

567353

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Bank of America, N.A.
CREB - Loan Administration
VA2-300-11-17
1111 E. Main Street, Suite 1101
Richmond, VA, 23219
Attn.: Christina A. Neal

NO. _____ AT THE REQUEST OF:
MOSCOW TITLE INC
DATE & HOUR 8.8.14 1:48
SUSAN PETERSEN
LATAH COUNTY RECORDER
FEE \$ 100.00 BY [Signature]

Bank of America.

[SPACE ABOVE LINE FOR RECORDER'S USE ONLY]

TO BE INDEXED NOT ONLY AS A DEED OF TRUST
BUT ALSO AS A FIXTURE FILING, WITH GRANTOR
AS DEBTOR AND LENDER AS SECURED PARTY

Grantor Organizational Identification Number: C191219

LEASEHOLD DEED OF TRUST, ASSIGNMENT, SECURITY AGREEMENT AND FIXTURE FILING

This LEASEHOLD DEED OF TRUST, ASSIGNMENT, SECURITY AGREEMENT AND FIXTURE FILING (this "Deed of Trust") is made as of August 8, 2014, by Delta Zeta Sorority an Ohio corporation ("Grantor"), whose address is 202 East Church Street, Oxford, OH 45056, as grantor, in favor of Moscow Title, Inc., an Idaho corporation ("Initial Trustee"), whose address is P. O. BOX 9144, MOSCOW, ID 83843, as trustee, for the benefit of BANK OF AMERICA, N.A., a national banking association (together with any and all of its successors, participants and assigns, "Lender"), whose address is Attention: Bank of America, N.A., 101 South Tryon Street, Floor 3, Charlotte, North Carolina 28255, as beneficiary.

Recitals

Grantor has requested that Lender make the Loan (as hereinafter defined) to Grantor. As a condition precedent to making the Loan, Lender has required that Grantor execute and deliver this Leasehold Deed of Trust, Assignment, Security Agreement and Fixture Filing to Trustee and Lender.

Grants and Agreements

Now, therefore, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by Grantor, and in order to induce Lender to make the Loan to Grantor, Grantor agrees as follows:

Article I
Definitions.

As used in this Deed of Trust, the terms defined in the Preamble hereto shall have the respective meanings specified therein, and the following additional terms shall have the meanings specified:

"Accessories" means all fixtures, fittings, apparatus, equipment, systems, machinery, furniture, furnishings, appliances, inventory, goods, building and construction materials, supplies and other articles of personal property and replacements thereof, of every kind and character, tangible and intangible (including software embedded therein), now owned or hereafter acquired by Grantor, which are now or hereafter attached to, affixed to, placed upon or situated in, on or about the Land or Improvements, or used in or necessary to the complete and proper planning, development, use, occupancy or operation thereof, or acquired (whether delivered to the Land or stored elsewhere) for use or installation in or on the Land or Improvements, and all Additions to the foregoing, all of which are hereby declared to be permanent accessions to the Land.

"Accounts" means all accounts of Grantor within the meaning of the Uniform Commercial Code of the State, derived from or arising out of the use, occupancy or enjoyment of the Property or for services rendered therein or thereon.

"Additions" means any and all alterations, additions, accessions and improvements to property, substitutions therefor, and renewals and replacements thereof.

"Bankruptcy Code" shall mean Title 11 of the United States Code entitled "Bankruptcy", as now or hereafter in effect or any successor statute thereto.

"Beneficiary" means Lender and its successors, participants, and assigns.

"Claim" means any liability, suit, action, claim, demand, loss, expense, penalty, fine, judgment or other cost of any kind or nature whatsoever, including fees, costs and expenses of attorneys, consultants, contractors and experts.

"Condemnation" means any taking of title to, use of, or any other interest in the Property under the exercise of the power of condemnation or eminent domain, whether temporarily or permanently, by any Governmental Authority or by any other Person acting under or for the benefit of a Governmental Authority.

"Condemnation Awards" means any and all judgments, awards of damages (including severance and consequential damages), payments, proceeds, settlements, amounts paid for a taking in lieu of Condemnation, or other compensation heretofore or hereafter made, including interest thereon, and the right to receive the same, as a result of, or in connection with, any Condemnation or threatened Condemnation.

"Contract of Sale" means any contract for the sale of all or any part of the Property or any interest therein, whether now in existence or hereafter executed.

"Deed of Trust" means this Leasehold Deed of Trust, Assignment, Security Agreement and Fixture Filing, as the same may from time to time be extended, amended, restated, supplemented or otherwise modified.

"Default" means an event or circumstance which, with the giving of Notice or lapse of time, or both, would constitute an Event of Default under the provisions of this Deed of Trust.

"Design and Construction Documents" means, collectively, (a) all contracts for services to be rendered, work to be performed or materials to be supplied in the development of the Land or the

construction or repair of Improvements, including all agreements with architects, engineers or contractors for such services, work or materials; (b) all plans, drawings and specifications for the development of the Land or the construction or repair of Improvements; (c) all permits, licenses, variances and other rights or approvals issued by or obtained from any Governmental Authority or other Person in connection with the development of the Land or the construction or repair of Improvements; and (d) all amendments of or supplements to any of the foregoing.

"Encumbrance" means any Lien, easement, right of way, roadway (public or private), declaration, condition, covenant, or restriction (including any declaration, condition, covenant, or restriction in connection with any condominium development or cooperative housing development), Lease or other matter of any nature that would affect title to the Property.

"Environmental Agreement" means the Environmental Indemnification and Release Agreement of even date herewith by and between Grantor and Lender pertaining to the Property, as the same may from time to time be extended, amended, restated, supplemented, or otherwise modified. The Environmental Agreement is one of the Loan Documents, but this Deed of Trust does not secure the obligations of Grantor under the Environmental Agreement.

"Event of Default" means an event or circumstance specified in Article VI and the continuance of such event or circumstance beyond the applicable grace and/or cure periods therefor, if any, set forth in Article VI.

"Expenses" means all fees, charges, costs and expenses of any nature whatsoever incurred at any time and from time to time (whether before or after an Event of Default) by Beneficiary or Trustee in making, funding, administering or modifying the Loan, in protecting the security of this Deed of Trust, in negotiating or entering into any "workout" of the Loan, or in exercising or enforcing any rights, powers and remedies provided in this Deed of Trust or any of the other Loan Documents, including attorneys' fees, court costs, receiver's fees, management fees and costs incurred in the completion, repair, maintenance and operation of, or taking possession of, or selling, the Property.

"Governmental Authority" means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, service, district or other instrumentality of any governmental entity.

"Guarantor" means, individually or collectively, Delta Zeta National Housing Corporation, an Ohio non-profit corporation and its, his, her or their respective heirs, personal representatives, successors and assigns.

"Guaranty" means the Guaranty Agreement of even date herewith executed by Guarantor for the benefit of Lender, as the same may from time to time be extended, amended, restated, supplemented or otherwise modified.

"Hedge Agreement" means any agreement, whether or not in writing, relating to any transaction that is a rate swap, basis swap transaction, forward rate transaction, commodity swap, commodity option, equity or equity index swap or option, bond option, note or bill option, interest rate option, forward foreign exchange transaction, cap transaction, spot or floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, swap option, currency option, credit swap or default transaction, T-lock, or any other similar transaction (including any option to enter into any of the foregoing) or any combination of the foregoing, and, unless the context otherwise clearly requires, any agreement or contract that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute, and CFTC Regulation 1.3(xxx), any form of master agreement published by the International Swaps and Derivatives

Association, Inc., and any other master agreement, entered into by Grantor, together with any related schedules and confirmations, as the same may be amended, restated, replaced, supplemented, superseded or otherwise modified from time to time in accordance with its terms, relating to or governing any or all of the foregoing.

"Improvements" means all buildings, structures and replacements thereof and other improvements now or hereafter existing, erected or placed on the Land, including all plant, equipment, apparatus, machinery and fixtures of every kind and nature whatsoever forming part of said structures and/or buildings together with any on-site improvements and off-site improvements in any way used or to be used in connection with the use, enjoyment, occupancy or operation of the Land.

"Insolvency Proceeding" shall mean: (a) any voluntary or involuntary case or proceeding under the Bankruptcy Code with respect to Grantor or Ground Lessor, as applicable; (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to Grantor or Ground Lessor, as applicable; (c) any liquidation, dissolution, reorganization or winding up of Grantor or Ground Lessor, as applicable, whether voluntary or involuntary and whether or not involving insolvency or bankruptcy; or (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of Grantor or Ground Lessor, as applicable.

"Insurance Proceeds" means the insurance claims under and the proceeds of any and all policies of insurance covering the Property or any part thereof, including all returned and unearned premiums with respect to any insurance relating to such Property, in each case whether now or hereafter existing or arising.

"Land" means the real property described in Exhibit A attached hereto and made a part hereof.

"Law(s)" means all federal, state and local laws, statutes, rules, ordinances, regulations, codes, licenses, authorizations, decisions, injunctions, interpretations, orders or decrees of any court or other Governmental Authority having jurisdiction as may be in effect from time to time.

"Lease(s)" means all leases, license agreements and other occupancy or use agreements (whether oral or written), now or hereafter existing, which cover or relate to the Property or any part thereof, together with all options therefor, amendments thereto and renewals, modifications and guaranties thereof, including any cash or security deposited under the Leases to secure performance by the tenants of their obligations under the Leases, whether such cash or security is to be held until the expiration of the terms of the Leases or applied to one or more of the installments of rent coming due thereunder.

"Lease Damage Claims" shall mean all of Grantor's claims and rights to payment of damages, offsets, and other rights and remedies that may arise from: (a) Ground Lessor's failure to perform under the Ground Lease; (b) rejection or disaffirmance of the Ground Lease under any Debtor Relief Law or in connection with any Insolvency Proceeding; (c) violation or breach by Ground Lessor under the Ground Lease; or (d) Ground Lessor's sale of Property pursuant to Section 363 of the Bankruptcy Code or similar provisions of any other Debtor Relief Law, and all damages and other sums payable with respect to or pursuant to any of the foregoing.

"Lessee Bankruptcy Rights" shall mean all of Grantor's rights, remedies, powers, and privileges arising at any time under, in, or in connection with or related to any Insolvency Proceeding affecting Ground Lessor, including Grantor's right: (a) to object to Ground Lessor's sale of the Property under any Debtor Relief Law, including Bankruptcy Code Section 363 and (b) to make the 365(h) Election, and any other comparable right under any other Debtor Relief Laws and all claims, suits, actions, proceedings, rights, remedies, and privileges related thereto or arising therefrom, including Grantor's right to claim any

offset against rent and other charges and the right to file and prosecute any proofs of claim, complaints, motions, applications, objections, notices, and any other document in any case relating to Ground Lessor under any Debtor Relief Laws, any and all adequate protection or other value received by or to which Grantor is entitled to in connection with any sale of the Property in connection with any Insolvency Proceeding.

"Letter of Credit" means any letter of credit issued by Beneficiary for the account of Grantor or its nominee in connection with the development of the Land or the construction of the Improvements, together with any and all extensions, renewals or modifications thereof, substitutions therefor or replacements thereon.

