyd R. Daniel, Jr. personally appeared before me this day and acknowledged that he is the President
 of L.R. Daniel, Inc., Manager of Liberty Plaza, LLC, and by authority duly given and as the act of the
 Corporation as a Manager of Liberty Plaza, LLC, the foregoing instrument was signed in its name by its
 President. Witness my hand and official seal, this the *10th* day of February, 2009.

(Stamp or Seal)

My commission expires: *Feb 12, 2014*

Margaret R Stenard
 Notary Public

STATE OF NORTH CAROLINA - COUNTY OF FORSYTH

I, a Notary Public of the County and State aforesaid, certify that Andrew J. Filipowski personally
 appeared before me this day and acknowledged the execution of the foregoing instrument, all in his
 capacity as Manager of Flips Liberty, LLC and in the name of and on behalf of Flips Liberty, LLC, a
 North Carolina limited liability company. Witness my hand and official seal, this the ____ day of
 February, 2009.

(Stamp or Seal)

 Notary Public

My commission expires: _____

AFTER RECORDATION, PLEASE RETURN TO:

K. Lee Riley, Jr., Esquire
Shapiro Sher Guinot & Sandler
Suite 2000
36 South Charles Street
Baltimore, Maryland 21201-3147

EXHIBIT A

Description of Property

Beginning at an existing hole in walk on the western R/W of Liberty Street, the southeastern corner of Lot 206-A of Tax Block 6084 as recorded in Deed Book 2352, Page 1930, said hole being located S.39-00'W. 545.68' and S.7-48'55"E. 118.26' from NCGS monument 'Camel' having NAD '29 N. C. Grid Coordinates of N=857,076.45' and E=1,632,459.85'; thence with the western R/W of Liberty Street, S.7-48'55"E. 362.14' to an existing 3/8" iron solid at the northwestern intersection of the R/W's of Liberty Street and Second Street; thence with the northern R/W of Second Street, S.82-10'W. 335.86' to a pk nail placed at the northeastern intersection of the R/W's of Second Street and Town Run Lane; thence with the eastern R/W of Town Run Lane, N.6-47'50"W. 265.05' to an existing 1/2" iron solid, the southwestern corner of BDF Associates as recorded in Plat Book 37, Page 56; thence with Plat Book 37, Page 56, N.82-10'15E. 126.23' to an existing pk nail; thence continuing with Plat Book 37, Page 56 and continuing with Deed Book 1821, Page 235, N.7-48'55"W. 97.41' to an existing 1/2" rebar the southwestern corner of Lot 206-A of Tax Block 6084; thence with Lot 206A, N.82-14'35"E. 204.92' to the place of beginning and containing 2.486 acres more or less.

The above described property lying in Winston Township, Forsyth County, North Carolina is Lot 8-B, and portions of Lots 8-A, 8-C of Central Downtown Proj. No. N.C R-55 as recorded in Plat Book 28, Page 121; or Lot 206-B of Tax Block 6084, Deed Book 2130, Page 2788. This description is taken from an ALTA/ACSM LAND TITLE SURVEY for BDF Associates, a North Carolina General Partnership by Michael E. Gizinski dated July 20, 2000, revised November 4, 2005, and revised February 10, 2009, and is based upon N.C. Grid North.

EXHIBIT B

List of Collateral

1. All building materials, furniture, fixtures, machinery, equipment and tangible personal property of every kind and nature whatsoever (other than consumable goods, inventory, and trade fixtures or other personal property owned by tenants occupying all or any portion of the Improvements), now or hereafter located or contained in or upon or attached to (or intended to be located or contained in or upon or attached to) the Land or the Improvements or any part thereof, and used or usable in connection with any present or future use or operations of the Land or the Improvements or any part thereof (collectively, the "Equipment"), including, without limitation, all heating, air-conditioning, air-cooling, freezing, lighting, laundry, incinerating, plumbing, cleaning, fire prevention, fire extinguishing, ventilating, communications and power apparatus and equipment, engines, pipes, tanks, motors, conduits, switchboards, boilers, ranges, furnaces, oil burners or units thereof, appliances, vacuum cleaning systems, shades, awnings, screens, storm doors and windows, stoves, microwave ovens, refrigerators, washing machines, dryers, garbage disposals, hoods, fans, trash compactors, attached cabinets, partitions, ducts and compressors, rugs and carpets, draperies, furnishings, electrical apparatus, sound transmission systems, shelving, storage facilities and other apparatus.

2. All judgments, awards of damages (including but not limited to severance and consequential damages), payments, proceeds, settlements or other compensation heretofore or hereafter made, including interest thereon, and the right to receive the same, as a result of, in connection with, or in lieu of (a) any taking of the Property or any part thereof under the power of eminent domain, either temporarily or permanently, (b) any change or alteration of the grade of any street, and (c) any injury or damage to, or decrease in value of, the Property or any part thereof and including payments, proceeds, settlements or other compensation heretofore or hereafter made, including any interest thereon, and the right to receive the same, from any and all insurance policies covering the Property or any portion thereof (collectively, the "Awards", or singularly an "Award"), to the extent of all Indebtedness which may be secured by the Deed of Trust at the date of receipt of any such Award by the Secured Party, and of the counsel fees, costs and disbursements, if any, incurred by the Secured Party in connection with the collection of such Award.

3. All rents, royalties, issues, profits, revenues, income, accounts (including any funds or accounts held by the Secured Party for or for the account of Debtor), accounts receivable, contract rights (including those assigned pursuant to the Assignments of Contracts), general intangibles, compensation, contributions, things in action, chattel paper, instruments, mortgages, and other benefits of the Property, or arising from the use or enjoyment of all or any portion thereof, or from any Leases, or other agreement, and all right, title and interest of the Debtor in and to, and remedies under, all Leases and other agreements both now in existence and hereafter entered into, including, without limitation, all cash or security deposits thereunder or guaranties provided to secure performance by the Lessees or other obligors of their obligations thereunder, whether such cash or security deposits are to be held until the expiration of the terms of such Leases or other agreements or are to be applied to one or more of the installments of rent or other payments or performance obligations coming due immediately prior to the expiration of such terms.

4. All of Debtor's equipment, supplies, inventory (including all raw materials, work in progress, and finished goods), goods, all other materials usable or used or consumed in or related to Debtor's business, and all of Debtor's present and future accounts, accounts receivable, contract rights, judgments, awards (insurance, condemnation, or otherwise), compensation, contributions, general intangibles, things in action, chattel paper, instruments, mortgages, all returned, repurchased, or repossessed goods, and all moneys due or to become due to Debtor.

All capitalized terms used in this Exhibit have the meanings given such terms herein or, if not defined herein, as defined in the Deed of Trust. In the event this Exhibit is attached (a) to the Deed of Trust, the term "Debtor" means the Grantor, and the term "Secured Party" means the Trustees and/or the Beneficiary; or (b) to the Loan Agreement, the term "Debtor" means the Borrower, and the term "Secured Party" means the Lender.