

Recording Requested By;
After Recording Return to:

Washington Federal Savings
Attn: Thomas Pozarycki
425 Pike Street
Seattle, WA 98101



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Skagit County Auditor

9/30/2009 Page 1 of 35 11:29AM

CHICAGO TITLE CO.

1046356

**DEED OF TRUST,
ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND FIXTURE FILING
(Skagit County)**

Grantor(s):	(1) CHAFFEY HOMES INCORPORATED (2) CHAFFEY NORTH, LLC
Grantee(s):	Trustee: WASHINGTON SERVICES, INC. Beneficiary: WASHINGTON FEDERAL SAVINGS
	<input type="checkbox"/> Additional on page _____
Legal Description (abbreviated):	LOT 4, BLK 9, LOT 2-5, BLK 10, WOOD'S ADD. TO ANACORTES, VOL. 4 OF PLATS, PG. 35; LOTS 117, 123, 125, 133, 135 AND 136, NOOKACHAMP HILLS PUD PHASE IIB, AFN. 200508230082; TRACT 4 AND PTN OF TRACT 3, ANACO BEACH, VOL. 5 OF PLATS, PG. 4; PTN OF TRACTS 2 AND 3, PLATE NO. 3 OF TIDE & SHORELANDS, SEC. 27, TOWN. 35, RANGE 1 EAST, W.M.; LOTS 1, 2, 4-6, 9-11, 20, 24-29, BAY MEADOWS, AFN. 200511280180; LOTS 1, 2, 4-25, THE WOODS AT SUNSET COVE, AFN. 200710170081
	<input checked="" type="checkbox"/> Complete legal on EXHIBIT A
Assessor's Tax Parcel Identification No(s):	38390090040008; 38390100050005; 48680001170000; 48680001230000; 48680001250000; 48680001330000; 48680001350000; 48680001360000; 38580000040003; 35012700230000; 48760000010000; 48760000020000; 48760000040000; 48760000050000; 48760000060000; 48760000100000; 48760000110000; 48760000200000; 48760000240000; 48760000250000; 48760000260000; 48760000270000; 48760000290000; 48760000090000; 48760000280000; 49410000010000; 49410000020000; 49410000040000; 49410000050000; 49410000060000; 49410000070000; 49410000080000; 49410000090000; 49410000100000; 49410000110000; 49410000120000; 49410000130000; 49410000140000; 49410000150000; 49410000160000; 49410000170000; 49410000180000; 49410000190000; 49410000200000; 49410000210000; 49410000220000; 49410000230000; 49410000240000; 49410000250000
Reference Nos. of Related Documents:	N/A

This Deed of Trust is a Security Agreement and Financing Statement under Article 9 of the Uniform Commercial Code, with Grantor as Debtor and Grantee/Beneficiary as Secured Party.

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND FIXTURE FILING (this "Deed of Trust") is made as of September 1, 2009, by CHAFFEY HOMES

INCORPORATED, a Washington corporation, and CHAFFEY NORTH, LLC, a Washington limited liability company (collectively, "**Grantor**"), each of whose address is PO Box 560, Kirkland, WA 98083, in favor of WASHINGTON SERVICES, INC., a Washington corporation, its successors and assigns ("**Trustee**"), whose address is 6125 S.Morgan Road, Freeland, WA 98249, for the benefit of WASHINGTON FEDERAL SAVINGS, a United States corporation, and its successors and assigns ("**Beneficiary**"), whose address is 425 Pike Street, Seattle, WA 98101.

ARTICLE 1.
GRANT IN TRUST AND SECURED OBLIGATIONS

1.1. Grant in Trust. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the purpose of securing the full and timely payment and performance of the Secured Obligations defined and described in Section 1.2 for the benefit of Beneficiary, Grantor hereby irrevocably and unconditionally grants, transfers, bargains, conveys transfers, sets over, and assigns to Trustee, in trust and the uses and purposes set forth herein forever, with power of sale and right of entry and possession, and grants a security interest in, all estate, right, title and interest that Grantor now has or may later acquire in and to the following property (all or any part of such property, or any interest in all or any part of it, as the context may require, the "**Collateral**"), which Collateral is not used principally or primarily for agricultural or farming purposes:

1.1.1. Land, Appurtenances, Easements. That certain real property and all interests therein located in Skagit County, Washington, more particularly described in EXHIBIT A attached hereto and incorporated herein by this reference, together with all existing and future easements, access rights, appurtenances, privileges, licenses, hereditaments, franchises and tenements, including all water stock and water rights owned by Grantor and all minerals, oil, gas, and other commercially valuable substances that may be in, under or produced from any part of it (collectively, the "**Land**");

1.1.2. Improvements. All buildings, structures, and improvements now located or later to be constructed on the Land (the "**Improvements**");

1.1.3. Related Real Property and Improvements. All real property and improvements on it, and all appurtenances, permits, plans, licenses, subdivision rights, contracts, contract rights, and other property and interests of any kind or character, including all water and sewer taps belonging to or in any way related to or appurtenant to the Land or Improvements, whether described in EXHIBIT A or not, that may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Land and Improvements;

1.1.4. Leases and Licenses. Subject to the rights of Beneficiary under Article 3 hereof, all existing and future leases, subleases, sub-tenancies, licenses, occupancy agreements, and concessions relating to the use and enjoyment of all or any part of the Project (defined below), written or oral, now in existence or hereafter arising, and extensions or renewals thereof, together with the right, power, and authority of Grantor to alter, modify or change the terms thereof or surrender, cancel or terminate the same, and any and all deposits, guaranties and other agreements relating to or made in connection with any of the foregoing (the "**Leases**");

1.1.5. Goods, Materials, Fixtures, etc. All goods, materials, supplies, chattels, furniture, appliances, furnishings, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Project, whether stored on the Land or elsewhere, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Deed of Trust;



1.1.6. Construction Materials and Equipment. All building materials, equipment, work in process or other personal property of any kind, whether stored on the Land or elsewhere, that have been or later will be acquired for the purpose of being delivered to, incorporated into, or installed in or about the Land or Improvements;

1.1.7. Grantor Funds. All of Grantor's interest in and to the proceeds of the Secured Obligations (defined below), whether disbursed or not; all present and future monetary deposits given by Grantor to any public or private utility with respect to utility services furnished to the Land or Improvements; and all accounts maintained by Grantor with Beneficiary or any subsidiary or affiliate of Beneficiary, including, without limitation, any accounts established in connection with the Secured Obligations;

1.1.8. Rent, Issues, and Profits. Subject to the rights of Beneficiary under Article 3 hereof, all income, rents, security or similar deposits, revenues, issues, royalties, profits, leases, earnings, products and proceeds of the Land or Improvements, together with the right, power and authority to collect the same, including, without limitation, all rights to the payment of money, accounts, investment property, accounts receivable, reserves, deferred payments, refunds, cost savings, insurance or condemnation proceeds, payments and deposits, (including all earnest money sales deposits and all utility, tenant, escrow and security deposits), advanced payments of insurance premiums, contract rights, development and use rights, governmental permits, fees, deposits and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, chattel paper, instruments, documents, notes, drafts, and letters of credit and related rights (other than letters of credit in favor of Beneficiary), that arise from or relate to construction on the Land or to any business now or later to be conducted on it or to the Land and Improvements, whether now due, past due, or to become due, generally including, without limitation, any proceeds from the sale of any lots comprising the Land and any Improvements constructed thereon, and any deposits on account thereof, and also all proceeds of the voluntary or involuntary conversion of any of the Land, Improvements, or the other property described above into cash or liquidated claims, including proceeds of all present and future insurance policies and all condemnation or eminent domain proceedings, and all causes of action and their proceeds for any damage or injury to the Land, Improvements, or the other property described above or any part thereof, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud, or concealment of a material fact (collectively, the "**Rents, Issues and Profits**");

1.1.9. Contracts and Plans. All contracts of every kind relating to development, construction, marketing, and sale of the Project, including, without limitation, any construction contracts and subcontracts, contracts with architects, engineers, and other service providers, supply contracts, consulting agreements, financing commitments and agreements, joint development agreements, service and maintenance agreements, marketing and listing agreements, lot reservation agreements, and purchase and sale agreements, and any other existing and future contracts of any kind relating to the Project, together with all deposits, escrows, payments, or other proceeds thereunder, as well as all existing and future amendments, modifications, and supplements thereof (collectively, the "**Contracts**"); and all designs, drawings, plans, specifications, trademarks, logos, and other work product prepared or to be prepared in connection with the development, construction, marketing, and sale of the Project (as defined below), together with all existing and future amendments, modifications, and supplements thereof (collectively, the "**Plans**");

1.1.10. Miscellaneous Personal Property. Any and all personal property of any kind whatsoever, whether tangible or intangible, that is used or will be used in construction of, or is or will be placed upon or is derived from or used in any connection with the use, occupancy or enjoyment of, the Land or Improvements;



1.1.11. Books and Records. All books and records pertaining to any and all of the property described above, including records stored on computer readable media, and a limited sublicense to use the computer hardware or software necessary to access such records ("**Books and Records**");

1.1.12. Rights of Declarant. All of Grantor's right, title and interest in and to any and all units, declarant rights, and any other rights relating to the Land or the Improvements, whether now existing or subsequently arising, under any and all covenants, conditions, restrictions, development agreements, laws or other agreements now existing or later enacted relating to the Land and Improvements, including, without limitation, those relating to condominiums;

1.1.13. Additional Property. Any additional personal property otherwise set forth herein or listed on any UCC-1 financing statement filed to perfect Beneficiary's security interest hereunder; and

1.1.14. Proceeds. All proceeds of, supporting obligations for, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

The Land, Improvements, related real property, and all personal property now or hereafter installed on or used in connection with the Land and/or Improvements are collectively referred to herein as the "**Project**." The Project constitutes the bulk of, but not the entirety of, the Collateral.

1.2. Secured Obligations. Grantor makes the grant, conveyance, transfer and assignment set forth in Section 1.1 and grants the security interest set forth in Section 2.1 for the purpose of securing the following obligations (the "**Secured Obligations**") in any order of priority that Beneficiary may choose:

1.2.1. Promissory Note. Payment of all obligations at any time owing under that certain promissory note payable by Chaffey Homes Incorporated and Chaffey Arizona Inc. (collectively, "**Borrower**"), as maker, to the order of Beneficiary or order, executed concurrently herewith (the "**Note**"), evidencing a loan in the stated principal amount of SIX MILLION THREE HUNDRED NINETY-EIGHT THOUSAND ONE HUNDRED TWENTY-ONE AND 00/100 DOLLARS (\$6,398,121.00) (the "**Loan**"), together with interest thereon at a variable rate and any modifications, extensions or renewals thereof, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes;

1.2.2. Loan Documents. Payment and/or performance of each and every other obligation of Grantor and Borrower under the Note, this Deed of Trust, the Omnibus Amendment to Loan Documents being executed by Grantor and Beneficiary concurrently herewith (the "**Modification Agreement**"), and all other documents evidencing, securing, or otherwise governing the Loan (specifically excluding, however, for purposes of establishing the Secured Obligations, any obligations of Grantor arising under any guaranty of the Secured Obligations or any indemnity agreement (each an "**Indemnity Agreement**") that by its terms is not secured hereby), and any and all amendments, modifications, and supplements thereto (collectively, the "**Loan Documents**"), the provisions of which are incorporated herein by this reference;

1.2.3. Future Obligations. Payment to Beneficiary of all future advances, indebtedness and further sums and/or performance of such further obligations as Grantor or the then record owner of the Project or the then owner of the balance of the Collateral may undertake to pay and/or perform (whether as principal, surety, or guarantor) for the benefit of Beneficiary, its successors or assigns, (it being contemplated by Grantor and Beneficiary that Grantor may hereafter become indebted to Beneficiary in such further sum or sums), when such borrowing and/or obligations are evidenced by a written instrument reciting that it or they are secured by this Deed of Trust; such future obligations include but are not limited



to the obligations under that certain Short Sale Note anticipated to be executed in accordance with the requirements of the Loan Documents, the principal amount of which note has not yet been determined but shall not exceed \$1,000,000;

1.2.4. Related Loan Documents. So long as the applicable Related Loan Document (defined below) specifically states, or is amended to provide, that the obligations due and owing thereunder are secured by this Deed of Trust, payment and/or performance of each covenant and obligation to be performed pursuant to any and all loan documents (each a "*Related Loan Document*" and collectively, the "*Related Loan Documents*") that have been or may be executed by Borrower or related entities owned or controlled by, or under common ownership or control with, the entities comprising Borrower (collectively, the "*Affiliates*") evidencing, securing, or otherwise governing one or more present or future loans by Lender or its affiliates to Borrower or one or more of its Affiliates, whether now existing or made in the future;

1.2.5. Modifications and Amendments. Payment and performance of all modifications, amendments, extensions, and renewals, however evidenced, of any of the Secured Obligations; and

1.2.6. Subordination. This Deed of Trust, including the assignment of rents, security agreement, and fixture filing contained herein, is subordinate to any deed of trust recorded against the Trust Property prior to the recording date hereof that secures obligations due and owing to Beneficiary, as such obligations may be modified contemporaneously herewith.