"Lien" means any mortgage, deed of trust, pledge, security interest, assignment, judgment, lien or charge of any kind, including any conditional sale or other title retention agreement, any lease in the nature thereof, and the filing of, or agreement to give, any financing statement under the Uniform Commercial Code of any jurisdiction.

"Loan" means the loan from Beneficiary to Grantor, the repayment obligations in connection with which are evidenced by the Note.

"Loan Agreement" means the Construction Loan Agreement of even date herewith between Grantor and Lender which sets forth, among other things, the terms and conditions upon which the proceeds of the Loan will be disbursed, as the same may from time to time be extended, amended, restated, supplemented or otherwise modified.

"Loan Documents" means this Deed of Trust, the Note, the Guaranty, the Environmental Agreement, the Loan Agreement, any Hedge Agreement, any application or reimbursement agreement executed in connection with any Letter of Credit, and any and all other documents which Grantor, Guarantor or any other party or parties have executed and delivered, or may hereafter execute and deliver, to evidence, secure or guarantee the Obligations, or any part thereof, as the same may from time to time be extended, amended, restated, supplemented or otherwise modified.

"Note" means the Promissory Note of even date herewith in the original principal amount of Four Million, Five Hundred Thousand and No/100 Dollars (\$4,500,000.00) made by Grantor to the order of Lender, as the same may from time to time be extended, renewed, amended, restated, supplemented or otherwise modified.

"Notice" means a notice, request, consent, demand or other communication given in accordance with the provisions of this Deed of Trust.

"Obligations" means all present and future debts, advances, obligations and liabilities of Grantor to Beneficiary and/or Trustee arising pursuant to, and/or on account of, the provisions of this Deed of Trust, the Note or any of the other Loan Documents, including the obligations: (a) to pay all principal, interest, late charges, prepayment premiums (if any) and other amounts due at any time under the Note; (b) to pay all Expenses, indemnification payments, fees and other amounts due at any time under this Deed of Trust or any of the other Loan Documents, together with interest thereon as herein or therein provided; (c) to pay and perform all obligations of Grantor under any Hedge Agreement between Grantor and Beneficiary (or its affiliate); (d) to perform, observe and comply with all of the other terms, covenants and conditions, expressed or implied, which Grantor is required to perform, observe or comply with pursuant to this Deed of Trust or any of the other Loan Documents; and (e) to pay and perform all future advances and other obligations that Grantor or any successor in ownership of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Beneficiary, when a writing evidences the parties' agreement that the advance or obligation be secured by this Deed of

Trust; excluding, however, the debts, obligations and liabilities of Grantor under the Environmental Agreement. This Deed of Trust does not secure the Environmental Agreement, the Guaranty or any other Loan Document that is expressly stated to be unsecured. The Obligations may accrue interest at an indexed or variable rate which may change from time to time.

"Permitted Encumbrances" means (a) any matters set forth in any policy of title insurance issued to Beneficiary and insuring Beneficiary's interest in the Property which are acceptable to Beneficiary as of the date hereof, (b) the Liens and interests of this Deed of Trust, and (c) any other Encumbrance that Beneficiary shall expressly approve in writing in its sole and absolute discretion.

"Person" means an individual, a corporation, a partnership, a joint venture, a limited liability company, a trust, an unincorporated association, any Governmental Authority or any other entity.

"Personalty" means all personal property of any kind or nature whatsoever, whether tangible or intangible and whether now owned or hereafter acquired, in which Grantor now has or hereafter acquires an interest and which is used in the construction of, or is placed upon, or is derived from or used in connection with the maintenance, use, occupancy or enjoyment of, the Property, including (a) the Accessories; (b) the Accounts; (c) all franchise, license, management or other agreements with respect to the operation of the Real Property or the business conducted therein (provided all of such agreements shall be subordinate to this Deed of Trust, and Beneficiary shall have no responsibility for the performance of Grantor's obligations thereunder) and all general intangibles (including payment intangibles, trademarks, trade names, goodwill, software and symbols) related to the Real Property or the operation thereof; (d) all sewer and water taps, appurtenant water stock or water rights, allocations and agreements for utilities, bonds, letters of credit, letter-of-credit rights, permits, certificates, licenses, guaranties, warranties, causes of action, judgments, Claims, profits, security deposits, utility deposits, deposits or escrows for taxes, insurance or other matters, and all rebates or refunds of fees, Taxes, assessments, charges or deposits paid to any Governmental Authority related to the Real Property or the operation thereof; (e) all of Grantor's rights and interests under all Hedge Agreements, including all rights to the payment of money from Beneficiary (or its affiliate) under any Hedge Agreement and all accounts, deposit accounts and general intangibles, including payment intangibles, described in any Hedge Agreement; (f) all insurance policies held by Grantor with respect to the Property or Grantor's operation thereof; and (g) all money, instruments, chattel paper, or mortgages and documents (whether tangible or electronic) arising from or by virtue of any transactions related to the Property, and all deposits and deposit accounts of Grantor with Beneficiary related to the Property, including any such deposit account from which Grantor may from time to time authorize Beneficiary to debit and/or credit payments due with respect to the Loan; together with all Additions to and Proceeds of all of the foregoing.

"Proceeds" when used with respect to any of the Property, means all proceeds of such Property, including all Insurance Proceeds and all other proceeds within the meaning of that term as defined in the Uniform Commercial Code of the State.

"Property" means the Real Property and the Personalty and all other rights, interests and benefits of every kind and character which Grantor now has or hereafter acquires in, to or for the benefit of the Real Property and/or the Personalty and all other property and rights used or useful in connection therewith, including all Leases, all Rents, all Condemnation Awards, all Proceeds, and all of Grantor's right, title and interest in and to all Design and Construction Documents, all Contracts of Sale and all Refinancing Commitments.

"Property Assessments" means all Taxes, payments in lieu of taxes, water rents, sewer rents, assessments, condominium and owner's association assessments and charges, maintenance charges and other governmental or municipal or public or private dues, charges and levies and any Liens (including

federal tax liens) which are or may be levied, imposed or assessed upon the Property or any part thereof, or upon any Leases or any Rents, whether levied directly or indirectly or as excise taxes, as income taxes, or otherwise.

"Real Property" means the Land and Improvements, together with (a) all estates, title interests, title reversion rights, remainders, increases, issues, profits, rights of way or uses, additions, accretions, servitudes, strips, gaps, gores, liberties, privileges, water rights, water courses, alleys, passages, ways, vaults, licenses, tenements, franchises, hereditaments, royalties, appurtenances, air space, easements, rights-of-way, rights of ingress or egress, parking rights, timber, crops, mineral interests and other rights, now or hereafter owned by Grantor and belonging or appertaining to the Land or Improvements; (b) all Claims whatsoever of Grantor with respect to the Land or Improvements, either in law or in equity, in possession or in expectancy; (c) all estate, right, title and interest of Grantor in and to all streets, roads and public places, opened or proposed, now or hereafter adjoining or appertaining to the Land or Improvements; (d) all options to purchase the Land or Improvements, or any portion thereof or interest therein, and any greater estate in the Land or Improvements, and all Additions to and Proceeds of the foregoing; and (e) the leasehold estate granted under that certain Ground Lease dated as of January 1, 2012, by and between Grantor as Lessee, and The Board of Regents of the University of Idaho, a state educational institution and body politic and corporate organized and existing under the constitution and laws of the state of Idaho, as Lessor (hereinafter, in such capacity, together with its successors and assigns, including, in connection with any Insolvency Proceeding any trustee, debtor-in-possession, or other estate representative acting on its behalf and any subsequent assignee or successor thereof, "Ground Lessor"), as to which a Memorandum of Lease has been recorded in the public records of Latah County, Idaho (together with any and all modifications and amendments thereto, singly and collectively, the "Ground Lease"), including, without limitation, (i) all Lessee Bankruptcy Rights and (ii) all Lease Damage Claims; this Deed of Trust constituting a present, irrevocable, and unconditional assignment of the Lease Damage Claims which shall continue in effect until the Obligations have been satisfied in full, and (iii) all other or additional title, estates, interests or rights which are now owned or may hereafter be acquired by Grantor in or to the property devised under the Ground Lease creating the leasehold estate or otherwise relating to the Land and other Property. The Real Property is either (i) located within an incorporated city or village, (ii) does not exceed eighty (80) acres in size, regardless of its location, and is not used for the agricultural production of crops, livestock, dairy or aquatic goods; or (iii) does not exceed forty (40) acres in size; regardless of use or location.

"Refinancing Commitment" means any commitment from or other agreement with any Person providing for the financing of the Property, some or all of the proceeds of which are intended to be used for the repayment of all or a portion of the Loan.

"Rents" means all of the rents, royalties, issues, profits, revenues, earnings, income and other benefits of the Property, or arising from the use or enjoyment of the Property, including all such amounts paid under or arising from any of the Leases and all fees, charges, accounts or other payments for the use or occupancy of rooms or other public facilities within the Real Property.

"State" means the state in which the Land is located.

"Taxes" means all taxes and assessments, whether general or special, ordinary or extraordinary, or foreseen or unforeseen, which at any time may be assessed, levied, confirmed or imposed by any Governmental Authority or any community facilities or other private district on Grantor or on any of its properties or assets or any part thereof or in respect of any of its franchises, businesses, income or profits.

"Transfer" means any direct or indirect sale, assignment, conveyance or transfer, including any Contract of Sale and any other contract or agreement to sell, assign, convey or transfer, in whole or in

part, whether made voluntarily or by operation of Law or otherwise, and whether made with or without consideration.

"Trustee" means the Initial Trustee or its successor in trust who may be acting under and pursuant to this Deed of Trust from time to time.

"365(h) Election" shall mean the right of Grantor to treat the Ground Lease as terminated pursuant to Section 365(h)(1)(A)(i) of the Bankruptcy Code or retain Grantor's rights under the Ground Lease pursuant to Section 365(h)(1)(A)(ii) of the Bankruptcy Code and all such other rights, powers, and privileges granted to a lessee pursuant to Section 365(h) of the Bankruptcy Code, together with all such other similar rights, powers, and privileges granted to a lessee under any other Debtor Relief Law.

Article II Granting Clauses; Condition of Grant.

Section 2.1 Conveyances and Security Interests.

In order to secure the prompt payment and performance of the Obligations, Grantor (a) irrevocably and unconditionally grants, conveys, transfers and assigns to Trustee, in trust, for the benefit of Beneficiary, **with power of sale** and right of entry and possession, all estate, right, title and interest that Grantor now has or may later acquire in and to the Real Property; (b) grants to Beneficiary a security interest in the Personalty; (c) assigns to Beneficiary, and grants to Beneficiary a security interest in, all Condemnation Awards and all Insurance Proceeds; and (d) assigns to Beneficiary, and grants to Beneficiary a security interest in, all of Grantor's right, title and interest in, but not any of Grantor's obligations or liabilities under, all Design and Construction Documents, all Contracts of Sale and all Refinancing Commitments. All Persons who may have or acquire an interest in all or any part of the Property will be deemed to have notice of, and will be bound by, the terms of the Obligations and each other agreement or instrument made or entered into in connection with each of the Obligations. Such terms include any provisions in the Note, the Loan Agreement or any Hedge Agreement between Grantor and Beneficiary (or its affiliate) which provide that the interest rate on one or more of the Obligations may vary from time to time.

