

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	Chapter 11
	§	
1776 AMERICAN PROPERTIES IV LLC, et. al.¹	§	CASE NO. 17-30422-KKB
	§	
	§	Jointly Administered
	§	

**MOTION FOR ORDER (A) AUTHORIZING AND APPROVING THE SALE OF 5634
WOODBROOK WAY, HOUSTON, TEXAS 77081 FREE AND CLEAR OF ALL LIENS,
CLAIMS ENCUMBRANCES AND OTHER INTERESTS, AND (B) APPROVING THE
EARNEST MONEY CONTRACT**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU
OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING
PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT
AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING
PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE
DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE
MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY
RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO
YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT,
YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE,
THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE
THE MOTION AT THE HEARING.**

**THE COURT WILL CONDUCT A HEARING ON THIS MATTER ON SEPTEMBER 11,
2017 AT 10:30 A.M., IN COURTROOM 403, 515 RUSK AVENUE, HOUSTON, TEXAS
77002.**

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.

Pursuant to 11 U.S.C. §§ 105 and 363 and 365 and the Federal Rules of Bankruptcy
Procedure 2002, 6004, 6007 and 9014, 1776 American Properties V LLC (“1776 V” or “Movant”),

¹ The debtors in these cases, along with the last four digits of their respective taxpayer ID numbers, are 1776 American Properties IV LLC (3677), 1776 American Properties V LLC (4327), 1776 American Properties VI LLC (8392), 1776 American Properties VII LLC (9340), 1776 American Properties VIII LLC (8277), APRF SP1-1 LLC (3543), Arica Lane LLC (2643), Austin Road Partners LLC (2582), Hazelwood Brownstone LLC (0949), Hazelwood Management Services LLC (1694) Independence Construction and Finance Inc. (8618), Reims Holdings LLC (8989) and Staunton Street Partners LLC (2406).

moves for the entry of an order approving the sale of 5634 Woodbrook Way, Houston, Texas 77081, a/k/a Lot 2, Block 16, Edison Park, a subdivision in Harris County, Texas (the “Property”) free and clear of all liens, claims and encumbrances to Yu HonKit (the “**Purchaser**”), and in support thereof, respectfully represents the following:

Jurisdiction and Venue

1. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1334. This is a core proceeding under 28 U.S.C. §157(b)(2)(M). The statutory predicates for the relief requested in this Motion are sections 105(a), 363 and 365 of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 2002, 6004, 6006, 9007 and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”). Venue of the Chapter 11 cases is proper in this district pursuant to 28 U.S.C. §§ 1408(1) and (2) and 11 U.S.C. § 101(2)(A).

BACKGROUND

I. FACTUAL BACKGROUND

A. Overview of the Debtors

2. The above captioned jointly administered Chapter 11 bankruptcy cases were each filed on January 27, 2017 (“Petition Date”) under Chapter 11 of Title 11 of the Bankruptcy Code, 11 U.S.C. § 101 et sq. (the “Bankruptcy Code”).

3. No trustee or examiner has been appointed in the debtors’ bankruptcy cases and an official committee of unsecured creditors has not been established.

4. The debtors continue to manage their property as debtors-in-possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

5. Prior to the Petition Date, the debtors each retained Erich Mundinger to serve as Vice President and Chief Restructuring Officer.

B. Operations

6. Historically, the debtors were managed by Jeff Fisher. Jeff Fisher was raised in the Houston area and in 1994, Mr. Fisher moved to Asia as part of his United States Military service. In 1997 Mr. Fisher relocated to Hong Kong and has lived in Hong Kong with his wife and family since that time. In 2008, Mr. Fisher began investing in real estate in the Houston area. Mr. Fisher worked with friends and other business contacts in Asia who decided to invest in special purpose entities organized in the Cayman Islands. The offshore companies would then loan money to Delaware based limited liability companies, who in turn invested in real estate in the United States. By 2012, the US based LLC's had acquired over 70 properties worth over \$10 million.

7. The Debtors' businesses generally fit within one of two business models:

Category 1 -- Buy and Hold Rental Properties. Each of these particular Debtors purchase rental properties based upon certain risk and return evaluations. Most of the rental properties are financed through mortgages from the Cayman Islands or British Islands based lender. The underlying notes require interest only payments with balloon payment upon maturity. The offshore lenders are largely funded through Asian based investors. Two of the Debtors have traditional bank financing arrangements that are secured by deeds of trusts and security agreements.

Category II – New Home Construction. These Debtors obtain loans from a Cayman Islands or British Virgin Islands based lender and then use the funds to purchase vacant lots in residential subdivisions. The lots are then marketed to homebuilders as part of a financing package allowing the value of the lots to be used as an equity down payment on a construction loan. The lots are

deeded to the builder by the debtor and the debtor takes a subordinated loan position behind the construction loan. The debtors and the homebuilders also enter into an agreement to split the profits on the ultimate sale of the home. When the homes are sold, the proceeds are paid first to the construction lender, then to the respective debtor for the subordinated debt, and then a profit split between the homebuilder and debtor.

8. Collectively, as of the Petition Date, the Debtors owned one hundred sixteen (116) rental single family homes / apartment units, five (5) single family homes, and seventy six (76) vacant lots. In addition, Debtors 1776 IV, 1776 V, 1776 VII and 1776 VIII hold promissory notes and profit sharing arrangements with various builders on approximately fifty eight (58) lots.²

C. Property To Be Sold.

9. 1776 V currently owns the nine family residences located in the Edison Park Subdivision.³ The Property is subject to a mortgage, which is secured by a first lien deed of trust held by PS Funding, Inc. A copy of the recorded Deed of Trust and corresponding assignment to PS Funding, Inc. is attached hereto as **Exhibit "A."** The mortgage is reflected by a promissory note ("Note") in the original principal amount of \$350,000. The obligor on the Note is First Chapel Development. The holder of the Note is PS Funding, Inc. The current principal balance of the Note is approximately \$364,000, plus fees and related charges. The sales proceeds will be sufficient to pay-off the Note in full at closing.

REQUESTED RELIEF -- SALE FREE AND CLEAR

10. By this Motion, pursuant to sections 105, 363, and 365 of the Bankruptcy Code and

² On February 14, 2017, the single family residence located at 5633 Mina Way, Houston, Texas was sold to an unrelated third party and the Debtor 1776 V was paid in full on its second lien claim.

³ In April 2017, Debtors took ownership of the nine homes through deeds in lieu of foreclosure executed by the prior fee interest holder, First Chapel Development.

Bankruptcy Rules 2002 and 6004, the Debtor seeks:

- a. authorization of the sale of Property to the Purchaser free and clear of all liens, claims, interests, and encumbrances, for a total purchase price of \$495,00.00.
- b. approval the form Texas Association of Realtors Earnest Money Contract attached hereto as **Exhibit “B”** and the transactions contemplated therein;
- c. authorization for payment of the 2016 and pro-rata 2017 ad-valorem property taxes owed on the Property at the closing;⁴
- d. authorization for payment of the Note and accrued interest and fees in full at closing;
- e. authorization for payment of any other secured claim on the property, including past due HOA assessments;
- f. authorization for payment of such normal and customary closing costs and fees;
- g. waiver any 14-day stay imposed by Bankruptcy Rules 6004 and 6006; and
- h. such other and further relief as is just and proper.

11. The Property shall be sold, transferred and conveyed free and clear of liens, claims, and encumbrances. All liens will attach to the proceeds of the sale or be paid through the closing by the title company.

12. Section 363(b)(1) of the Bankruptcy Code provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” In this case, the sale is arguably within the ordinary course of the Movant’s business. Regardless, to avoid any controversy and to provide complete disclosures to all stake holders in these cases, the Debtors will seek court approval of the sale of any of their real estate holdings.

13. Approval of a proposed sale of the debtor’s assets outside of the ordinary course of business and prior to the confirmation of a plan of reorganization is appropriate if the court finds that sound business reasons justify the transaction. *See In re Abbotts Dairies of Pennsylvania*, 788 F.2d 143, 145-147 (3rd Cir. 1986); *In re Lionel Corp.*, 722 F.2d 1063, 1070 (2nd Cir. 1983). In

⁴ To be clear, the 2017 ad valorem tax liens will remain on the Property until paid (when due), and the Declaration and Restrictive Covenants related to HOA constitute a covenant running with the land the sale will be subject to such Declaration and Restrictive Covenants.

order to win court approval for the sale of estate property other than in the ordinary course of business, the trustee need not show that the sale will produce enough money to pay all, or most claims. *In re Buchanan*, 270 B.R. 689, (Bankr. N.D.Ohio 2001).

14. In determining whether to grant a debtor-in-possession's motion to use, sell, or lease property of the estate, the Court should grant the relief sought if the Debtor is exercising sound business judgment. *Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1311 fn.10 (5th Cir. 1985); *In re Bombay Co.*, 2007 Bankr. LEXIS 3218 at *12.

15. In this case, 1776 V is not selling all of its assets, rather, it is only selling one of properties.

16. Debtor is represented by David Hashem an RE/MAX Executives, in the transaction. The buyer is not represented by a broker. Pursuant to the Order Authorizing Application to David Hashem and RE/MAX, Movant requests approval of the three percent (3%) commission to Movant's broker.

ADEQUATE AND REASONABLE NOTICE

17. Rule 6004 of the Federal Rules of Bankruptcy Procedure requires that Notice of a proposed sale of property ... not in the ordinary course of business shall be given pursuant to Rule 2002(a)(2), (c)(1), (i), and (k) and if applicable in accordance with Section 363(b)(2) of the Code.

18. Rule 2002(a)(2) requires twenty-one (21) days' notice of a sale of assets, unless the Court shortens the notice period. The Movant is giving written notice to all creditors and other parties requesting notice in accordance with the rule and any party asserting a lien on the Property. In addition, the Movant is giving notice to any party who has an expressed an interest in the Property. Accordingly, the Movant urges that the notice of the sale is adequate.

CONCLUSION

WHEREFORE, 1776 American Properties V LLC requests the Court approve the sale of the Property free and clear of all liens, claims and encumbrances to and grant the Movant any such other relief to which it may be entitled.

DATED: August 11, 2017

Respectfully submitted,

ANDREWS MYERS, PC

/s/ T. Josh Judd

T. Josh Judd

SBN: 24036866

3900 Essex Ln, Suite 800

Houston, TX 77027

Tel: 713-850-4200

Fax: 713-850-4211

jjudd@andrewsmyers.com

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2017, a true and correct copy of the foregoing Motion was forwarded by email to the parties listed below by the Court's ECF notification system, and via US Mail to the 30 largest unsecured creditors listed on the attached service list.

/s/ T. Josh Judd

T. Josh Judd

Bruce Michael Badger on behalf of Creditor Green Bank, N.A.

bkcy@badgerlawoffice.com

H. Gray Burks, IV on behalf of Creditor SELECT PORTFOLIO SERVICING, INC.

gburks@logs.com, jboling@logs.com

H Miles Cohn on behalf of Creditor Blavesco ltd

mcohn@craincaton.com, mfriery@craincaton.com; mriseden@craincaton.com

H Miles Cohn on behalf of Defendant Blavesco Ltd
mcohn@craincaton.com, mfriery@craincaton.com; mriseden@craincaton.com

Michael J Darlow on behalf of Creditor Fort Bend Independent School District
mdarlow@pbfcm.com, tpepe@pbfcm.com; mdarlow@ecf.inforuptcy.com

Jared Brandon Caplan on behalf of Other Prof. Heather Carlile
jcaplan@bradley.com, lsamolinski@bradley.com

John P Dillman on behalf of Creditor Harris County
Houston_bankruptcy@publicans.com

John P Dillman on behalf of Creditor Houston Liens
Houston_bankruptcy@publicans.com

John P Dillman on behalf of Creditor Montgomery County
Houston_bankruptcy@publicans.com

Jason D Kraus on behalf of Creditor Bouman Kraus, PC
jdk@boumankraus.com

Susan C Mathews on behalf of Creditor Silverfield Homeowners Association Inc.
smathews@bakerdonelson.com, mward@bakerdonelson.com

Craig E Power on behalf of Creditor 1776 American Properties Limited
cpower@cokinoslaw.com, msegura@cokinoslaw.com; eolson@cokinoslaw.com

Craig E Power on behalf of Creditor 1776 Investment Management Limited
cpower@cokinoslaw.com, msegura@cokinoslaw.com; eolson@cokinoslaw.com

Craig E Power on behalf of Creditor 1776 Property fund SPC
cpower@cokinoslaw.com, msegura@cokinoslaw.com; eolson@cokinoslaw.com

Craig E Power on behalf of Creditor Jeffrey W Fisher
cpower@cokinoslaw.com, msegura@cokinoslaw.com; eolson@cokinoslaw.com

Ron Satija on behalf of Creditor Noble Capital Servicing LLC
rsatija@legalstrategy.com

Ron Satija on behalf of PF Funding
rsatija@legalstrategy.com

Brian John Smith on behalf of Interested Party IPP Financial Advisers PTE Ltd
brian.smith@hklaw.com, robert.jones@hklaw.com; brent.mcilwain@hklaw.com;
william.cage@hklaw.com; warren.gluck@hklaw.com

L David Smith on behalf of Creditor Integrity Bank
smith@csrslaw.com

Michael J Smith on behalf of Creditor Integrity Bank

msmith@csrslaw.com

Owen Mark Sonik on behalf of Creditor Spring Independent School District
osonik@pbfc.com, tpope@pbfc.com; osonik@ecf.inforuptcy.com

Stephen Douglas Statham on behalf of U.S. Trustee US Trustee
stephen.statham@usdoj.gov

Bobbie Leigh Stratton on behalf of Creditor Silverfield Homeowners Association Inc.
bstratton@bakerdonelson.com, sperez@bakerdonelson.com; rperez@bakerdonelson.com

US Trustee
USTPRegion07.HU.ECF@USDOJ.GOV

Lance E Williams on behalf of Creditor Westbriar Homeowners Association
lwilliams@riddleandwilliams.com, ashanks@riddleandwilliams.com

CONSOLIDATED LIST OF THIRTY LARGEST UNSECURED CREDITORS

American Property Recovery Fund SPC-Land
Lot Arbitrage SP2
PO Box 309
Ugland House
Grand Cayman, KY 1-1104
Cayman Islands

1776 Investment Management Limited
89 Nexu Way
Grand Cayman, KY 1-9007
Cayman Islands

1776 Property Fund SPC Land Lot Arbitrage SP4
PO Box 309
Ugland House
Grand Cayman, KY 1-1104
Cayman Islands

1776 American Properties 1 Limited
PO Box 957
Offshore Incorporations Centre
Road Town, Tortola
British Virgin Islands, VG1110

American Property Recovery Fund SPC Property
Development Loan Fund SP3
PO Box 309, Ugland House
Grand Cayman, KY 1-1104
Cayman Islands

Integrity Bank
c/o L. David Smith
Chermosky, Smith, Ressler & Smith PLLC
4646 Wild Indigo, Suite 110
Houston, Texas 77027

American Property Recovery Fund SPC
American Residential SP1
PO Box 309
Ugland House
Grand Cayman, KY 1-1104
Cayman Islands

Green Bank
c/o Bruce M. Badger
Badger Law Office
3400 Avenue H. Second Floor
Rosenberg, TX 77471

1776 Property Fund SPC Commercial Office SP2
PO Box 309
Ugland House
Grand Cayman, KY 1-1104
Cayman Islands

1776 Property Fund SPC SP1 Senior Loan
PO Box 309
Ugland House
Grand Cayman, KY 1-1104
Cayman Islands

Harris County et al
c/o John P. Dillman
Linebarger Goggan Blair & Sampson, LLP
PO Box 3064
Houston, Texas 77253-3064

Montgomery County
c/o John P. Dillman
Linebarger Goggan Blair & Sampson, LLP
PO Box 3064
Houston, Texas 77253-3064

1776 Property Fund SPC SP7 Mezzanine Loan
Fund
PO Box 309
Ugland House
Grand Cayman, KY 1-1104
Cayman Islands

Willis Independent School District
c/o Yolanda Humphrey
1235 North Loop West
Suite 600
Houston, Texas 77008

Spring Independent School District
c/o Yolanda Humphrey
1235 North Loop West
Suite 600
Houston, Texas 77008

Internal Revenue Service Centralized Insolvency
Operation
P. O. Box 7346
Philadelphia, PA 19101-7346

Harris County Municipal Water District #82
c/o Carl O. Sandin
1235 North Loop West, Suite 600
Houston, Texas 77008

Far Hills Utility District
c/o Michael Darlow
1235 North Loop West, Suite 600
Houston, Texas 77008

CIT Bank, NA.
c/o Weltman, Weinberg & Reis Co.
3705 Marlane Drive
Grove City, Ohio 43123

Humble Independent School District
c/o Carl O. Sandin
1235 North Loop West, Suite 600
Houston, Texas 77008

Westbriar Homeowners Association
c/o Lance Williams
Riddle & Williams
3710 Rawlins Street, Suite 1400
Dallas, Texas 75219

Fort Bend County Independent School District
c/o Yolanda Humphrey
1235 North Loop West, Suite 600
Houston, Texas 77008

Alief County Independent School District
c/o Carl O. Sandin
1235 North Loop West, Suite 600
Houston, Texas 77008
Jason C. Kraus
Bouman Kraus LP
2219 Sawdust Road
Suite 1604
Spring, Texas 77380

Montgomery County Municipal Utility District #46
c/o Michael Darlow
1235 North Loop West
Suite 600
Houston, Texas 77008

Emerald Forest Utility District
c/o Carl O. Sandin
1235 North Loop West
Suite 600
Houston, Texas 77008

Select Portfolio Servicing, Inc.
P. O. Box 65250
Salt Lake City, UT 84165-0250

Harris County Municipal Utility District #120
c/o Carl O. Sandin
1235 North Loop West
Suite 600
Houston, Texas 77008

City of Houston
c/o Michael Darlow
1235 North Loop West
Suite 600
Houston, Texas 77008

Beyond IT
1219 Durham Drive
Houston, Texas 77007

Canter Office Equipment
C18, 600 Kenrick Drive
Houston, Texas 77060

4820-5588-0268, v. 1

4
Assign
Me

5634 Woodbrook

RP-2017-66853
02/15/2017 RP3 \$28.00

RECORDING REQUESTED BY:

PS Funding, Inc.

WHEN RECORDED RETURN TO:

Return to:

Corporation Service Company

P.O. Box 2969

Springfield, IL 62708

508993-4

ASSIGNMENT OF DEED OF TRUST

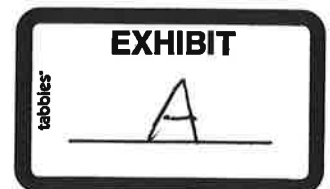
This ASSIGNMENT OF DEED OF TRUST ("Assignment") is made as of November 10, 2016, by NOBLE CAPITAL SERVICING, LLC, a Texas limited liability company ("Assignor"), to PS FUNDING, INC., a Delaware corporation ("Assignee").

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FOR VALUE RECEIVED, Assignor hereby sells, grants, assigns, and transfers to Assignee any and all of its right, title and interest in and to that certain Deed of Trust, Security Agreement and Financing Statement, dated February 19, 2016, made by FIRST CHAPEL DEVELOPMENT, LLC, a Texas limited liability company, for the benefit of Assignor ("Security Instrument"), and recorded on March 08, 2016, in the Official Records of Harris County, TX, as Instrument Number RP-2016-95109, and as a lien on that certain real property described on Exhibit A, attached hereto and made a part hereof.

TOGETHER with the note or notes therein described or referred to, the money due and to become due thereon with interest, and all rights accrued or to accrue under the foregoing Security Instrument.