All persons who may have or acquire an interest in all or any part of the Collateral will be considered to have notice of, and will be bound by, the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations.

ARTICLE 2. SECURITY AGREEMENT

2.1. Grant of Security Interest. This Deed of Trust creates a lien on the Collateral, and constitutes an absolute assignment of the Rents, Issues and Profits and of the Leases, all in favor of Beneficiary, and includes all property now or hereafter affixed or attached to or incorporated upon the Land and Improvements, which, to the fullest extent permitted by law, shall be deemed fixtures and a part of the real property. To the extent that any part of the Collateral or Rents, Issues and Profits and Leases may be, or are determined to be, personal property, Grantor, as debtor, hereby grants to Beneficiary, as secured party, a security interest in such part of the Collateral and Rents, Issues and Profits and Leases as is determined to be personal property, to secure payment and performance of the Secured Obligations. As to such personal property, this Deed of Trust constitutes a security agreement under the Uniform Commercial Code of the state in which the Project is located (the "*Project State*"), and terms used to describe the Collateral in Section 1 of this Deed of Trust shall have the definitions ascribed to such terms under the Uniform Commercial Code of the Project State.

2.2. Perfection of Security Interest. Grantor authorizes Beneficiary to file one or more financing statements and such other documents as Beneficiary may from time to time require to perfect and continue the perfection of Beneficiary's security interest in any part of the Collateral or the Rents, Issues and Profits and Leases. Grantor shall pay all fees and costs that Beneficiary may incur in filing such documents in public offices and in obtaining such record searches as Beneficiary may reasonably require. Grantor shall cooperate with Beneficiary in obtaining control of any portion of the Collateral that consists of Deposit Accounts, Investment Property, Letter-of-credit rights, and Electronic Chattel Paper, as such terms are defined in the Uniform Commercial Code of the Project State. Should Beneficiary so request, Grantor shall provide, at Grantor's sole cost and expense, such insurance of Beneficiary's personal property



security interest hereunder as may be available to Beneficiary at reasonable cost. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall not be construed as in any way derogating from or impairing the declaration and the stated intention of the parties hereto that the Collateral and all components thereof are, to the maximum extent possible, real property or otherwise impair the rights or obligations of the parties under this Deed of Trust. Nothing herein shall be construed to authorize any financing statement filed to perfect Beneficiary's security interest hereunder to be terminated by any means without Beneficiary's express written consent.

2.3. Fixture Filing/Construction Deed of Trust. This Deed of Trust constitutes a financing statement filed as a fixture filing under the Uniform Commercial Code in effect in the Project State, as amended or recodified from time to time, covering any part of the Collateral that now is or later may become fixtures attached to the Land or Improvements. As this Deed of Trust secures advances to be used either for the acquisition of the Land or the construction of improvements thereon, or both, this Deed of Trust also constitutes a "construction mortgage" or "construction deed of trust" under the Uniform Commercial Code in effect in the Project State.

ARTICLE 3. ASSIGNMENT OF RENTS

3.1. Leasing. Grantor shall not lease the Project or any part thereof unless permitted under the Loan Documents or by other express written consent of Beneficiary, and then only strictly in accordance with such agreement. Notwithstanding the foregoing, however, any and all Leases at the Project, whether or not entered into with the consent of Beneficiary, shall be subject to the provisions of this Article 3.

3.2. Assignment. Grantor hereby irrevocably, presently, absolutely and unconditionally assigns and transfers to Beneficiary: (a) the Rents, Issues and Profits; (b) all Leases, and (c) any and all guarantees of any obligations of any lessee under each of the Leases (a "*Lessee*"). The assignments in this Section are absolute assignments and irrevocable from Grantor to Beneficiary and not merely the passing of security interests or assignments for security only.

3.3. Grant of License. Beneficiary hereby confers upon Grantor a license ("*License*") to collect and retain the Rents, Issues and Profits as they become due and payable, and to administer the Leases, so long as no Event of Default, as defined in Section 7.1, shall exist and be continuing. If an Event of Default has occurred and is continuing, such License shall terminate without notice to or demand upon Grantor, without regard to the adequacy of Beneficiary's security under this Deed of Trust.

3.4. Collection and Application of Rents, Issues and Profits. Subject to the License granted to Grantor under Section 3.3, Beneficiary has the right, power, and authority to collect any and all Rents, Issues and Profits and administer the Leases. Grantor hereby appoints Beneficiary its attorney-in-fact, coupled with an interest, to, at such times as Beneficiary may choose in its sole discretion: (a) demand, receive and enforce payment of any and all Rents, Issues and Profits; (b) give receipts, releases and satisfactions for any and all Rents, Issues and Profits; or (c) sue either in the name of Grantor and/or in the name of Beneficiary for any and all Rents, Issues and Profits. Beneficiary's right to the Rents, Issues and Profits does not depend on whether or not Beneficiary takes possession of the Project as permitted hereunder.

3.5. Enforcement of Leases. Grantor will (i) comply with and observe Grantor's obligations as landlord under all Leases and will do all that is necessary to preserve all Leases in force and free from any right of counterclaim, defense or set off, (ii) enforce the performance of each and every obligation, term, covenant, condition and agreement in the Leases by the tenants to be performed, (iii) notify Beneficiary of the occurrence of any default under any Leases for non-residential use, and (iv) appear in and



defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases or the obligations, duties, or liabilities of Grantor or the tenants thereunder. Without Beneficiary's written consent, Grantor will not collect or accept payment of any Rents from the Collateral more than one (1) month prior to the due dates thereof; will not surrender or terminate any Lease for non-residential use; and will not request or consent to the subordination of any Lease to any lien subordinate to this Deed of Trust.

3.6. Modification of Leases. Without the prior written consent of Beneficiary, Grantor shall not: (i) waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge the tenant under any Leases for non-residential use from any obligations, covenants, conditions and agreements by tenant to be kept, observed and performed, including the obligation to pay the Rents thereunder in the manner and at the place and time specified therein; (ii) cancel, terminate, consent to or permit any surrender of any non-residential Leases; or (iii) renew or extend the term of the Leases for any non-residential use for a lesser rental unless an option therefor was originally so reserved by the tenant of the Leases for a fixed and definite rental.

3.7. Beneficiary Not Responsible. Under no circumstances shall Beneficiary have any duty to produce Rents, Issues and Profits from the Project. Regardless of whether or not Beneficiary, in person or by agent, takes actual possession of the Project, Beneficiary is not and shall not be deemed to be: (a) a "mortgagee in possession" for any purpose; (b) responsible for performing any of the obligations of the lessor under any Lease; (c) responsible for any waste committed by Lessees or any other parties, any dangerous or defective condition of the Project, or any negligence in the management, upkeep, repair or control of the Project; or (d) liable in any manner for the Project or the use, occupancy, enjoyment or operation of all or any part of it, except for such matters as may arise from the willful misconduct and bad faith of Beneficiary.

ARTICLE 4.

ASSIGNMENT OF CONTRACTS AND PLANS

4.1. Assignment of Contracts and Plans. As security for the Loan, Grantor hereby assigns, transfers, and pledges to Beneficiary all of its right, title and interest in and to the Contracts and Plans identified above.

4.2. Beneficiary Authorized to Demand Performance. Upon the occurrence of a default under any of the Loan Documents, Grantor hereby authorizes Beneficiary, and for this purpose irrevocably constitutes and appoints Beneficiary as its attorney-in-fact, coupled with an interest, to use the Plans for further development and construction on the Project, to demand, receive, and enforce Grantor's rights under the Contracts, to make payments and give appropriate receipts, releases and satisfactions under such Contracts, and to perform any and all acts with respect to the Contracts or Plans that Beneficiary deems necessary or desirable, all on behalf of and in the name of Grantor, or at Beneficiary's option in Beneficiary's own name, with the same force and effect as if performed by Grantor. Beneficiary may also reassign its rights hereunder to another person designated by Beneficiary, who shall have the same rights to enforce the Contracts and utilize the Plans.

4.3. Beneficiary Not Liable. Beneficiary's acceptance of this assignment of Grantor's rights in the Contracts and Plans does not constitute an assumption by Beneficiary of any obligations whatsoever relating to such Contracts or Plans. Accordingly, Beneficiary shall have no liability to any other party to such Contracts or preparer of such Plans unless or until Beneficiary assumes in writing the obligations relating to such Contracts or Plans. If Beneficiary designates a receiver, contractor, or other party to oversee administration of the Contracts and completion of the development of the Project, the obligations under such Contracts or relating to such Plans shall be assumed and performed by such designee, and Beneficiary shall have no liability whatsoever with respect to those obligations.



4.4. Security. This assignment and pledge set forth in this Article is for security purposes only, and is made to secure payment of all amounts and performance of each and every obligation of Grantor under the Loan Documents and under any other instrument executed by Grantor with respect to the Collateral.

4.5. Grantor's Representations, Warranties, and Covenants. Grantor represents and warrants to Beneficiary:

4.5.1 There have been no prior assignments of Grantor's interest in the Contracts and Plans, and Grantor's assignment to Beneficiary shall be in a second lien position;

4.5.2 Grantor has full power and authority to assign its right, title and interest in the Contracts and Plans to Beneficiary and, with respect to the assignment of each Contract or Plan, either: (i) Grantor has obtained and delivered to Beneficiary a consent to such assignment in a form satisfactory to Beneficiary, or (ii) no consents or approvals of any persons or entities under such Contract or Plan are necessary for Grantor to validly sign, deliver and perform this assignment; and

4.5.3 The Contracts constitute valid and binding agreements, enforceable against both Grantor and the other party or parties in accordance with their terms, and neither Grantor nor, to the best of Grantor's knowledge, any other party to such Contracts is in default under the terms of such Contracts, except for any defaults already disclosed by Grantor to Beneficiary in writing.

4.6. No Modification or Further Assignment. Without Beneficiary's prior written approval, which shall not be unreasonably withheld, conditioned or delayed, Grantor will not: (i) make any amendments or modifications in the Contracts that are materially adverse to Grantor, or (ii) assign, pledge, mortgage, or otherwise transfer or encumber any of its right, title, or interest in any of the Contracts or Plans while any of Grantor's obligations under the Loan Documents remain unfulfilled.

4.7. Default. Beneficiary shall have no right under this Article to enforce Grantor's rights with respect to the Contracts or Plans until Grantor shall be in default under any of its obligations to Beneficiary under any instrument, document or agreement related to the Loan or the Project. Upon the occurrence of any such default Beneficiary may, without affecting any of its other rights or remedies against Grantor hereunder or under any other instrument, document or agreement, exercise its rights under the assignment and pledge set forth in this Article or in any other manner permitted by law, and in addition Beneficiary shall have and possess, without limitation, any and all rights and remedies of a secured party under the Commercial Code in effect in the State of Washington or as otherwise provided by the laws of such State.