GRANTOR REPRESENTS AND WARRANTS THAT THE REAL PROPERTY CONVEYED BY THIS DEED OF TRUST IS NOT USED PRINCIPALLY FOR AGRICULTURAL PURPOSES.

Section 2.2 Absolute Assignment of Leases and Rents.

In consideration of the making of the Loan by Beneficiary to Grantor, the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor absolutely and unconditionally assigns the Leases and Rents to Beneficiary. This assignment is, and is intended to be, an unconditional, absolute and present assignment from Grantor to Beneficiary of all of Grantor's right, title and interest in and to the Leases and the Rents and not an assignment in the nature of a pledge of the Leases and Rents or the mere grant of a security interest therein. So long as no Event of Default shall exist, however, and so long as Grantor is not in default in the performance of any obligation, covenant or agreement contained in the Leases, Grantor shall have a license (which license shall terminate automatically and without notice upon the occurrence of an Event of Default or a default by Grantor under the Leases) to collect, but not prior to accrual, all Rents. Grantor agrees to collect and hold all Rents in trust for Beneficiary and to use the Rents for the

payment of the cost of operating and maintaining the Property and for the payment of the other Obligations before using the Rents for any other purpose.

Section 2.3 Security Agreement, Fixture Filing and Financing Statement.

This Deed of Trust creates a security interest in the Personalty, and, to the extent the Personalty is not real property, this Deed of Trust constitutes a security agreement from Grantor to Beneficiary under the Uniform Commercial Code of the State. In addition to all of its other rights under this Deed of Trust and otherwise, Beneficiary shall have all of the rights of a secured party under the Uniform Commercial Code of the State, as in effect from time to time, or under the Uniform Commercial Code in force from time to time in any other state to the extent the same is applicable Law. This Deed of Trust shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Property and is to be filed for record in the real estate records of each county where any part of the Property (including such fixtures) is situated. This Deed of Trust shall also be effective as a financing statement with respect to any other Property as to which a security interest may be perfected by the filing of a financing statement and may be filed as such in any appropriate filing or recording office. The respective mailing addresses of Grantor and Beneficiary are set forth in the opening paragraph of this Deed of Trust. A carbon, photographic or other reproduction of this Deed of Trust or any other financing statement relating to this Deed of Trust shall be sufficient as a financing statement for any of the purposes referred to in this Section. Grantor hereby irrevocably authorizes Beneficiary at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements as authorized by applicable Law, reasonably required by Beneficiary to establish or maintain the validity, perfection and priority of the security interests granted in this Deed of Trust.

Section 2.4 Reconveyance of Deed of Trust and Termination of Assignments and Financing Statements.

If and when Grantor has paid and performed all of the Obligations, and no further advances are to be made under the Loan Agreement, Trustee, upon request by Beneficiary, will provide a reconveyance of the Property from the lien of this Deed of Trust and termination statements for filed financing statements, if any, to Grantor. Grantor shall be responsible for the recordation of such reconveyance and the payment of any recording and filing costs. Upon the recording of such reconveyance and the filing of such termination statements, the absolute assignments set forth in Section 2.2 shall automatically terminate and become null and void.

Article III
Representations and Warranties.

Grantor makes the following representations and warranties to Beneficiary:

Section 3.1 Ground Lease.

Grantor has delivered to Beneficiary a true, correct, and complete copy of the Ground Lease, together with all amendments, modifications, supplements, assignments, or other transfers thereto, and any and all guaranties thereof, as more particularly described in Exhibit B to this Deed of Trust. Other than as may be particularly described in Exhibit B to this Deed of Trust, the Ground Lease has not been amended, modified, supplemented, assigned, or transferred.

Section 3.2 Possession of Leasehold; Leasehold Interest; Exercise of Options.

The interest of the Lessee under the Ground Lease is presently vested in Grantor, and Grantor is the holder of the sole leasehold estate in the Land and other Real Property in accordance with the provisions of the Ground Lease. Other than pursuant to this Deed of Trust, Grantor has not executed any

other mortgage, deed of trust, pledge, assignment, hypothecation, or other transfer, lien, security interest, or other encumbrance of all or any portion of Grantor's right, title and interest under the Ground Lease. Grantor has not executed any instrument or agreement with respect to the Ground Lease which could reasonably be expected to prevent or restrict Beneficiary from exercising its rights and remedies under this Deed of Trust or any other Loan Documents relating in any way to the Ground Lease. Grantor shall hereby forever warrant, defend, protect, and preserve against the claims of all persons: (i) Grantor's leasehold interest in the Land and Real Property arising pursuant to the Ground Lease and (ii) the validity and priority of the respective lien and title interest of Beneficiary granted by Grantor to Beneficiary hereunder. Without Beneficiary's express prior written consent in each instance, Grantor: (i) shall not fail to timely exercise any option or right to renew or extend the term of the Ground Lease, at least ten (10) business days prior to the expiration thereof, in accordance with the terms and conditions of the Ground Lease; (ii) shall provide immediate written notice to Beneficiary with respect to any such exercise of any option or right to renew or extend the term of the Ground Lease; and (iii) shall execute, acknowledge, deliver and record any document requested by Beneficiary to evidence the respective lien and title interest of this Deed of Trust on such extended or renewed lease term of the Ground Lease. In the event Grantor shall fail to timely exercise any such option or right as and when provided above, Beneficiary may exercise such option or right as Grantor's attorney-in-fact in Beneficiary's own name or in the name of and on behalf of a nominee of Beneficiary, as and when Beneficiary may determine in the exercise of its sole and exclusive discretion. Without limiting the provisions of Section 7.4 and Section 3.15 hereunder, Grantor hereby irrevocably constitutes and appoints Beneficiary and any officer or agent of Beneficiary, with full power of substitution, as its true and lawful attorney-in-fact, coupled with an interest, with full irrevocable power and authority in the place and stead of Grantor or in Grantor's own name to execute in Grantor's name any such documents and to otherwise carry out the purposes of this Section. Whether or not a Default has occurred, such appointment of Beneficiary as Grantor's attorney-in-fact to exercise shall include, without limitation, the power by Beneficiary to exercise any Lessee Bankruptcy Rights, including making the 365(h) Election to prepare and file any objection to any proposed sale of the Property by Ground Lessor pursuant to Section 363 of the Bankruptcy Code, to prepare and file any objection to any disclosure statement or plan, or similar document, filed in any Insolvency Proceeding, and to take any other action with respect to the Land or Ground Lease in any Insolvency Proceeding of Ground Lessor.

Section 3.3 No Existing Default.

There is no existing default (or occurrence which with the passage of time would constitute a default) or grounds for default (however defined or described) under the provisions of the Ground Lease or in the performance of any of the terms, covenants, conditions or warranties thereof on the part of Grantor or Ground Lessor thereof to be kept, performed and observed under the Ground Lease.

Section 3.4 Rent and Other Payments under Ground Lease.

Grantor shall promptly pay, as and when due and payable, all rent, any additional rent and/or percentage rent, and all other sums and charges described in and required to be paid by Grantor under the terms and conditions of the Ground Lease, including, without limitation, all taxes, assessments and other charges or levies and all insurance premiums required to be paid by Grantor thereunder.

Section 3.5 Compliance; Performance under Ground Lease.

Grantor shall promptly perform and observe all of the terms, covenants, and conditions required to be performed and observed by Grantor as tenant under the Ground Lease, within the periods provided in the Ground Lease, and shall do all things necessary to preserve and to keep unimpaired Grantor's rights under the Ground Lease. Without the express prior written consent of Beneficiary in each instance,

Grantor shall not: (i) take any act which would destroy or materially impair the benefits to Beneficiary pursuant to this Deed of Trust; (ii) take any action or omit to take any action which would effect or permit the termination of the Ground Lease; and (iii) waive, excuse, release, or discharge in any way Ground Lessor of or from Ground Lessor's material obligations, covenants, and/or conditions under the Ground Lease.

Section 3.6 Conditional Assignment of Ground Lease.

To the fullest extent permitted by applicable Law and the terms and conditions of the Ground Lease, and without limiting the provisions of Section 2.2 Absolute Assignment of Leases and Rents hereunder, Grantor does hereby assign, transfer, set, over and deliver to Beneficiary, for collateral purposes only, all of Grantor's rights, title and interest in, to and under the Ground Lease. By its acceptance hereof, Beneficiary hereby covenants and agrees that so long as there exists no Default hereunder, Grantor shall have the right to possess and enjoy the Land and other Real Property leased pursuant to the Ground Lease, subject to the terms and conditions contained herein. As used in this Deed of Trust, the term "Lease" shall also mean and refer to the Ground Lease, as may be applicable and as the context may require.

Section 3.7 Acquisition of Fee; No Merger.

Grantor shall not acquire the fee interest in the Land or other Real Property under the Ground Lease without the express prior written approval of Beneficiary. In the event that Grantor acquires such fee title to the Land or other Real Property, such interest shall be deemed to be subject to and covered by this Deed of Trust, and in confirmation thereof, Grantor shall promptly: (i) provide Beneficiary with notice of such further title interest of Grantor to the Land and (ii) execute, acknowledge, and deliver such other and further instruments, documents, and agreements as may be reasonably required by Beneficiary to ratify, confirm, re-affirm, and perfect Beneficiary's interest in such property, including without limitation, any additional deed of trust, mortgage or amendment requested by Beneficiary to confirm Grantor's right, title and interest in and to the fee title of Grantor to the Land. Without the express prior written approval of Beneficiary, there shall be no merger of the leasehold estate created by the Ground Lease with the fee estate of the Land, and Grantor's leasehold estate created by the Ground Lease shall not merge, but shall always remain separate and distinct, notwithstanding any union of such estates in Ground Lessor, Beneficiary, or Grantor by purchase, operation of Law, or otherwise. In the event that Beneficiary shall acquire such fee title and leasehold estate by foreclosure of this Deed of Trust (or by conveyance or assignment in lieu thereof) or otherwise, then such estates shall not merge as a result thereof but shall remain separate and distinct for all purposes after such acquisition unless and until Beneficiary elects in writing to merge such estates.

Section 3.8 Ground Lessor's Default.

Grantor shall promptly notify Beneficiary in writing of any default (however described or defined in the Ground Lease) by Ground Lessor in the performance or observance of any of the terms, covenants or conditions on the part of Ground Lessor to be performed or observed under the Ground Lease. Further, Grantor, promptly upon learning that Ground Lessor has failed to perform the terms and provisions under the Ground Lease (including by reason of a rejection or disaffirmance or purported rejection or disaffirmance of such Ground Lease pursuant to any Debtor Relief Law), shall notify Beneficiary in writing of any such failure to perform. Grantor shall promptly cause a copy of each such notice received by Grantor to be delivered to Beneficiary no later than five (5) business days after the receipt thereof.