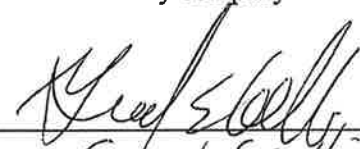
[Signature On Following Page]



IN WITNESS WHEREOF, this Assignment is made to be effective as of the date first above written.

ASSIGNOR:
NOBLE CAPITAL SERVICING, LLC,
a Texas limited liability company

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By: 
Name: Gregory S Collins
Title: Manager

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF Texas)
) ss
COUNTY OF Travis)

On November 10, 2016 before me, Anita Diane Hibbs, a Notary Public, personally appeared person, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Anita Diane Hibbs
Notary Public

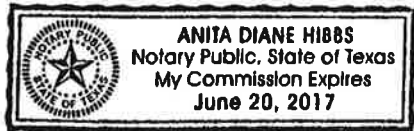


EXHIBIT A TO
ASSIGNMENT OF DEED OF TRUST
LEGAL DESCRIPTION OF PROPERTY

One lot located at address, 5634 Woodbrook Way, Houston, Harris County, Texas 77081, and more particularly described as:

Lot 16, Block 2 of Edison Park, a subdivision in Harris County, Texas, according to the plat, recorded under Film Code No. 613108, of the Map Records of Harris County, Texas.

D

Permitted Encumbrances

Restrictive covenants recorded in Film Code No. 613108, Map Records, Harris County, Texas, CC#20140203261, Real Property Records, Harris County, Texas.

The following easement(s) and/or building line(s) affecting the subject property as shown on Map or Plat recorded in Film Code No. 613108, Map or Plat Records, Harris County, Texas:

8 foot building line along the front property line.

Unobstructed Aerial Easement(s) as set forth on the recorded plat and dedication.

Easement as shown on the recorded plat and dedication for Drainage 15 foot on each side of the center line of all gutters, lawns and other natural drainage courses on the herein described property.

Easement created in instrument executed by JFC Development to CenterPoint Energy Houston, LLC, et al, dated January 23, 2008, filed February 6, 2008, recorded in cc# 20080659704, Real Property Records, Harris County, Texas.

Terms, provisions and easements contained in Electric Service Agreement dated June 28, 2007, filed August 20, 2007, recorded in cc# 20070599033, Real Property Records, Harris County, Texas.

Terms and provisions of Boundary Line Agreement from A Houston Lock & Pocket, LLP to Brownstone Classics, Inc, et al dated February 8, 1998, filed February 8, 1998, recorded in cc# R284525, Real Property Records, Harris County, Texas. As affected by Agreement recorded in cc# 20070618308, Real Property Records, Harris County, Texas.

Terms and provisions of Dedication of Common Area/Shared Drive from Waterhill Companies Limited to The City of Houston dated March 28, 2007, filed April 2, 2007, recorded in cc# 20070196210, Real Property Records, Harris County, Texas.

The terms, provisions, easements, covenants, restrictions and lien for assessments as shown in Restrictions recorded in cc# 20140203261, Real Property Records, Harris County, Texas; when taken with all Amendments and/or Supplements thereto.

Said lien is subordinate to any purchase money lien or the renewal and extension thereof.

IN THE EVENT THAT The subject property is located within the City of Houston or within its extra territorial jurisdiction (within 5 miles of the city limits but outside another municipality) is subject to the terms, conditions and provisions of City of Houston Ordinance No. 85-1878, pertaining to among other things, the platting and replatting of real property and to the establishment of building lines (25 feet along major thoroughfares and 10 feet along other streets). A certified copy of said ordinance was filed for record on August 1, 1991, in cc# H253888, Real Property Records, Harris County, Texas.

IN THE EVENT THAT The subject property is located within the City of Houston or within its extra territorial jurisdiction (within 5 miles of the city limits but outside another municipality) is subject to the terms, conditions and provisions of City of Houston ordinance 1986-252, relating to rules, regulations, and design standards for development and platting and providing for the establishment of building set back lines.

IN THE EVENT THAT The subject property is located within the City of Houston or within its extra territorial jurisdiction (within 5 miles of the city limits but outside another municipality) is subject to the terms, conditions and provisions of Ordinance #89-1312 of the City of Houston, a certified copy of which is recorded in cc# M337675, Real Property Records, Harris County, Texas, which provides that sellers advise purchasers of the restrictions outstanding against the purchase property.

IN THE EVENT THAT The subject property is located within the City of Houston is subject to the terms, conditions and provisions of City of Houston Ordinance No. 91-1761, pertaining to among other things, the planting, maintenance and preservation of trees and shrubs and the erection of screening fences. A certified copy of said ordinance was filed for record on February 28, 1992, in cc# H363388, Real Property Records, Harris County, Texas.

RECORDER'S MEMORANDUM:

At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

FILED FOR RECORD

10:47:37 AM

Wednesday, February 15, 2017

Stan Stewart

COUNTY CLERK, HARRIS COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

THE STATE OF TEXAS
COUNTY OF HARRIS

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

Wednesday, February 15, 2017



Stan Stewart
COUNTY CLERK
HARRIS COUNTY, TEXAS

**DEED OF TRUST, SECURITY AGREEMENT
AND FINANCING STATEMENT**

from

FIRST CHAPEL DEVELOPMENT, LLC,
a Texas limited liability company

to

KAREEM HAJJAR, TRUSTEE

for the benefit of

NOBLE CAPITAL SERVICING, LLC,
A Texas limited liability company

dated

February 19, 2016

RP-2016-95109

DEED OF TRUST AND SECURITY AGREEMENT

This DEED OF TRUST AND SECURITY AGREEMENT (hereinafter referred to as the "Deed of Trust") entered into as of February 2016, by First Chapel Development, LLC, a Texas limited liability company (hereinafter referred to as "Grantor", whether one or more), whose address for notice hereunder is 3122 Autumn Court, Pearland, Texas 77584, to Kareem Hajjar, Trustee (hereinafter referred to in such capacity as "Trustee"), whose address is 3144 Bee Caves Road, Austin, Travis County, Texas 78746, for the benefit of the hereinbelow defined Beneficiary.

WITNESSETH:

ARTICLE 1)

DEFINITIONS

1.1 Definitions. As used herein, the following terms shall have the following meanings:

Beneficiary: Noble Capital Servicing, LLC, a Texas limited liability company, whose address for notice hereunder is 8200 N. Mopac Expressway, Suite 320, Austin, Travis County, Texas 78759, and the subsequent holder or holders, from time to time, of the Note.

Construction Contracts: Any and all contracts and agreements, written or oral, between Grantor and any other party, and between any of the foregoing and any subcontractor, and between any of the foregoing and any other person or entity relating in any way to the construction of the Improvements including the performing of labor or the furnishing of standard or specially fabricated materials or other supplies or services in connection therewith.

Event of Default: Any happening or occurrence described in Article 6 hereinbelow.

Fixtures: All materials, supplies, equipment, apparatus and other items now owned or hereafter acquired by Borrower and now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land, including but not limited to any and all machinery, appurtenances and equipment, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities and all other utilities whether or not situated in easements, together with all accessions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof.

RP-2016-95109

Governmental Authority: Any and all courts, boards, agencies, commissions, offices or authorities of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence.

Grantor: The above defined Grantor, whether one or more, and any and all subsequent owners of the Mortgaged Property or any part thereof (without hereby implying Beneficiary's consent to any Disposition of the Mortgaged Property).

Guarantor (individually and/or collectively, as the context may require): Those persons, firms or entities, if any, designated as Guarantor in the Construction Loan Agreement of even date herewith between Grantor and Beneficiary.

Guaranty (individually and/or collectively, as the context may require): That or those instruments of guaranty, if any, now or hereafter in effect, from Guarantor in favor of Beneficiary guaranteeing the repayment of all or any part of the Indebtedness or the satisfaction of, or continued compliance with, the Obligations, or both.

Impositions: (i) All real estate and personal property taxes, charges, assessments, excises and levies and any interest, costs or penalties with respect thereto, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which at any time prior to or after the execution hereof may be assessed, levied or imposed upon the Mortgaged Property or the ownership, use, occupancy or enjoyment thereof, or any portion thereof, or the sidewalks, streets or alleyways adjacent thereto; (ii) any charges, fees, license payments or other sums payable for any easement, license or agreement maintained for the benefit of the Mortgaged Property; and (iii) water, gas, sewer, electricity, telephone and other utility charges and fees.

Improvements: Any and all structures and other improvements, and any and all additions, alterations, betterments or appurtenances thereto, now or at any time hereafter situated, placed or constructed upon the Land or any part thereof, being more particularly described in the Plans and being generally described as ONE single family residential building on property located in HARRIS County, Texas, and related facilities and amenities.

Indebtedness: (i) The principal of, interest on and all other amounts, payments and premiums due under or secured by the Note, this Deed of Trust, the Guaranty, and any and all other documents now or hereafter executed by Grantor, Guarantor or any other person or party in connection with the loan evidenced by the Note; (ii) such additional sums, with interest thereon, as may hereafter be borrowed from Beneficiary, its successors or assigns, by the Grantor, when evidenced by a promissory note which, by its terms, is secured hereby (it being contemplated that such future indebtedness may be incurred); and (iii) any and all other indebtedness, obligations and liabilities of any kind of the Grantor to Beneficiary, now or hereafter existing, absolute or contingent, joint and/or several, secured

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or unsecured, due or not due, arising by operation of law or otherwise, or direct or indirect, including, but not limited to, indebtedness, obligations and liabilities to Beneficiary of the Grantor as a member of any partnership, joint venture, trust or other type of business association, or other group, and whether incurred by Grantor as principal, surety, endorser, guarantor, accommodation party or otherwise.

Land: The real estate or interest therein described in Exhibit "A" attached hereto and incorporated herein by this reference, all fixtures or other improvements situated thereon and all rights, titles and interests appurtenant thereto.

Leases: Any and all leases, subleases, licenses, concessions or other agreements (written or oral, now or hereafter in effect) which grant a possessory interest in and to, or the right to use, all or any part of the Mortgaged Property, together with all security and other deposits made in connection therewith, and all other agreements, such as engineers' contracts, utility contracts, maintenance agreements and service contracts, which in any way relate to the use, occupancy, operation, maintenance, enjoyment or ownership of the Mortgaged Property, save and except any and all leases, subleases or other agreements pursuant to which Grantor is granted a possessory interest in the Land.

Legal Requirements: (i) Any and all present and future judicial decisions, statutes, rulings, rules, regulations, permits, certificates or ordinances of any Governmental Authority in any way applicable to Grantor, any Guarantor or the Mortgaged Property, including, without limiting the generality of the foregoing, the ownership, use, occupancy, possession, operation, maintenance, alteration, repair or reconstruction thereof, (ii) any and all covenants, conditions, and restrictions contained in any deed or other form of conveyance or in any other instrument of any nature that relate in any way or are applicable to the Mortgaged Property or the ownership, use or occupancy thereof, (iii) Grantor's or any Guarantor's presently or subsequently effective bylaws and articles of incorporation or partnership, limited partnership, joint venture, trust or other form of business association agreement, (iv) any and all Leases, and (v) any and all leases, other than those described in (iv) above, and other contracts (written or oral) of any nature that relate in any way to the Mortgaged Property and to which Grantor or any Guarantor may be bound, including, without limiting the generality of the foregoing, any lease or other contract pursuant to which Grantor is granted a possessory interest in the Land.

Mortgaged Property: The Land, Improvements, Fixtures, Personalty, Plans, Leases and Rents, together with:

1. all rights, privileges, tenements, hereditaments, rights-of-way, easements, appendages and appurtenances in anywise appertaining thereto, and all right, title and interest, if any, of Grantor in and to any streets, ways, alleys, strips or gores of land adjoining the Land or any part thereof;

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2. all betterments, improvements, additions, alterations, appurtenances, substitutions, replacements and revisions thereof and thereto and all reversions and remainders therein;

3. all of Grantor's right, title and interest in and to any awards, remunerations, reimbursements, settlements or compensation heretofore made or hereafter to be made by any Governmental Authority pertaining to the Land, Improvements, Fixtures or Personalty, including but not limited to those for any vacation of, or change of grade in, any streets affecting the Land or the Improvements and those for municipal utility district or other utility costs incurred or deposits made in connection with the Land; and

4. any and all other security and collateral of any nature whatsoever, now or hereafter given for the repayment of the Indebtedness or the performance and discharge of the Obligations.

As used in this Deed of Trust, the term "Mortgaged Property" shall be expressly defined as meaning all or, where the context permits or requires, any portion of the above and all or, where the context permits or requires, any interest therein.

Note: The promissory note of even date herewith, executed by Grantor payable to the order of Beneficiary in the amount of THREE HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$350,000.00) secured, among other things, by this Deed of Trust, and any and all renewals, rearrangements, reinstatements, enlargements or extensions thereof or of any promissory note or notes given therefor.

Obligations: Any and all of the covenants, conditions, warranties, representations and other obligations (other than to repay the Indebtedness) made or undertaken by Grantor, Guarantor or any other person or party to Beneficiary, Trustee or others as set forth in the Note, this Deed of Trust, the Guaranty and all other documents now or hereafter executed by Grantor, Guarantor or any other person or party in connection with the loan evidenced by the Note and in any deed, lease, sublease or other form of conveyance or any other agreement pursuant to which Grantor is granted a possessory interest in the Land.

Permitted Encumbrances: The outstanding liens, easements, restrictions, security interests and other matters (if any) as reflected on Exhibit "B" attached hereto and the liens and security interests created by the Security Documents.

Personalty: All of the right, title and interest of Grantor in and to all furniture, furnishings, equipment, machinery, goods, construction materials, general intangibles, money, insurance proceeds, accounts, contract rights, trademarks, tradenames, inventory, all refundable, returnable, or reimbursable fees, deposits or other funds or evidences of credit or indebtedness deposited by or on behalf of Grantor with any governmental

agencies, boards, corporations, providers of utility services, public or private, including specifically, but without limitation, all refundable, returnable or reimbursable tap fees, utility deposits, commitment fees and development costs, and all other personal property (other than the Fixtures) of any kind or character as defined in and subject to the provisions of the Texas Business and Commerce Code (Chapter 9 - Secured Transactions), which are now or hereafter located or to be located upon, within or about the land and the Improvements, or which are or may be used in or related to the planning, development, financing or operation of the Mortgaged Property, together with all accessions, replacements and substitutions thereto or therefor and the proceeds thereof.

Plans: Any and all contracts and agreements, written or oral, between any architects or engineers and Grantor, together with the final plans, specifications, shop drawings and other technical descriptions prepared for construction of the Improvements, and all amendments and modifications thereof.

Rents: All of the rents, revenues, income, receipts, issues, proceeds, profits, security and other types of deposits, and other benefits paid or payable by parties to the Leases other than Grantor for using, leasing, licensing, possessing, operating from, residing in, selling or otherwise enjoying the Mortgaged Property, together with any and all rights and claims of any kind which Grantor may have against any lessee under any Lease or any subtenants or occupants of the Mortgaged Property.

Security Documents: That certain Construction Loan Agreement ("Loan Agreement") of even date herewith between Grantor and Beneficiary relating to the Land and the Improvements, the Note, this Deed of Trust, the Guaranty and any and all other documents now or hereafter executed by Grantor, Guarantor or any other person or party to evidence, guarantee or secure the payment of the Indebtedness or the performance and discharge of the Obligations.

ARTICLE 2)

GRANT

2.1 Grant. To secure the full and timely payment of the Indebtedness and the full and timely performance and discharge of the Obligations, Grantor has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does GRANT, BARGAIN, SELL and CONVEY, unto Trustee the Mortgaged Property, subject, however, to the Permitted Encumbrances, TO HAVE AND TO HOLD the Mortgaged Property unto Trustee, forever, and Grantor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND the title to the Mortgaged Property unto Trustee against every person whomsoever lawfully claiming or to claim the same or any part thereof; provided, however, that if Grantor shall pay (or cause to be paid) the Indebtedness as and when the same shall become due and payable and shall perform and discharge (or cause to be performed and discharged) the Obligations on or before the date same are to be

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performed and discharged, then the liens, security interests, estates and rights granted by the Security Documents shall terminate, otherwise same shall remain in full force and effect. A certificate or other written statement executed on behalf of Beneficiary confirming that the Indebtedness has not been fully discharged shall be sufficient evidence thereof for the purpose of reliance by third parties on such fact.

ARTICLE 3)

WARRANTIES AND REPRESENTATIONS

Grantor hereby unconditionally warrants and represents to Beneficiary as follows:

3.1 Organization and Power. If Grantor, or any signatory who signs on its behalf, is a corporation, general partnership, limited partnership, joint venture, trust, or other type of business association, as the case may be, it (a) is a corporation duly incorporated or a partnership or trust, joint venture or other type of business association duly organized, validly existing and in good standing under the laws of the state of its formation or existence, and has complied with all conditions prerequisite to its doing business in the State of Texas, and (b) has all requisite power and all governmental certificates of authority, licenses, permits, qualifications and documentation to own, lease and operate its properties and to carry on its business as now being, and as proposed to be, conducted.

3.2 Validity of Security Documents. The execution, delivery and performance by Grantor of the Security Documents (other than the Guaranty) and the borrowing evidenced by the Note, (a) if Grantor, or any signatory who signs on its behalf, is a corporation, general partnership, limited partnership, joint venture, trust, or other type of business association, as the case may be, are within Grantor's powers and have been duly authorized by Grantor's board of directors, shareholders, partners, venturers, trustees, or other necessary parties, and all other requisite action for such authorization has been taken, (b) have received all (if any) requisite prior governmental approval in order to be legally binding and enforceable in accordance with the terms thereof and (c) will not violate, be in conflict with, result in a breach of or constitute (with due notice or lapse of time, or both) a default under, any Legal Requirement or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of Grantor's or Guarantor's property or assets, except as contemplated by the provisions of the Security Documents. The Security Documents constitute the legal, valid and binding obligations of Grantor, Guarantor and others obligated under the terms of the Security Documents, enforceable in accordance with their respective terms.

3.3 Information. All information, reports, papers and data given or to be given to Beneficiary with respect to Grantor, Guarantor or others obligated under the terms of the Security Documents or the Mortgaged Property are, or at the time of delivery will be, accurate, complete and correct in all material respects and do not, or will not, omit any fact, the inclusion of which is necessary to prevent the facts contained therein from being materially misleading.

3.4 Title to Mortgaged Property and Lien of this Instrument. Grantor has good and indefeasible title to the Land (in fee simple, if the lien created hereunder be on the fee, or a first and prior leasehold estate, if it be created on the leasehold estate) and Improvements, and good and marketable title to the Fixtures and Personalty, free and clear of any liens, charges, encumbrances, security interests, claim, easements, restrictions, options, leases (other than the Leases), covenants and other rights, titles, interests or estates of any nature whatsoever except the Permitted Encumbrances. This Deed of Trust constitutes a valid, subsisting, first lien deed of trust on the Land, the Improvements and the Fixtures; a valid, subsisting first security interest in and to the Personalty, Construction Contracts, Plans, and, to the extent that the terms Leases and Rents include items covered by Chapter 9 of the Texas Business and Commerce Code, in the Leases and Rents; and a valid, subsisting first assignment of the Leases and Rents not covered by Chapter 9 of the Texas Business and Commerce Code, all in accordance with the terms hereof.

