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**DEED OF TRUST, ASSIGNMENT OF RENTS  
AND SECURITY AGREEMENT**

THIS DEED OF TRUST SECURES AN OBLIGATION INCURRED FOR THE CONSTRUCTION OF AN IMPROVEMENT ON LAND, IN WHICH THE PROCEEDS OF THE LOAN(S) SHALL BE ADVANCED AS CONSTRUCTION PROGRESSES, POSSIBLY CONSTITUTING FUTURE ADVANCES.

THIS DEED OF TRUST SECURES A REVOLVING LINE OF CREDIT FOR COMMERCIAL PURPOSES IN WHICH THE PRINCIPAL AMOUNT OUTSTANDING IS SUBJECT TO FLUCTUATION, ADVANCES UNDER WHICH ARE OBLIGATORY AS SET FOR IN T.C. A. 47-28-104(5)(b).

MAXIMUM PRINCIPAL INDEBTEDNESS FOR TENNESSEE RECORDING TAX PURPOSES IS \$9,421,000.00.

This document serves as a Fixture Filing under Section 47-9-502 of the Tennessee Uniform Commercial Code.

Grantor's Organizational Identification Number is W16435174

**THIS DEED OF TRUST, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT** (as amended or supplemented from time to time, this "Deed of Trust"), dated as of the 19 day of May, 2015, by and among **CLOVERCROFT PRESERVE, LLC**, a Maryland limited liability company (the "Grantor"), having an address at c/o Natelli Communities, Inc., 506 Main Street, Suite 300, Gaithersburg, Maryland 20878, and **BB&T COLLATERAL SERVICE CORPORATION**, a Tennessee corporation, as trustee (the "Trustee"), having address of P. O. Box 1290, Whiteville, North Carolina 28472, for the benefit of **BRANCH BANKING AND TRUST COMPANY**, its successors and assigns and any other person who may at any time be the holder of the Note, as hereinafter defined (the "Bank"), having an address at 1909 K Street NW, Suite 200, Washington, DC 20006.

**WHEREAS**, the Grantor is now, or may hereafter become, indebted to the Bank in connection with (i) an acquisition and development loan (the "Loan Facility") from the Bank to the Grantor and Thomas A. Natelli, individually (individually and collectively, jointly and severally, the "Borrower") in the original principal amount not to exceed at any time outstanding \$7,921,000.00, which indebtedness is evidenced by an Revolving Deed of Trust Note dated of even date herewith made by the Borrower and payable to the order of the Bank in the original principal amount not to exceed at any time outstanding \$7,921,000.00, (which promissory note, together with any modifications, extensions or renewals thereof or substitutions or replacements therefor, are hereinafter called the "Note"), the principal of the Note and interest thereon to be payable at the time or times, in the manner and at the rate or rates stated in the Note, which is incorporated herein by this reference, and (ii) a letter of credit facility (the "Letter of Credit Facility") and together with the Loan Facility, the "Loan") from the Bank to the Borrower for the issuance of one or more letter(s) of credit in an aggregate stated amount of up to \$1,500,000.00 (the "Letter of Credit Commitment").

BB&T/Clovercroft  
Deed of Trust  
#25791509v4

**WHEREAS**, the Bank has made the Loan to the Grantor pursuant to the terms and conditions of an Acquisition and Development Loan Agreement dated of even date herewith between the Borrower and the Bank (which loan agreement, together with any modifications, extensions and renewals thereof and substitutions and replacements therefor, is hereinafter called the "Loan Agreement").

**WHEREAS**, the Grantor wishes and intends by the execution and delivery of this Deed of Trust to secure (a) the prompt payment of the principal, interest and all other sums due on the Note, the Reimbursement Agreements, the Loan Agreement, this Deed of Trust and any other document or agreement now or hereafter evidencing, securing or otherwise relating to the Loan (which documents, together with any modifications, extensions and renewals thereof and substitutions and replacements therefor, are hereinafter called the "Loan Documents"), (b) the performance of and compliance with all of the terms, covenants, conditions, stipulations and agreements contained in the Note, the Reimbursement Agreements, the Loan Agreement, this Deed of Trust and the other Loan Documents, and (c) certain other indebtedness as hereinafter set forth.

**WHEREAS**, pursuant to the provisions of T.C.A. 47-28-101, et seq., this Deed of Trust secures the payment of the Obligations, including present and future advances made to the Grantor, whether obligatory or optional, and whether now existing or hereafter incurred together with interest thereon.

**WHEREAS**, no execution of a written instrument or notation shall be necessary to evidence or secure any future advances made hereunder. The period within which future advances are to be made shall be twenty (20) years from the date of this Deed of Trust or the date of the maturity of the Obligations, whichever is later.

**WHEREAS**, the real property which shall be conveyed and encumbered by this Deed of Trust is located in Williamson County, Tennessee, and the legal description and the chain of title reference of the real property are set forth in Exhibit A attached hereto and incorporated herein.

## **GRANT**

**NOW, THEREFORE**, in consideration of these premises and the making of the Loan, and to secure the Obligations, the Grantor hereby grants, pledges, assigns, transfers and conveys the Land and the Improvements to the Trustee with general warranty of title, subject to such easements, conditions and restrictions of record as may be applicable thereto and approved by the Bank, and further grants, pledges, assigns, transfers and conveys to the Trustee, and grants to the Bank a security interest in, (i) the Equipment; (ii) the Contracts, (iii) the Income; (iv) the Leases; (v) the Permits; (vi) the General Intangibles; and (vii) the proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, all proceeds payable under any policy of insurance with respect to the damage or destruction of all or any part of the Property and all proceeds from any Condemnation.

**TO HAVE AND TO HOLD** the Security Property to the Trustee, and the Trustee's successors and assigns, in fee simple forever.

**IN TRUST WITH POWER OF SALE**, for the benefit and security of the Bank to secure the full, complete, timely and absolute payment, performance, completion, and satisfaction of each of the Obligations, whether such Obligations are existing or hereafter arising, as contemplated by and in accordance with the terms and conditions of the Note, the Reimbursement Agreements, the Loan Agreement, this Deed of Trust and the other Loan Documents; provided, however, that if all of the Obligations are duly paid, performed, completed and satisfied and the Bank has no further obligation to extend credit to the Borrower, then all interests of the Trustee and the Bank in the Security Property shall cease and be void and the Trustee and the Bank shall release and reconvey the Security Property to the Grantor and terminate this Deed of Trust at the sole cost and expense of the Grantor.

## **ARTICLE I DEFINITIONS**

**Section 1.1 Definitions.** The following terms, as used herein, have the following meanings:

**"Condemnation"** means any taking of or damage to the Property or any interest therein under the exercise of the power of eminent domain, or any transfer of the Property or any interest therein by sale in lieu of the exercise of such power.

**"Contracts"** means all present and future contracts which in any way pertain to the Property or any portion thereof including, without limitation, contracts for the acquisition and sale of the Property or any portion thereof, for the design and construction of the Improvements, for the development of the Property and/or for the satisfaction of the requirements for and of Permits and Legal Requirements, and all modifications, extensions and renewals thereof and substitutions and replacements therefor.

