

**Loan No. 47374500**

**Prepared by and return to:**

Williams Mullen  
301 Fayetteville Street, Suite 1700  
Raleigh, North Carolina 27601  
Attention: Lemuel D. Whitsett

**STATE OF NORTH CAROLINA  
COUNTY OF WAKE**

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

**THIS INSTRUMENT COVERS GOODS THAT ARE OR WILL BECOME FIXTURES ON THE DESCRIBED REAL PROPERTY AND SHOULD BE FILED FOR RECORD IN THE REAL PROPERTY RECORDS WHERE DEEDS OF TRUST ON REAL ESTATE ARE RECORDED. THIS INSTRUMENT SHOULD ALSO BE INDEXED AS A UNIFORM COMMERCIAL CODE FINANCING STATEMENT COVERING GOODS THAT ARE OR WILL BECOME FIXTURES ON THE DESCRIBED REAL PROPERTY, THE MAILING ADDRESSES OF THE SECURED PARTY AND THE DEBTOR ARE WITHIN SECTION 1.3(b). COLLATERAL INCLUDES FIXTURES.**

**THIS INSTRUMENT SECURES FUTURE AND/OR REVOLVING ADVANCES.**

Submitted electronically by Hervey & Hervey, P.A. in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the Wake County Register of Deeds.

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

**THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING** dated as of December 28, 2023 (together with any amendments or modifications hereto in effect from time to time, the "**Security Instrument**"), is made by 8605 EBENEZER CHURCH ROAD, LLC, a North Carolina limited liability company, having an office at 8605 Ebenezer Church Road, Raleigh, North Carolina 27617 ("**Grantor**"), to PBRE, INC., whose address is PO Drawer 7109, Statesville, North Carolina 28687 ("**Trustee**"), for the benefit of FIRST NATIONAL BANK OF PENNSYLVANIA, whose address is 501 Fayetteville Street, 7<sup>th</sup> Floor, Raleigh, North Carolina 27601 (together with its successors and assigns, "**Lender**"). Lender and Trustee are the grantees hereunder for indexing purposes.

**WITNESSETH:**

A. This Security Instrument is given to secure a loan (the "**Loan**") in the principal sum of Nineteen Million Two Hundred Thousand and 00/100 Dollars (\$19,200,000.00) or so much thereof as may be advanced pursuant to that certain Term Loan Agreement dated as of the date hereof by and between Grantor and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Loan Agreement**") and evidenced by that certain Promissory Note of even date herewith given by Grantor payable to Lender, or order, in the principal amount of Nineteen Million Two Hundred Thousand and 00/100 Dollars (\$19,200,000.00) (together with all extensions, renewals, replacements, restatements or modifications thereof being hereinafter collectively referred to as the "**Note**").

B. Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Agreement.

C. Grantor desires to secure the payment of the outstanding principal amount of the Loan together with all interest accrued and unpaid thereon and all other sums due to Lender in respect of the Loan and the Loan Documents (the "**Debt**") and the payment and performance of all other Obligations, as provided in Article II hereof.

D. This Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Grantor of its obligations thereunder and under the other Loan Documents are secured hereby.

**NOW THEREFORE**, in consideration of the making of the Loan by Lender and the covenants, agreements, representations and warranties set forth in this Security Instrument and the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor has given, granted, bargained, sold and conveyed and by these presents does hereby give, grant, bargain, sell and convey unto the Trustee, its heirs, successors and assigns, in fee simple, forever, for the benefit of Lender and its successors and assigns forever, the Property (as defined below):

**ARTICLE I  
GRANTING CLAUSES**

Section 1.1 **Property Conveyed**. Grantor has granted and conveyed and by these presents DOES HEREBY GRANT, BARGAIN, SELL, CONVEY, TRANSFER AND ASSIGN unto the Trustee, its heirs, successors and assigns, in fee simple, forever, with power of sale and right of entry and possession, all of Grantor's estate, right, title and interest now owned or hereafter acquired in and to each of the

following (collectively, the "**Property**"):

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

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

(c) **Improvements**. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements owned by Grantor now or hereafter erected or located on the Land (collectively, the "**Improvements**");

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

(e) **Equipment**. All "equipment," as such term is defined in Article 9 of the Uniform Commercial Code, as adopted and enacted by the State of North Carolina (the "**Uniform Commercial Code**") now owned or hereafter acquired by Grantor, which is used at or in connection with the Improvements or the Land and is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, electronic data-processing and other office equipment, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, plumbing, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Grantor's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof, together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "**Equipment**"). Notwithstanding the foregoing, Equipment shall not include any property belonging to Tenants under Leases (as hereinafter defined) except to the extent that Grantor shall have any right or interest therein;

(f) **Fixtures**. All Equipment now owned, or the ownership of which is hereafter acquired, by Grantor which is so related to the Land and Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with

(temporarily or permanently) any of the Improvements or the Land (collectively, the "**Fixtures**"). Notwithstanding the foregoing, "Fixtures" shall not include any property which Tenants are entitled to remove pursuant to Leases except to the extent that Grantor shall have any right or interest therein;

(g) **Personal Property.** All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights, accounts, accounts receivable, franchises, interest rate hedging agreements, and, to the extent assignable: (i) licenses, (ii) certificates and (iii) permits, and all other personal property of any kind or character whatsoever (as defined in and subject to the provisions of the Uniform Commercial Code), whether tangible or intangible, other than Fixtures, which are now or hereafter owned by Grantor and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "**Personal Property**"), and the right, title and interest of Grantor in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, superior in lien to the lien of this Security Instrument and all proceeds and products of any of the above;

(h) **Leases and Rents.** All leases and other agreements affecting the use, enjoyment or occupancy of the Land and the Improvements heretofore or hereafter entered into, whether before or after the filing by or against Grantor of any petition for relief under 11 U.S.C. §101 *et seq.*, as the same may be amended from time to time (the "**Bankruptcy Code**") (collectively, the "**Leases**") and all right, title and interest of Grantor, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, royalties, issues, profits, income, revenues and other benefits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements whether paid or accruing before or after the filing by or against Grantor of any petition for relief under the Bankruptcy Code (collectively, the "**Rents**") and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment and performance of the Obligations, including the payment of the Debt, as provided herein;

(i) **Condemnation Awards.** All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of such right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(j) **Insurance Proceeds.** All proceeds in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, as provided in the Loan Agreement;

(k) **Tax Certiorari.** Grantor's interest in all refunds, rebates or credits in connection with any reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari proceedings or any other applications or proceedings for reduction of same, in each case, irrespective of the time period to which they relate;

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

(m) **Agreements.** To the extent assignable, all agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or respecting any business or activity

conducted on the Land and any part thereof and all right, title and interest of Grantor therein and thereunder, including, without limitation, the right to receive and collect any sums payable to Grantor thereunder;

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

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

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

(q) Proceeds. All proceeds of any of the foregoing, including, without limitation, proceeds of insurance and condemnation awards, whether in cash, or in liquidation or other claims or otherwise; and

(r) Other Rights. Any and all other rights of Grantor in and to the items set forth in Subsections (a) through (q) above.