Section 3.9 Grantor's Default.

Grantor shall promptly notify Beneficiary in writing of any of the following: (i) any (x) notice of default by Grantor in the performance or observance of any of the terms, covenants, or conditions on the part of Grantor to be performed or observed under the Ground Lease, (y) notice of the occurrence of any event which with the passage of time may become a default (however defined or described) under the Ground Lease or permit Ground Lessor to terminate the Ground Lease or re-enter and take possession of the Real Property, and/or (z) notice of the exercise by Ground Lessor of any remedies relating to defaults or breach of the Ground Lease; (ii) the receipt by Grantor of any written notice from Ground Lessor of termination of the Ground Lease (or otherwise threatening to terminate the Ground Lease) pursuant to the provisions of the Ground Lease; and/or (iii) any litigation or arbitration threatened or commenced with respect to the Ground Lease. Grantor shall promptly cause a copy of each such notice received by Grantor to be delivered to Beneficiary no later than five (5) business days after the receipt thereof.

Section 3.10 Estoppel Certificates.

Grantor shall, within ten (10) days after written demand from Beneficiary, use its commercially reasonable efforts to obtain from Ground Lessor and deliver to Beneficiary an estoppel certificate in form and substance reasonably satisfactory to Beneficiary stating that the Ground Lease is in full force and effect, is unmodified, that no notice of termination thereon has been served on Grantor or Ground Lessor, as the case may be, stating the date to which the rent has been paid, and stating whether there are any defaults thereunder and specifying the nature of such defaults.

Section 3.11 Proof of Payment and Performance.

Grantor shall furnish Beneficiary within ten (10) days of the request therefor: (i) proof of payment of all items which are required to be paid by Grantor pursuant to the Ground Lease and (ii) any and all information with respect to the Ground Lease that Beneficiary may reasonably request concerning Grantor's and/or Ground Lessor's performance under, and compliance with, the terms and conditions thereof.

Section 3.12 No Amendment, Modification, Termination, Subordination of Ground Lease.

Without the express prior written consent of Beneficiary in each instance, Grantor shall not, either orally or in writing: (i) modify, amend, supplement, alter, or change the Ground Lease; (ii) terminate or cancel the Ground Lease or otherwise surrender all or any portion of Grantor's leasehold estate and interest under the Ground Lease; (iii) assign, transfer, or sublease all or any portion of Grantor's leasehold estate and interest under the Ground Lease, excepting residential rentals to individuals who are students at the University of Idaho and members of Grantor as allowed under the terms of the Ground Lease; or (iv) cause, agree to, or permit or suffer to occur any subordination, or consent to the subordination of, the Ground Lease to any mortgage, deed of trust or other lien encumbering (or which may thereafter encumber) Ground Lessor's fee interest in the Land or other Real Property demised to Grantor under the Ground Lease (other than a subordination or consent to subordination expressly required by the terms and conditions of the Ground Lease). Without limiting the generality of the foregoing, Beneficiary's consent to any modification, amendment, supplement, alteration, alteration, sublease, transfer, or assignment respecting the Ground Lease on any one occasion shall not be deemed or construed to constitute a waiver of Beneficiary's right to require consent to any other or further, future, or successive modification, amendment, supplement, alteration, alteration, sublease, transfer, or assignment thereof. Further, to the extent that Ground Lessor requests that Grantor take (or refrain from taking) any material action under or with respect to the Ground Lease (for which the consent or approval by Grantor is required under the Ground Lease and Ground Lessor has requested Grantor's consent or approval), Grantor shall provide

Beneficiary with prompt written notice of such request and shall not provide such consent or approval without the express prior written consent of Beneficiary in each instance.

Section 3.13 Proceeds of Casualty or Condemnation.

Without Beneficiary's express prior written consent in each instance, Grantor shall not agree with Ground Lessor to disburse any proceeds of any casualty or condemnation contrary to the provisions of this Deed of Trust and the other Loan Documents.

Section 3.14 Cure of Default.

Beneficiary shall have the right, but not the obligation, to take any actions reasonably necessary to cure any default (however defined or described) by Grantor under the Ground Lease within the time provided by the terms of the Ground Lease for such purpose. Grantor shall execute and deliver, on request of Beneficiary, such instruments as Beneficiary may reasonably request and deem useful or required to permit Beneficiary to cure any default under the Ground Lease or permit Beneficiary to take such other action as Beneficiary considers desirable to cure or remedy the matter in default and preserve the interest of Beneficiary in the Real Property. Upon receipt by Beneficiary from Ground Lessor of any written notice of default by Grantor under the Ground Lease, Beneficiary may rely thereon and, whether or not such notice or notice of default constitutes a Default hereunder or under any other Loan Document, take any and all action deemed necessary by Beneficiary to prevent or cure such default, notwithstanding that the occurrence of such default may be disputed by Grantor. Without limiting the rights and remedies of Beneficiary pursuant to this Deed of Trust in exercising its rights to prevent or to cure any such default with respect to the Ground Lease, (i) Beneficiary shall have the absolute and immediate right to enter in and upon the Real Property or any part thereof as, when, and to the extent determined necessary or appropriate by Beneficiary and without Beneficiary being deemed or construed to be a mortgagee in possession and (ii) Beneficiary may pay and expend such sums of money as Beneficiary in its sole but reasonable determination deems appropriate (which sums shall automatically constitute Obligations immediately upon payment by Beneficiary), and Grantor hereby agrees to pay to Beneficiary within two (2) business days after demand, all such sums so paid and expended by Beneficiary, together with interest thereon at the default rate provided in the Promissory Note.

Section 3.15 Authority to Act on Behalf of Grantor; Attorney-in-Fact.

During the continuance of a Default hereunder, Grantor hereby authorizes Beneficiary, at Beneficiary's sole option and in its sole and exclusive discretion from time to time: (i) to pay any and all rental payments or similar sums to be paid by Grantor payment of which are then due and payable under the Ground Lease, with interest and penalties thereon if charged by Ground Lessor under the Ground Lease and (ii) to incur and pay all sums reasonably necessary to protect Beneficiary's rights hereunder and under the Ground Lease. Such sums shall automatically constitute Obligations immediately upon payment by Beneficiary and Grantor hereby agrees to pay to Beneficiary within two (2) business days after demand, all such sums so paid and expended by Beneficiary, together with interest thereon at the default rate provided in the Promissory Note. Grantor hereby irrevocably constitutes and appoints Beneficiary and any officer or agent of Beneficiary, with full power of substitution, as its true and lawful attorney-in-fact, coupled with an interest, with full irrevocable power and authority in the place and stead of Grantor or in Grantor's own name to exercise all rights, remedies, powers, privileges, and discretions of Grantor under the Ground Lease (to be exercised by Beneficiary upon the occurrence and during the continuance of a Default) and otherwise to carry out the purposes of this Deed of Trust and the exercise of Beneficiary's rights and remedies hereunder. The foregoing appointment is irrevocable and continuing and such rights, powers and privileges shall be exclusive in Beneficiary, its successors and assigns, so long as such Default remains uncured by Grantor.

Section 3.16 Early Termination of Ground Lease; Grantor's Continued Obligations.

If the Ground Lease is for any reason terminated prior to the natural expiration of its term, and if, pursuant to any provision of the Ground Lease or otherwise, Beneficiary or its designee shall acquire from Ground Lessor thereunder a new or replacement ground lease of the Land and other Real Property, or otherwise relating to the Property, Grantor shall have no right, title or interest in or to such new or replacement ground lease or the leasehold estate created thereby, or any proceeds or income arising from the leasehold estate under such new or replacement ground lease, including, without limitation, on account of any sale or other disposition thereof. Neither the execution and delivery of any such new or replacement ground lease, nor any release or forbearance by Ground Lessor of Grantor's obligations under the Ground Lease shall release or otherwise affect Grantor's continued obligations under this Deed of Trust, including, without limitation, all covenants of Grantor hereunder with respect to the timely payment of all rent under the Ground Lease and the performance of all terms, provisions, covenants, conditions, and agreements contained in the Ground Lease to be kept, performed and complied with by Grantor as provided therein.

Section 3.17 Title to Other Property.

Grantor has good title to the Personalty, and the Personalty is not subject to any Encumbrance other than the Permitted Encumbrances. None of the Leases, Rents, Design and Construction Documents, Contracts of Sale or Refinancing Commitments are subject to any Encumbrance other than the Permitted Encumbrances.

Section 3.18 Property Assessments.

The Real Property is assessed for purposes of Property Assessments as a separate and distinct parcel from any other property, such that the Real Property shall never become subject to the Lien of any Property Assessments levied or assessed against any property other than the Real Property.

Section 3.19 Independence of the Real Property.

No buildings or other improvements on property not covered by this Deed of Trust rely on the Real Property or any interest therein to fulfill any requirement of any Governmental Authority for the existence of such property, building or improvements; and none of the Real Property relies, or will rely, on any property not covered by this Deed of Trust or any interest therein to fulfill any requirement of any Governmental Authority. The Real Property has been properly subdivided from all other property in accordance with the requirements of any applicable Governmental Authorities.

Section 3.20 Existing Improvements.

The existing Improvements, if any, were constructed, and are being used and maintained, in accordance with all applicable Laws, including zoning Laws.

Section 3.21 Leases and Tenants.

The Leases are valid and are in full force and effect, and Grantor is not in default under any of the terms thereof. Except as expressly permitted in the Loan Agreement, Grantor has not accepted any Rents in advance of the time the same became due under the Leases and has not forgiven, compromised or discounted any of the Rents. Grantor has title to and the right to assign the Leases and Rents to Beneficiary, and no other assignment of the Leases or Rents has been granted. To the best of Grantor's knowledge and belief, no tenant or tenants occupying, individually or in the aggregate, more than five percent (5%) of the net rentable area of the Improvements are in default under their Lease(s) or are the subject of any bankruptcy, insolvency or similar proceeding.

Article IV
Affirmative Covenants.

Section 4.1 Obligations.

Grantor agrees to promptly pay and perform all of the Obligations, time being of the essence in each case.

Section 4.2 Property Assessments; Documentary Taxes.

Grantor (a) will promptly pay in full and discharge all Property Assessments, and (b) will furnish to Beneficiary, upon demand, the receipted bills for such Property Assessments prior to the day upon which the same shall become delinquent. Property Assessments shall be considered delinquent as of the first day any interest or (penalty) commences to accrue thereon. Grantor will promptly pay all stamp, documentary, recordation, transfer and intangible taxes and all other taxes that may from time to time be required to be paid with respect to the Loan, the Note, this Deed of Trust or any of the other Loan Documents.

Section 4.3 Permitted Contests.

