

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM426161

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
St Julien Partners LLC		05/01/2017	Limited Liability Company: COLORADO
RECEIVING PARTY DATA			
Name:	The Variable Annuity Life Insurance Company		
Street Address:	777 South Figueroa Street, 16th Floor		
Internal Address:	c/o AIG Investments		
City:	Los Angeles		
State/Country:	CALIFORNIA		
Postal Code:	90017-5800		
Entity Type:	Corporation: TEXAS		
PROPERTY NUMBERS Total: 3			
Property Type	Number	Word Mark	
Serial Number:	87423144	ST. JULIEN	
Serial Number:	87423397	J	
Serial Number:	87423399	BOULDER'S HOTEL & SPA	
CORRESPONDENCE DATA			
Fax Number:	3035726540		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	303 572 6500		
Email:	GTIPMAIL@gtlaw.com,strongg@gtlaw.com,dentonj@gtlaw.com		
Correspondent Name:	Gayle L. Strong		
Address Line 1:	1200 17th Street, Suite 2400		
Address Line 2:	Greenberg Traurig, LLP		
Address Line 4:	Denver, COLORADO 80202		
ATTORNEY DOCKET NUMBER:	075327.030700		
NAME OF SUBMITTER:	Gayle L. Strong		
SIGNATURE:	/Gayle L. Strong/		
DATE SIGNED:	05/04/2017		
Total Attachments: 59			

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Recording requested by:

And when recorded mail to:

Greenberg Traurig, LLP
1200 17th Street, 24th Floor
Denver, Colorado 80202
Attention: Peter C. Kelley, Esq.

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

THIS DEED OF TRUST, SECURITY AGREEMENT, FIXTURE FILING AND ASSIGNMENT OF LEASES AND RENTS (this “**Deed of Trust**”) is given as of May 3, 2017, by ST. JULIEN PARTNERS LLC, a Colorado limited liability company (“**Grantor**”), to the PUBLIC TRUSTEE OF THE COUNTY OF BOULDER, COLORADO (“**Trustee**”), for the use and benefit of THE VARIABLE ANNUITY LIFE INSURANCE COMPANY, a Texas corporation (“**Beneficiary**”).

ARTICLE 1

PARTIES, PROPERTY, AND DEFINITIONS

The following terms and references shall have the meanings indicated:

1.1 Association: The Condominium Association and any other association formed or constituted at any time under the Condominium Documents.

1.2 Beneficiary: The Beneficiary named in the introductory paragraph of this Deed of Trust, whose legal address is c/o AIG Investments, 777 South Figueroa Street, 16th Floor, Los Angeles, California 90017-5800, together with any future holder of the Note.

1.3 Business Day: Any day that is not a Saturday, Sunday or public holiday or the equivalent for banks generally under the laws of the State.

1.4 Cash Collateral Agreement: The Cash Collateral Agreement of even date herewith among Grantor and Beneficiary, and acknowledged and agreed to by the “**Servicer**” referenced therein.

1.5 Certificate Concerning Governing Documents: That certain Certificate Concerning Governing Documents of even date herewith made by Grantor and Guarantor to Beneficiary.

1.6 Chattels: All goods, fixtures, inventory, furniture, furnishings, equipment, building and other materials, supplies, and other tangible personal property of every nature,

whether now owned or hereafter acquired by Grantor (including, without limitation, all Goods, Fixtures, Inventory and Equipment, as such terms are defined in Article 9 of the Colorado Uniform Commercial Code), used, intended for use, or reasonably required in the construction, development, or operation of the Property, together with all accessions thereto, replacements and substitutions therefor, and proceeds thereof.

1.7 Collateral Assignment of Declarant's Rights: That certain Collateral Assignment of Declarant's Rights dated as of even date herewith, by Grantor to and for the benefit of Beneficiary.

1.8 Condominium Association: The "Association" formed and constituted pursuant to the Condominium Documents from time to time.

1.9 Condominium Documents: Collectively, (i) that certain Condominium Declaration for Ninth and Canyon Hotel and Parking Condominium, executed May 7, 2003, and recorded on May 19, 2006, as Reception No. 2777799 in the Official Records of Boulder County Clerk, as further supplemented, amended, modified, replaced or amended and restated from time to time, and (ii) that certain Condominium Map for Ninth and Canyon Hotel and Parking Condominium recorded on May 19, 2006, as Reception No. 2777800 in the Official Records of Boulder County Clerk, as further supplemented, amended, modified, replaced or amended and restated from time to time, together with the Articles of Incorporation of Ninth and Canyon Hotel and Parking Condominium Association, and the Bylaws of Ninth and Canyon Hotel and Parking Condominium Association, adopted May 19, 2006, each as further supplemented, amended, modified, replaced or amended and restated from time to time.

1.10 Controlling Persons: Collectively, (a) if Grantor is a partnership or joint venture, all general partners or joint venturers of Grantor, (b) if Grantor is a limited liability company, all managers or managing members of Grantor, (c) Guarantor, and (d) any successor to any of the foregoing.

1.11 Default: Any matter which, with the giving of notice, passage of time, or both, would constitute an Event of Default.

1.12 Environmental Indemnity Agreement: The Environmental Indemnity Agreement of even date herewith made by Grantor and Guarantor for the benefit of Beneficiary.

1.13 ERISA: The Employee Retirement Income Security Act of 1974, as amended, together with all rules and regulations issued thereunder.

1.14 Event of Default: As defined in Article 6.

1.15 FF&E Reserve Agreement: The FF&E Reserve Agreement of even date herewith among Grantor and Beneficiary, and acknowledged and agreed to by the "Servicer" referenced therein.

1.16 Grantor: The Grantor named in the introductory paragraph of this Deed of Trust (Organizational I.D. No./Secretary of State File No. 19981232875), whose legal address is 921

Walnut Street, Suite 220, Boulder, Colorado 80302, together with any future owner of the Property or any part thereof or interest therein.

1.17 Guarantor: Union Leasing Corp., a Colorado corporation.

1.18 Guaranty Agreement: The Guaranty Agreement of even date herewith made by Guarantor for the benefit of Beneficiary.

1.19 Insurance Agreement: The Agreement Concerning Insurance Requirements of even date herewith executed by Grantor for the benefit of Beneficiary.

1.20 Intangible Personalty: All of Grantor's right, title and interest in and to the following: the right to use all trademarks, service marks and trade names and symbols or logos (including, without limitation, the name "St. Julien" and "St. Julien Hotel & Spa" and any related trademarks, trademark registrations, trademark applications (including ST. JULIEN – U.S. Trademark Application Serial No. 87/423,144; J & Design – U.S. Trademark Application Serial No. 87/423,397; and BOULDER'S HOTEL & SPA – U.S. Trademark Application Serial No. 87/423,399), service marks, symbols and logos, and any goodwill of the business associated with the use thereof, and all royalties and other sums due or to become due under or in respect thereof together with the right to sue for and collect all such royalties and other sums, all proceeds of the foregoing and any claim of Grantor by reason of past, present or future infringement thereof or injury to the goodwill associated therewith together with the right to sue for and collect all damages by reason thereof) used in connection therewith, or any modifications or variations thereof, in connection with the operation of the improvements existing or to be constructed on the Property, together with all accounts, deposit accounts, letter of credit rights, investment property, monies in the possession of Beneficiary (including, without limitation, proceeds from insurance, retainages and deposits for taxes and insurance), Permits, contract rights (including, without limitation, rights under the Contracts, rights under the Preferred Hotel Group Contract, rights under any Management Agreement, rights under any franchise agreement, license agreement or royalty agreement, and rights to receive insurance proceeds) and general intangibles (whether now owned or hereafter acquired, and including proceeds thereof, and including all Accounts, Deposit Accounts, Letter of Credit Rights, Investment Property, Contracts, Management Agreements, and General Intangibles, as such terms are defined in Article 9 of the Colorado Uniform Commercial Code) relating to or arising from Grantor's ownership, use, operation, leasing, or sale of all or any part of the Property, specifically including but in no way limited to any right which Grantor may have or acquire to transfer any development rights from the Property to other real property, and any development rights which may be so transferred.

1.21 Lease Certificate: That certain Certificate Concerning Leases and Financial Condition of even date herewith made by Grantor to Beneficiary concerning Leases and financial condition of the Property.

1.22 Leases: Any and all leases, subleases and other agreements under the terms of which any person other than Grantor has or acquires any right to occupy or use the Property, or any part thereof; provided, however that the term "Leases" shall not include agreements for the temporary occupancy or use of the Property by hotel guests and invitees.

1.23 Letter Agreement Regarding Civic Use Site and Right of First Refusal to Finance Civic Use Site: That certain Letter Agreement Regarding Civic Use Site and Right of First Refusal to Finance Civic Use Site of even date herewith by and between Grantor and Beneficiary.

1.24 Loan: The loan from Beneficiary to Grantor evidenced by the Note.

1.25 Loan Documents: The Note, all of the deeds of trust, mortgages and other instruments and documents securing or executed and delivered in connection with the Note, including this Deed of Trust, the Insurance Agreement, the Environmental Indemnity Agreement, the Guaranty Agreement, the Cash Collateral Agreement, the FF&E Reserve Agreement, the Certificate Concerning Governing Documents, the Lease Certificate, the Subordination of Management Agreement, the Letter Agreement Regarding Civic Use Site and Right of First Refusal to Finance Civic Use Site, the Collateral Assignment of Declarant's Rights, and each other document executed or delivered in connection with the transaction pursuant to which the Note has been executed and delivered. The term "**Loan Documents**" also includes all modifications, extensions, renewals, and replacements of each document referred to above.

1.26 Management Agreement: That certain Hotel Management Agreement dated as of January 1, 2007, as amended by that certain First Amendment to Management Agreement dated as of January 1, 2017 by and between Grantor and Manager, pursuant to which Manager manages the Property, and any replacement or other management agreement entered into by Grantor with the approval of Beneficiary given in accordance with this Deed of Trust, as the same may be amended, modified, restated or supplemented from time to time.

1.27 Manager: St. Julien Hotel Company LLC, a Colorado limited liability company, as "Manager" under the existing Management Agreement, and any other manager under a Management Agreement.

1.28 Material Property Agreements: Collectively, the Management Agreement, the Condominium Documents, any document recorded against the Property, any hotel management agreements, franchise agreements, license or branding agreement, or similar material hotel contract (including, without limitation, the Preferred Hotel Group Contract), and any other material agreements relating to the use, management or operation of the Property.

1.29 Note: Grantor's promissory note of even date herewith, payable to the order of Beneficiary in the principal face amount of \$65,000,000.00, having an original maturity date of June 1, 2027, subject to extension to June 1, 2032, pursuant to the terms and conditions set forth therein, together with all renewals, extensions and modifications of such promissory note. All terms and provisions of the Note are incorporated by this reference in this Deed of Trust.

1.30 Permits: All permits, licenses, franchises, certificates and authorizations necessary for the ownership, use, occupancy, operation and maintenance of the Property and the conduct of the business of Grantor, including, without limitation, any and all alcoholic beverage and liquor sales licenses.

1.31 Person: Shall mean any individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any other entity, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

1.32 Permitted Exceptions: The matters set forth in Schedule B-I of the title insurance policy insuring the lien created by this Deed of Trust, that Grantor has caused to be delivered to Beneficiary in connection with the Loan.

1.33 Preferred Hotel Group Contract: That certain contract with Preferred Hotel Group Inc. due to expire December 31, 2018 as of the date hereof, as the same may be supplemented, amended, modified, replaced or amended and restated from time to time.

1.34 Property: The tract or tracts of land described in Exhibit A attached hereto, together with all of Grantor's right, title and interest, if any, in and to the following:

(a) All buildings, structures, and improvements now or hereafter located on such tract or tracts, as well as all rights-of-way, easements, and other appurtenances thereto;

(b) Any land lying between the boundaries of such tract or tracts and the center line of any adjacent street, road, avenue, or alley, whether opened or proposed;

(c) All of the rents, income, receipts, fees, charges, accounts, revenues, issues and profits of and from such tract or tracts and improvements;

(d) All (i) water and water rights (whether decreed or undecreed, tributary, nontributary or not nontributary, surface or underground, or appropriated or unappropriated); (ii) ditches and ditch rights; (iii) spring and spring rights; (iv) reservoir and reservoir rights; and (v) shares of stock in water, ditch and canal companies and all other evidence of such rights, which are now owned or hereafter acquired by Grantor and which are appurtenant to or which have been used in connection with such tract or tracts or improvements;

(e) All minerals, crops, timber, trees, shrubs, flowers, and landscaping features now or hereafter located on, under or above such tract or tracts;

(f) All machinery, apparatus, equipment, fittings, chattels, fixtures (whether actually or constructively attached, and including all trade, domestic, and ornamental fixtures) now or hereafter located in, upon, or under such tract or tracts or improvements and used or usable in connection with any present or future operation thereof, including but not limited to all heating, air-conditioning, freezing, lighting, laundry, incinerating and power equipment; engines; pipes; pumps; tanks; motors; conduits; switchboards; plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, cooking, and communications apparatus; boilers, water heaters, ranges, furnaces, and burners; appliances; vacuum cleaning systems; elevators; escalators; shades; awnings; screens; storm doors and windows; stoves; refrigerators; attached cabinets; partitions;

ducts and compressors; rugs and carpets; draperies; and all additions thereto and replacements therefor;

(g) All development rights associated with such tract or tracts, whether previously or subsequently transferred to such tract or tracts from other real property or now or hereafter susceptible of transfer from such tract or tracts to other real property; and all rights as a "declarant", "architectural committee" or similar party under any declaration, covenants conditions and restrictions, or similar instrument or agreement;

(h) All awards and payments, including interest thereon, resulting from the exercise of any right of eminent domain or any other public or private taking of, injury to, or decrease in the value of, any of such property; and

(i) All other and greater rights and interests of every nature in such tract or tracts and in the possession or use thereof and income therefrom, whether now owned or subsequently acquired by Grantor.

1.35 Secured Obligations: All present and future obligations of Grantor to Beneficiary evidenced by or contained in the Note, the Environmental Indemnity Agreement, this Deed of Trust and all other Loan Documents, whether stated in the form of promises, covenants, representations, warranties, conditions, or prohibitions or in any other form. If the maturity of the Note secured by this Deed of Trust is accelerated, the Secured Obligations shall include an amount equal to any prepayment premium which would be payable under the terms of the Note as if the Note were prepaid in full on the date of the acceleration. If under the terms of the Note no voluntary prepayment would be permissible on the date of such acceleration, then the prepayment fee or premium to be included in the Secured Obligations shall be equal to one hundred fifty percent (150%) of the highest prepayment fee or premium set forth in the Note, calculated as of the date of such acceleration, as if prepayment were permitted on such date.

1.36 State: The State in which the Property is located.

1.37 Subordination of Management Agreement: That certain Subordination, Non-Disturbance and Attornment Agreement, dated as of the date hereof, by and among Grantor, Beneficiary and the Manager of the Property, as the same may be amended, modified, restated or supplemented from time to time.

1.38 Trustee: The Trustee named in the introductory paragraph of this Deed of Trust, whose address is 1790 38th Street, Suite 100, Boulder, Colorado 80301.

1.39 Uniform System of Accounts: The Uniform System of Accounts for the Lodging Industry, Eleventh Revised Edition, as adopted by the American Hotel and Motel Association, as amended or supplemented from time to time.

Any reference in this Deed of Trust to any instrument, undertaking or agreement (including, without limitation, any Loan Document) shall mean and refer to such instrument, undertaking or agreement as the same may be amended, modified, extended, renewed, restated or replaced from time to time.

ARTICLE 2

GRANTING CLAUSE

2.1 Grant to Trustee. As security for the Secured Obligations, Grantor hereby grants, bargains, sells, warrants and conveys the Property to Trustee, in trust, with power of sale, for the use and benefit of Beneficiary, and subject to all provisions hereof.

2.2 Security Interest to Beneficiary. As additional security for the Secured Obligations, Grantor hereby grants to Beneficiary a security interest in the Property, Chattels and, to the extent not prohibited by applicable law, Intangible Personalty. To the extent any of the Property, Chattels or Intangible Personalty may be or have been acquired with funds advanced by Beneficiary under the Loan Documents, this security interest is a purchase money security interest. This Deed of Trust constitutes a security agreement under the Uniform Commercial Code of the state in which the Property is located (the "**Code**") with respect to any part of the Property, Chattels and Intangible Personalty that may or might now or hereafter be or be deemed to be personal property, fixtures or property other than real estate (all collectively hereinafter called "**Collateral**"); all of the terms, provisions, conditions and agreements contained in this Deed of Trust pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Property, and the following provisions of this Section shall not limit the generality or applicability of any other provisions of this Deed of Trust but shall be in addition thereto:

(a) The Collateral shall be used by Grantor solely for business purposes, and all Collateral (other than the Intangible Personalty) shall be installed upon the real estate comprising part of the Property (except for items kept in storage off-site in the ordinary course of Grantor's business) for Grantor's own use (including, without limitation, in connection with the ownership, use, occupancy, operation and maintenance of the Property as a hotel and spa) or as the equipment and furnishings furnished by Grantor, as landlord, to tenants and other occupants and invitees of the Property;

(b) Except for items kept in storage off-site in the ordinary course of Grantor's business, the Collateral (other than the Intangible Personalty) shall be kept at the real estate comprising a part of the Property, and shall not be removed therefrom without the consent of Beneficiary (being the Secured Party as that term is used in the Code) except as permitted pursuant to this Deed of Trust; and the Collateral (other than the Intangible Personalty) may be affixed to such real estate but shall not be affixed to any other real estate;

(c) No financing statement covering any of the Collateral or any proceeds thereof is on file in any public office; and Grantor will, at its cost and expense, upon demand, furnish to Beneficiary such further information and will execute and deliver to Beneficiary such financing statements and other documents in form reasonably satisfactory to Beneficiary and will do all such acts and things as Beneficiary may at any time or from time to time reasonably request or as may be necessary or appropriate to establish and maintain a perfected first-priority security interest in the Collateral as security for the Secured Obligations, subject to no adverse liens or encumbrances, except

for Permitted Exceptions and any other liens or encumbrances expressly permitted under the Loan Documents; and Beneficiary is hereby authorized to execute and/or to file any such financing statements or other documents; and Grantor will pay the cost of filing the same or filing or recording such financing statements or other documents and this instrument in all public offices wherever filing or recording is reasonably deemed by Beneficiary to be necessary or desirable;

(d) The terms and provisions contained in this Section and in Section 7.6 of this Deed of Trust shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code; and

(e) This Deed of Trust constitutes a financing statement under the Code with respect to the Collateral. As such, this Deed of Trust covers all items of the Collateral that are or are to become fixtures. The filing of this Deed of Trust in the real estate records of the county where the Property is located shall constitute a fixture filing in accordance with the Code. Information concerning the security interests created hereby may be obtained at the addresses set forth in Article 1 of this Deed of Trust. Grantor is the “**Debtor**” and Beneficiary is the “**Secured Party**” (as those terms are defined and used in the Code) insofar as this Deed of Trust constitutes a financing statement.