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

**TO HAVE AND TO HOLD** the above granted and described Property unto the Trustee and its heirs, successors and assigns, in fee simple forever, for the benefit of Lender and its successors and assigns forever.

#### Section 1.2 Assignment of Rents.

(a) Grantor hereby absolutely, presently and unconditionally conveys, transfers and assigns to Lender all of Grantor's right, title and interest, now existing or hereafter arising, in and to the Leases and Rents. Notwithstanding that this assignment is effective immediately, so long as no Event of Default exists and is continuing, Grantor shall have the privilege under a revocable license granted hereby to operate and manage the Property and to collect, as they become due, but not more than one (1) month prior to accrual, the Rents. Grantor shall receive and hold such Rents in trust as a fund to be applied, and Grantor hereby covenants and agrees that such Rents shall be so applied, first to the operation, maintenance and repair of the Property, including, without limitation, the payment of taxes and insurance, and the payment of interest, principal and other sums becoming due under the Debt, before retaining and/or disbursing any part of the Rents for any other purpose. The license herein granted to Grantor shall automatically, without notice or any other action by Lender, terminate upon the occurrence and continuance of an Event of Default, and all Rents subsequently collected or received by Grantor shall be held in trust by Grantor for the sole and

exclusive benefit of Lender. Nothing contained in this Section 1.2, and no collection by Lender of Rents, shall be construed as imposing on Lender any of the obligations of the lessor under the Leases.

(b) Grantor shall timely perform all of its obligations under the Leases. Grantor represents and warrants that: (i) Grantor has title to and full right to assign presently, absolutely and unconditionally the Leases and Rents; and (ii) no other assignment of any interest in any of the Leases or Rents has been made, except pursuant to the Loan Documents.

(c) Except as expressly permitted pursuant to the terms of the Loan Agreement, Grantor shall not, without the prior written consent of Lender: (i) enter into any Lease of all or any portion of the Property; (ii) amend, modify, terminate or accept a surrender of any Lease; or (iii) collect or accept Rent from any Tenant of the Property for a period of more than one (1) month in advance. Any of the foregoing acts, if done without the prior written consent of Lender in each instance, shall be null and void.

### Section 1.3 Security Agreement; Fixture Filing.

(a) This Security Instrument shall also be considered a security agreement under the Uniform Commercial Code. This Security Instrument is both a security deed and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Grantor in the Property. By executing and delivering this Security Instrument, Grantor hereby grants to Lender, as security for the Obligations, a security interest in the Fixtures, the Equipment, the Personal Property and other property constituting the Property to the full extent that the Fixtures, the Equipment, the Personal Property and such other property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the "Collateral"). Grantor hereby authorizes Lender to file financing statements, continuation statements and financing statement amendments in such form as Lender may require to perfect or continue the perfection of this security interest without the authorization or signature of Grantor. If an Event of Default shall occur and be continuing, Lender, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Lender after the occurrence and during the continuance of an Event of Default, Grantor shall, at its expense, assemble the Collateral and make it available to Lender at a convenient place (at the Land if tangible property) reasonably acceptable to Lender. Grantor shall pay to Lender on demand any and all expenses, including reasonable legal expenses and attorneys' fees, incurred or paid by Lender in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral sent to Grantor in accordance with the provisions hereof at least ten (10) Business Days prior to such action, shall, except as otherwise provided by Applicable Law, constitute reasonable notice to Grantor. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by Applicable Law, be applied by Lender to the payment of the Debt and other Obligations in such priority and proportions as Lender in its discretion shall deem proper.

(b) From the date of its recording in the real estate records of the county in which the real property is situated, this Security Instrument shall be effective as a "fixture filing" with respect to all of the Property which is or is to become fixtures (within the meaning of the Uniform Commercial Code). The addresses of Grantor (Debtor) and Lender (Secured Party) are set forth below. For this purpose, the following information is set forth:

**Name and Address of Debtor:**

8605 Ebenezer Church Road, LLC  
 8605 Ebenezer Church Road  
 Raleigh, North Carolina 27617

**Name and Address of Secured Party:**

First National Bank of Pennsylvania  
 501 Fayetteville Street, 7<sup>th</sup> Floor  
 Raleigh, North Carolina 27601

This document covers any portion of the Property that now is or later may become a fixture attached to the Land. This financing statement shall remain in effect as a fixture filing until this Security Instrument is released or satisfied of record. Debtor is the record owner of the Property.

**Section 1.4** Pledges of Monies Held. Grantor hereby pledges to Lender any and all monies now or hereafter held by Lender or on behalf of Lender in connection with the Loan, including, without limitation, any sums deposited in Accounts with Lender, and proceeds thereof, as additional security for the Obligations until expended or applied as provided in this Security Instrument.

**CONDITIONS TO GRANT**

**PROVIDED ALWAYS**, these presents are upon the express condition, that if Grantor has paid the Obligations in full and performed all of its obligations pursuant to this Security Instrument and the other Loan Documents, and no further advances are to be made under the Loan Agreement, Lender will provide a satisfaction and cancellation of this Security Instrument and termination statements for filed financing statements, if any, to Grantor. Grantor shall be responsible for the recordation of such cancellation and satisfaction and the payment of any recording and filing costs. Upon the recording of such cancellation and satisfaction and the filing of such termination statements, the absolute assignments set forth in Section 1.2 shall automatically terminate and become null and void.

**ARTICLE II**  
**DEBT AND OBLIGATIONS SECURED**

**Section 2.1** Obligations. This Security Instrument and the grants, conveyances, assignments and transfers made in Article I are given for the purpose of securing the Obligations, including, but not limited to, the Debt and the following:

- (a) the performance of all other obligations of Grantor contained herein;
- (b) the payment and performance of each other obligation of Grantor contained in the Loan Agreement and any other Loan Document;
- (c) the performance of each obligation of Grantor contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement or any other Loan Document, except the Environmental Indemnification Agreement; and
- (d) the payment and performance of all Hedging Obligations owed by Grantor to Lender or any Affiliate of Lender (other than Excluded Swap Obligations) and all Bank Product

Obligations, together with all renewals, extensions, modifications or refinancings of any of the foregoing.