**"Default"** means any of the events set forth in Section 5.1 of this Deed of Trust.

**"Default Rate"** means the rate of interest which is five percent (5%) above the rate of interest otherwise applicable under the Note.

**"Equipment"** means all equipment, machinery, furniture, furnishings, fixtures of every kind (whether affixed to the Property or not), construction materials and supplies and all other items of tangible personal property, now or hereafter owned by the Grantor or in which the Grantor has or acquires any interest, which are placed in or upon and used in connection with the operation, occupancy or enjoyment of the Land or the Improvements, together with any substitutions, replacements or accessions thereto or therefor, any additions thereto and all proceeds of the foregoing.

**"General Intangibles"** means all construction contracts, architects' contracts, design and engineering contracts and subcontracts, all development contracts, all construction, architectural, design, engineering and other plans and specifications, all warranties, guaranties and assurances, all purchase contracts and sale contracts and deposits thereunder, all trade names and trademarks, all marketing materials, records and other intangible property of whatever kind, all letters of credit and letter of credit rights, and all rights to payments and reimbursements from any source whatever, now or hereafter owned by the Grantor or in which the Grantor has or acquires any interest, which are used or useable in connection with the purchase, construction, development, financing, operation, occupancy, sale or enjoyment of the Property, together with any substitutions, replacements or accessions thereto or therefor, any additions thereto and all proceeds of the foregoing.

**"Hazardous Materials"** means any oil, hazardous materials, hazardous wastes, hazardous substances or toxic substances, as defined in 42 U.S.C. §§9601 *et seq.*, 42 U.S.C. §§6901 *et seq.*, 15 U.S.C. §§2601 *et seq.* and the regulations promulgated thereunder, and all applicable federal, state and local laws, rules and regulations relating to the environment, as any of the same may be amended from time to time.

**"Hedge Agreement"** any interest rate swap transactions, interest rate cap and/or floor transactions, interest rate collar transactions, swap agreements (as defined in 11 U.S.C. § 101) or other similar transactions or agreements, including, without limitation, any ISDA Master Agreement executed by the Borrower (or either of them) and all Schedules and Confirmations entered into in connection therewith.

**"Impositions"** shall mean all taxes, fees, assessments, levies, utility charges, ground rents, insurance premiums payable on any insurance the Grantor is required to maintain hereunder, amounts required to be paid to obtain or renew Permits and other similar charges (whether or not required by a governmental body) which are assessed, levied or imposed against the Property or the Grantor's interest therein or incurred in the ownership, operation, occupancy, maintenance and use of the Property, including, without limitation, recordation stamps, taxes and the like which may now be due and payable or hereafter become due and payable with respect to this Deed of Trust.

**"Improvements"** means all buildings, improvements and structures now or hereafter located on the Land and all replacements thereof and additions thereto, including, without limitation, roads, curbs, gutters, utilities and stormwater drainage facilities.

**"Income"** means all of the rents, benefits, revenues, security deposits, profits and other sums now or hereafter due, or to which Grantor may now be or hereafter become entitled, arising from or issuing out of the Leases or the General Intangibles, whether or not yet earned by performance.

**"Land"** means the initial parcel or parcels of real estate described in Exhibit A attached hereto and any parcel or parcels of real estate from time to time added thereto by supplement to this Deed of Trust, together with all easements, rights-of-way and appurtenances belonging thereto, including, without limitation, all reversionary interests therein and all right,

title and interest of Grantor in and to the land lying in the bed of every street, road, avenue or alley, opened or proposed, which adjoins such real estate, and all other areas in which the Grantor may from time to time be responsible for the construction, installation and/or repair of off-site improvements.

**"Leases"** means all leases, tenant contracts, rental agreements, franchise agreements, license agreements or other occupancy agreements, whether oral or written, now existing or hereafter entered into, for the use or occupancy of all or any part of the Property, together with all modifications or renewals thereof.

**"Legal Requirements"** means all existing and future laws, codes, ordinances, rules, regulations, orders and decrees of governmental authorities and courts having jurisdiction over the Property or the Grantor and all terms, conditions and requirements of all Permits including, without limitation, all Legal Requirements and Permits pertaining to the Americans with Disabilities Act and other Legal Requirements and Permits pertaining to disabled persons.

**"Letter of Credit"** means any letter of credit now or hereafter issued by the Bank for the account of the Borrower (or either of them), as modified, renewed or extended from time to time.

**"Loan Agreement"** means the Acquisition and Development Loan Agreement dated of even date herewith between the Bank and the Borrower with respect to the Loan evidenced by the Note, and all future modifications, extensions or renewals thereof or substitutions or replacements therefor.

**"Obligations"** means (i) the prompt payment of the principal, interest (at the rate or rates provided, which may vary from time to time) and all other sums due on the Note, the Reimbursement Agreements, the Loan Agreement, this Deed of Trust and the other Loan Documents, whether now advanced or hereafter advanced or readvanced, (ii) the performance of and compliance with all of the terms, covenants, conditions, stipulations and agreements contained in the Note, the Reimbursement Agreements, the Loan Agreement, this Deed of Trust and the other Loan Documents, (iii) the prompt payment and performance of all indebtedness and obligations under any Hedge Agreement, (iv) the payment of all costs and expenses, including reasonable attorneys' fees, incurred or paid by the Trustee or by the Bank on account of any litigation at law or in equity which may arise in respect to this Deed of Trust or the Property while this Deed of Trust continues, and of all moneys which may be advanced as herein provided for the protection of the lien and security interest of the Bank in and to the Property, and (v) the payment and performance when due of all other obligations and indebtedness now or hereafter owed by the Grantor to the Bank. All Obligations described in the foregoing subsection (iv) and interest thereon at the Default Rate shall be payable on demand and shall be secured by this Deed of Trust.

**"Permits"** means all permits, licenses, registrations, certificates, authorizations and approvals now or hereafter issued or required to be issued by any governmental or quasi-governmental authority for the ownership, development, use, operation or sale of the Property.

**"Principal Sum"** means the principal amount of Nine Million Four Hundred Twenty One Thousand and No/100 Dollars (\$9,421,000.00).

**"Property"** means the Land, the Improvements and the Equipment.

**"Reimbursement Agreements"** shall mean each and every application and agreement for standby letter of credit, demand note and other application and/or reimbursement agreement now or hereafter in place with respect to each Letter of Credit and delivered by the Grantor to the Bank in connection with such Letter of Credit, which provide for, among other things, the return to the Bank for cancellation of such Letter of Credit and full reimbursement to the Bank of all amounts owing with respect to such Letter of Credit.

**"Security Property"** means any and all of the property of the Grantor referred to in the above stated granting clauses.

**"UCC"** means at any time the Uniform Commercial Code as the same may from time to time be in effect in the Commonwealth of Virginia, provided that, if, by reason of mandatory provisions of law, the validity or perfection of any security interest granted herein is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the Commonwealth of Virginia then, as to the validity or perfection of such security interest, "UCC" shall mean the Uniform Commercial Code in effect in such other jurisdiction.