ARTICLE 3

GRANTOR’S REPRESENTATIONS AND WARRANTIES

3.1 Warranty of Title. Grantor represents and warrants to Beneficiary that as of the date hereof:

(a) Grantor has good and marketable fee simple title to the Property consisting of real property, except for those portions of the Property consisting of a leasehold interest granted to Grantor in certain real property (in which Grantor has a valid leasehold interest), and such fee simple or leasehold title is free and clear of all liens, encumbrances, security interests and other claims whatsoever, subject only to the Permitted Exceptions;

(b) Grantor is the sole and absolute owner of the Chattels and the Intangible Personality, free and clear of all liens, encumbrances, security interests and other claims whatsoever, subject only to the Permitted Exceptions;

(c) This Deed of Trust is a valid and enforceable first lien and security interest on the Property, Chattels and Intangible Personality, subject only to the Permitted Exceptions; and

(d) Grantor, for itself and its successors and assigns, hereby agrees to warrant and forever defend, all and singular all of the Property and property interests granted and conveyed pursuant to this Deed of Trust, against every person whomsoever lawfully claiming, or to claim, the same or any part thereof, subject only to the Permitted Exceptions.

If Beneficiary or any subsidiary or affiliate of Beneficiary acquires title to the Property, the Chattels or the Intangible Personalty pursuant to a foreclosure of this Deed of Trust, then the representations, warranties and covenants contained in this Section 3.1 shall survive foreclosure of this Deed of Trust, and shall inure to the benefit of and be enforceable by Beneficiary.

3.2 Due Authorization. Grantor represents and warrants to Beneficiary that the execution, delivery and performance of this Deed of Trust has been duly authorized by all necessary corporate, partnership, limited liability company or other action on the part of Grantor. Grantor represents that Grantor has obtained all consents and approvals required in connection with the execution, delivery and performance of this Deed of Trust.

3.3 Other Representations and Warranties. Grantor represents and warrants to Beneficiary as follows:

(a) Grantor is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Colorado.

(b) The execution, delivery and performance by Grantor of the Loan Documents are within Grantor's power and authority and have been duly authorized by all necessary action;

(c) This Deed of Trust is, and each other Loan Document to which Grantor or Guarantor is a party will, when delivered hereunder, be valid and binding obligations of Grantor and Guarantor enforceable against Grantor and Guarantor in accordance with their respective terms, except as limited by equitable principles and bankruptcy, insolvency and similar laws affecting creditors' rights;

(d) The execution, delivery and performance by Grantor and Guarantor of the Loan Documents will not contravene any contractual or other restriction binding on or affecting Grantor or any Controlling Person and will not result in or require the creation of any lien, security interest, other charge or encumbrance (other than pursuant hereto) upon or with respect to any of its properties;

(e) The execution, delivery and performance by Grantor and Guarantor of the Loan Documents does not violate or contravene any applicable law;

(f) No authorization, approval, consent or other action by, and no notice to or filing with, any court, governmental authority or regulatory body is required for the due execution, delivery and performance by Grantor and Guarantor of any of the Loan Documents or the effectiveness of any assignment of any of Grantor's rights and interests of any kind to Beneficiary;

(g) No part of the Property, Chattels, or Intangible Personalty is in the hands of a receiver, no application for a receiver is pending with respect to any portion of the Property, Chattels, or Intangible Personalty, and no part of the Property, Chattels, or Intangible Personalty is subject to any foreclosure or similar proceeding;

(h) Neither Grantor nor any Controlling Person has made any assignment for the benefit of creditors, nor has Grantor or any Controlling Person filed, or had filed against it, any petition in bankruptcy;

(i) There is no pending or, to the best of Grantor's knowledge, threatened, litigation, action, proceeding or investigation, including, without limitation, any condemnation proceeding, against Grantor, any Controlling Person or the Property before any court, governmental or quasi-governmental, arbitrator or other authority which, if determined against Grantor, , any Controlling Person or the Property, would have a material adverse effect on the condition (financial or otherwise) or business of Grantor, such Controlling Person or the condition or ownership of the Property;

(j) Grantor is a "non-foreign person" within the meaning of Sections 1445 and 7701 of the United States Internal Revenue Code of 1986, as amended, and the regulations issued thereunder;

(k) Access to and egress from the Property are available and provided by public streets, and Grantor has no knowledge of any federal, state, county, municipal or other governmental plans to change the highway or road system in the vicinity of the Property or to restrict or change access from any public street, highway or road to the Property;

(l) All public utility services necessary for the operation of all improvements constituting part of the Property for their intended purposes are available at the boundaries of the land constituting part of the Property, including water supply, storm and sanitary sewer facilities, and natural gas, electric, telephone and cable television facilities;

(m) To Grantor's knowledge, the Property is located in a zoning district designated "DT-5" Downtown 5 District, with discretionary reviews: SI-99-12, UR-99-15 & LUR2001-0017, by the City of Boulder, Colorado. Except as otherwise set forth in that certain final Zoning and Site Requirements Summary, prepared by The Planning & Zoning Resource Company, PZR Site Number 100825-1 (the "**Zoning Report**"), to Grantor's knowledge, such designation permits the development, use and operation of the Property as it is currently operated as a permitted, and not as a non-conforming use. Except as set forth in the Zoning Report, to Grantor's knowledge, the Property complies in all respects with all zoning ordinances, regulations, requirements, conditions and restrictions, including but not limited to deed restrictions and restrictive covenants, applicable to the Property;

(n) To Grantor's knowledge, there are no (i) pending or threatened special or other assessments for public improvements or otherwise now affecting the Property or (ii) contemplated improvements affecting the Property that may result in special assessments. To Grantor's knowledge, there are no tax abatements or exceptions affecting the Property;

(o) Grantor and each Controlling Person has filed all tax returns it is required to have filed, and has paid all taxes as shown on such returns or on any assessment received pertaining to the Property;

(p) Grantor has not received any notice from any governmental body having jurisdiction over any part of the Property as to any violation of any applicable law, or any notice from any insurance company or inspection or rating bureau setting forth any requirements as a condition to the continuation of any insurance coverage on or with respect to the Property or the continuation thereof at premium rates existing at present which have not been remedied or satisfied;

(q) Neither Grantor nor any Controlling Person is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions set forth in any agreement or instrument to which it is a party or by which it or any of its properties, assets or revenues are bound, which default would have a material adverse effect on (i) the condition (financial or otherwise) or business of Grantor or such Controlling Person, or (ii) the condition or ownership of the Property;

(r) There are no options, purchase contracts or other similar agreements of any type (written or oral) presently affecting any part of the Property;

(s) There exists no brokerage agreement with respect to the sale or leasing (to tenants under Leases) of any part of the Property;

(t) Except as otherwise disclosed to Beneficiary in writing prior to the date hereof, (i) there are no contracts presently affecting the Property ("**Contracts**") having a term in excess of one hundred eighty (180) days or not terminable by Grantor (without penalty) on thirty (30) days' notice (excluding, however, the Management Agreement, the Permitted Exceptions, the Leases, and the Condominium Documents); (ii) Grantor has heretofore delivered to Beneficiary true and correct copies of each of the Contracts together with all amendments thereto; (iii) Grantor has not received written notice that it is in default of any material obligations under any of the Contracts; and (iv) the Contracts represent the complete agreement between Grantor and such other parties as to the services to be performed or materials to be provided thereunder and the compensation to be paid for such services or materials, as applicable, and to Grantor's knowledge, except as otherwise disclosed herein, such other parties possess no unsatisfied claims against Grantor. To Grantor's knowledge, Grantor is not in material default under any of the Contracts and no event has occurred which, with the passing of time or the giving of notice, or both, would constitute a material default under any of the Contracts;

(u) Grantor has obtained all Permits necessary for the operation, use, ownership, occupancy and maintenance of the Property as a hotel and spa, as it is currently being operated. None of the Permits has been suspended or revoked, and all of the Permits are in full force and effect, and Grantor has made or will make application for renewals of any of the Permits prior to the expiration thereof;

(v) All insurance policies held by Grantor relating to or affecting the Property are in full force and effect and shall remain in full force and effect until all Secured Obligations are satisfied. Grantor has not received any notice of default or notice terminating or threatening to terminate any such insurance policies. Grantor has made or will make application for renewals or replacements of any of such insurance policies prior to the expiration thereof;

(w) Grantor currently complies with ERISA. Neither the making of the Loan nor the exercise by Beneficiary of any of its rights under the Loan Documents constitutes or will constitute a non-exempt, prohibited transaction under ERISA;

(x) The Management Agreement is in full force and effect, there is no breach or default thereunder by Grantor, or to the best knowledge of Grantor, by any other party thereto, and no event has occurred that, with the passage of time and/or the giving of notice would constitute a breach or default thereunder by Grantor, or to the best knowledge of Grantor, by any other party thereto;

(y) Grantor has delivered to Beneficiary copies of all liquor licenses in effect with respect to the Property relating to the serving of alcoholic beverages, and all such liquor licenses necessary for the serving of alcoholic beverages at the Property are (a) in the name of Grantor, and (b) are in full force and effect;

(z) Grantor's exact legal name is correctly set out in the introductory paragraph of this Deed of Trust. Grantor's organizational identification number is correctly set forth in the definition of "**Grantor**" set forth in Article 1 hereof. Grantor's location (as such term is used in Section 5.8 hereof) is the State of Colorado; and

(aa) Grantor is the sole owner of the following trademarks and tradenames: ST. JULIEN – U.S. Trademark Application Serial No. 87/423,144; J & DESIGN – U.S. Trademark Application Serial No. 87/423,397; and BOULDER'S HOTEL & SPA – U.S. Trademark Application Serial No. 87/423,399, together with any goodwill of the business associated with the use thereof, and all royalties and other sums due or to become due under or in respect thereof together with the right to sue for and collect all such royalties and other sums, all proceeds of the foregoing and any claim of Grantor by reason of past, present or future infringement thereof or injury to the goodwill associated therewith together with the right to sue for and collect all damages by reason thereof, and no party has been licensed the right to use the same by Grantor.

(bb) There are no collective bargaining agreements or similar agreements in effect with respect to Grantor or the Property.

3.4 Continuing Effect. Grantor shall be liable to Beneficiary for any damage suffered by Beneficiary if any of the foregoing representations are inaccurate as of the date hereof, regardless when such inaccuracy may be discovered by, or result in harm to, Beneficiary. Grantor further represents and warrants that the foregoing representations and warranties, as well as all other representations and warranties of Grantor to Beneficiary relative to the Loan Documents, shall remain true and correct during the term of the Note and, if Beneficiary or any

subsidiary or affiliate of Beneficiary acquires title to the Property, the Chattels or the Intangible Personalty pursuant to a foreclosure of this Deed of Trust, then the foregoing representations and warranties shall survive such foreclosure of this Deed of Trust.

ARTICLE 4

GRANTOR'S AFFIRMATIVE COVENANTS

4.1 Payment of Note. Grantor will pay all principal, interest, and other sums payable under the Note, on the date when such payments are due, without notice or demand (other than such notice or demand as may be required by the terms of the Note).

4.2 Performance of Other Obligations. Grantor will promptly and strictly perform and comply with all other covenants, conditions, and prohibitions required of Grantor by the terms of the Loan Documents.

4.3 Other Encumbrances. Grantor will promptly and strictly perform and comply with all covenants, conditions, and prohibitions required of Grantor in connection with any other encumbrance affecting the Property, the Chattels, or the Intangible Personalty, or any part thereof, or any interest therein, regardless of whether such other encumbrance is superior or subordinate to the lien hereof.

4.4 Payment of Taxes.

(a) Property Taxes. Unless Grantor is depositing with Beneficiary the amounts required pursuant to Section 4.4(b), Grantor will (i) pay, before delinquency, all taxes and assessments, general or special, which may be levied or imposed at any time against Grantor's interest and estate in the Property, the Chattels, or the Intangible Personalty, and all common area or similar charges or assessments payable by Grantor pursuant to the Condominium Documents or imposed by any Association, and (ii) within ten (10) days after receipt of any written request therefor from Beneficiary, Grantor will deliver to Beneficiary an official receipt for each payment. At Beneficiary's option, at any time after there has occurred an Event of Default with respect to the payment of taxes and assessments and similar governmental charges referred to in this Section 4.4, or at any time that any other Event of Default is continuing, Beneficiary may retain the services of a firm to monitor the payment of all taxes and assessments and similar governmental charges relating to the Property, the cost of which shall be borne by Grantor.

(b) Deposit for Taxes. On or before the date hereof, Grantor shall deposit with Beneficiary an amount equal to 1/12th of the amount which Beneficiary reasonably estimates will be required to make the next annual payment of taxes, assessments, and similar governmental charges referred to in this Section, and all common area or similar charges or assessments payable by Grantor pursuant to the Condominium Documents or imposed by any Association, multiplied by the number of whole or partial months that have elapsed since the date one month prior to the most recent due date for such taxes, assessments and similar governmental charges, and all common area or similar charges or

assessments payable by Grantor pursuant to the Condominium Documents or imposed by any Association. Thereafter, with each monthly payment under the Note, Grantor shall deposit with Beneficiary an amount equal to 1/12th of the amount which Beneficiary reasonably estimates will be required to pay the next annual payment of taxes, assessments, and similar governmental charges referred to in this Section, and all common area or similar charges or assessments payable by Grantor pursuant to the Condominium Documents or imposed by any Association. The purpose of these provisions is to provide Beneficiary with sufficient funds on hand to pay all such taxes, assessments, and other governmental charges thirty (30) days before the date on which they become past due, and all common area or similar charges or assessments payable by Grantor pursuant to the Condominium Documents or imposed by any Association prior to the date on which they become past due. If the Beneficiary, in its reasonable discretion, determines that the funds escrowed hereunder are, or will be, insufficient, Grantor shall upon demand pay such additional sums as Beneficiary shall reasonably determine necessary and shall pay any increased monthly charges reasonably requested by Beneficiary. Provided no Default or Event of Default exists hereunder, Beneficiary will apply the amounts so deposited to the payment of such taxes, assessments, and other charges, and all common area or similar charges or assessments payable by Grantor pursuant to the Condominium Documents or imposed by any Association, when due, but in no event will Beneficiary be liable for any interest on any amount so deposited, and any amount so deposited may be held and commingled with Beneficiary's own funds. Notwithstanding anything contained in this Section 4.4 to the contrary, Grantor will not be required to make monthly deposits of taxes, assessments and similar governmental charges, and all common area or similar charges or assessments payable by Grantor pursuant to the Condominium Documents or imposed by any Association referred to in this Section so long as: (i) no Event of Default is continuing and no Triggering Event Condition (as defined in the Cash Collateral Agreement) exists; and (ii) evidence of timely payment of such taxes, assessments and similar governmental charges, and all common area or similar charges or assessments payable by Grantor pursuant to the Condominium Documents or imposed by any Association referred to in this Section is provided to Beneficiary as and to the extent required by this Deed of Trust.

(c) Intangible Taxes. If by reason of any statutory or constitutional amendment or judicial decision adopted or rendered after the date hereof, any tax, assessment, or similar charge is imposed against the Note, against Beneficiary, or against any interest of Beneficiary in any real or personal property encumbered hereby, Grantor will pay such tax, assessment, or other charge before delinquency and will indemnify Beneficiary against all loss, expense, or diminution of income in connection therewith. In the event Grantor is unable to do so, either for economic reasons or because the legal provisions or decisions creating such tax, assessment or charge forbid Grantor from doing so, then the Note will, at Beneficiary's option, become due and payable in full upon thirty (30) days' notice to Grantor (provided that no prepayment premium shall be payable in connection with any such prepayment).

(d) Right to Contest. Notwithstanding any other provision of this Section 4.4, Grantor will not be deemed to be in default solely by reason of Grantor's failure to pay

any tax, assessment or similar governmental charge so long as, in Beneficiary's reasonable judgment, each of the following conditions is satisfied:

(i) Grantor is engaged in and diligently pursuing in good faith administrative or judicial proceedings appropriate to contest the validity or amount of such tax, assessment, or charge; and

(ii) Grantor's payment of such tax, assessment, or charge would necessarily and materially prejudice Grantor's prospects for success in such proceedings; and

(iii) Nonpayment of such tax, assessment, or charge will not result in the loss or forfeiture of any property encumbered hereby or any interest of Beneficiary therein; and

(iv) Grantor notifies Beneficiary in writing of such contest and deposits with Beneficiary, upon request, as security for such payment which may ultimately be required, a sum equal to the amount of the disputed tax, assessment or charge plus the interest, penalties, advertising charges, and other costs which Beneficiary reasonably estimates are likely to become payable if Grantor's contest is unsuccessful (or in the alternative, Grantor posts a bond in such amount in form and from a surety reasonably satisfactory to Beneficiary if permitted by applicable law so as to ensure that the amount of such disputed tax, assessment or charge plus such interest, penalties, advertising charges, and other costs, will be paid if Grantor's contest is unsuccessful).

If Beneficiary determines that any one or more of such conditions is not satisfied or is no longer satisfied, Grantor will pay the tax, assessment, or charge in question, together with any interest and penalties thereon, within ten (10) Business Days after Beneficiary gives notice of such determination.

4.5 Maintenance of Insurance.

(a) Intentionally Deleted.

(b) Intentionally.