4.8. Indemnity. Grantor will indemnify and hold Beneficiary harmless from and against any and all claims, demands, liabilities, losses, lawsuits, judgments, damages, costs and expenses, including without limitation reasonable attorneys' fees and costs incurred (whether or not in litigation, on appeal or in bankruptcy court), to which Beneficiary may become exposed or which Beneficiary may incur in exercising any of its rights under Grantor's assignment of the Contracts and Plans. However, if any such claims, demands, liabilities, losses, lawsuits, judgments, damages, costs, and expenses are caused by the concurrent negligence of Grantor and Beneficiary, or their employees, agents, invitees, or licensees, Grantor will indemnify Beneficiary only to the extent of Grantor's own negligence or that of its employees, agents, invitees, or licensees.

4.9. Reliance By Other Parties. The assignment and pledge set forth in this Article shall be conclusive evidence of Beneficiary's rights hereunder and may be relied upon by any architect, engineer,



construction contractor or subcontractor, supplier of materials or labor, or other party to any of the Contracts.

**ARTICLE 5.
ENVIRONMENTAL AND BUILDING LAWS**

5.1. Definitions. The following terms shall have the meanings specified below:

5.1.1. "Building Laws" means the Fair Housing Act of 1968 as amended, the Americans With Disabilities Act of 1990 as amended, all government and private covenants, conditions, and restrictions relating to the Land, building code requirements and laws affecting the construction of improvements on the Land, and all other federal, state and local laws, ordinances, regulations and rules relating to the construction, operation, and maintenance of the improvements on the Land and the marketing and use of such improvements in a non-discriminatory manner.

5.1.2. "Environmental Laws" means the Federal Resource Conservation and Recovery Act of 1976; the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980; the Federal Hazardous Materials Transportation Control Act; the Federal Clean Air Act; the Federal Water Pollution Control Act, Federal Clean Water Act of 1977; the Federal Insecticide, Fungicide, and Rodenticide Act, Federal Pesticide Act of 1978; the Federal Endangered Species Act; the Federal Toxic Substances Control Act; the Federal Safe Drinking Water Act; and all other federal, state and local laws, statutes, codes, ordinances, regulations, judgments, orders, injunctions, decrees, covenants, restrictions and standards presently in effect or that may be promulgated in the future relating to the use, release, handling, storage, transportation, clean-up, or other disposal of Hazardous Substances; or relating to the water quality, air quality, soils quality, and other environmental quality of real property and improvements constructed upon real property; or related to the protection of endangered species, as such laws and ordinances may be amended from time to time.

5.1.3. "Environmental Reports" means the soils, geologic, and engineering reports prepared to assess any environmental risks associated with the Project or otherwise required by Beneficiary.

5.1.4. "Hazardous Substances" means any waste, pollutants, contaminants, petroleum or petroleum product, asbestos, tremolite, anthophyllite or actinolite, polychlorinated biphenyls, or other chemical, substance, or material that: (i) after release into the environment and upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer and/or genetic abnormalities, or (ii) is now or at any time in the future becomes regulated under, or is defined, classified or designated as hazardous, toxic, radioactive or dangerous, or other similar term or category under any Environmental Laws.

5.1.5. "Nearby Property" means any real property adjacent to or near the Project, the use of which could reasonably cause contamination of the Project, or which could become contaminated with Hazardous Substances as a result of construction, operations or other activities involving Hazardous Substances on, under, or over the Land.

5.2. Representations and Warranties. Grantor makes the following representations and warranties to Beneficiary:

5.2.1. Environmental Laws. Except for any contamination or environmental condition that may be disclosed in any environmental reports obtained by Beneficiary prior to the date hereof or that has otherwise been disclosed in writing by Grantor to Beneficiary, Grantor has no knowledge



of: (i) the presence of any Hazardous Substances on the Project, including all personal property located on the Land, the soil and the groundwater on or under the Land, including any streams crossing or abutting the Land, and the aquifer underlying the Land, (ii) any spills, releases, discharges or disposal of Hazardous Substances that have occurred or are presently occurring on or into the Project or the Nearby Property, and (iii) any failure of the Project to comply fully with all applicable Environmental Laws. To the best of Grantor's knowledge, Grantor's intended uses of the Project, including but not limited to the improvements and materials to be constructed and installed on and in the Project and the work method for accomplishing such construction, comply fully with all Environmental Laws.

5.2.2. Building Laws. Except for any non-compliance that has been disclosed in writing by Grantor to Beneficiary, Grantor has no knowledge of any failure of the Project or the plans and specifications for improvements on the Project to comply fully with all applicable Building Laws. To the best of Grantor's knowledge, Grantor's intended uses of the Project, including but not limited to the improvements and materials to be constructed and installed on and in the Project, the work method for accomplishing such construction, and the plan for marketing the Improvements constructed on the Land comply fully with all Building Laws.

5.3. No Waivers of Other Indemnifications Relating to Environmental Condition. Except as set forth herein or in any separate indemnity agreement executed by Grantor in connection with the Loan: (i) Grantor has not and will not release or waive the liability of any past or current owner, lessee, or operator of the Project, any party who performs work on the Project, or any party who may be responsible for the presence of or removal of Hazardous Substances on or from the Project or the Nearby Property, and (ii) Grantor has made no prior promises of indemnification to any party relating to the existence or non-existence of Hazardous Substances on the Project, except those promises previously made by Grantor in connection with existing loans from Beneficiary secured by the Project.

5.4. Obligation to Comply with Environmental and Building Laws. Grantor shall construct, keep, and maintain the Collateral in compliance with any and all laws relating to public safety and the condition of the environment, including but not limited to the Environmental Laws and the Building Laws. Grantor covenants that, so long as Grantor owns any interest in the Project, Grantor and Grantor's agents, contractors, authorized representatives, and employees shall not engage in any of the following prohibited activities, and Grantor shall use diligent efforts to assure that Grantor's invitees and tenants, and such tenant's employees, agents, and invitees shall not: (i) cause or permit any release or discharge of Hazardous Material on the Project other than in full compliance with all Environmental Laws; (ii) cause or permit any manufacturing, storage, holding, handling, usage, placement, transporting, spilling, leaking, discharging, or dumping of Hazardous Material in or on any portion of the Project other than in full compliance with all Environmental Laws; (iii) suffer or permit any other act upon or concerning the Project that would result in a violation of any Environmental Law or require any alterations or improvements to be made on the Project under any of the Environmental Laws; or (iv) suffer or permit any other act upon or concerning the Project that would result in a violation of any Access Law or require any alterations or improvements to be made on the Project under any of the Building Laws.

5.5. Obligation to Cure Non-Compliance.

5.5.1. If Grantor at any time becomes aware of (i) any Hazardous Substances on, or other environmental problem or liability with respect to, the Project or any Nearby Property, (ii) any failure of the Project or the Improvements to comply with any of the Environmental Laws, (iii) any failure of the Project or the Improvements or the marketing efforts and other operations undertaken with respect thereto to comply with any of the Building Laws, or (iv) any lien, action or notice resulting from violation of any Environmental Laws or Building Laws, Grantor shall immediately notify Beneficiary, and shall thereafter exercise due diligence to ascertain the scope and nature of such condition and provide all notices that state or federal law may require.



5.5.2. If, upon giving such notice or for any other reason, one or more governmental agencies having appropriate jurisdiction requires removal or treatment of Hazardous Substances from or on the Project or the making of alterations to the Project to conform to Building Laws, or such removal, treatment, or alteration is required by Environmental Laws or Building Laws, Grantor will: (i) take all actions that are necessary or desirable to clean up any Hazardous Substances affecting the Project, including removal, treatment, containment or any other remedial action required to restore the Project to a safe condition in compliance with applicable laws and regulations, including Environmental Laws, (ii) take all actions that are necessary or desirable to modify the Project and all Improvements and marketing materials so as to achieve compliance with applicable laws and regulations, including Building Laws, and/or (iii) attempt, through appropriate legal or administrative proceedings, to appeal, contest, or obtain a stay of enforcement proceedings if Grantor believes in good faith that Grantor is not required by law to cure such Hazardous Substances condition or to make alterations to comply with Building Laws.

5.5.3. Except for removal or treatment of any Hazardous Substances deposited on the Project by Beneficiary, Grantor agrees that the amelioration, treatment, containment, or removal of all Hazardous Substances that may be discovered on the Project shall be at Grantor's sole expense, reserving unto Grantor any claims for contribution or indemnity that Grantor may have against other parties who may be held liable therefor.

5.6. Remedies on Default. A default by Grantor under any of the covenants, representations, or warranties set forth in this Article shall, upon the expiration of any applicable cure period, constitute an Event of Default (as defined below) entitling Beneficiary to exercise all of the rights and remedies available to Beneficiary upon the occurrence of an Event of Default hereunder; *provided, however*, that such Event of Default shall not form the basis for any claim for damages or indemnification by Beneficiary against Grantor except to the extent of sums actually advanced by Beneficiary as a consequence of such default, pursuant to the terms of this Deed of Trust and prior to any transfer of the Property to Beneficiary pursuant to foreclosure proceedings or a deed in lieu thereof, in order to maintain and protect Beneficiary's security hereunder.

5.7. Not Substantial Equivalent. None of the covenants, representations, or other obligations of Grantor set forth in this Article are intended by the parties to be the substantial equivalent of obligations of Grantor arising under any Indemnity Agreement. To the extent any such representations, covenants, or obligations may nonetheless subsequently be determined to be the substantial equivalent of obligations of Grantor arising under any Indemnity Agreement, without in any way limiting or affecting Beneficiary's other rights and remedies hereunder, this Deed of Trust will cease to secure any such provisions and a default under any such provision shall not constitute a basis for non-judicial foreclosure hereunder.

ARTICLE 6. RIGHTS AND DUTIES OF THE PARTIES

6.1. Performance of Secured Obligations. Grantor shall promptly pay and perform each Secured Obligation in accordance with its terms.

6.2. Representations and Warranties. Grantor represents and warrants that, except as previously disclosed and accepted by Beneficiary in writing:

6.2.1. Title to Land and Improvements. Grantor holds good and indefeasible fee simple title to all of the Land and Improvements, subject only to such exceptions and encumbrances as have been approved in writing by Beneficiary (the "*Permitted Exceptions*"), and Grantor has or will have good title to all portions of the Collateral other than the Land and Improvements.



6.2.2. Title to Personal Property. Grantor owns any portion of the Collateral that is personal property free and clear of any security agreements, reservations of title, or conditional sales contracts, and there is no financing statement affecting such personal property on file in any public office other than in Beneficiary's favor.

6.2.3. Right to Encumber/Priority. Grantor has the full and unlimited power, right, and authority to encumber the Collateral and assign the Rents, Issues and Profits and Leases. Upon recording of this Deed of Trust and filing of a UCC Financing Statement with respect to any portion of the Collateral that is determined to be personal property, this Deed of Trust, Security Agreement, and Fixture Filing will create a first and prior lien on and security interest in the Collateral that is subject and subordinate to no other liens except for the Permitted Exceptions.

6.2.4. Commercial Purposes. The Loan and the other Secured Obligations were obtained and will continue to be used for commercial or business purposes, other than agricultural, timber, or grazing purposes, and not for personal, family or household purposes.

6.3. Taxes and Assessments. Grantor shall pay or cause to be paid when due, all general real and personal property taxes, special and supplemental real and personal property taxes and assessments, license fees, license taxes, levies, charges, penalties, or other taxes or similar impositions imposed by any public or quasi-public authority or utility company that are or may become a lien upon the Collateral or any portion thereof or interest therein, or that may cause any decrease in the value of the Collateral or any part of it. Grantor shall also pay when due all real property taxes, assessments, levies and charges imposed by any public authority upon Beneficiary by reason of its interest in the Collateral created hereby. All of the foregoing taxes, assessments and other charges payable by Grantor with respect to the Collateral are collectively referred to as the "Impositions." If requested by Beneficiary, Grantor shall furnish Beneficiary with receipts from the appropriate taxing authority or other proof satisfactory to Beneficiary that all Impositions have been paid on or before the date upon which they become delinquent.