**Section 1.2 Recitals; Interpretation.** The Recitals to this Deed of Trust are hereby incorporated into this Deed of Trust and made a part hereof. For the purpose of construing this Deed of Trust, unless the context indicates otherwise, words in the singular number shall be deemed to include words in the plural number and vice versa, and words in one gender shall be deemed to include words in the other genders. The titles to articles and section headings are for convenience only and neither limit nor amplify the provisions of this Deed of Trust.

## ARTICLE II ADDITIONAL SECURITY FOR THE OBLIGATIONS

**Section 2.1. Security Agreement.** With respect to the Equipment, the Contracts, the Permits, the General Intangibles and the other personal property included in the Security Property, this Deed of Trust shall be a security agreement between the Grantor and the Bank encumbering each and every item of the Equipment, the Contracts, the Permits, the General Intangibles and other personal property to secure the Obligations. The Grantor hereby grants to the Bank a security interest in all such property. The Grantor hereby authorizes the Bank to file financing statements, continuation statements and amendment statements in such filing offices and in such jurisdictions as the Bank may from time to time believe appropriate to perfect the security interests granted in this Deed of Trust. The remedies for any violation of this security agreement shall be, at the option of the Bank, (i) those hereinafter set forth in this Deed of Trust, (ii) those prescribed by general law, (iii) those contained in the UCC (including, without limitation, repossession pursuant to Section 9-609 of the UCC, or any successor provision) or (iv) any combination of the foregoing, it being the understanding of the parties that upon the occurrence of a Default, the Bank may proceed as to both real and personal property in

accordance with the rights and remedies granted herein with respect to real property. All substitutions for, replacements of and additions to the Equipment, the Contracts, the Permits, the General Intangibles and other personal property shall immediately be subject to the security interest hereinabove granted, and the Grantor agrees to maintain such property free and clear of liens, encumbrances and security interests of others.

**Section 2.2. Assignment of Leases and Income.** As additional security for the Obligations, the Grantor absolutely and unconditionally hereby assigns to the Bank the Grantor's interest in the Leases and the Income. The Grantor agrees to execute and deliver to the Bank such additional instruments, in form and substance satisfactory to the Bank, as may hereafter be requested by the Bank from time to time further to evidence and confirm such assignment. The foregoing assignment constitutes an absolute, present and irrevocable assignment and shall be fully operative in accordance with its terms without any further action by the parties hereto. It is expressly understood, however, that the Grantor shall have a revocable license and may collect the amounts hereby assigned until the occurrence of a Default and until the election of the Bank to terminate such license (which termination shall not require notice to the Grantor) and to exercise any of the available remedies under this Deed of Trust. Nothing contained in this Section 2.2 shall be deemed to interfere in any way with the ability of the Trustee to sell any of the Security Property at foreclosure under the Deed of Trust or to prevent the Bank or the Trustee from exercising any of the other remedies afforded them under this Deed of Trust.

**Section 2.3. Future Advances.** This Deed of Trust is given to secure not only existing Obligations of the Grantor to the Bank, but also future advances and/or readvances, whether advances or readvances are obligatory or are to be made at the option of the Bank, or otherwise, to the same extent as if such future advances were made on the date of the execution of this Deed of Trust and also to secure all other sums or amounts that may be added to the obligations secured hereby pursuant to the terms of this Deed of Trust.

**Section 2.4. Additional Advances.** Until this Deed of Trust is released of record, the Bank may make additional loans, advances, readvances, future advances, and other financial accommodations pursuant to the terms of the Note, the Loan Agreement or other Loan Documents from time to time, but the maximum unpaid balance outstanding at any one time shall not exceed the Principal Sum, plus interest thereon, and plus any advances made for the payment of Impositions and other taxes, liens, assessments, insurance premiums, costs, and other obligations, including interest thereon at the Default Rate, undertaken by the Bank hereunder or in the Loan Documents, and all such advances, readvances and future advances shall become part of the indebtedness secured by this Deed of Trust with the same priority from the date of recordation of this Deed of Trust and shall be deemed evidenced by the Note, the Loan Agreement, this Deed of Trust and the other Loan Documents.

**Section 2.5. Revolving Credit Facility.** This Deed of Trust secures the repayment, inter alia, of a revolving credit facility in the initial maximum principal amount of the Principal Sum and there may be repayment and future advances and readvances of principal from time to time under such facility so that the total aggregate principal amount over the term of the Note may exceed the Principal Sum; provided, however, that the aggregate outstanding principal

balance of said revolving credit facility shall not exceed the Principal Sum at any one time (plus interest thereon and any advances made for the payment of Impositions and other taxes, liens, assessments, insurance premiums, costs, and other obligations, including interest thereon at the Default Rate). It is expressly agreed that the outstanding principal balance of the indebtedness secured hereby may, from time to time, be reduced to a zero balance without such repayment operating to extinguish and release the lien and security interests created by this Deed of Trust. This Deed of Trust shall remain in full force and effect as to any subsequent future advances and readvances made after the zero balance without loss of priority until the indebtedness secured hereby is paid in full and satisfied, the Note and Reimbursement Agreements have been canceled and this Deed of Trust released of record; and Grantor waives the operation of any applicable statute, law or regulation having a contrary effect.

### ARTICLE III COVENANTS OF GRANTOR

**Section 3.1. Payment and Performance.** The Grantor shall pay all amounts owed and perform all other obligations secured by any other lien now or hereafter placed on the Property.

**Section 3.2. Maintenance of the Property.** The Grantor shall keep the Property in good condition and repair and shall not (i) commit or permit waste to be committed thereon, (ii) make or allow any alterations or additions thereto not permitted by the other Loan Documents without the prior written consent of the Bank or (iii) do or suffer to be done any act which will or may decrease the value of the Property.

**Section 3.3. Use of Property; Compliance with Legal Requirements.** The Grantor shall cause the Property to be developed, used and operated in a manner which is consistent with the Loan Documents, and shall comply with all Legal Requirements, whether now existing or later enacted, whether foreseen or unforeseen, and whether involving any change in governmental policy or requiring structural or other changes to the Property, irrespective of the cost of making the same. Without the prior consent of the Bank, the Grantor shall not (i) initiate, support or acquiesce in (A) any zoning reclassification of the Property, including, without limitation, a rezoning to a less intensive use than is currently permitted or (B) the issuance of a variance or conditional or special use permit for the Property, (ii) initiate, support or acquiesce in the inclusion of the Property or any portion thereof in any special tax district or the levy or imposition of any tax or special assessment against the Property or any portion thereof, (iii) impose or consent to any restrictive covenant upon the Property, (iv) file or consent to the filing of any subdivision plat affecting the Property which is inconsistent with the Project (as described in the Loan Agreement) or (v) consent to the annexation of the Property by any municipality. The Grantor shall promptly notify the Bank of any proposed zoning reclassification, variance, conditional or special use permit, restrictive covenant, subdivision or annexation affecting the Property.