(c) Deposit for Premiums. On or before the date hereof, Grantor shall deposit with Beneficiary an amount equal to 1/12th of the amount which Beneficiary reasonably estimates will be required to make the next annual payments of the premiums for the policies of insurance referred to in this Section, multiplied by the number of whole and partial months which have elapsed since the date one month prior to the most recent policy anniversary date for each such policy. Thereafter, with each monthly payment under the Note, Grantor will deposit an amount equal to 1/12th of the amount which Beneficiary reasonably estimates will be required to pay the next required annual premium for each insurance policy referred to in this Section. The purpose of these provisions is to provide Beneficiary with sufficient funds on hand to pay all such premiums thirty (30) days before the date on which they become past due. If the

Beneficiary, in its reasonable discretion, determines that the funds escrowed hereunder are, or will be, insufficient, Grantor shall, within ten (10) days after written demand from Beneficiary, pay such additional sums as Beneficiary shall reasonably determine necessary and shall pay any increased monthly charges reasonably requested by Beneficiary. Provided no Event of Default exists hereunder, Beneficiary will apply the amounts so deposited to the payment of such insurance premiums when due, but in no event will Beneficiary be liable for any interest on any amounts so deposited, and the money so received may be held and commingled with Beneficiary's own funds. Notwithstanding anything contained in this Section 4.5 to the contrary, Grantor will not be required to make monthly deposits of insurance premiums referred to in this Section so long as: (i) no Event of Default is continuing and no Triggering Event Condition (as defined in the Cash Collateral Agreement) exists; and (ii) evidence of timely payment of such insurance premiums referred to in this Section is provided to Beneficiary as and to the extent required pursuant to the Loan Documents..

(d) Application of Hazard Insurance Proceeds. Grantor shall promptly notify Beneficiary of any damage or casualty to all or any portion of the Property where the costs of restoration, repair and replacement could reasonably be anticipated to exceed \$250,000. During the continuance of an Event of Default, or in case of any damage or casualty to all or any portion of the Property where the costs of restoration, repair and replacement could reasonably be anticipated to exceed \$1,000,000 (a "**Material Casualty**"), Beneficiary may participate in all negotiations and appear and participate in all judicial proceedings or arbitration proceedings concerning insurance proceeds which may be payable as a result of the applicable damage or casualty. At such times as an Event of Default is continuing, Beneficiary may, in its sole discretion, compromise or settle, in the name of Beneficiary, Grantor or both, any claim for any such insurance proceeds (whether or not the same constitutes a Material Casualty). At such times as no Event of Default is continuing, (a) in the case of damage or casualty to all or any portion of the Property that is not a Material Casualty, Grantor may compromise or settle any claim for such insurance proceeds and shall be entitled to receive such insurance proceeds directly from the applicable insurer, and (b) in the case of any Material Casualty, if Grantor and Beneficiary fail to agree acting in good faith on any compromise or settlement within ninety (90) days after the date on which the applicable insurer first proposes such compromise or settlement, then Beneficiary may, in Beneficiary's reasonable discretion, compromise or settle, in the name of Beneficiary, Grantor, or both any claim for any such insurance proceeds. Any insurance proceeds with respect to any Material Casualty or at such times as an Event of Default is continuing shall be paid to Beneficiary and shall be applied first to reimburse Beneficiary for all reasonable out-of-pocket costs and expenses, including reasonable out-of-pocket attorneys' fees and charges, incurred by Beneficiary in connection with the collection of such insurance proceeds. The balance if any, of any such insurance proceeds received by Beneficiary may, in Beneficiary's sole discretion, either (i) be retained by Beneficiary and applied toward the payment of the Secured Obligations, or (ii) be paid over, in whole or in part and subject to Beneficiary's customary construction loan disbursement procedures and conditions imposed with respect to similar borrowers owning properties similar to the Property (including, without limitation, that Beneficiary shall be entitled to retain a construction manager, the reasonable fees and costs of which shall be paid by Grantor out

of the proceeds, to oversee the disbursement of such insurance proceeds in accordance with Beneficiary's construction loan disbursement procedures), to Grantor, no more often than once per calendar month, to pay for repairs or replacements necessitated by the casualty; provided, however, that if all of the Secured Obligations have been performed or are discharged by the application of less than all of such insurance proceeds, then any remaining proceeds will be paid over to Grantor. Notwithstanding the preceding sentence, with respect to any Material Casualty, if (A) no Event of Default shall exist hereunder, and (B) the proceeds received by Beneficiary (together with any other funds delivered by Trustor to Beneficiary for such purpose) shall be sufficient, in Beneficiary's reasonable judgment, to pay for any restoration necessitated by the casualty, (C) the cost of such restoration shall not exceed 25% of the insurable value of the Improvements immediately prior to the applicable casualty, and (D) such restoration can be completed, in Beneficiary's reasonable judgment, at least one hundred eighty (180) days prior to the maturity date of the Note, then Beneficiary shall apply such proceeds as provided in clause (ii) of the preceding sentence. Beneficiary will have no obligation to see to the proper application of any insurance proceeds paid over to Grantor, nor will any such proceeds received by Beneficiary bear interest or be subject to any other charge for the benefit of Grantor. Beneficiary may, prior to the application of insurance proceeds, commingle them with Beneficiary's own funds.

(e) Successor's Rights. Any person who acquires title to the Property or the Chattels upon foreclosure hereunder will succeed to all of Grantor's rights under all policies of insurance maintained pursuant to this Section.

4.6 Maintenance and Repair of Property and Chattels. Grantor will at all times maintain the Property and the Chattels in good condition and repair, will diligently prosecute the completion of any building or other improvement which is at any time in the process of construction on the Property, and will promptly repair, restore, replace, or rebuild any part of the Property or the Chattels which may be affected by any casualty or any public or private taking or injury to the Property or the Chattels. All costs and expenses arising out of the foregoing shall be paid by Grantor whether or not the proceeds of any insurance or eminent domain shall be sufficient therefor. Grantor will comply in all material respects with all statutes, ordinances, and other governmental or quasi-governmental requirements and private covenants relating to the ownership, construction, use, or operation of the Property, including but not limited to any environmental or ecological requirements; provided, that so long as no Default or Event of Default is continuing, Grantor may, upon providing Beneficiary with security reasonably satisfactory to Beneficiary, proceed diligently and in good faith to contest the validity or applicability of any such statute, ordinance, or requirement. Beneficiary and any person authorized by Beneficiary may, from time to time, upon no less than two (2) Business Days' prior written notice to Grantor and at reasonable times, (i) enter and inspect the Property and (ii) inspect the Chattels, wherever located (in each case, subject to the rights of tenants, hotel guests and invitees, customers of the hotel and related operations).

4.7 Leases. Grantor shall timely pay and perform each of its obligations under or in connection with the Leases, and shall otherwise pay such sums and take such action as shall be necessary or required in order to maintain each of the Leases in full force and effect in accordance with its terms. Grantor shall promptly furnish to Beneficiary copies of any written

notices given to Grantor by the lessee under any Lease, alleging the default by Grantor in the timely payment or performance of its obligations under such Lease and any subsequent communication related thereto. Grantor shall also promptly furnish to Beneficiary copies of any notices given to Grantor by the lessee under any Lease, extending the term of any Lease, requiring or demanding the expenditure of any material sum by Grantor (or demanding the taking of any action by Grantor), or relating to any other material obligation of Grantor under such Lease and any subsequent communication related thereto. Grantor agrees that Beneficiary, in its sole discretion, may during the continuation of an Event of Default advance any sum or take any action which Beneficiary believes is necessary or required to maintain the Leases in full force and effect, and all such sums advanced by Beneficiary, together with all costs and expenses incurred by Beneficiary in connection with action taken by Beneficiary pursuant to this Section, shall be due and payable by Grantor to Beneficiary upon demand, shall bear interest until paid at the Default Rate (as defined in the Note), and shall be secured by this Deed of Trust.

4.8 Eminent Domain; Private Damage. If all or any part of the Property is taken or damaged by eminent domain or any other public or private action, Grantor will notify Beneficiary promptly of the time and place of all meetings, hearings, trials, and other proceedings relating to such action. In the case of any eminent domain or any other public or private action in which the award that is payable to Trustor in respect thereof could reasonably be anticipated to exceed \$1,000,000 (a "**Material Condemnation**"), Beneficiary may participate in all negotiations and appear and participate in all judicial proceedings or arbitration proceedings concerning any award or payment which may be due as a result thereof and, at such times as an Event of Default is continuing, Beneficiary may, in its sole discretion, compromise or settle, in the name of Beneficiary, Grantor or both, any claim for any such award or payment (whether or not the same is in respect of a Material Condemnation). At such times as no Event of Default is continuing, (a) in the case of any claim for any such award or payment that is not a Material Condemnation, Grantor may compromise or settle such award or payment and shall be entitled to receive such award or payment directly from the applicable governmental authority, and (b) with respect to any Material Condemnation, if Grantor and Beneficiary fail to agree acting in good faith on any compromise or settlement within ninety (90) days after the date on which the applicable governmental authority first proposes such compromise or settlement, then Beneficiary may, in Beneficiary's reasonable discretion, compromise or settle, in the name of Beneficiary, Grantor, or both any claim for any such award or payment. Any such award or payment shall be paid to Beneficiary and shall be applied first to reimburse Beneficiary for all reasonable out-of-pocket costs and expenses, including reasonable out-of-pocket attorneys' fees and charges, incurred by Beneficiary in connection with the ascertainment and collection of such award or payment. The balance, if any, of such award or payment received by Beneficiary may, in Beneficiary's sole discretion, either (a) be retained by Beneficiary and applied toward the payment of the Secured Obligations, or (b) be paid over, in whole or in part and subject to Beneficiary's customary construction loan disbursement procedures and conditions imposed with respect to similar borrowers owning properties similar to the Property (including, without limitation, that Beneficiary shall be entitled to retain a construction manager, the reasonable fees and costs of which shall be paid by Grantor out of the proceeds, to oversee the disbursement of such award or payment in accordance with Beneficiary's construction loan disbursement procedures), to Grantor, no more often than once per calendar month, to pay for repairs or replacements necessitated by the taking; provided, however, that if all of the Secured Obligations have been performed or are discharged by the application of less than all of such award or

payment, then any remaining proceeds will be paid over to Grantor. Notwithstanding the preceding sentence, with respect to any such award or payment, if (i) no Event of Default shall exist, and (ii) the proceeds received by Beneficiary (together with any other funds delivered by Grantor to Beneficiary for such purpose) shall be sufficient, in Beneficiary's reasonable judgment, to pay for any restoration necessitated by the applicable taking, condemnation or other public or private action, (iii) the cost of such restoration shall not exceed 25% of the insurable value of the Improvements immediately prior to the applicable taking, condemnation or other public or private action, and (iv) such restoration can be completed, in Beneficiary's reasonable judgment, at least one hundred (180) days prior to the maturity date of the Note, then Beneficiary shall apply such proceeds as provided in clause (b) of the preceding sentence. Grantor's duty to pay and perform the Secured Obligations will not be suspended by the pendency or discharged by the conclusion of any proceedings for the collection of any such award or payment, and any reduction in the Secured Obligations resulting from Beneficiary's application of any such award or payment will take effect only when Beneficiary receives such award or payment. If this Deed of Trust has been foreclosed prior to Beneficiary's receipt of such award or payment, Beneficiary may nonetheless retain such award or payment to the extent required to reimburse Beneficiary for all costs and expenses, including attorneys' fees, incurred in connection therewith, and to discharge any deficiency remaining with respect to the Secured Obligations.

4.9 Mechanics' Liens. Grantor will keep the Property free and clear of all liens and claims of liens by contractors, subcontractors, mechanics, laborers, materialmen, and other such persons, and will cause any recorded statement of any such lien to be released of record within forty-five (45) days after the recording thereof. Notwithstanding the preceding sentence, however, Grantor will not be deemed to be in default under this Section if and so long as Grantor (a) contests in good faith the validity or amount of any asserted lien and diligently prosecutes or defends an action appropriate to obtain a binding determination of the disputed matter, and (b) provides Beneficiary with such security as Beneficiary may reasonably require to protect Beneficiary against all loss, damage, and expense, including reasonable attorneys' fees, which Beneficiary reasonably anticipates that it will incur if the asserted lien is determined to be valid.

4.10 Defense of Actions. Grantor will defend, at Grantor's expense, any action, proceeding or claim which affects any property encumbered hereby or any interest of Beneficiary in such property or in the Secured Obligations, and will indemnify and hold Beneficiary harmless from all loss, damage, cost, or expense, including reasonable attorneys' fees, which Beneficiary may incur in connection therewith, except to the extent such action, proceeding or claim is caused solely by the gross negligence or willful misconduct of Beneficiary.

4.11 Expenses of Enforcement. Grantor will pay all costs and expenses, including attorneys' fees, which Beneficiary may incur in connection with any effort or action (whether or not litigation or foreclosure is involved) to enforce or defend Beneficiary's rights and remedies under any of the Loan Documents, including but not limited to all attorneys' fees, appraisal fees, consultants' fees, and other expenses incurred by Beneficiary in securing title to or possession of, and realizing upon, any security for the Secured Obligations. All such costs and expenses (together with interest thereon at the Default Rate from the date incurred) shall constitute part of the Secured Obligations, and may be included in the computation of the amount owed to Beneficiary for purposes of foreclosing or otherwise enforcing this Deed of Trust.

4.12 Financial Reports. During the term of the Loan, Grantor shall supply to Beneficiary and Beneficiary's loan servicer (a) within forty-five (45) days following the end of each quarter, Grantor's annual operating statements for the Property as of the end of and for the preceding quarter and fiscal year, as applicable, in each case prepared against the budget for such year; (b) contemporaneously with Grantor's delivery of each of such operating statements, a certified rent roll signed and dated by Grantor detailing the names of all tenants under the Leases, the portion of the improvements on the Property occupied by each tenant, the rent and any other charges payable under each Lease, and the term of each Lease; (c) within ninety (90) days following the end of each year, an annual balance sheet and profit and loss statement of Grantor and each Guarantor; and (d) all financial statements and periodic management reports that are prepared on a quarterly or annual basis and delivered to Grantor by Manager. The financial statements and reports described in (a) and (c) above shall be in such detail as Beneficiary may reasonably require, shall be prepared in accordance with the Uniform System of Accounts consistently applied with respect to Grantor and the Property, shall be prepared in accordance with generally accepted accounting principles or such other accounting principles consistently applied with respect to Guarantor, and shall be certified as true and correct by Grantor or the applicable Guarantor. Beneficiary shall have the right, at its sole option, to have any of the financial statements and reports delivered pursuant to this Section 4.12 audited by an independent certified public accountant selected by Beneficiary, and Grantor shall pay all costs incurred in connection with such audits, if such audits (i) are conducted during the continuation of an Event of Default, or (ii) disclose any material deficiencies in the financial statements and reports previously delivered to Beneficiary. Within thirty (30) days after Beneficiary's request, Grantor shall deliver to Beneficiary and Beneficiary's loan servicer any other financial reports or statements of Grantor as Beneficiary may reasonably request. Upon Beneficiary's demand after any Event of Default, or if Beneficiary securitizes the Loan, Grantor shall supply to Beneficiary and Beneficiary's loan servicer the items required in (a) and (b) above on a monthly basis.

4.13 Priority of Leases. To the extent Grantor has the right, under the terms of any Lease, to make such Lease subordinate to the lien hereof, Grantor will, at Beneficiary's request and Grantor's expense, take such action as may be reasonably required to effect such subordination. Conversely, Grantor will, at Beneficiary's request and Grantor's expense, take such action as may be necessary to subordinate the lien hereof to any future Lease designated by Beneficiary.

4.14 Inventories; Assembly of Chattels. Grantor will, from time to time at the request of Beneficiary (which request may be made at any time that an Event of Default is continuing, and otherwise may not be made more than once in any calendar year), supply Beneficiary with a current inventory of the Chattels and the Intangible Personalty, in such detail as Beneficiary may reasonably require. Upon the occurrence of any Event of Default hereunder, Grantor will at Beneficiary's request assemble the Chattels and make them available to Beneficiary at any place designated by Beneficiary which is reasonably convenient to both parties.

4.15 Compliance with Laws, Etc. Grantor shall comply in all material respects with all applicable federal, state and other laws, rules, regulations and orders, such compliance to include, without limitation, maintaining all Permits and, subject to Section 4.4(d) hereof, paying

before the same become delinquent all taxes, assessments and governmental charges imposed upon Grantor or the Property.

4.16 Records and Books of Account. Grantor shall keep accurate and complete records and books of account, in which complete entries will be made in accordance with generally accepted accounting principles consistently applied, reflecting all financial transactions relating to the Property.

4.17 Inspection Rights. At any reasonable time, and from time to time, upon no less than two (2) Business Days' prior written notice to Grantor, Grantor shall permit Beneficiary, or any agents or representatives thereof, to examine and make copies of and abstracts from the records and books of account of, and visit the Property (subject to the rights of and without unreasonable disturbance to tenants, hotel guests and invitees, and customers of the hotel and related operations) and to discuss with Grantor the affairs, finances and accounts of Grantor.

4.18 Change of Grantor's Address or State of Organization. Grantor shall promptly notify Beneficiary if changes are made in Grantor's address from that set forth in Section 9.10 hereof, or if Grantor shall either change its "location" (as such term is used in Section 5.8 hereof), its state of organization or if Grantor shall organize in any state other than the State of Colorado.

4.19 Further Assurances; Estoppel Certificates. Grantor will promptly execute and deliver to Beneficiary following written demand, and pay the costs of preparation and recording thereof, any further documents which Beneficiary may reasonably request to confirm or perfect the liens and security interests created or intended to be created hereby, or to confirm or perfect any evidence of the Secured Obligations. Grantor will also, within ten (10) days after any request by Beneficiary, deliver to Beneficiary a signed and acknowledged statement certifying to Beneficiary, or to any proposed transferee of the Secured Obligations, (a) the balance of principal, interest, and other sums then outstanding under the Note, and (b) whether Grantor claims to have any offsets or defenses with respect to the Secured Obligations and, if so, the nature of such offsets or defenses.

4.20 Costs of Closing. Grantor shall on demand pay directly or reimburse Beneficiary for any out-of-pocket third party costs or expenses pertaining to the closing of the Loan, including, but not limited to, fees of counsel for Beneficiary, costs and expenses for which invoices were not available at the closing of the Loan, or costs and expenses which are incurred by Beneficiary after such closing, including, without limitation, costs or expenses incurred to obtain originals or copies of recorded or filed Loan Documents and UCC financing statements. All such costs and expenses (together with interest thereon at the Default Rate from the date that is five (5) days after demand by Beneficiary) shall constitute a part of the Secured Obligations, and may be included in the computation of the amount owed to Beneficiary for purposes of foreclosing or otherwise enforcing this Deed of Trust.

