

NOTICE OF FORECLOSURE SALE

Notice is hereby given of a public nonjudicial foreclosure sale.

1. Property To Be Sold. The property to be sold is described as follows:

All of UNRESTRICTED RESERVE "A", ARELL, a subdivision in Harris County, Texas according to the map or plat thereof recorded in Volume 327, Page 15 of the Map Records of Harris County, Texas.

2. Date, Time, and Place of Sale. The sale is scheduled to be held at the following date, time, and place:

Date: Tuesday, January 7, 2025

Time: The sale shall begin no earlier than 1:00 p.m. or no later than three hours thereafter. The sale shall be completed no later than 4:00 p.m.

Place: The area of the Bayou City Event Center located at 9401 Knight Road, Houston, TX 77045, designated by the Commissioner's Court pursuant to Section 51.002 of the Texas Property Code as a place where foreclosure sales are to take place.

The Deed of Trust permits the beneficiary to postpone, withdraw, or reschedule the sale for another day. In that case, the trustee or substitute trustee under the Deed of Trust need not appear at the date, time, and place of a scheduled sale to announce the postponement, withdrawal, or rescheduling. Notice of the date of any rescheduled foreclosure sale will be reposted and refiled in accordance with the posting and filing requirements of the Texas Property Code. Such reposting or refiling may be after the date originally scheduled for this sale.

3. Terms of Sale. The sale will be conducted as a public auction to the highest bidder for cash, subject to the provisions of the Deed of Trust permitting the beneficiary thereunder to have the bid credited to the note up to the amount of the unpaid debt secured by the Deed of Trust at the time of sale.

Those desiring to purchase the property will need to demonstrate their ability to pay cash on the date the property is sold.

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The sale will be made expressly subject to any title matters set forth in the Deed of Trust, but prospective bidders are reminded that by law the sale will necessarily be made subject to all prior matters of record affecting the property, if any, to the extent that they remain in force and effect and have not been subordinated to the Deed of Trust. The sale shall not cover any part of the property that has been released of public record from the lien of the Deed of Trust. Prospective bidders are strongly urged to examine the applicable property records to determine the nature and extent of such matters, if any.

Pursuant to the Deed of Trust, the beneficiary has the right to direct the trustee or substitute trustee to sell the property in one or more parcels and/or sell all or only part of the property.

Pursuant to the Texas Property Code, the property will be sold in "as is, where is" condition, without any express or implied warranties, except as to the warranties of title (if any) provided for under the Deed of Trust. Prospective bidders are advised to conduct an independent investigation of the nature and condition of the property.

Pursuant to the Texas Property Code, the trustee or substitute trustee reserves the right to set further reasonable conditions for conducting the sale. Any such further conditions shall be announced before bidding is opened for the sale.

A debtor who is serving on active military duty may have special rights or relief related to this notice under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.) and state law, including section 51.015 Texas Property Code. Assert and protect your rights as a member of the armed forces of the United States. If you are or your spouse is serving on active military duty, including active military duty as a member of the Texas National Guard or the National Guard of another state or as a member of a reserve component of the armed forces of the

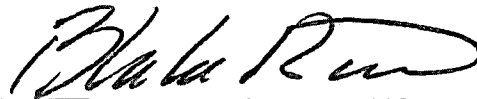
United States, please send written notice of the active duty military service to the sender of this notice.

4. Type of Sale. The sale is a nonjudicial Deed of Trust lien foreclosure sale being conducted pursuant to the power of sale granted by that one certain Deed of Trust executed by Mr. Z Investments, Inc., dated December 14, 2018 and recorded in Document Number RP-2018-563435 of the Official Public Records of Harris County, Texas.

5. Obligations Secured. The Deed of Trust provides that it secures the payment of the indebtedness and obligations therein described in the original principal amount of \$1,725,000.00 executed by Mr. Z Investments, Inc. payable to the order of BancorpSouth Bank (collectively the "Obligation"). Cadence Bank is the current owner and holder of the Obligation and is the beneficiary under the Deed of Trust.

6. Default and Request To Act. Default has occurred under the Deed of Trust, and the beneficiary has requested me, as trustee, to conduct this sale. Notice is given that before the sale the beneficiary may appoint another person substitute trustee to conduct the sale.

DATED: December 12, 2024.



Blake Rasner
Substitute Trustee
Haley & Olson, P.C.
100 N. Ritchie Road, Suite 200
Waco, Texas 76712
Telephone: (254) 776-3336
Facsimile: (254) 776-6823
Email: brasner@haleyolson.com

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

DEED OF TRUST
(WITH SECURITY AGREEMENT and Assignment of Rents)

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS:

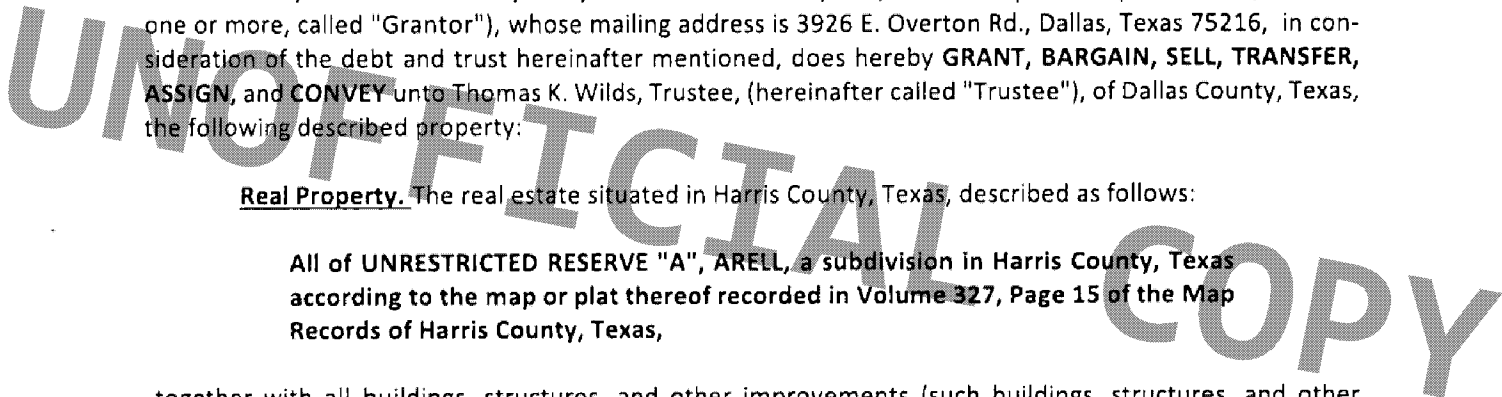
THAT, as of December 14, 2018, MR. Z INVESTMENTS, INC., a Texas corporation (hereinafter, whether one or more, called "Grantor"), whose mailing address is 3926 E. Overton Rd., Dallas, Texas 75216, in consideration of the debt and trust hereinafter mentioned, does hereby **GRANT, BARGAIN, SELL, TRANSFER, ASSIGN, and CONVEY** unto Thomas K. Wilds, Trustee, (hereinafter called "Trustee"), of Dallas County, Texas, the following described property:

Real Property. The real estate situated in Harris County, Texas, described as follows:

All of **UNRESTRICTED RESERVE "A", ARELL**, a subdivision in Harris County, Texas according to the map or plat thereof recorded in Volume 327, Page 15 of the Map Records of Harris County, Texas,

together with all buildings, structures, and other improvements (such buildings, structures, and other improvements being hereinafter sometimes called the "Improvements") now or hereafter situated thereon (such real estate, and Improvements being hereinafter sometimes called the "Land").

Fixtures and Personal Property. All fixtures, equipment, and personal property in which Grantor now has, or at any time hereafter acquires, an interest, and which are now, or at any time hereafter, either a part of the Land or situated in, on, or about the Land and utilized in connection with the operation of the Land, or acquired or delivered to the Land for use or incorporation in construction of any improvements on the Land, including, but not limited to, building and construction materials and equipment; all plans and specifications for improvements to be placed on the Land; all contracts and subcontracts relating to the Land; all deposits (including tenant's security deposits), funds, accounts, contract rights, instruments, documents, general intangibles (including trademarks, tradenames, and symbols used in connection therewith), with notes or chattel paper arising from or by virtue of any transactions related to the Land; all permits, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Land; all proceeds arising from or by virtue of the sale, lease, or other disposition of any of the real or personal property described herein; all heating, lighting, refrigeration, plumbing, ventilating, incinerating, water-heating, cooking, communications, electrical, dish-washing and air-conditioning equipment, and all appliances, furniture, engines, machinery, elevators, pumps, motors, compressors, boilers, condensing units, doors, windows, window screens, disposals, range hoods, tables, chairs, drapes, rods, beds, springs, mattresses, lamps, bookcases, cabinets, sprinklers, hose, tools, lawn equipment, sofas, dressers, mirrors, televisions, radios, speakers, electrical wiring, pipe and floor coverings, and all renewals, replacements, and substitutions thereof and additions thereto (all property described or referred to in this paragraph sometimes called



RP-2018-563435

"Accessories"). Grantor agrees that the Accessories are and will be a part of and affixed to the Land.