**Section 2.2 Future Advances.** This Security Instrument is given to secure both (i) existing obligations that are specifically or generally identified, described, or referenced in this Security Instrument as being secured hereby and all advances made at or prior to the registration of this Security Instrument, and (ii) future advances and/or future obligations that are specifically or generally identified, described, or referenced in this Security Instrument as being secured hereby that may from time to time be made or incurred. The maximum principal amount that may be secured by this Security Instrument at any one time is \$38,400,000.00. The period within which future advances may be made and future obligations may be incurred and secured by this Security Instrument is the period between the date of this Security Instrument and that date which is thirty (30) years from the date of this Security Instrument. If the maximum amount secured by this Security Instrument has not been advanced or if any obligation secured hereby is paid or is reduced by partial payment, further advances may be made and additional obligations secured by this Security Instrument may be incurred from time to time within the time limit fixed by this Security Instrument as set forth above, and such further advances and obligations, together with interest thereon, shall be secured by this Security Instrument to the same extent as original advances and obligations secured hereunder. If the aggregate outstanding principal balance of the obligation or obligations secured by this Security Instrument exceeds the maximum principal amount that may be secured by this Security Instrument at any one time as provided above, then such amount in excess and interest on the amount in excess shall be secured by this Security Instrument but the priority of the lien of this Security Instrument with respect to the amount in excess shall be determined in the manner provided in North Carolina General Statutes § 45-70. All payments made, sums advanced, and expenses incurred by the Lender or secured creditor for the purposes described in North Carolina General Statutes § 45-70 shall be secured by this Security Instrument and shall have priority as described in § 45-70. The provisions of this Section are intended to comply with the North Carolina General Statutes governing Instruments to Secure Future Advances and Future Obligations, North Carolina General Statutes § 45-67, *et seq.*

### ARTICLE III GRANTOR COVENANTS

Grantor covenants and agrees that throughout the term of the Loan:

**Section 3.1 Payment of Debt.** Grantor will pay the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Security Instrument.

**Section 3.2 Incorporation by Reference.** All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note and (c) all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

**Section 3.3 Insurance.** Grantor shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Grantor and the Property as required pursuant to the Loan Agreement.

**Section 3.4 Maintenance of Property.** Grantor shall (a) cause the Property to be maintained in a good and safe condition and repair; (b) make or cause to be made, as and when necessary, all repairs, replacements and additions, whether or not insurance proceeds are available therefor; and (c) not remove, demolish, materially alter, discontinue the use of, permit to become vacant or deserted, or otherwise dispose of all or any part of the Property (except for normal replacement of the Fixtures, the Equipment or the Personal Property and refurbishment of the Improvements) without the consent of Lender, except as



expressly permitted under the terms of the Loan Agreement and the other Loan Documents. Subject to the terms of the Loan Agreement and the other Loan Documents, Grantor shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any casualty or become damaged, worn or dilapidated or which may be affected by any condemnation. All alterations, replacements, renewals or additions made pursuant hereto shall automatically become a part of the Property and shall be covered by the lien of this Security Instrument. After reasonable notice to Grantor, Lender, and any persons authorized by Lender, shall have the right, but not the obligation, to enter upon the Property at any reasonable time to inspect and photograph its condition and state of repair. In the event any such inspection reveals, in the reasonable discretion of Lender, the necessity for any repair, alteration, replacement, clean-up or maintenance, Grantor shall, at the reasonable discretion of Lender, either: (i) cause such work to be effected immediately; or (ii) promptly establish an interest-bearing reserve fund with Lender in an amount determined by Lender for the purpose of effecting such work.

Section 3.5 Waste. Grantor shall not commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or allow the cancellation of any insurance policy, or do or permit to be done thereon anything that may in any way materially impair the value of the Property or the security of this Security Instrument. Grantor will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

Section 3.6 Payment for Labor and Materials. Subject to Grantor's right to contest such amounts in accordance with the terms of the Loan Agreement, Grantor will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials incurred in connection with the Property and never permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests created hereby and by the other Loan Documents, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests created hereby and by the other Loan Documents, except for the Permitted Encumbrances.

Section 3.7 Performance of Other Agreements. Grantor shall observe and perform each and every term, covenant and provision to be observed or performed by Grantor pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

Section 3.8 Seisin and Warranty. Grantor hereby warrants that (a) Grantor is seized of an indefeasible estate in fee simple in, and warrants the title to, the Property subject only to those matters set forth in Schedule B of the Title Insurance Policy (the "Permitted Encumbrances"); (b) Grantor has the right, full power and lawful authority to grant, convey and assign the same to Lender in the manner and form set forth herein; and (c) this Security Instrument is a valid and enforceable first lien on and security title to the Property. Grantor hereby covenants that Grantor shall (a) preserve such title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to Lender against all lawful claims whatsoever, subject to the Permitted Encumbrances; and (b) execute, acknowledge and deliver all such further documents or assurances as may at any time hereafter be required by Lender to protect fully the lien of this Security Instrument.

Section 3.9 Taxes and Other Charges. Grantor shall promptly pay and discharge all taxes, assessments, water and sewer rents, and other governmental charges imposed upon the Property ("Taxes") when due, but in no event after interest or penalties commence to accrue thereon or become a lien upon the Property. Notwithstanding the foregoing, Grantor shall have the right to contest, at its own expense, by

appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity of such Taxes, in accordance with the terms of the Loan Agreement.

Section 3.10 Escrows. Following the occurrence and during the continuance of any Event of Default, Lender shall have the right, at its sole discretion, to require Grantor to pay to Lender, together with the monthly installments of principal and or interest under the Note, (a) an amount which shall be estimated by Lender from time to time sufficient to enable Lender to pay, at least thirty (30) days before due, all Taxes, (b) all premiums for insurance policies required by the Lender in connection with the Loan, and (c) an amount which shall be estimated by the Lender from time to time to be sufficient to fund a maintenance reserve to allow for the payment by Grantor of the costs of repairs and capital improvements to the Property, as and when the same shall be required. If such escrow funds are not sufficient to pay such Taxes, insurance premiums and maintenance reserves, as applicable, as the same become due, Grantor shall pay to Lender, upon request, such additional amounts as Lender shall reasonably estimate to be sufficient to make up any deficiency. No amount paid to Lender hereunder shall be deemed to be trust funds but may be commingled with general funds of Lender and no interest shall be payable thereon.