6.4. Liens, Charges and Encumbrances. Grantor shall not encumber or permit the encumbrance of the Collateral without Beneficiary's prior written consent and Grantor shall immediately discharge any lien on the Collateral to which Beneficiary has not consented in writing. Grantor shall pay or cause to be paid when due all obligations secured by or reducible to liens and encumbrances that shall now or hereafter encumber or appear to encumber the Collateral or any part thereof, all claims for work or labor performed, or materials or supplies furnished, in connection with any work upon the Project, whether the lien, charge or encumbrance is or would be senior or subordinate to this Deed of Trust; provided, however, that Grantor shall not be in default hereunder due to any such lien, charge, or encumbrance that is a Permitted Exception. Beneficiary hereby expressly reserves the right to advance any and all funds necessary to cure any and all such obligations, and/or claims.

6.5. Required Insurance. Except to the extent such requirements may be modified by project specific insurance requirements provided to Grantor by Beneficiary prior to closing, Grantor shall keep the following insurance coverages in effect with respect to the Collateral: (a) Insurance against loss by fire and the hazards now or hereafter embraced by the standard "All Risk Form" or "Special Form" of insurance, in an amount equal at all times to the full insurable value of the Improvements, which insurance coverage shall cover "replacement cost" without reduction for depreciation, and shall also contain a waiver of the co-insurance clause (or an agreed amount endorsement); (b) commercial general liability insurance against claims for bodily injury, death or property damage occurring on, in or about the Land or the Improvements in amounts and on terms acceptable to the Beneficiary; (c) flood insurance in an amount satisfactory to Beneficiary and on terms satisfactory to Beneficiary if the Land is located in a designated flood hazard area; and (d) insurance against such similar or other hazards, casualties, liabilities and contingencies of any kind or nature, in such forms and amounts, as Beneficiary may request in writing prior to closing or from time to



time reasonably require. Each insurance policy shall be with a company and in a form acceptable to Beneficiary. Each hazard insurance policy shall include a mortgagee endorsement in favor of Beneficiary. Each liability insurance policy shall name Beneficiary as an additional insured. All such insurance policies shall contain such other endorsements as Beneficiary may reasonably request in writing prior to closing, or from time to time reasonably require, and all required endorsements shall be in form and substance satisfactory to Beneficiary. All required policies will provide that they may not be cancelled, reduced, materially amended, or terminated without at least thirty (30) days written notice to Beneficiary (except for termination for non-payment, for which the notice period shall be ten (10) days) prior to the effective date of any cancellation or material amendment, which term shall include any reduction in the scope or limits of coverage. Grantor shall furnish to Beneficiary a certificate of insurance for each policy setting forth the coverage, the limits of liability, the carrier, the policy number and the expiration date, together with all required endorsements. Beneficiary reserves the right to request a certified copy of each insurance policy or such other additional evidence of insurance coverage as Beneficiary may require. Grantor shall promptly furnish to Beneficiary all renewal notices relating to insurance policies. Grantor shall pay all premiums on insurance policies directly to the carrier or its agent. Prior to the expiration date of each such policy, Grantor shall furnish to Beneficiary a renewal policy in a form acceptable to Beneficiary, together with evidence that the renewal premium has been paid. As security for the Secured Obligations, Grantor hereby assigns to Beneficiary all required insurance policies, together with all proceeds thereof, rights thereto and all unearned premiums returnable upon cancellation.

6.6. Insurance and Condemnation Proceeds.

6.6.1. Payment to Beneficiary. Grantor hereby absolutely and irrevocably assigns to Beneficiary, and authorizes the payor to pay to Beneficiary, the following claims, causes of action, awards, payments and rights to payment, together with all interest that may accrue thereon (collectively, the "Claims"):

6.6.1.1 Condemnation Awards. All awards of damages and all other compensation payable directly or indirectly because of a condemnation, proposed condemnation, or taking for public or private use that affects all or part of the Collateral or any interest in it;

6.6.1.2 Warranty Claims. All awards, claims, and causes of action arising out of any warranty affecting all or any part of the Collateral, or for damage or injury to or decrease in value of all or part of the Collateral or any interest in it; and

6.6.1.3 Insurance Proceeds. All proceeds of any insurance policies payable because of damage or loss sustained to all or part of the Collateral.

6.6.2. Notice to Beneficiary. Grantor shall immediately notify Beneficiary in writing if: (i) any damage occurs or any injury or loss is sustained to all or part of the Collateral, whether or not covered by insurance or warranty, or any action or proceeding relating to any such damage, injury, or loss is commenced; or (ii) any offer is made, or any action or proceeding is commenced, that relates to any actual or proposed condemnation or taking of all or part of the Collateral.

6.6.3. Pursuit of Claims. Grantor shall pursue recovery of all such Claims and defend its rights under any proceeding for condemnation of the Collateral or any part thereof and prosecute the same with due diligence to its final disposition, and shall cause any awards or settlements to be paid over to Beneficiary for disposition pursuant to the terms of this Deed of Trust. Beneficiary may, at Beneficiary's option and in Beneficiary's sole discretion, as attorney-in-fact for Grantor, make proof of loss and adjust and compromise any Claims, appear in or prosecute any action or proceeding to enforce the Claims, or participate in any action or proceeding relating to condemnation or taking of all or part of the Collateral,



and may join Grantor in adjusting any loss covered by insurance. Grantor shall deliver or cause to be delivered to Beneficiary such instruments as may be requested by Beneficiary from time to time to permit Beneficiary to take any such actions.

6.6.4. Application of Proceeds. All proceeds of the Claims that Grantor may receive or be entitled to receive shall be paid to Beneficiary. Beneficiary shall apply any proceeds received by it hereunder first to the payment of the reasonable costs and expenses incurred in the collection of the proceeds. Beneficiary shall then apply the remaining balance of such proceeds (the "*Net Claims Proceeds*"), in its absolute discretion and without regard to the adequacy of its security: (i) to any of the Secured Obligations, notwithstanding the fact that Secured Obligations may not be due according to the terms thereof; (ii) to reimburse Grantor for the costs of reconstructing the Improvements or otherwise repairing or restoring the Collateral; or (iii) to Grantor; provided, however, that if there are no outstanding Events of Default under any of the Loan Documents and Grantor establishes, to Beneficiary's reasonable satisfaction, that Grantor has sufficient funds, including the Net Claims Proceeds, to fully rebuild or repair the Collateral within the remaining term of the Loan and without delaying the completion date of the Project, Beneficiary shall make disbursements of the Net Claims Proceeds for purposes of repair or restoration of the Collateral.

6.6.5. Restoration. If the Net Claims Proceeds are used to reimburse Grantor for the cost of reconstruction, restoration, or repair of the Collateral, the Collateral shall be promptly and diligently restored by Grantor to the equivalent of its condition immediately prior to the casualty or condemnation in accordance with the Plans or to such other condition as Beneficiary may approve in writing, and disbursements of such Net Claims Proceeds shall be in accordance with disbursement procedures acceptable to Beneficiary. If, after applying the Net Claims Proceeds to the Secured Obligations, Beneficiary reasonably determines the remaining security to be inadequate to secure the remaining Secured Obligations, Grantor shall, upon written demand from Beneficiary, repay an amount that will reduce the remaining Secured Obligations to a balance for which adequate security is present.

6.7. Reserves for Taxes and Insurance. If required by Beneficiary after an Event of Default has occurred, Grantor shall deposit with Beneficiary, in monthly installments, an amount equal to one-twelfth of the estimated aggregate annual Impositions and insurance premiums for the Project. In such event, Grantor shall cause all bills, statements, or other documents relating to the Impositions and insurance premiums to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements, or other documents, and provided Grantor has deposited sufficient funds with Beneficiary pursuant to this Section, Beneficiary shall pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time and for any reason the funds deposited with Beneficiary are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary shall notify Grantor and Grantor shall immediately deposit an amount equal to such deficiency with Beneficiary. Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this Section. Beneficiary may commingle said reserve with its own funds and Grantor shall be entitled to no interest thereon.

6.8. Maintenance and Preservation of the Collateral. Grantor covenants: (a) to maintain and preserve the Collateral in good condition and repair and in a prudent businesslike manner; (b) not to remove, demolish or structurally alter the Collateral or any part thereof, or alter, restore or add to the Collateral, or initiate or allow any change in any zoning or other land use classification that affects the Collateral or any part of it, except with Beneficiary's express prior written consent, and except such alterations as may be required by laws, ordinances, rules, regulations, or orders of governmental authorities or by the terms hereof; (c) to comply with and not suffer violations of any existing and future subdivision laws, building codes, zoning laws and regulations, and other laws, regulations, ordinances, rules, codes, orders, directives, guidelines, building restrictions and requirements of, and all agreements with and



commitments to, all federal, state, county or municipal governmental, judicial or legal authorities or agencies having jurisdiction over the Grantor or the Project, including those pertaining to the construction, sale, lease, or financing of the Improvements, and all recorded covenants and restrictions affecting the Project (the "**Requirements**"); (d) not to commit or permit any waste to or deterioration of the Collateral; (e) to perform all other acts that from the character or use of the Collateral may be reasonably necessary to maintain and preserve its value; (f) to perform all obligations required to be performed under the Loan Documents, and all other obligations of Grantor pertaining to the Collateral; and (g) to execute and, where appropriate, acknowledge and deliver such further instruments as Beneficiary or Trustee may deem necessary or appropriate to preserve, continue, perfect and enjoy the security provided for herein.

6.9. Defense and Notice of Actions; Costs. Grantor shall, without liability, cost, or expense to Beneficiary or Trustee, protect, preserve, and defend Grantor's fee interest in and to the Project and Grantor's interest in the Collateral, the security of this Deed of Trust, any additional or other security for the Secured Obligations, and the rights or powers of Beneficiary or Trustee hereunder against all adverse claims. Said protection, preservation, and defense shall include, but not be limited to, protection, preservation and defense against all adverse claimants to and encumbrancers of Grantor's interest in the Collateral, whether or not such claimants or encumbrancers assert an interest paramount to that of Beneficiary. Grantor shall give Beneficiary and Trustee prompt notice in writing of the filing of any such action or proceeding. Grantor shall pay all costs, fees, and expenses including, without limitation, costs of evidence of title, trustees' fees, and reasonable attorneys' fees paid or incurred in any action or proceeding in which Beneficiary and/or Trustee may appear or be made a party, whether or not pursued to final judgment, and in any exercise of the power of sale or other remedy contained herein, whether or not such sale is actually consummated or such other remedy is actually prosecuted to completion.

6.10. Right of Inspection. Beneficiary, its agents, employees and representatives shall have the right to enter the Project at any reasonable time for the purpose of inspecting the Project and ascertaining Grantor's compliance with the terms hereof, and for such other purposes and in accordance with the terms specified in any of the other Loan Documents.

6.11. Actions of Trustee; Matters Concerning Trustee. Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, becomes a public record as provided by law.

6.11.1. Compensation. Grantor agrees to pay fees in the maximum amounts legally permitted, or reasonable fees as may be charged by Beneficiary and Trustee when the law provides no maximum limit, for any services that Beneficiary or Trustee may render in connection with this Deed of Trust. Grantor further agrees to pay or reimburse Beneficiary for all costs, expenses and other advances that may be incurred or made by Beneficiary or Trustee in any efforts to enforce any terms of this Deed of Trust, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Deed of Trust, including reasonable attorneys' fees and other legal costs, costs of any foreclosure sale or bankruptcy proceeding affecting the Grantor or the Collateral, and any cost of evidence of title.