4.21 Fund for Electronic Transfer. All monthly payments of principal and interest on the Note, and impound deposits under this Deed of Trust, shall be made by Grantor by electronic funds transfer from a bank account established and maintained by Grantor for such purpose. Grantor shall establish and maintain such an account until the Note is fully paid and

shall direct the depository of such account in writing to so transmit such payments on or before the respective due dates to the account of Beneficiary as shall be designated by Beneficiary in writing.

4.22 Use. Grantor shall use the Property solely for the operation of a hotel and spa and uses incidental thereto, and for no other use or purpose.

4.23 Management. Grantor shall not modify, amend, supplement, cancel or terminate the Management Agreement or enter into any substitute or replacement Management Agreement without Beneficiary's prior written consent (including, without limitation, Beneficiary's consent to any and all cash management arrangements thereunder) which consent shall not be unreasonably withheld, conditioned or delayed. Any submission by Grantor for Beneficiary's written consent to a modification, amendment, supplement, cancellation or termination of the Management Agreement, or any substitute or replacement Management Agreement, shall be accompanied by a copy of such modification, amendment, supplement, cancellation or termination, or such substitute or replacement Management Agreement, and a cover letter requesting Beneficiary's written consent that contains a signature line upon which Beneficiary may evidence its consent to such modification, amendment, supplement, cancellation or termination of the Management Agreement, or such substitute or replacement Management Agreement. Without limitation on the foregoing, Beneficiary shall require a subordination, non-disturbance and attornment agreement, in form reasonably satisfactory to Beneficiary, from any replacement Manager. Grantor shall: (i) promptly perform and/or observe, in all material respects, all of the covenants and agreements required to be performed and observed by it under the Management Agreement and do all things necessary to preserve and to keep unimpaired its material rights thereunder; (ii) promptly notify Beneficiary of any material breach or default under the Management Agreement of which it is aware; and (iii) enforce the performance and observance of all of the material covenants and agreements required to be performed and/or observed by Manager under the Management Agreement, in a commercially reasonable manner. Grantor shall not do nor neglect to do anything that could cause or permit the cancellation or termination of the Management Agreement.

4.24 Guarantor. Within thirty (30) days after the death of a Guarantor that is a natural person, Grantor shall notify Beneficiary in writing of such death, and provide to Beneficiary the names and current financial statements of one or more substitute guarantors reasonably acceptable to Beneficiary (A) whose net worth equals or exceeds the minimum net worth required under the Guaranty Agreement, when added to the net worth of the remaining persons and/or entities comprising Guarantor, and (B) whose net worth includes cash and cash equivalents that equals or exceeds the minimum liquid assets required under the Guaranty Agreement, when added to the amount of cash and cash equivalents owned by the remaining persons and/or entities comprising Guarantor. Within ninety (90) days after the death of the individual Guarantor, each substitute guarantor(s) shall (i) deliver to Beneficiary the financial reports and statements required in Section 4.12 hereof and Section 13 of the Guaranty and (ii) execute and deliver to Beneficiary a guaranty and environmental indemnity agreement in substantially the same form as the Guaranty and Environmental Indemnity Agreement and such other instruments as Beneficiary may reasonably require.

4.25 General Indemnity. Grantor agrees that while Beneficiary has no liability to any person in tort or otherwise as lender and that Beneficiary is not an owner or operator of the Property, Grantor shall, at its sole expense, protect, defend, release, indemnify and hold harmless the Indemnified Parties (defined below) from any Losses (defined below) imposed on, incurred by, or asserted against the Indemnified Parties, directly or indirectly, arising out of or in connection with the Property, Loan, or Loan Documents; provided, however, that the foregoing shall not apply (a) to any Losses caused by the gross negligence or willful misconduct of the Indemnified Parties or (b) provided no Event of Default then exists, to any disputes among the Indemnified Parties not caused in whole or in part by a breach of Grantor's obligations under the Loan Documents. The term "**Losses**" shall mean any claims, suits, liabilities (including strict liabilities), actions, proceedings, obligations, debts, damages, losses (including, without limitation, unrealized loss of value of the Property), costs, expenses, fines, penalties, charges, fees, judgments, awards, and amounts paid in settlement of whatever kind including attorneys' fees and all other costs of defense. The term "**Indemnified Parties**" shall mean (a) Beneficiary, (b) any prior owner or holder of the Note, (c) any existing or prior servicer of the Loan, (d) Trustee, (e) the officers, directors, shareholders, partners, members, employees and trustees of any of the foregoing, and (f) the heirs, legal representatives, successors and assigns of each of the foregoing. THE FOREGOING INDEMNITIES SHALL APPLY TO EACH INDEMNIFIED PARTY WITH RESPECT TO LOSSES WHICH IN WHOLE OR IN PART ARE CAUSED BY OR ARISE OUT OF THE NEGLIGENCE OF SUCH (AND/OR ANY OTHER) INDEMNIFIED PARTY OR ANY STRICT LIABILITY.

4.26 Duty to Defend, Costs and Expenses. Upon request, whether Grantor's obligation to indemnify Beneficiary arises under Section 4.25 above or elsewhere in the Loan Documents, Grantor shall defend the Indemnified Parties (in Grantor's or the Indemnified Parties' names) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, the Indemnified Parties may, in their sole discretion, engage their own attorneys and professionals to defend or assist them and, at their option, their attorneys shall control the resolution of any claims or proceedings. Upon demand, Grantor shall pay or, in the sole discretion of the Indemnified Parties, reimburse the Indemnified Parties for all Losses imposed on, incurred by, or asserted against the Indemnified Parties by reason of any items set forth in Section 4.25 above and/or the enforcement or preservation of the Indemnified Parties' rights under the Loan Documents. Any amount payable to the Indemnified Parties under this Section shall (a) be deemed a demand obligation, (b) be part of the Secured Obligations, (c) bear interest from the date of demand at the Default Rate until paid if not paid on demand, and (d) be secured by this Deed of Trust.

4.27 Minimum Net Worth and Liquid Assets of Guarantor. At all times until repayment in full of the Secured Obligations, Grantor shall cause Guarantor to satisfy the minimum net worth and liquid assets covenants set forth in the Guaranty Agreement.

4.28 Single Purpose:

(a) As of the date hereof and until such time as the all obligations under the Loan Documents shall be paid in full, Grantor:

(i) does not own and will not own any asset or property other than (A) the Property and (B) incidental personal property necessary for the ownership or operation of the Property;

(ii) does not and will not engage in any business, directly or indirectly, other than the ownership, management and operation of the Property;

(iii) has not and will not enter into any contract or agreement with any affiliate, any constituent party or any affiliate of any constituent party, except upon terms and conditions that are at least as favorable as those that would be available on an arm's-length basis with third parties other than any such party;

(iv) has not incurred, and will not incur any indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation) other than (A) the Loan, (B) obligations to reimburse or repay Manager as contemplated by the Management Agreement, and (C) liabilities incurred in the ordinary course of business relating to the ownership and operation of the Property securing this Deed of Trust (including, without limitation, accrued expenses, advance deposits, occupancy taxes, property taxes and assessments, gift card obligations, deposits from hotel guests and invitees, trade payables, operational debt and property and equipment leasing) that are not evidenced by a note, and are paid when due (to the extent there exists sufficient gross revenues from the Property, and no direct or indirect equity owner shall be required to make any capital contributions to Grantor), provided that in no event shall Grantor incur aggregate trade payables and equipment financing that, at any given time, exceeds four percent (4%) of the original principal balance of the Loan; and no indebtedness other than the Loan may be secured (subordinate, *pari passu* or otherwise) by the Property;

(v) has not made and will not make any loans or advances to any third party (including any affiliate or constituent party), and shall not acquire obligations or securities of its affiliates;

(vi) is and intends to remain solvent and intends to pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall become due (to the extent there exists sufficient gross revenues from the Property, and no direct or indirect equity owner shall be required to make any capital contributions to Grantor);

(vii) has done or caused to be done and will do all things necessary to observe organizational formalities and preserve its existence, and will not, nor will permit any constituent party to, amend, modify or otherwise change the certificate of formation, operating agreement or other organizational documents of such constituent party without the prior consent of Beneficiary;

(viii) will maintain all of its books, records, financial statements and bank accounts as official records, separate from those of its affiliates, *provided*,

however, that the Grantor's financial position, assets, results of operations and cash flows may be included in a consolidated, or combined and combining, financial statement of an affiliate of Grantor in accordance with GAAP so long as any such consolidated, or combined or combining, financial statement contains a note indicating that Grantor and its affiliates comprising the consolidated, or combined and combining group are separate legal entities, and that the assets of Grantor are not available to satisfy the obligations or liabilities of any other entity comprising the consolidated, or combined and combining group;

(ix) will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other entity (including any affiliate or any constituent party), shall correct any known misunderstanding regarding its status as a separate entity;

(x) intentionally deleted;

(xi) will not seek or effect nor permit any constituent party to seek or effect the liquidation, dissolution, winding up, liquidation, consolidation or merger, in whole or in part, of it;

(xii) will not commingle its funds and other assets with those of any affiliate or constituent party or any other Person, and will hold all of its assets in its own name except as permitted by the Loan Documents;

(xiii) has and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any affiliate or constituent party or any other Person;

(xiv) will not guarantee or become obligated for the debts of any other Person and does not and will not hold itself out to be responsible for or have its credit available to satisfy the debts or obligations of any other Person;

(xv) will not permit any affiliate or constituent party independent access to its bank accounts;

(xvi) if it employs any employees of its own, will pay the salaries of any such employees from its own funds;

(xvii) will compensate each of its consultants and agents from its funds for services provided to it and pay from its own assets all obligations of any kind incurred, including shared overhead expenses;

(xviii) will not pledge its assets to secure the obligations of any other Person;

(xix) will not form, acquire or hold any subsidiary (whether corporate, partnership, limited liability company or other) or own any equity interest in any other entity;

(xx) will file its own tax returns, except to the extent Grantor is a “disregarded entity” for tax purposes;

(xxi) will cause the managers, agents and other representatives of the Grantor to act at all times with respect to the Grantor in furtherance of the foregoing and in the best interests of the Grantor; and

(xxii) will not buy or hold evidence of indebtedness issued by any other Person (other than cash or investment-grade securities).

(b) As of the date hereof and until such time as the all obligations under the Loan Documents shall be paid in full, Grantor shall not institute proceedings to be adjudicated bankrupt or insolvent; consent to the institution of bankruptcy or insolvency proceedings against it; file a petition seeking, or consent to, reorganization or relief under any applicable federal or state law relating to bankruptcy; consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of it or a substantial part of its property, other than by Beneficiary or Trustee, or at the direction of Beneficiary or Trustee, or otherwise pursuant to the Loan Documents; or make any assignment for the benefit of creditors

ARTICLE 5

GRANTOR'S NEGATIVE COVENANTS

5.1 Waste and Alterations. Grantor will not commit or permit any physical waste with respect to the Property. Grantor shall not cause or permit any part of the Property, including but not limited to any building, structure, parking lot, driveway, landscape scheme, timber, or other ground improvement, to be removed, demolished, or materially altered without the prior written consent of Beneficiary except as required or permitted by any other provision of the Loan Documents. Notwithstanding the foregoing, Grantor shall be permitted to undertake alterations of the Property without the consent of Beneficiary, provided that such alterations (i) will not have a material adverse effect on Grantor's financial condition, the value of the Property or the ongoing revenues and expenses of the Property, (ii) do not affect any structural components of the Improvements (it being acknowledged and agreed that internal non-load bearing walls shall not be “structural”), and (iii) are completed in a good and workmanlike and lien free manner.

5.2 Zoning and Private Covenants. Except as expressly permitted in any Loan Document, Grantor will not initiate, join in, or consent to any change in any zoning ordinance or classification, any change in the “zone lot” or “zone lots” (or similar zoning unit or units) presently comprising the Property, any transfer of development rights, any change in any private restrictive covenant, or any change in any other public or private restriction limiting or defining the uses which may be made of the Property or any part thereof, without the prior written consent of Beneficiary. If under applicable zoning provisions the use of all or any part of the Property is or becomes a nonconforming use, Grantor will not cause such use to be discontinued or abandoned without the prior written consent of Beneficiary, and Grantor will use its best efforts to prevent the tenant under any Lease from discontinuing or abandoning such use.

5.3 Interference with Leases.

(a) Grantor will neither do, nor neglect to do, anything which could cause or permit the termination of any Lease of all or any part of the Property, or cause or permit the withholding or abatement of any rent payable under any such Lease.

(b) Without Beneficiary's prior written consent, which shall not be unreasonably withheld, conditioned or delayed, Grantor shall not enter into or modify any Lease of all or any part of the Property. Any submission by Grantor for Beneficiary's approval of a Lease or modification thereof shall be accompanied by a copy of such Lease or modification, a then-current rent roll for the Property, year to date and prior year operating statements for the Property, and a cover letter requesting Beneficiary's approval which contains a signature line on which Beneficiary may evidence its approval of such Lease or modification. Grantor shall deliver to Beneficiary copies of all Leases or modifications promptly following execution and delivery thereof.

(c) Except with the prior written consent of Beneficiary, which may be granted or withheld in Beneficiary's sole discretion, Grantor will not (i) collect rent from all or any part of the Property for more than one month in advance, (ii) assign the rents from the Property or any part thereof (except pursuant to the Loan Documents), or (iii) consent to the cancellation or surrender of all or any part of any Lease, except that Grantor may in good faith terminate any Lease for nonpayment of rent or other material breach by the tenant.

(d) Without limiting the generality of the foregoing, whether or not Beneficiary's consent to the cancellation, termination or surrender of any Lease is required hereunder, (i) Grantor shall notify Beneficiary in writing of any cancellation penalties, termination fees or other consideration payable to Grantor in connection with such cancellation, termination or surrender (the "**Termination Fees**"), which written notice must be delivered to Beneficiary prior to the payment by the applicable tenant of any such Termination Fees to Grantor, and (ii) at Beneficiary's sole option, Beneficiary shall be entitled to (A) require that Grantor deposit such Termination Fees into a reserve held by Beneficiary or Beneficiary's loan servicer, and (B) impose such restrictions and conditions on the timing and amount of disbursements of the Termination Fees from such reserve as Beneficiary may require in its reasonable discretion, including, without limitation (x) requiring that (1) such vacant space be relet to a tenant and under a Lease acceptable to Beneficiary in its reasonable discretion (an "**Approved Lease**"), (2) the tenant under the Approved Lease is in occupancy of the portion of the Property demised pursuant to such Approved Lease and paying rent in accordance with such Approved Lease, (3) Grantor provide to Beneficiary a tenant estoppel certificate from the tenant under the Approved Lease in a form acceptable to Beneficiary in Beneficiary's reasonable discretion, and (4) Grantor provide to Beneficiary evidence acceptable to Beneficiary in its reasonable discretion that all improvements to the Property required by the Approved Lease have been completed, and (y) limiting the amount of such disbursement to the lesser of the actual cost of retenanting such space or the amount calculated by dividing the Termination Fees by the total square feet of space vacated, then multiplying that result by the number of square feet of newly leased space under the

Approved Lease. Grantor shall pay all actual out-of-pocket fees and expenses incurred by Beneficiary or Beneficiary's loan servicer in connection with opening, holding, maintaining and administering such reserve, provided that, at Beneficiary's sole option, Beneficiary and/or Beneficiary's loan servicer may automatically deduct such fees and expenses from funds on deposit in such reserve without notice to or consent from Grantor. Upon the occurrence of an Event of Default, Beneficiary may apply any Termination Fees to the secured obligations in such order and in such manner as determined by Beneficiary in its sole discretion.

5.4 Transfer or Further Encumbrance of Property.

(a) Except as set forth below, without Beneficiary's prior written consent, which consent may be granted or withheld in Beneficiary's sole and absolute discretion, Grantor shall not (a) sell, assign, convey, transfer or otherwise dispose of any direct or indirect legal, beneficial or equitable interest in all or any part of the Property, (b) permit or suffer any owner, directly or indirectly, of any beneficial interest in the Property or Grantor to transfer such interest, whether by transfer of partnership, membership, stock or other beneficial interest in any entity or otherwise, or (c) mortgage, pledge, hypothecate or otherwise encumber or permit to be encumbered or grant or permit to be granted a security interest in all or any part of, or a direct or indirect interest in, the Property or Grantor or any beneficial or equitable interest in either the Property or Grantor. The provisions of this Section shall not prohibit transfers of title or interest under any will or testament or applicable law of descent.