Section 3.11 Removal of Fixtures. Grantor shall not remove or permit to be removed from the Property any Fixtures presently or in the future owned by Grantor (unless such Fixtures have been replaced with similar Fixtures of equal or greater utility and value).

#### ARTICLE IV OBLIGATIONS AND RELIANCES

Section 4.1 Relationship of Grantor and Lender. The relationship as between Grantor and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Grantor, and no term or condition of any of the Loan Agreement, the Note, this Security Instrument or the other Loan Documents shall be construed so as to deem the relationship between Grantor and Lender to be other than that of debtor and creditor.

Section 4.2 No Reliance on Lender. The general partners, members, principals and (if Grantor is a trust) beneficial owners of Grantor, as applicable, are experienced in the ownership and operation of properties similar to the Property, and Grantor and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Grantor is not relying on Lender's expertise, business acumen or advice in connection with the Property.

Section 4.3 No Lender Agent Obligations.

(a) Notwithstanding anything herein to the contrary, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to any other agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses or other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or the effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

Section 4.4 Reliance. Grantor recognizes and acknowledges that in accepting the Loan

Agreement, the Note, this Security Instrument and the other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof, that the warranties and representations are a material inducement to Lender in making the Loan; and that Lender would not be willing to make the Loan and accept this Security Instrument in the absence of the warranties and representations as set forth in the Loan Agreement.

## ARTICLE V FURTHER ASSURANCES

**Section 5.1     Recording of Security Instrument, Etc.** Grantor forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the other Loan Documents conveying, creating or evidencing the security title, liens or security interest hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the security title, liens or security interest hereof upon, and the interest of Lender in, the Property. Grantor will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Security Instrument, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any Security Instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of any of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, any deed of trust or mortgage supplemental hereto, any Security Instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of any of the foregoing documents, except where prohibited by law so to do.

**Section 5.2     Further Acts, Etc.** Grantor will, at the cost of Grantor, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, security deeds, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the Property and rights hereby deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Grantor may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or recording this Security Instrument, or for complying with all Applicable Law. Grantor hereby irrevocably authorizes Lender, its counsel or its representative, at any time and from time to time, to file financing statements and amendments as Lender may deem necessary, including financing statements and amendments that describe the Collateral covered by such financing statements as "all assets of Grantor" or "all personal property of Grantor" or words of similar effect, in order to perfect the security title and interests granted by Grantor under this Security Instrument. Grantor grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation such rights and remedies available to Lender pursuant to this Section 5.2.

### **Section 5.3     Changes in Tax, Debt, Credit and Documentary Stamp Laws.**

(a) If any Applicable Law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Grantor will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the

payment of tax by Grantor would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury, then Lender shall have the option by written notice of not less than one hundred twenty (120) days to declare the Debt immediately due and payable.

(b) Grantor will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by Applicable Law, Lender shall have the option, by written notice of not less than one hundred twenty (120) days, to declare the Debt immediately due and payable.

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

## ARTICLE VI DUE ON SALE/ENCUMBRANCE

Section 6.1 Lender's Reliance. Grantor acknowledges that Lender has examined and relied on the experience of Grantor and its general partners, managers, members, principals and beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Grantor's ownership of the Property as a means of maintaining the value of the Property as security for the repayment of the Debt and the payment and performance of the other Obligations. Grantor acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should there be an Event of Default, Lender can recover the Debt and the other Obligations by a sale of the Property.

Section 6.2 No Transfer or Encumbrance. Except as expressly permitted in the Loan Agreement, Grantor shall not permit or suffer any Transfer of the Property, without the prior written consent of Lender. Except as permitted under the Loan Agreement, without the prior written consent of Lender, Grantor will not permit the Property to become subject to any lien, easement, right of way, roadway (public or private), common area, condominium regime, cooperative housing regime, restrictive covenant, Lease or other matter of any nature that would affect title to the Property, other than the Permitted Encumbrances. Grantor shall give Lender written notice of any default under any Lien. As used herein, the term "Transfer" means any direct or indirect sale, transfer, conveyance, mortgage, pledge or assignment of (i) the Property or any part thereof, or any direct legal or beneficial interest therein; or (ii) any ownership interest in Grantor, or any direct or indirect owner of Grantor, direct or indirect, legal or equitable.

## ARTICLE VII EVENTS OF DEFAULT; REMEDIES

Section 7.1 Event of Default. Each of the following shall constitute a default (each, an "Event of Default") hereunder:

(a) An Event of Default (as defined therein) occurs under the Loan Agreement (subject to any applicable notice and cure period (without duplication));

(b) Grantor fails to promptly perform or comply with any of the obligations set forth in this Security Instrument, and such failure continues beyond that date which is thirty (30) days after the earlier of (i) the date on which Lender notifies Grantor of such failure or (ii) the date on which Grantor otherwise

becomes aware of such failure; provided, however, Grantor shall have up to ninety (90) days to cure such failure if Grantor is diligently pursuing to cure such failure but the cure is not completed within the initial thirty (30) day period; or

(c) A default or event of default occurs under the Note or any other Loan Document other than the Loan Agreement, and such default or event of default continues beyond the expiration of the applicable grace or notice and cure period therefor, if any, set forth in such Loan Document (without duplication).

Section 7.2 Remedies. If an Event of Default shall have occurred, Lender may take any of the following actions:

(a) Acceleration. Lender may declare the entire amount of the Obligations immediately due and payable, without presentment, demand, notice of any kind, protest or notice of protest, all of which are expressly waived, notwithstanding anything to the contrary contained in any of the Loan Documents. Lender may charge and collect Default Interest from the date of default on the unpaid balance of the Obligations, at the rate set forth in the Loan Agreement. The Default Rate shall apply both before and after any judgment on the Debt or Obligations.

(b) Possession. Lender may enter upon and take possession of the Property, with or without legal action, lease the Property, collect therefrom all rentals and, after deducting all costs of collection and administration expense, apply the net rentals to any one or more of the following items in such manner and in such order of priority as Lender, in Lender's sole discretion, may elect: the payment of any sums due under any prior lien, taxes, water and sewer rents, charges and claims, insurance premiums and all other carrying charges, to the maintenance, repair or restoration of the Property, or on account of the Obligations. Lender is given full authority to do any act which Grantor could do in connection with the management and operation of the Property. This covenant is effective either with or without any action brought to foreclose this Security Instrument and without applying for a receiver of such rents. In addition to the foregoing, upon the occurrence of an Event of Default, Grantor shall pay monthly in advance to Lender or to any receiver appointed to collect said rents the fair and reasonable rental value for Grantor's use and occupation of the Property, and upon default in any such payment Grantor shall vacate and surrender the possession of the Property to Lender or to such receiver. If Grantor does not vacate and surrender the Property then Grantor may be evicted by summary proceedings.