6.11.2. Exculpation. Beneficiary shall not be directly or indirectly liable to Grantor or any other person as a consequence of: (i) Beneficiary's exercise of or failure to exercise any rights, remedies, or powers granted to it in this Deed of Trust or to perform or discharge any obligation or liability of Grantor under any agreement related to the Collateral or under this Deed of Trust; or (ii) any loss sustained by Grantor or any third party resulting from any act or omission of Beneficiary in managing the Project, unless the loss is caused by the willful misconduct or gross negligence of Beneficiary. Grantor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Beneficiary.



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6.11.3. Indemnification. Grantor agrees to indemnify Trustee and Beneficiary against and hold each of them and their respective officers, employees, agents, and representatives, harmless from and against any and all losses, damages, liabilities, claims, causes of action, judgments, court costs, reasonable attorneys' fees, and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses that either may reasonably suffer or incur: (i) in performing any act required or permitted by this Deed of Trust or any of the other Loan Documents or by law; (ii) because of any failure of Grantor to perform any of its Secured Obligations; or (iii) because of any alleged obligation of or undertaking by Beneficiary to perform or discharge any of the representations, warranties, conditions, covenants or other obligations in any document relating to the Collateral other than the Loan Documents. This agreement by Grantor to indemnify Trustee and Beneficiary shall survive the release and cancellation of any or all of the Secured Obligations and the full or partial release and/or reconveyance of this Deed of Trust.

6.11.4. Payment by Grantor. Grantor shall fulfill all obligations to pay money arising under this Section immediately upon demand by Trustee or Beneficiary. Each such obligation shall be added to, and considered to be part of, the principal of the Note, and shall bear interest from the date the obligation arises at the rate applicable to the principal balance of the Note, as such rate may be adjusted.

6.12. Permitted Actions.

6.12.1. Releases, Extensions, Modification, and Additional Security. From time to time, Beneficiary may perform any of the following acts without incurring any liability or giving notice to any person: (i) release any person liable for payment of any Secured Obligation; (ii) extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligation; (iii) accept additional real or personal property of any kind as security for any Secured Obligation; or (iv) alter, substitute, or release all or any portion of the Collateral.

6.12.2. Additional Actions. From time to time Beneficiary, or Trustee when requested to do so by Beneficiary in writing, may perform any of the following acts without incurring any liability or giving notice to any person and without affecting the personal liability of any person for payment or performance of any of the Secured Obligations: (i) consent to the making of any plat or map of the Project or any part of it; (ii) join in granting any easement or creating any covenant or restriction affecting the Project; (iii) join in any extension, subordination, or other agreement affecting this Deed of Trust or the lien of it; or (iv) reconvey the Collateral or any part of it without any warranty.

6.13. Reconveyance. When all of the Secured Obligations have been paid and performed in full and there exists no default under the Loan or any Existing Loan, Beneficiary shall request Trustee in writing to reconvey the Collateral, and shall surrender this Deed of Trust and all notes and instruments evidencing the Secured Obligations to Trustee. When Trustee receives Beneficiary's written request for reconveyance and all reconveyance fees, recording fees, or other fees and expenses owing to it by Grantor hereunder, Trustee shall reconvey the Collateral, or so much of it as is then held under this Deed of Trust, without warranty to the person or persons legally entitled to it. In the reconveyance, the grantee may be described as "the person or persons legally entitled thereto," and the recitals of any matters or facts shall be conclusive proof of their truthfulness. Neither Beneficiary nor Trustee shall have any duty to determine the right of persons claiming to be rightful grantees of any reconveyance. Grantor has no obligation to partially release the Deed of Trust with respect to any portion of the Property. Grantor shall have sole and absolute discretion to determine whether Grantor is willing to partially or fully release the Deed of Trust, and if so, what amount of release price it may demand and what other conditions it may impose.

6.14. Late Charge. If Grantor commits an Event of Default in the payment of an amount due and payable under this Deed of Trust, a late charge as specified in and measured by the Note may be



charged by Beneficiary for the purpose of defraying the extra administrative expenses incident to handling such delinquent payment and the loss of the use of funds resulting from Grantor's non-payment when due. Such late charge shall be paid without prejudice to the rights of the holder of the Note to collect any other amounts provided to be paid thereunder.

6.15. Subrogation. Beneficiary shall be subrogated to the liens of all encumbrances, whether released of record or not, that are discharged in whole or in part by Beneficiary in accordance with this Deed of Trust or with the proceeds of the Loan.

6.16. Notice of Change. Grantor shall give Beneficiary prior written notice of any change in: (i) the location of its place of business or its chief executive office if it has more than one place of business; (ii) the location of any of the Collateral, including the Books and Records; and (iii) Grantor's name or business structure. Unless approved by Beneficiary in writing, all Collateral that consists of personal property (other than the Books and Records) will be located at the Project and all Books and Records will be located at Grantor's place of business, or chief executive office if Grantor has more than one place of business.

ARTICLE 7. DEFAULTS AND REMEDIES

7.1. Events of Default. The occurrence of any one or more of the following shall constitute an "Event of Default":

7.1.1. Payment Default. Borrower's failure to make any payment or to perform an obligation to pay money that arises under the Note or any of the other Loan Documents within fifteen (15) days after the date on which such payment is due, except for obligations due on the Maturity Date of the Note, for which there shall be no 15-day grace period;

7.1.2. Construction Defaults. Any of the following relating to construction of the Project: (i) The filing of any mechanic's lien or any stop notice with respect to the Project that is not bonded against or released upon Grantor's discovery thereof and within thirty (30) business days after filing; (ii) Any material failure in the construction and completion of the Improvements to comply with: (a) the Plans; (b) all Building Laws, or (c) the terms of this Deed of Trust or the other Loan Documents, if such failure is not cured within thirty (30) days after notice thereof by Beneficiary, or, if such cure cannot be accomplished within such 30-day period through the exercise of diligence, the failure by Grantor to promptly commence the required cure and thereafter to continue the cure with due diligence until such default is totally cured, which must in any event occur within ninety (90) days after such default; or (iii) Grantor's failure to proceed with work on the Improvements in a diligent and workmanlike manner if such failure is not cured within fifteen (15) days after written notice thereof by Beneficiary.

7.1.3. Unauthorized Transfer. A transfer, purported transfer, or change of ownership or control of Grantor or any guarantor in violation of Article 8.

7.1.4. Insolvency. Borrower, Grantor, or any guarantor, or any trustee thereof: (i) files a petition in bankruptcy or for an arrangement, reorganization, or any other form of debtor relief; or such a petition is filed against Grantor, Borrower, or any guarantor or any trustee of Grantor, Borrower, or any guarantor and is not dismissed within forty-five (45) days after the date of filing; (ii) commences any proceeding for dissolution or liquidation or any such proceeding is commenced against Grantor, Borrower, or any guarantor and is not dismissed within forty-five (45) days after the date of commencement; or (iii) makes an assignment of all or substantially all of its assets for the benefit of its creditors.



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7.1.5. Appointment of Receiver. A decree or order is entered for the appointment of a trustee, receiver, or liquidator for Grantor, Borrower, or any guarantor or any of the Collateral, and such decree or order is not vacated within forty-five (45) days after the date of entry.

7.1.6. Money Judgment. A final judgment, order or decree for the payment of money shall be rendered against Grantor, Borrower, or any guarantor, and Grantor, Borrower, or such guarantor shall not satisfy and pay the same or cause it to be discharged within 30 days from the entry thereof, or shall not appeal therefrom and secure a stay of execution pending such appeal, or there is an attachment, execution, or other judicial seizure of any portion of the assets of Grantor, Borrower, or any guarantor and such seizure is not discharged or bonded against to Beneficiary's reasonable satisfaction within thirty (30) days.

7.1.7. Misrepresentation. Any written representation or disclosure made to Beneficiary by Grantor, Borrower, or any guarantor proves to be materially false or misleading when made, whether or not that written representation or disclosure is contained herein or in any of the other Loan Documents.

7.1.8. Security Impaired. There is an uninsured casualty with respect to any material portion of the Collateral and Grantor fails to immediately repair such damage, Grantor fails to satisfy the conditions set forth in the Deed of Trust for the release of insurance proceeds or any condemnation award, or, whether or not Beneficiary has received and applied insurance proceeds or any condemnation award to the Secured Obligations in accordance with the Deed of Trust, Beneficiary reasonably determines that its security is impaired by such casualty or condemnation and Grantor fails to immediately deposit in Grantor's Account an amount determined by Beneficiary as necessary to restore such security.

7.1.9. Defaults Under Agreements with Third Parties. Grantor defaults in the performance of any material covenant under any permitted financing related to the Project, or under any sales agreement, lease, or other instrument assigned to Beneficiary as security for the Loan.

7.1.10. Other Defaults Under Loan Documents. Grantor or Borrower fails to perform any other covenant, agreement, or obligation under any of the Loan Documents, including the failure to provide any reports required to be provided to Beneficiary, if such default is not cured within thirty (30) days after written notice thereof by Beneficiary (or such other period as may otherwise be specified herein or in the Loan Document under which such default arises), or an Event of Default occurs as defined in any of the other Loan Documents.

7.1.11. Existing Loans. An Event of Default occurs under any document evidencing or securing an Existing Loan, as defined in the Modification Agreement (each an "**Existing Loan Document**") and collectively, the ("**Existing Loan Documents**").

7.2. Rights and Remedies. At any time after the occurrence of an Event of Default hereunder, Beneficiary and/or Trustee shall have all of the rights and remedies described below, in addition to any other rights and remedies of Beneficiary under the Loan Documents and the Existing Loan Documents. To the fullest extent permitted by law, all of such rights and remedies shall be cumulative and the exercise of any one or more of them shall not constitute an election of remedies:

7.2.1. Receiver. If an Event of Default shall have occurred and be continuing, Beneficiary may, as a matter of right and without regard to the then-current value of the Collateral or the interest of Grantor therein or the sufficiency of the security for repayment and performance of the Secured Obligations, upon *ex parte* application and without notice to Grantor or anyone claiming under Grantor, and without any showing of insolvency, fraud or mismanagement on the part of Grantor, and without the



necessity of filing any judicial or other proceeding other than the proceeding for appointment of a receiver, apply to any court having jurisdiction to appoint a receiver or receivers for the Collateral or any portion thereof; and of the Rents, Issues and Profits, and Grantor hereby irrevocably consents to the appointment of a receiver or receivers upon such Event of Default. Any such receiver shall have the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary set forth in this Deed of Trust or any of the other Loan Documents. Employment by Beneficiary shall not disqualify a person from serving as receiver.

7.2.2. Cure; Protection of Security. With or without notice, and without releasing Grantor from any obligation hereunder, Beneficiary may (but shall not be obligated to) cure any breach or default of Grantor and, if it chooses to do so in its sole discretion, make such advances and do any and all other things that it may in its sole discretion consider necessary and appropriate to protect its Collateral and the security of this Deed of Trust. In addition to and without limitation of the foregoing, if Grantor has failed to keep or perform any covenant whatsoever contained in this Deed of Trust or the other Loan Documents, Beneficiary may, but shall not be obligated to any person to do so, perform or attempt to perform said covenant, and any payment made or expense incurred in the performance or attempted performance of any such covenant shall be and become a part of the Secured Obligations, and Grantor promises, upon demand, to pay to Beneficiary, at the place where the Note is payable, all sums so advanced or paid by Beneficiary, with interest from the date when paid or incurred by Beneficiary at the default rate of interest provided in the Note. No such payment by Beneficiary shall constitute a waiver of any Event of Default. In addition to the liens and security interests hereof, Beneficiary shall be subrogated to all rights, titles, liens, and security interests securing the payment of any debt, claim, tax, or assessment for the payment of which Beneficiary may make an advance, or which Beneficiary may pay.