3.5 Taxes and Other Payments. Grantor and Guarantor have filed all Federal, state, county, municipal and city income and other tax returns required to have been filed by them and have paid all taxes which have become due pursuant to such returns or pursuant to any assessments received by them, and neither Grantor nor Guarantor knows of any basis for any additional assessment in respect of any such taxes, except that which may result from increased valuation resulting from the construction of the Improvements. Grantor has paid or will pay in full (except for such retainages as may be permitted or required by any Legal Requirement to be withheld by Grantor pending completion of the Improvements) all sums owing or claimed for labor, material, supplies, personal property (whether or not forming a Fixture hereunder) and services of every kind and character used, furnished or installed in or on the Mortgaged Property and no claim for same exists or will be permitted to be created.

3.6 Business Purposes. The loan evidenced by the Note is solely for the purpose of carrying on or acquiring a business of Grantor, and is not for personal, family, household, or agricultural purposes.

3.7 Mailing Address. Grantor's mailing address, as set forth in the opening paragraph hereof, or as changed pursuant to the provisions hereof, is true and correct.

3.8 Relationship of Grantor and Beneficiary. The relationship between Grantor and Beneficiary is solely that of debtor and creditor, and Beneficiary has no fiduciary or other special relationship with the Grantor, and no term or condition of any of the Loan Documents shall be construed so as to deem the relationship between Grantor and Beneficiary to be other than that of debtor and creditor.

3.9 No Reliance on Beneficiary. Grantor is experienced in the ownership and operation of properties similar to the Mortgaged Property, and Grantor and Beneficiary have and are relying solely upon Grantor's expertise and business plan in connection with the construction of the Improvements and ownership and operation of the Mortgaged Property. Grantor is not

relying on Beneficiary's expertise or business acumen in connection with the Mortgaged Property or in connection with the construction of the Improvements.

ARTICLE 4)

AFFIRMATIVE COVENANTS

Grantor hereby unconditionally covenants and agrees with Beneficiary as follows:

4.1 Payment and Performance. Grantor will pay the Indebtedness, as and when called for in the Security Documents and on or before the due dates thereof, and will perform all of the Obligations, in full and on or before the dates same are to be performed.

4.2 Existence. Grantor will preserve and keep in full force and effect its existence, rights, franchises and trade names.

4.3 Compliance with Legal Requirements. Grantor will promptly and faithfully comply with, conform to and obey all present and future Legal Requirements whether or not same shall necessitate structural changes in, improvements to, or interfere with the use or enjoyment of, the Mortgaged Property.

4.4 First Lien Status. Grantor will protect the first lien and security interest status of this Deed of Trust and the other Security Documents. If any lien or security interest is asserted against the Mortgaged Property, the Construction Contracts or the Plans, Grantor will promptly, and at its own cost and expense, (a) pay the underlying claim in full or take such other action so as to cause same to be released or, if permitted by Beneficiary in Beneficiary's sole discretion, bonded to Beneficiary's satisfaction and (b) within five (5) days from the date such lien or security interest is so asserted, give Beneficiary notice of such lien or security interest. Such notice shall specify who is asserting such lien or security interest and shall detail the origin and nature of the underlying claim giving rise to such asserted lien or security interest.

4.5 Payment of Impositions. Grantor will duly pay and discharge, or cause to be paid and discharged, the Impositions not later than the due date thereof, or the day any fine, penalty, interest or cost may be added thereto or imposed, or the day any lien may be filed, for the nonpayment thereof (if such day is used to determine the due date of the respective item); provided, however, that Grantor may, to the extent and in the manner permitted by law (a) pay the Impositions in installments whether or not interest shall accrue on the unpaid balance of such Impositions if such installment payment would not create or permit the filing of a lien (statutory, constitutional or contractual) against the Mortgaged Property and (b) contest the payment of any Impositions in good faith and by appropriate proceedings provided that (i) any such contests shall be prosecuted diligently and in a manner not prejudicial to the rights, liens and security interests of Beneficiary, (ii) Grantor shall deposit funds with Beneficiary or obtain a bond in form and

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substance and with an issuing company satisfactory to Beneficiary in an amount sufficient to cover any amounts which may be owing in the event the contest may be unsuccessful (Grantor shall make such deposit or obtain such bond, as the case may be, within five (5) days after demand therefor and, if made by payment of funds to Beneficiary, the amount so deposited shall be disbursed in accordance with the resolution of the contest either to Grantor or the adverse claimant), (iii) no contest may be conducted and no payment may be delayed beyond the date on which the Mortgaged Property could be sold for nonpayment, and (iv) Beneficiary may pay over to the taxing authority entitled thereto any or all of the funds at any time when, in the opinion of Beneficiary's counsel, the entitlement of such authority to such funds is established. Subject to Grantor's right to contest as provided for herein, Grantor shall submit to Beneficiary copies of tax statements and paid tax receipts evidencing the due and punctual payment of all real estate and personal property taxes, charges and assessments levied upon or assessed or charged against the Mortgaged Property on or before the delinquent date of any such taxes.

4.6 Repair. Grantor will keep the Mortgaged Property in first class order and condition and will make all repairs, replacements, renewals, additions, betterments, improvements and alterations thereof and thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, foreseen and unforeseen, which are necessary or reasonably appropriate to keep same in such order and condition. Grantor will also use its best efforts to prevent any act or occurrence which might impair the value or usefulness of the Mortgaged Property for its intended usage as set forth in the Plans or elsewhere in the Security Documents. In instances where repairs, replacements, renewals, additions, betterments, improvements or alterations are required in and to the Mortgaged Property on an emergency basis to prevent loss, damage, waste or destruction thereof, Grantor shall proceed to construct same, or cause same to be constructed, notwithstanding anything to the contrary contained in Paragraph 5.2 hereinbelow; provided, however, that in instances where such emergency measures are to be taken, Grantor will notify Beneficiary in writing of the commencement of same and the measures to be taken, and, when same are completed, the completion date and the measures actually taken.

4.7 Insurance. Grantor will obtain and maintain insurance upon and relating to the Mortgaged Property insuring against personal injury and death, loss by fire and such other hazards, casualties and contingencies (including business interruption insurance covering loss of Rents and builder's all risk coverage) as are normally and usually covered by extended coverage policies in effect where the Land is located and such other risks as may be specified by Beneficiary, from time to time, all in such amounts and with such insurers of recognized responsibility as are acceptable to Beneficiary. Each insurance policy issued in connection therewith shall provide by way of endorsements, riders or otherwise that (a) proceeds will be payable to Beneficiary as its interest may appear, it being agreed by Grantor, that provided neither Grantor nor Guarantor are in default hereunder or under any other Security Document, such payments shall be applied at Grantor's sole option either to (i) the restoration, repair or replacement of the Mortgaged Property or (ii) toward the payment of the Indebtedness; (b) the coverage of Beneficiary shall not be terminated, reduced or affected in any manner regardless of any breach or violation by Grantor of any warranties, declarations or conditions in such policy; (c) no such insurance policy shall be canceled, endorsed,

altered or reissued to effect a change in coverage for any reason and to any extent whatsoever unless such insurer shall have first given Beneficiary thirty (30) days prior written notice thereof; and (d) Beneficiary may, but shall not be obligated to, make premium payments to prevent any cancellation, endorsement, alteration or reissuance and such payments shall be accepted by the insurer to prevent same. Beneficiary shall be furnished with the original of each such initial policy coincident with the execution of this Deed of Trust and the original of each renewal policy not less than fifteen (15) days prior to the expiration of the initial or each immediately preceding renewal policy together with receipts or other evidence that the premiums thereon have been paid.

4.8 Application of Proceeds. If the proceeds of the insurance described in Paragraph 4.7 hereinabove are to be used for restoration, repair or replacement (hereinafter referred to as the "Work") of the Mortgaged Property, such proceeds shall be paid out by Beneficiary from time to time to Grantor (or, at the option of Beneficiary, jointly to Grantor and the persons furnishing labor and/or material incident to the Work or directly to such persons) as the Work progresses, subject to the following conditions: (a) if the cost of the Work estimated by Beneficiary shall exceed \$5,000.00, prior to the commencement thereof (other than Work to be performed on an emergency basis to protect the Mortgaged Property or prevent interference therewith), (i) an architect or engineer, approved by Beneficiary, shall be retained by Grantor (at Grantor's expense) and charged with the supervision of the Work and (ii) Grantor shall have prepared and submitted to Beneficiary the plans and specifications for such Work and afforded Beneficiary the opportunity to accept same; (b) each request for payment by Grantor shall be made on ten (10) days prior written notice to Beneficiary and shall be accompanied by a certificate executed by the architect or engineer supervising the Work (if one is required pursuant to Paragraph 4.8(a) hereinabove), otherwise by Grantor or an executive officer of Grantor, stating, among such other matters as may be reasonably required by Beneficiary that: (i) all of the Work completed has been done in compliance with the plans and specifications submitted to Beneficiary; (ii) the sum requested is justly required to reimburse Grantor for payments by Grantor to, or is justly due to, the contractor, subcontractors, materialmen, laborers, engineers, architects or other persons rendering services or materials for the Work (giving a brief description of such services and materials); (iii) when added to all sums previously paid out by Grantor, the sum requested does not exceed the value of the Work done to the date of such certificate; and (iv) the amount of insurance proceeds remaining in the hands of Beneficiary will be sufficient on completion of the Work to pay for the same in full (giving in such reasonable detail as the Beneficiary may require an estimate of the cost of such completion); (c) each request shall be accompanied by waivers of lien satisfactory in form and substance to Beneficiary covering that part of the Work for which payment or reimbursement is being requested and by a search prepared by a title company or licensed abstractor or by other evidence satisfactory to Beneficiary that there has not been filed with respect to the Mortgaged Property any mechanic's lien or other lien, affidavit or instrument asserting any lien or any lien rights with respect to the Mortgaged Property; (d) there has not occurred any Event of Default since the hazard, casualty or contingency giving rise to payment of the insurance proceeds; (e) in the case of the request for the final disbursement, such request is accompanied by a copy of any Certificate of Occupancy or other certificate required by any Legal Requirement to render occupancy of the damaged portion of the Mortgaged Property lawful; and (f) if, in Beneficiary's

judgment, the amount of such insurance proceeds will not be sufficient to complete the Work (which determination may be made prior to or during the performance of the Work), Grantor shall deposit with Beneficiary, immediately upon a request therefor, an amount of money which when added to such insurance proceeds will be sufficient, in Beneficiary's judgment, to complete the Work. If, upon completion of the Work, any portion of the insurance proceeds has not been disbursed to Grantor (or one or more of the other aforesaid persons) incident thereto, Beneficiary may, at Beneficiary's option, disburse such balance to Grantor or apply such balance toward the payment of the Indebtedness, whether or not then due. Nothing herein shall be interpreted to prohibit Beneficiary from (y) withholding from each such disbursement ten percent (10%) (or such greater amount, if permitted or required by any Legal Requirement) of the amount otherwise herein provided to be disbursed, and from continuing to withhold such sum, until the time permitted for perfecting liens against the Mortgaged Property has expired (or such longer period of time as permitted or required by any Legal Requirement), at which time the amount withheld shall be disbursed to Grantor (or to Grantor and any person or persons furnishing labor and/or material for the Work or directly to such persons), or (z) applying at any time the whole or any part of such insurance proceeds to the curing of any Event of Default. If the insurance proceeds are applied to the payment of the Indebtedness pursuant to Paragraph 4.7 hereinabove and this Paragraph 4.8, any such application shall be in such order as Beneficiary, in its sole discretion, may determine.

4.9 Restoration Following Casualty. If any act or occurrence of any kind or nature, ordinary or extraordinary, foreseen or unforeseen (including any casualty for which insurance was not obtained or obtainable), shall result in damage to or loss or destruction of the Mortgaged Property, Grantor will give notice thereof to Beneficiary and, if so instructed by Beneficiary, will promptly, at Grantor's sole cost and expense and regardless of whether the insurance proceeds (if any) shall be sufficient for the purpose, commence and continue diligently to completion to restore, repair, replace and rebuild the Mortgaged Property in accordance with the provisions of Paragraph 4.8 and all Legal Requirements as nearly as possible to its value, condition and character immediately prior to such damage, loss or destruction.

4.10 Site Visits, Observations and Testing. Grantor will permit Trustee and Beneficiary, and their agents, representatives and employees, at all reasonable times and at Grantor's expense, to inspect the Mortgaged Property. Without limiting the generality of the foregoing, Beneficiary, its agents, representatives, and employees shall have the right at any reasonable time to enter and visit the Land and Improvements for the purposes of observing the same, taking and removing soil or groundwater samples, and conducting tests on any part of the Land or Improvements. Beneficiary is under no duty, however, to visit or observe the Land and Improvements or to conduct tests, and any such acts by Beneficiary shall be solely for the purposes of protecting Beneficiary's security and preserving Beneficiary's rights under the Security Documents. Beneficiary owes no duty of care to protect Grantor or any other party against, or to inform Grantor or any other party of, any Hazardous Substances (as defined herein or in the Loan Agreement) affecting the Land or Improvements. No site visit, observation or testing by Beneficiary shall result in a waiver of any Event of Default of Grantor or impose any liability on Beneficiary. In no event shall any site visit, observation or testing by Beneficiary be a

representation that Hazardous Substances are or are not present in, on, or under the Land or Improvements, or that there has been or shall be compliance with any Environmental Laws, or any other applicable Legal Requirements. Neither Grantor nor any other party is entitled to rely on any site visit or observation by Beneficiary. Beneficiary shall disclose to Grantor, without representation or warranty of any kind, any report or findings made as a result of, or in connection with, any site visit, observation or testing by Beneficiary, except to the extent that Beneficiary deems any portion of such report or findings to be confidential. It is expressly understood and agreed that neither Grantor nor any other person or entity may rely on any such report or findings, and Beneficiary may require, as a condition to such disclosure, that Grantor execute a statement whereby it reaffirms that it will not rely upon such report or findings. In each instance, Beneficiary shall give Grantor reasonable notice before entering the Land or Improvements or any other place Beneficiary is permitted to enter under this Paragraph 4.10. Beneficiary shall make reasonable efforts to avoid interfering with Grantor's or any tenant's use of the Land or Improvements, or any other property, in exercising any rights provided in this Paragraph.

4.11 Statement of Unpaid Balance. At any time and from time to time, Grantor will furnish promptly, upon the request of Beneficiary, a written statement or affidavit, in form satisfactory to Beneficiary, stating the unpaid balance of the Indebtedness and that there are no offsets or defenses against full payment of the Indebtedness and the terms hereof, or if there are any such offsets or defenses, specifying them.

4.12 Tax and Insurance Escrow. Upon Beneficiary's request Grantor shall pay monthly, annually, or as otherwise directed by Beneficiary, an amount ("Escrowed Sums") equal to the sum of (a) the annual Impositions (estimated by Beneficiary, wherever necessary) to become due for the tax year during which such payment is so directed and (b) the insurance premiums for the same year for those insurance policies as are required hereunder. If Beneficiary determines that any amounts theretofore paid by Grantor are insufficient for the payment in full of such Impositions and insurance premiums, Beneficiary shall notify Grantor of the increased amounts required to provide a sufficient fund, whereupon Grantor shall pay to Beneficiary within thirty (30) days thereafter the additional amount as stated in Beneficiary's notice. The Escrowed Sums may be held by Beneficiary in an interest bearing account and may be commingled with Beneficiary's other funds. Upon assignment of this Deed of Trust, Beneficiary shall have the right to pay over the balance of the Escrowed Sums then in its possession to its assignee whereupon the Beneficiary and its Trustee shall then become completely released from all liability with respect thereto. Within ninety-five (95) days following the full payment of the Indebtedness (other than a full payment of the Indebtedness as a consequence of a foreclosure or conveyance in lieu of foreclosure of the liens and security interests securing the Indebtedness) or at such earlier time as Beneficiary may elect, the balance of the Escrowed Sums in its possession shall be paid over to Grantor and no other party shall have any right or claim thereto. If no Event of Default shall have occurred and be continuing hereunder, the Escrowed Sums shall, at the option of Beneficiary, be repaid to Grantor in sufficient time to allow Grantor to satisfy Grantor's obligations under the Security Documents to pay the Impositions and the required insurance premiums or be paid directly to the Governmental Authority and the insurance company entitled thereto. If an Event

of Default shall have occurred and be continuing hereunder, however, Beneficiary shall have the additional option of crediting the full amount of the Escrowed Sums against the Indebtedness without notice of any kind to Grantor. Notwithstanding anything to the contrary contained in this Paragraph 4.13 or elsewhere in this Deed of Trust, Beneficiary hereby reserves the right to waive the payment by Grantor to Beneficiary of the Escrowed Sums, and, in the event Beneficiary does so waive such payment, it shall be without prejudice to Beneficiary's rights to insist, at any subsequent time or times, that such payments be made in accordance herewith.

4.13 Appraisals. Beneficiary shall have the right to re-appraise the Mortgaged Property as often as Beneficiary so desires at Beneficiary's expense and Grantor agrees to fully cooperate with, and furnish all financial, lease and other material information relating to the Mortgaged Property, to Beneficiary and its appraiser in connection with any such appraisal.

4.14 Address. Grantor shall give written notice to Beneficiary and Trustee of any change of address of Grantor at least five (5) days prior to the effective date of such change of address. Absent such official written notice of a change in address for Grantor, then Beneficiary and Trustee shall be entitled for all purposes under the Loan Documents to rely upon Grantor's address as set forth in the initial paragraph of this Deed of Trust, as same may have been theretofore changed in accordance with the provisions hereof.

4.15 Disclosures. If at any time Grantor shall become aware of the existence or occurrence of any financial or economic conditions or natural disasters which might have a material adverse effect on the financial condition of Grantor or the Mortgaged Property, Grantor shall promptly notify Beneficiary of the existence or occurrence thereof and of Grantor's opinion as to what effect such may have on the Mortgaged Property or Grantor. Grantor shall also give prompt notice to Beneficiary of (i) the serious illness or death of any principal or key employee of Grantor, (ii) any litigation or dispute, threatened or pending against or affecting Grantor, the Mortgaged Property or any Guarantor which could have a material adverse effect on the financial condition of Grantor or the Mortgaged Property, (iii) any Event of Default, (iv) any default by Grantor or any acceleration of any indebtedness owed by Grantor under any contract to which Grantor is a party, (v) any default by Guarantor or any acceleration of any indebtedness owed by any Guarantor under any contract to which Guarantor is a party, and (vi) any change in the character of Grantor's business as it existed on the date hereof.

4.16 ERISA. If and to the extent that Grantor is obligated under any plan governed by or subject to the Employee Retirement Income Security Act, as amended ("ERISA"), Grantor shall fully discharge and satisfy all of its obligations and funding requirements under such plan, ERISA and the Internal Revenue Code, as amended ("Code"). Furthermore, Grantor shall comply in all material respects with any and all applicable provisions of ERISA and the Code and will not incur or permit to exist any unfunded liabilities to the Pension Benefit Guaranty Corporation or to such plan under ERISA or the Code.

ARTICLE 5)

NEGATIVE COVENANTS

Grantor hereby covenants and agrees with Beneficiary that, until the entire Indebtedness shall have been paid in full and all of the Obligations shall have been fully performed and discharged:

5.1 Use Violations. Grantor will not use, maintain, operate or occupy, or allow the use, maintenance, operation or occupancy of, the Mortgaged Property in any manner which (a) violates any Legal Requirement, (b) may be dangerous unless safeguarded as required by law, (c) constitutes a public or private nuisance, or (d) makes void, voidable or cancelable, or increases the premium of, any insurance then in force with respect thereto.

5.2 Alterations. Grantor will not commit or permit any waste of the Mortgaged Property and will not (subject to the provisions of Paragraphs 4.6 and 4.9 hereinabove) without the prior written consent of Beneficiary make or permit to be made any alterations or additions to the Mortgaged Property of a material nature, except in accordance with the Plans.