**Section 3.4. Contracts.** The Grantor shall at all times comply with its obligations under all Contracts and shall enforce its rights under all Contracts. If the Grantor receives any notice (whether oral or written) that there exists a default under any Contract, the Grantor shall



promptly notify the Bank and take such steps as the Bank may require to cure such default. All Contracts shall be subject to the Bank's review and approval in all respects. The Grantor shall take all steps necessary to acquire and maintain itself as a party to each Contract to the extent necessary to gain the benefits thereof which apply to the Property or any portion thereof and to assign its right, title and interest thereunder to the Bank as provided in this Deed of Trust. At the Bank's request, the Grantor agrees to obtain from the parties to any Contract an acknowledgement of the Bank's interest in such Contract and an agreement in form and substance satisfactory to the Bank to perform its duties and obligations thereunder directly for the benefit of the Bank or at the direction of the Bank upon the Bank's demand therefor. Notwithstanding the foregoing, the Bank does not assume, and shall not be obligated or liable for or under, any Contract in any respect.

**Section 3.5. Restrictive Covenants.** The Grantor shall at all times comply with its obligations under all recorded restrictions, conditions, easements and covenants ("Restrictive Covenants") encumbering the Property and shall duly enforce its rights under all Restrictive Covenants encumbering other property for the benefit of the Land and/or the Improvements. If the Grantor receives any notice (whether oral or written) that any Restrictive Covenant has been violated, the Grantor shall promptly notify the Bank and take such steps as the Bank may require to correct such violation.

**Section 3.6. Development and Management of Property.** The Grantor shall not enter into a development or management agreement or otherwise permit any other party other than the Grantor to develop or manage the Property, the leasing of the Property and/or operation of the Property without the Bank's prior consent. If the Bank approves a development or management agreement or arrangement, the Grantor shall, at the Bank's request, confirm that Grantor has assigned its interest thereunder to the Bank as additional security for the Obligations.

**Section 3.7. Impositions.** The Grantor shall pay when due all Impositions. However, after giving the Bank ten (10) days' notice of its intention to do so, the Grantor may, in good faith, at its own expense and in its own name, contest any Imposition other than an insurance premium. In the event of such a contest, the Grantor may permit the Imposition being contested to remain unpaid during the period of the contest and any subsequent appeal unless, in the opinion of the Bank, such action may impair the lien of this Deed of Trust or any security interest granted to the Bank by any of the Loan Documents, in which event the Grantor shall satisfy such Imposition promptly or the payment thereof shall be secured by posting with the Bank a bond with surety or a letter of credit, either of which must be issued by an institution approved by and in a form and amount approved by the Bank. Upon request, the Grantor shall furnish the Bank proof of payment of all Impositions.

**Section 3.8. Insurance.** The Grantor shall maintain at its expense and for the benefit of the Bank, such insurance policies with respect to the Property as the Bank may reasonably require, with such insurance companies and in such amounts as shall, at all times, be satisfactory to Bank, and with loss payable to the Bank, including, without limitation (i) insurance against all risks of physical loss and damage to the Improvements and the Equipment in the amount of the full replacement cost thereof without deduction for depreciation, (ii) insurance against liability

for bodily injury (and death resulting therefrom), (iii) insurance against liability for damage to property and (iv) workmens' compensation insurance. Each policy shall provide that it may not be canceled, modified or allowed to lapse without at least thirty (30) days' prior written notice to the Bank. The Grantor shall deliver to the Bank originals or certified copies of all policies of insurance it is required to maintain.

**Section 3.9. Insurance and Tax Escrow.** If required by the Bank after the occurrence of a Default, the Grantor shall pay the Bank monthly, together with the other payments required under the Note and/or the other Loan Documents, an amount determined by the Bank to be necessary to enable the Bank to pay each Imposition one month before it becomes due. If the total payments made to the Bank pursuant to the preceding sentence are less than the amount required to pay any Imposition one month before it becomes due, the Grantor shall pay the Bank, on demand, the amount necessary to make up such deficiency. If there is an excess of such payments, the excess will reduce subsequent payments required under this Section 3.9. The Bank shall not be required to pay interest on any sums held pursuant to this Section 3.9. If a Default has occurred, the Bank may at its option apply any amounts received pursuant to this Section 3.9 to the payment of the Obligations in such order as the Bank may elect.

**Section 3.10. Sale or Encumbrance of the Property.** The Grantor shall not, without the prior written consent of the Bank, except as expressly permitted in this Deed of Trust or the other Loan Documents, (i) lease, sell or transfer the Property or any portion thereof or any interest therein; (ii) encumber or pledge the Property or any interest therein, in whole or in part, (iii) grant a lien or security interest in the Property or any portion thereof or (iv) permit any mechanic's, materialman's, laborer's, statutory or other lien (whether or not junior to the liens created by this Deed of Trust) to be created, filed of record or remain outstanding upon all or any part of the Property. For purposes of this Section 3.10, any change, or any transaction which results or could result in any change, in the Control of the Grantor shall be deemed a transfer of the Property. As used in this Section 3.10, the term "Control" means (a) ownership, control, or power to vote 20% or more of any class of voting securities or membership interests of the Grantor, directly or indirectly or acting through one or more other persons; (b) control in any manner over the election or appointment of a majority of the directors, Trustee, managers or general partners (or individuals exercising similar functions) of the Grantor; (c) the direct or indirect power to exercise a controlling influence over the management or policies of the Grantor, whether through the ownership of voting securities or membership interests, by contract, or otherwise; or (d) conditioning in any manner the transfer of 20% or more of any class of voting securities or membership interests of the Grantor upon the transfer of 20% or more of any class of voting securities or membership interests of another person.

**NOTICE - THE DEBT SECURED HEREBY IS SUBJECT TO CALL IN FULL OR THE TERMS THEREOF BEING MODIFIED IN THE EVENT OF SALE OR CONVEYANCE OF THE PROPERTY CONVEYED.**

**Section 3.11. Payment of Filing Fees and Taxes.** The Grantor will pay as and when due and payable from time to time all fees, taxes and expenses incident to the execution, acknowledgment, recording and filing of this Deed of Trust or any of the other Loan Documents or any amendment or supplement thereto, any financing statement, continuation statement or

security agreement with respect to the Security Property and any instrument of further assurance relating to its compliance with the terms, conditions and covenants contained in any of the Loan Documents.

**Section 3.12. Right of Inspection.** The Bank and the Trustee shall have the right to enter upon and inspect the Property at such reasonable time or times as they may desire, either in person or through their duly authorized agents or representatives.

**Section 3.13. Taxation of Deed of Trust.** In the event of the enactment after the date of this Deed of Trust of any Legal Requirement changing in any way the laws for the taxation of deeds of trust or debts secured thereby, or the manner of the collection of any such taxes, so as to adversely affect the Bank, the Grantor shall, upon thirty (30) days' prior written request from the Bank assume and agree, in writing, to pay any additional amount which the Bank would otherwise be required to pay because of such change, and thereafter such amount shall be deemed an Imposition.