Grantor shall not be required to pay any of the Property Assessments, or to comply with any Law, so long as Grantor shall in good faith, and at its cost and expense, contest the amount or validity thereof, or take other appropriate action with respect thereto, in good faith and in an appropriate manner or by appropriate proceedings; provided that (a) such proceedings operate to prevent the collection of, or other realization upon, such Property Assessments or enforcement of the Law so contested, (b) there will be no sale, forfeiture or loss of the Property during the contest, (c) neither Beneficiary nor Trustee nor the Property is subject to any Claim as a result of such contest, and (d) Grantor provides assurances satisfactory to Beneficiary (including the establishment of an appropriate reserve account with Beneficiary) of its ability to pay such Property Assessments or comply with such Law in the event Grantor is unsuccessful in its contest. Each such contest shall be promptly prosecuted to final conclusion or settlement, and Grantor shall indemnify and save Beneficiary and Trustee harmless against all Claims in connection therewith. Promptly after the settlement or conclusion of such contest or action, Grantor shall comply with such Law and/or pay and discharge the amounts which shall be levied, assessed or imposed or determined to be payable, together with all penalties, fines, interests, costs and expenses in connection therewith.

Section 4.4 Compliance with Laws.

Grantor will comply with and not violate, and cause to be complied with and not violated, all present and future Laws applicable to the Property and its use and operation.

Section 4.5 Maintenance and Repair of the Property.

Grantor, at Grantor's sole expense, will (a) keep and maintain Improvements and Accessories in good condition, working order and repair, (b) make all necessary or appropriate repairs and Additions to Improvements and Accessories, so that each part of the Improvements and all of the Accessories shall at all times be in good condition and fit and proper for the respective purposes for which they were originally intended, erected, or installed, and (c) commit or permit no waste.

Section 4.6 Additions to Security.

All right, title and interest of Grantor in and to all Improvements and Additions hereafter constructed or placed on the Property and in and to any Accessories hereafter acquired shall, without any further mortgage, conveyance, assignment or other act by Grantor, become subject to the Lien of this

Deed of Trust as fully and completely, and with the same effect, as though now owned by Grantor and specifically described in the granting clauses hereof. Grantor agrees, however, to execute and deliver to Trustee and/or Beneficiary such further documents as may be required by the terms of the Loan Agreement and the other Loan Documents.

Section 4.7 Subrogation.

To the extent permitted by Law, Beneficiary shall be subrogated, notwithstanding its release of record, to any Lien now or hereafter existing on the Property to the extent that such Lien is paid or discharged by Beneficiary whether or not from the proceeds of the Loan. This Section shall not be deemed or construed, however, to obligate Beneficiary to pay or discharge any Lien.

Section 4.8 Leases.

(a) Except as expressly permitted in the Loan Agreement and except residential rentals to individuals who are students at the University of Idaho and members of Grantor as allowed under the terms of the Ground Lease, Grantor shall not enter into any Lease with respect to all or any portion of the Property without the prior written consent of Beneficiary.

(b) Neither Trustee nor Beneficiary shall be obligated to perform or discharge any obligation of Grantor under any Lease. The assignment of Leases provided for in this Deed of Trust in no manner places on Beneficiary or Trustee any responsibility for (i) the control, care, management or repair of the Property, (ii) the carrying out of any of the terms and conditions of the Leases, (iii) any waste committed on the Property, or (iv) any dangerous or defective condition on the Property (whether known or unknown).

(c) No approval of any Lease by Beneficiary shall be for any purpose other than to protect Beneficiary's security and to preserve Beneficiary's rights under the Loan Documents, and no such approval shall result in a waiver of a Default or Event of Default.

Section 4.9 Treatment of Ground Lease in Bankruptcy of Ground Lessor.

(a) Rejection or Affirmation of Ground Lease. If Ground Lessor rejects or disaffirms, or seeks or purports to reject or disaffirm, the Ground Lease pursuant to any Debtor Relief Law, then Grantor shall not exercise the 365(h) Election without the express prior written consent of Beneficiary. To the extent permitted by Law, Grantor shall not suffer, permit, or consent to the termination (and/or any rejection or disaffirmance) of the Ground Lease pursuant to the Debtor Relief Law without Beneficiary's express prior written consent. Grantor acknowledges and agrees that because the Ground Lease is a primary element of Beneficiary's security for the Obligations secured hereunder, it is not anticipated that Beneficiary would consent to termination of any Ground Lease. Accordingly, if Grantor makes any 365(h) Election in violation of this Deed of Trust, then such 365(h) Election shall be void and of no force or effect.

(b) 365(h) Election. To the extent permitted by Law, Grantor hereby assigns to Beneficiary the 365(h) Election with respect to the Ground Lease until the Obligations secured hereunder have been indefeasibly paid and satisfied in full. Grantor acknowledges and agrees that the foregoing assignment of the 365(h) Election and related rights is one of the rights that Beneficiary may use at any time to protect and preserve Beneficiary's other rights and interests under this Deed of Trust. Grantor further acknowledges that exercise of the 365(h) Election by Grantor in favor of terminating the Ground Lease would constitute waste prohibited by this Deed of Trust. Grantor acknowledges and agrees that the 365(h) Election is in the nature of a remedy available to Grantor under the Ground Lease, and is not a property interest that Grantor can separate from the Ground Lease as to which it arises. Therefore,

Grantor agrees and acknowledges that exercise of the 365(h) Election in favor of preserving the right to possession under the Ground Lease shall not be deemed to constitute Beneficiary's taking or sale of the Land and other Real Property (or any element thereof) and shall not entitle Grantor to any credit against the Obligations secured hereunder or otherwise impair Beneficiary's remedies. Without limiting the generality of the foregoing, Grantor acknowledges and agrees that, in the event that the 365(h) Election is exercised in favor of Grantor remaining in possession, then Grantor's resulting right to possession and use of the Property (and the rents, issues and profits therefrom), as adjusted by the effect of Section 365 of the Bankruptcy Code, shall then be subject to the lien and encumbrance of this Deed of Trust; provided, however, Grantor acknowledges and agrees that such right to possession and use of the Property as so adjusted is not equivalent to Grantor's leasehold estate under the Ground Lease as of the date hereof. Accordingly, and without limiting the provisions of Article VI Events of Default herein, Grantor acknowledges and agrees that the rejection of the Ground Lease under the Bankruptcy Code shall constitute a Default under this Deed of Trust if such rejection shall reasonably result in material impairment to the value of the Property and shall entitle Beneficiary to exercise all rights and remedies provided for in this Deed of Trust or the other Loan Documents in the event of the occurrence of a Default.

(c) Lien on Occupancy Rights. Grantor acknowledges that if the 365(h) Election is exercised in favor of Grantor's remaining in possession under the Ground Lease, then Grantor's resulting occupancy rights, as adjusted by the effect of Section 365 of the Bankruptcy Code, shall then be part of the Property and shall be subject to the lien of this Deed of Trust.

(d) Rejection of Lease by Ground Lessor. If Ground Lessor rejects or disaffirms any Ground Lease or purports or seeks to disaffirm such Ground Lease pursuant to any Debtor Relief Law, then:

(i) To the fullest extent not prohibited by applicable Law, Grantor shall remain in possession of the Property demised under the Ground Lease and shall perform all acts reasonably necessary for Grantor to remain in such possession for the unexpired term of the Ground Lease (including all renewals), whether the then existing terms and provisions of the Ground Lease require such acts or otherwise; and

(ii) All the terms and provisions of this Deed of Trust and the lien created by this Deed of Trust shall remain in full force and effect and shall extend automatically to all of Grantor's rights and remedies arising at any time under, or pursuant to, Section 365(h) of the Bankruptcy Code, including all of Grantor's rights to remain in possession of the Property.

(e) Offset by Grantor. If pursuant to Section 365(h)(1)(B) of the Bankruptcy Code or any other similar Debtor Relief Law, Grantor seeks to offset against any rent under the Ground Lease the amount of any Lease Damage Claim, then Grantor shall notify Beneficiary of its intent to do so at least twenty (20) days before effecting such offset. Such notice shall set forth the amounts proposed to be so offset and the basis for such offset. If Beneficiary reasonably objects to all or any part of such offset, then Grantor shall not effect any offset of the amounts to which Beneficiary reasonably objects. If Beneficiary approves such offset, then Grantor may effect such offset as set forth in Grantor's notice. Neither Beneficiary's failure to object, nor any objection or other communication between Beneficiary and Grantor that relates to such offset, shall constitute Beneficiary's approval of any such offset. Grantor shall indemnify Beneficiary against any offset against the rent reserved in any Lease.

(f) Lessor's Sale of Land. In connection with any Insolvency Proceeding, Grantor, upon learning that Ground Lessor intends to conduct a sale of any of the Property, shall immediately notify Beneficiary of such intention and, to the fullest extent not prohibited by applicable Law, Grantor shall timely file any and all objections, pleadings, and notices contesting and objecting to Ground Lessor's intention to sell the Property, whether such sale is pursuant to Section 363 of the Bankruptcy Code or any other Debtor Relief Law.

(g) Notice of Bankruptcy. Grantor, upon learning of any Insolvency Proceeding with respect to Ground Lessor, shall immediately notify Beneficiary of such Insolvency Proceeding, including using good faith efforts to provide all relevant information pertaining thereto, including jurisdiction, case number, and relevant case information. Grantor, upon learning of any actions by Ground Lessor to sell, encumber, or otherwise effect the Property, or terminate, reject, disaffirm or assign the Ground Lease, shall promptly notify Beneficiary, including using good faith efforts to provide Beneficiary with copies of any and all notices and pleadings filed in connection with the foregoing.

Article V Negative Covenants.

Section 5.1 Encumbrances

Grantor will not permit any of the Property to become subject to any Encumbrance other than the Permitted Encumbrances. Within thirty (30) days after the filing of any mechanic's lien or other Lien or Encumbrance against the Property, Grantor will promptly discharge the same by payment or filing a bond or otherwise as permitted by Law. So long as Beneficiary's security has been protected by the filing of a bond or otherwise in a manner satisfactory to Beneficiary in its sole and absolute discretion, Grantor shall have the right to contest in good faith any Claim, Lien or Encumbrance, provided that Grantor does so diligently and without prejudice to Beneficiary or delay in completing construction of the Improvements. Grantor shall give Beneficiary Notice of any default under any Lien and Notice of any foreclosure or threat of foreclosure with respect to any of the Property. Grantor agrees that it shall indemnify and hold Beneficiary harmless against any loss or liability, cost or expense, including any judgments, attorneys' fees and costs, costs of appeal bonds and printing costs, arising out of or relating to any proceeding instituted by any claimant alleging priority over the lien of this Deed of Trust.

Section 5.2 Transfer of the Property.

Grantor will not Transfer, or contract to Transfer, all or any part of the Property or any legal or beneficial interest therein (except for certain Transfers of the Accessories expressly permitted in this Deed of Trust).

Section 5.3 Removal, Demolition or Alteration of Accessories and Improvements.

Except to the extent permitted by the following sentence, no Improvements or Accessories shall be removed, demolished or materially altered without the prior written consent of Beneficiary. Grantor may remove and dispose of, free from the Lien of this Deed of Trust, such Accessories as from time to time become worn out or obsolete, provided that, either (a) at the time of, or prior to, such removal, any such Accessories are replaced with other Accessories which are free from Liens other than Permitted Encumbrances and have a value at least equal to that of the replaced Accessories (and by such removal and replacement Grantor shall be deemed to have subjected such Accessories to the Lien of this Deed of Trust), or (b) so long as a prepayment may be made without the imposition of any premium pursuant to the Note, such Accessories are sold at fair market value for cash and the net cash proceeds received from such disposition are paid over promptly to Beneficiary to be applied to the prepayment of the principal of the Loan.