5.3 Replacement of Fixtures and Personalty. Grantor will not, without the prior written consent of Beneficiary, permit any of the Fixtures or Personalty to be removed at any time from the Land or Improvements unless the removed item is removed temporarily for maintenance and repair or, if removed permanently, is replaced by an article of equal suitability and value, owned by Grantor, free and clear of any lien or security interest except such as may be first approved in writing by Beneficiary.

5.4 Change in Zoning. Grantor will not seek or acquiesce in a zoning reclassification of all or any portion of the Mortgaged Property or grant or consent to any easement, dedication, plat, or restriction (or allow any easement to become enforceable by prescription), or any amendment or modification thereof, covering all or any portion of the Mortgaged Property, without Beneficiary's prior written consent.

5.5 No Drilling. Grantor will not, without the prior written consent of Beneficiary, permit any drilling or exploration for or extraction, removal, or production of, any minerals from the surface or subsurface of the Land regardless of the depth thereof or the method of mining or extraction thereof.

5.6 Business Change. Grantor shall not make or permit to occur or exist a material change in the character of its business activities as such existed on the date hereof, without Beneficiary's prior written consent.

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ARTICLE 6)

EVENTS OF DEFAULT

The term "Event of Default", as used herein and in the Security Documents, shall mean the occurrence or happening, at any time and from time to time, of any one or more of the following:

6.1 Payment of Indebtedness. If Grantor shall fail, refuse or neglect to pay, in full, any installment or portion of the Indebtedness as and when the same shall become due and payable, whether at the due date thereof stipulated in the Security Documents, or at a date fixed for prepayment, or otherwise, and such failure, refusal or neglect continues for a period of ten (10) days following written notice to Grantor; provided, however, that if such installment or portion of the Indebtedness becomes due and payable as a result of Beneficiary's accelerating the maturity of the Indebtedness in accordance with the Security Documents, the ten (10) day notice period for payment set forth in this paragraph shall not apply to the accelerated due date.

6.2 Performance of Obligations. If Grantor shall fail, refuse or neglect to perform and discharge fully and timely any of the Obligations as and when called for and such failure, refusal or neglect shall remain uncured for a period of thirty (30) days following written notice to Grantor.

6.3 False Representation. If any representation, warranty, or statement made by Grantor, Guarantor or others in, under or pursuant to the Security Documents or any affidavit or other instrument executed in connection with the Security Documents shall be false or misleading in any material respect as of the date hereof or shall become so at any time prior to the repayment in full of the Indebtedness.

6.4 Voluntary Bankruptcy. If Grantor or any Guarantor or, if Grantor or any Guarantor is a partnership, joint venture, trust or other type of business association, if any of the parties comprising Grantor or any Guarantor, shall (a) voluntarily be adjudicated as bankrupt or insolvent, (b) file any petition or commence any case or proceeding under any provision or chapter of the Federal Bankruptcy Code or any other federal or state law relating to its or his insolvency, bankruptcy, rehabilitation, liquidation or reorganization, (c) make a general assignment for the benefit of its or his creditors, (d) have an order for relief entered under the Federal Bankruptcy Code with respect to it or him, (e) convene a meeting of its or his creditors, or any class thereof, for the purpose of effecting a moratorium upon or extension or composition of its or his debts, (f) fail to pay its or his debts as they mature, (g) admit in writing that it or he is generally not able to pay its or his debts as they mature or generally not pay its or his debts as they mature, or (h) become insolvent.

6.5 Involuntary Bankruptcy. If (a) a petition is filed or any case or proceeding described in Paragraph 6.4 above is commenced against Grantor or any Guarantor, or, if Grantor or any Guarantor is a partnership, joint venture, trust or other type of business association, against any of the parties comprising Grantor or any Guarantor, or against the assets of any such persons or

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entities, unless such petition and the case or proceeding initiated thereby is dismissed within sixty (60) days from the date of the filing, (b) an answer is filed by Grantor or any Guarantor, or, if Grantor or any Guarantor is a partnership, joint venture, trust or other type of business association, by any of the parties comprising Grantor or any Guarantor, admitting the allegations of any such petition, or (c) a court of competent jurisdiction enters an order, judgment or decree appointing, without the consent of Grantor or any Guarantor, or, if Grantor or any Guarantor is a partnership, joint venture, trust or other type of business association, of any of the parties comprising Grantor or any Guarantor, a custodian, trustee, agent or receiver for it or him, or for all or any part of its or his property, or authorizing the taking possession by a custodian, trustee, agent or receiver of it or him, or all or any part of its or his property unless such appointment is vacated or dismissed or such possession is terminated within sixty (60) days from the date of such appointment or commencement of such possession, but not later than five (5) days before the proposed sale of any assets of Grantor or any Guarantor, or, if Grantor or any Guarantor is a partnership, joint venture, trust or other business association, of any of the parties comprising Grantor or any Guarantor, by such custodian, trustee, agent or receiver, other than in the ordinary course of the business of Grantor or any Guarantor.

6.6 Dissolution and Change or Encumbrance of Ownership. If Grantor or any Guarantor, or, if Grantor or any Guarantor is a partnership, joint venture, trust or other type of business association, if any of the parties comprising Grantor or any Guarantor, shall die and their estate has not assumed the Indebtedness within ninety (90) following the date of death, dissolve, terminate or liquidate, or merge with or be consolidated into any other entity, or shall hypothecate, pledge, mortgage or otherwise encumber all or any part of the beneficial ownership interest in Grantor (if Grantor or any Guarantor is a corporation, partnership, joint venture, trust or other type of business association or legal entity), or shall attempt to do any of the same.

6.7 No Further Encumbrances. If Grantor, without the prior written consent of Beneficiary, creates, places or permits to be created or placed, or through any act or failure to act, acquiesces in the placing of, or allows to remain, any mortgage, pledge, lien (statutory, constitutional or contractual), security interest, encumbrance or charge, or conditional sale or other title retention agreement, regardless of whether same are expressly subordinate to the liens of the Security Documents, with respect to the Mortgaged Property, other than the Permitted Encumbrances.

6.8 Disposition of Mortgaged Property and Beneficial Interest in Grantor. If Grantor sells, leases, exchanges, assigns, conveys, transfers or otherwise disposes of (herein collectively called "Disposition") all or any portion of the Mortgaged Property (or any interest therein) or if there is a Disposition of all or any part of the beneficial ownership interest in Grantor (if Grantor is a corporation, partnership, joint venture, trust or other type of business association or legal entity), without the prior written consent of Beneficiary. It is expressly agreed that in connection with determining whether to grant or withhold such consent, Beneficiary may (but is not obligated to), among other things, (i) consider the creditworthiness of the party to whom such Disposition will be made and its management ability with respect to the Mortgaged Property, (ii) consider whether

or not the security for repayment of the Indebtedness and the performance of the Obligations, or Beneficiary's ability to enforce its rights, remedies and recourses with respect to such security, will be impaired in any way by the proposed Disposition, (iii) require as a condition to granting such consent, an increase in the rate of interest payable under the Note or any other change in the terms and provisions of the Note and other Security Documents, (iv) require that Beneficiary be reimbursed for all costs and expenses incurred by Beneficiary in investigating the creditworthiness and management ability of the party to whom such Disposition will be made and in determining whether Beneficiary's security will be impaired by the proposed Disposition, (v) require the payment to Beneficiary of a transfer fee to cover the cost of documenting the Disposition in its records, (vi) require the payment of its reasonable attorneys' fees in connection with such Disposition, (vii) require the express assumption of payment of the Indebtedness and performance of the Obligations by the party to whom such Disposition will be made (with or without the release of Grantor from liability for such Indebtedness and Obligations), (viii) require the execution of Assumption Agreements, Modification Agreements, Supplemental Security Documents and Financing Statements satisfactory in form and substance to Beneficiary, (ix) require endorsements (to the extent available under applicable law) to any existing mortgagee title insurance policies or construction binders insuring Beneficiary's liens and security interests covering the Mortgaged Property, and (x) require additional security for the payment of the Indebtedness and performance of the Obligations.

6.9 Destruction of Improvements. If the Mortgaged Property is demolished, destroyed or substantially damaged so that (in Beneficiary's judgment) it cannot be restored or rebuilt with available funds to the condition existing immediately prior to such demolition, destruction or damage within a reasonable period of time.

6.10 Foreclosure of Other Liens. If the holder of any lien or security interest on the Mortgaged Property (without hereby implying Beneficiary's consent to the existence, placing, creating or permitting of any such lien or security interest) institutes foreclosure or other proceedings for the enforcement of its remedies thereunder, or if the Leases or Rents, or any part thereof, are seized, levied or attached.

6.11 Change in Financial Condition. If Beneficiary reasonably determines that the likelihood of payment of the Indebtedness or performance of the Obligations secured by this Deed of Trust is threatened by reason of a material adverse change in the financial condition or credit standing of Grantor or any Guarantor or, if Grantor or any Guarantor is a partnership, joint venture, trust or other type of business association, of any of the parties comprising Grantor or any Guarantor, or if the estate held by Grantor in the Land is a leasehold estate, of the ground lessor.

6.12 Guarantor. If any Guarantor shall default in the performance of its obligations under the Guaranty.

6.13 Other Security Documents. If an event of default occurs under any of the other Security Documents.

6.14 Default in Other Agreements. If, at any time, Grantor or any Guarantor or any related entity shall be in default under any material note, loan agreement, indenture, mortgage, deed of trust, security agreement or any other agreement or obligation to which they are a party, or by which any of their respective properties may be bound, whether with Beneficiary or some third party, and such default remains uncured for thirty (30) days or more.

ARTICLE 7)

DEFAULT AND FORECLOSURE

7.1 Remedies. If an Event of Default shall occur, Beneficiary may, subject to the provisions of Paragraph 7.9 hereinbelow, at Beneficiary's election and by or through Trustee or otherwise, exercise any or all of the following rights, remedies and recourses:

(a) Acceleration: Declare the Principal Balance (defined hereby as meaning the then unpaid principal balance on the Note), the accrued interest and any other accrued but unpaid portion of the Indebtedness to be immediately due and payable, without further notice, presentment, protest, demand or action of any nature whatsoever (each of which hereby is expressly waived by Grantor), whereupon the same shall become immediately due and payable.

(b) Entry on Mortgaged Property: Enter upon and into the Mortgaged Property and take exclusive possession thereof and of all books, records and accounts relating thereto. If Grantor remains in possession of all or any part of the Mortgaged Property after an Event of Default and without Beneficiary's prior written consent thereto, Beneficiary may invoke any and all legal remedies to dispossess Grantor, including specifically one or more actions for forcible entry and detainer, trespass to try title and writ of restitution. Nothing contained in the foregoing sentence shall, however, be construed to impose any greater obligation or any prerequisites to acquiring possession of the Mortgaged Property after an Event of Default than would have existed in the absence of such sentence.

(c) Operation of Mortgaged Property: Hold, lease, manage, operate or otherwise use or permit the use of the Mortgaged Property, either by itself or by other persons, firms or entities, in such manner, for such time and upon such other terms as Beneficiary may deem to be prudent and reasonable under the circumstances (making such repairs, alterations, additions and improvements thereto and taking any and all other action with reference thereto, from time to time, as Beneficiary shall deem necessary or desirable), and apply all Rents and other amounts collected by Trustee in connection therewith in accordance with the provisions of Paragraph 7.8 hereinbelow.

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(d) Foreclosure and Sale: Sell or offer for sale the Mortgaged Property by selling or offering for sale the Mortgaged Property (i) in such portions, order and parcels as Beneficiary may determine, with or without having first taken possession of same, to the highest bidder for cash at public auction. Such sale shall be made at the County Courthouse of any County wherein the Land (or any portion thereof to be sold) is situated, in the area in such courthouse designated for real property foreclosure sales in accordance with applicable law (or in the absence of any such designation, in the area set forth in the notice of sale hereinafter described), on the first Tuesday of any month between the hours of 10:00 A.M. and 4:00 P.M. (commencing no earlier than such time as may be designated in the hereinafter described notice of sale), after giving legally adequate notice of the time, place and terms of sale and that portion of the Mortgaged Property to be sold, by (1) posting or causing to be posted written or printed notice thereof at least twenty-one (21) consecutive days prior to the date of said sale at the County Courthouse door in each County in which the Land is situated, (2) at least twenty-one (21) days preceding the date of such sale, filing such notice in the office of the county clerk of the County in which the Land (or any portion thereof to be sold) is located and (3) at least twenty-one (21) days preceding the date of such sale serving written notice of the proposed sale by certified mail on each person or entity obligated to pay the Indebtedness according to the records of the Beneficiary; or (ii) by accomplishing all or any of the aforesaid in such manner as permitted or required by Chapter 51, Section 51.002 of the Texas Property Code relating to the sale of real estate or by Chapter 9 of the Texas Business and Commerce Code relating to the sale of collateral after default by a debtor (as said article and chapter now exist or may be hereafter amended or succeeded), or by any other present or subsequent articles or enactments relating to same. Service of the notice called for in Paragraph 7.1(d)(i)(3) of this Deed of Trust shall be completed upon deposit of the notice enclosed in a post-paid wrapper properly addressed to such person or entity obligated to pay the Indebtedness at the most recent address as shown by the records of the Beneficiary in a post office or official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was so completed shall be prima facie evidence of the fact of service. At any such sale:

1. whether made under the power herein contained, the aforesaid Texas Property Code, the Texas Business and Commerce Code, any other Legal Requirement or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it shall not be necessary for Trustee to have physically present, or to have constructive possession of, the Mortgaged Property (Grantor hereby covenanting and agreeing to deliver to Trustee any portion of the Mortgaged Property not actually or constructively possessed by Trustee immediately upon demand by Trustee), and the title to and right of possession of any such property shall pass to the purchaser thereof as completely as if the same had been actually present and delivered to purchaser at such sale;

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2. each instrument of conveyance executed by Trustee shall contain a general warranty of title, binding upon Grantor;

3. each and every recital contained in any instrument of conveyance made by Trustee shall conclusively establish the truth and accuracy of the matters recited therein, including, without limitation, nonpayment of the Indebtedness, advertisement and conduct of such sale in the manner provided herein and otherwise by law and appointment of any successor Trustee hereunder;

4. any and all prerequisites to the validity thereof shall be conclusively presumed to have been performed;

5. the receipt of Trustee or of such other party or officer making the sale shall be a sufficient discharge to the purchaser or purchasers for his or their purchase money and no such purchaser or purchasers, or his or their assigns or personal representatives, shall thereafter be obligated to see to the application of such purchase money or be in any way answerable for any loss, misapplication or nonapplication thereof;

6. to the fullest extent permitted by law, Grantor shall be completely and irrevocably divested of all of its right, title, interest, claim and demand whatsoever, either at law or in equity, in and to the property sold and such sale shall be a perpetual bar both at law and in equity against Grantor, and against any and all other persons claiming or to claim the property sold or any part thereof, by, through or under Grantor; and

7. to the extent and under such circumstances as are permitted by law, Beneficiary may be a purchaser at any such sale.

(e) Trustee or Receiver: Make application to a court of competent jurisdiction as a matter of strict right and without notice to Grantor or regard to the adequacy of the Mortgaged Property for the repayment of the Indebtedness, for appointment of a receiver of the Mortgaged Property and Grantor does hereby irrevocably consent to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Mortgaged Property upon such terms as may be approved by the court, and shall apply such Rents in accordance with the provisions of Paragraph 7.8 hereinbelow.

(f) Other: Exercise any and all other rights, remedies and recourses granted under the Security Documents (including, without limiting the generality of the foregoing, those set forth in Paragraphs 9.5 and 10.6 hereinbelow) or now or hereafter existing in equity, at law, by virtue of statute or otherwise.

7.2 Separate Sales. The Mortgaged Property may be sold in one or more parcels and in such manner and order as Trustee, in his sole discretion, may elect, it being expressly understood and agreed that the right of sale arising out of any Event of Default shall not be exhausted by any one or more sales.

7.3 Remedies Cumulative, Concurrent and Nonexclusive. Beneficiary shall have all rights, remedies and recourses granted in the Security Documents and available at law or equity (including specifically those granted by the Uniform Commercial Code in effect and applicable to the Mortgaged Property, the Leases, the Construction Contracts, the Plans, or any portion thereof) and same (a) shall be cumulative and concurrent, (b) may be pursued separately, successively or concurrently against Grantor, any Guarantor or others obligated on the Indebtedness or against the Mortgaged Property, or against any one or more of them, at the sole discretion of Beneficiary, (c) may be exercised as often as occasion therefor shall arise, it being agreed by Grantor that the exercise or failure to exercise any of same shall in no event be construed as a waiver or release thereof or of any other right, remedy or recourse and (d) are intended to be, and shall be, nonexclusive.

7.4 No Conditions Precedent to Exercise of Remedies. Neither Grantor, any Guarantor nor any other person hereafter obligated for payment of all or any part of the Indebtedness or fulfillment of all or any of the Obligations shall be relieved of such obligation by reason of (a) the failure of Trustee to comply with any request of Grantor, Guarantor or of any other person so obligated to foreclose the lien of this Deed of Trust or to enforce any provisions of the other Security Documents, (b) the release, regardless of consideration, of the Mortgaged Property or the addition of any other property to the Mortgaged Property, (c) any agreement or stipulation between any subsequent owner of the Mortgaged Property and Beneficiary extending, renewing, rearranging or in any other way modifying the terms of the Security Documents without first having obtained the consent of, given notice to or paid any consideration to Grantor, any Guarantor or such other person, and in such event Grantor, Guarantor and all such other persons shall continue to be liable to make payment according to the terms of any such extension or modification agreement unless expressly released and discharged in writing by Beneficiary or (d) by any other act or occurrence save and except the complete payment of the Indebtedness and the complete fulfillment of all of the Obligations.

7.5 Release of and Resort to Collateral. Beneficiary may release, regardless of consideration, any part of the Mortgaged Property without, as to the remainder, in any way impairing, affecting, subordinating or releasing the lien or security interests created in or evidenced by the Security Documents or their stature as a first and prior lien and security interest in and to the Mortgaged Property. For payment of the Indebtedness, Beneficiary may resort to any other security therefor held by Trustee in such order and manner as Beneficiary may elect.

7.6 Waiver of Redemption, Notice and Marshalling of Assets. To the fullest extent permitted by law, Grantor hereby irrevocably and unconditionally waives and releases (a) all benefit that might accrue to Grantor by virtue of any present or future law or judicial decision

exempting the Mortgaged Property from attachment, levy or sale on execution or providing for any appraisal, valuation, stay of execution, exemption from civil process, redemption or extension of time for payment, (b) all notices of any Event of Default or of Trustee's election to exercise or his actual exercise of any right, remedy or recourse provided for under the Security Documents and (c) any right to a marshalling of assets or a sale in inverse order of alienation.

7.7 Discontinuance of Proceedings. If Beneficiary shall have proceeded to invoke any right, remedy or recourse permitted under the Security Documents and shall thereafter elect to discontinue or abandon same for any reason, Beneficiary shall have the unqualified right so to do and, in such an event, Grantor and Beneficiary shall be restored to their former positions with respect to the Indebtedness, the Obligations, the Security Documents, the Mortgaged Property and otherwise, and the rights, remedies, recourses and powers of Beneficiary shall continue as if same had never been invoked.