Other Property. All other interest of every kind and character which Grantor now has or at any time hereafter acquires in and to the property described or referred to in paragraphs 1 and 2 preceding, including but not limited to proceeds from the condemnation or threatened condemnation of the Land and the proceeds of any and all insurance covering the Land, and all property which is used in connection with the operation of the Land and Accessories.

All properties, rights, and interests described or referred to in paragraphs 1, 2, and 3 preceding are sometimes referred to collectively as the "Property".

Leasehold Estates. In the event the estate of the Grantor in and to any of the Property is a leasehold estate, this conveyance shall include, and the lien, security interest, and assignment created hereby shall encumber and extend to all other further or additional title, estates, interest, or rights which may exist now or at any time be acquired by Grantor in or to the Property demised under the lease creating such leasehold estate and including Grantor's rights, if any, to the Property demised under such lease and, if fee simple title to any of such Property shall ever become vested in the Grantor such fee simple interest shall be encumbered by this Deed of Trust in the same manner as if Grantor had fee simple title to said Property as of the date of execution hereof.

TO HAVE AND TO HOLD the above-described Property, together with all improvements thereon and all the rights, hereditaments, and appurtenances in anywise appertaining or belonging thereto, unto Trustee, and his successors or substitutes in this trust, and his and their assigns, against the claim or claims of all persons claiming or to claim the same or any part thereof.

Grantor, for Grantor and Grantor's successors, hereby agrees to warrant and forever defend, all and singular, the Property unto Trustee, and his successors or substitutes in this trust, and his and their assigns, in trust and for the uses and purposes hereinafter set forth, forever.

Grantor hereby grants to Holder and its successors and assigns, a security interest in the Property, and each and every part thereof, and in all proceeds from the sale, lease, or other disposition thereof and in all sums, proceeds, funds, and reserves described or referred to in Section 5.7, 5.8, and 5.9 hereof; provided that the grant of a security interest in proceeds shall not be deemed to authorize any action otherwise prohibited herein. The security interest created hereby is specifically intended to cover and include all Leases (as such term is defined in Section 4.1 hereof), together with all the right, title, and interest of Grantor, as lessor thereunder, including, without limiting the generality of the foregoing, the present, and continuing right to make claim for, collect, receive, and receipt for any and all of the rents, income, revenues, issues, and profits and monies payable as damages or in lieu of rent and monies payable as the purchase price of the Property or any part thereof or of awards or claims for money and other sums of money payable or receivable thereunder howsoever payable, and to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which Grantor or any lessor is or may become entitled to do under the Leases, provided, that this provision shall neither impair nor diminish any obligation of Grantor under the Leases, nor shall any obligation be imposed upon Holder.

ARTICLE I. The Obligation

Section 1.1 Holder and Obligation. This Deed of Trust [as used herein, the expression "this Deed of

Trust" shall mean this Deed of Trust (with Security Agreement)] and all rights, title, interest, liens, security interest, powers, and privileges created hereto or arising by virtue hereof, are given to secure payment and performance of the following indebtedness, obligations, and liabilities: (a) the indebtedness(es) evidenced by that certain promissory note of even date herewith (the "Note") executed by Grantor, payable to the order of BancorpSouth Bank ("Holder") whose mailing address for payments is 12655 North Central Expressway, Suite 100, Dallas, Texas 75243 in the principal amount of **ONE MILLION SEVEN HUNDRED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$1,725,000.00)**, bearing interest as therein specified, containing an attorney's fee clause, interest and principal being payable as therein specified, and finally maturing as therein specified; (b) all indebtedness, obligations, and liabilities arising pursuant to the provisions of this Deed of Trust, the Note, any guaranty or such other documents evidencing, securing or pertaining to the indebtedness(es) referred to in subsection (a) of this Section 1.1, as shall from time to time be executed and delivered to Holder by Grantor, any guarantor or any other party (collectively, the "Loan Documents"); (c) all other and any additional debts, obligations, and liabilities of every kind and character of Grantor whether now or hereafter existing in favor of Holder, regardless of whether such debts, obligations, and liabilities be direct or indirect, primary, secondary, joint, several, joint and several, fixed, or contingent; and (d) any and all renewals, modifications, rearrangements, amendments, or extensions of all or any part of the indebtedness, obligations, and liabilities described or referred to in Subsections 1.1(a), 1.1(b), and 1.1(c) preceding. The word "Obligation", as used herein, shall mean all of the indebtedness, obligations, and liabilities described or referred to in Subsections 1.1(a), 1.1(b), and 1.1(c) preceding and as described and referred to in this subsection 1.1(d). The word "Holder", as used herein, shall mean the Holder named in Subsection 1.1(a) above and all subsequent Holders of the Obligation at the time in question.

ARTICLE II.

Certain Representations; Warranties, and Covenants of Grantor

Section 2.1 Warranties and Representations. Grantor represents, warrants, and undertakes that (a) Grantor has full right and authority to execute and deliver this Deed of Trust; and (b) unless specifically provided herein to the contrary, Grantor has in its own right good and indefeasible title in fee simple to the Property free from any encumbrance superior to the indebtedness hereby secured.

Section 2.2 Covenants. Grantor and Grantor's successors and permitted assigns hereunder, covenants, agrees, and undertakes to: (a) pay all taxes and assessments against the Property as the same become due and payable, and prior to delinquency. Grantor shall furnish proof, satisfactory in form and substance to Lender, of such payment. Grantor shall not authorize any person or entity to pay current or delinquent ad valorem taxes due or to become due on the Property if such person or entity is entitled to receive a transfer of tax lien under Section 32.06 of the Texas Tax Code (as it may be amended or modified). In the event any transfer of a tax lien is executed by a tax collector pursuant to Section 32.06 of the Texas Tax Code (as it may be amended or modified) with respect to the Property, Grantor shall, within ten (10) days of the date written notice is sent from Lender to Grantor, fully and finally pay the transferee of said tax lien the entirety of all principal, interest and expenses (whether or not then due and payable, or to become due and payable) owing to said transferee with respect to said transferred tax lien, and deliver proof, satisfactory in form and substance to Lender, of such payment, along with a signed and notarized release of said tax lien executed by said transferee. Grantor shall not defer the collection of taxes on the Property, in the event deferral of such taxes is permitted under applicable law. In the event of the passage of any law, ordinance, or regulation, deducting from the Property for the purposes of taxation any lien thereon, or changing in any way the laws now in force for the taxation of mortgages, deeds of trust, or indebtedness secured thereby, or the manner of the operation of any such taxes so as to affect the interest of Lender, then and in such event, Grantor shall bear and pay the full amount of such taxes, unless the payment thereof by Grantor would be unlawful or if