(b) Notwithstanding anything to the contrary in this Section 5.4, the following transfers are permitted without Beneficiary's consent:

(i) transfers of direct and indirect ownership interests in Grantor to any Family Member, any Family Entity, or any entity wholly owned (directly or indirectly) by one or more Family Members or Family Entities and controlled by a Family Member, in each case made for bona fide estate planning purposes; where (A) "**Family Member**" means each individual that owns a direct or indirect interest in the Grantor, and any of his or her spouse, parent, child or other descendant, a sister or a brother or the descendants of any of them, and (B) "**Family Entity**" means (1) any trust in which the beneficiary(ies) consist only of one or more Family Members ("**Family Trust**"), or (2) any corporation, partnership, limited liability company or other entity directly or indirectly controlled by a Family Member or Family Trust in which all of the issued and outstanding equity interests are owned through one or more intermediaries by one or more Family Members or Family Trusts, provided that the following conditions are satisfied: (I) no change of control occurs with respect to Grantor by reason of the proposed transfer, (II) after the proposed transfer, Grantor continues to own a beneficial ownership interest in Grantor;

(ii) transfers, from time to time, of all or any portion of the direct or indirect ownership interests in Grantor that are currently indirectly owned by any existing owner of a direct or indirect ownership interest in Grantor, to any other

existing owner of a direct or indirect ownership interest in Grantor, provided that: (1) no Event of Default has occurred and is continuing; (2) no change of control occurs with respect to Grantor by reason of the proposed transfer; (3) after the proposed transfer, Guarantor continues to own a beneficial ownership interest in Grantor; and (4) the proposed transferee and its constituent members (A) are not then identified by the Office of Foreign Assets Control or Department of Treasury as a person subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, the Trading with the Enemy Act and any Executive Orders or regulations promulgated thereunder (as any and all of such laws and regulations have been or may hereafter be, renewed, extended, amended or replaced) with the result that such proposed transferee and its constituent members are in violation of law and/or transaction of business with such parties is prohibited by law, (B) are not in violation of any applicable laws relating to terrorism or money laundering, including without limitation, those relating to transacting business with persons identified in clause (A) above, the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (as any and all of such laws and any regulations promulgated thereunder have been or may hereafter be renewed, extended, amended or replaced), and (C) if Beneficiary requests, sign a certificate in form and substance reasonably satisfactory to Beneficiary evidencing such compliance;

(iii) transfers (other than encumbrances) to any person or entity other than those specified in clauses (i) and (ii) above, in the aggregate over the term of the Loan, of up to 49% of the direct and indirect ownership interests in Grantor, provided that: (1) no Event of Default has occurred and is continuing; (2) no change of control occurs with respect to Grantor by reason of the proposed transfer; (3) after the proposed transfer, the Guarantor continues to own a beneficial ownership interest in Grantor; and (4) the proposed transferee and its constituent members (A) are not then identified by the Office of Foreign Assets Control or Department of Treasury as a person subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, the Trading with the Enemy Act and any Executive Orders or regulations promulgated thereunder (as any and all of such laws and regulations have been or may hereafter be, renewed, extended, amended or replaced) with the result that such proposed transferee and its constituent members are in violation of law and/or transaction of business with such parties is prohibited by law, (B) are not in violation of any applicable laws relating to terrorism or money laundering, including without limitation, those relating to transacting business with persons identified in clause (A) above, the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (as any and all of such laws and any regulations promulgated thereunder have been or may hereafter be renewed, extended, amended or replaced), and (C) if Beneficiary requests, sign a certificate in form and substance reasonably satisfactory to Beneficiary evidencing such compliance;

(iv) issuances, transfers and sales on a U.S. public stock exchange of shares, units or other interests of any entity with a direct or indirect interest in Grantor which are publicly traded on such U.S. public stock exchange (any such entity, a "**Publicly Traded Entity**"), excluding, however, any merger of any such Publicly Traded Entity, and any sale of all or substantially all of the shares, units or other interests in such Publicly Traded Entity (unless such merger or sale is otherwise permitted pursuant to the terms of this Section 5.4(b));

(v) transfers of equipment included within the Property if obsolete or if replaced with similar items of substantially equal or greater value;

(vi) liens and equipment leases that are permitted under Section 4.28(a) of this Deed of Trust; and

(vii) notwithstanding the foregoing provisions in paragraphs (i) through (v), inclusive, above, an immediate violation of the due-on-sale provisions, and an immediate Event of Default under the Loan Documents, shall be triggered with respect to any consummated transfer or other transaction described in such subsections if the transferee (or any of its constituents or beneficiaries), at the time of the applicable transfer or appointment: (1) is then identified by the Office of Foreign Assets Control or Department of Treasury as a person subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, the Trading with the Enemy Act and any Executive Orders or regulations promulgated thereunder (as any and all of such laws and regulations have been or may hereafter be, renewed, extended, amended or replaced) with the result that such transferee (or any of its constituents or beneficiaries) is in violation of law and/or transaction of business with any such party is prohibited by law, or (2) is in violation of any applicable laws relating to terrorism or money laundering, including without limitation, those relating to transacting business with persons identified in clause (1) above, the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (as any and all of such laws and any regulations promulgated thereunder have been or may hereafter be renewed, extended, amended or replaced).

Upon Beneficiary's written request to Grantor from time to time, Grantor shall deliver to Beneficiary a current organizational chart ("**Organizational Chart**"), certified as true, correct and complete in all material respects by Grantor, within fifteen (15) days after such request, which Organizational Chart shall set forth Grantor's direct and indirect upstream ownership, percentage interests held by each upstream entity or person and type of each such entity (although owners of publicly traded shares or interests may be shown as a class). Without limiting the foregoing, if any proposed transfer contemplated in this Section 10 (x) is of a 10% or greater direct or indirect beneficial interest in Grantor, or (y) will result in any person or entity that at the Closing of the Loan did not own a 20% or greater direct or indirect beneficial interest in Grantor to own by reason of the transfer to own a 20% or greater direct or indirect beneficial interest in Grantor, then: (1) it

shall be a condition to such proposed transfer constituting a permitted transfer hereunder that neither such proposed transferee nor any of its affiliates has ever (A) been an adverse party to Beneficiary or any of its affiliates in any litigation to which Beneficiary or any of its affiliates was a party; or (B) defaulted beyond applicable notice and cure periods on a loan from Beneficiary or any of its affiliates or on any contract or other agreement with Beneficiary or any of its affiliates; or (C) threatened litigation against Beneficiary or any of its affiliates, (2) Grantor shall deliver to Beneficiary at least fifteen (15) days' prior written notice of the proposed transfer, together with an Organizational Chart as of the date of such notice and a separate Organizational Chart depicting the then anticipated post-transfer ownership structure, and (3) within ten (10) days after the transfer has occurred, Grantor delivers to Beneficiary a final Organizational Chart confirming the then current new ownership structure, certified as true, correct and complete in all material respects by Grantor.

The term "**control**" or "**controlled**" means the power or authority, directly or indirectly through one or more intermediaries, through the ownership of voting securities, by contract or otherwise, to direct the management, activities and policies of such person or entity.

(c) Notwithstanding the "due-on-sale" provisions of the Loan Documents to the contrary, Beneficiary shall permit a transfer of the Property one time during the term of the Loan provided that in each case all of the following conditions are satisfied: (i) no Default or Event Of Default has occurred and is continuing; (ii) Grantor has paid to Beneficiary an assumption fee of 1% of the outstanding principal balance of the Secured Obligations; (iii) if the proposed transferee is a land trust, Beneficiary has received a first-lien collateral assignment of all beneficial interest therein; (iv) Beneficiary has received and has had a reasonable opportunity to review and approve all organizational documentation of the proposed transferee, including without limitation, certificates and articles of formation, partnership and operating agreements, bylaws, certificates of good standing and authorizing resolutions and review all documents and agreements executed or to be executed in connection with the proposed transfer; (v) the non-economic terms (e.g., those terms other than interest rate, payment schedule, principal balance, and non-recourse nature (subject to exceptions thereto customarily included by Beneficiary in loan documents)) of the Loan Documents have been modified as Beneficiary may request in good faith; (vi) the proposed transferee has assumed all of Grantor's obligations under the Loan Documents pursuant to a recordable assumption agreement in form and substance satisfactory to Beneficiary in its reasonable discretion; (vii) Beneficiary has received at least thirty (30) days' prior written notice of the proposed transfer; (viii) the proposed transferee and, if applicable, its general partners individually or collectively have, in the reasonable judgment of Beneficiary exercised in good faith, a net worth at least equal to the net worth of Grantor as of the date hereof or otherwise satisfactory to Beneficiary, and a satisfactory history of owning, operating and leasing property similar to the Property; (ix) the proposed transferee and, if applicable, its general partners have, in the sole judgment of Beneficiary exercised in good faith, a satisfactory credit history and professional reputation and character; (x) the Debt Service Coverage Ratio (as hereinafter defined) is not less than 2.10x, and Beneficiary receives satisfactory evidence

that such ratio will be maintained for the succeeding twelve (12) months; (xi) the Loan-to-Value Ratio (as hereinafter defined), taking into account all obligations secured by liens on the Property does not exceed 50%; (xii) Grantor pays to Beneficiary (A) a processing fee in the amount of \$7,500 in advance of Beneficiary's consideration of such proposed transfer, (B) a deposit, in advance of Beneficiary's consideration of such proposed transfer, in the amount of Beneficiary's estimate of all out of pocket costs and expenses (including attorneys' fees and costs) that Beneficiary will incur in connection with its consideration of such proposed transfer, which deposit may be applied by Beneficiary to such costs and expenses whether or not such transfer is actually consummated, and (C) all costs and expenses incurred by Beneficiary in connection with such transfer, including, without limitation, all legal, processing, accounting, title insurance, and appraisal fees and costs, whether or not such transfer is actually consummated; (xiii) at Beneficiary's option, Beneficiary has received an endorsement to its mortgagee's title insurance policy at Grantor's expense, which endorsement states that the lien of the Mortgage remains a first and prior lien against the Property subject to no exceptions other than as approved by Beneficiary or permitted by the Loan Documents; (xiv) one or more direct or indirect owners of the proposed transferee, owning directly or indirectly no less than a 1% beneficial interest in the proposed transferee, and who is or are acceptable to Beneficiary in its reasonable discretion, execute a guaranty agreement in the form of the Guaranty Agreement and an environmental indemnity agreement in the form of the Environmental Indemnity Agreement; (xv) a written opinion of counsel for the proposed transferee and its principals satisfactory to Beneficiary shall be delivered to Beneficiary, including, without limitation, the existence, authority and due execution, and enforceability of the Loan Documents as assumed by the proposed transferee and enforceability of any and all documents executed by the proposed transferee and its principals in connection with such transfer; (xvi) the proposed transferee, any person or entity executing any loan documents in connection with the transfer, and their respective constituents, are not in violation of any laws relating to terrorism or money laundering, including without limitation, Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, and the Bank Secrecy Act, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as such laws have been or may hereafter be, renewed, extended, amended or replaced, as evidenced by, among other things, a certificate executed by such persons in form and substance satisfactory to Beneficiary; and (xvii) the documents providing for the transfer of the Property to the proposed transferee, including without limitation, any tenancy-in-common agreements, master lease or operating lease, and any management or similar documents pursuant to which the tenancy-in-common is managed or controlled, if applicable, shall have been reasonably approved by Beneficiary. Upon the satisfaction of the foregoing conditions and execution of assumption documents in form and substance reasonably satisfactory to Beneficiary, Beneficiary shall release Grantor and Guarantor from liability under the Loan Documents other than any such liability that arose on or prior to the effective date of the assumption or could be based on any event that occurred or any state of affairs that existed prior to or as of the effective date of the assumption (including, without limitation, any liability arising under the exceptions to the non-

recourse provisions of the Loan Documents, and any liability arising under the Environmental Indemnity).

As used in this Section 5.4(c), the following terms shall have the following meanings:

The term “**Debt Service Coverage Ratio**” shall mean the ratio, as reasonably determined by Beneficiary, of (i) Net Operating Income for the Property for the preceding twelve (12) calendar months determined as of the end of each calendar quarter, to (ii) the annual debt service payments due under the Loan, based on amortizing debt service payments of principal and interest at the interest rate based on a thirty (30) year amortization period notwithstanding that the Loan may be in an interest only period, and on all other indebtedness secured, or to be secured, by a lien on all or any part of the Property or on any direct or indirect interests in the Grantor.

The term “**Net Operating Income**” shall mean all gross revenues generated by the Property (excluding loans or contributions to capital), less operating expenses (other than debt service payments due under the Loan), as determined on an accrual basis of accounting and in accordance with the Uniform System of Accounts and GAAP, as of the date of such calculation for the period in question, adjusted, however, so that (A) operating expenses shall be deemed to include a management fee equal to the greater of (i) the actual management fee for the Property, and (ii) the higher of 3% of gross revenues generated by the Property and 4% of the gross room revenues generated by the Property, (B) operating expenses shall be deemed to include a FFE/capital improvement reserve equal to the greater of (x) the actual FF&E and capital improvement reserves being maintained by manager under any management agreement covering the Property and (y) 4% of gross revenues, (C) payments of operating expenses, including property taxes and assessments and insurance expenses, are to be spread out over the period during which they accrued and shall be adjusted for any known future changes to any such expenses, (D) prepaid rents and other prepaid payments received are to be spread out over the periods during which such rents or payments are earned or applicable, (E) security deposits shall not be included as items of income until duly applied or earned, and (F) gross revenue shall be based on an analysis reflecting ordinary operating income and, with respect to income attributable to leased space, a lease-in-place analysis which reflects then current Leases in place, all as determined by Beneficiary in its reasonable discretion, in accordance with its standard underwriting criteria, consistently applied, and excluding one-time items, and (G) any refunds or rebates to operating expenses are to be applied and credited against the applicable operating expenses for the period that such operating expenses were incurred.

The “**Loan-to-Value Ratio**” shall be the ratio, as determined by Beneficiary, of the aggregate principal balance of the Loan and all other indebtedness secured by liens or encumbrances against the Property or against the direct or indirect ownership interests in Grantor to the fair market value of the Property, as such fair market value is determined by an M.A.I. appraisal obtained by Beneficiary from an appraiser selected and engaged by Beneficiary.

5.5 Further Encumbrance of Chattels. Subject to Section 5.4(a)(xiii) above, Grantor will neither create nor permit any lien, security interest or encumbrance against the Chattels or Intangible Personalty or any part thereof or interest therein, other than the liens and security interests created by the Loan Documents and other Permitted Exceptions, without the prior written consent of Beneficiary, which may be withheld for any reason.

5.6 Assessments Against Property. Grantor will not, without the prior written approval of Beneficiary, which may be withheld for any reason, consent to or allow the creation of any so called special districts, special improvement districts, benefit assessment districts or similar districts, or any other body or entity of any type, or allow to occur any other event, that would or is reasonably likely to result in the imposition of any additional taxes, assessments or other monetary obligations or burdens on the Property, and this provision shall serve as **RECORD NOTICE** to any such district or districts or any governmental entity under whose authority such district or districts exist or are being formed that, should Grantor or any other person or entity include all or any portion of the Property in such district or districts, whether formed or in the process of formation, without first obtaining Beneficiary's express written consent, the rights of Beneficiary in the Property pursuant to this Deed of Trust or following any foreclosure of this Deed of Trust, and the rights of any person or entity to whom Beneficiary might transfer the Property following a foreclosure of this Deed of Trust, shall be senior and superior to any taxes, charges, fees, assessments or other impositions of any kind or nature whatsoever, or liens (whether statutory, contractual or otherwise) levied or imposed, or to be levied or imposed, upon the Property or any portion thereof as a result of inclusion of the Property in such district or districts.

5.7 Transfer or Removal of Chattels. Except as otherwise permitted by Section 5.4(b)(v) of this Deed of Trust, Grantor will not sell, transfer or remove from the Property all or any part of the Chattels, except in the ordinary course of the business of the operation of the Property as a hotel and spa, unless the items sold, transferred, or removed are simultaneously replaced with similar items of equal or greater value, and except for the disposal of Chattels that are no longer needed for the operation of a hotel and spa at the Property.

5.8 Change of Name, Organizational I.D. No. or Location. Grantor will not change its name or the name under which it does business (or adopt or begin doing business under any other name or assumed or trade name), change its organizational identification number, or change its location, without first notifying Beneficiary of its intention to do so and delivering to Beneficiary such organizational documents of Grantor and executed modifications or supplements to this Deed of Trust (and to any financing statement which may be filed in connection herewith) as Beneficiary may reasonably require. For purposes of the foregoing, Grantor's "**location**" shall mean (a) if Grantor is a registered organization, Grantor's state of registration, (b) if Grantor is an individual, the state of Grantor's principal residence, or (c) if Grantor is neither a registered organization nor an individual, the state in which Grantor's place of business (or, if Grantor has more than one place of business, the Grantor's chief executive office) is located. Grantor shall not change the name of the spa or hotel at the Property, or any other trade name or names under which it operates the Property or any portion thereof as of the date hereof without Beneficiary's prior written consent.

5.9 Improper Use of Property or Chattels. Grantor will not use the Property or the Chattels for any purpose or in any manner which violates in any material respect any applicable law, ordinance, or other governmental requirement, the requirements or conditions of any insurance policy, or any private covenant.

5.10 ERISA. Grantor shall not engage in any transaction which would cause the Note (or the exercise by Beneficiary of any of its rights under the Loan Documents) to be a non-exempt, prohibited transaction under ERISA (including for this purpose the parallel provisions of Section 4975 of the Internal Revenue Code of 1986, as amended), or otherwise result in Beneficiary being deemed in violation of any applicable provisions of ERISA. Grantor shall indemnify, protect, defend, and hold Beneficiary harmless from and against any and all losses, liabilities, damages, claims, judgments, costs, and expenses (including, without limitation attorneys' fees and costs incurred in the investigation, defense, and settlement of claims and in obtaining any individual ERISA exemption or state administrative exception that may be required, in Beneficiary's sole and absolute discretion) that Beneficiary may incur, directly or indirectly, as the result of the breach by Grantor of any warranty or representation set forth in Section 3.3(x) hereof or the breach by Grantor of any covenant contained in this Section. This indemnity shall survive any termination, satisfaction or foreclosure of this Deed of Trust and shall not be subject to the limitation on personal liability described in the Note.

5.11 Use of Proceeds. Grantor will not use any funds advanced by Beneficiary under the Loan Documents for household or agricultural purposes, to purchase margin stock, or for any purpose prohibited by law.

5.12 Material Property Agreements. Without Beneficiary's prior written consent, which may be granted or withheld in Beneficiary's reasonable discretion, Grantor shall not enter into, amend, modify, supplement, terminate, cancel or accept the surrender of, any Material Property Agreement.

5.13 Labor Matters. Grantor shall not enter into or otherwise cause the Property to be affected by any collective bargaining agreements without the prior written consent of Beneficiary.

5.14 Tradename and Trademark Matters. Grantor shall not sell, assign or license any of its trademarks, service marks and trade names and symbols or logos (including, without limitation, the trademarks and tradenames "ST. JULIEN," "J & DESIGN," and "BOULDER'S HOTEL & SPA," and any related trademarks, trademark registrations, trademark applications, service marks, symbols and logos, and any goodwill of the business associated with the use thereof, and all royalties and other sums due or to become due under or in respect thereof together with the right to sue for and collect all such royalties and other sums, all proceeds of the foregoing and any claim of Grantor by reason of past, present or future infringement thereof or injury to the goodwill associated therewith together with the right to sue for and collect all damages by reason thereof) used by Grantor in connection with the Property, without the prior written consent of Beneficiary which may be granted or withheld by Beneficiary in its sole and absolute discretion (provided, however, that Beneficiary shall not unreasonably withhold its consent to any license agreement of any such intangible property that provides for a license thereof to a third party, on an arm's length basis, and for reasonable compensation (unless the

licensee is any lessee or tenant of the Civic Use Site, as defined in the Condominium Documents, in which event such licensee need not be to a third party and the terms of such license need not be arm's length or for reasonable compensation) and on a non-exclusive basis, provided that Grantor's ownership of such rights and rights to use such intangible property are not materially impaired by such license, and the licensee recognizes Beneficiary's security interest in such license agreement and agrees to Beneficiary's right to succeed to the rights and obligations of the licensor thereunder). No license agreement respecting any such intangible property shall be amended, modified, supplemented, restated or replaced, without Beneficiary's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Grantor shall ensure that all federal and state registrations and applications respecting such intangible property are kept in full force and effect and current, and are not abandoned or cancelled. Promptly after the date hereof, Grantor shall submit to and file with the United States Trademark Office amendments to ST. JULIEN – U.S. Trademark Application Serial No. 87/423,144, J & DESIGN – U.S. Trademark Application Serial No. 87/423,397; and BOULDER'S HOTEL & SPA – U.S. Trademark Application Serial No. 87/423,399, to allege use, together with appropriate specimens and documentation of use, in order to convert such application to a use based application and obtain a final registration number with respect thereto (whereupon Grantor shall promptly deliver to Beneficiary such final registration number). Beneficiary acknowledges and agrees that certain affiliates of Grantor currently use the name "St. Julien" in their entity name and that such affiliates shall be permitted to continue to do so.