7.8 Application of Proceeds. The proceeds of any sale of, and the Rents and other amounts generated by the holding, leasing, operation or other use of, the Mortgaged Property, the Leases, the Construction Contracts or the Plans shall be applied by Beneficiary or Trustee (or the receiver, if one is appointed) to the extent that funds are so available therefrom to the following in the order of priority that Beneficiary, in its sole discretion, may determine:

(a) to the payment of the costs and expenses of taking possession of the Mortgaged Property and of holding, using, leasing, repairing, improving and selling the same, including, without limitation (i) trustees' and receivers' fees, (ii) court costs, (iii) attorneys' and accountants' fees, (iv) costs of advertisement and (v) the payment of any and all Impositions, liens, security interests or other rights, titles or interests equal or superior to the lien and security interest of this Deed of Trust (except those to which the Mortgaged Property has been sold subject to and without in any way implying Beneficiary's prior consent to the creation thereof);

(b) to the payment of all amounts, other than the Principal Balance and accrued but unpaid interest, which may be due to Beneficiary under the Security Documents, together with interest thereon as provided therein;

(c) to the payment of all accrued but unpaid interest due on the Note;

(d) to the payment of the Principal Balance for which any Guarantor is not individually and personally liable pursuant to the terms and provisions of the Guaranty (to the extent applicable);

(e) to the payment of that portion of the Indebtedness for which any Guarantor is individually and personally liable pursuant to the terms and provisions of the Guaranty (to the extent applicable);

(f) to the extent funds are available therefor out of the sale proceeds or the Rents and, to the extent known by Beneficiary and permitted by law, to the payment of any indebtedness or obligation secured by a subordinate deed of trust on or security interest in the Mortgaged Property; and

(g) to Grantor.

7.9 Acceleration Following Certain Events. Notwithstanding anything to the contrary herein contained or inferable from any provision hereof, upon the occurrence of an Event of Default as defined in either Paragraph 6.4, Paragraph 6.5 or Paragraph 6.10 hereinabove, the Principal Balance, unpaid accrued interest and any other accrued but unpaid portion of the Indebtedness shall immediately become due and payable in full without the necessity of further action on the part of Trustee or Beneficiary, and Grantor hereby expressly waives any requirement of notice of intent to accelerate maturity and notice of acceleration of maturity of the Indebtedness.

7.10 Occupancy After Foreclosure. The purchaser at any foreclosure sale pursuant to Paragraph 7.1(d) shall become the legal owner of the Mortgaged Property. All occupants (except those which have previously executed a prior written agreement with purchaser) of the Mortgaged Property or any part thereof shall become tenants at sufferance of the purchaser at the foreclosure sale and shall deliver possession thereof immediately to the purchaser upon demand. It shall not be necessary for the purchaser at said sale to bring any action for possession of the Mortgaged Property other than the statutory action of forcible detainer in any Justice Court having jurisdiction over the Mortgaged Property.

7.11 Deficiency Statute. In the event an interest in any of the Mortgaged Property is foreclosed upon pursuant to a judicial or nonjudicial foreclosure sale, Grantor agrees that the following shall be the basis for the finder of fact's determination of the fair market value of the Mortgaged Property as of the date of the foreclosure sale in proceedings governed by Sections 51.003, 51.004 and 51.005 of the Texas Property Code (as amended from time to time): (i) the Mortgaged Property shall be valued in an "as is" condition as of the date of the foreclosure sale, without any assumption or expectation that the Mortgaged Property will be repaired or improved in any manner before a resale of the Mortgaged Property after foreclosure; (ii) the valuation shall be based upon an assumption that the foreclosure purchaser desires a resale of the Mortgaged Property for cash promptly (but no later than twelve (12) months) following the foreclosure sale; (iii) all reasonable closing costs customarily borne by the seller in commercial real estate transactions should be deducted from the gross fair market value of the Mortgaged Property, including, without limitation, brokerage commissions, title insurance, a survey of the Mortgaged Property, tax prorations, attorneys' fees, and marketing costs; (iv) the gross fair market value of the Mortgaged Property shall be further discounted to account for any estimated holding costs associated with maintaining the Mortgaged Property pending sale, including, without limitation, utilities expenses, property management fees, taxes and assessments (to the extent not accounted for in (iii) above), and other maintenance, operational and ownership expenses; and (v) any expert opinion testimony given or considered in connection with a determination of the fair market value

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of the Mortgaged Property must be given by persons having at least five (5) years experience in appraising property similar to the Mortgaged Property and who have conducted and prepared a complete written appraisal of the Mortgaged Property taking into consideration the factors set forth above.

7.12 Waiver of Setoff. The Indebtedness, or any part thereof, shall be paid by Grantor without notice, demand, counterclaim, setoff, deduction, or defense and without abatement, suspension, deferment, diminution, or reduction by reason of: (i) any damage to, destruction of, or any condemnation or similar taking of the Mortgaged Property; (ii) any restriction or prevention of or interference with any use of the Mortgaged Property; (iii) any title defect or encumbrance or any eviction from the Mortgaged Property by superior title or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation, or other like proceeding relating to Trustee, Beneficiary, or Grantor, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary or Grantor, or by any court, in any such proceeding; (v) any claim which Grantor has or might have against Trustee or Beneficiary; (vi) any default or failure on the part of Beneficiary to perform or comply with any of the terms hereof or of any other agreement with Grantor; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, whether or not Grantor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, Grantor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution, or reduction of the Indebtedness.

7.13 Setoff. Beneficiary shall be entitled to exercise both the rights of setoff and banker's lien, if applicable, against the interest of Grantor in and to each and every account and other property of Grantor which are in the possession of Beneficiary to the full extent of the outstanding balance of the Indebtedness.

ARTICLE 8)

CONDEMNATION

8.1 General. Immediately upon its obtaining knowledge of the institution or the threatened institution of any proceeding for the condemnation of the Mortgaged Property, Grantor shall notify Trustee and Beneficiary of such fact. Grantor shall then, if requested by Beneficiary, file or defend its claim thereunder and prosecute same with due diligence to its final disposition and shall cause any awards or settlements to be paid over to Beneficiary for disposition pursuant to the terms of this Deed of Trust. Grantor may be the nominal party in such proceeding but Beneficiary shall be entitled to participate in and to control same and to be represented therein by counsel of its own choice, and Grantor will deliver, or cause to be delivered, to Beneficiary such instruments as may be requested by it from time to time to permit such participation. If the Mortgaged Property is taken or diminished in value, or if a consent settlement is entered, by or under threat of such proceeding, the award or settlement payable to Grantor by virtue of its interest in the Mortgaged Property shall be, and by these presents is, assigned, transferred and set over unto

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Beneficiary to be held by it, in trust, subject to the lien and security interest of this Deed of Trust, and disbursed as follows:

(a) if (i) all of the Mortgaged Property is taken, (ii) so much of the Mortgaged Property is taken, or the Mortgaged Property is so diminished in value, that the remainder thereof cannot (in Beneficiary's judgment) continue to be operated profitably for the purpose it was being used immediately prior to such taking or diminution, (iii) an Event of Default shall have occurred or (iv) the Mortgaged Property is partially taken or diminished in value and (in Beneficiary's judgment) need not be rebuilt, restored or repaired in any manner, then in any such event the entirety of the sums so paid to Beneficiary shall be applied by it in the order recited in Paragraph 8.2 hereinbelow; or

(b) if (i) only a portion of the Mortgaged Property is taken and the portion remaining can (in Beneficiary's judgment), with rebuilding, restoration or repair, be profitably operated for the purpose referred to in Paragraph 8.1(a)(ii) hereinabove, (ii) none of the other facts recited in Paragraph 8.1(a) hereinabove exists, (iii) Grantor shall deliver to Beneficiary plans and specifications for such rebuilding, restoration or repair acceptable to Beneficiary, which acceptance shall be evidenced by Beneficiary's written consent thereto, and (iv) Grantor shall thereafter commence the rebuilding, restoration or repair and complete same, all in substantial accordance with the plans and specifications and within three (3) months after the date of the taking or diminution in value and shall otherwise comply with Paragraph 4.8 hereinabove, then such sums shall be paid to Grantor to reimburse Grantor for money spent in the rebuilding, restoration or repair; otherwise same shall be applied by Beneficiary in the order recited in Paragraph 8.2 hereinbelow.

8.2 Application of Proceeds. All proceeds received by Beneficiary with respect to a taking or a diminution in value of the Mortgaged Property shall be applied to the following in the order of priority that Beneficiary, in its sole discretion, may determine:

(a) to reimburse Trustee or Beneficiary for all costs and expenses, including reasonable attorneys' fees, incurred in connection with collection of said proceeds; or

(b) to the payment of those items recited in Paragraph 7.8(b) through (f) hereinabove; provided, however, that if such proceeds are required under Paragraph 8.1(b) hereinabove to be applied to the rebuilding, restoration or repair of the Mortgaged Property, the provisions of Paragraph 4.8 hereinabove shall determine the conditions precedent for utilizing such proceeds for such purpose.

ARTICLE 9)

ASSIGNMENT OF LEASES AND RENTS

9.1 Assignment. For ten dollars (\$10.00) and other good and valuable consideration, including the indebtedness evidenced by the Note, the receipt and sufficiency of which are hereby acknowledged, Grantor has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does GRANT, BARGAIN, SELL and CONVEY collaterally unto Beneficiary the Leases and the Rents subject only to the Permitted Encumbrances applicable thereto. TO HAVE AND TO HOLD the Leases and the Rents unto Beneficiary, forever, and Grantor does hereby bind itself, its successors and assigns to warrant and forever defend the title to the Leases and the Rents unto Beneficiary against every person whomsoever lawfully claiming or to claim the same or any part thereof; provided, however, if Grantor shall pay or cause to be paid the Indebtedness as and when same shall become due and payable and shall perform and discharge or cause to be performed and discharged, the Obligations on or before the date same are to be performed and discharged, then this assignment shall terminate and be of no further force and effect, and all rights, titles and interests conveyed pursuant to this assignment shall become revested in Grantor without the necessity of any further act or requirement by Grantor, Trustee or Beneficiary.

9.2 Intentionally Deleted.

9.3 Enforcement of Leases. Grantor shall (a) submit any and all proposed Leases to Beneficiary for approval prior to the execution thereof, (b) duly and punctually perform and comply with any and all representations, warranties, covenants and agreements expressed as binding upon the landlord under any Lease, (c) maintain each of the Leases in full force and effect during the term thereof, (d) appear in and defend any action or proceeding in any manner connected with any of the Leases, (e) deliver to Beneficiary executed counterparts of all Leases and (f) deliver to Beneficiary such further information, and execute and deliver to Beneficiary such further assurances and assignments, with respect to the Leases as Beneficiary may from time to time request. Without Beneficiary's prior written consent, Grantor shall not (v) do or knowingly permit to be done anything to impair the value of any of the Leases, (w) except for deposits not to exceed one month's rent for any one lessee, collect any of the Rent more than one (1) month in advance of the time when the same becomes due under the terms of any Lease, (x) discount any future accruing Rent, (y) materially amend, modify or terminate any Lease, without Beneficiary's consent, which consent shall not be unreasonably withheld or delayed.

9.4 Suits: Attornment. Notwithstanding the nonoccurrence of any Event of Default, Beneficiary hereby reserves and may exercise the right and Grantor hereby acknowledges that Beneficiary has the right (but not the obligation) to collect, demand, sue for, attach, levy, recover and receive any Rent, to give proper receipts, releases and acquittances therefor and, after deducting the expenses of collection, to apply the net proceeds thereof as a credit upon any portion of the Indebtedness selected by Beneficiary, notwithstanding that such portion selected may not then be due and payable or that such portion is otherwise adequately secured. Grantor hereby

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authorizes and directs any lessee of the Mortgaged Property to deliver any such payment to, and otherwise to atorn all other obligations under the Leases direct to, Beneficiary. Grantor hereby ratifies and confirms all that Beneficiary shall do or cause to be done by virtue of this Article 9. No lessee shall be required to inquire into the authority of Beneficiary to collect any Rent, and any lessee's obligation to Grantor shall be absolutely discharged to the extent of its payment to Beneficiary.

9.5 Remedies. Upon or at any time after the occurrence of any Event of Default, Beneficiary, at its option and in addition to the remedies provided in Article 7 hereof, shall have the exclusive right, power and authority to take any and all action as described in Paragraph 9.4 hereof, regardless of whether a foreclosure sale of the remainder of the Mortgaged Property has occurred under this Deed of Trust, or whether Beneficiary or Trustee has taken possession of the remainder of the Mortgaged Property or attempted to do any of the same. No action referred to in Paragraph 9.3 or this Paragraph 9.5 taken by Beneficiary or Trustee shall constitute an election of remedy.

9.6 No Obligation of Trustee or Beneficiary. Neither the acceptance by Beneficiary of the assignment granted in this Article 9, nor the granting of any other right, power, privilege or authority in this Article 9 or elsewhere in this Deed of Trust, nor the exercise of any of the aforesaid, shall (a) prior to the actual taking of physical possession and operational control of the Mortgaged Property by Beneficiary or Trustee, be deemed to constitute Beneficiary or Trustee as a "mortgagee in possession" or (b) at any time thereafter, obligate Beneficiary or Trustee (i) to appear in or defend any action or proceeding relating to the Leases, the Rents or the remainder of the Mortgaged Property, (ii) to take any action hereunder, (iii) to expend any money or incur any expenses or perform or discharge any obligation, duty or liability with respect to any Lease, (iv) to assume any obligation or responsibility for any deposits which are not physically delivered to Beneficiary or (v) for any injury or damage to person or property sustained in or about the Mortgaged Property.

9.7 No Merger of Estates. So long as any part of the Indebtedness and the Obligations secured hereby remain unpaid and undischarged, the fee and leasehold estates to the Mortgaged Property shall not merge but rather shall remain separate and distinct, notwithstanding the union of such estates either in Grantor, Beneficiary, any lessee or any third party purchaser or otherwise.

9.8 Grantor's Indemnities. Grantor shall indemnify and hold Beneficiary and Trustee harmless from and against any and all liability, loss, cost, damage or expense which Beneficiary or Trustee may incur under or by reason of this assignment, or for any action taken by Beneficiary or Trustee hereunder, or by reason of or in defense of any and all claims and demands whatsoever which may be asserted against Beneficiary or Trustee arising out of the Leases, except to the extent caused by Beneficiary's gross negligence or willful misconduct. In the event Beneficiary or Trustee incurs any such liability, loss, cost, damage or expense, the amount thereof together with all reasonable attorneys' fees and interest thereon at the default rate specified in the Note shall be

payable by Grantor to Beneficiary or Trustee immediately, without demand, and shall be secured under Article 2 hereof.

9.9 Conflict. The collateral assignment contained in this Article 9 is in addition to, and not in lieu of, the collateral conveyance contained in Article 2 hereof. It is the intent of the parties that no conflict exist between the collateral assignment contained in this Article 9 and the collateral conveyance contained in Article 2 hereof. However, if and to the extent any such conflict is perceived to exist as to the Leases or the Rents, such conflict shall be resolved in favor of the collateral assignment contained in this Article 9.

ARTICLE 10)

SECURITY AGREEMENT

10.1 Security Interest. This Deed of Trust (a) shall be construed as a deed of trust on real property, and (b) shall also constitute and serve as a "Security Agreement" on personal property within the meaning of, and shall constitute until the grant of this Deed of Trust shall terminate as provided in Article 2 hereinabove, a first and prior security interest under, the applicable Uniform Commercial Code (being Chapter 9 of the Texas Business and Commerce Code, as to property within the scope thereof and situated in the State of Texas) with respect to the Personalty, Fixtures, Construction Contracts, Plans, Leases and Rents. To this end, Grantor has GRANTED, BARGAINED, CONVEYED, ASSIGNED, TRANSFERRED and SET OVER, and by these presents does GRANT, BARGAIN, CONVEY, ASSIGN, TRANSFER and SET OVER, unto Trustee and Beneficiary, a first and prior security interest and all of Grantor's right, title and interest in, to, under and with respect to the Personalty, Fixtures, Construction Contracts, Plans, Leases and Rents to secure the full and timely payment of the Indebtedness and the full and timely performance and discharge of the Obligations. It is the intent of Grantor, Beneficiary and Trustee that this Deed of Trust encumber all Leases and Rents, that all items contained in the definition of "Leases" and "Rents" which are included within Chapter 9 of the applicable Uniform Commercial Code be covered by the security interest granted in this Article 10 and that all items contained in the definition of "Leases" and "Rents" which are excluded from Chapter 9 of the applicable Uniform Commercial Code be covered by the provisions of Article 2 and Article 9 hereof.

10.2 Financing Statements. Grantor hereby agrees with Beneficiary to execute and deliver to Beneficiary, in form and substance satisfactory to Beneficiary, such "Financing Statements" and such further assurances as Beneficiary may, from time to time, reasonably consider necessary to create, perfect, and preserve Beneficiary's security interest herein granted and Beneficiary may cause such statements and assurances to be recorded and filed, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest.

10.3 Uniform Commercial Code Remedies. Beneficiary and/or Trustee shall have all the rights, remedies and recourses with respect to the Personalty, Fixtures, Construction Contracts,

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Plans, Leases and Rents afforded to it by the aforesaid Uniform Commercial Code (being Chapter 9 of the Texas Business and Commerce Code, as to property within the scope thereof and situated in the State of Texas) in addition to, and not in limitation of, the other rights, remedies and recourses afforded by the Security Documents.

10.4 No Obligation of Trustee or Beneficiary. The assignment and security interest herein granted shall not be deemed or construed to constitute Trustee or Beneficiary as a trustee in possession of the Mortgaged Property, to obligate Trustee or Beneficiary to lease the Mortgaged Property or attempt to do same, or to take any action, incur any expense or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

10.5 Construction Mortgage and Fixture Filing. This Deed of Trust secures future advances to be used for construction of improvements on the Land pursuant to a Construction Loan Agreement of even date herewith between Grantor and Beneficiary. Accordingly, this Deed of Trust constitutes a "construction mortgage" under Chapter 9 of the Texas Business and Commerce Code. This Deed of Trust shall also constitute a "fixture filing" for the purposes of Chapter 9 of the Texas Business and Commerce Code. All or part of the Mortgaged Property are or are to become fixtures; information concerning the security interest herein granted may be obtained at the addresses set forth on the first page hereof. For purposes of the security interest herein granted, the address of Debtor (Grantor) is set forth in the first paragraph of this Deed of Trust and the address of the Secured Party (Beneficiary) is set forth in Paragraph 1.1(a) herein.

10.6 Foreclosure of Security Interest. If an Event of Default shall occur, Beneficiary may elect, in addition to exercising any and all other rights, remedies and recourses set forth in Article 7 or Article 9 hereof, or referred to in Paragraph 10.3 hereinabove, to collect and receive all Rents and to proceed in the manner set forth in Section 9.604 of Chapter 9 of the Texas Business and Commerce Code relating to the procedure to be followed when a Security Agreement covers both real and personal property. Except as otherwise set forth in this Paragraph 10.6, at any foreclosure and sale as described in Paragraph 7.1(d) hereinabove, it shall be deemed that the Trustee proceeded under such Section 9.604, as to types of property covered thereby, and that such sale passed title to all of the Mortgaged Property and other property described herein to the purchaser thereat, including without limitation the Personalty, Construction Contracts, Plans, Leases and Rents. Beneficiary, acting by and through the Trustee or any other representative, may elect either prior to or at such sale not to proceed under such Section 9.604 by notifying Grantor of the manner in which Beneficiary intends to proceed with regard to the Personalty, Construction Contracts, Plans, Leases and Rents.