7.2.3. Entry. Beneficiary, in person, by agent, or by court-appointed receiver, with or without bringing any action or proceeding, may terminate Grantor's right and license to collect the Rents, Issues and Profits and to administer the Leases, and enter, take possession of, complete construction on, manage and operate, and lease or sell, all or any part of the Collateral, and may also do any and all other things in connection with those actions that Beneficiary may in its sole discretion consider necessary or appropriate to protect the security of this Deed of Trust or that are otherwise permitted to be taken or conducted by Beneficiary under the Loan Documents. If Beneficiary so requests, Grantor shall assemble any Collateral that has been removed from the Project and make all of it available to Beneficiary at the Project site. The entering upon and taking possession of the Project, the collection of the Rents, Issues and Profits and the application thereof as aforesaid, or any of such acts, shall not cure or waive any default or notice of default hereunder or invalidate any other right or remedy that Beneficiary may have in response to such default or pursuant to such notice and, notwithstanding the continued possession of the Project or the collection, receipt, and application of the Rents, Issues and Profits by Beneficiary, Trustee, or Beneficiary's receiver or agent, Trustee or Beneficiary shall be entitled to exercise every right provided for in any of the Loan Documents or by law upon the occurrence of any Event of Default.

7.2.4. Uniform Commercial Code Remedies. With respect to all or any part of the Collateral that constitutes personal property, Beneficiary shall have all of, and may exercise any or all of, the rights and remedies of a secured party under the Uniform Commercial Code in effect in the Project State.

7.2.5. Judicial Action. Beneficiary may commence and maintain an action or actions, at law or in equity, in any court of competent jurisdiction, to enforce the payment and/or performance of the Secured Obligations (including, without limitation, to obtain specific enforcement of the covenants of Grantor hereunder, and Grantor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy), to foreclose the liens and security interests of this Deed of Trust as against all or any part of the Collateral, and to have all or any part of the Collateral sold under the judgment or decree of a court of competent jurisdiction. Grantor hereby waives the defense of laches and any



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applicable statute of limitations. If this Deed of Trust is foreclosed by judicial action, and the Collateral sold at a foreclosure sale, the purchaser may, during any redemption period allowed, make such repairs or alterations on the Land as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the lesser of the default rate under the Note, or the maximum rate permitted by law, shall be added to and become a part of the amount required to be paid for redemption from such sale. In addition, Beneficiary will be entitled to a judgment providing that, if the foreclosure sale proceeds are insufficient to satisfy the judgment, execution may issue for the deficiency.

7.2.6. Realization on Security. Beneficiary may resort to and realize upon or waive the security hereunder and any other security now or hereafter held by Beneficiary in such order and manner as Trustee and Beneficiary or either of them may, in their sole discretion, determine; which resort to such security may be taken concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both.

7.2.7. Power of Sale. Beneficiary may execute a written notice of such Event of Default and of its election to invoke this power of sale to cause all or part of the Collateral to be sold to satisfy the Secured Obligations. Under this power of sale, Beneficiary shall have the discretionary right to cause some or all of the Collateral, including any Collateral property that constitutes personal property, to be sold or otherwise disposed of in any combination and in any manner permitted by applicable law.

7.2.7.1 Sales of Personal Property. For purposes of this power of sale, Beneficiary may elect to treat as personal property any Collateral property that is intangible or that can be severed from the Land or Improvements without causing structural damage. If it chooses to do so, Beneficiary may dispose of any personal property separately from the sale of real property, in any manner permitted by the Uniform Commercial Code in effect in the Project State, including any public or private sale, or in any manner permitted by any other applicable law. Beneficiary shall have no obligation to clean-up or otherwise prepare any such Collateral for sale. Any proceeds of any such disposition shall not cure any Event of Default or reinstate any Secured Obligation.

7.2.7.2 Trustee's Sales of Real Property or Mixed Collateral. Beneficiary may also choose to dispose of some or all of the Collateral that consists solely of real property in any manner then permitted by applicable law. In its discretion, Beneficiary may also or alternatively choose to dispose of some or all of the Collateral in any combination consisting of both real and personal property, together in one sale to be held in accordance with the law and procedures applicable to real property, if and as permitted in the Project State. Grantor agrees that such a sale of personal property constitutes a commercially reasonable sale of the personal property. For purposes of this power of sale, either a sale of real property alone, or a sale of both real and personal property together, will sometimes be referred to as a "Trustee's Sale".

7.2.7.3 Trustee's Sale Procedures. Before any Trustee's Sale, Beneficiary or Trustee shall give and record such notice of default and election to sell as may then be required by law. When all legally mandated time periods have elapsed, Trustee shall sell the property being sold at a public auction to be held at the time and place specified in the notice of sale, and Beneficiary may impose such terms and conditions of sale as are permitted or allowed by applicable law. From time to time in accordance with then applicable law, Trustee may, and in any event at Beneficiary's request shall, continue any Trustee's Sale by public announcement at the time and place scheduled for that sale, or may, in its discretion, give a new notice of sale. Also, Beneficiary may from time to time discontinue or rescind any notice of default or notice of sale before any Trustee's Sale as provided above, by executing and delivering to Trustee a written



notice of such discontinuance or rescission. The exercise by Beneficiary of such right of rescission shall not constitute a waiver of any breach or default then existing or subsequently occurring, or impair the right of Beneficiary to execute and deliver to Trustee, as above provided, other declarations or notices of default to satisfy the Secured Obligations, nor otherwise affect any provision, covenant, or condition of any Loan Document or Existing Loan Documents, or any of the rights, obligations, or remedies of Trustee or Beneficiary hereunder or thereunder.

7.2.7.4 Bidding at Trustee's Sale. At any Trustee's Sale, Trustee shall sell to the highest bidder at public auction for cash in lawful money of the United States, unless other terms and conditions of sale are prescribed by Beneficiary in accordance with and as permitted by applicable law. Any person, including, without limitation, Grantor or Beneficiary, may purchase at such sale, and Grantor hereby covenants to warrant and defend the title of such purchaser or purchasers. Trustee shall execute and deliver to the purchaser(s) at such sale a deed or deeds conveying the property being sold without any covenant or warranty whatsoever, express or implied. The recitals in any such deed of any matters or facts, including any facts bearing upon the regularity or validity of any Trustee's Sale, shall be conclusive proof of their truthfulness.

7.2.8. Single or Multiple Foreclosure Sales. If the Collateral consists of more than one lot, parcel or item of property, Beneficiary may: (i) designate the order in which the lots, parcels and/or items shall be sold or disposed of or offered for sale or disposition; and (ii) elect to dispose of the lots, parcels and/or items through a single consolidated sale or disposition to be held or made under the power of sale granted herein, or in connection with judicial proceedings, or by virtue of a judgment and decree of foreclosure and sale; or through two or more such sales or dispositions, each of which may be separately noticed if so elected by Beneficiary and permitted by applicable law; or in any other manner Beneficiary may deem to be in its best interests (any such sale or disposition, a "*Foreclosure Sale*"). If it chooses to have more than one Foreclosure Sale, Beneficiary at its option may cause the Foreclosure Sales to be held simultaneously or successively, on the same day, or on such different days and at such different times and places and in such order as it may deem to be in its best interests, all as may be permitted under applicable law. No Foreclosure Sale shall terminate or affect the lien of this Deed of Trust on any part of the Collateral that has not been sold until all of the Secured Obligations have been paid in full.

7.2.9. Releases, Extensions, Modification and Additional Security. Without affecting the liability of any person for payment of any of the Secured Obligations, Beneficiary may make any agreement or take any action extending the maturity or otherwise altering the terms or increasing the amount of any of the Secured Obligations, and accept additional security or release all or a portion of the Collateral and/or other security for the Secured Obligations.

7.2.10. Acceleration Not Required. Beneficiary may take any of the actions permitted under Sections 7.2.1 through 7.2.3 regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Deed of Trust.

7.2.11. Other Remedies. In addition to the foregoing, upon the occurrence of an Event of Default, Beneficiary and/or Trustee shall have and may exercise any and all other rights and remedies available to them at law or in equity. The exercise or failure to exercise any right or remedy available to Beneficiary or Trustee shall in no event be deemed or construed to be a waiver or release of any rights or remedies of Beneficiary or Trustee under the Loan Documents or the Existing Loan Documents, or at law or in equity.

7.3. Payment of Costs, Expenses, and Attorneys' Fees. All costs and expenses reasonably incurred by Trustee and Beneficiary in enforcing the remedies available to them hereunder or otherwise



protecting the Collateral or other rights or interests of Beneficiary (including, without limitation, court costs and reasonable attorneys' fees, whether incurred in litigation or not, expenses for evidence of title, appraisals and surveys and trustees' fees, and costs and fees relating to any bankruptcy, reorganization, or insolvency proceeding) shall constitute an additional obligation of Grantor to Beneficiary. Grantor shall immediately reimburse Beneficiary and Trustee for all costs and expenses that Beneficiary or Trustee may incur by reason of, or arising out of, or in connection with: (a) any Default; (b) any action or proceeding in which Beneficiary or Trustee may appear or commence to protect, preserve, exercise or enforce their rights, remedies or security interests under this Deed of Trust, or under any document or instrument evidencing the Secured Obligations secured by this Deed of Trust, or which otherwise relates to the Project, including all appeals therefrom; (c) the performance of any act authorized or permitted hereunder; and (d) the exercise of any other rights or remedies under this Deed of Trust, or under any document or instrument evidencing the Secured Obligations secured by this Deed of Trust, or otherwise relating, to the protection of Beneficiary's or Trustee's rights and interest hereunder or under any document or instrument evidencing the Secured Obligations secured hereby, whether or not a suit or proceeding is instituted. Such costs and expenses shall include without limitation the fees, charges and expenses of attorneys, engineers, accountants, appraisers, expert witnesses, consultants and other professional assistants and advisors, costs and expenses of searching records, examining title and determining rights in, title to, or the value of, the Project, or the boundaries thereof, including but not limited to title company charges, title insurance premiums, survey costs, publication costs, and other charges incident thereto, all whether or not a suit or proceeding is instituted. Grantor agrees to and shall pay, immediately and without demand, all sums so expended by Beneficiary or Trustee, together with interest from the date of expenditure, at the highest legal interest rate then payable under the Loan Documents, all of which sums plus interest shall constitute additional Secured Obligations secured by this Deed of Trust.

7.4. Remedies Not Exclusive. Trustee and/or Beneficiary shall be entitled to enforce the payment and performance of any Secured Obligations and to exercise any and all rights, powers, and remedies under this Deed of Trust, any other Loan Document, or any Existing Loan Document, notwithstanding the fact that some or all of the Secured Obligations may now or hereafter be otherwise secured. Trustee and/or Beneficiary shall be entitled to enforce all such rights concurrently or separately, in such order and manner as they or either of them may in their absolute discretion determine. No remedy is intended to be exclusive of any other remedy, but each shall be cumulative and in addition to the others, to the fullest extent permitted by law.

7.5. Miscellaneous.

7.5.1. Beneficiary may release, regardless of consideration, any part of the Collateral without, as to the remainder, in any way impairing, affecting, subordinating, or releasing the lien or security interests evidenced by this Deed of Trust or the other Loan Documents or affecting the obligations of Grantor or any other party to pay and perform the Secured Obligations. For payment of the Secured Obligations, Beneficiary may resort to any of the collateral therefor in such order and manner as Beneficiary may elect. No collateral heretofore, herewith, or hereafter taken by Beneficiary shall in any manner impair or affect the collateral given pursuant to the Loan Documents, and all collateral shall be taken, considered, and held as cumulative.

7.5.2. Grantor hereby irrevocably and unconditionally waives and releases: (i) all benefits that might accrue to Grantor by virtue of any present or future law exempting the Collateral from attachment, levy or sale on execution or providing for any appraisal, valuation, stay of execution, exemption from civil process, redemption, or extension of time for payment; (ii) notices of any Event of Default or of the exercise of any right, remedy, or recourse not explicitly required under the Loan Documents; and (iii) any right to a marshaling of assets or a sale in inverse order of alienation.