(c) Foreclosure and Sale. Upon the occurrence and continuance of an Event of Default, the Lender may notify the Trustee to exercise the power of sale granted hereunder and upon such notification it shall be lawful for and the duty of the Trustee, and the Trustee is hereby authorized and empowered to expose to sale and to sell the Property or any part thereof at public sale to the highest bidder for cash, in compliance with all applicable requirements of North Carolina law then governing the exercise of powers of sale contained in deeds of trust and upon such sale, the Trustee shall collect the purchase proceeds and convey title to the portion of the Property so sold to the purchaser in fee simple. In the event of a sale of the Property or any part thereof, the proceeds of sale shall be applied in the following order of priority: (i) to the payment of all costs and expenses for and in connection with the effecting of such sale and all proceedings for such sale, including a fee for the Trustee's services as hereinafter provided and including reasonable attorney's fees incurred by the Trustee for legal services actually performed; (ii) to the reimbursement of Lender for all sums expended or incurred by the Lender under the terms of this Security Instrument or to establish, preserve or enforce this Security Instrument or to collect the Obligations secured hereby (including, without limitation, reasonable attorneys' fees as provided herein or in any instruments evidencing the Obligations secured hereby); (iii) to the payment of the Obligations secured hereby and interest thereon and all other indebtedness hereby secured; and (iv) the balance, if any, shall be paid to the parties lawfully entitled thereto. The Grantor agrees that in the event of a sale hereunder, the Lender shall have the right to bid at such sale and shall have the right to credit all or any portion of the Obligations

secured hereby against the purchase price. The Trustee shall have the right to designate the place of sale in compliance with applicable law and the sale shall be held at the place designated by the notice of sale. The Trustee may require the successful bidder at any sale to deposit immediately with the Trustee cash or certified check or cashier's check in an amount up to five percent (5.0%) of the bid provided notice of such deposit requirement is published as required by law. The bid may be rejected if the deposit is not immediately made. Such deposit shall be refunded in case of an upset bid or if the Trustee is unable to convey the portion of the Property so sold to the bidder because the power of sale has been terminated in accordance with applicable law. If the purchaser fails to comply with its bid, the deposit may, at the option of the Trustee be retained and applied to any damages incurred by reason of such default (including, without limitation, liability to the extent that the final sales price is less than the bid plus all the costs of resale as provided in N.C. Gen. Stat. Section 45-21.30, as amended) or may be deposited with the Clerk of Superior Court. In all other cases, the deposit shall be applied to the purchase price. Pursuant to Section 25-9-604 of the North Carolina General Statutes (or any amendment thereto), the Trustee is expressly authorized and empowered to expose to sale and sell together with the real estate any portion of the Property which constitutes personal property. If personal property is sold hereunder, it need not be at the place of sale. The Property may be sold in such parcels or lots as the Trustee may determine without regard to principles of marshalling and the Property may be sold at one sale or in multiple sales as determined by the Trustee. The exercise of the power of sale hereunder by the Trustee on one or more occasions shall not be deemed to extinguish the power of sale which power of sale shall continue in full force and effect until all of the Property shall have been finally sold and properly conveyed to the purchasers at the sales. The Trustee's commission shall be five percent (5%) of the gross proceeds of the sale for a completed foreclosure. In the event foreclosure is commenced, but not completed, the Grantor shall pay all expenses incurred by the Trustee, including reasonable attorneys' fees, and a partial commission computed on five percent (5%) of the outstanding Obligations in accordance with the following schedule: one-fourth (1/4th) thereof before the Trustee issues a notice of hearing on the right to foreclose; one-half (1/2) thereof after issuance of said notice; three-fourths (3/4ths) thereof after such hearing; and the full commission after the initial sale.

(d) Appointment of Receiver. Lender shall have the right, after the occurrence and continuance of an Event of Default, to the appointment of a receiver to collect the Rents from the Property and to operate and manage the Property without notice to Grantor or any other party (Grantor hereby waiving any right to such notice) and without consideration of the value of the Property or the solvency of any person liable for the payment of the amounts then owing, and all amounts collected by the receiver shall, after expenses of the receivership, be applied to the payment of the Obligations. The Lender, at its option, in lieu of an appointment of a receiver, shall also have the right to take all actions set forth in the previous sentence. If such receiver should be appointed, or if there should be a foreclosure sale of the Property under this Security Instrument, Grantor, or any person in possession of the Property thereunder, as tenant or otherwise, shall become a tenant at will of the receiver or of the purchaser and may be removed by a writ of ejectment, summary ejectment or other lawful remedy.

(e) Rights as a Secured Party. Lender shall have, in addition to other rights and remedies available at law or in equity, the rights and remedies of a secured party under the Uniform Commercial Code. Lender may elect to foreclose such of the Property as then comprise Fixtures pursuant either to the law applicable to foreclosure of an interest in real estate or to that applicable to personal property under the Uniform Commercial Code. To the extent permitted by law, Grantor waives the right to any stay of execution and the benefit of all exemption laws now or hereafter in effect.

(f) Excess Monies. Lender may apply on account of the Obligations any unexpended monies still retained by Lender that were paid by Grantor to Lender: (a) for the payment of, or as security for the payment of taxes, assessments or other governmental charges, insurance premiums, or any other charges; or (b) to secure the performance of some act by Grantor.

(g) Collection of Rents. Upon the occurrence and continuance of an Event of Default, the license granted to Grantor to collect the Rents shall be automatically and immediately revoked, without further notice to or demand upon Grantor. Lender may, but shall not be obligated to, perform any or all obligations of the landlord under any or all of the Leases, and Lender may, but shall not be obligated to, exercise and enforce any or all of Grantor's rights under the Leases. Without limitation to the generality of the foregoing, Lender may notify the Tenants under the Leases that all Rents are to be paid to Lender, and following such notice all Rents shall be paid directly to Lender and not to Grantor or any other Person other than as directed by Lender, it being understood that a demand by Lender on any Tenant under the Leases for the payment of Rent shall be sufficient to warrant payment by such Tenant of Rent to Lender without the necessity of further consent by Grantor. Grantor hereby irrevocably authorizes and directs the Tenants under the Leases to pay all Rents to Lender instead of to Grantor, upon receipt of written notice from Lender, without the necessity of any inquiry of Grantor and without the necessity of determining the existence or non-existence of an Event of Default. Grantor hereby appoints Lender as Grantor's attorney-in-fact with full power of substitution, which appointment shall be effective upon the occurrence of an Event of Default and is coupled with an interest and is irrevocable prior to the full and final payment and performance of the Obligations, in Grantor's name or in Lender's name: (a) to endorse all checks and other instruments received in payment of Rents and to deposit the same in any account selected by Lender; (b) to give receipts and releases in relation thereto; (c) to institute, prosecute and/or settle actions for the recovery of Rents; (d) to modify the terms of any Leases including terms relating to the Rents payable thereunder; (e) to cancel any Leases; (f) to enter into new Leases; and (g) to do all other acts and things with respect to the Leases and Rents which Lender may deem necessary or desirable to protect the security for the Obligations. Any Rents received shall be applied in accordance with the terms of sub-section (b), above.