the payment thereof would constitute usury or render the indebtedness due Lender wholly or partially usurious; provided, however, that if for any reason payment by Grantor or by Lender of any such new or additional taxes would be unlawful or if the payment thereof would constitute usury or render the indebtedness due Lender wholly or partially usurious, Lender may, at Lender's option, declare said unpaid indebtedness with all accrued interest thereon to be immediately due and payable, or Lender may, at Lender's option, pay the amount or portion of such taxes which would otherwise render said indebtedness unlawful or usurious, in which event Grantor shall concurrently therewith pay the remaining lawful and nonusurious portion or balance of said taxes. If Grantor fails to pay any taxes and assessments (including interest, penalties, costs and expenses) against the Property, enters into a tax lien loan to any person or entity, allows any person or entity to receive a transfer of an ad valorem tax lien, or defers the payment of taxes or assessments, Lender may in Lender's sole discretion, in addition to Lender's other rights as provided in the Security Instruments, elect to advance and pay the same at Grantor's expense; (b) obtain and deliver to Holder the insurance policies with premiums paid providing extended coverage for all buildings and other property covered by the Deed of Trust against damage by fire and lightning and against such other risks as Holder may require (Builder's Risk insurance shall be acceptable as to any improvements to be constructed on the Property during the construction phase of any construction loan), all in amounts approved by Holder not less than 100% of full replacement cost of all improvements located on the Property, such that Grantor and/or Holder shall not become a co-insurer under any required insurance policy, such insurance to be written on a replacement cost form promulgated by the Texas State Board of Insurance and with companies having a Best's Insurance Guide Rating of A, Class XIV or higher, as approved by Holder, with (i) loss made payable to Holder pursuant to the standard mortgagee clause promulgated by the Texas State Board of Insurance, without contribution; (ii) provision that (A) each of said policies shall not be terminated, reduced or limited regardless of any breach of the representations and agreements set forth therein, and (B) no such policy shall be canceled, endorsed or amended to any extent unless the issuer thereof shall have first given Holder at least 15 days' prior written notice. In case Grantor fails to furnish such policies, Holder, at Holder's option, may procure such insurance at Grantor's expense, and/or Holder, at Holder's option, has the right to declare the same to be a default under this Agreement, the Promissory Note, the Deed of Trust and the Security Instruments. All renewal and substitute policies of insurance shall be delivered to the office of Holder, premiums paid, at least ten (10) days before expiration of the insurance protection to be replaced by such renewal or substituted policies. In case of loss, Holder, at Holder's option, shall be entitled to receive and retain the proceeds of the insurance policies, applying the same toward payment of the Indebtedness in such manner as Holder may elect, or at Holder's option, Holder may pay the same over wholly or in part to Grantor for the repair of said improvements or for the erection of new improvements in their place, or for any other purpose satisfactory to Holder, but Holder shall not be obligated to see to the proper application of any amounts so paid to Grantor. If Holder elects to allow such payments to Grantor, disbursement shall be on such terms subject to such conditions as Holder may specify. Regardless of whether any insurance proceeds payable to them are sufficient to pay the costs of repair and restoration of the Property, Grantor shall promptly commence and carry out the repair, replacement, restoration and rebuilding of any and all of the improvements damaged or destroyed so as to return same, to the extent practicable, to the same condition as immediately prior to such damage to or destruction thereof. Grantor shall not permit or carry on any activity within or relating to the Property that is prohibited by the terms of any insurance policy covering any part of the Property or which permits cancellation of or increase in the premium payable for any insurance policy covering any part of the Property. In the event of a foreclosure of the Deed of Trust, the purchaser of the Property shall succeed to all the rights of Grantor, including any right to unearned premiums, in and to all policies of insurance assigned and delivered to Holder. Regardless of the types or amounts of insurance required and approved by Holder and Grantor shall assign and deliver to Holder all policies of insurance that insure against any loss or damage to the Property, as collateral and further security for the payment of the Principal Amount, interest and other amounts due Holder. Grantor shall also obtain and maintain in force and

effect at Grantor's expense such liability and other insurance policies and protection as Holder may from time to time require; **(1)** if the Property is in a "Flood Hazard Area", a flood insurance policy, or binder therefor, in an amount equal to the principal amount of the Note or the maximum amount available under the Flood Disaster Protection Act of 1973, and regulations issued pursuant thereto, as amended from time to time, whichever is less, in form complying with the "insurance purchase requirements" of that act; **(2)** such policies of mortgagee's title insurance insuring the validity and priority of this Deed of Trust and any future renewals or extensions of this Deed of Trust, including any such mortgagee's title insurance which the Holder may require during the term of the Obligation to supplement or replace any mortgagee's title policy earlier provided to Holder insuring the validity and priority of the Deed of Trust; and **(3)** such other insurance, if any, as Holder may require from time to time, or which is required by the Loan Documents; **(4)** cause all insurance carried in accordance with Section 2.2(b) to be payable to Holder as a mortgagee, to deliver the original policies of insurance carried by each Lessee (as that term is hereinafter defined) for the benefit of Grantor, and to cause all such policies to be payable to Holder as its interest may appear; **(5)** pay, or cause to be paid, all premiums for such insurance at least ten (10) days before such premiums become due, furnish to Holder satisfactory proof of the timeliness of such payments and deliver all renewal policies to Holder at least ten (10) days before the expiration date of each expiring policy; **(c)** comply with all federal, state, or municipal laws, rules, ordinances, and regulations applicable to the Property and its ownership, use and operation, including but not limited to maintenance of the Property in compliance with the Americans with Disabilities Act of 1990, and comply with all, and not violate any, easements, restrictions, agreements, covenants, and conditions with respect to or affecting the Property or any part thereof; **(d)** at all times maintain, preserve, and keep the Property in good repair and condition and presenting a first-class appearance, and from time to time make all necessary and proper repairs, replacements, and renewals, and not commit or permit any waste on or of the Property, and not do anything to the Property that may impair its value; **(e)** promptly pay all bills for labor and materials incurred in connection with the Property and never permit to be created or to exist in respect to the Property or any part thereof any lien or security interest even though inferior to the liens and security interest hereof for any such bill, and in any event never permit to be created or exist in respect to the Property or any part thereof any other or additional lien or security interest on a parity with or superior to any of the liens or security interest hereof; **(f)** at any time, and from time to time, upon request of Holder, forthwith, execute and deliver to Holder any and all additional instruments and further assurances, and do all other acts and things, as may be reasonably necessary or proper, in Holder's opinion, to effect the intent of these presents, more fully evidence and perfect the rights, titles, liens, and security interests herein created or intended to be created and to protect the rights, remedies, powers, and privileges of Holder hereunder; **(g)** from time to time, upon request of Holder, promptly furnish to Holder financial statements and reports and appraisals relating to the Grantor and the Property as required in the Loan Documents; **(h)** continuously maintain Grantor's existence and its right to do business in Texas; **(i)** pay and perform all of the Obligation in accordance with the terms thereof or of this Deed of Trust; at any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Deed of Trust, or upon any rights, titles, liens, or security interests created hereby, or upon the Obligation, or any part thereof, immediately pay all such taxes; provided that, in the alternative, Grantor may, in the event of the enactment of such a law, and must, if it is unlawful for Grantor to pay such taxes, prepay the Obligation in full within sixty (60) days after demand therefor by Holder; **(j)** at any time and from time to time, furnish promptly upon request of Holder a written statement or affidavit, in such form as shall be satisfactory to Holder, stating the unpaid balance of the Obligation and that there are no offsets or defenses against full payment of the Obligation and the terms hereof, or, if there are any such offsets or defenses, specifying them; **(k)** punctually and properly perform all of Grantor's covenants, duties, and liabilities under any other security agreement, mortgage, deed of trust, collateral pledge agreement, contract, or assignment of any kind now or hereafter existing as security for or in connection with payment of the Obligation, or any part thereof (each such security agreement being herein called "other security instrument"); **(l)** allow Holder from time to time to inspect the Property and all records

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relating thereto or to the Obligation, and to make and take away copies of such records; (m) not cause or permit the Accessories, or any part thereof, to be removed from the county and state where the Land is located, except items of the Accessories which have become obsolete or worn beyond practical use and which have been replaced by adequate substitutes having a value equal to or greater than the replaced items when new; (n) pay, or cause to be paid, any and all attorneys' fees, filing fees and expenses incurred by Holder for the preparation and recordation of any and all legal instruments which the Holder may require at the time of the creation of this Obligation (including this Deed of Trust and/or any and all other instruments which Lender may require in connection herewith) or which Holder may require during the term of the Obligation.

Notwithstanding the provisions of Sections 2.2(a) hereof, Grantor shall not be in default for failure to pay or discharge any taxes or mechanic's or materialman's lien asserted against the Property if, and so long as, (a) Grantor shall have notified Holder of same within ten (10) days of obtaining knowledge thereof; (b) Grantor shall diligently and in good faith contest the same by appropriate legal proceedings which shall operate to prevent the enforcement or collection of the same and the sale of the Property or any part thereof, to satisfy the same; (c) Grantor shall have furnished to Holder a cash deposit, or an indemnity bond satisfactory to Holder with a surety satisfactory to Holder, in the amount of the taxes or mechanic's or materialman's lien claim, plus a reasonable additional sum to pay all costs, interest and penalties that may be imposed or incurred in connection therewith, to assure payment of the matters under contest and to prevent any sale or forfeiture of the Property or any part thereof; (d) Grantor shall promptly upon final determination thereof pay the amount of any such tax or claim so determined, together with all costs, interest and penalties which may be payable in connection therewith; (e) the failure to pay the tax or mechanic's or materialman's lien claim does not constitute a default under any other deed of trust, mortgage or security interest covering or affecting any part of the Property; and (f) notwithstanding the foregoing, Grantor shall immediately upon request of Holder pay (and if Grantor shall fail so to do, Holder may, but shall not be required to, pay or cause to be discharged or bonded against) any such tax or claim notwithstanding such contest, if in the reasonable opinion of Holder the Property shall be in jeopardy or in danger of being forfeited or foreclosed. Holder may pay over any such cash deposit or part thereof to the claimant entitled thereto at any time when, in the judgment of Holder, the entitlement of such claimant is established.