5.15 Cooperation with Regard to Liquor Licenses and Other Permits. To the extent permitted by applicable law, Grantor shall (and shall use reasonable efforts to cause Manager and/or any applicable affiliates of Grantor to) execute and deliver to Beneficiary such additional documents, instruments, certificates, assignments and other writings, and otherwise provide (and use reasonable efforts to cause Manager and/or any applicable affiliate to provide) such reasonable cooperation, in each case as may be necessary to transfer any liquor licenses or other Permits with respect to the Property into, or obtain the issuance of new Permits in, the name of Beneficiary or its designee after the completion of a foreclosure or a deed in lieu of foreclosure, in each case to the extent permitted by applicable law and to the extent the same are not at such time held in the name of the Manager under the Management Agreement. Such reasonable cooperation shall include, without limitation, completing transfer requests, surrendering or cancelling any existing liquor licenses or other Permits, and to use reasonable efforts to make representatives of Grantor, Manager, and their affiliates available for meetings with any applicable governmental authority in connection with the transfer or issuance of such Permits. Furthermore, neither Grantor nor any of its affiliates, shall hinder or interfere with the Permit transfers or issuances made or contemplated by this Deed of Trust, or with efforts of Beneficiary or its successors and assigns to obtain a temporary or permanent Permit. Grantor hereby irrevocably appoints Beneficiary as its agent and attorney-in-fact to execute all such documents and instruments as Beneficiary shall require or deem advisable after the completion of a foreclosure or a deed in lieu of foreclosure, in order to cause the transfer or issuance of such Permits held in the name of Grantor as Beneficiary may reasonably require (and to the extent permitted by applicable law) and to cause a cancellation of such existing Permits as Beneficiary may reasonably require. The foregoing power of attorney is coupled with an interest and shall be irrevocable, and shall survive any foreclosure of this Deed of Trust and any deed in lieu thereof. In addition to all other remedies which Beneficiary may have at law or in equity for the enforcement of the terms and provisions of this Deed of Trust, Grantor expressly agrees that

Beneficiary shall have the right to bring an action in specific performance to enforce each and every term and provision of this Section 5.15.

ARTICLE 6

EVENTS OF DEFAULT

Each of the following events will constitute an event of default (an “**Event of Default**”) under this Deed of Trust and under each of the other Loan Documents:

6.1 Failure to Pay Note. Grantor’s failure to make any payment when due under the terms of the Note or any other Loan Document, after the lapse of any applicable grace or cure period (provided, however, that with respect to the first failure to pay monthly debt service under the Note in any twelve (12) consecutive month period only, no Event of Default shall be deemed to have occurred unless such failure to pay monthly debt service continues for a period of five (5) days).

6.2 Due on Sale or Encumbrance. The occurrence of any violation of any covenant contained in Section 5.4, 5.5 or 5.7 hereof.

6.3 Other Obligations. The failure of Grantor or Guarantor to properly perform any obligation contained herein or in any of the other Loan Documents (other than the obligation to make payments under the Note or the other Loan Documents) and the continuance of such failure for a period of thirty (30) days following written notice thereof from Beneficiary to Grantor; provided, however, that if such failure is curable but is not curable within such thirty (30) day period, then, so long as Grantor commences to cure such failure within such thirty (30) day period and is continually and diligently attempting to cure to completion, such failure shall not be an Event of Default unless such failure remains uncured for ninety (90) days after such written notice to Grantor.

6.4 Levy Against Property. The levy against any of the Property, Chattels or Intangible Personalty, of any execution, attachment, sequestration or other writ.

6.5 Liquidation. The liquidation, termination or dissolution of Grantor or any Controlling Person.

6.6 Appointment of Receiver. The appointment of a trustee or receiver for the assets, or any part thereof, of Grantor, or any Controlling Person, or the appointment of a trustee or receiver for any real or personal property, or the like, or any part thereof, representing the security for the Secured Obligations, provided, however, if the foregoing was involuntary on the party of Grantor or such Controlling Person, then the same shall not constitute an Event of Default unless the same has not been discharged, stayed or dismissed within sixty (60) days after such appointment.

6.7 Assignments. The making by Grantor or any Controlling Person of a transfer in fraud of creditors or an assignment for the benefit of creditors.

6.8 Order for Relief. The entry in bankruptcy of an order for relief for or against Grantor or any Controlling Person.

6.9 Bankruptcy. The filing of any petition (or answer admitting the material allegations of any petition), or other pleading, seeking entry of an order for relief for or against Grantor or any Controlling Person as a debtor or bankrupt or seeking an adjustment of any of such parties' debts, or any other relief under any state or federal bankruptcy, reorganization, debtor's relief or insolvency laws now or hereafter existing, including, without limitation, a petition or answer seeking reorganization or admitting the material allegations of a petition filed against any such party in any bankruptcy or reorganization proceeding, or the act of any of such parties in instituting or voluntarily being or becoming a party to any other judicial proceedings intended to effect a discharge of the debts of any such parties, in whole or in part, or a postponement of the maturity or the collection thereof, or a suspension of any of the rights or powers of a trustee or of any of the rights or powers granted to Beneficiary herein, or in any other document executed in connection herewith; provided that with respect to any involuntary bankruptcy commenced against Grantor or any Controlling Person, no Event of Default shall occur unless and until the applicable petition or other pleading shall not have been dismissed within ninety (90) days after the filing thereof.

6.10 Misrepresentation. If any representation or warranty made by Grantor or any Controlling Person, or in any of the other Loan Documents or any other instrument or document modifying, renewing, extending, evidencing, securing or pertaining to the Note is false, misleading or erroneous in any material respect.

6.11 Judgments. The failure of Grantor or any Controlling Person to pay any money judgment in excess of \$100,000.00 against any such party before the expiration of thirty (30) days after such judgment becomes final and no longer appealable.

6.12 Admissions Regarding Debts. The admission of Grantor or any Controlling Person in writing of any such party's inability to pay such party's debts as they become due.

6.13 Assertion of Priority. The assertion of any claim of priority over this Deed of Trust (other than a Permitted Exception), by title, lien, or otherwise, unless Grantor within thirty (30) days after such assertion either causes the assertion to be withdrawn or provides Beneficiary with such security as Beneficiary may reasonably require to protect Beneficiary against all loss, damage, or expense, including reasonable attorneys' fees, which Beneficiary reasonably estimates that it may incur in the event such assertion is upheld.

6.14 Other Loan Documents. The occurrence of any default by Grantor or Guarantor, after the lapse of any applicable grace or cure period, or the occurrence of any event or circumstance defined as an Event of Default, under any of the Loan Documents other than this Deed of Trust.

6.15 Other Liens. The occurrence of any default by Grantor, after the lapse of any applicable grace or cure period, or the occurrence of any event or circumstance defined as an Event of Default, under any other consensual lien encumbering any portion of the real property

component of the Property, or any part thereof or interest therein, or any document or instrument evidencing obligations secured thereby.

6.16 Guaranty. Guarantor's (a) failure to make any payment in full under the terms of the Guaranty within ten (10) days following written notice by Beneficiary to Guarantor demanding such payment, or (b) failure to properly perform any of Guarantor's material obligations under the Guaranty (other than those referenced in clause (a) above) and the continuance of such failure for a period of thirty (30) days following written notice thereof from Beneficiary to Guarantor; provided, however, that if such failure is not curable within such thirty (30) day period, then so long as Guarantor commences to cure such failure within such thirty (30) day period and is continually and diligently attempting to cure to completion such failure shall not be an Event of Default unless such failure remains uncured for ninety (90) days after such written notice to Guarantor.

Grantor acknowledges that for all purposes in the Loan Documents, Beneficiary's acceptance of any cure of an Event of Default, and/or Beneficiary's decision to reinstate the Loan after an Event of Default has occurred, shall be made by Beneficiary in its sole and absolute discretion.

ARTICLE 7

BENEFICIARY'S REMEDIES

At any time after the occurrence and during the continuation of any Event of Default hereunder, Beneficiary may exercise any remedy available at law or in equity, including but not limited to those listed below and those listed in the other Loan Documents, in such sequence or combination as Beneficiary may determine in Beneficiary's sole discretion:

7.1 Performance of Defaulted Obligations. Beneficiary may make any payment or perform any other obligation under the Loan Documents or under Leases which Grantor has failed to make or perform, and Grantor hereby irrevocably appoints Beneficiary as the true and lawful attorney-in-fact for Grantor to make any such payment and perform any such obligation in the name of Grantor. All payments made and expenses (including attorneys' fees and expenses) incurred by Beneficiary in this connection, together with interest thereon at the Default Rate from the date paid or incurred until repaid, will be part of the Secured Obligations and will be immediately due and payable by Grantor to Beneficiary. In lieu of advancing Beneficiary's own funds for such purposes, Beneficiary may use any funds of Grantor which may be in Beneficiary's possession, including but not limited to insurance or condemnation proceeds and amounts deposited for taxes, insurance premiums, or other purposes.

7.2 Specific Performance and Injunctive Relief. Notwithstanding the availability of legal remedies, Beneficiary will be entitled to obtain specific performance, mandatory or prohibitory injunctive relief, or other equitable relief requiring Grantor to cure or refrain from repeating any Default.

7.3 Acceleration of Secured Obligations. Beneficiary may, without notice or demand, declare all of the Secured Obligations immediately due and payable in full.

7.4 Suit for Monetary Relief. Subject to the non-recourse provisions of the Note, with or without accelerating the maturity of the Secured Obligations, Beneficiary may sue from time to time for any payment due under any of the Loan Documents, or for money damages resulting from Grantor's default under any of the Loan Documents.

7.5 Possession of Property. To the extent permitted by law, Beneficiary may enter and take possession of the Property without seeking or obtaining the appointment of a receiver, may employ a managing agent for the Property, and may lease or rent all or any part of the Property, either in Beneficiary's name or in the name of Grantor, and may collect the rents, issues, and profits of the Property. Any revenues collected by Beneficiary under this Section will be applied first toward payment of all expenses (including attorneys' fees) incurred by Beneficiary, together with interest thereon at the Default Rate from the date incurred until repaid, and the balance, if any, will be applied against the Secured Obligations in such order and manner as Beneficiary may elect in its sole discretion.

7.6 Enforcement of Security Interests. Beneficiary may exercise all rights of a secured party under the Code with respect to the Chattels and the Intangible Personalty, including but not limited to taking possession of, holding, and selling the Chattels and enforcing or otherwise realizing upon any accounts and general intangibles. Any requirement for reasonable notice of the time and place of any public sale, or of the time after which any private sale or other disposition is to be made, will be satisfied by Beneficiary's giving of such notice to Grantor at least five days prior to the time of any public sale or the time after which any private sale or other intended disposition is to be made.

7.7 Foreclosure Against Property. Beneficiary may foreclose this Deed of Trust, insofar as it encumbers the Property, either by judicial action or by power of sale in accordance with the requirements of applicable law as herein provided.

(a) Beneficiary may foreclose this Deed of Trust, insofar as it encumbers the Property, either by judicial action or through Trustee. Should Beneficiary elect to foreclose by exercise of the power of sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee such items as may be necessary in connection with the commencement of a foreclosure under applicable law.

(b) Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Grantor such Notice of Election and Demand as is then required by law and by this Deed of Trust. Trustee shall, without demand on Grantor, after lapse of such time as may then be required by law and after recordation of such Notice of Election and Demand, and after such other notices having been given as required by law, sell the Property at the time and place of sale fixed by it in the Notice of Sale, either as a whole, or in separate lots or parcels or items as Beneficiary shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of Sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Grantor or Beneficiary,

may purchase at such sale and Grantor hereby covenants to warrant and defend the title of such purchaser or purchasers.

(c) All fees, costs and expenses incurred by Beneficiary in connection with foreclosure of this Deed of Trust, including, without limitation, the costs of any appraisals of the Property obtained by Beneficiary, all costs of any receivership for the Property advanced by Beneficiary, and all attorneys' and consultants' fees incurred by Beneficiary, shall constitute a part of the Secured Obligations and may be included as part of the amount owing from Grantor to Beneficiary at any foreclosure sale.

(d) The proceeds of any sale under this section shall be applied first to the fees and expenses of the Trustee or other officer conducting the sale, and then to the reduction or discharge of the Secured Obligations; any surplus remaining shall be paid over to Grantor or to such other person or persons as may be lawfully entitled to such surplus.

(e) Grantor hereby constitutes and appoints Beneficiary as its attorney-in-fact with full power and authority to execute, deliver, file, record or process on behalf of Grantor any and all instruments or documents or to take any other action on behalf of Grantor reasonably required to accomplish the vesting of the Property, or any part thereof, in the purchaser or purchasers at any sale conducted hereunder. The foregoing power is irrevocable and coupled with an interest.

(f) A sale of less than the whole of the Property or any defective or irregular sale made hereunder shall not exhaust the power of sale provided for herein; and subsequent sales may be made hereunder until all obligations secured hereby have been satisfied, or the entire Property sold, without defect or irregularity.

(g) Nothing in this Section dealing with foreclosure procedures or specifying particular actions to be taken by Beneficiary shall be deemed to contradict or add to the requirements and procedures now or hereafter specified by the laws of the State, and any such inconsistency shall be resolved in favor of the State's law applicable at the time of foreclosure.

7.8 Appointment of Receiver. To the extent permitted by law, Beneficiary shall be entitled, as a matter of absolute right and without regard to the value of any security for the Secured Obligations or the solvency of any person liable therefor, to the appointment of a receiver for the Property upon ex-parte application to any court of competent jurisdiction. Grantor waives any right to any hearing or notice of hearing prior to the appointment of a receiver. Such receiver and its agents shall be empowered, but shall not be obligated to (a) take possession of the Property and any businesses conducted by Grantor or any other person thereon and any business assets used in connection therewith, (b) exclude Grantor and Grantor's agents, servants, and employees from the Property, (c) collect the rents, issues, profits, and income therefrom, (d) complete any construction which may be in progress, (e) do such maintenance and make such repairs and alterations as the receiver deems necessary, (f) use all stores of materials, supplies, and maintenance equipment on the Property and replace such items at the expense of the receivership estate, (g) pay all taxes and assessments against the Property and the Chattels, all premiums for insurance thereon, all utility and other operating expenses, and all sums due

under any prior or subsequent encumbrance, and (h) generally do anything which Grantor could legally do if Grantor were in possession of the Property. All expenses incurred by the receiver or its agents shall constitute a part of the Secured Obligations. Any revenues collected by the receiver shall be applied first to the expenses of the receivership, including attorneys' fees incurred by the receiver and by Beneficiary, together with interest thereon at the Default Rate from the date incurred until repaid, and the balance shall be applied toward the Secured Obligations in such order or manner as Beneficiary may in its sole discretion elect or in such other manner as the court may direct. Unless sooner terminated with the express consent of Beneficiary, any such receivership will continue until the Secured Obligations have been discharged in full, or until title to the Property has passed after foreclosure sale and all applicable periods of redemption have expired.

7.9 Right to Make Repairs, Improvements. Should any part of the Property come into the possession of Beneficiary during the continuation of an Event of Default, Beneficiary may, but shall not be obligated to, use, operate, and/or make repairs, alterations, additions and improvements to the Property for the purpose of preserving it or its value. Grantor covenants to promptly reimburse and pay to Beneficiary, at the place where the Note is payable, or at such other place as may be designated by Beneficiary in writing, the amount of all reasonable expenses (including the cost of any insurance, taxes, or other charges) incurred by Beneficiary in connection with its custody, preservation, use or operation of the Property, together with interest thereon from the date incurred by Beneficiary at the Default Rate, and all such expenses, costs, taxes, interest, and other charges shall be a part of the Secured Obligations. It is agreed, however, that the risk of accidental loss or damage to the Property is undertaken by Grantor and Beneficiary shall have no liability whatsoever for decline in value of the Property, for failure to obtain or maintain insurance, or for failure to determine whether any insurance ever in force is adequate as to amount or as to the risks insured.

7.10 Surrender of Insurance. Upon the completion of a foreclosure sale conducted pursuant to court order, or pursuant to the power of sale contained in the Deed of Trust, or a trustee's sale pursuant to applicable law, or an assignment or deed in lieu of foreclosure, Beneficiary may surrender the insurance policies maintained pursuant to the terms hereof, or any part thereof, and receive and apply the unearned premiums as a credit on the Secured Obligations and, in connection therewith, Grantor hereby appoints Beneficiary (or any officer of Beneficiary), as the true and lawful agent and attorney-in-fact for Grantor (with full powers of substitution), which power of attorney shall be deemed to be a power coupled with an interest and therefore irrevocable, to collect such premiums.

7.11 Prima Facie Evidence. Grantor agrees that, in any assignments, deeds, bills of sale, notices of sale, or postings, given by Beneficiary, any and all statements of fact or other recitals therein made as to the identity of Beneficiary, or as to the occurrence or existence of any Event of Default, or as to the acceleration of the maturity of the Secured Obligations, or as to the request to sell, posting of notice of sale, notice of sale, time, place, terms and manner of sale and receipt, distribution and application of the money realized therefrom, and without being limited by the foregoing, as to any other act or thing having been duly done by Beneficiary, shall be taken by all courts of law and equity as prima facie evidence that such statements or recitals state facts and are without further question to be so accepted.

ARTICLE 8

ASSIGNMENT OF LEASES AND RENTS

8.1 Assignment of Leases and Rents. Grantor hereby unconditionally and absolutely and presently grants, transfers and assigns unto Beneficiary all rents, royalties, issues, profits and income ("**Rents**") now or hereafter due or payable for the occupancy or use of the Property, and all Leases, whether written or oral, with all security therefor, including all guaranties thereof, now or hereafter affecting the Property; on the condition that Beneficiary hereby grants to Grantor, however, a license to collect and retain such Rents at such times as no Event of Default exists hereunder. Such license shall be revocable by Beneficiary without notice to Grantor at any time that an Event of Default exists hereunder. Grantor represents that the Rents and the Leases have not been heretofore sold, assigned, transferred or set over by any instrument now in force and will not at any time during the life of this assignment be sold, assigned, transferred or set over by Grantor or by any person or persons whomsoever; and Grantor has good right to sell, assign, transfer and set over the same and to grant to and confer upon Beneficiary the rights, interest, powers and authorities herein granted and conferred. Failure of Beneficiary at any time or from time to time to enforce the assignment of Rents and Leases under this Section shall not in any manner prevent its subsequent enforcement, and Beneficiary is not obligated to collect anything hereunder, but is accountable only for sums actually collected.