(h) Other Remedies. Lender shall have the right from time to time to protect, exercise and enforce any legal or equitable remedy against Grantor provided under the Loan Documents or by Applicable Law. Lender shall have the right, from time to time, to bring an appropriate action to recover any sums required to be paid by Grantor under the terms of this Security Instrument, as they become due, without regard to whether or not any other Obligations shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for any default by Grantor existing at the time the earlier action was commenced. In addition, Lender shall have the right to set-off all or any part of any amount due by Grantor to Lender under any of the Obligations, against any indebtedness, liabilities or obligations owing by Lender in any capacity to Grantor, including any obligation to disburse to Grantor any funds or other property on deposit with or otherwise in the possession, control or custody of Lender.

(i) Waiver of Grantor's Rights. BY EXECUTION OF THIS SECURITY INSTRUMENT, GRANTOR EXPRESSLY: (a) WAIVES ANY AND ALL RIGHTS WHICH GRANTOR MAY HAVE, (i) TO NOTICE AND TO JUDICIAL HEARING PRIOR TO THE EXERCISE BY LENDER OF ANY RIGHT OR REMEDY HEREIN PROVIDED TO LENDER, EXCEPT SUCH NOTICE (IF ANY) AS IS SPECIFICALLY REQUIRED TO BE GIVEN UNDER THE PROVISIONS OF THIS SECURITY INSTRUMENT OR ANOTHER LOAN DOCUMENT AND (ii) CONCERNING THE APPLICATION, RIGHTS OR BENEFITS OF ANY STATUTE OF LIMITATION OR ANY MORATORIUM, REINSTATEMENT, MARSHALLING, FORBEARANCE, APPRAISEMENT, VALUATION, STAY, EXTENSION, HOMESTEAD, EXEMPTION OR REDEMPTION LAWS; (b) ACKNOWLEDGES THAT GRANTOR HAS READ THIS SECURITY INSTRUMENT AND ANY AND ALL QUESTIONS OF GRANTOR REGARDING THE LEGAL EFFECT OF THIS SECURITY INSTRUMENT AND ITS PROVISIONS HAVE BEEN EXPLAINED FULLY TO GRANTOR, AND GRANTOR HAS CONSULTED WITH COUNSEL OF GRANTOR'S CHOICE PRIOR TO EXECUTING THIS SECURITY INSTRUMENT; AND (c) ACKNOWLEDGES THAT ALL WAIVERS OF THE AFORESAID RIGHTS OF GRANTOR HAVE BEEN MADE KNOWINGLY, INTENTIONALLY AND WILLINGLY BY GRANTOR AS PART OF A BARGAINED FOR LOAN TRANSACTION AND THAT THIS SECURITY INSTRUMENT IS VALID AND ENFORCEABLE BY LENDER AGAINST

GRANTOR IN ACCORDANCE WITH ALL THE TERMS AND CONDITIONS HEREOF.

**Section 7.3 Right to Cure Defaults.** Upon the occurrence and during the continuance of any Event of Default, Lender may, but without any obligation to do so and without notice to or demand on Grantor and without releasing Grantor from any obligation hereunder, remedy such Event of Default in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Obligations, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 7.3, shall constitute a portion of the Obligations and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Event of Default or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period beginning on the first day after notice from Lender that such cost or expense was incurred and continuing until the date of payment to Lender. All such costs and expenses incurred by Lender together with interest at the Default Rate thereon shall be deemed to constitute a portion of the Obligations and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Lender therefor.

**Section 7.4 Other Rights; Attorney Fees.**

(a) **Actions of Lender.** The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Grantor shall not be relieved of Grantor's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Grantor or any guarantor or indemnitor with respect to the Loan to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any Person liable for the Obligations or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Security Instrument or the other Loan Documents.

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

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

(d) **Costs and Expenses.** Grantor agrees to pay to Lender immediately and without demand all costs and expenses of any kind incurred by Trustee and Lender pursuant to this Article (including, without limitation, court costs and reasonable attorneys' fees, whether incurred in litigation or not, including, without limitation, at trial, on appeal or in any bankruptcy or other proceeding, or not and the costs of any appraisals obtained in connection with a determination of the fair value of the Property) with interest from



the date of expenditure until said sums have been paid at the rate of interest then applicable to the principal balance of the Note as specified therein or as allowed by Applicable Law. In addition, Grantor will pay a reasonable fee for title searches, sale guarantees, publication costs, appraisal reports or environmental assessments made in preparation for and in the conduct of any such proceedings or suit, and Grantor shall pay to Trustee all Trustee's fees hereunder and shall reimburse Trustee for all expenses incurred in the administration of this trust, including, without limitation, any reasonable attorneys' fees. All of the foregoing amounts must be paid to Lender as part of any reinstatement tendered hereunder. In the event of any legal proceedings, court costs and attorneys' fees shall be set by the court and not by jury and shall be included in any judgment obtained by Lender.

Section 7.5 Right to Release Any Portion of the Property. Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the Debt shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and Lender may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as security title to and a security interest in the remaining portion of the Property.

## ARTICLE VIII WAIVERS

Section 8.1 Waiver of Counterclaim. To the extent permitted by Applicable Law, Grantor hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Security Instrument, the Loan Agreement, the Note, any of the other Loan Documents, or the Obligations.

Section 8.2 Marshalling and Other Matters. To the extent permitted by Applicable Law, Grantor hereby waives the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Grantor, for itself and all persons who may claim by, through or under Grantor, hereby expressly waives any so-called "Moratorium Law" and any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Security Instrument, it being the intent hereof that any and all such "Moratorium Laws", and all rights of reinstatement and redemption of Grantor and of all other persons claiming by, through or under Grantor are and shall be deemed to be hereby waived to the fullest extent permitted by the laws of the State in which the Property is located. Lender shall have the right to sell and any court in which foreclosure proceedings may be brought shall have the right to order a sale of, the Property and any or all of the Collateral or other property as a whole or in separate parcels, in any order designated by Lender.