ARTICLE 11)

CONCERNING THE TRUSTEE

11.1 No Required Action. Trustee shall not be required to take any action toward the execution and enforcement of the trust hereby created or to institute, appear in or defend any

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action, suit or other proceeding in connection therewith where in his opinion such action will be likely to involve him in expense or liability, unless requested so to do by a written instrument signed by Beneficiary and, if Trustee so requests, unless Trustee is tendered security and indemnity satisfactory to him against any and all costs, expense and liability arising therefrom. Trustee shall not be responsible for the execution, acknowledgment or validity of the Security Documents, or for the proper authorization thereof, or for the sufficiency of the lien and security interest purported to be created hereby, and makes no representation in respect thereof or in respect of the rights, remedies and recourses of Beneficiary.

11.2 Certain Rights. With the approval of Beneficiary, Trustee shall have the right to take any and all of the following actions: (a) select, employ and advise with counsel (who may be, but need not be, counsel for Beneficiary) upon any matters arising hereunder, including the preparation, execution and interpretation of the Security Documents, and shall be fully protected in relying as to legal matters on the advice of counsel, (b) to execute any of the trusts and powers hereof and to perform any duty hereunder either directly or through his agents or attorneys, (c) to select and employ, in and about the execution of his duties hereunder, suitable accountants, engineers and other experts, agents and attorneys-in-fact, either corporate or individual, not regularly in the employ of Trustee, and Trustee shall not be answerable for any act, default or misconduct of any such accountant, engineer or other expert, agent or attorney-in-fact, if selected with reasonable care, or for any error of judgment or act done by Trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever, except for Trustee's gross negligence or bad faith and (d) any and all other lawful action as Beneficiary may instruct Trustee to take to protect or enforce Beneficiary's rights hereunder. Trustee shall not be personally liable in case of entry by him, or anyone entering by virtue of the powers herein granted him, upon the Mortgaged Property for debts contracted or liability or damages incurred in the management or operation of the Mortgaged Property. Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by him hereunder, believed by him in good faith to be genuine. Trustee shall be entitled to reimbursement for expenses incurred by him in the performance of his duties hereunder and to reasonable compensation for such of his services hereunder as shall be rendered. Grantor will, from time to time, pay the compensation due to Trustee hereunder and reimburse Trustee for, and save him harmless against, any and all liability and expenses which may be incurred by him in the performance of his duties.

11.3 Retention of Money. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by law) and Trustee shall be under no liability for interest on any moneys received by him hereunder.

11.4 Successor Trustees. Trustee may resign by the giving of notice of such resignation in writing to Beneficiary. If Trustee shall die, resign or become disqualified from acting in the execution of this trust, or if, for any reason, Beneficiary shall prefer to appoint a substitute trustee to act instead of the aforementioned Trustee, Beneficiary shall have full power to appoint a substitute

trustee (and, if preferred, several substitute trustees) in succession who shall succeed to all the estates, rights, powers and duties of the aforementioned Trustee. Such appointment may be executed by any authorized agent of Beneficiary, and if such Beneficiary be a corporation and such appointment be executed in its behalf by any officer of such corporation, such appointment shall be conclusively presumed to be executed with authority and shall be valid and sufficient without proof of any action by the board of directors or any superior officer of the corporation. Grantor hereby ratifies and confirms any and all acts which the aforementioned Trustee, or his successor or successors in this trust, shall do lawfully by virtue hereof.

11.5 Perfection of Appointment. Should any deed, conveyance or instrument of any nature be required from Grantor by any successor Trustee to more fully and certainly vest in and confirm to such new Trustee such estates, rights, powers and duties, then, upon request by such Trustee, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged and delivered and shall be caused to be recorded and/or filed by Grantor.

11.6 Succession Instruments. Any new Trustee appointed pursuant to any of the provisions hereof shall, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of its or his predecessor in the rights hereunder with like effect as if originally named as Trustee herein; but nevertheless, upon the written request of Beneficiary or of the successor Trustee, the Trustee ceasing to act shall execute and deliver any instrument transferring to such successor Trustee, upon the trusts herein expressed, all the estates, properties, rights, powers and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such Trustee to the successor Trustee so appointed in its or his place.

11.7 No Representation by Trustee or Beneficiary. By accepting or approving anything required to be observed, performed or fulfilled or to be given to Trustee or Beneficiary pursuant to the Security Documents, including (but not limited to) any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal or insurance policy, neither Trustee nor Beneficiary shall be deemed to have warranted, consented to or affirmed the sufficiency, legality, effectiveness or legal effect of the same, or of any term, provision or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or affirmation with respect thereto by Trustee or Beneficiary.

ARTICLE 12)

MISCELLANEOUS

12.1 Performance at Grantor's Expense. Subject to the provisions of Paragraph 12.12 of this Deed of Trust and without in any way limiting Paragraph 11.2 hereof, Grantor shall pay to Beneficiary immediately upon demand all costs and expenses incurred by Beneficiary in connection with: (1) the preparation of this Deed of Trust and any and all other Security Documents contemplated hereby (including any amendments hereto or thereto or consents,

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releases or waivers hereunder or thereunder); (2) the administration of this Deed of Trust and the other Security Documents for the term of the Note; and (3) the enforcement or satisfaction by Beneficiary of any of Grantor's obligations under this Deed of Trust or under the Security Documents. Except as otherwise provided the Security Documents, for all purposes of this Deed of Trust, Beneficiary's costs and expenses shall include, without limitation, all appraisal fees required by the Security Documents to be paid by Borrower, cost engineering and inspection fees, architectural fees, legal fees (including, without limitation, fees for trial, appeal or other proceedings), accounting fees, auditor fees, and the cost to Beneficiary of any documentary taxes, recording fees, brokerage fees, title insurance premiums and title surveys. In addition, Grantor recognizes and agrees that formal written appraisals of the Mortgaged Property by a licensed independent appraiser may be required by Beneficiary's internal procedures and/or federal regulatory reporting requirements on an annual and/or specialized basis. Except to the extent that certain of these costs and expenses are included within the definition of Indebtedness, the payment by Grantor of any of these costs and expenses shall not be credited, in any way or to any extent, against any portion of the Indebtedness. If any of the services described in this Paragraph 12.1 are provided by an employee of Beneficiary, Grantor shall reimburse Beneficiary its standard charge for such services.

12.2 Survival of Obligations. Each and all of the Obligations shall survive the execution and delivery of the Security Documents and the consummation of the loan called for therein and shall continue in full force and effect until the Indebtedness shall have been paid in full; provided, however, that nothing contained in this Paragraph 12.2 shall limit the obligations of Grantor as set forth in Paragraphs 4.11 and 9.8 hereof.

12.3 Further Assurances. Grantor, upon the request of Trustee, will execute, acknowledge, deliver and record and/or file such further instruments and do such further acts as may be necessary, desirable or proper to carry out more effectively the purpose of the Security Documents and to subject to the liens and security interests thereof any property intended by the terms thereof to be covered thereby, including specifically but without limitation, any renewals, additions, substitutions, replacements, betterments or appurtenances to the then Mortgaged Property.

12.4 Recording and Filing. Grantor will cause the Security Documents and all amendments and supplements thereto and substitutions therefor to be recorded, filed, re-recorded and refiled in such manner and in such places as Trustee or Beneficiary shall reasonably request, and will pay all such recording, filing, re-recording and refiling taxes, fees and other charges.

12.5 Notices. All notices or other communications required or permitted to be given pursuant to this Deed of Trust shall be in writing and shall be considered as properly given if mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, or by delivering same in person to the intended addressee or by prepaid telegram, telex or telecopy. Notice so mailed shall be effective upon its deposit in the custody of the U.S. Postal Service. Notice given in any other manner shall be effective only if and when received by

addressee. For purposes of notice, the addresses of the parties shall be as set forth in Paragraph 1.1(a) and the opening recital hereinabove; provided, however, that either party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' notice to the other party in the manner set forth hereinabove.

12.6 Beneficiary's Right to Perform the Obligations. If Grantor shall fail, refuse or neglect to make any payment or perform any act required by the Security Documents then at any time thereafter, and without notice to or demand upon Grantor and without waiving or releasing any other right, remedy or recourse Beneficiary may have because of same, Beneficiary may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of Grantor, and shall have the right to enter upon the Land and into the Improvements for such purpose and to take all such action thereon and with respect to the Mortgaged Property, as it may deem necessary or appropriate. If Beneficiary shall elect to pay any Imposition or other sums due with reference to the Mortgaged Property, Beneficiary may do so in reliance on any bill, statement or assessment procured from the appropriate Governmental Authority or other issuer thereof without inquiring into the accuracy or validity thereof. Similarly, in making any payments to protect the security intended to be created by the Security Documents, Beneficiary shall not be bound to inquire into the validity of any apparent or threatened adverse title, lien, encumbrance, claim or charge before making an advance for the purpose of preventing or removing the same. Grantor shall indemnify Beneficiary for all losses, expenses, damage, claims and causes of action, including reasonable attorneys' fees, incurred or accruing by reason of any acts performed by Beneficiary pursuant to the provisions of this Paragraph 12.6 or by reason of any other provision in the Security Documents. All sums paid by Beneficiary pursuant to this Paragraph 12.6, and all other sums expended by Beneficiary to which it shall be entitled to be indemnified, together with interest thereon at the Default Rate (as defined in the Note) from the date of such payment or expenditure until paid, shall constitute additions to the Indebtedness, shall be secured by the liens, security interests and rights created by the Security Documents and shall be paid by Grantor to Beneficiary upon demand.

12.7 Covenants Running with the Land. All Obligations contained in the Security Documents are intended by Grantor, Beneficiary and Trustee to be, and shall be construed as, covenants running with the Mortgaged Property.

12.8 Successors and Assigns. Subject to the provisions of Paragraph 6.8 hereof, all of the terms of the Security Documents shall apply to, be binding upon and inure to the benefit of the parties thereto, their successors, assigns, heirs and legal representatives, and all other persons claiming by, through or under them.

12.9 No Waiver; Severability. Any failure by Trustee or Beneficiary to insist, or any election by Trustee or Beneficiary not to insist, upon strict performance by Grantor of any of the terms, provisions or conditions of the Security Documents shall not be deemed to be a waiver of same or of any other terms, provisions or conditions thereof; and Trustee or Beneficiary shall have the right at any time or times thereafter to insist upon strict performance by Grantor of any and all

of such terms, provisions and conditions. The Security Documents are intended to be performed in accordance with, and only to the extent permitted by, all applicable Legal Requirements. If any provision of any of the Security Documents or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, then neither the remainder of the instrument in which such provision is contained nor the application of such provision to other persons or circumstances nor the other instruments referred to hereinabove shall be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

12.10 Entire Agreement and Modification. The Security Documents contain the entire agreements between the parties relating to the subject matter hereof and thereof, and all prior agreements relative thereto which are not contained herein or therein are terminated. The Security Documents may not be amended, revised, waived, discharged, released or terminated orally but only by a written instrument or instruments executed by the party against which enforcement of the amendment, revision, waiver, discharge, release or termination is asserted. Any alleged amendment, revision, waiver, discharge, release or termination which is not so documented shall not be effective as to any party.

12.11 Counterparts. To facilitate execution, this instrument may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature or acknowledgment of, or on behalf of, each party, or that the signature of all persons required to bind any party, or the acknowledgment of such party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this instrument to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, and the respective acknowledgments of, each of the parties hereto. Any signature or acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures or acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature or acknowledgment pages.

12.12 Applicable Law. The Security Documents shall be governed by and construed according to the laws of the State of Texas from time to time in effect except to the extent preempted by United States federal law. However, if, for any reason, the provisions of Part A, Title V of the Depository Institutions Deregulation and Monetary Control Act of 1980, as amended, shall be found not to exempt any and all interest and other charges payable in connection with the Indebtedness from any limitation otherwise applicable, then the following provisions shall apply. It is expressly stipulated and agreed to be the intent of Grantor and Beneficiary at all times to comply with applicable Texas law governing the maximum rate or amount of interest payable on the Indebtedness (or applicable United States federal law to the extent that it permits Beneficiary to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If the applicable law is ever judicially interpreted so as to render usurious any amount called for under the Note or under any of the other Security Documents, or contracted for, charged, taken, reserved or received with respect to the Indebtedness, or if Beneficiary's exercise of the option to accelerate the maturity of the Note or if any prepayment by Grantor results in

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Grantor having paid any interest in excess of that permitted by applicable law, then it is Grantor's and Beneficiary's express intent that all excess amounts theretofore collected by Beneficiary be credited on the principal balance of the Note (or, if the Note and all other Indebtedness have been or would thereby be paid in full, refunded to Grantor), and the provisions of the Note and the other Security Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new documents, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder or thereunder. All sums paid or agreed to be paid to Beneficiary for the use, forbearance or detention of the Indebtedness shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of the Indebtedness until payment in full so that the rate or amount of interest on account of the Indebtedness does not exceed the usury ceiling from time to time in effect and applicable to the Indebtedness for so long as the Indebtedness is outstanding under the loan. To the extent that Lender is relying on Section 303.001, *et seq.* of the Texas Finance Code, as amended, to determine the maximum rate ("Maximum Rate") payable on the Indebtedness, Lender will utilize the indicated (weekly) rate ceiling from time to time in effect as provided in Section 303.003, as amended of the Texas Finance Code. To the extent United States federal law permits Lender to contract for, charge or receive a greater amount of interest, Lender will rely on United States federal law instead of Section 303.001, *et seq.*, as amended, for the purpose of determining the Maximum Rate. Additionally, to the extent permitted by applicable law now in effect, Lender may, at its option and from time to time, implement any other method of computing the Maximum Rate under such Section 303.001, *et seq.*, as amended, or under other applicable law by giving notice, if required, to Borrower as provided by applicable law now or hereafter in effect. Any provision to the contrary notwithstanding, this conveyance shall not secure payment of any installment loan or revolving credit account established under Sections 242.201, *et seq.*, Sections 242.251, *et seq.*, and Section 346 of the Texas Finance Code. Notwithstanding anything to the contrary contained herein or in any of the other Security Documents, it is not the intention of Beneficiary to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

12.13 Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Mortgaged Property, then, to the extent of such funds so used, Beneficiary shall be subrogated to all of the rights, claims, liens, titles and interests existing against the Mortgaged Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles and interests, if any, are not waived but rather are continued in full force and effect in favor of Beneficiary and are merged with the lien and security interest created herein as cumulative security for the repayment of the Indebtedness and the satisfaction of the Obligations.

12.14 Construction Loan Agreement. Reference is hereby made for all purposes to that certain Construction Loan Agreement of even date herewith between Beneficiary and Grantor pertaining to the construction of improvements on the Land, and the funding of the principal

amount of the Note. In event of a conflict between the terms and provisions hereof and the Construction Loan Agreement, the Construction Loan Agreement shall govern.

12.15 Headings. The Article, Paragraph and Subparagraph entitlements hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such Articles, Paragraphs or Subparagraphs.

12.16 Vendor's Lien. The debt evidenced by the Note is in part payment of the purchase price of the Mortgaged Property to the extent of \$350,000.00; the debt is secured both by this Deed of Trust and by a vendor's lien on the Mortgaged Property, which is expressly retained in a Deed to Grantor of even date. This Deed of Trust does not waive the vendor's lien, and the two (2) liens and the rights created by this instrument shall be cumulative. Beneficiary may elect to foreclose under either of the liens without waiving the other or may foreclose under both. The Deed is incorporated into this Deed of Trust.

12.17 INDEMNITY. GRANTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS BENEFICIARY FROM AND AGAINST ANY AND ALL LIABILITY, DAMAGE, LOSS, COST, OR EXPENSE (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND EXPENSES), ACTION, PROCEEDING, CLAIM OR DISPUTE INCURRED OR SUFFERED BY BENEFICIARY, WHETHER VOLUNTARILY OR INVOLUNTARILY INCURRED OR SUFFERED, IN RESPECT OF THE FOLLOWING:

1. ANY LITIGATION CONCERNING THIS DEED OF TRUST, THE OTHER LOAN DOCUMENTS OR THE MORTGAGED PROPERTY, OR ANY INTEREST OF GRANTOR OR BENEFICIARY THEREIN, OR THE RIGHT OF OCCUPANCY THEREOF BY GRANTOR OR BENEFICIARY, WHETHER OR NOT ANY SUCH LITIGATION IS PROSECUTED TO A FINAL, NON-APPEALABLE JUDGMENT;

2. ANY DISPUTE, INCLUDING DISPUTES AS TO THE DISBURSEMENT OF PROCEEDS OF THE NOTE NOT YET DISBURSED, AMONG OR BETWEEN ANY OF THE PARTNERS OR VENTURERS OF GRANTOR IF GRANTOR IS A GENERAL OR LIMITED PARTNERSHIP, OR AMONG OR BETWEEN ANY EMPLOYEES, OFFICERS, DIRECTORS OR SHAREHOLDERS OF GRANTOR IF GRANTOR IS A CORPORATION, OR AMONG OR BETWEEN ANY MEMBERS, TRUSTEES OR OTHER RESPONSIBLE PARTIES IF GRANTOR IS AN ASSOCIATION, TRUST OR OTHER ENTITY;

3. ANY OBLIGATION, COVENANT OR AGREEMENT ALLEGED OR ASSERTED AGAINST BENEFICIARY UNDER THE SECURITY DOCUMENTS OR ANY ACTION TAKEN OR NOT TAKEN BY BENEFICIARY OR TRUSTEE WHICH IS ALLOWED OR PERMITTED UNDER THIS DEED OF

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TRUST OR ANY OF THE OTHER SECURITY DOCUMENTS, RELATING TO GRANTOR, THE MORTGAGED PROPERTY, ANY CONSTITUENT PARTIES OF GRANTOR OR OTHERWISE IN CONNECTION WITH THE SECURITY DOCUMENTS, INCLUDING WITHOUT LIMITATION, THE PROTECTION OR ENFORCEMENT OF ANY LIEN, SECURITY INTEREST OR OTHER RIGHT, REMEDY OR RECOURSE CREATED OR AFFORDED BY THIS DEED OF TRUST OR THE OTHER SECURITY DOCUMENTS; AND

4. ANY ACTION BROUGHT BY BENEFICIARY OR TRUSTEE AGAINST GRANTOR UNDER THIS DEED OF TRUST OR THE OTHER SECURITY DOCUMENTS, WHETHER OR NOT SUCH ACTION IS PROSECUTED TO A FINAL, NON-APPEALABLE JUDGMENT.