ARTICLE III.

Respecting Defaults and Remedies of Holder

Section 3.1 Default. The term "default", as used herein, shall mean the occurrence of one or more of the following events: (a) the failure of Grantor to pay any sum of money in accordance with the Obligation, or any part thereof, on the date on which the payment is due; (b) the failure of Grantor, beyond any applicable notice and cure period, to punctually and properly perform any covenant, agreement, undertaking, or condition contained herein, or in the Note, or any renewal, modification, rearrangement, amendment, or extension thereof, or in the Loan Documents, or in any other security instrument which secures the Note or the Obligation due; (c) a default under any mortgage or security interest which covers or affects the Property; or (d) Holder believes in its good faith, reasonable judgement, that the prospect of payment or the prospect of performance of any other of Grantor's agreements under the Obligation or any documents collateral thereto is impaired.

Section 3.2 Holder's Remedies Upon Default. Upon a default, Holder may, at its option, do any one or more of the following:

- (a) If Grantor has failed to keep or perform any covenant whatsoever contained in this Deed of Trust, Holder 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 a part of the Obligation, and Grantor promises, upon demand, to pay to Holder, at the place where the Note is payable, or at such other place as Holder may direct by written notice, all sums so advanced or paid by Holder, with interest from the date when paid or incurred by Holder at the rate provided in the Note. No such payment by Holder shall constitute a waiver of any default. In addition to the liens and security interest hereof, Holder shall be subrogated to all rights, titles, liens, and security interest securing the payment of any debt, claim, tax, or assessment for the payment of which Holder may make an advance, or which Holder may pay.

(b) Unless otherwise modified herein, Holder may, without notice, demand, or presentment, which are hereby waived by Grantor and all other parties obligated in any manner whatsoever on the Obligation, declare the entire unpaid balance of the Obligation immediately due and payable, and upon such declaration, the entire unpaid balance of the Obligation shall be immediately due and payable. Grantors hereby waive all notices allowed by law, including without limitation, demand, presentment, notice of dishonor, protest, notice of intent to accelerate maturity and notice of acceleration.

(c) Holder may request Trustee to proceed with foreclosure, and in such event Trustee is hereby authorized and empowered, and it shall be his special duty, upon such request of Holder, to sell the Property, or any part thereof, to the highest bidder or bidders for cash, at the courthouse door of the county in the State of Texas wherein such Land or any part thereof then subject to the lien hereof is situated; provided that if such Land is situated in more than one county such sale of the Property, or part thereof, may be made in any county in the State of Texas wherein any part of the Land then subject to the lien hereof is situated. Any such sale shall be made at a public auction, between the hours of ten o'clock a.m. and four o'clock p.m. on the first Tuesday in any month, after a written or printed notice has been posted at the courthouse door in the county, or if more than one, then in each of the counties, wherein the Land subject to the lien hereof is situated, which notice shall designate the county where the Property, or any part thereof, will be sold, and which notice shall be posted at least twenty-one (21) days prior to the date of the sale. If then required by applicable law of the State of Texas, notice of the proposed sale shall be given also by filing, at least twenty-one (21) days before the date of the sale, a copy of such notice in the office of the county clerk of the county, or if more than one, then of each of the counties, wherein the Land to be sold is situated, which notice shall designate the county in which the sale is to be made.

(d) At least twenty-one (21) days preceding the date of sale, Holder shall serve written notice of the proposed sale by certified mail on each debtor obligated to pay the Obligation according to the records of the Holder. Service of such notice shall be completed upon deposit of the notice, enclosed in a postpaid wrapper, properly addressed to such debtor at the most recent address as shown by the records of the Holder, in a post office or official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was completed shall be prima facie evidence of the fact of service. After such sale, Trustee shall make good and sufficient deeds and assignments to the purchaser or purchasers thereunder in the name of Grantor, conveying the Property, or any part thereof, so sold to the purchaser or purchasers with general warranty of title by Grantor. Sale of a part of the Property shall not exhaust the power of sale, but sales may be made from time to time until the Obligation is paid and performed in full. It shall not be necessary to have present or to exhibit at any such sale any of the Accessories. In addition to the rights and powers of sale granted under the preceding provisions of this Subsection 3.2(c), if default is made in the payment of any installment of the Obligation, Holder may, at its option, at once or at any time thereafter while any matured installment remains unpaid, without declaring the entire Obligation to be due and payable, orally or in writing direct Trustee to enforce this trust and to sell the Property subject to such unmatu

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indebtedness and the liens and security interest securing its payment, in the same manner, all as provided in the preceding provisions of this Subsection 3.2(c). After such sale, Trustee shall make due conveyance to the purchaser or purchasers. Sales made without maturing the Obligation may be made hereunder whenever there is a default in the payment of any installment of the Obligation, without exhausting the power of sale granted hereby, and without affecting in any way the power of sale granted under this Subsection 3.2 (c), the unmatured balance of the Obligation (except as to any proceeds of any sale which Holder may apply as prepayment of the Obligation) or the liens and security interests securing payment of the Obligation. It is intended by each of the foregoing provisions of this Subsection 3.2(c) that Trustee may, after any request or direction by Holder, sell, not only the Land but also the Accessories and other interests constituting a part of the Property, or any part thereof, along with the Land, or any part thereof, as a unit and as a part of a single sale, or may sell any part of the Property separately from the remainder of the Property. It is agreed that, in any deed or deeds given by Trustee, any and all statements of fact or other recitals therein made as to the identity of Holder, or as to the occurrence or existence of any default, or as to the acceleration of the maturity of the Obligation, or as to the request to sell, notice of sale, time, place, terms, and manner of sale, and receipt, distribution, and application of the money realized therefrom, or as to the due and proper appointment of a substitute trustee, and, without being limited by the foregoing, as to any other act or thing having been duly done by Holder or by Trustee, shall be taken by all courts of law and equity as prima facie evidence that the said statements or recitals state facts and are without further question to be so accepted, and Grantor does hereby ratify and confirm any and all acts that Trustee may lawfully do in the premises by virtue hereof. In the event of the resignation or death of Trustee, or his removal from his county of residence stated on the first page hereof, or his failure, refusal, or inability, for any reason, to make any such sale or to perform any of the trusts herein declared, or, at the option of Holder, with or without cause, then Holder may appoint, in writing, but without the necessity of recordation, notice or any other formality, a substitute trustee, who shall thereupon succeed to all the estates, titles, rights, powers, and trusts herein granted to and vested in Trustee. If Holder is a corporation or an association, such appointment may be made on behalf of such Holder by any person who is then the president, or a vice-president, or the cashier or secretary, or any other authorized officer or agent of Holder. In the event of the resignation or death of any such substitute trustee, or his failure, refusal, or inability to make any such sale or perform such trusts, or, at the option of Holder, without cause, successive substitute trustees may thereafter, from time to time, be appointed in the same manner. Wherever herein the word "Trustee" is used, the same shall mean the person who is the duly appointed trustee or substitute trustee hereunder at the time in question.

(e) Holder may, or Trustee may upon written request of Holder, proceed by suit or suits, at law or in equity, to enforce the payment and performance of the Obligation in accordance with the terms hereof and of the Note or other instruments evidencing it, to foreclose the liens, security interest and this Deed of Trust as against all or any part of the Property, and to have all or any part of the Property sold under the judgment or decree of a court of competent jurisdiction.

(f) Holder, as a matter of right and without regard to the sufficiency of the security, 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, shall be entitled to the appointment of a receiver or receivers of the Property, or any part thereof, and of the income, rents, issues, and profits thereof.

(g) Holder may enter upon the Land, take possession of the property and remove the Accessories, or any part thereof, with or without judicial process, and, in connection therewith, without any responsibility or liability on the part of Holder, take possession of any property located on or in the Property which is not

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a part of the Property and hold or store such property at Grantor's expense.

(h) Holder may require Grantor to assemble the Accessories, or any part thereof, and make them available to Holder at a place to be designated by Holder which is reasonably convenient to Grantor and Holder.