**Section 3.14. Environmental Compliance.**

(a) **Maintenance of the Property.** The Grantor shall maintain the Property at all times so that (i) there are no Hazardous Materials at the Property except those (A) listed on an inventory, if the Bank shall request the same from time to time, furnished to and approved by the Bank, which, at the Bank's request, shall be kept current at least annually and shall identify the type, quantity and location of each such Hazardous Material, or (B) of a type and in a quantity customarily used in the development, construction and operation of similar properties provided that the same are stored and used in compliance with Legal Requirements; (ii) there is no release or discharge to the environment or threat of such discharge or release of any Hazardous Materials; (iii) the Property shall not be subject to any Legal Requirement or subject to liability to any person because of the presence of (A) stored, leaked or spilled petroleum products, (B) underground storage tanks or (C) an accumulation of rubbish, debris or other solid waste, or because of the presence, release, threat of release, discharge, storage, treatment, generation or disposal of any Hazardous Materials, including but not limited to asbestos and items or equipment containing polychlorinated biphenyls (PCBs) in excess of 50 parts per million; and (iv) no condition exists which is or may be characterized by any governmental authority as an actual or potential danger to the environment or public health.

(b) **Notices of Violations, Etc.** The Grantor shall provide to the Bank, within five (5) days after the Grantor's receipt thereof, copies of all notices from governmental authorities alleging any threat to the environment or violation of any environmental Legal Requirement or requesting information regarding the Property's compliance with the same or regarding environmental conditions of the Property or the Grantor's practices with respect to such conditions. The Grantor also shall promptly notify the Bank of any Default which exists with respect to the Grantor's obligations under Section 3.14(a). If any such Default exists or if the Bank has reason to believe that such a Default exists, the Bank shall have the right at any time thereafter to conduct an environmental audit and site inspection of the Property, and the Grantor shall cooperate with the Bank in conducting such audit and inspection. In addition, the Bank may undertake any voluntary remediation in response to the action or threat of action by

any third party including a governmental authority with respect to the matters specified in Section 3.14(a). Any costs incurred by the Bank in conducting such audit and inspection or in such remediation efforts and interest thereon at the Default Rate shall be payable on demand and shall be secured by this Deed of Trust.

**Section 3.15. Payment of Costs.** In addition to such other amounts as it has agreed to pay pursuant to the provisions of this Deed of Trust, the Grantor shall pay all expenses, including reasonable attorneys' fees, incurred by the Bank or the Trustee in (i) the collection of any sum, the payment of which is secured hereby, (ii) preserving the Security Property or disposing of all or any part of the same, whether by foreclosure or otherwise, (iii) participating in any litigation or administrative proceeding involving the Property or the Loan Documents, whether as a plaintiff or a defendant, (iv) conducting any additional title examinations requested by the Trustee or the Bank, or (v) obtaining any appraisal of the Property the Bank may request from time to time. All of such expenses and fees and interest thereon at the Default Rate shall be payable on demand and shall be secured by this Deed of Trust.

**Section 3.16. Organization and Existence.** The Grantor represents and warrants that it and each constituent entity (if any) is a duly formed entity in good standing in its state of organization and that it is qualified to do business in each jurisdiction in which the conduct of its business requires such qualification. The Grantor shall maintain itself in good standing and so qualified to do business.

**Section 3.17. Further Assurances.** The Grantor shall, at its expense, perform such further acts and execute, acknowledge and deliver all such documents as the Bank shall, from time to time, reasonably require to assure the Bank that the Grantor is complying with all of the Obligations to be performed by it and that the liens and security interests granted by this Deed of Trust are perfected and preserved.

**Section 3.18. Notice of Foreclosure.** The Grantor shall promptly notify the Bank of the institution of any foreclosure sale of the Property or any other proceeding to enforce any lien on the Property.

#### ARTICLE IV DAMAGE, DESTRUCTION AND CONDEMNATION

**Section 4.1. Notice.** In the case of (i) any damage to or destruction of all or any part of the Property, (ii) a Condemnation of all or any part of the Property, (iii) the loss of all or any part of the Property because of failure of title or (iv) the commencement of any proceeding or negotiation which might result in such a Condemnation or loss, the Grantor shall promptly give notice thereof to the Bank describing generally the nature and extent of such damage, destruction, Condemnation, loss, proceeding or negotiation.

**Section 4.2. Restoration of the Property.** If all or any part of the Property is destroyed or damaged and regardless of whether the Bank permits the available proceeds of insurance to be applied to such repair or restoration, the Grantor shall promptly repair or restore

the Property to its condition immediately before such damage or destruction, with such alterations and additions as the Bank may approve.

**Section 4.3. Application of Insurance Proceeds.** If all or any part of the Property is destroyed or damaged, the Bank may, after deducting the reasonable expenses incurred in the collection and administration of the proceeds of any insurance paid because of such damage or destruction (including reasonable attorneys' fees), at its option (i) apply the remainder of such proceeds to the payment of such of the Obligations (whether or not then due) in such order as the Bank may determine, (ii) hold the remainder of such proceeds as additional collateral for the Obligations or (iii) make the remainder of such proceeds available to the Grantor for the purpose of repairing or restoring the Property as required by Section 4.2 of this Deed of Trust subject to the terms and conditions of the Loan Agreement. If the insurance proceeds are applied to the cost of repairing or restoring the Property, any balance of such proceeds remaining after the completion of the repair or restoration work may, at the Bank's option, (i) be applied to the payment of such of the Obligations (whether or not then due) in such order as the Bank may determine, (ii) be held by the Bank as additional Collateral for the Obligations and/or (iii) be released to the Grantor or to whomsoever may be lawfully entitled to receive the same.

**Section 4.4. Condemnation.** If all or any substantial portion of the Property shall be damaged, taken or transferred through Condemnation, then the entire amount of all compensation and other amounts payable as a result of such Condemnation shall, at the Bank's option, (i) be applied to the payment of such of the Obligations (whether or not then due) in such order as the Bank may determine and/or (ii) be held by the Bank as additional collateral for the Obligations. The term "substantial portion of the Property" as used in this Section 4.4 shall mean so much of the Property as shall have, in the Bank's opinion, a material effect on the ability of the Grantor, as applicable, to develop, use, operate and sell the Property in the same manner as it is currently being developed, used, operated or sold or as contemplated in the Loan Documents, to make required payments of principal and interest on the Note or otherwise to pay and perform the Obligations. No settlement respecting any Condemnation shall be effected without the consent of the Bank. The Bank and the Trustee are each hereby authorized, at their option, to commence, appear in and prosecute, in their own names or in the name of the Grantor, any action or proceeding relating to any Condemnation, and to settle or compromise any claim in connection therewith. If less than a substantial portion of the Property is damaged, taken or transferred in a Condemnation, then the Bank, after deducting from the Condemnation proceeds all of its expenses incurred in the collection and administration of such sums, including reasonable attorneys' fees, may (i) apply the remainder of such proceeds to the payment of such of the Obligations as may then be due in such order as the Bank may determine, (ii) hold the remainder of such proceeds as additional collateral for the Obligations or (iii) require the Grantor to repair, restore or replace the Property or the affected portion thereof as nearly as practical to its condition immediately prior to the Condemnation, and in such event any proceeds of the Condemnation shall be applied to the costs of such repair, restoration or replacement on the same terms and conditions as are specified in Section 4.3 of this Deed of Trust regarding the application of insurance proceeds.