Section 5.4 Additional Improvements.

Grantor will not construct any Improvements other than those presently on the Land and those described in the Loan Agreement without the prior written consent of Beneficiary. Grantor will complete and pay for, within a reasonable time, any Improvements which Grantor is permitted to construct on the Land. Grantor will construct and erect any permitted Improvements (a) strictly in accordance with all applicable Laws and any private restrictive covenants, (b) entirely on lots or parcels of the Land, (c) so as not to encroach upon any easement or right of way or upon the land of others, and (d) wholly within any building restriction and setback lines applicable to the Land.

Section 5.5 Restrictive Covenants, Zoning, etc.

Without the prior written consent of Beneficiary, Grantor will not initiate, join in, or consent to any change in, any restrictive covenant, easement, zoning ordinance, or other public or private restrictions limiting or defining the uses which may be made of the Property. Grantor (a) will promptly perform and observe, and cause to be performed and observed, all of the terms and conditions of all agreements affecting the Property, and (b) will do or cause to be done all things necessary to preserve intact and unimpaired any and all easements, appurtenances and other interests and rights in favor of, or constituting any portion of, the Property.

Article VI Events of Default.

The occurrence or happening, from time to time, of any one or more of the following shall constitute an Event of Default under this Deed of Trust:

Section 6.1 Payment Obligations.

Grantor fails to pay any of the Obligations when due, whether on the scheduled due date or upon acceleration, maturity or otherwise.

Section 6.2 Transfers.

Grantor Transfers, or contracts to Transfer, all or any part of the Property or any legal or beneficial interest therein (except for Transfers of the Accessories expressly permitted under this Deed of Trust).

Section 6.3 Other Obligations.

Grantor fails to promptly perform or comply with any of the Obligations set forth in this Deed of Trust (other than those expressly described in other Sections of this Article), and such failure continues uncured for a period of thirty (30) days after Notice from Beneficiary to Grantor, unless (a) such failure, by its nature, is not capable of being cured within such period, and (b) within such period, Grantor commences to cure such failure and thereafter diligently prosecutes the cure thereof, and (c) Grantor causes such failure to be cured no later than ninety (90) days after the date of such Notice from Beneficiary.

Section 6.4 Event of Default Under Other Loan Documents.

An Event of Default (as defined therein) occurs under the Note or the Loan Agreement, or Grantor or Guarantor fails to promptly pay, perform, observe or comply with any obligation or agreement contained in any of the other Loan Documents (within any applicable grace or cure period).

Section 6.5 Change in Zoning or Public Restriction.

Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Loan Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed.

Section 6.6 Default Under Leases.

Grantor fails to perform its obligations under any Lease, and such failure is not cured within the grace period, if any, provided in the Lease.

Section 6.7 Default Under Other Lien Documents.

A default occurs under any other mortgage, deed of trust or security agreement covering the Property, including any Permitted Encumbrances.

Section 6.8 Execution; Attachment.

Any execution or attachment is levied against any of the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

Section 6.9 Default Under Ground Lease; Termination; Rejection. The occurrence of : (i) any default or event of default (however defined or described) under the terms and conditions of Ground Lease if such default is not cured within any grace period applicable thereto; (ii) any termination or attempted termination of the Ground Lease; and/or (iii) the rejection of the Ground Lease under the Bankruptcy Code, as provided in Section 4.9 hereof.

Article VII
Rights and Remedies.

Upon the happening of any Event of Default, Beneficiary, or Trustee at the direction of Beneficiary, shall have the right, in addition to any other rights or remedies available to Beneficiary under any of the Loan Documents or applicable Law, to exercise any one or more of the following rights, powers or remedies:

Section 7.1 Acceleration.

Beneficiary may accelerate any or all (as determined by Beneficiary in its sole discretion) of the Obligations, whereupon such Obligations shall become immediately due and payable, without notice of default, notice of acceleration or intention to accelerate, presentment or demand for payment, protest, notice of protest, notice of nonpayment or dishonor, or notices or demands of any kind or character, all of which are hereby waived by Grantor.

Section 7.2 Appraisal; Inspection.

Beneficiary may pay such sums as may be necessary to obtain a current appraisal of the Real Property and/or other Property, to inspect and test the Real Property and /or other Property, to pay any tax, assessment, insurance premium, lien, encumbrance or other charge against the Property, to obtain a title report, litigation guaranty and/or Trustee's sale guaranty, all such expenditures to be paid by Grantor on demand and added to the Obligations.

Section 7.3 Exercise of Legal Rights; Foreclosure; Power of Sale.

Beneficiary may exercise any one or more of its rights and remedies under the Loan Documents and applicable Law including foreclosure of this Deed of Trust judicially as a mortgage or non-judicially

pursuant to the power of sale granted herein. Trustee may sell the Property in its entirety or in parcels, and by one or by several sales, as deemed appropriate by Trustee in its sole and absolute discretion. If Trustee chooses to have more than one foreclosure sale, Trustee may cause the foreclosure sales to be held simultaneously or successively, on the same day, or on such different days and at such different times as Trustee may elect. Trustee shall receive and apply the proceeds from the sale of the Property, or any portion thereof, in accordance with applicable Law. Grantor and the holder of any subordinate lien or security interest with actual or constructive notice of this Deed of Trust waive any equitable, statutory or other right to require marshaling of assets or to direct the order in which the Property will be sold.

Section 7.4 Collection of Rents.

Upon the occurrence 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. Beneficiary may, but shall not be obligated to, perform any or all obligations of the landlord under any or all of the Leases, and Beneficiary 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, Beneficiary may notify the tenants under the Leases that all Rents are to be paid to Beneficiary, and following such notice all Rents shall be paid directly to Beneficiary and not to Grantor or any other Person other than as directed by Beneficiary, it being understood that a demand by Beneficiary on any tenant under the Leases for the payment of Rent shall be sufficient to warrant payment by such tenant of Rent to Beneficiary without the necessity of further consent by Grantor. Grantor hereby irrevocably authorizes and directs the tenants under the Leases to pay all Rents to Beneficiary instead of to Grantor, upon receipt of written notice from Beneficiary, 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 Beneficiary as Grantor's attorney-in-fact with full power of substitution, which appointment shall take effect 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 Beneficiary'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 Beneficiary; (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 Beneficiary may deem necessary or desirable to protect the security for the Obligations. Any Rents received shall be applied first to pay all Expenses and next in reduction of the other Obligations. Grantor shall pay, on demand, to Beneficiary, the amount of any deficiency between (i) the Rents received by Beneficiary, and (ii) all Expenses incurred together with interest thereon as provided in the Loan Agreement and the other Loan Documents.

Section 7.5 Taking Possession or Control of the Property.

As a matter of right without bond and without regard to the adequacy of the security, and to the extent permitted by Law without notice to Grantor, Beneficiary shall be entitled, upon application to a court of competent jurisdiction, to the immediate appointment of a receiver for all or any part of the Property and the Rents, whether such receivership may be incidental to a proposed sale of the Property or otherwise, and Grantor hereby consents to the appointment of such a receiver and agrees that such receiver shall have all of the rights and powers granted to Beneficiary pursuant to Section 7.4. In addition, to the extent permitted by Law, and with or without the appointment of a receiver, or an application therefor, Beneficiary may (a) enter upon, and take possession of (and Grantor shall surrender actual possession of), the Property or any part thereof, without notice to Grantor and without bringing any

legal action or proceeding, or, if necessary by force, legal proceedings, ejectment or otherwise, and (b) remove and exclude Grantor and its agents and employees therefrom.

Section 7.6 Management of the Property.

Upon obtaining possession of the Property or upon the appointment of a receiver as described in Section 7.5, Beneficiary, Trustee or the receiver, as the case may be, may, at its sole option, (a) make all necessary or proper repairs and Additions to or upon the Property, (b) operate, maintain, control, make secure and preserve the Property, and (c) complete the construction of any unfinished Improvements on the Property and, in connection therewith, continue any and all outstanding contracts for the erection and completion of such Improvements and make and enter into any further contracts which may be necessary, either in their or its own name or in the name of Grantor (the costs of completing such Improvements shall be Expenses secured by this Deed of Trust and shall accrue interest as provided in the Loan Agreement and the other Loan Documents). Beneficiary, Trustee or such receiver shall be under no liability for, or by reason of, any such taking of possession, entry, holding, removal, maintaining, operation or management, except for gross negligence or willful misconduct. The exercise of the remedies provided in this Section shall not cure or waive any Event of Default, and the enforcement of such remedies, once commenced, shall continue for so long as Beneficiary shall elect, notwithstanding the fact that the exercise of such remedies may have, for a time, cured the original Event of Default.

Section 7.7 Uniform Commercial Code.

Beneficiary may proceed under the Uniform Commercial Code as to all or any part of the Personalty, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the Uniform Commercial Code. Upon the occurrence of any Event of Default, Grantor shall assemble all of the Accessories and make the same available within the Improvements. Any notification required by the Uniform Commercial Code shall be deemed reasonably and properly given if sent in accordance with the Notice provisions of this Deed of Trust at least ten (10) days before any sale or other disposition of the Personalty. Disposition of the Personalty shall be deemed commercially reasonable if made pursuant to a public sale advertised at least twice in a newspaper of general circulation in the community where the Property is located. It shall be deemed commercially reasonable for the Trustee to dispose of the Personalty without giving any warranties as to the Personalty and specifically disclaiming all disposition warranties. Alternatively, Beneficiary may choose to dispose of some or all of the Property, in any combination consisting of both Personalty and Real Property, in one sale to be held in accordance with the Law and procedures applicable to real property, as permitted by Article 9 of the Uniform Commercial Code. Grantor agrees that such a sale of Personalty together with Real Property constitutes a commercially reasonable sale of the Personalty.

Section 7.8 Application of Proceeds.

Unless otherwise provided by applicable Law, all proceeds from the sale of the Property or any part thereof pursuant to the rights and remedies set forth in this Article and any other proceeds received by Beneficiary from the exercise of any of its other rights and remedies hereunder or under the other Loan Documents shall be applied first to pay all Expenses and next in reduction of the other Obligations, in such manner and order as Beneficiary may elect.

Section 7.9 Cumulative Remedies; No Waiver.

To the fullest extent allowed by Law, all of Beneficiary's and Trustee's rights and remedies specified in the Deed of Trust or in any other of the Loan Documents are cumulative, not mutually exclusive and not in substitution for any rights or remedies available at law or in equity. Without waiving its rights in the Property, Beneficiary may proceed against Grantor, any other Person obligated to pay or perform the Obligations or against any other security or guaranty for the Obligations, in such order or manner as Beneficiary may elect. Beneficiary's failure to exercise or enforce any of its rights or remedies in the event of a Default shall not constitute a waiver or cure of the Default, or of any subsequent Default, or of Beneficiary's rights or remedies with respect to such Default.