(i) After notification, if any, hereafter provided in this Subsection 3.2(h), Holder may sell, lease, or otherwise dispose of, at the office of Holder, or on the Land, or elsewhere, as chosen by Holder, all or any part of the Accessories, in their then condition, or following any commercially reasonable preparation or processing, and each Sale (as used in this Subsection, the term "Sale" means any such sale, lease, or other disposition made pursuant to this Subsection 3.2(h)) may be as a unit or in parcels, by public or private proceedings, and by way of one or more contracts, and at any Sale, it shall not be necessary to exhibit the Accessories, or part thereof, being sold. The Sale of any part of the Accessories shall not exhaust Holder's power of Sale, but Sales may be made from time to time until the Obligation is paid and performed in full. Reasonable notification of the time and place of any public Sale pursuant to this Subsection 3.2(h), or reasonable notification of the time after which any private Sale is to be made pursuant to this Subsection 3.2(h), shall be sent to Grantor and to any other person entitled under the Texas Business and Commerce Code ("Code") to notice; provided that if the Accessories or part thereof being sold are perishable, or threaten to decline rapidly in value, or are of a type customarily sold on a recognized market, Holder may sell, lease, or otherwise dispose of the Accessories, or part thereof, without notification, advertisement, or other notice of any kind. It is agreed that notice sent or given not less than ten (10) calendar days prior to the taking of the action to which the notice relates is reasonable notification and notice for the purposes of this Subsection 3.2(h).

(j) Holder may surrender the insurance policies maintained pursuant to Subsection 2.2(b) hereof, or any part thereof, and receive and apply the unearned premiums as a credit on the Obligation, and in connection therewith, Grantor hereby appoints Holder as the agent and attorney-in-fact for Grantor to collect such premiums.

(k) Holder may retain the Accessories in satisfaction of the Obligation whenever the circumstances are such that Holder is entitled to do so under the Code.

(l) Holder may buy the Property, or any part thereof, at any public or judicial sale.

(m) Holder may buy the Accessories, or any part thereof, at any private sale if the Accessories, or part thereof, being sold are a type customarily sold in a recognized market or are a type which is the subject of widely distributed standard price quotations.

(n) Holder shall have and may exercise any and all other rights and remedies which Holder may have at law or in equity, or by virtue of any other security instrument, or under the Code, or otherwise.

(o) Holder may apply the reserves, if any, required by Section 5.9 hereof, toward payment of the Obligation.

Section 3.3 Holder as Purchaser. If Holder is the purchaser of the Property, or any part thereof, at any sale thereof, whether such sale be under the power of sale herein above vested in Trustee, or upon any other foreclosure of the liens and security interest hereof, or otherwise, Holder shall, upon any such purchase, acquire good title to the Property so purchased, free of the liens and security interest of these presents.

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Section 3.4 Other Rights of Holder. Should any part of the Property come into the possession of Holder, whether before or after default, Holder may use or operate the Property for the purpose of preserving it or its value, pursuant to the order of a court of appropriate jurisdiction, or in accordance with any other rights held by Holder in respect to the Property. Grantor covenants to promptly reimburse and pay to Holder, at the place where the Note is payable, the amount of all reasonable expenses (including the cost of any insurance, taxes, or other charges), incurred by Holder in connection with its custody, preservation, use, or operation of the Property, together with interest thereon from the date incurred by Holder at the rate provided in the Note, and all such expenses, costs, taxes, interest, and other charges shall be a part of the Obligation. It is agreed, however, that the risk of loss or damage to the Property is on Grantor, and Holder shall have no liability whatsoever for decline in value of the Property, or for failure to obtain or maintain insurance, or for failure to determine whether insurance in force is adequate as to amount or as to the risks insured.

Section 3.5 Possession After Foreclosure. In case the liens or security interest hereof shall be foreclosed by Trustee's sale or by judicial action, the purchaser at any such sale shall receive, as an incident to his ownership, immediate possession of the property purchased, and if Grantor or Grantor's successors shall hold possession of said Property, or any part thereof, subsequent to foreclosure, Grantor and Grantor's successors shall be considered as tenants at sufferance of the purchaser at foreclosure sale, and anyone occupying the Property after demand is made for possession thereof shall be guilty of forcible detainer and shall be subject to eviction and removal, forcible or otherwise, with or without process of law, and all damages by reason thereof are hereby expressly waived.

Section 3.6 Application of Sales Proceeds Upon Foreclosure. The proceeds from any sale, lease, or other disposition made pursuant to this Article III, or the proceeds from surrendering any insurance policies pursuant to Subsection 3.2(i) hereof, or any rental collected by Holder pursuant to Article IV hereof, or the reserves required by Section 5.9 hereof, or sums received pursuant to Section 5.7 hereof, or proceeds from insurance which Holder elects to apply to the Obligation pursuant to Section 5.8 hereof, shall be applied by Trustee, or by Holder, as the case may be, as follows: First, to the payment of all expenses of advertising, preserving, selling, and conveying the Property, or part thereof, including reasonable attorney's fees, and including a reasonable commission to Trustee not to exceed five percent (5%) of the proceeds of the sale; second, to interest on the Obligation; third, to principal on the matured portion of the Obligation; fourth, to prepayment of the unmeasured portion, if any, of the Obligation applied to installments of principal in inverse order of maturity; and fifth, the balance, if any, remaining after the full and final payment and performance of the Obligation, to the person or persons legally entitled thereto.

Section 3.7 Abandonment of Sale. In the event a foreclosure hereunder should be commenced by Trustee in accordance with Subsection 3.2(c) hereof, Holder may at any time before the sale, direct Trustee to abandon the sale, and may then institute suit for the collection of the Note, and for the foreclosure of the liens and security interest hereof. If Holder should institute a suit for the collection of the Note, and for a foreclosure of the liens and security interest hereof, it may at any time before the entry of a final judgment in said suit dismiss the same, and require Trustee to sell the Property, or any part thereof, in accordance with the provisions of this Deed of Trust.

ARTICLE IV Leases and Assignment of Rental

Section 4.1 Collateral Assignment of Rental. Grantor hereby collaterally assigns to Lender all rents,

revenues, income and profits and all other "Rents" (as such term is defined in the Texas Assignment of Rents Act, Chapter 64 of the Texas Property Code) ("Rental") payable under each Lease (hereinafter defined) now or at any time hereinafter existing, such collateral assignment being upon the terms set forth in Section 4.2 below. The term "Lease" or "Leases" means any oral or written agreement between Grantor and another person or entity to use or occupy all or any portion of the Property, together with any guaranties or security for the obligations of any tenant, lessee, sublessee or other person or entity having the right to occupy, use or manage any part of the Property under a Lease. Each time Grantor enters into a Lease, such Lease shall automatically become subject to this Article without further action.

Section 4.2 Right to Direct Payment of Rental After an Event of Default. The collateral assignment of Rental to Lender shall be upon the following terms: (a) upon receipt from Lender of notice that an Event of Default exists, each tenant is hereby authorized and directed to pay directly to Lender all Rental thereafter accruing or payable and receipt of Rental by Lender shall be a release of such tenant to the extent of all amounts so paid; (b) Rental so received by Lender shall be applied by Lender, first to the expenses, if any, of collection and then in accordance with Section D.3 hereof; (c) without impairing its rights hereunder, Lender may, at its option, at any time and from time to time, release to Grantor Rental so received by Lender, or any part thereof; (d) Lender shall not be liable for its failure to collect or its failure to exercise diligence in the collection of Rental, but shall be accountable only for Rental that it shall actually receive; and (e) the collateral assignment contained in this Article shall terminate upon the release of this Deed of Trust, but no tenant shall be required to take notice of termination until a copy of such release shall have been delivered to such tenant.

Section 4.3 Remedies. Should an Event of Default occur, Grantor agrees to deliver to Lender possession and control of all Rental held by Grantor in trust for the benefit of Lender. Grantor specifically agrees that Lender may upon the occurrence of any Event of Default or at any time thereafter, personally or through an agent selected by Lender, take--or have the Trustee take--possession and control of all or any part of the Property and may receive and collect all Rental theretofore accrued and all thereafter accruing therefrom until the final termination of this Deed of Trust or until the foreclosure of the lien of this Deed of Trust, applying so much thereof as may be collected before sale of the Property by the Trustee or judicial foreclosure of this Deed of Trust first to the expenses of Lender incurred in obtaining the Rental and then applying the Rental so received in accordance with the provisions of Section 4.3 hereof. Any such action by Lender shall not operate as a waiver of the Event of Default in question, or as an affirmation of any Lease or of the rights of any tenant in the event title to that part of the Property covered by the Lease or held by the tenant should be acquired by Lender or other purchaser at foreclosure sale. Lender, Lender's agent or the Trustee may use against Grantor or any other person such lawful or peaceable means as the person acting may see fit to enforce the collection of any such Rental or to secure possession of the Property, or any part of it and may settle or compromise on any terms as Lender, Lender's agent or the Trustee sees fit, the liability of any person or persons for any such Rental. In particular, Lender, Lender's agent or the Trustee may institute and prosecute to final conclusion actions of forcible entry and detainer, or actions of trespass to try title, or actions for damages, or any other appropriate actions, in the name of Lender, Grantor, or the Trustee, and may settle, compromise or abandon any such actions as Lender, Lender's agent or the Trustee may see fit; and Grantor binds itself and its successors and assigns to take whatever lawful or peaceable steps Lender, Lender's agent or the Trustee may ask of it or any such person or concern so claiming to take for such purposes, including the institution and prosecution of actions of the character above stated. However, neither Lender, Lender's agent nor the Trustee shall be obligated to collect any such Rental or be liable or chargeable for failure to do so. Upon any sale of the Property or any part thereof in foreclosure of the lien or security interest created by this Deed of Trust, such Rental so sold which thereafter accrues shall be deemed included in such sale and shall pass to the purchaser free and clear of the assignment made in this Article.