## ARTICLE V DEFAULT; REMEDIES

**Section 5.1. Default.** Each of the following shall, at the Bank's option, constitute a "Default" under this Deed of Trust:

(i) the failure of the Grantor to pay within five (5) days after the date when due any principal of or interest on the Note, or the failure to pay any other sum secured by this Deed of Trust or any other sum due and payable under any of the other Loan Documents within five (5) days when such payment is due and payable (whether at maturity, by acceleration or otherwise);

(ii) the failure to maintain at all times the insurance required by Section 3.8 of this Deed of Trust, the failure to comply with the provisions of Section 3.10 of this Deed of Trust or the failure of the Grantor to notify the Bank of any default with respect to the Grantor's obligations under Section 3.14(a) of this Deed of Trust;

(iii) the occurrence of any default in the performance or observance of, or under the terms of, any other warranty, covenant, condition or provision contained this Deed of Trust (except those which are specifically enumerated in another subsection of this Section 5.1) which is not cured within thirty (30) days after the Bank gives the Grantor notice of such occurrence;

(iv) any Default or Event of Default under the Note, the Loan Agreement and/or the other Loan Document (which is not cured within any applicable cure period provided therein);

(v) the occurrence of any default under any of the documents evidencing any indebtedness secured by a lien against the Property or any part thereof which is subordinate or prior to the lien of this Deed of Trust which is not cured within any applicable cure period provided in the documents evidencing the indebtedness secured by such lien(s);

(vi) the death, incompetence, merger, consolidation, reorganization, dissolution, or termination of existence of the Grantor or any guarantor of the Note, unless, in the case of the death or incompetence of any individual borrower of the Note, the Grantor provides to the Bank within ninety (90) days after the death or incompetency an additional guarantor or additional collateral for the Obligations who or which is acceptable to the Bank in its sole discretion; or the pledge, lease or other disposition of all or substantially all of the assets of the Grantor or any guarantor of the Note;

(vii) the inability of the Grantor or any guarantor of the Note to pay its debts as they mature, the insolvency of the Grantor or any guarantor of the Note, the filing of a petition by or against the Grantor or any guarantor of the Note under the provisions of any bankruptcy, reorganization, arrangement, insolvency, liquidation or similar law for relief of debtors (if such petition is filed against the Grantor or any guarantor of the Note and

not consented to by the Grantor or any guarantor of the Note, then the Grantor or any guarantor of the Note shall have up to ninety (90) days after the filing to cause dismissal with prejudice before a Default shall occur), the appointment or application for appointment of any receiver for the Grantor or any guarantor of the Note or the property of the Grantor or any guarantor of the Note, the issuance or service of any attachment, levy, garnishment, tax lien or similar process against the Grantor or any guarantor of the Note or the property of the Grantor or any guarantor of the Note, the entry of a judgment in excess of \$20,000 against the Grantor or any guarantor of the Note which is not discharged within thirty (30) days after entry, or an assignment for the benefit of creditors by the Grantor or any guarantor of the Note; or

(viii) the determination by the Bank that (A) there has occurred a material adverse change in the financial condition of the Grantor or any guarantor of the Note, (B) the value of the Property has been materially and adversely impaired, or (C) there has occurred or developed an event or condition which materially and adversely impairs the prospect of payment or performance of any of the Obligations.

**Section 5.2. Acceleration of Note.** Upon the occurrence of a Default, the entire unpaid principal amount of the Note, all accrued but unpaid interest thereon, if any, and all other sums now or hereafter secured by this Deed of Trust shall, at the option of the Bank, immediately become due and payable. The Bank, at its option, may also terminate any Hedge Agreement or exercise other rights and remedies available under any Hedge Agreement.

**Section 5.3. Surrender of Possession.** Upon the occurrence of a Default, the Grantor shall, upon demand of the Bank, promptly surrender to the Bank or the Trustee, or their employees or agents, the actual possession of the Property (the term "Property" as hereinafter used in this Article VI shall mean all of the Property or any part thereof, as the Bank shall select), and the Bank or the Trustee, or their employees or agents may enter and take possession of the Property, without the appointment of a receiver or filing an application therefor, and may exclude the Grantor and its employees and agents wholly therefrom. If the Grantor shall fail, upon demand, to surrender the Property, the Bank or the Trustee may obtain a judgment or decree requiring the Grantor to surrender immediate possession of the same.

**Section 5.4. Right to Manage Property.**

(a) **Right to Manage, Etc.** Upon any entering or taking possession of the Property pursuant to Section 5.3 of this Deed of Trust, the Bank or the Trustee may use, manage, operate and control the Property and, in so doing, shall have access to the books, papers and accounts of the Grantor relating to the Property and may collect all of the Income from the Property. In addition, the Bank or the Trustee may (i) complete any construction on or with respect to the Property; (ii) maintain and restore the Property and make such repairs, additions and improvements thereto and thereon, and purchase or otherwise acquire such additional fixtures, equipment and other property as they may deem necessary to facilitate the development, construction, operation, use and sale of the Property; (iii) contest or compromise any claim or encumbrance against the Property (including, without limitation, any lien prior or subordinate to the lien of this Deed of Trust); (iv) employ such counsel, accountants, contractors and other

persons as any of them shall deem necessary to assist it; (v) insure or keep the Property insured; (vi) perform all acts required of the Grantor with respect to the Property, including acts required of it under any Lease; and (vii) exercise all of the rights and powers which the Grantor possessed with respect to the Property to the same extent as the Grantor could have exercised the same. Any amounts collected from the Property shall, after deducting therefrom sums expended pursuant to the provisions of this Section 5.4(a), be, at the option of the Bank, (i) applied to the payment of such of the Obligations (whether or not then due) in such order as the Bank may determine or (ii) held by the Bank as additional collateral for the Obligations.

(b) Appointment of Attorney-in-Fact. For the purpose of carrying out the provisions of Section 5.4(a) of this Deed of Trust, the Grantor hereby irrevocably appoints the Bank and the Trustee, any one of whom may act, the true and lawful attorneys-in-fact for the Grantor and authorizes them, or any one of them, to perform any act described in Section 5.4(a) and any and all actions necessary and incidental thereto. This power of attorney is a power coupled with an interest which cannot be revoked.

**Section 5.5. Appointment of Receiver.** Upon the occurrence of a Default, the Bank, upon application to a court of competent jurisdiction, shall be entitled as a matter of right and without notice, to the appointment of a receiver to take possession of and to operate the Property and to collect all amounts assigned hereunder. The receiver shall have all of the rights and powers permitted to the Bank and the Trustee in Section 5.4(a) and/or otherwise permitted under the laws of State of Tennessee. The Grantor will pay to the Bank, upon demand, all expenses, including receiver's fees, reasonable attorney's fees, costs and agent's compensation, advanced by the Bank and incurred pursuant to the provisions contained in this Section; and all such expenses shall be (a) a lien against the Property, (b) added to the Obligations, and (c) payable on demand with interest at the Default Rate from and including the date each such advance is made.