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**ARTICLE 8.
ASSIGNMENT**

8.1. No Assignment or Encumbrance Without Beneficiary's Consent. Grantor acknowledges and agrees that the Secured Obligations are personal to Grantor and that the identity of Grantor and its affiliates, partners and employees, and of any guarantors; the relationship between Grantor, each guarantor, and Beneficiary; and the creditworthiness, business expertise, financial condition, and continued control of the Collateral of Grantor and each guarantor were material inducements upon which Beneficiary relied in arranging the Secured Obligations. Accordingly, neither Grantor nor any guarantor shall, without Beneficiary's prior written consent or as otherwise expressly permitted under this Deed of Trust or the other Loan Documents: (i) sell, convey, assign, encumber, or otherwise transfer any of its right, title, or interest in and to the Collateral or any other Project asset, whether such transfer or encumbrance is voluntary or by operation of law, other than as specifically permitted under the Loan Documents, (ii) sell, assign, or transfer its interest as Grantor under the Secured Obligations, or (iii) transfer any stock or other ownership interest that would cause a material change in the control of Grantor or any guarantor (excluding, however, transfers of the interests of limited partners or non-managing members of Grantor or any guarantor if such transfers do not materially diminish the powers of the general partner or manager of Grantor or any guarantor or otherwise cause a material change in the rights to manage and control Grantor or any guarantor). Any attempted assignment without such prior written consent shall be null and void, and of no effect, and shall also constitute, at Beneficiary's option, an Event of Default by Grantor under this Deed of Trust and each of the other Loan Documents.

8.2. Conditions to Approval of Assignment. As a condition of approving any assignment, Beneficiary may impose such requirements and conditions as it determines are appropriate in its sole discretion, including but not limited to the requirement that Grantor and the assuming party pay, in advance, any and all reasonable costs and expenses, including reasonable attorney's and accountant's fees, incurred by the Beneficiary in connection therewith. No approval of any assignment shall cause a release of Grantor from any liability under the Loan Documents without Beneficiary's prior written consent, which consent may be withheld in Beneficiary's sole discretion.

8.3. Loan Due upon Prohibited Transfer or Encumbrance. Upon any transfer, assignment, or encumbrance, as described in above for which Beneficiary's written approval is required but has not been obtained, the entire outstanding balance owing under the Note, including principal, accrued interest, and any other amounts owing under the Loan Documents shall become due and payable at Beneficiary's option, without any requirement for notice or demand, and Beneficiary may pursue any remedies granted to it under this Deed of Trust or any of the other Loan Documents.

8.4. Assignment and Participation by Beneficiary. Beneficiary shall have the right, at any time and from time to time and upon notice to Grantor, to assign or sell the Secured Obligations, and/or any one or more participations in the Secured Obligations, or to include such obligations in a securitized pool of indebtedness, accompanied by an assignment and/or delegation of any or all related rights or obligations of Beneficiary under the Loan Documents, without the need for any form of consent from Grantor.

**ARTICLE 9.
MISCELLANEOUS PROVISIONS**

9.1. Additional Provisions. The Loan Documents fully state all of the terms and conditions of the parties' agreement regarding the matters mentioned in or incidental to this Deed of Trust. The Loan Documents also grant further rights to Beneficiary and contain further agreements and affirmative and negative covenants by Grantor and Borrower that apply to this Deed of Trust and to the Collateral.



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9.2. Limitation on Interest and Charges. Grantor agrees to an effective rate of interest that is the rate provided for in the Note, plus any additional rate of interest resulting from any other charges in the nature of interest paid or to be paid by or on behalf of Grantor, or any benefit received or to be received by Beneficiary, in connection with the Secured Obligations. The interest, fees and charges under the Loan Documents shall not exceed the maximum amounts permitted by any applicable law. If any such interest, fee or charge exceeds the maximum, the interest, fee or charge shall be reduced by the excess and any excess amounts already collected from Grantor shall be refunded. Beneficiary may refund such excess either by treating the excess as a prepayment of principal under the Note or by making a direct payment to Grantor. The provisions of this paragraph shall control over any inconsistent provision in the Loan Documents.

9.3. Permitted Contests. Grantor may contest or object in good faith to the amount or validity of any tax, assessment, claim, demand, levy, lien, encumbrance, charge or notice of noncompliance asserted by a third party (collectively, a "Claim"), but only in accordance with the following conditions: (i) Grantor shall first give written notice to Beneficiary and deposit with Beneficiary a bond or other security satisfactory to Beneficiary in such amount as Beneficiary shall reasonably require, up to 150% of the amount of the Claim or other sum in controversy, and shall have demonstrated to Beneficiary's reasonable satisfaction that no portion of the Collateral will be sold to satisfy the Claim prior to final resolution; (ii) Grantor shall promptly and diligently proceed to cause the Claim to be settled and discharged in a manner not prejudicial to Beneficiary or its rights hereunder; (iii) if Grantor shall fail to proceed diligently to discharge the Claim, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, but shall not be obligated to, discharge the same, by paying the amount claimed to be due, or by depositing in court a bond or the amount claimed or otherwise giving security for such Claim, or in such manner as is or may be prescribed by law, at Grantor's expense; (iv) Beneficiary may employ an attorney or attorneys to protect its rights hereunder, and in such event, Grantor shall pay Beneficiary the reasonable attorneys' fees and expenses incurred by Beneficiary, whether or not an action is actually commenced against Grantor by reason of any default hereunder; and (v) Grantor shall have provided such good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any legal proceedings then pending in connection with the Claim.

9.4. Cooperation. Grantor shall, upon request, cooperate with Beneficiary or Trustee to correct any defect, error or omission that may be discovered in the contents of this Deed of Trust or in the execution or acknowledgment hereof, and will execute, acknowledge, and deliver such further instruments and take such further actions as may be reasonably requested by Beneficiary or Trustee to carry out more effectively the purposes of this Deed of Trust.

9.5. Obligations of Grantor, Joint and Several. If more than one person has executed this Deed of Trust as Grantor, the obligations of all such persons hereunder shall be joint and several.

9.6. Severability. If any term of this Deed of Trust, or the application thereof to any person or circumstances, shall, to any extent, be invalid, void or unenforceable, the remainder of this Deed of Trust, or the application of such term to persons or circumstances other than those as to which it is invalid, void or unenforceable, shall not be affected thereby, and each term of this Deed of Trust shall be valid and enforceable to the fullest extent permitted by law. If the lien of this Deed of Trust is invalid, void or unenforceable as to any part of the Secured Obligations, or if the lien is invalid, void or unenforceable as to any part of the Collateral, the unsecured or partially secured portion of such indebtedness shall be completely paid prior to the payment of the remaining and secured or partially secured portion of such Secured Obligations, and all payments made on such Secured Obligations shall be considered to have been first paid on and applied to the full payment of that portion of such indebtedness that is not secured or fully secured by the lien of this Deed of Trust.



9.7. No Waiver or Cure. No waiver or delay or omission in the exercise or enforcement by Beneficiary of any of its rights or remedies hereunder or under any of the other Loan Documents shall be considered a waiver of any subsequent application of, or right to enforce, such right or remedy, or of the right to enforce any other right or remedy of Beneficiary in another instance. Furthermore, no waiver of Beneficiary's rights or remedies in one or more instances shall establish a course of dealing or other agreement that will bind Beneficiary or prohibit Beneficiary from enforcing the terms of this Deed of Trust or any other Loan Document in another instance.

9.8. Additional Security. If Beneficiary at any time holds additional security for any of the Secured Obligations, all such security shall be taken, considered, and held as cumulative, and Beneficiary may enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently with the exercise of any of its rights or remedies hereunder or after a sale is made hereunder. The taking of additional security, the execution of partial releases of the security, or any extension of the time of payment of the Secured Obligations shall not diminish the force, effect, or lien of this Deed of Trust and shall not affect or impair the liability of any maker, surety, or endorser for the payment of any such indebtedness.

9.9. Imposition of Tax. For purposes of this Section, "Tax" shall mean: (a) a specific tax on deeds of trust or on all or any part of the indebtedness secured by a deed of trust; or (b) a specific tax on the owner of the Collateral covered by a deed of trust which the taxpayer is authorized or required to deduct from payments on the deed of trust; or (c) a tax on property covered by a deed of trust chargeable against a beneficiary or trustee under the deed of trust or the holder of the note secured by the deed of trust; or (d) a specific tax (other than an income tax or a gross receipts tax) on all or any portion of the obligations secured hereby or on payments of principal and interest made by a grantor under a deed of trust. If any Tax is enacted subsequent to the date of this Deed of Trust, enactment of the Tax shall constitute an Event of Default, and Beneficiary may exercise any or all of the remedies available to it upon the occurrence of any Event of Default, unless the following conditions are met: (i) Grantor may lawfully pay the Tax without causing any resulting economic disadvantage or increase of tax to Beneficiary or Trustee; and (ii) Grantor pays the Tax (including any tax on the payment made) within thirty (30) days after notice from Beneficiary that the tax law has been enacted.

9.10. No Offset. Grantor's obligation to timely pay and perform all obligations under the Note, this Deed of Trust, and the other Loan Documents shall be absolute and unconditional and shall not be affected by any event or circumstance; including without limitation any setoff, counterclaim, abatement, suspension, recoupment, deduction, defense or any other right that Grantor or any guarantor may have or claim against Beneficiary or any other person or entity. The foregoing shall not constitute a waiver of any claim or demand which Grantor or any guarantor may have in damages or otherwise against Beneficiary or any other person or entity; provided that Grantor shall maintain a separate action thereon.

9.11. Accommodations to Successors. The liability of the original Grantor shall not be released or changed if Beneficiary grants any successor in interest to Grantor any extension of time for payment, or modification of the terms of payment, of any Secured Obligation. Beneficiary shall not be required to comply with any demand by the original Grantor that Beneficiary refuse to grant such an extension or modification to, or commence proceedings against, any such successor in interest.

9.12. Amendments. This Deed of Trust cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

9.13. Successors in Interest. Subject to the limitations on transfer contained in the Loan Documents, the terms, covenants, and conditions herein contained shall be binding upon and inure to the



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benefit of the heirs, legatees, devisees, administrators, executors, successors and assigns of the parties hereto.

9.14. Modification and Extensions. References to the Note, the Loan Documents and the Existing Loan Documents in this document shall be deemed to include all modifications, extensions, and renewals thereof.

9.15. Applicable Law. The provisions of this Deed of Trust shall be governed by and construed in accordance with the laws of the Project State, without regard to the choice of law rules of the Project State and except to the extent that federal laws preempt the laws of the Project State.

9.16. Merger. No merger shall occur as a result of Beneficiary's acquiring any other estate in or any other lien on the Collateral unless Beneficiary consents to a merger in writing.

9.17. Notice. All notices required or permitted under the Loan Documents shall be in writing, effective upon delivery, and shall be: (i) delivered in person, (ii) sent by recognized courier or overnight delivery service, or (iii) sent by certified mail, postage prepaid, with return receipt requested, (such mailing to be deemed received on the sooner of actual receipt or three (3) days after mailing) to the appropriate party at the addresses set forth below. Any party may designate in writing different mailing addresses or persons to which or to whom such notices or demands are thereafter to be addressed, but such change of address or change of party to be addressed notices shall be effective only upon actual receipt.

Grantor: Chaffey Homes Incorporated
PO Box 560
Kirkland, WA 98083
Telephone: _____
Facsimile: _____

Chaffey North, LLC
PO Box 560
Kirkland, WA 98083
Telephone: _____
Facsimile: _____

Trustee: Washington Services, Inc.
6125 South Morgan Road
Freeland, WA 98249
Telephone: _____
Facsimile: _____

Beneficiary: Washington Federal Savings
Attn: Thomas Pozarycki
425 Pike Street
Seattle, WA 98101
Telephone: 206.654.9405
Facsimile: 206.624.2334



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With a copy to:

Hillis Clark Martin & Peterson
Attn: Gary Fallon
1221 Second Avenue, Suite 500
Seattle, WA 98101
Telephone: 206.623.1745
Facsimile: 206.623.7789

9.18. Waiver of Marshaling. Grantor waives all rights, legal and equitable, it may now or hereafter have to require marshaling of assets or to require upon foreclosure sales of assets in a particular order. Each successor and assign of Grantor, including any holder of a lien subordinate to this Deed of Trust, by acceptance of its interest or lien agrees that it shall be bound by the above waiver, as if it had given the waiver itself.