8.2 Further Assignments. Grantor shall give Beneficiary at any time following demand any further or additional forms of assignment of transfer of such Rents, Leases and security as may be reasonably requested by Beneficiary, and shall deliver to Beneficiary executed copies of all such Leases and security.

8.3 Application of Rents. Beneficiary shall be entitled to deduct and retain a just and reasonable compensation from monies received hereunder for its services or that of its agents in collecting such monies. Any monies received by Beneficiary hereunder may be applied when received from time to time in payment of any taxes, assessments or other liens affecting the Property regardless of the delinquency, such application to be in such order as Beneficiary may determine. The acceptance of this Deed of Trust by Beneficiary or the exercise of any rights by it hereunder shall not be, or be construed to be, an affirmation by it of any Lease nor an assumption of any liability under any Lease.

8.4 Collection of Rents. Upon the occurrence and during the continuance of an Event of Default, Beneficiary may declare all sums secured hereby immediately due and payable, and may, at its option, without notice, and whether or not the Secured Obligations shall have been declared due and payable, either in person or by agent, with or without bringing any action or proceeding, or by a receiver to be appointed by a court, (i) enter upon, take possession of, manage and operate the Property, or any part thereof (including without limitation making necessary repairs, alterations and improvements to the Property); (ii) make, cancel, enforce or modify Leases; (iii) obtain and evict tenants; (iv) fix or modify Rents; (v) do any acts which Beneficiary deems reasonably proper to protect the security thereof; and (vi) either with or without taking possession of the Property, in its own name sue for or otherwise collect and receive such Rents, including those past due and unpaid. In connection with the foregoing,

Beneficiary shall be entitled and empowered to employ attorneys, and management, rental and other agents in and about the Property and to effect the matters which Beneficiary is empowered to do, and in the event Beneficiary shall itself effect such matters, Beneficiary shall be entitled to charge and receive reasonable management, rental and other fees therefor as may be customary in the area in which the Property is located; and the reasonable fees, charges, costs and expenses of Beneficiary or such persons shall be additional Secured Obligations. Beneficiary may apply all funds collected as aforesaid, less costs and expenses of operation and collection, including reasonable attorneys' and agents' fees, charges, costs and expenses, as aforesaid, upon any Secured Obligations, and in such order as Beneficiary may determine. The entering upon and taking possession of the Property, the collection of such Rents and the application thereof as aforesaid shall not cure or waive any default or waive, modify or affect notice of default under the Note or this Deed of Trust or invalidate any act done pursuant to such notice.

8.5 Authority of Beneficiary. Any tenants or occupants of any part of the Property are hereby authorized to recognize the claims of Beneficiary hereunder without investigating the reason for any action taken by Beneficiary, or the validity or the amount of indebtedness owing to Beneficiary, or the existence of any default in the Note or this Deed of Trust, or under or by reason of this assignment of Rents and Leases, or the application to be made by Beneficiary of any amounts to be paid to Beneficiary. The sole signature of Beneficiary shall be sufficient for the exercise of any rights under this assignment and the sole receipt of Beneficiary for any sums received shall be a full discharge and release therefor to any such tenant or occupant of the Property. Checks for all or any part of the rentals collected under this assignment of Rents and Leases shall be drawn to the exclusive order of Beneficiary.

8.6 Indemnification of Beneficiary. Nothing herein contained shall be deemed to obligate Beneficiary to perform or discharge any obligation, duty or liability of any lessor under any Lease of the Property, and Grantor shall and does hereby indemnify and hold Beneficiary harmless from any and all liability, loss or damage which Beneficiary may or might incur under any Lease of the Property or by reason of this assignment, except for any liability, loss or damage caused by the gross negligence or willful misconduct of Beneficiary; and any and all such liability, loss or damage incurred by Beneficiary, together with the reasonable costs and expenses, including reasonable attorneys' fees, incurred by Beneficiary in defense of any claims or demands therefor (whether successful or not), shall be additional Secured Obligations, and Grantor shall reimburse Beneficiary therefor on demand.

ARTICLE 9

MISCELLANEOUS PROVISIONS

9.1 Time of the Essence. Time is of the essence with respect to all of the provisions of the Loan Documents.

9.2 Joint and Several Obligations. If Grantor is more than one person or entity, then (a) all persons or entities that are parties hereto as Grantor are jointly and severally liable for all of the Secured Obligations; (b) all representations, warranties, and covenants made by Grantor shall be deemed representations, warranties, and covenants of each of the persons or entities that is a party hereto as Grantor; (c) any breach, Default or Event of Default hereunder by

any persons or entities that is a party hereto as Grantor shall be deemed to be a breach, Default or Event of Default of Grantor; (d) any reference herein contained to the knowledge or awareness of Grantor shall mean the knowledge or awareness of any of the persons or entities that is a party hereto as Grantor; and (e) any event creating personal liability of any of the persons or entities that is a party hereto as Grantor shall create personal liability for all such persons or entities.

9.3 Waiver of Homestead and Other Exemptions. To the extent permitted by law, Grantor hereby waives all rights to any homestead or other exemption to which Grantor would otherwise be entitled under any present or future constitutional, statutory, or other provision of applicable state or federal law. Grantor hereby waives any right it may have to require Beneficiary to marshal all or any portion of the security for the Secured Obligations.

9.4 Non-Recourse; Exceptions to Non-Recourse. Except as expressly set forth in the Note, the recourse of Beneficiary with respect to the obligations evidenced by the Note and the other Loan Documents shall be solely to the Property, Chattels and Intangible Personalty, and any other collateral given as security for the Note.

9.5 Rights and Remedies Cumulative. Beneficiary's rights and remedies under each of the Loan Documents are cumulative of the right and remedies available to Beneficiary under each of the other Loan Documents and those otherwise available to Beneficiary at law or in equity. No act of Beneficiary shall be construed as an election to proceed under any particular provision of any Loan Document to the exclusion of any other provision in the same or any other Loan Document, or as an election of remedies to the exclusion of any other remedy which may then or thereafter be available to Beneficiary.

9.6 No Implied Waivers. Beneficiary shall not be deemed to have waived any provision of any Loan Document unless such waiver is in writing and is signed by Beneficiary. Without limiting the generality of the preceding sentence, neither Beneficiary's acceptance of any payment with knowledge of a Default by Grantor, nor any failure by Beneficiary to exercise any remedy following a Default by Grantor shall be deemed a waiver of such Default, and no waiver by Beneficiary of any particular Default on the part of Grantor shall be deemed a waiver of any other Default or of any similar Default in the future.

9.7 No Third-Party Rights. No person shall be a third-party beneficiary of any provision of any of the Loan Documents. All provisions of the Loan Documents favoring Beneficiary are intended solely for the benefit of Beneficiary, and no third party shall be entitled to assume or expect that Beneficiary will waive or consent to modification of any such provision in Beneficiary's sole discretion.

9.8 Preservation of Liability and Priority. Without affecting the liability of Grantor or of any other person (except a person expressly released in writing) for payment and performance of all of the Secured Obligations, and without affecting the rights of Beneficiary with respect to any security not expressly released in writing, and without impairing in any way the priority of this Deed of Trust over the interests of any person acquired or first evidenced by recording subsequent to the recording hereof, Beneficiary may, either before or after the maturity of the Note, and without notice or consent: (a) release any person liable for payment or performance of all or any part of the Secured Obligations; (b) make any agreement with Grantor

altering the terms of payment or performance of all or any of the Secured Obligations; (c) exercise or refrain from exercising, or waive, any right or remedy which Beneficiary may have under any of the Loan Documents; (d) accept additional security of any kind for any of the Secured Obligations; or (e) release or otherwise deal with any real or personal property securing the Secured Obligations. Any person acquiring or recording evidence of any interest of any nature in the Property, the Chattels, or the Intangible Personalty shall be deemed, by acquiring such interest or recording any evidence thereof, to have agreed and consented to any or all such actions by Beneficiary.

9.9 Subrogation of Beneficiary. Beneficiary shall be subrogated to the lien of any previous encumbrance discharged with funds advanced by Beneficiary under the Loan Documents, regardless of whether such previous encumbrance has been released of record.

9.10 Notices. Any notice required or permitted to be given by Grantor or Beneficiary under this Deed of Trust shall be in writing and will be deemed given (a) upon personal delivery, (b) on the first Business Day after receipted delivery to a courier service which guarantees next-business-day delivery, or (c) on the third Business Day after mailing, by registered or certified United States mail, postage prepaid, in any case to the appropriate party at its address set forth below:

If to Grantor:

St. Julien Partners LLC
921 Walnut Street, Suite 220
Boulder, Colorado 80302
Attention: Bruce Porcelli

with a copy to:

Brownstein Hyatt Farber Schreck, LLP
410 17th Street, Suite 2200
Denver, Colorado 80202
Attention: Sean Bahoshy

If to Beneficiary:

The Variable Annuity Life Insurance Company
c/o AIG Investments
777 South Figueroa Street, 16th Floor
Los Angeles, California 90017-5800
Attn: Director-Mortgage Lending and Real Estate

with a copy to:

Greenberg Traurig, LLP
1200 17th Street, 24th Floor
Denver, Colorado 80202
Attn: Peter C. Kelley, Esq.

Either party may change such party's address for notices or copies of notices by giving notice to the other party in accordance with this Section.

9.11 Release of Deed of Trust. Upon payment and performance in full of all of the Secured Obligations, Beneficiary will execute and deliver to Grantor or Trustee, as applicable, such documents as may be required to release or reconvey this Deed of Trust of record, and Grantor shall pay any recording fees in connection therewith.

9.12 Illegality. If any provision of this Deed of Trust is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Deed of Trust, the legality, validity, and enforceability of the remaining provisions of this Deed of Trust shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable provision there shall be added automatically as a part of this Deed of Trust a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. If the rights and liens created by this Deed of Trust shall be invalid or unenforceable as to any part of the Secured Obligations, then the unsecured portion of the Secured Obligations shall be completely paid prior to the payment of the remaining and secured portion of the Secured Obligations, and all payments made on the Secured Obligations shall be considered to have been paid on and applied first to the complete payment of the unsecured portion of the Secured Obligations.

9.13 Usury Savings Clause. It is expressly stipulated and agreed to be the intent of Beneficiary and Grantor at all times to comply with the applicable law governing the highest lawful interest rate. 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 Loan Documents, or contracted for, charged, taken, reserved or received with respect to the Loan, or if acceleration of the maturity of the Note, any prepayment by Grantor, or any other circumstance whatsoever, results in Grantor having paid any interest in excess of that permitted by applicable law, then it is the express intent of Grantor and Beneficiary that all excess amounts theretofore collected by Beneficiary be credited on the principal balance of the Note (or, at Beneficiary's option, paid over to Grantor), and the provisions of the Note and other Loan Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder. The right to accelerate maturity of the Note does not include the right to accelerate any interest which has not otherwise accrued on the date of such acceleration, and Beneficiary does not intend to collect any unearned interest in the event of acceleration. All sums paid or agreed to be paid to Beneficiary for the use, forbearance or detention of the Secured Obligations evidenced hereby or by the Note shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such Secured Obligations until payment in full so that the rate or amount of interest on account of such Secured Obligations

does not exceed the maximum rate or amount of interest permitted under applicable law. The term “**applicable law**” as used herein shall mean any federal or state law applicable to the Loan.

9.14 Obligations Binding Upon Grantor’s Successors. This Deed of Trust is binding upon Grantor and Grantor’s successors and assigns, and shall inure to the benefit of Beneficiary, and its successors and assigns, and the provisions hereof shall likewise be covenants running with the land. The duties, covenants, conditions, obligations, and warranties of Grantor in this Deed of Trust shall be joint and several obligations of Grantor and Grantor’s successors and assigns.

9.15 Construction. All pronouns and any variations of pronouns herein shall be deemed to refer to the masculine, feminine, or neuter, singular or plural, as the identity of the parties may require. Whenever the terms herein are singular, the same shall be deemed to mean the plural, as the identity of the parties or the context requires.

9.16 Attorneys’ Fees. The provisions of Section 28 of the Note are hereby incorporated herein by reference as if the same were fully stated herein, and for purposes thereof, references to “Maker” therein shall be deemed to be references to Grantor, references to “Holder” therein shall be deemed to be references to Beneficiary.

9.17 Waiver of Jury Trial. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, BENEFICIARY AND GRANTOR KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE, TO THE FULLEST EXTENT NOT PROHIBITED BY LAW, ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM BASED ON THIS DEED OF TRUST, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS DEED OF TRUST OR ANY LOAN DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO OR TO ANY LOAN DOCUMENT.

9.18 Governing Laws. The substantive, procedural and internal laws of the State of Colorado shall govern the validity, construction, enforcement, and interpretation of this Deed of Trust, without regard to the conflicts of laws principles of such State.

9.19 Inconsistency. In the event of any inconsistency between the terms of the Loan Documents and the terms of that certain Mortgage Loan Application between Grantor and Beneficiary, as amended, the terms of the Loan Documents shall govern and control in all respects.

9.20 Economic Sanctions, Anti-Money Laundering, Etc. Grantor represents, warrants and covenants to Beneficiary that:

(a) None of the Grantor, the Guarantor, or any officer or director of any of them, is or shall become a Prohibited Person or is or shall become directly or indirectly owned or controlled by any Prohibited Person,

(b) At all times throughout the Loan term, none of the funds of Grantor, Guarantor or any other party that are used to repay the Loan shall be derived from (i)

conducting business or transacting with any Prohibited Person, or (ii) activities involving the violation of any Anti-Money Laundering Laws,

(c) None of the proceeds of the Loan shall be used to facilitate any business, transactions, or other activity with any Prohibited Person or activities involving the violation of any Anti-Money Laundering Laws, and

(d) Grantor shall promptly deliver to Beneficiary any certification or other evidence reasonably requested from time to time by Beneficiary confirming Grantor's compliance with this Section. The representations, warranties and covenants set forth in this Section shall be deemed repeated and reaffirmed by Grantor as of each date that Grantor makes a payment to Beneficiary under the Note, this Deed of Trust and the other Loan Documents or receives any payment from Beneficiary. Grantor shall promptly notify Beneficiary in writing should Grantor become aware of any change in the information set forth in these representations, warranties and covenants.

For the purposes of the foregoing Section 9.20:

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract or otherwise.

“Governmental Authority” means (a) the government of (i) the United States of America or any state or other political subdivision thereof, or (ii) any other jurisdiction in which the Grantor, Guarantor or their direct or indirect constituents (as applicable) conducts all or any part of its business, or which asserts jurisdiction over any properties of any of the foregoing, or (b) any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, any such government.

“Person” means an individual, a corporation, an association, a joint stock company, a trust, a business trust, a partnership, a joint venture, a limited liability company, a real estate investment trust, an unincorporated organization, department, or a government, foreign country or regime (or any agency, agent, instrumentality or political subdivision thereof), or any other entity (whether incorporated or unincorporated).

“Prohibited Person” means:

(i) any Person that is identified on the list of Specially Designated Nationals and Blocked Persons or the list of Foreign Sanctions Evaders (collectively, an **“OFAC Listed Person”**) published by the Office of Foreign Assets Control, United States Department of the Treasury (**“OFAC”**),

(ii) any agent, department, or instrumentality of, or any Person otherwise beneficially owned by, controlled by or acting on behalf of, directly or indirectly, (x) any OFAC Listed Person or (y) any Person that is the target of any sanctions programs administered and/or enforced by OFAC,

(iii) any Person that is otherwise blocked by or a target of United States economic sanctions,

(iv) any Person that (A) has been found in violation of, charged with, or convicted of, money laundering, drug trafficking, terrorist-related activities or other money laundering predicate crimes under the Currency and Foreign Transactions Reporting Act of 1970 (otherwise known as the Bank Secrecy Act), the USA PATRIOT Act or any other United States law or regulation governing such activities (collectively, “**Anti-Money Laundering Laws**”) or any U.S. economic sanctions violations, (B) is under investigation by any Governmental Authority for possible violation of Anti-Money Laundering Laws or any U.S. economic sanctions violations, (C) has been assessed civil penalties under any Anti-Money Laundering Laws or any U.S. economic sanctions, or (D) has had any of its funds seized or forfeited in an action under any Anti-Money Laundering Laws, and/or

(v) any Person that (A) is owned or controlled by the government of any country or territory that is subject to comprehensive U.S. sanctions (the “**Sanctioned Countries**”) (e.g., Cuba, Iran, Sudan, North Korea, Syria or the Crimea region of Russia or Ukraine), (B) is located in any Sanctioned Countries, (C) does business in or with any Sanctioned Countries.

Notwithstanding the foregoing, with respect to any direct or indirect constituent of Grantor or Guarantor that is not a U.S. Person, such non-U.S. Person shall not be required to comply with any of the provisions in this Section 9.20 if doing so would constitute a violation of the domiciliary law applicable to such non-U.S. Person.

9.21 Claims Against Mortgagee. Beneficiary shall not be in default or breach under this Deed of Trust, or under any of the other Loan Documents, unless a written notice specifically setting forth the claim of Grantor shall have been given to Beneficiary within six (6) months after Grantor first had knowledge of the occurrence of the event that Grantor alleges gave rise to such claim and Beneficiary does not remedy or cure the default or breach, if any there be, promptly thereafter. Grantor waives any claim, set-off or defense against Beneficiary arising by reason of any alleged default or breach by Beneficiary as to which Grantor did not give such notice timely as aforesaid. Grantor acknowledges that such waiver is or may be essential to Beneficiary’s ability to enforce Beneficiary’s remedies without delay and that such waiver therefore constitutes a substantial part of the bargain between Beneficiary and Grantor with respect to the Loan.