Section 8.3 Waiver of Notice. To the extent permitted by Applicable Law, Grantor shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Security Instrument or the Loan Documents specifically and expressly provide for the giving of notice by Lender to Grantor and except with respect to matters for which Lender is required by Applicable Law to give notice. Grantor hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument, the Loan Agreement or any other Loan Document does not specifically and expressly provide for the giving of notice by Lender to Grantor.

Section 8.4 Waiver of Statute of Limitations. To the fullest extent permitted by Applicable Law, Grantor hereby expressly waives and releases its right to plead any statute of limitations as a defense to the payment of the Debt or payment or performance of its other Obligations.

Section 8.5 Additional Waivers. GRANTOR EXPRESSLY WAIVES ANY RIGHTS OR REMEDIES ON ACCOUNT OF ANY EXTENSIONS OF TIME, RELEASES GRANTED OR OTHER DEALINGS BETWEEN LENDER AND ANY SUBSEQUENT OWNER OF THE PROPERTY AS SAID ACTIVITIES ARE CONTEMPLATED OR OTHERWISE ADDRESSED IN N.C. GEN. STAT. SEC. 45-45.1 OR ANY SIMILAR OR SUBSEQUENT LAW. GRANTOR EXPRESSLY WAIVES THE FOLLOWING: ALL HOMESTEAD EXEMPTION RIGHTS, IF ANY, WHICH GRANTOR OR GRANTOR'S FAMILY MAY HAVE PURSUANT TO THE CONSTITUTION AND LAWS OF THE UNITED STATES, THE STATE OF NORTH CAROLINA OR ANY OTHER STATE OF THE UNITED STATES, IN AND TO THE PROPERTY AS AGAINST THE COLLECTION OF THE OBLIGATIONS, OR ANY PART THEREOF. ALL WAIVERS BY GRANTOR IN THIS PARAGRAPH HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY BY GRANTOR, AFTER GRANTOR HAS BEEN AFFORDED AN OPPORTUNITY TO BE INFORMED BY COUNSEL OF GRANTOR'S CHOICE AS TO POSSIBLE ALTERNATIVE RIGHTS. GRANTOR'S EXECUTION OF THIS SECURITY INSTRUMENT SHALL BE CONCLUSIVE EVIDENCE OF THE MAKING OF SUCH WAIVERS AND THAT SUCH WAIVERS HAVE BEEN VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY MADE.

## ARTICLE IX MISCELLANEOUS

Section 9.1 Notices. All notices and communications under this Security Instrument shall be in writing and shall be given in accordance with the terms of Section 9.1 of the Loan Agreement.

Section 9.2 Remedies Cumulative. The rights and remedies of Lender as provided in this Security Instrument or in any other Loan Document shall be cumulative and concurrent, may be pursued separately, successively or together, may be exercised as often as occasion therefor shall arise, and shall be in addition to any other rights or remedies conferred upon Lender at law or in equity. The failure, at any one or more times, of Lender to assert the right to declare the Obligations due, grant any extension of time for payment of the Obligations, take other or additional security for the payment thereof, release any security, change any of the terms of the Loan Documents, or waive or fail to exercise any right or remedy under any Loan Document shall not in any way affect this Security Instrument or the rights of Lender.

Section 9.3 No Implied Waiver. Lender shall not be deemed to have modified or waived any of its rights or remedies hereunder unless such modification or waiver is in writing and signed by Lender, and then only to the extent specifically set forth therein. A waiver in one event shall not be construed as continuing or as a waiver of or bar to such right or remedy with respect to a subsequent event.

Section 9.4 No Warranty by Lender. By inspecting the Property or by accepting or approving anything required to be observed, performed or fulfilled by Grantor or to be given to Lender pursuant to this Security Instrument or any of the other Loan Documents, Lender shall not be deemed to have warranted or represented the condition, sufficiency, legality, effectiveness or legal effect of the same, and such acceptance or approval shall not constitute any warranty or representation with respect thereto by Lender.

Section 9.5 Partial Invalidity. The invalidity or unenforceability of any one or more provisions of this Security Instrument shall not render any other provision invalid or unenforceable. In lieu of any invalid or unenforceable provision, there shall be added automatically a valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be possible.

Section 9.6 Binding Effect. The covenants, conditions, waivers, releases and agreements contained in this Security Instrument shall bind, and the benefits thereof shall inure to, the parties hereto

and their respective heirs, executors, administrators, successors and assigns and are intended and shall be held to be real covenants running with the land; provided, however, that this Security Instrument cannot be assigned by Grantor without the prior written consent of Lender, and any such assignment or attempted assignment by Grantor shall be void and of no effect with respect to Lender.

Section 9.7 Modifications. This Security Instrument may not be supplemented, extended, modified or terminated except by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought. No course of dealing or conduct by or among Lender and Grantor shall be effective to amend, modify or change any provisions of this Security Instrument or the other Loan Documents.

Section 9.8 Commercial Loan. Grantor represents and warrants that the loans or other financial accommodations included as Debt secured by this Security Instrument were obtained solely for the purpose of carrying on or acquiring a business or commercial investment and not for residential, consumer or household purposes.

Section 9.9 Governing Law. This Security Instrument shall be governed by and construed in accordance with the substantive laws of the State of North Carolina without reference to conflict of laws principles.

Section 9.10 Substitution of Trustee. Trustee may resign at any time by giving notice thereof to Lender as provided by law. Lender may, from time to time, by instrument in writing, substitute a successor to any Trustee named herein or acting hereunder in the manner provided by law. Such writing, upon recordation, shall be conclusive proof of proper substitution of such successor Trustee, who shall, without conveyance from the predecessor Trustee, succeed to all its title. Lender shall at any time have the irrevocable right to remove the Trustee herein named without notice or cause and to appoint his successor by an instrument in writing, duly acknowledged, in such form as to entitle such written instrument to record in North Carolina, and in the event of the death or resignation of the Trustee herein named, Lender shall have the right to appoint his successor by such written instrument, and any Trustee so appointed shall be vested with the title to the Property hereinbefore described, and shall possess all the powers, duties and obligations herein conferred on the Trustee in the same manner and to the same extent as though he were named herein as Trustee. Any oath or bond by the Trustee is hereby waived.