9.19. Waiver Of Jury Trial. BENEFICIARY AND GRANTOR EACH HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, OR RELATED TO, THE SUBJECT MATTER OF THIS DEED OF TRUST. THIS WAIVER IS KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY MADE BY BENEFICIARY AND GRANTOR, AND BENEFICIARY AND GRANTOR ACKNOWLEDGE THAT NO PERSON ACTING ON BEHALF OF THE OTHER PARTY HAS MADE ANY REPRESENTATIONS OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. BENEFICIARY AND GRANTOR FURTHER ACKNOWLEDGE THAT THEY HAVE BEEN REPRESENTED (OR HAVE HAD THE OPPORTUNITY TO BE REPRESENTED) IN THE SIGNING OF THIS DEED OF TRUST AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED OF THEIR OWN FREE WILL, AND THAT THEY HAVE HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

9.20. Notice of Indemnification. GRANTOR HEREBY ACKNOWLEDGES AND AGREES THAT THIS DEED OF TRUST CONTAINS CERTAIN INDEMNIFICATION PROVISIONS WHICH, IN CERTAIN CIRCUMSTANCES, COULD INCLUDE AN INDEMNIFICATION BY GRANTOR OF BENEFICIARY FROM CLAIMS OR LOSSES ARISING AS A RESULT OF BENEFICIARY'S OWN NEGLIGENCE.

9.21. Oral Agreements Notice. ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

9.22. Rider. The terms and provisions of the Grantor Capacity Rider attached hereto as Exhibit B are hereby incorporated by this reference as though fully set forth herein.



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IN WITNESS WHEREOF, Grantor has executed this Deed of Trust as the Grantor hereunder, and as a Debtor under the Uniform Commercial Code, as of the date set forth above.

GRANTOR:

CHAFFEY HOMES INCORPORATED,
a Washington corporation

By [Signature]
Its CO-PRESIDENT

CHAFFEY NORTH, LLC,
a Washington limited liability company

By [Signature]
Its MANAGER

STATE OF WASHINGTON

COUNTY OF King

ss.

On this day personally appeared before me Robert Chaffey, Co-President known to be the CHAFFEY HOMES INCORPORATED, the Washington corporation that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 28th day of Sept, 2009.

Christy Cairns
Printed Name Christy Cairns
NOTARY PUBLIC in and for the State of Washington,
residing at Everett
My Commission Expires 7/20/12



STATE OF WASHINGTON

COUNTY OF King

} ss.

On this day personally appeared before me Robert Chaffey to me known to be the Manager of CHAFFEY NORTH, LLC, the Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 28th day of Sept, 2009.



Christy Cairns
Printed Name Christy Cairns
NOTARY PUBLIC in and for the State of Washington,
residing at Everett
My Commission Expires 7/20/12



200909300091
Skagit County Auditor

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

Owner: Chaffey Homes Incorporated

LOT 4, BLOCK 9, LOTS 2 THROUGH 5, INCLUSIVE, BLOCK 10; ALL IN PLAT OF WOOD'S ADDITION TO ANACORTES, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 4 OF PLATS, PAGE 35, RECORDS OF SKAGIT COUNTY, WASHINGTON;

SITUATED IN SKAGIT COUNTY, WASHINGTON.

Owner: Chaffey North, LLC

LOT 117, "PLAT OF NOOKACHAMP HILLS PUD PHASE 11B," AS RECORDED ON AUGUST 23, 2005, UNDER AUDITOR'S FILE NO. 200508230082, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

Owner: Chaffey North, LLC

LOTS 1, 2, 4, 5, 6, 11 AND 20, "BAY MEADOWS," AS PER PLAT RECORDED ON NOVEMBER 28, 2005, UNDER AUDITOR'S FILE NO. 200511280180, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

Owner: Chaffey North, LLC

LOTS 24, 25, 26, 27, AND 29, "BAY MEADOWS," AS PER PLAT RECORDED ON NOVEMBER 28, 2005, UNDER AUDITOR'S FILE NO. 200511280180, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

Owner: Chaffey North, LLC

LOTS 123, 125, 133, 135 AND 136, "NOOKACHAMP HILLS PUD, PHASE 11B," AS PER PLAT RECORDED AUGUST 23, 2005, UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 200508230082, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.



Owner: Chaffey North, LLC

LOT 28, BAY MEADOWS, AS PER PLAT RECORDED ON NOVEMBER 28, 2005, UNDER AUDITOR'S FILE NO. 200511280180, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

Owner: Chaffey North, LLC

TRACT 4 AND THE SOUTHEASTERLY 40 FEET OF TRACT 3, ANACO BEACH, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 4, RECORDS OF SKAGIT COUNTY, WASHINGTON;

ALSO THAT PORTION OF TRACTS 2 AND 3 OF PLATE NO. 3 OF TIDE & SHORE LANDS OF SECTION 27, TOWNSHIP 35, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, AS SHOWN ON THE OFFICIAL MAP THEREOF IN THE OFFICE OF THE STATE LAND COMMISSIONER AT OLYMPIA, WASHINGTON, LYING BETWEEN THE NORTHWESTERLY AND SOUTHEASTERLY LINES OF TRACT 4 OF ANACO BEACH, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 4, RECORDS OF SKAGIT COUNTY, WASHINGTON, PRODUCED WESTERLY;

SITUATED IN SKAGIT COUNTY, WASHINGTON.

Owner: Chaffey North, LLC

LOT 9, "BAY MEADOWS," AS PER PLAT RECORDED ON NOVEMBER 28, 2005, UNDER AUDITOR'S FILE NO. 200511280180, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

Owner: Chaffey North, LLC

LOT 10, "BAY MEADOWS," AS PER PLAT RECORDED ON NOVEMBER 28, 2005, UNDER AUDITOR'S FILE NO. 200511280180, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

Owner: Chaffey North, LLC

LOTS 1, 2 AND 4 THROUGH 25, INCLUSIVE, THE WOODS AT SUNSET COVE, ACCORDING TO THE PLAT THEREOF, RECORDED OCTOBER 17, 2007, UNDER AUDITOR'S FILE NO. 200710170081, RECORDS OF SKAGIT COUNTY, WASHINGTON;

SITUATED IN SKAGIT COUNTY, WASHINGTON.



EXHIBIT B

**GRANTOR CAPACITY RIDER
TO
DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT, AND FIXTURE FILING**

Dated: September 1, 2009

Grantors: CHAFFEY HOMES INCORPORATED, a Washington corporation; and
CHAFFEY NORTH, LLC, a Washington limited liability company (collectively, the
"Grantors").

Borrowers: CHAFFEY HOMES INCORPORATED, a Washington corporation ("Chaffey Homes");
and CHAFFEY ARIZONA, INC., a Washington corporation ("Chaffey Arizona" and,
collectively with Chaffey Homes, the "Borrowers")

Trustee: WASHINGTON SERVICES, INC.

Beneficiary: WASHINGTON FEDERAL SAVINGS, a United States Corporation
("Lender")

THIS GRANTOR CAPACITY RIDER ("Rider") is incorporated into and modifies that certain Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing ("Deed of Trust") dated as of the date set forth above and made by Grantors in favor of Lender. To the extent the provisions of this Rider are inconsistent with provisions in the Deed of Trust, the provisions of this Rider shall prevail. Capitalized terms used in this Rider and not defined herein shall have the same meaning given to them in the Deed of Trust.

The Deed of Trust secures Borrowers' obligations under the Loan Documents, among other Secured Obligations. Grantors and Borrowers are affiliates and the Grantors are the owners of the Property that is being offered as additional collateral for the Loan. Grantors are executing the Deed of Trust against the Property to facilitate Borrowers' ability to obtain the Loan, which Loan will materially benefit the Grantors.

1. Obligations Under Deed of Trust. The Loan Documents are executed by the Borrowers, and all references in the Deed of Trust to Borrowers and Borrowers' obligations to Lender in describing such obligations are intended to reference the Borrowers. All references to "Borrower" or "Grantor" as owner of the Property, and all obligations relating to such ownership, are intended to refer to the Grantors, including, without limitation, any and all Events of Default that jeopardize Grantors' ownership of the Property, as determined by Lender in its sole discretion.

2. Miscellaneous Agreements. It is hereby agreed that:

2.1. Trustee and Lender shall be entitled to enforce the payment and performance of any Secured Obligations and to exercise any and all rights and powers under the Deed of Trust and any of the Loan Documents, notwithstanding the fact that some or all of the Secured Obligations may now or hereafter be otherwise secured. Trustee and Lender shall be entitled to enforce all such rights concurrently or separately, in such order and manner as they or either of them may in their absolute discretion determine.



No remedy is intended to be exclusive of any other remedy, but each shall be cumulative and in addition to the others, to the fullest extent permitted by law.

2.2. Although this Deed of Trust constitutes only a portion of the collateral for the Secured Obligations, Lender's recourse hereunder shall not be subordinate or secondary to other security available to Lender for the Secured Obligations and Lender may pursue its security interest under the Deed of Trust or any other security for those obligations, as well as any other remedies available to Lender, in such order and manner as Lender, in its sole discretion, may elect. Lender shall have no obligation to pursue any other remedies therefor, before realizing on its collateral under the Deed of Trust.

3. Waivers. Grantors waive any right to require Lender to proceed against Borrowers or any other person or entity, or to proceed against or exhaust any other security held by it at any time, or to pursue any other remedy available to it; Grantors agree that Lender shall not be obligated to resort to any other security (including other security given by the Borrowers) in any particular order, even if such action impairs or destroys any subrogation rights of Grantors and/or any right of Grantors to proceed against one or more the Borrowers or Affiliates for reimbursement.

4. Representations of Grantors. Grantors represent and warrant to Lender that:

- (a) Grantors have full power and authority to execute and deliver the Deed of Trust;
- (b) the grant of the Deed of Trust is freely and fairly made by Grantors;
- (c) Grantors will derive material financial benefits from the Loan and such benefits constitute reasonably equivalent value in exchange for Grantors' granting of this Deed of Trust;
- (d) Grantors are solvent and will not be rendered insolvent by their grant of the Deed of Trust;
- (e) there is no basis whatsoever for Grantors' grant of the Deed of Trust to be invalidated or otherwise impeded as a fraudulent conveyance, voidable preference, assignment for the benefit of creditors, or other rescindable transaction under state or federal law; and
- (f) Grantors and Borrowers have entered into an agreement providing Grantors a right to contribution from Borrowers, as applicable, to the extent that any amount is collected from a Grantor that is not also a Borrower or the Collateral owned by a non-borrower Grantor in connection with any action by Lender under the Deed of Trust.

Grantors agree that Lender has no duty or obligation to inform Grantors in any way about the Borrowers. Grantors shall be solely and fully responsible for keeping informed of the Borrowers' financial condition and all circumstances that might affect the Property and Grantors' obligations hereunder.

[Remainder of Page Intentionally Blank; Signature Appears on Following Page]



DATED as the day and year first set forth above.

GRANTOR:

CHAFFEY HOMES INCORPORATED,
a Washington corporation

By 
Its W-PRESIDENT

CHAFFEY NORTH, LLC,
a Washington limited liability company

By 
Its MEMBER



STATE OF WASHINGTON

COUNTY OF King

} ss.

On this day personally appeared before me Robert Chaffey to me known to be the Co-President of CHAFFEY HOMES INCORPORATED, the Washington corporation that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute such instrument.

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Christy Cairns
Printed Name Christy Cairns
NOTARY PUBLIC in and for the State of Washington,
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