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Section 4.4 No Subordination. Nothing in this Article IV shall ever be construed as subordinating this Deed of Trust to any Lease; provided, however, that any proceedings by Holder to foreclose this Deed of Trust, or any action by way of its entry into possession after default, shall not operate to terminate any Lease which has been approved by Holder, and Holder will not cause any Lessee under any such approved Lease to be disturbed in his possession and enjoyment of the leased premises so long as such Lessee shall continue to fully and promptly perform all of the terms, covenants, and provisions of its Lease. It is agreed and understood that Lender hereby reserves the right and shall have the right, at any time and from time to time, without the consent or joinder of any other party, to subordinate this Deed of Trust and the liens, assignments and security interests created by this Deed of Trust to all or any of the Leases regardless of the respective priority of any of such Leases and this Deed of Trust. Upon doing so and filing evidence of such subordination in the real property records in the county or counties where the Real Property is located, a foreclosure of Lender's liens, assignments and security interests under this Deed of Trust shall be subject to and shall not operate to extinguish any of said Leases as to which such subordination is operative.

Section 4.5 Lender in Possession; No Liability of Lender. Lender's acceptance of this collateral assignment shall not, before entry upon and taking possession of the Property by Lender, be deemed to constitute Lender a "mortgagee in possession," nor obligate Lender to appear in or defend any proceeding relating to any of the Leases or to the Property, take any action hereunder, expend any money, incur any expenses or perform any obligation or liability under the Leases, or assume any obligation under the Leases including the obligation to return any deposit delivered to Grantor by any tenant. Lender shall not be liable for any injury or damage to person or property in or about the Property. Neither the collection of Rental due under the Leases herein described nor possession of the Property by Lender shall render Lender liable with respect to any obligations of Grantor under any of the Leases.

Section 4.6 Additional Covenants, Warranties and Representations Concerning Leases and Rental. Grantor covenants, warrants and represents that:

- (a) Neither Grantor nor any previous owner has entered into any prior oral or written assignment, pledge or reservation of the Rental, entered into any prior assignment or pledge of Grantor's landlord interests in any Lease or performed any act or executed any other instruments which might prevent or limit Lender from operating under the terms and conditions of this Section;
- (b) Grantor has good title to the Leases and Rental hereby assigned and the authority to assign same, and no other person or entity has any right, title or interest in and to the landlord's interests therein;
- (c) All existing Leases are valid, unmodified and in full force and effect, except as indicated herein, and no default exists thereunder;
- (d) No Rental has been, nor does Grantor anticipate that any Rental will be, waived, released, discounted, set off or compromised, except as disclosed to Lender in writing before the date hereof;

(e) Except as disclosed to Lender in writing before the date hereof, Grantor has not received any funds or deposits from any tenant for which credit has not already been made on account of accrued Rental;

(f) Grantor shall (i) perform all of the terms and conditions of the Leases, (ii) upon Lender's request, execute an additional collateral assignment to Lender of all Leases then affecting the Property and all Rental and other sums due thereunder by collateral assignment(s) in form and substance satisfactory to Lender and (iii) at the request of Lender, record such Leases and the collateral assignment(s) thereof to Lender. Grantor will not, without the prior written consent of Lender, amend, modify, extend, renew, terminate, cancel or surrender any Lease or suffer or permit any of the foregoing, orally or in writing;

(g) Grantor shall not execute any Lease unless the form of the Lease has been approved by Lender and the tenant under such Lease and the terms of such Lease shall comply with leasing standards for the Property from time to time approved by Lender in writing; such Lease is made upon terms and conditions substantially similar to leases on comparable property in the area.

(h) Grantor shall give immediate notice to Lender of any notice Grantor received from any tenant or subtenant under any Leases specifying any claimed default by any party under such Leases;

(d) Grantor shall enforce the tenants' obligations under the Leases;

(e) Grantor shall defend, at Grantor's expense, any proceeding pertaining to the Leases, including, if Lender so requests, any such proceeding to which Lender is a party;

(f) Grantor shall neither create nor permit any encumbrance upon its interest as landlord under the Leases, except for this Deed of Trust and any other encumbrances permitted by this Deed of Trust;

(g) Grantor shall not encumber or assign, or permit the encumbrance or assignment of, any Leases or Rental without the prior written consent of Lender;

(h) Grantor shall not waive or release any obligation of any tenant under the Leases without Lender's prior written consent;

(i) Each Lease executed after the date hereof shall contain a statement signed by the Grantor that such Lease is subject to this Deed of Trust;

(j) Grantor shall from time to time furnish to Lender, within thirty (30) days after demand therefor, true, correct and complete copies of all Leases or any portion of the Leases specified by Lender; and

(k) Grantor shall not in any event collect any Rental more than one (1) month in advance of the time it will be earned (and if Grantor does so, in addition to any other rights or remedies available by reason of such Event of Default, all Rental so collected more than one (1) month in advance of the time it is earned shall be delivered to Lender to be applied to the Debt).

Section 4.7 Security Instrument. This Assignment shall be construed as, constitute and serve as a security instrument under the Texas Assignment of Rents Act and a security agreement with regard to Rents, Leases, Proceeds, and other personal property described in this Assignment within the meaning of a first and prior

pledge and assignment and a first and prior lien and security interest under the Uniform Commercial Code (being Chapter 9 of the Texas Business and Commerce Code as to the property within the scope thereof and situated in the State of Texas).

Section 4.8 Merger. There shall be no merger of the leasehold estates created by the Leases with the fee or any other estate in the Property without the prior written consent of Lender.

Section 4.9 Reassignment. By Lender's acceptance of this Deed of Trust, it is understood and agreed that a full and complete release of this Deed of Trust shall operate as a full and complete reassignment to Grantor of the Lender's rights and interests under this Article.

Section 4.10 Texas Assignment of Rents Act. Without in any way limiting or restricting any of Lender's other rights, benefits or privileges hereunder, Grantor and Lender hereby expressly agree that Lender shall be entitled to all rights, benefits or privileges provided for in the Texas Assignment of Rents Act, Chapter 64 of the Texas Property Code.

Section 4.11 Waiver of Right to Withhold Expenses. Assignor waives any right to withhold any amount permitted under Tex. Prop. Code §64.060(a) for expenses or any other purpose.

**ARTICLE V.
Miscellaneous**

Section 5.1 Release. If the Obligation is paid in full in accordance with the terms of this Deed of Trust and the Note and other instruments evidencing or securing such Obligation, and if Grantor shall well and truly perform all of Grantor's covenants contained herein, then this conveyance shall become null and void and be released at Grantor's request and expense.

Section 5.2 Rights Cumulative. All rights, remedies, powers, and privileges and all liens, titles, and security interests herein expressly conferred are cumulative, and shall not be deemed to deprive Holder or Trustee of any other legal or equitable rights, remedies, powers, privileges, liens, titles, or security interests by or through judicial proceedings or otherwise appropriate to enforce the conditions, covenants, and terms of this Deed of Trust, the Note, and other security instruments.

Section 5.3 Waiver. Any and all covenants in this Deed of Trust may from time to time, by instrument in writing signed by Holder and delivered to Grantor, be waived to such extent and in such manner as Holder may desire, but no such waiver shall ever affect or impair Holder's rights, remedies, powers, privileges, liens, titles, and security interest hereunder, except to the extent so specifically stated in such written agreement. Neither the exercise of, nor the failure to exercise any option or remedy under the terms of this Deed of Trust shall be considered as a waiver of the right to exercise same, or any other option or remedy given herein.