**Section 5.6. Environmental Audit.** Upon the occurrence of a Default or at any time the Bank has reason to believe the Property may be contaminated, the Bank may undertake or direct to be undertaken a full or partial environmental audit and site inspection of the Property, taking all reasonable measures to determine the condition of the Property and the Grantor's compliance with applicable environmental Legal Requirements and the Grantor shall cooperate fully with such audit and inspection.

**Section 5.7. Right to Cure Defaults.** If any Default occurs hereunder or under any of the other Loan Documents, the Bank or the Trustee, without prior notice to or demand upon the Grantor and without waiving or releasing such Default (in addition to any other rights and remedies they may have), may, but shall be under no obligation to, make any payment or take such action as may be necessary to cure the Default. If the Bank makes any payment or takes any action to satisfy the requirements of any instrument imposing a lien on the Property which is prior to the lien of this Deed of Trust, the Bank shall be subrogated to the rights of the holder of such prior lien.

**Section 5.8. Foreclosure.** Upon the occurrence of a Default, on application of the Bank, Trustee shall foreclose this Deed of Trust in any manner permitted by Tennessee law,



including selling the Property or any part thereof at public sale to the last and highest bidder for cash, free of any equity of redemption, homestead, dower, curtesy or other state or federal exemption, all of which are expressly waived by the Grantor, after compliance with applicable Tennessee laws relating to foreclosure sales under power of sale; and Trustee shall execute and deliver to the purchaser a Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. The proceeds of any such sale shall be applied in the manner and in the order prescribed by applicable Tennessee law. In the event a foreclosure suit or special proceeding is commenced, and no sale is held, then the Grantor shall pay all expenses incurred by Trustee. The Bank may bid and become the purchaser at any sale under this Deed of Trust. At any such sale Trustee may at his election require the successful bidder immediately to deposit with Trustee cash in an amount equal to all or any part of the successful bid, and notice of any such requirement need not be included in the advertisement of the notice of such sale. If foreclosure proceedings are instituted under this Deed of Trust, Trustee is hereby authorized to take possession of the Property and collect any rental, accrued or to accrue; or Trustee may lease the Property or any part thereof, receive the rents and profits therefrom, and hold the proceeds remaining after payment of the expenses of managing and operating the Property subject to the order of the court for the benefit of the Bank, pending final disposition of the foreclosure proceedings, and during any period allowed by applicable law for the redemption from any foreclosure sale ordered in such proceedings; and Trustee may act irrespective of the value of the Property or its adequacy or inadequacy to secure or discharge the indebtedness then owing. Trustee, at the request of Bank, and after publishing notice of the time and place of sale at least three (3) different times in some newspaper published in a county in which the Property is located, the first of which publications shall be at least twenty (20) days prior to said sale, shall proceed to sell the Property, at public auction for cash. The Trustee shall apply the proceeds from such sale(s) as provided in Section 5.9 below.

**Section 5.9. Application of Proceeds.** In the event of a foreclosure sale of the Security Property, the proceeds of said sale shall be applied, unless applicable Tennessee statutes shall specify otherwise, first, to the expenses of such sale and of all proceedings in connection therewith, including reasonable attorneys' fees and trustee's fees equal to any commission allowed the Trustee for making sales of property allowed by applicable law, then to Impositions and other insurance premiums, liens, assessments, taxes and utility charges including such charges advanced by the Bank, then to interest at the Default Rate until final ratification of the final auditor's account in the foreclosure proceeding, then to payment of any other sums required to be paid pursuant to any provisions of the Note, the Reimbursement Agreements, the Loan Agreement, this Deed of Trust or the other Loan Documents, whether the same shall have matured or not, in whatever order the Bank may specify that is not contrary to applicable Tennessee law, and finally the remainder, if any, shall be paid to the Grantor or as otherwise may be judicially determined or required by the provisions of applicable law. The Bank may apply any amounts received to the Note or Letter of Credit Facility in such order as the Bank may elect, in its sole discretion.

**Section 5.10. No Reinstatement.** If a Default shall have occurred and the Bank or the Trustee shall have commenced to exercise any of the remedies permitted hereunder, then a tender of payment by the Grantor or by anyone on behalf of the Grantor of the amount necessary to

satisfy all sums due hereunder, or the acceptance by the Bank of any such payment so tendered, shall not, without the prior consent of the Bank, constitute a reinstatement of the Note or this Deed of Trust.

**Section 5.11. Indemnification by Grantor.** The Grantor shall indemnify and save harmless the Bank and the Trustee from and against all liabilities, claims, damages, penalties, fines, losses, costs and expenses (including, without limitation, reasonable attorneys' fees) arising from (i) any personal injury or damage to property occurring on or about the Property, (ii) the breach by the Grantor of any of its obligations under this Deed of Trust (including, without limitation, the Grantor's covenants in Section 3.14 of this Deed of Trust) and (iii) the exercise and performance by the Bank or the Trustee of their powers and duties under this Deed of Trust and the other Loan Documents and, in the case of the Trustee, as a result of their serving in such capacity hereunder; provided, however, that the Grantor shall not be required to indemnify the Bank or the Trustee against acts which are the result of their respective willful misconduct or gross negligence. If any action, suit or proceeding is brought against the Bank or the Trustee for which the Grantor is required to provide indemnification under this Section 5.11, the Grantor, upon request and at its expense, shall defend such action, suit or proceeding, or cause the same to be defended by counsel designated by the Grantor and approved by the Bank. Such approval shall not be withheld unreasonably and shall not be required in the case of defense by counsel designated by any insurance company undertaking such defense pursuant to any applicable policy of insurance. The obligations of the Grantor under this Section 5.11 shall survive payment of the Note and acquisition by the Bank of the Property or any portion thereof at foreclosure or by deed in lieu of foreclosure.

**Section 5.12. Remedies Cumulative.** No right, power or remedy conferred upon or reserved to the Bank or the Trustee by this Deed of Trust is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the other Loan Documents or now or hereafter existing at law or in equity.

**Section 5.13. Waiver Relating to Remedies.** The Grantor (i) hereby waives, to the full extent provided by law, any requirement that the Bank or the Trustee present evidence or otherwise proceed before any court, clerk or other judicial or quasi-judicial body before exercising the power of sale contained in this Deed of Trust and (ii) agrees that upon the occurrence of a Default, neither the Grantor nor anyone claiming through or under the Grantor will seek to take advantage of any moratorium, reinstatement, forbearance, appraisalment, valuation, stay, extension, homestead exemption or redemption law now or hereafter in force, in order to prevent or hinder the enforcement of the provisions of this Deed of Trust and hereby waives to the full extent that it may lawfully so do, the benefit of all such laws.

**Section 5.14. Costs Incurred by Bank and Trustee.** Any and all costs and fees (including reasonable attorneys' fees) incurred by the Bank or the Trustee in exercising their rights and remedies under this Article V, together with interest thereon at the Default Rate, shall be payable by the Grantor on demand and shall be secured by this Deed of Trust.