[SIGNATURE PAGE FOLLOWS]

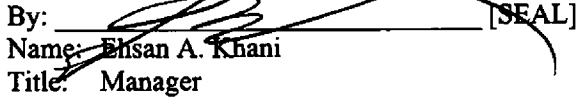
**SECURITY INSTRUMENT**

[Signature Page]

IN WITNESS WHEREOF, Grantor, intending to be legally bound, has duly executed and delivered this Security Instrument under seal as of the day and year first above written.

**GRANTOR:**

8605 EBENEZER CHURCH ROAD, LLC  
a North Carolina limited liability company

By:  [SEAL]  
Name: Ehsan A. Khani  
Title: Manager

STATE OF NORTH CAROLINA     )  
  )TO-WIT  
COUNTY OF WAKE                     )

The foregoing instrument was acknowledged before me, Garret Oneill Edens, Notary Public, this 22 day of December, 2023, by Ehsan A. Khani, who has presented identification of a (a United States Passport, a certificate of United States citizenship, a certificate of naturalization, an unexpired foreign passport, an alien registration card with photograph, a state issued driver's license or a state issued identification card or a United States military card), in the capacity indicated on behalf of Grantor.

  
Notary Public

My Commission expires: July 08, 2024

Notary Seal (sharp, legible, reproducible)

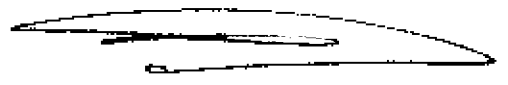
Garret Oneill Edens  
Notary Public

Wake County

My Comm Exp.

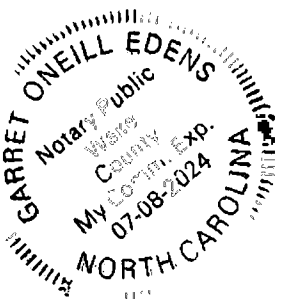
07-08-2024

NORTH CAROLINA

  
Notary Public

My Commission expires: July 08, 2024

Seal:



**EXHIBIT A**  
Legal Description

LYING AND BEING IN THE CITY OF RALEIGH, LEESVILLE TOWNSHIP, WAKE COUNTY, NORTH CAROLINA AND DESCRIBED AS FOLLOWS MORE FULLY TO WIT:

BEGINNING AT AN EXISTING IRON PIPE ON THE WESTERN 80' RIGHT OF WAY OF EBENEZER CHURCH ROAD(NCSR 1647) HAVING A NORTH COORDINATE OF 781,115.23 US SURVEY FEET AND AN EAST COORDINATE OF 2,076,818.21 US SURVEY FEET BASED ON THE N.C. GRID COORDINATE SYSTEM AD 83 (2011) IN THE NORTH PROPERTY LINE HARRY BRUCE [WATSON] (D.B. 2584, PG. 485); THENCE ALONG AND WITH [WATSON] NORTH 88° 24' 20" WEST, 189.32 FEET TO AN EXISTING IRON PIPE (DISTURBED), THE NORTHEAST PROPERTY CORNER OF ASH GREY PROPERTIES, LLC (D.B. 15193, PG. 2466); THENCE ALONG AND WITH ASH GREY PROPERTIES, LLC NORTH 88° 24' 20" WEST, 150.15 FEET TO AN EXISTING IRON PIPE, THE NORTHEAST PROPERTY CORNER OF BONAVENTURE REAL ESTATE, LLC (D.B. 12303, PG. 56); THENCE ALONG AND WITH BONAVENTURE REAL ESTATE, LLC NORTH 88° 24' 20" WEST, 199.94 FEET TO AN EXISTING IRON PIPE, THE NORTHEAST PROPERTY CORNER OF ALLIED-RALEIGH, LLC (D.B. 12520, PG. 315); THENCE ALONG AND WITH ALLIED-RALEIGH, LLC NORTH 88° 24' 20" WEST, 447.30 FEET TO AN EXISTING IRON PIPE IN THE EASTERN PROPERTY LINE OF SOUTHERN COMMERCIAL PROPERTIES, LLC (D.B. 12717, PG. 968); THENCE ALONG AND WITH SOUTHERN COMMERCIAL PROPERTIES, LLC THE FOLLOWING 6 CALLS: NORTH 12° 42' 13" EAST, 52.30 FEET TO A POINT NOT FOUND (IN MANHOLE STRUCTURE); THENCE NORTH 12° 42' 13" EAST, 26.84 FEET TO AN EXISTING IRON PIPE (DISTURBED); THENCE NORTH 12° 42' 13" EAST, 127.44 FEET TO AN EXISTING IRON PIPE; THENCE NORTH 12° 42' 13" EAST, 34.38 FEET TO AN EXISTING IRON PIPE; THENCE NORTH 12° 42' 13" EAST, 244.63 FEET TO AN EXISTING IRON PIPE (DISTURBED); THENCE NORTH 12° 42' 13" EAST, 61.29 FEET TO AN EXISTING IRON PIPE IN THE SOUTHERN PROPERTY LINE MARTIN MARIETTA CORPORATION (D.B. 2987, PG. 144 - TRACT ONE); THENCE ALONG AND WITH MARTIN MARIETTA CORPORATION SOUTH 88° 23' 33" EAST, 1167.46 FEET TO AN EXISTING IRON PIPE, THE SOUTHEASTERN CORNER OF MARTIN MARIETTA CORPORATION; THENCE SOUTH 88° 23' 33" EAST, 33.05 FEET TO A POINT (NOT FOUND) INSIDE THE RIGHT OF WAY OF EBENEZER CHURCH ROAD (NCSR 1647), THE NORTHEAST CORNER OF THE SUBJECT PARCEL DESCRIBED HEREIN; THENCE THE FOLLOWING 3 CALLS WITHIN EBENEZER CHURCH ROAD (NCSR 1647) SOUTH 31° 00' 15" WEST, 397.27 FEET TO A POINT (NOT FOUND); THENCE SOUTH 29° 00' 15" WEST, 127.59 FEET TO A POINT (NOT FOUND); THENCE SOUTH 20° 39' 54" WEST, 81.49 FEET TO A POINT (NOT FOUND), THE SOUTHEAST CORNER OF THE SUBJECT PARCEL DESCRIBED HEREIN; THENCE NORTH 88° 24' 20" WEST, 32.42 FEET TO AN EXISTING IRON PIPE (DISTURBED), THE NORTHEAST CORNER OF [WATSON]; THENCE ALONG AND WITH [WATSON] NORTH 88° 24' 20" WEST, 6.31 FEET TO THE PLACE OF BEGINNING, CONTAINING 13.6041 GROSS ACRES (592,594 SF.) MORE OR LESS.