Section 5.4 Controlling Agreement. All agreements between Grantor and Holder, whether now existing or hereafter arising and whether written or oral, are expressly limited so that in no event whatsoever, whether by reason of acceleration of the maturity of the Obligation or otherwise, shall the interest contracted for, charged, or received by Holder hereunder or otherwise exceed the maximum amount permissible under applicable law. If from any circumstances whatsoever interest would otherwise be payable to Holder in excess of the maximum lawful amount, the interest payable to Holder shall be reduced automatically to the

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maximum amount permitted under applicable law. If Holder shall ever receive anything of value deemed interest under applicable law which would apart from this provision be in excess of the maximum lawful amount, an amount which would have been excessive interest shall be applied to the reduction of the principal amount owing on the Obligation in inverse order of maturity and not to the payment of interest, or if such amount which would have been excessive interest exceeds the unpaid principal balance of the Obligation, such excess shall be refunded to Grantor, or to the maker of the Note or other evidence of indebtedness if other than Grantor. All interest paid or agreed to be paid to Holder shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term (including any renewal or extension) of such indebtedness so that the amount of interest on account of such indebtedness does not exceed the maximum permitted by applicable law. The terms and provisions of this Section 5.4 shall control and supersede every other provisions of all existing and future agreements between Grantor, the maker of the Note or other evidence of indebtedness if other than Grantor, and Holder.

Section 5.5 Effect of Transfer on Grantor's Liability. If the ownership of the Property or any part thereof becomes vested in a person other than Grantor or in the event of a change in ownership of any Grantor other than an individual, Holder may, without notice to Grantor or Grantor's successors, deal with such successor or successors in interest with reference to this Deed of Trust and the Obligation, either by way of forbearance on the part of Holder, or extension of time of payment of the Obligation, or release of all or any part of the Property or any other property securing payment of the Obligation, or otherwise, without in any way modifying or affecting Holder's rights and liens hereunder or the liability of Grantor or any other party liable for payment of the Obligation, in whole or in part.

Section 5.6 Waiver of Right to Marshal. Grantor hereby waives all rights of marshaling in event of any foreclosure of the liens and security interests hereby created.

Section 5.7 Condemnation Proceeds. Holder shall be entitled to receive any and all sums which may be awarded or become payable to Grantor for the condemnation of the Property, or any part thereof, for public or quasi-public use, or by virtue of private sale in lieu thereof, and any sums which may be awarded or become payable to Grantor for damages caused by public works or construction on or near the Property. All such sums are hereby assigned to Holder, and Grantor shall, upon request of Holder, make, execute, acknowledge, and deliver any and all additional assignments and documents as may be necessary from time to time to enable Holder to collect and receipt for any such sums. Holder shall not be, under any circumstances, liable or responsible for failure to collect or exercise diligence in the collection of any of such sums. Any sums received by Holder in the event of condemnation shall be applied to installments on the Obligation in inverse order of maturity.

Section 5.8 Insurance Proceeds. The proceeds of any and all insurance upon the Property shall be collected by Holder, and Holder shall have the option, in Holder's sole discretion, to apply any proceeds so collected either to the restoration of the Property or to the liquidation of the Obligation.

Section 5.9 Reserve for Taxes and Insurance Premiums. At the request of Holder, Grantor shall create a fund or reserve for the payment of all insurance premiums, taxes, and assessments against or affecting the Property by paying to Holder, on the first day of each calendar month prior to the maturity of the Note, a sum equal to the premiums that will next become due and payable on the hazard insurance policies covering the Property, or any part thereof, plus taxes and assessments next due on the Property, or any part thereof, as estimated by Holder, less all sums paid previously to Holder therefor, divided by the number of months to elapse before one month prior to the date when such premiums, taxes, and assessments will become due,

such sums to be held by Holder, without interest, unless interest is required by applicable law, for the purposes of paying such premiums, taxes, and assessments. Any excess reserve shall, at the discretion of Holder, be credited by Holder on subsequent reserve payments or subsequent payments to be made on the Note by the maker thereof, and all deficiency shall be paid by Grantor to Holder on or before the date when such premiums, taxes, and assessments shall become delinquent. In the event there exists a deficiency in such fund or reserve at any time when taxes, assessments, or insurance premiums are due and payable, Holder may, but shall not be obligated to, advance the amount of such deficiency on behalf of the Grantor, and such amounts so advanced shall become a part of the Obligation, shall be immediately due and payable and shall bear interest at the rate provided in the Note from the date of such advance through and including the date of repayment. Transfer of legal title to the Property shall automatically transfer the interest of Grantor in all sums deposited with Holder under the provisions hereof or otherwise. In the event that Holder does not request that such a fund be established, Grantor hereby agrees that he will promptly pay all premiums, taxes, and assessments when due, and will furnish to Holder proof of payment within 45 days of the due date by submitting canceled checks along with the statement concerning such taxes, premiums, or assessments.

Section 5.10 Right to Accelerate Upon Transfer. If Grantor shall sell, convey, assign, or transfer all or any part of the Property or any interest therein or any beneficial interest in the Grantor, without first obtaining Holder's agreement to such sale, (and such agreement will not be unreasonably withheld) including but not limited to substitution of the collateral by means of a collateral assignment of the resulting note and lien, Holder may at Holder's option, declare the Obligation to be immediately due and payable, which option may be exercised at any time following such sale, conveyance, assignment, or transfer. Holder may in its sole discretion and at Grantor's request decide not to exercise said option in which event Holder's forbearance may be predicated on such terms and conditions as Holder may in its sole discretion require, including but not limited to Holder's approval of the transferee's credit worthiness and management ability, and the execution and delivery to Holder by transferee, prior to the sale, transfer, assignment, or conveyance of a written assumption agreement containing such terms as Holder may require, including but not limited to, a payment of a part of the principal amount of the Obligation, the payment of an assumption fee, a modification of the term of the Obligation, and such other terms as Holder may require. Should the Property be sold, traded, transferred, assigned, exchanged, or otherwise disposed of without the prior written consent of Holder and payment of any portion of the Obligation is thereafter accepted by the Holder such acceptance shall not be deemed a waiver of the requirement of Holder's consent in writing thereto or with respect to any other sale, trade, transfer, assignment, exchange, or other disposition.

Section 5.11 Prohibition Against Subordinate Financing. If Grantor, without the prior written consent of Holder, executes or delivers any pledge, security agreement, mortgage, or deed of trust covering all or any portion of the Property (hereafter called "Subordinate Mortgage") Holder may, at Holder's option, which option may be exercised at any time following such pledge, security agreement, mortgage, or deed of trust, declare the Obligation to be immediately due and payable. In the event of consent by Holder to the foregoing or in the event the foregoing prohibition is determined by a court of competent jurisdiction to be unenforceable under the provisions of any applicable law, Grantor will not execute or deliver any Subordinate Mortgage unless there shall have been delivered to Holder not less than ten (10) days prior to the date thereof a copy thereof which shall contain express covenants to the effect: (a) that the Subordinate Mortgage is in all respects unconditionally subject and subordinate to the lien, security interest, and assignment evidenced by this Deed of Trust and each term and provision hereof; (b) that if any action or proceeding shall be instituted to foreclose the Subordinate Mortgage (regardless of whether the same is a judicial proceeding or pursuant to a power of sale contained therein), no tenant of any portion of the Property will be named as

a party defendant, or will any action be taken with respect to the Property which would terminate any occupancy or tenancy of the Property without the prior written consent of Holder; (c) that the rents and profits, if collected through a receiver or by the Holder of the Subordinate Mortgage, shall be applied first to the obligations secured by this Deed of Trust, including principal and interest due and owing on or to become due and owing on the Note and the other indebtedness secured hereby and then to the payment of maintenance, operating charges, taxes, assessments, and disbursements incurred in connection with the ownership, operation, and maintenance of the Property; and (d) that if any action or proceeding shall be brought to foreclose the Subordinate Mortgage, (regardless of whether the same is a judicial proceeding or pursuant to a power of sale contained therein), written notice of the commencement thereof will be given to Holder contemporaneously with the commencement of such action or proceeding.

Section 5.12 Subrogation. It is understood and agreed that the proceeds of the Note, to the extent the same are utilized to renew or extend any indebtedness or take up any outstanding liens against the Property, or any portion thereof, have been advanced by Holder at Grantor's request and upon Grantor's representation that such amounts are due and payable. Holder shall be subrogated to any and all rights, remedies, powers, privileges, liens, titles, and security interests owned or claimed by any owner or holder of said outstanding indebtedness or lien, however remote, regardless of whether said indebtedness or lien is acquired by assignment or is released by the holder thereof upon payment.

Section 5.13 Covenant to Perform. Grantor and each and every subsequent owner of the Property, or any part thereof, covenants and agrees that Grantor will perform or cause to be performed, each and every condition, term, provision, and covenant of this Deed of Trust, except that Grantor shall have no duty to pay the indebtedness evidenced by the Note except in accordance with the terms of the Note and all renewals and extensions thereof, and this Deed of Trust or in accordance with the terms of the transfer to Grantor.

Section 5.14 Notice. Except as otherwise provided herein, wherever this Deed of Trust requires notice to Grantor, such notice shall be deemed to have been given on the day it is deposited in the United States mail in a post paid wrapper addressed to Grantor at the address stated on the first page hereof, or at such other address as Grantor may designate by notice in writing and previously actually received by Holder.