Article VIII Trustee.

Section 8.1 Liability of Trustee.

Trustee shall have no liability or responsibility for, and make no warranties in connection with, the validity or enforceability of any of the Loan Documents or the description, value or status of title to the Property. Trustee shall be protected in acting upon any notice, request, consent, demand, statement, note or other paper or document believed by Trustee to be genuine and to have been signed by the party or parties purporting to sign the same. Trustee shall not be liable for any error of judgment, nor for any act done or step taken or omitted, nor for any mistakes of law or fact, nor for anything which Trustee may do or refrain from doing in good faith, nor generally shall Trustee have any accountability hereunder except for willful misconduct or gross negligence. The powers and duties of Trustee hereunder may be exercised through such attorneys, agents or servants as Trustee may appoint, and Trustee shall have no liability or responsibility for any act, failure to act, negligence or willful misconduct of such attorney, agent or servant, so long as the selection was made with reasonable care. In addition, Trustee may consult with legal counsel selected by Trustee, and Trustee shall have no liability or responsibility by reason of any act or failure to act in accordance with the opinions of such counsel. Trustee may act hereunder and may sell or otherwise dispose of the Property or any part thereof as herein provided, although Trustee has been, may now be or may hereafter be, an attorney, officer, agent or employee of Beneficiary, in respect of any matter or business whatsoever. Trustee, however, shall have no obligation to sell all or any part of the Property following an Event of Default or to take any other action authorized to be taken by Trustee hereunder except upon the demand of Beneficiary.

Section 8.2 Indemnification of Trustee.

Grantor agrees to indemnify Trustee and to hold Trustee harmless from and against any and all Claims and Expenses directly or indirectly arising out of or resulting from any transaction, act, omission, event or circumstance in any way connected with the Property or the Loan, including but not limited to any Claim arising out of or resulting from any assertion or allegation that Trustee is liable for any act or omission of Grantor or any other Person in connection with the ownership, development, financing, operation or sale of the Property; provided, however, that Grantor shall not be obligated to indemnify Trustee with respect to any Claim arising solely from the gross negligence or willful misconduct of Trustee. The agreements and indemnifications contained in this Section shall apply to Claims arising both before and after the repayment of the Loan and shall survive the repayment of the Loan, any foreclosure or deed in lieu thereof and any other action by Trustee to enforce the rights and remedies of Beneficiary or Trustee hereunder or under the other Loan Documents.

Section 8.3 Substitution of Trustee; Multiple Trustees.

Beneficiary shall have, and is hereby granted with warranty of further assurances, the irrevocable power to appoint a new or replacement or substitute Trustee. Such power may be exercised at any time without notice, without cause and without specifying any reason therefor, by filing for record in the office where this Deed of Trust is recorded a Notice of Substitution of Trustee. The power of appointment of a successor Trustee may be exercised as often as and whenever Beneficiary may choose, and the exercise of the power of appointment, no matter how often, shall not be an exhaustion thereof. Upon the recordation of such Notice of Substitution of Trustee, the Trustee so appointed shall thereupon, without any further act or deed of conveyance, become fully vested with identically the same title and estate in and to the Property and with all the rights, powers, trusts and duties of its predecessor in the trust hereunder with like effect as if originally named as Trustee hereunder. Whenever in this Deed of Trust reference is made to Trustee, it shall be construed to mean each Person appointed as Trustee for the time being, whether original or successor in trust. All title, estate, rights, powers, trusts and duties granted to Trustee shall be in each Person appointed as Trustee so that any action hereunder by any Person appointed as Trustee shall for all purposes be deemed to be, and as effective as, the action of all Trustees.

Article IX Miscellaneous.

Section 9.1 Rights, Powers and Remedies Cumulative.

Each right, power and remedy of Beneficiary or Trustee as provided for in this Deed of Trust, or in any of the other Loan Documents or now or hereafter existing by Law, shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Deed of Trust, or in any of the other Loan Documents or now or hereafter existing by Law, and the exercise or beginning of the exercise by Beneficiary or Trustee of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by Beneficiary or Trustee of any or all such other rights, powers or remedies.

Section 9.2 No Waiver by Beneficiary or Trustee.

No course of dealing or conduct by or among Beneficiary, Trustee and Grantor shall be effective to amend, modify or change any provisions of this Deed of Trust or the other Loan Documents. No failure or delay by Beneficiary or Trustee to insist upon the strict performance of any term, covenant or agreement of this Deed of Trust or of any of the other Loan Documents, or to exercise any right, power or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, covenant or agreement or of any such breach, or preclude Beneficiary or Trustee from exercising any such right, power or remedy at any later time or times. By accepting payment after the due date of any of the Obligations, neither Beneficiary nor Trustee shall be deemed to waive the right either to require prompt payment when due of all other Obligations, or to declare an Event of Default for failure to make prompt payment of any such other Obligations. Neither Grantor nor any other Person now or hereafter obligated for the payment of the whole or any part of the Obligations shall be relieved of such liability by reason of (a) the failure of Beneficiary to comply with any request of Grantor or of any other Person to take action to foreclose this Deed of Trust or otherwise enforce any of the provisions of this Deed of Trust, or (b) any agreement or stipulation between any subsequent interest holders in the Property and Beneficiary, or (c) Beneficiary's extending the time of payment or modifying the terms of this Deed of Trust or any of the other Loan Documents without first having obtained the consent of Grantor or such other Person. Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate Lien on the Property, Beneficiary may release any Person at any time liable for any of the Obligations or any part of the security for the Obligations and may extend the time of payment or

otherwise modify the terms of this Deed of Trust or any of the other Loan Documents without in any way impairing or affecting the Lien of this Deed of Trust or the priority of this Deed of Trust over any subordinate Lien. The holder of any subordinate Lien shall have no right to terminate any Lease regardless of whether or not such Lease is subordinate to this Deed of Trust. Beneficiary may resort to the security or collateral described in this Deed of Trust or any of the other Loan Documents in such order and manner as Beneficiary may elect in its sole discretion.

Section 9.3 Waivers and Agreements Regarding Remedies.

To the full extent Grantor may do so, Grantor hereby voluntarily and knowingly:

(a) agrees that it will not at any time plead, claim or take advantage of any Laws now or hereafter in force providing for any appraisement, valuation, stay, or extension, and waives and releases all rights of valuation, appraisement, stay of execution, extension and notice of election to accelerate the Obligations;

(b) waives all rights to a marshaling of the assets of Grantor, including the Property, or to a sale in the inverse order of alienation in the event of a foreclosure of the Property, and agrees not to assert any right under any Law pertaining to the marshaling of assets, the sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents, or other matters whatsoever to defeat, reduce or affect the right of Beneficiary under the terms of this Deed of Trust to a sale of the Property without any prior or different resort for collection, or the right of Beneficiary to the payment of the Obligations out of the proceeds of sale of the Property in preference to every other claimant whatsoever;

(c) waives any right to bring or utilize any defense, counterclaim or setoff, other than one which denies the existence or sufficiency of the facts upon which any foreclosure action is grounded. If any defense, counterclaim or setoff, other than one permitted by the preceding clause, is timely raised in a foreclosure action, such defense, counterclaim or setoff shall be dismissed. If such defense, counterclaim or setoff is based on a Claim which could be tried in an action for money damages, such Claim may be brought in a separate action which shall not thereafter be consolidated with the foreclosure action. The bringing of such separate action for money damages shall not be deemed to afford any grounds for staying the foreclosure action; and

(d) waives and relinquishes any and all rights and remedies which Grantor may have or be able to assert by reason of the provisions of any Laws pertaining to the rights and remedies of sureties.

Section 9.4 Successors and Assigns

All of the grants, covenants, terms, provisions and conditions of this Deed of Trust shall run with the Land and shall apply to and bind the successors and assigns of Grantor (including any permitted subsequent owner of the Property), and inure to the benefit of Beneficiary, its successors and assigns and to the successors in trust of Trustee.

Section 9.5 No Warranty by Beneficiary or Trustee.

By inspecting the Property or by accepting or approving anything required to be observed, performed or fulfilled by Grantor or to be given to Beneficiary or Trustee pursuant to this Deed of Trust or any of the other Loan Documents, Beneficiary and Trustee 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 Beneficiary or Trustee.

Section 9.6 Amendments.

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

Section 9.7 Severability.

In the event any one or more of the provisions of this Deed of Trust or any of the other Loan Documents shall for any reason be held to be invalid, illegal or unenforceable, in whole or in part or in any other respect, or in the event any one or more of the provisions of the Loan Documents operates or would prospectively operate to invalidate this Deed of Trust or any of the other Loan Documents, then and in either of those events, at the option of Beneficiary, such provision or provisions only shall be deemed null and void and shall not affect the validity of the remaining Obligations, and the remaining provisions of the Loan Documents shall remain operative and in full force and effect and shall in no way be affected, prejudiced or disturbed thereby.

Section 9.8 Notices.

All Notices required or which any party desires to give hereunder or under any other Loan Document shall be in writing and, unless otherwise specifically provided in such other Loan Document, shall be deemed sufficiently given or furnished if delivered by personal delivery, by nationally recognized overnight courier service or by certified United States mail, postage prepaid, addressed to the party to whom directed at the applicable address specified in the Preamble to this Deed of Trust (unless changed by similar notice in writing given by the particular party whose address is to be changed) or by facsimile. Any Notice shall be deemed to have been given either at the time of personal delivery or, in the case of courier or mail, as of the date of first attempted delivery at the address and in the manner provided herein, or, in the case of facsimile, upon receipt; provided that service of a Notice required by any applicable statute shall be considered complete when the requirements of that statute are met. Notwithstanding the foregoing, no notice of change of address shall be effective except upon actual receipt. This Section shall not be construed in any way to affect or impair any waiver of notice or demand provided in this Deed of Trust or in any other Loan Document or to require giving of notice or demand to or upon any Person in any situation or for any reason.

Section 9.9 Joint and Several Liability.

If Grantor consists of two (2) or more Persons, the term "Grantor" shall also refer to all Persons signing this Deed of Trust as Grantor, and to each of them, and all of them are jointly and severally bound, obligated and liable hereunder. Trustee or Beneficiary may release, compromise, modify or settle with any of Grantor, in whole or in part, without impairing, lessening or affecting the obligations and liabilities of the others of Grantor hereunder or under the Note. Any of the acts mentioned aforesaid may be done without the approval or consent of, or notice to, any of Grantor.

Section 9.10 Rules of Construction.