NOTWITHSTANDING ANY INDEMNITY PROVISION OF THE SECURITY DOCUMENTS TO THE CONTRARY, IF AT THE TIME OF THE REQUEST OR DEMAND FOR INDEMNIFICATION FROM BENEFICIARY, OR ANY TIME THEREAFTER UNTIL BENEFICIARY IS FULLY RELIEVED OF ANY FURTHER EXPENSE OR LIABILITY WITH RESPECT TO THE MATTER FOR WHICH SUCH INDEMNIFICATION HAS BEEN ASSERTED, NO EVENT OF DEFAULT EXISTS, THEN GRANTOR SHALL BE IN CONTROL OF THE DEFENSE AGAINST SUCH CLAIMS, DEMANDS OR CAUSES OF ACTIONS WITH RESPECT TO THE MATTERS SO INDEMNIFIED (BUT NOTHING PROVIDED HEREIN SHALL PROHIBIT BENEFICIARY FROM ENGAGING COUNSEL, AT BENEFICIARY'S EXPENSE, TO REPRESENT BENEFICIARY'S INTEREST); PROVIDED, HOWEVER, IF AN EVENT OF DEFAULT DOES SO EXIST, THEN BENEFICIARY MAY EMPLOY AN ATTORNEY OR ATTORNEYS TO PROTECT OR ENFORCE ITS RIGHTS, REMEDIES AND RECOURSES UNDER THIS DEED OF TRUST AND THE OTHER SECURITY DOCUMENTS, AND TO ADVISE AND DEFEND BENEFICIARY WITH RESPECT TO ANY SUCH ACTIONS AND OTHER MATTERS. IN SUCH EVENT, GRANTOR SHALL REIMBURSE BENEFICIARY FOR ITS ATTORNEYS' FEES AND EXPENSES (INCLUDING EXPENSES AND COSTS FOR EXPERTS) IMMEDIATELY UPON RECEIPT OF A WRITTEN DEMAND THEREFOR, WHETHER ON A MONTHLY OR OTHER TIME INTERVAL, AND WHETHER OR NOT AN ACTION IS ACTUALLY COMMENCED OR CONCLUDED. ALL OTHER REIMBURSEMENT AND INDEMNITY OBLIGATIONS HEREUNDER SHALL BECOME DUE AND PAYABLE WHEN ACTUALLY INCURRED BY BENEFICIARY. ANY PAYMENTS NOT MADE WITHIN FIVE (5) DAYS AFTER WRITTEN DEMAND THEREFOR SHALL BEAR INTEREST AT THE DEFAULT RATE (AS DEFINED IN THE NOTE) FROM THE DATE OF SUCH DEMAND UNTIL FULLY PAID. THE PROVISIONS OF THIS SECTION 12.17 SHALL SURVIVE REPAYMENT OF THE INDEBTEDNESS AND PERFORMANCE OF THE OBLIGATIONS, THE RELEASE OF THE LIEN OF THIS DEED OF TRUST, ANY FORECLOSURE (OR ACTION IN LIEU OF FORECLOSURE)

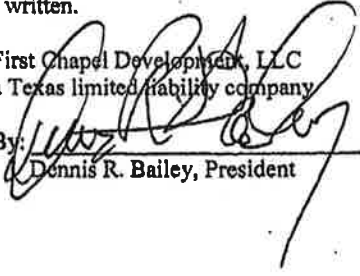
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**AND THE EXERCISE BY BENEFICIARY OF ANY AND ALL REMEDIES SET FORTH
HEREIN OR IN THE SECURITY DOCUMENTS.**

12.18 Entire Agreement; Amendment. THIS DEED OF TRUST, THE LOAN AGREEMENT, AND THE OTHER SECURITY DOCUMENTS EMBODY THE FINAL, ENTIRE AGREEMENT AMONG THE PARTIES HERETO AND SUPERSEDE ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS, AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES HERETO. THERE ARE NO ORAL AGREEMENTS AMONG THE PARTIES, HERETO. The provisions of this Deed of Trust and the Security Documents may be amended or waived only by an instrument in writing signed by the Grantor and Beneficiary.

EXECUTED as of the date first above written.

First Chapel Development, LLC
a Texas limited liability company

By: 
Dennis R. Bailey, President

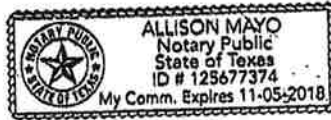
STATE OF TEXAS

§
§
§

COUNTY OF Harris

The foregoing instrument was acknowledged before me this 19 day of February, 2016, by Dennis R. Bailey, President of First Chapel Development, LLC, a Texas limited liability company, on behalf of said limited liability company.

Allison Mayo
Notary Public, State of Texas
Allison Mayo
Printed Name of Notary Public
My Commission 11/03/18



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EXHIBIT "A"

Property Description

One lot located at address, 5634 Woodbrook Way, Houston, Harris County, Texas 77081, and more particularly described as:

Lot 16, Block 2 of Edison Park, a subdivision in Harris County, Texas, according to the plat, recorded under Film Code No. 613108, of the Map Records of Harris County, Texas.

EXHIBIT "B", Permitted Encumbrances B-1

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EXHIBIT "B"

Permitted Encumbrances

Restrictive covenants recorded in Film Code No. 613108, Map Records, Harris County, Texas, CC#20140203261, Real Property Records, Harris County, Texas.

The following easement(s) and/or building line(s) affecting the subject property as shown on Map or Plat recorded in Film Code No. 613108, Map or Plat Records, Harris County, Texas:

.8 foot building line along the front property line.

Unobstructed Aerial Easement(s) as set forth on the recorded plat and dedication.

Easement as shown on the recorded plat and dedication for Drainage 15 foot on each side of the center line of all gutties, ravines and other natural drainage courses on the herein described property.

Easement created in instrument executed by JFC Development to CenterPoint Energy Houston, L.L.C, et al, dated January 23, 2008, filed February 6, 2008, recorded in cc# 20080059704, Real Property Records, Harris County, Texas.

Terms, provisions and easements contained in Electric Service Agreement dated June 20, 2007, filed August 20, 2007, recorded in cc# 20070509033, Real Property Records, Harris County, Texas.

Terms and provisions of Boundary Line Agreement from A Houston Lock & Pocket, L.P to Brownstone Classics, Inc, et al dated February 8, 1998, filed February 8, 1998, recorded in cc# R264525, Real Property Records, Harris County, Texas. As affected by Agreement recorded in cc# 20070018308, Real Property Records, Harris County, Texas.

Terms and provisions of Dedication of Common Area/Shared Drive from Waterhill Companies Limited to The City of Houston dated March 28, 2007, filed April 2, 2007, recorded in cc# 20070190213, Real Property Records, Harris County, Texas.

The terms, provisions, easements, covenants, restrictions and lien for assessments as shown in Restrictions recorded in cc# 20140203261, Real Property Records, Harris County, Texas; when taken with all Amendments and/or Supplements thereto.

Said lien is subordinate to any purchase money lien or the renewal and extension thereof.

IN THE EVENT THAT The subject property is located within the City of Houston or within its extra territorial jurisdiction (within 5 miles of the city limits but outside another municipality) is subject to the terms, conditions and provisions of City of Houston Ordinance No. 85-1878, pertaining to among other things, the platting and replatting of real property and to the establishment of building lines (25 feet along major thoroughfares and 10 feet along other streets). A certified copy of said ordinance was filed for record on August 1, 1991, in cc# N253889, Real Property Records, Harris County, Texas.

IN THE EVENT THAT The subject property is located within the City of Houston or within its extra territorial jurisdiction (within 5 miles of the city limits but outside another municipality) is subject to the terms, conditions and provisions of City of Houston ordinance 1996-262, relating to rules, regulations, and design standards for development and platting and providing for the establishment of building setback lines.

IN THE EVENT THAT The subject property is located within the City of Houston or within its extra territorial jurisdiction (within 5 miles of the city limits but outside another municipality) is subject to the terms, conditions and provisions of Ordinance #89-1312 of the City of Houston, a certified copy of which is recorded in cc# M337073, Real Property Records, Harris County, Texas, which provides that sellers advise purchasers of the restrictions outstanding against the purchase property.

IN THE EVENT THAT The subject property is located within the City of Houston is subject to the terms, conditions and provisions of City of Houston Ordinance No. 91-1701, pertaining to among other things, the planting, maintenance and preservation of trees and shrubs and the erection of screening fences. A certified copy of said ordinance was filed for record on February 26, 1992, in cc# N555308, Real Property Records, Harris County, Texas.

EXHIBIT "B", Permitted Encumbrances B-2

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Pages 43
03/08/2016 09:03 AM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
STAN STANART
COUNTY CLERK
Fees \$180.00

RECORDERS MEMORANDUM

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

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

THE STATE OF TEXAS
COUNTY OF HARRIS

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



Stan Stanart

COUNTY CLERK
HARRIS COUNTY, TEXAS

RP-2016-95109



PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

ONE TO FOUR FAMILY RESIDENTIAL CONTRACT (RESALE)

NOTICE: Not For Use For Condominium Transactions

1. **PARTIES:** The parties to this contract are 1776 American Properties V, LLC (Seller) and YU HonKit or assigns (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.
2. **PROPERTY:** The land, improvements and accessories are collectively referred to as the "Property".
 - A. **LAND:** Lot 2 Block 16, Addition, City of Houston, County of Harris, Texas, known as 5634 Woodbrook Way 77081-1118 (address/zip code), or as described on attached exhibit.
 - B. **IMPROVEMENTS:** The house, garage and all other fixtures and improvements attached to the above-described real property, including without limitation, the following **permanently installed and built-in items**, if any: all equipment and appliances, valances, screens, shutters, awnings, wall-to-wall carpeting, mirrors, ceiling fans, attic fans, mail boxes, television antennas, mounts and brackets for televisions and speakers, heating and air-conditioning units, security and fire detection equipment, wiring, plumbing and lighting fixtures, chandeliers, water softener system, kitchen equipment, garage door openers, cleaning equipment, shrubbery, landscaping, outdoor cooking equipment, and all other property owned by Seller and attached to the above described real property.
 - C. **ACCESSORIES:** The following described related accessories, if any: window air conditioning units, stove, fireplace screens, curtains and rods, blinds, window shades, draperies and rods, door keys, mailbox keys, above ground pool, swimming pool equipment and maintenance accessories, artificial fireplace logs, and controls for: (i) garage doors, (ii) entry gates, and (iii) other improvements and accessories.
 - D. **EXCLUSIONS:** The following improvements and accessories will be retained by Seller and must be removed prior to delivery of possession: _____
3. **SALES PRICE:**

A. Cash portion of Sales Price payable by Buyer at closing	\$ <u>198,000.00</u>
B. Sum of all financing described in the attached: <input checked="" type="checkbox"/> Third Party Financing Addendum, <input type="checkbox"/> Loan Assumption Addendum, <input type="checkbox"/> Seller Financing Addendum	\$ <u>297,000.00</u>
C. Sales Price (Sum of A and B)	\$ <u>495,000.00</u>
4. **LICENSE HOLDER DISCLOSURE:** Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____
5. **EARNEST MONEY:** Upon execution of this contract by all parties, Buyer shall deposit \$ 1,000.00 as earnest money with Fidelity Title, as escrow agent, at 5151 San Felipe, Suite 125, Houston Texas 77056 (address). Buyer shall deposit additional earnest money of \$ _____ with escrow agent within _____ days after the effective date of this contract. If Buyer fails to deposit the earnest money as required by this contract, Buyer will be in default.
6. **TITLE POLICY AND SURVEY:**
 - A. **TITLE POLICY:** Seller shall furnish to Buyer at Seller's Buyer's expense an owner policy of title insurance (Title Policy) issued by Fidelity Title (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
 - (1) Restrictive covenants common to the platted subdivision in which the Property is located.
 - (2) The standard printed exception for standby fees, taxes and assessments.
 - (3) Liens created as part of the financing described in Paragraph 3.
 - (4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.

DS [Signature] DS [Signature]

TAR 1601 Initialed for identification by Buyer _____ and Seller _____ TREC NO. 20-13

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Houston, TX 77081-1118
(Address of Property)

- (5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
 - (6) The standard printed exception as to marital rights.
 - (7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
 - (8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements: (i) will not be amended or deleted from the title policy; or (ii) will be amended to read, "shortages in area" at the expense of Buyer Seller.
- B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier. If, due to factors beyond Seller's control, the Commitment and Exception Documents are not delivered within the time required, Buyer may terminate this contract and the earnest money will be refunded to Buyer.
- C. SURVEY: The survey must be made by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s). (Check one box only)
- (1) Within 15 days after the effective date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing survey of the Property and a Residential Real Property Affidavit promulgated by the Texas Department of Insurance (T-47 Affidavit). **If Seller fails to furnish the existing survey or affidavit within the time prescribed, Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date.** If the existing survey or affidavit is not acceptable to Title Company or Buyer's lender(s), Buyer shall obtain a new survey at Seller's Buyer's expense no later than 3 days prior to Closing Date.
 - (2) Within _____ days after the effective date of this contract, Buyer shall obtain a new survey at Buyer's expense. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.
 - (3) Within _____ days after the effective date of this contract, Seller, at Seller's expense shall furnish a new survey to Buyer.
- D. OBJECTIONS: Buyer may object in writing to defects, exceptions, or encumbrances to title: disclosed on the survey other than items 6A(1) through (7) above; disclosed in the Commitment other than items 6A(1) through (8) above; or which prohibit the following use or activity: Single Family. Buyer must object the earlier of (i) the Closing Date or (ii) _____ days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived by Buyer. Provided Seller is not obligated to incur any expense, Seller shall cure the timely objections of Buyer or any third party lender within 15 days after Seller receives the objections and the Closing Date will be extended as necessary. If objections are not cured within such 15 day period, this contract will terminate and the earnest money will be refunded to Buyer unless Buyer waives the objections.
- E. TITLE NOTICES:
- (1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
 - (2) MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S): The Property is is not subject to mandatory membership in a property owners association(s). If the Property is subject to mandatory membership in a property owners association(s), Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community identified in Paragraph 2A in which the Property is located, you are obligated to be a member of the property owners association(s). Restrictive covenants governing the use and occupancy of the Property and all dedicatory instruments governing the establishment, maintenance, and operation of this residential community have been or will be recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instrument may be obtained from the county clerk. **You are obligated to pay assessments to the property owners association(s). The amount of the assessments is subject to**

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 (Address of Property)

change. Your failure to pay the assessments could result in enforcement of the association's lien on and the foreclosure of the Property.

Section 207.003, Property Code, entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including, but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.

If Buyer is concerned about these matters, the TREC promulgated Addendum for Property Subject to Mandatory Membership in a Property Owners Association(s) should be used.

- (3) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.
- (4) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.
- (5) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.
- (6) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.
- (7) PUBLIC IMPROVEMENT DISTRICTS: If the Property is in a public improvement district, §5.014, Property Code, requires Seller to notify Buyer as follows: As a purchaser of this parcel of real property you are obligated to pay an assessment to a municipality or county for an improvement project undertaken by a public improvement district under Chapter 372, Local Government Code. The assessment may be due annually or in periodic installments. More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the municipality or county levying the assessment. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of your property.
- (8) TRANSFER FEES: If the Property is subject to a private transfer fee obligation, §5.205, Property Code, requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.
- (9) PROPANE GAS SYSTEM SERVICE AREA: If the Property is located in a propane gas system service area owned by a distribution system retailer, Seller must give Buyer written notice as required by §141.010, Texas Utilities Code. An addendum containing the notice approved by TREC or required by the parties should be used.
- (10) NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller^{DS} hereby notifies Buyer^{DS} "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as

TAR 1601 Initialed for identification by Buyer _____ and Seller _____
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TREC NO. 20-13
 5634 Woodbrook

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a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

7. PROPERTY CONDITION:

A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Any hydrostatic testing must be separately authorized by Seller in writing. Seller at Seller's expense shall immediately cause existing utilities to be turned on and shall keep the utilities on during the time this contract is in effect.

B. SELLER'S DISCLOSURE NOTICE PURSUANT TO §5.008, TEXAS PROPERTY CODE (Notice):
 (Check one box only)

- (1) Buyer has received the Notice.
- (2) Buyer has not received the Notice. Within _____ days after the effective date of this contract, Seller shall deliver the Notice to Buyer. If Buyer does not receive the Notice, Buyer may terminate this contract at any time prior to the closing and the earnest money will be refunded to Buyer. If Seller delivers the Notice, Buyer may terminate this contract for any reason within 7 days after Buyer receives the Notice or prior to the closing, whichever first occurs, and the earnest money will be refunded to Buyer.

(3) The Seller is not required to furnish the notice under the Texas Property Code.

C. SELLER'S DISCLOSURE OF LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS is required by Federal law for a residential dwelling constructed prior to 1978.

D. ACCEPTANCE OF PROPERTY CONDITION: "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer's agreement to accept the Property As Is under Paragraph 7D(1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any.

(Check one box only)

- (1) Buyer accepts the Property As Is.
- (2) Buyer accepts the Property As Is provided Seller, at Seller's expense, shall complete the following specific repairs and treatments: _____

(Do not insert general phrases, such as "subject to inspections" that do not identify specific repairs and treatments.)

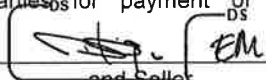
E. LENDER REQUIRED REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, neither party is obligated to pay for lender required repairs, which includes treatment for wood destroying insects. If the parties do not agree to pay for the lender required repairs or treatments, this contract will terminate and the earnest money will be refunded to Buyer. If the cost of lender required repairs and treatments exceeds 5% of the Sales Price, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

F. COMPLETION OF REPAIRS AND TREATMENTS: Unless otherwise agreed in writing: (i) Seller shall complete all agreed repairs and treatments prior to the Closing Date; and (ii) all required permits must be obtained, and repairs and treatments must be performed by persons who are licensed to provide such repairs or treatments or, if no license is required by law, are commercially engaged in the trade of providing such repairs or treatments. At Buyer's election, any transferable warranties received by Seller with respect to the repairs and treatments will be transferred to Buyer at Buyer's expense. If Seller fails to complete any agreed repairs and treatments prior to the Closing Date, Buyer may exercise remedies under Paragraph 15 or extend the Closing Date up to 5 days if necessary for Seller to complete the repairs and treatments.

G. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

H. RESIDENTIAL SERVICE CONTRACTS: Buyer may purchase a residential service contract from a residential service company licensed by TREC. If Buyer purchases a residential service contract, Seller shall reimburse Buyer at closing for the cost of the residential service contract in an amount not exceeding \$ 500.00. Buyer should review any residential service contract for the scope of coverage, exclusions and limitations. **The purchase of a residential service contract is optional. Similar coverage may be purchased from various companies authorized to do business in Texas.**

8. **BROKERS' FEES:** All obligations of the parties for payment of brokers' fees are contained in separate written agreements.



 and Seller

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9. CLOSING:

- A. The closing of the sale will be on or before September 30, 2017, or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.
- B. At closing:
- (1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.
 - (2) Buyer shall pay the Sales Price in good funds acceptable to the escrow agent.
 - (3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.
 - (4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.
 - (5) If the Property is subject to a residential lease, Seller shall transfer security deposits (as defined under §92.102, Property Code), if any, to Buyer. In such an event, Buyer shall deliver to the tenant a signed statement acknowledging that the Buyer has acquired the Property and is responsible for the return of the security deposit, and specifying the exact dollar amount of the security deposit.

10. POSSESSION:

- A. **Buyer's Possession:** Seller shall deliver to Buyer possession of the Property in its present or required condition, ordinary wear and tear excepted: upon closing and funding according to a temporary residential lease form promulgated by TREC or other written lease required by the parties. Any possession by Buyer prior to closing or by Seller after closing which is not authorized by a written lease will establish a tenancy at sufferance relationship between the parties. **Consult your insurance agent prior to change of ownership and possession because insurance coverage may be limited or terminated. The absence of a written lease or appropriate insurance coverage may expose the parties to economic loss.**
- B. Leases:
- (1) After the Effective Date, Seller may not execute any lease (including but not limited to mineral leases) or convey any interest in the Property without Buyer's written consent.
 - (2) If the Property is subject to any lease to which Seller is a party, Seller shall deliver to Buyer copies of the lease(s) and any move-in condition form signed by the tenant within 7 days after the Effective Date of the contract.

11. SPECIAL PROVISIONS: (Insert only factual statements and business details applicable to the sale. TREC rules prohibit license holder from adding factual statements or business details for which a contract addendum, lease or other form has been promulgated by TREC for mandatory use.) **The ultimate sale of the property identified herein is subject to the approval of The United States Bankruptcy Court**

12. SETTLEMENT AND OTHER EXPENSES:

- A. The following expenses must be paid at or prior to closing:
- (1) Expenses payable by Seller (Seller's Expenses):
 - (a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.
 - (b) Seller shall also pay an amount not to exceed \$ _____ to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.
 - (2) Expenses payable by Buyer (Buyer's Expenses): Appraisal fees; loan application fees; origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private

TAR 1601 Initialed for identification by Buyer _____ and Seller _____

TREC NO. 20-13

Contract Concerning 5634 Woodbrook Way Page 6 of 9 11-2-2015
Houston, TX 77081-1118
 (Address of Property)

Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.