ARTICLE 10

PROVISIONS REGARDING CONDOMINIUM DOCUMENTS

10.1 Assignment and Grant of Security Interest. As additional security for the payment and performance of all Secured Obligations of Grantor to Beneficiary, and subject to the provisions hereof, Grantor hereby grants a security interest in, and transfers, assigns and conveys to Beneficiary, all of Grantor’s rights, powers, privileges, obligations, title, and interests in, to and under the Condominium Documents, whether now owned or hereafter acquired, including, without limitation, all of Grantor’s rights, powers, privileges, obligations, title, and interests thereunder as “Declarant,” “Owner,” owner of any “Unit,” (all as defined in the Condominium Documents) or any other capacity thereunder. Grantor hereby authorizes

Beneficiary to file and/or record one or more UCC-1 financing statements in such jurisdictions as Beneficiary shall deem appropriate in order to reflect and perfect such grants of security interests.

10.2 Exercise of Beneficiary's Remedies. Although it is the intention of the parties that the provisions of this Article 10 constitute a present assignment, it is expressly understood and agreed, notwithstanding anything herein contained to the contrary, that Beneficiary shall not exercise any of the rights and powers conferred upon it herein until and unless there shall occur and be continuing an Event of Default. Upon the occurrence and during the continuation of an Event of Default, Beneficiary shall have the right (but not the obligation) to assume all obligations of Grantor under the Condominium Documents. Nothing herein contained shall be deemed to affect or impair any other rights or remedies that Beneficiary may have under this Deed of Trust or the other Loan Documents.

10.3 Rights Under Documents.

(a) Following and during the continuation of an Event of Default, (i) Beneficiary shall have the right to exercise the rights of Grantor under the Condominium Documents (whether in its capacity as "Declarant," "Owner," owner of any "Unit," or any other capacity thereunder), including without limiting the generality of the foregoing, all voting rights accruing to the Grantor under the terms of the Condominium Documents, it being understood that in the event of an Event of Default by the Grantor under the terms of any of the Loan Documents, Beneficiary may vote in the place and stead of the Grantor under the Condominium Documents, (ii) Beneficiary shall have the right to exercise the rights of Grantor as a member, owner, board member, officer or shareholder of or in any and all Associations (whether in its capacity as "Declarant," "Owner," owner of any "Unit," or any other capacity thereunder), and (iii) Beneficiary may exercise any and all rights, powers and remedies (including, without limitation, voting, approval, consent and waiver rights) of Grantor under any and all of the Condominium Documents, and Grantor hereby nominates and appoints the Beneficiary as the Grantor's irrevocable proxy and attorney-in-fact to vote and to act with respect to all of such rights, powers and remedies (including, without limitation, voting, approval, consent and waiver rights, rights to remove any and all directors, board members, committee members and officers of any and all Associations, that were appointed by Grantor, and to replace such removed directors, board members, committee members and officers, and the right to elect or appoint, and vote to elect or appoint, any and all directors, board members, committee members and officers of any and all Associations) under any and all of the Condominium Documents. The rights granted to Beneficiary under such proxy and power of attorney shall be irrevocable, but shall automatically terminate upon payment of all amounts outstanding under the Loan Documents in full. Written notice of Event of Default from Beneficiary to the applicable Association, or to any "Board of Directors" formed or constituted from time to time under the Condominium Documents, or given in any other manner prescribed therefor under the Condominium Documents shall be deemed conclusive as to the existence of such Event of Default and as to the Beneficiary's rights and privileges under this paragraph. The provisions of this paragraph shall in no event render the Beneficiary liable for any common charges or assessments required by the

Condominium Documents, nor shall they cause, in and of themselves, the Beneficiary to be deemed a declarant.

(b) If Beneficiary, its nominee, designee, successor, or assignee acquires title to any portion of the Property by reason of foreclosure of this Deed of Trust, deed in lieu of foreclosure, trustee's sale pursuant to applicable law, or private sale pursuant to applicable law, Beneficiary, its nominee, designee, successor, or assignee, or any such other person or entity, shall (i) succeed to all of the rights of and benefits accruing to Grantor under the Condominium Documents, (ii) be entitled to exercise all of the rights and benefits accruing to Grantor under the Condominium Documents, as if such party were named as the "Declarant," "Owner," owner of each "Unit" or other applicable party thereunder, and (iii) have the immediate right to remove any and all directors, board members, committee members and officers of the Association that were appointed by Grantor, and to replace such removed directors, board members, committee members and officers. If at any time Grantor has appointed any director, board member, committee member or officer of any Association, Grantor shall cause all such directors, board members, committee members and officers appointed by Grantor from time to time to deposit with Beneficiary a written resignation which shall be irrevocable, but the effectiveness of which shall be subject to a condition subsequent that shall be deemed automatically and immediately satisfied in the event that (x) an Event of Default shall have occurred and be continuing under any Loan Document, and (y) Beneficiary, a receiver or a purchaser at a foreclosure sale shall have taken possession of the Property.

10.4 Documents. Except as expressly permitted in any Loan Document, Grantor shall not take any of the following actions or omit to take any such actions or cause, permit, or suffer any Association to take any of the following actions or omit to take any such action under the Condominium Documents, in each case except after notice to the Beneficiary and with the prior written consent of Beneficiary, which consent shall not be unreasonably withheld, conditioned or delayed: (i) cancel, terminate, modify, supplement or amend the Condominium Documents, (ii) forgive any material obligation under the Condominium Documents, (iii) fail to perform any material obligation under the Condominium Documents, (iv) further assign Grantor's rights under the Condominium Documents, or any portion thereof, (v) withdraw any portion of the Property from the Condominium Documents, or from any Association or dissolve any Association, (vi) subdivide or any "Unit" (as defined in the Condominium Documents) owned by Grantor, or consolidate or combine any such Unit with another Unit, or bring any action for division or expansion of any portion of the Property, (vii) appoint, retain or hire any "Condominium Manager" (as defined in the Condominium Documents), or (viii) take any action which, if such action were to be taken by Grantor would require Beneficiary's prior written consent under the provisions of the Loan Documents or would constitute a violation, breach or default by Grantor under any Loan Document, assuming for such purpose that any common areas or common elements (other than limited common elements that are appurtenant solely to condominium units that are not owned by Grantor) under the Condominium Documents were subject to the lien of this Deed of Trust (including without limitation, taking any action to convey, encumber or otherwise transfer any interest in such common areas or common elements). Grantor shall not, except with the prior written consent of Beneficiary approve or vote (whether directly or through any member appointed by Grantor to any board of directors or committee formed pursuant to the Condominium Documents) in favor of any change the

percentage interests or other interest or obligations of the Property under the Condominium Documents for any purpose, including without limitation, for the purpose of (i) levying assessments or charges or allocating expenses, (ii) allocating distributions of hazard insurance proceeds or condemnation awards or (iii) determining the pro-rata share of ownership. Grantor shall deliver to Beneficiary a copy of each budget, financial statement, material report or material notice that is delivered to it by any Association, manager, owner or other party pursuant to the Condominium Documents promptly after Grantor's receipt of the same.

10.5 Beneficiary's Right to Cure. In the event of any default by Grantor under the Condominium Documents, or the occurrence of an Event of Default beyond any applicable notice and cure period and during the continuation thereof, Beneficiary shall have the right (but not the obligation), upon prior written notice to Grantor, and until such default is cured, to cure any default and take any action under the Condominium Documents, to preserve the same. Grantor hereby grants to Beneficiary the reasonable right of access to the Property for this purpose, if such action is necessary. Such action by Beneficiary shall not be deemed an election by Beneficiary as provided in Section 10.2 hereof.

10.6 Representations and Warranties of Grantor. Grantor hereby represents and warrants to Beneficiary that (a) it has not executed any prior assignment of the Condominium Documents or granted any prior security interest or lien on Grantor's interest thereunder that remains in effect, (b) except as provided herein, it has not executed or granted any modification whatsoever of the Condominium Documents, either orally or in writing, (c) there is no existing material default or breach under the Condominium Documents, and to Grantor's knowledge no event occurred which with the passage of time, after notice, if any required by the Condominium Documents or by applicable law, would become a material default or breach under the Condominium Documents, (d) there are no assessments of any kind, or any other amounts of any kind, currently due or outstanding under the Condominium Documents, (e) no "Civic Use Lease" (as defined in the Condominium Documents) was ever entered into, and no such lease is currently in effect, and (f) as of the date hereof, there is no "Condominium Manager" as contemplated in the Condominium Documents.

10.7 Limitation of Beneficiary's Liability. Notwithstanding anything contained in the Condominium Documents to the contrary, the interest of Grantor therein is assigned and transferred to Beneficiary by way of collateral security only, Beneficiary by its acceptance hereof shall not be deemed to have assumed or become liable for any of the obligations or liabilities of Grantor under the Condominium Documents, whether provided for by the terms thereof, arising by operation of law or otherwise. Grantor hereby acknowledges that Grantor shall remain liable for the due performance of Grantor's obligations under the Condominium Documents to the same extent as though this Deed of Trust had not been made, until such time as Beneficiary exercises its rights under Section 10.2 above (at which time Beneficiary shall become liable for all such obligations and future liabilities that accrue during such time as Beneficiary is exercising its rights under Section 10.2 above). It is expressly intended, understood and agreed that this Deed of Trust and the other Loan Documents are made and entered into for the sole protection and benefit of Beneficiary and Grantor, and their respective successors and assigns (but in the case of assigns of Grantor, only to the extent permitted hereunder and under the Loan Documents), and no other person or persons shall have any right of action hereunder or rights to the proceeds of the Loan at any time; that no third party shall under any circumstances be

entitled to any equitable lien on the undisbursed proceeds of the Loan at any time. The relationship between Beneficiary and Grantor is solely that of a lender and borrower, and nothing contained herein shall in any manner be construed as making the parties hereto partners or joint venturers or creating any other relationship other than lender and borrower.

10.8 Election of Remedies. The provisions set forth in this Article 10 shall be deemed a special remedy given to Beneficiary and shall not be deemed exclusive of any of the remedies granted in the Note, Deed of Trust or the Loan Documents but shall be deemed an additional remedy and shall be cumulative with the remedies therein and elsewhere granted Beneficiary, all of which remedies shall be enforceable concurrently or successively. No exercise by Beneficiary of any of its rights hereunder shall cure, waive or affect any default hereunder or any Event of Default under the Note, Deed of Trust or the other Loan Documents. No inaction or partial exercise of rights by Beneficiary shall be construed as a waiver of any of its such rights and remedies, and no waiver by Beneficiary of any such rights and remedies shall be construed as a waiver by Beneficiary of any of its other rights and remedies.

10.9 Waiver and Indemnity. Grantor hereby agrees that no liability shall be asserted or enforced by Grantor against Beneficiary in its exercise of the powers and rights granted in this Article 10, except in the event caused by the gross negligence or willful misconduct of Beneficiary. Grantor hereby agrees to indemnify, defend and hold Beneficiary harmless from and against any and all liability, expense, cost or damage which Beneficiary may incur by reason of act or omission of Grantor under the Condominium Documents, except to the extent caused by Beneficiary's gross negligence or willful misconduct.

ARTICLE 11

SPECIAL COLORADO PROVISIONS

11.1 Inconsistencies with State Provisions. In the event of any inconsistencies between this Article 11 of this Deed of Trust and any other terms and provisions of this Deed of Trust, the terms and conditions of this Article 11 of this Deed of Trust shall control and be binding.

11.2 Foreclosure. Notwithstanding anything to the contrary contained in this Deed of Trust, the following provisions shall apply with respect to foreclosure proceedings:

(a) Public Trustee. Beneficiary may foreclose this Deed of Trust, insofar as it encumbers the Property, by way of a trustee's sale pursuant to the provisions of Title 38, Article 38, Colorado Revised Statutes, as currently in effect, as amended, or in any other manner then permitted by law. If this Deed of Trust encumbers more than one parcel of real estate, foreclosure may be by separate parcel or en masse, as Beneficiary may elect in its sole discretion. Foreclosure through Trustee will be initiated by Beneficiary's filing of its notice of election and demand for sale with Trustee. Upon the filing of such notice of election and demand for sale, Trustee shall promptly comply with all notice and other requirements of the laws of Colorado then in force with respect to such sales, and shall give four weeks' public notice of the time and place of such sale by advertisement

weekly in some newspaper of general circulation then published in the County or City and County in which the Property is located.

(b) Judicial Foreclosure. The right to foreclose this Deed of Trust as a mortgage by appropriate proceedings in any court of competent jurisdiction is also hereby given.

(c) Expenses of Trustee's Sale or Foreclosure. All fees, costs and expenses of any kind incurred by Beneficiary in connection with foreclosure of this Security Instrument, including, without limitation, the costs of any appraisals of the Property obtained by Beneficiary, all costs of any receivership for the Property advanced by Beneficiary, and all attorneys' and consultants' fees incurred by Beneficiary, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimates as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examination, title insurance policies and similar data and assurances with respect to title, as Trustee or Beneficiary may deem necessary either to prosecute such suit or to evidence to bidders at the sales that may be had pursuant to such proceedings the true conditions of the title to or the value of the Property, together with and including the fees and expenses of the Trustee, shall constitute a part of the Secured Obligations and may be included as part of the amount owing from Grantor to Beneficiary at any foreclosure sale.

(d) Proceeds of Trustee's or Foreclosure Sale. The proceeds of a foreclosure sale of the Property shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including without limitation all such items as are mentioned in Section 11.2(c); second, all other items which, under the terms hereof, constitute obligations additional to that evidenced by the Note, with interest on such items as herein provided; third, to interest remaining unpaid upon the Note; fourth, to the principal remaining unpaid upon the Note; and lastly, to Grantor and its successors or assigns, as their rights may appear.

(e) Beneficiary's Credit Bid. Beneficiary may bid at any such foreclosure sale, and in connection therewith Beneficiary may credit bid all or any portion of the Secured Obligations (including, without limitation, the Trustee's fees and expenses, Beneficiary's attorneys; and appraisal fees, and all other expenses incurred by Beneficiary in undertaking the foreclosure).

(f) Insurance Upon Foreclosure. In case of an insured loss after judicial foreclosure or Trustee's sale proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied to rebuilding or restoring the buildings or improvements, shall be used to pay the amount due upon the Loan. In the event of judicial foreclosure, Beneficiary is hereby authorized, without the consent of Grantor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Beneficiary may deem advisable to cause the interest of such purchaser to be protected by any of the said insurance policies.

(g) No Conflict. Nothing in this Section 11.2 or elsewhere in the Deed of Trust dealing with foreclosure procedures or specifying particular actions to be taken by Beneficiary or by Trustee or any similar officer shall be deemed to contradict or add to the requirements and procedures now or hereafter specified by Colorado law, and any such inconsistency shall be resolved in favor of Colorado law applicable at the time of foreclosure.

11.3 Additional Waivers. To the full extent that the covenants and waivers contained in this Section 11.3 are permitted by law, but not otherwise, (a) Grantor hereby waives any and all rights under, and covenants and agrees that it will not at any time insist upon or plead or in any manner whatsoever claim or take advantage of, any stay, exemption, moratorium or extension law hereafter in effect or any law now or hereafter in effect providing for the valuation or appraisal of the Property or any part thereof prior to any sale or sales thereof and Grantor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power or remedy herein or otherwise granted or delegated to Trustee or Beneficiary, but will suffer and permit the execution of every such right, power and remedy as though no such law or laws have been made or enacted; and (b) Grantor hereby waives, and subordinates to the lien of this Deed of Trust, any rights that Grantor may have in or to the Property as a homestead exemption under existing law or under any similar law that may hereafter be enacted, such waiver and subordination to be effective in connection with either a judicial or foreclosure sale under this Deed of Trust or Beneficiary's redemption of the Property in the case of a judicial or foreclosure sale to enforce an encumbrance prior in right to that of this Security Instrument.

11.4 Waiver Of Homestead And Other Exemptions. To the extent permitted by law, Grantor hereby waives all rights to any homestead or other exemption to which Grantor would otherwise be entitled under any present or future constitutional, statutory, or other provision of applicable state or federal law.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

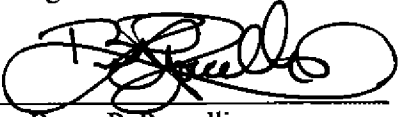
**[SIGNATURE PAGE TO DEED OF TRUST, SECURITY AGREEMENT, FIXTURE
FILING, AND ASSIGNMENT OF LEASES AND RENTS]**

IN WITNESS WHEREOF, Grantor has executed and delivered this Deed of Trust as of
the date first mentioned above.

GRANTOR:

ST. JULIEN PARTNERS LLC,
a Colorado limited liability company

By: ST JULIEN PROPERTIES LLC,
a Colorado limited liability company,
its Manager

By: 
Name: Bruce P. Porcelli
Its: Manager

TRADEMARK

REEL: 006049 FRAME: 0495

NOTARY ACKNOWLEDGMENT

STATE OF **COLORADO**)

)ss.

COUNTY OF **BOULDER**)

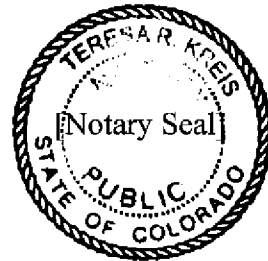
On April **21**, 2017 before me, **Teresa R. Kreis** personally appeared **Bruce P. Porcelli** who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their 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 **Colorado** that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Teresa R. Kreis

Signature of Notary



TRADEMARK

REEL: 006049 FRAME: 0496

EXHIBIT A
to
DEED OF TRUST
(Legal Description)

PARCEL A:

Unit HG, and Unit H, according to the Condominium Declaration for the Ninth and Canyon Hotel and Parking Condominium recorded May 19, 2006 as Reception No. 2777799 and the Condominium Map, recorded May 19, 2006 as Reception No. 2777800 in the office of the Clerk and Recorder of Boulder County, Colorado, together with all those easements as described in the Condominium Declaration recorded May 19, 2006 as Reception No. 2777799 and Condominium Map recorded May 19, 2006 as Reception No. 2777800, and together with those rights granted pursuant to Revocable Permit #ADR2002-90045 recorded May 12, 2003 as Reception No. 2439903.

PARCEL B:

The beneficial interests created in that certain Lease and Agreement recorded May 12, 2003 as Reception No. 2439909, in and to that portion of the property described therein, not included within the Ninth and Canyon Hotel and Parking Condominium;

PARCEL C:

The beneficial interests created in that certain City of Boulder Right-of-Way Lease REV2010-00010, recorded August 23, 2010 as Reception No. 3093697, amended to provide lease term extension until June 13, 2019 by Amendment thereto, recorded September 14, 2016 as Reception No. 3543277