Section 5.15 Enforceability. If the rights and liens created by this Deed of Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the Obligation, the unsecured portion of the Obligation shall be completely paid prior to the payment of the remaining and secured portion of the Obligation, and all payments made on the Obligation shall be considered to have been paid on and applied first to the complete payment of the unsecured portion of the Obligation.

Section 5.16 Successors and Assigns. This Deed of Trust is binding upon Grantor and Grantor's successors, and shall inure to the benefit of Holder, and its successors and assigns, and the provisions hereof shall be covenants running with the Land. The duties, covenants, conditions, obligations, and warranties of Grantor in this Deed of Trust shall be joint and several obligations of Grantor and Grantor's successors.

Section 5.17 Counterparts. This Deed of Trust may be executed in a number of identical counterparts, each of which, for all purposes, shall be deemed an original. If any Grantor is a corporation, this instrument is executed, sealed, and attested by Grantor's officers hereunto duly authorized.

Section 5.18 Financing Statement. This Deed of Trust is intended to be a financing statement filed as a fixture filing with respect to the Accessories and the goods described at the beginning of this Deed of Trust

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which are or are to become fixtures relating to the Land. The address of Grantor (Debtor) is set forth on the first page hereof and the address of Holder (Secured Party) is set forth in Section 1.1 hereof. This Deed of Trust is to be filed for record in the real property records of the county clerk of the county or counties where the Land is located. Grantor is the record owner of the Land. A carbon, photographic, or other reproduction of this Deed of Trust or of a financing statement pursuant hereto is sufficient as a financing statement.

Section 5.19 Partial Invalidity. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Property, the unsecured or partially secured portion of the debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the debt which is not secured or fully secured by the lien of this Deed of Trust.

Section 5.20 Appraisal. Holder may from time to time obtain, or require Grantor to obtain for Holder, an appraisal performed by a licensed or certified appraiser acceptable to Holder of any real property securing any extension of credit by Holder to Grantor. Grantor shall insure that such appraiser has free and full access to the subject real property for the purpose of making an appraisal. Grantor consents to such access by appraiser. If Grantor is not in possession of the real property at the time of the appraisal, Grantor shall obtain any consent and cooperation of any person in possession of the real property at the time of the appraisal. *Unless prohibited by applicable law*, Grantor shall pay to Holder, on demand, any fees incurred by Holder in obtaining any appraisal required under a regulation or policy of any applicable governmental authority or required under Holder's loan policy. Grantor's obligation under this paragraph shall be secured by Holder's lien upon the subject real property unless the real property is the homestead of the Grantor.

Section 5.21 Attorneys' Fees. If this Deed of Trust or any document related to it is given by Holder to an attorney for enforcement, or if suit is brought for collection or enforcement, or if this Deed of Trust or any document related to it is collected or enforced through probate, bankruptcy or other judicial proceeding (or Holder takes action to protect its interests through probate, bankruptcy or other judicial proceedings), Grantor shall pay Holder reasonable attorneys' fees, court costs and expenses in addition to other amounts due hereunder.

Section 5.22 Severability. Except as expressly provided to the contrary herein, each section, part, term, or provision of this Deed of Trust shall be considered severable, and if for any reason any article, section, part, term, or provision herein is determined to be invalid and contrary to or in conflict with any existing or future law or regulation by a court or governmental agency having valid jurisdiction, such determination shall not impair the operation of or have any other effect on other sections, parts, terms, or provisions of this Deed of Trust as may remain otherwise intelligible, and the latter shall continue to be given full force and effect and bind the parties hereto, and said invalid sections, parts, terms, or provisions shall not be deemed to be a part of this Deed of Trust.

Section 5.23 No Agency, Partnership or Joint Venture. Nothing contained herein nor any acts of the parties hereto shall be deemed or construed by the Holder or by any other party as creating the relationship between them of (i) principal and agent, (ii) a partnership, or (iii) a joint venture.

Section 5.24 Cross-Default Provision. It is expressly understood and agreed that, should Grantor default or commit an event of default under or pursuant to any agreement which is secured by a lien or liens on any

portion of the Property, the Obligation hereby secured, at the option of the Holder, shall become due and payable.

Section 5.25 Cross-Collateral Provision. Cross-Collateral Provision. Except as may be limited or prohibited by applicable law, Grantor agrees and acknowledges that the Security Instruments secure (a) the Promissory Note, as extended and/or modified, including interest, late charges, fees, expenses and other amounts as provided in the Promissory Note, the Security Instruments and this Agreement, (b) all other debts, obligations and liabilities of Borrower and/or Grantor to Lender of whatever kind or character, whether now existing or hereafter arising, secured or unsecured, direct or indirect, fixed or contingent, primary or secondary, joint or several or both, including, without limitation, all present and future debts, obligations and liabilities of Grantor and/or Borrower (i) as principal, surety, endorser, guarantor, accommodation party or otherwise, (ii) arising by operation of law or otherwise, (iii) as a member of any partnership, joint venture, company, firm, trust or other association, (iv) payable to or in favor of third parties and hereafter acquired by Lender with or without the knowledge, consent or insistence of Grantor and/or Grantor, including, without limitation, credit cards, treasury or cash management services, all of which indebtedness is secured by the Security Instruments, and (c) all renewals, rearrangements, modifications and extensions of any of the foregoing.

Section 5.26 Due on Death. Grantor (and any guarantors) to the Note, hereby secured, covenant and agree that upon the death of any signatory, maker or comaker of the Note, the Holder of the Note may, at Holder's option, mature or accelerate the entire balance owing on the Note, whereupon all amounts owing shall immediately be due and payable.

Section 5.27 Right of Offset. The Holder shall be entitled, as further security for the payment of the Note, hereby secured, as further security for the payment of the Note, to a security interest in all property pledged as collateral and any money found on deposit with the holder to the credit of the Grantor, and may retain and apply said money, securities or proceeds of such collections to the payment of the Note and indebtedness. The Holder's right of offset applies without prior notice by Holder to Grantor. Holder will not be liable for wrongful dishonor of a check where such dishonor occurs because of Holder's set-off of this debt against Grantor's accounts.

Section 5.28 Purchase Money. The Obligation hereby secured is given in part payment of the purchase price of the Property herein described and is primarily secured by a Vendor's Lien retained in Deed of even date herewith conveying said Property to the Grantor herein, and this Deed of Trust is given as additional security for the payment of said indebtedness. Said Vendor's Lien is hereby renewed, extended and carried forward in full force and effect to secure the payment of the Obligation hereby secured.

[execution page follows]

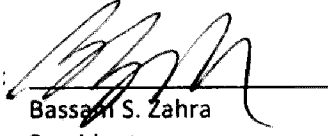
COPY

UNOFFICIAL COPY

EXECUTED on the date of acknowledgment, to be effective on December 14, 2018.

GRANTOR:

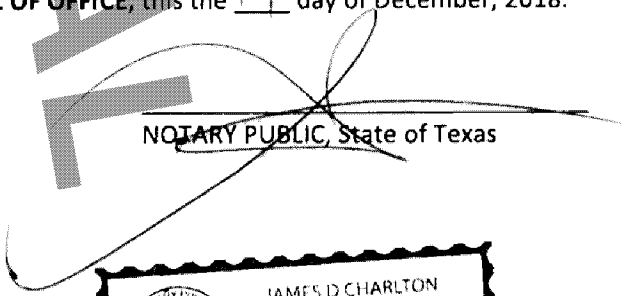
MR. Z INVESTMENTS, INC.
a Texas corporation

By: 
Bassam S. Zahra
President

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

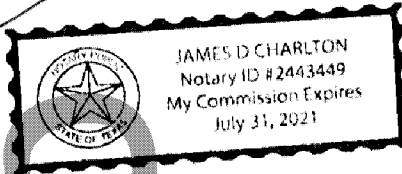
BEFORE ME, the undersigned, a Notary Public in and for the said County and State, on this day personally appeared Bassam S. Zahra, President, of MR. Z INVESTMENTS, INC., a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in the capacity therein stated and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 14 day of December, 2018.


NOTARY PUBLIC, State of Texas

After recording return to:

BancorpSouth Bank
12655 North Central Expressway, Suite 100
Dallas, Texas 75243



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Pages 21
12/18/2018 10:36 AM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
STAN STANART
COUNTY CLERK
Fees \$92.00

RECORDERS MEMORANDUM

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

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

THE STATE OF TEXAS
COUNTY OF HARRIS

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



Stan Stanart

COUNTY CLERK
HARRIS COUNTY, TEXAS

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