The words "hereof," "herein," "hereunder," "hereto," and other words of similar import refer to this Deed of Trust in its entirety. The terms "agree" and "agreements" mean and include "covenant" and "covenants." The words "include" and "including" shall be interpreted as if followed by the words "without limitation." The headings of this Deed of Trust are for convenience of reference only and shall not be considered a part hereof and are not in any way intended to define, limit or enlarge the terms hereof. All references (a) made in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, (b) made in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well, (c) to the Loan Documents are to the same as extended, amended, restated, supplemented or otherwise modified from time to time unless expressly

indicated otherwise, (d) to the Land, Improvements, Personalty, Real Property or Property shall mean all or any portion of each of the foregoing, respectively, and (e) to Articles or Sections are to the respective Articles or Sections contained in this Deed of Trust unless expressly indicated otherwise. Any term used or defined in the Uniform Commercial Code of the State, as in effect from time to time, which is not defined in this Deed of Trust shall have the meaning ascribed to that term in the Uniform Commercial Code of the State. If a term is defined in Article 9 of the Uniform Commercial Code of the State differently than in another Article of the Uniform Commercial Code of the State, the term shall have the meaning specified in Article 9.

Section 9.11 Governing Law.

This Deed of Trust shall be construed, governed and enforced in accordance with the Laws in effect from time to time in the State.

Section 9.12 Entire Agreement.

The Loan Documents constitute the entire understanding and agreement between Grantor and Beneficiary with respect to the transactions arising in connection with the Loan, and supersede all prior written or oral understandings and agreements between Grantor and Beneficiary with respect to the matters addressed in the Loan Documents. In particular, and without limitation, the terms of any commitment by Beneficiary to make the Loan are merged into the Loan Documents. Except as incorporated in writing into the Loan Documents, there are no representations, understandings, stipulations, agreements or promises, oral or written, with respect to the matters addressed in the Loan Documents.

Lender's Right to Force-Place Insurance Coverage.

UNLESS YOU PROVIDE LENDER WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY OUR CONTRACT OR LOAN AGREEMENT, LENDER MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT LENDER'S INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE LENDER PURCHASES MAY NOT PAY ANY CLAIM YOU MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED PROPERTY COVERAGE ELSEWHERE.

YOU ARE RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY LENDER. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR CONTRACT OR LOAN BALANCE. IF THE COST IS ADDED TO YOUR CONTRACT OR LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING CONTRACT OR LOAN WILL APPLY TO THIS ADDED AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR PRIOR COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF OF COVERAGE.

THE COVERAGE LENDER PURCHASES MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE YOU CAN OBTAIN ON YOUR OWN AND MAY NOT SATISFY ANY NEED FOR PROPERTY DAMAGE COVERAGE OR ANY MANDATORY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.

Grantor has caused this Deed of Trust to be executed as of the date first written above.

GRANTOR: DELTA ZETA SORORITY

an Ohio non-profit corporation

By: 

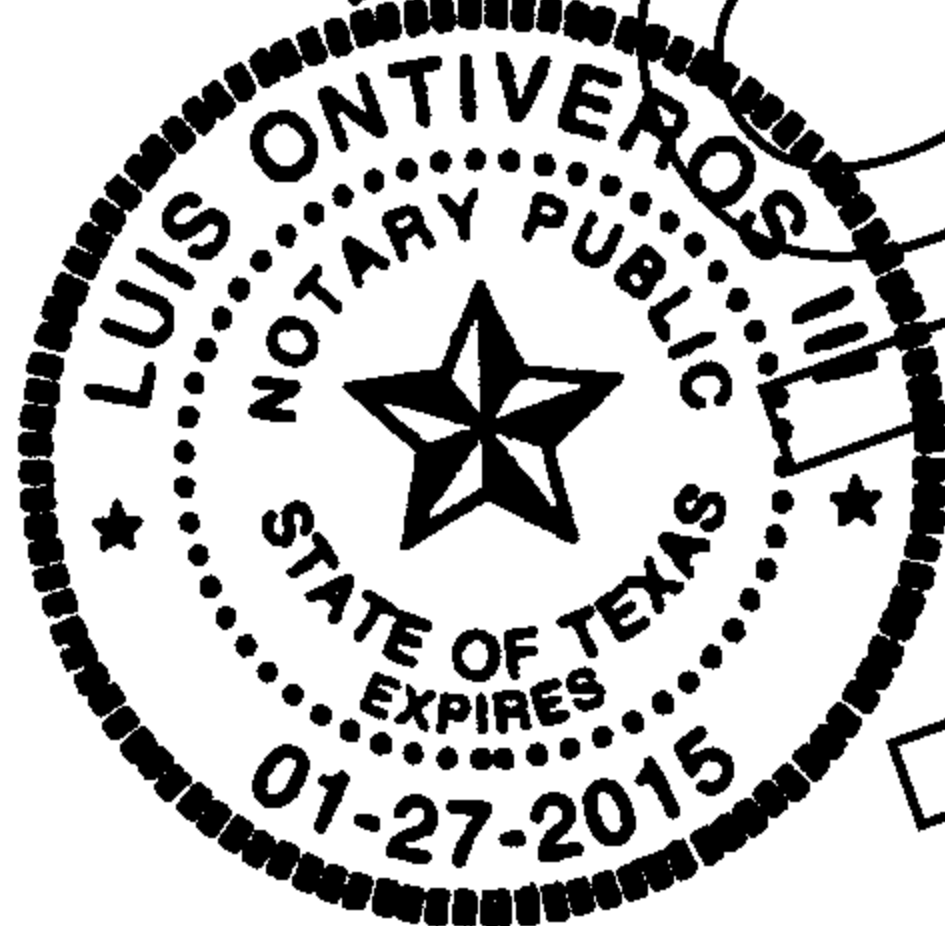
Name: Cathy Painter

Title: Vice President, Finance

COPY

STATE OF ~~IDAHO~~ ^{TEXAS})
)
 COUNTY OF TRAVIS) ss.

On this 6TH day of AUGUST, in the year 2014, before me
 _____, a Notary Public in and for the State of Idaho, personally
 appeared CATHERINE PAINTER known or identified to me (or proved to me on the oath of _____)
 to be the Vice President, Finance of Delta Zeta Sorority, the
 _____ that executed the above instrument on behalf of the Grantor and
 acknowledged to me that such _____ executed the same. In witness whereof I have
 hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]
 Notary Public, residing at AUSTIN, TX
 My commission expires on 1-27-15

OFFICIAL COPY

EXHIBIT A

THIS EXHIBIT A is attached to and part of the LEASEHOLD DEED OF TRUST dated August ____, 2014, between Delta Zeta Sorority an Ohio corporation, as GRANTOR, Moscow Title, Inc., an Idaho corporation, as TRUSTEE, and BANK OF AMERICA, N.A., as BENEFICIARY.

LEGAL DESCRIPTION: All that parcel or parcels of real property located in Latah County, State of Idaho which is either (i) located within an incorporated city or village, (ii) does not exceed eighty (80) acres in size, regardless of its location, and is not used for the agricultural production of crops, livestock, dairy or aquatic goods; or (iii) does not exceed forty (40) acres in size; regardless of use or location, and more particularly described as follows:

The North 40 feet of Lot 9 and all of Lot 10, Block 2, TAYLOR AND LAUDER'S ADDITION to the City of Moscow, as shown by the recorded plat thereof, records of Latah County, Idaho with the exception of the omitted area shown below

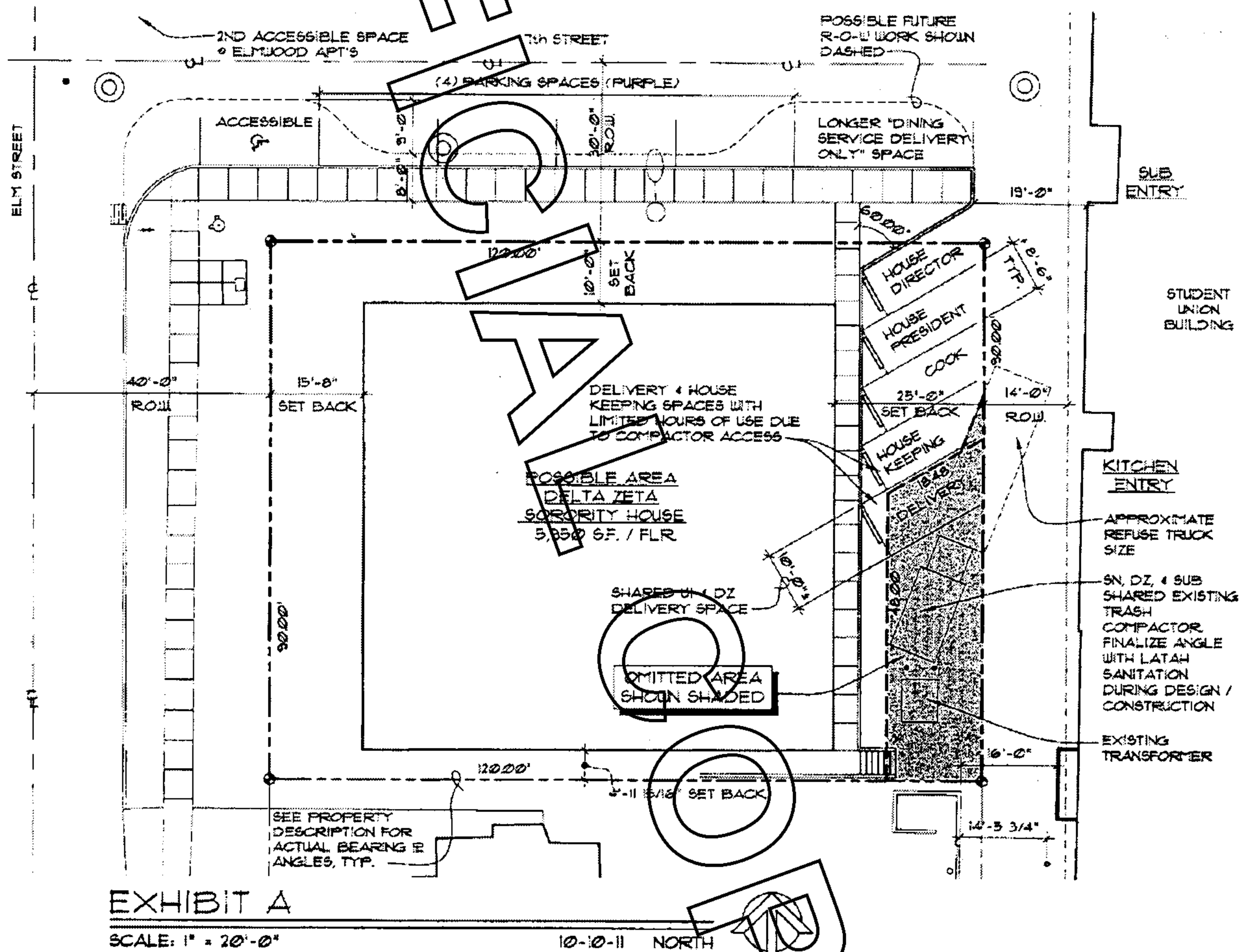


EXHIBIT B

Ground Lease Documents (Section 3.1)

That Ground Lease made as of the 1st day of January, 2012 by and between Delta Zeta Sorority, an Ohio non-profit corporation, and The Board of Regents of the University of Idaho, a state educational institution and body politic and corporate organized and existing under the constitution and laws of the state of Idaho, as amended.

UNOFFICIAL COPY