- B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.
- 13. PRORATIONS:** Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.
- 14. CASUALTY LOSS:** If any part of the Property is damaged or destroyed by fire or other casualty after the effective date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds, if permitted by Seller's insurance carrier, and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.
- 15. DEFAULT:** If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.
- 16. MEDIATION:** It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.
- 17. ATTORNEY'S FEES:** A Buyer, Seller, Listing Broker, Other Broker, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.
- 18. ESCROW:**
- A. **ESCROW:** The escrow agent is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent.
- B. **EXPENSES:** At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, escrow agent may: (i) require a written release of liability of the escrow agent from all parties, (ii) require payment of unpaid expenses incurred on behalf of a party, and (iii) only deduct from the earnest money the amount of unpaid expenses incurred on behalf of the party receiving the earnest money.
- C. **DEMAND:** Upon termination of this contract, either party or the escrow agent may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the escrow agent. If either party fails to execute the release, either party may make a written demand to the escrow agent for the earnest money. If only one party makes written demand for the earnest money, escrow agent shall promptly provide a copy of the demand to the other party. If escrow agent does not receive written objection to the demand from the other party within 15 days, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursement of the earnest money.

TAR 1601 Initialed for identification by Buyer [Signature] and Seller [Signature]

TREC NO. 20-13

Contract Concerning 5634 Woodbrook Way Page 7 of 9 11-2-2015
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 (Address of Property)

- D. DAMAGES: Any party who wrongfully fails or refuses to sign a release acceptable to the escrow agent within 7 days of receipt of the request will be liable to the other party for (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- E. NOTICES: Escrow agent's notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.
- 19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.
- 20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by applicable law or if Seller fails to deliver an affidavit to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.
- 21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

To Buyer at:

Phone: _____

Fax: _____

E-mail: titushkyu@gmail.com

To Seller at:

Erich Mindinger


Phone: _____

Fax: _____

E-mail: _____

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are (Check all applicable boxes):

- | | |
|---|--|
| <input checked="" type="checkbox"/> Third Party Financing Addendum | <input type="checkbox"/> Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum |
| <input type="checkbox"/> Seller Financing Addendum | <input type="checkbox"/> Seller's Temporary Residential Lease |
| <input type="checkbox"/> Addendum for Property Subject to Mandatory Membership in a Property Owners Association | <input type="checkbox"/> Short Sale Addendum |
| <input type="checkbox"/> Buyer's Temporary Residential Lease | <input type="checkbox"/> Addendum for Property Located Seaward of the Gulf Intracoastal Waterway |
| <input type="checkbox"/> Loan Assumption Addendum | <input type="checkbox"/> Addendum for Seller's Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards as Required by Federal Law |
| <input type="checkbox"/> Addendum for Sale of Other Property by Buyer | <input type="checkbox"/> Addendum for Property in a Propane Gas System Service Area |
| <input type="checkbox"/> Addendum for Reservation of Oil, Gas and Other Minerals | <input type="checkbox"/> Other (list): _____ |
| <input type="checkbox"/> Addendum for "Back-Up" Contract | _____ |
| <input type="checkbox"/> Addendum for Coastal Area Property | _____ |

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Contract Concerning 5634 Woodbrook Way Page 8 of 9 11-2-2015
Houston, TX 77081-1118
(Address of Property)

23. TERMINATION OPTION: For nominal consideration, the receipt of which is hereby acknowledged by Seller, and Buyer's agreement to pay Seller \$ 100.00 (Option Fee) within 3 days after the effective date of this contract, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within _____ days after the effective date of this contract (Option Period). Notices under this paragraph must be given by 5:00 p.m. (local time where the Property is located) by the date specified. If no dollar amount is stated as the Option Fee or if Buyer fails to pay the Option Fee to Seller within the time prescribed, this paragraph will not be a part of this contract and Buyer shall not have the unrestricted right to terminate this contract. If Buyer gives notice of termination within the time prescribed, the Option Fee will not be refunded; however, any earnest money will be refunded to Buyer. The Option Fee will will not be credited to the Sales Price at closing. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

24. CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate license holders from giving legal advice. READ THIS CONTRACT CAREFULLY.

Buyer's Attorney is: _____

Seller's Attorney is: _____

Phone: _____

Phone: _____

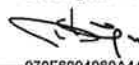
Fax: _____

Fax: _____

E-mail: _____

E-mail: _____

EXECUTED the _____ day of 8/7/2017, _____ (EFFECTIVE DATE).
(BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

DocuSigned by:

970FB994080A447

Buyer **YU HonKit or assigns**

DocuSigned by:

EAFF5BFC89014AB...

Seller **1776 American Properties V, LLC**

Buyer

Seller

The form of this contract has been approved by the Texas Real Estate Commission. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (<http://www.trec.texas.gov>) TREC NO. 20-13. This form replaces TREC NO. 20-12.

Contract Concerning 5634 Woodbrook Way Page 9 of 9 11-2-2015
Houston, TX 77081-1118
 (Address of Property)

BROKER INFORMATION
 (Print name(s) only. Do not sign)

<u>Other Broker Firm</u>	<u>License No.</u>	<u>RE/MAX Executives</u>	<u>9004177</u>
represents <input type="checkbox"/> Buyer only as Buyer's agent		Listing Broker Firm	License No.
<input type="checkbox"/> Seller as Listing Broker's subagent		represents <input checked="" type="checkbox"/> Seller and Buyer as an intermediary	
		<input type="checkbox"/> Seller only as Seller's agent	
<u>Associate's Name</u>	<u>License No.</u>	<u>David Hashem</u>	<u>446675</u>
		Listing Associate's Name	License No.
<u>Licensed Supervisor of Associate</u>	<u>License No.</u>	<u>Licensed Supervisor of Listing Associate</u>	<u>License No.</u>
<u>Other Broker's Address</u>	<u>Fax</u>	<u>PO Box 231144</u>	
		Listing Broker's Office Address	Fax
<u>City</u>	<u>State</u>	<u>Houston TX</u>	<u>770223</u>
		City	State Zip
<u>Associate's Email Address</u>	<u>Phone</u>	<u>Listing Associate's Email Address</u>	<u>Phone</u>
		<u>Selling Associate's Name</u>	<u>License No.</u>
		<u>Licensed Supervisor of Selling Associate</u>	<u>License No.</u>
		<u>Selling Associate's Office Address</u>	<u>Fax</u>
		<u>City</u>	<u>State</u> <u>Zip</u>
		<u>Selling Associate's Email Address</u>	<u>Phone</u>

Listing Broker has agreed to pay Other Broker _____ of the total sales price when the Listing Broker's fee is received. Escrow agent is authorized and directed to pay other Broker from Listing Broker's fee at closing.

OPTION FEE RECEIPT

Receipt of \$ _____ (Option Fee) in the form of _____ is acknowledged.

Seller or Listing Broker _____ Date _____

CONTRACT AND EARNEST MONEY RECEIPT

Receipt of Contract and \$ _____ Earnest Money in the form of _____ is acknowledged.

Escrow Agent: _____ Date: _____

By: _____

Address _____ Email Address _____

City _____ State _____ Zip _____ Phone: _____

Fax: _____

**THE TEXAS REAL ESTATE COMMISSION (TREC) REGULATES
REAL ESTATE BROKERS AND SALES AGENTS, REAL ESTATE INSPECTORS,
HOME WARRANTY COMPANIES, EASEMENT AND RIGHT-OF-WAY AGENTS,
AND TIMESHARE INTEREST PROVIDERS**

**YOU CAN FIND MORE INFORMATION AND
CHECK THE STATUS OF A LICENSE HOLDER AT
WWW.TREC.TEXAS.GOV**


**YOU CAN SEND A COMPLAINT AGAINST A LICENSE HOLDER TO
TREC**

A COMPLAINT FORM IS AVAILABLE ON THE TREC WEBSITE

**TREC ADMINISTERS TWO RECOVERY FUNDS WHICH MAY BE USED TO
SATISFY A CIVIL COURT JUDGMENT AGAINST A BROKER, SALES AGENT,
REAL ESTATE INSPECTOR, OR EASEMENT OR RIGHT-OF-WAY AGENT,
IF CERTAIN REQUIREMENTS ARE MET**

**IF YOU HAVE QUESTIONS OR ISSUES ABOUT THE ACTIVITIES OF
A LICENSE HOLDER, THE COMPLAINT PROCESS OR THE
RECOVERY FUNDS, PLEASE VISIT THE WEBSITE OR CONTACT TREC AT**

**TEXAS REAL ESTATE COMMISSION
P.O. BOX 12188
AUSTIN, TEXAS 78711-2188
(512) 936-3000**

DS


CAUTION

U.S. Department of
Housing and Urban
Development
Federal Housing Administration (FHA)

OMB Approval No: 2502-
0538 (exp. 04/30/2018)

For Your Protection: Get a Home Inspection

Why a Buyer Needs a Home Inspection

A home inspection gives the buyer more detailed information about the overall condition of the home prior to purchase. In a home inspection, a qualified inspector takes an in-depth, unbiased look at your potential new home to:

- Evaluate the physical condition: structure, construction, and mechanical systems; Identify items that need to be repaired or replaced; and
- Estimate the remaining useful life of the major systems, equipment, structure, and finishes.

You Must Ask for a Home Inspection

A home inspection will only occur if you arrange for one. FHA does not perform a home inspection. Decide early. You may be able to make your contract contingent on the results of the inspection.

Appraisals are Different from Home Inspections

An appraisal is different from a home inspection and does not replace a home inspection. Appraisals estimate the value of the property for lenders. An appraisal is required to ensure the property is marketable. Home inspections evaluate the condition of the home for buyers.

FHA Does Not Guarantee the Value or Condition of your Potential New Home

If you find problems with your new home after closing, FHA cannot give or lend you money for repairs, and FHA cannot buy the home back from you. Ask a qualified home inspector to inspect your potential new home and give you the information you need to make a wise decision.

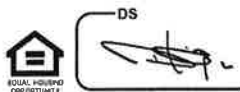
Radon Gas Testing

The United States Environmental Protection Agency and the Surgeon General of the United States have recommended that all houses should be tested for radon. For more information on radon testing, call the toll-free National Radon Information Line at 1-800-SOS-Radon or 1-800-767-7236.

Ask your home inspector about additional health and safety tests that may be relevant for your home.

Be an Informed Buyer

It is your responsibility to be an informed buyer. You have the right to carefully examine your potential new home with a qualified home inspector. To find a qualified home inspector ask for references from friends, realtors, local licensing authorities and organizations that qualify and test home inspectors.



HUD-92564 (6/14)



CAUTION

(TAR-1928 06-14

Keller Williams Realty, 707 Aurora Houston, TX 77009
David Hashem

Phone: 832.277.4847

Fax: .

Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.ziplogix.com

Page 1 of 1

5634 Woodbrook

11/2/2015



Information About Brokerage Services

Texas law requires all real estate licensees to give the following information about brokerage services to prospective buyers, tenants, sellers and landlords.

TYPES OF REAL ESTATE LICENSE HOLDERS:

- A **BROKER** is responsible for all brokerage activities, including acts performed by sales agents sponsored by the broker.
- A **SALES AGENT** must be sponsored by a broker and works with clients on behalf of the broker.

A BROKER'S MINIMUM DUTIES REQUIRED BY LAW (A client is the person or party that the broker represents):

- Put the interests of the client above all others, including the broker's own interests;
- Inform the client of any material information about the property or transaction received by the broker;
- Answer the client's questions and present any offer to or counter-offer from the client; and
- Treat all parties to a real estate transaction honestly and fairly.

A LICENSE HOLDER CAN REPRESENT A PARTY IN A REAL ESTATE TRANSACTION:

AS AGENT FOR OWNER (SELLER/LANDLORD): The broker becomes the property owner's agent through an agreement with the owner, usually in a written listing to sell or property management agreement. An owner's agent must perform the broker's minimum duties above and must inform the owner of any material information about the property or transaction known by the agent, including information disclosed to the agent or subagent by the buyer or buyer's agent.

AS AGENT FOR BUYER/TENANT: The broker becomes the buyer/tenant's agent by agreeing to represent the buyer, usually through a written representation agreement. A buyer's agent must perform the broker's minimum duties above and must inform the buyer of any material information about the property or transaction known by the agent, including information disclosed to the agent by the seller or seller's agent.

AS AGENT FOR BOTH - INTERMEDIARY: To act as an intermediary between the parties the broker must first obtain the written agreement of each party to the transaction. The written agreement must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. A broker who acts as an intermediary:

- Must treat all parties to the transaction impartially and fairly;
- May, with the parties' written consent, appoint a different license holder associated with the broker to each party (owner and buyer) to communicate with, provide opinions and advice to, and carry out the instructions of each party to the transaction.
- Must not, unless specifically authorized in writing to do so by the party, disclose:
 - o that the owner will accept a price less than the written asking price;
 - o that the buyer/tenant will pay a price greater than the price submitted in a written offer; and
 - o any coincidental information or any other information that a party specifically instructs the broker in writing not to disclose, unless required to do so by law.

AS SUBAGENT: A license holder acts as a subagent when aiding a buyer in a transaction without an agreement to represent the buyer. A subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first.

TO AVOID DISPUTES, ALL AGREEMENTS BETWEEN YOU AND A BROKER SHOULD BE IN WRITING AND CLEARLY ESTABLISH:

- The broker's duties and responsibilities to you, and your obligations under the representation agreement.
- Who will pay the broker for services provided to you, when payment will be made and how the payment will be calculated.

LICENSE HOLDER CONTACT INFORMATION: This notice is being provided for information purposes. It does not create an obligation for you to use the broker's services. Please acknowledge receipt of this notice below and retain a copy for your records.

RE/MAX Executives	9004177		
Licensed Broker /Broker Firm Name or Primary Assumed Business Name	License No.	Email	Phone
Designated Broker of Firm	License No.	Email	Phone
Licensed Supervisor of Sales Agent/ Associate	License No.	Email	Phone
David Hashem	446675	davidhashem@yahoo.com	
Sales Agent/Associate's Name	License No.	8/7/2017	Phone
Buyer/Tenant/Seller/Landlord Initials		Date	

Regulated by the Texas Real Estate Commission

Information available at www.trec.texas.gov
 IABS 1-0 Date

11-2-2015



PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

THIRD PARTY FINANCING ADDENDUM

TO CONTRACT CONCERNING THE PROPERTY AT

5634 Woodbrook Way Houston

(Street Address and City)

A. TYPE OF FINANCING AND DUTY TO APPLY AND OBTAIN APPROVAL: Buyer shall apply promptly for all financing described below and make every reasonable effort to obtain approval for the financing, including but not limited to furnishing all information and documents required by Buyer's lender. (Check applicable boxes):

- 1. Conventional Financing: (a) A first mortgage loan in the principal amount of \$ 297,000.00 (excluding any financed PMI premium), due in full in 30 year(s), with interest not to exceed 5.000 % per annum for the first 30 year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed % of the loan. (b) A second mortgage loan in the principal amount of \$ (excluding any financed PMI premium), due in full in year(s), with interest not to exceed % per annum for the first year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed % of the loan. 2. Texas Veterans Loan: A loan(s) from the Texas Veterans Land Board of \$ for a period in the total amount of years at the interest rate established by the Texas Veterans Land Board. 3. FHA Insured Financing: A Section FHA insured loan of not less than \$ (excluding any financed MIP), amortizable monthly for not less than years, with interest not to exceed % per annum for the first year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed % of the loan. 4. VA Guaranteed Financing: A VA guaranteed loan of not less than \$ (excluding any financed Funding Fee), amortizable monthly for not less than years, with interest not to exceed % per annum for the first year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed % of the loan. 5. USDA Guaranteed Financing: A USDA-guaranteed loan of not less than \$ (excluding any financed Funding Fee), amortizable monthly for not less than years, with interest not to exceed % per annum for the first year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed % of the loan. 6. Reverse Mortgage Financing: A reverse mortgage loan (also known as a Home Equity Conversion Mortgage loan) in the original principal amount of \$ (excluding any financed PMI premium or other costs), with interest not to exceed % per annum for the first year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed % of the loan. The reverse mortgage loan will will not be an FHA insured loan.

Initials for Buyer and Seller

Initialed for identification by Buyer TAR 1901

TREC NO. 40-7 11-2-2015 5634 Woodbrook

5634 Woodbrook Way, Houston, TX 77081-1118

(Address of Property)

B. APPROVAL OF FINANCING: Approval for the financing described above will be deemed to have been obtained when Buyer Approval and Property Approval are obtained.

1. Buyer Approval:

[X] This contract is subject to Buyer obtaining Buyer Approval. If Buyer cannot obtain Buyer Approval, Buyer may give written notice to Seller within 15 days after the effective date of this contract and this contract will terminate and the earnest money will be refunded to Buyer. If Buyer does not terminate the contract under this provision, the contract shall no longer be subject to the Buyer obtaining Buyer Approval. Buyer Approval will be deemed to have been obtained when (i) the terms of the loan(s) described above are available and (ii) lender determines that Buyer has satisfied all of lender's requirements related to Buyer's assets, income and credit history.

[] This contract is not subject to Buyer obtaining Buyer Approval.

2. Property Approval: Property Approval will be deemed to have been obtained when the Property has satisfied lender's underwriting requirements for the loan, including but not limited to appraisal, insurability, and lender required repairs. If Property Approval is not obtained, Buyer may terminate this contract by giving notice to Seller before closing and the earnest money will be refunded to Buyer.

3. Time is of the essence for this paragraph and strict compliance with the time for performance is required.

C. SECURITY: Each note for the financing described above must be secured by vendor's and deed of trust liens.

D. FHAVA REQUIRED PROVISION: If the financing described above involves FHA insured or VA financing, it is expressly agreed that, notwithstanding any other provision of this contract, the purchaser (Buyer) shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise: (i) unless the Buyer has been given in accordance with HUD/FHA or VA requirements a written statement issued by the Federal Housing Commissioner, Department of Veterans Affairs, or a Direct Endorsement Lender setting forth the appraised value of the Property of not less than \$ _____; or (ii) if the contract purchase price or cost exceeds the reasonable value of the Property established by the Department of Veterans Affairs.

(1) The Buyer shall have the privilege and option of proceeding with consummation of the contract without regard to the amount of the appraised valuation or the reasonable value established by the Department of Veterans Affairs.

(2) If FHA financing is involved, the appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value or the condition of the Property. The Buyer should satisfy himself/herself that the price and the condition of the Property are acceptable.

(3) If VA financing is involved and if Buyer elects to complete the purchase at an amount in excess of the reasonable value established by the VA, Buyer shall pay such excess amount in cash from a source which Buyer agrees to disclose to the VA and which Buyer represents will not be from borrowed funds except as approved by VA. If VA reasonable value of the Property is less than the Sales Prices, Seller may reduce the Sales Price to an amount equal to the VA reasonable value and the sale will be closed at the lower Sales Price with proportionate adjustments to the down payment and the loan amount.

E. AUTHORIZATION TO RELEASE INFORMATION:

(1) Buyer authorizes Buyer's lender to furnish to Seller or Buyer or their representatives information relating to the status of the approval for the financing.

(2) Seller and Buyer authorize Buyer's lender, title company, and escrow agent to disclose and furnish a copy of the closing disclosures provided in relation to the closing of this sale to the parties' respective brokers and sales agents identified on the last page of the contract.

Buyer YU HonKit or assigns

Seller 1776 American Properties V, LLC

Buyer

Seller

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