**Section 5.15. Waiver of Jury Trial.** THE GRANTOR IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS DEED OF TRUST, WHETHER SUCH SUIT, ACTION, PROCEEDING, OR COUNTERCLAIM IS INSTITUTED BY THE BANK, THE GRANTOR, THE TRUSTEE OR ANY OTHER PARTY.

**Section 5.16. Letter of Credit Obligations.** If the Obligations secured by this Deed of Trust include the obligations of the Grantor or any other obligor with respect to letters of credit issued by the Bank for the account of the Grantor or such other obligor, and if proceeds of the Property are payable to the Bank pursuant to this Deed of Trust (whether proceeds from Income, insurance, Condemnation, foreclosure, or otherwise) before the obligation of the Bank under the letters of credit is terminated or canceled, after the application of such proceeds to the payment of all other Obligations secured by this Deed of Trust, the Bank may, at its option, except as may otherwise be provided in the Loan Agreement, hold any excess of such proceeds, to the extent of the Bank's potential liability under the letters of credit, to secure the reimbursement to the Bank by the Grantor or such other obligor of payments by the Bank under the letters of credit.

## ARTICLE VI THE TRUSTEE

**Section 6.1. Any Trustee May Act; Substitution Permitted.** The powers of the Trustee may be exercised by either Trustee or by any successor Trustee with the same effect as if exercised jointly by both of them. The irrevocable power to remove and substitute one or more of the Trustee named herein or substituted therefor is expressly given to the Bank and may be exercised any time, or from time to time, without notice and without specifying any reason, by filing for record among the land records where this Deed of Trust is recorded a deed of appointment, and upon the filing of a deed of appointment all of the title and estate, powers, rights, and duties of the Trustee or the Trustee thus superseded shall terminate and shall be vested in the successor Trustee or the Trustee. The Grantor, the Bank and the Trustee, their substitutes and successors, expressly waive notice of the exercise of this power, the giving of bond by any Trustee, and any requirement for application to any court for removal, substitution or appointment of a Trustee hereunder.

**Section 6.2. Compensation and Expenses.** The Grantor shall pay the Trustee just compensation for any and all services performed and all their expenses, charges, reasonable counsel fees and other obligations incurred in the administration and execution of the trusts hereby created and the performance of their duties and powers hereunder, which compensation, expenses, fees and disbursements shall constitute a part of the Obligations secured hereby.

**Section 6.3. Performance of Duties; Liability.** The Trustee shall perform and fulfill faithfully their obligations hereunder, but they shall be under no duty to act until they receive notice of the occurrence of a Default from the Bank and arrangements have been made which are satisfactory to them for the indemnification to which they are entitled, the payment of their

compensation and the reimbursement of any expenses they may incur in the performance of their duties. They shall have no liability for their acts except willful misconduct or gross negligence.

## ARTICLE VII MISCELLANEOUS

**Section 7.1. Successors and Assigns.** This Deed of Trust shall inure to the benefit of and be binding on the parties hereto and their respective heirs, personal representatives, successors and assigns.

**Section 7.2. Severability.** If any provision of this Deed of Trust, or the application thereof in any circumstance, is deemed to be unenforceable, the remainder shall not be affected thereby and shall remain enforceable.

**Section 7.3. Applicable Law.** This Deed of Trust shall, except as otherwise provided herein, be governed by and construed in accordance with the laws of the State of Tennessee.

**Section 7.4. Notices.** Any notice or demand required or permitted under this Deed of Trust shall be deemed given and effective as provided in the "Notices" section of the Loan Agreement.

**Section 7.5. Approvals and Consents.** All approvals and consents required or permitted by this Deed of Trust shall be in writing, shall be signed by the party from whom the consent or approval is sought and, unless otherwise provided herein, may be withheld by such party in its sole discretion.

**Section 7.6. Amendments.** This Deed of Trust may only be amended, supplemented or terminated in writing, signed by all of the parties hereto.

**Section 7.7. No Partnership.** Nothing in this Deed of Trust shall be construed as making any party a partner or joint venture with any other party.

**Section 7.8. Renewal or Extension, Etc.** The Grantor agrees that the rights of the Bank and the obligations of the Grantor hereunder are absolute and unconditional, and without in any way affecting such rights and obligations, and without notice to or further consent of the Grantor (a) advances and/or readvances may be made from time to time under the Note, (b) the Obligations, or any part thereof, may be renewed or extended beyond maturity, the interest rate may be adjusted, and the terms of the Obligations may otherwise be modified, as often as may be desired, (c) the Bank may release or discharge any party who is or may become liable for the Obligations, (d) the Bank may release or discharge any collateral which is or may become security for the Obligations and (e) the Bank may do, or fail to do, any other act which might, but for the provisions of this Section, constitute a legal or equitable discharge of the Grantor's obligations hereunder. The Grantor further waives any right it may have to require the Bank to proceed against any other party liable for the Obligations or any other collateral securing the Obligations before exercising any remedies herein granted to the Bank.

**Section 7.9. Failure to Exercise Rights.** No delay or failure to act by the Bank or the Trustee, however long continued, with respect to any right, power or remedy available to them shall be construed as a waiver of any such right, power or remedy or of any Default. No waiver of any right, power or remedy or of a Default shall be effective unless such waiver is in writing and signed by the Bank, and any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given.

**Section 7.10. Partial Releases.** The Bank has agreed to certain partial releases of the Property as more particularly described in the Loan Agreement.

**Section 7.11 Waiver of Redemption Rights, Exemptions, etc.** Any sale of any or all of the Property pursuant to the power of sale or judicial sale provided for herein or in realization of the security interest granted herein shall be made free from the equity of redemption, statutory right of redemption, homestead, dower, curtesy, exemption rights, and all other rights and interests of Grantor, all of which are hereby expressly waived.

[Execution Appears on Next Page]

WITNESS the following execution pursuant to due authority.

**CLOVERCROFT PRESERVE, LLC,**  
a Maryland limited liability company

By: Natelli Communities-Midwest, LLC, its  
sole Member

By: Natelli Communities Limited Partnership,  
its sole Member

By: Natelli Communities, Inc., its General  
Partner

By: Richard D. Boyle Jr (SEAL)  
Name: RICHARD D. BOYLE, JR.  
Title: VICE PRESIDENT

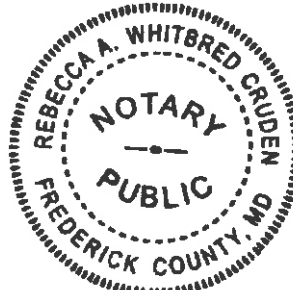
STATE OF MARYLAND )  
CITY/COUNTY OF Montgomery ), to wit:

I HEREBY CERTIFY, that on this 19<sup>th</sup> day of May, 2015, before me, the undersigned, a Notary Public of the State aforesaid, personally appeared Richard D. Boyle Jr, who acknowledged himself to be the Vice President, of Natelli Communities, Inc., the General Partner of Natelli Communities Limited Partnership, the sole member of Natelli Communities-Midwest, LLC, the sole member of Clovercroft Preserve, LLC, a Maryland limited liability company, who is personally known to me, or has been satisfactorily proven to be, the person whose name is subscribed to the foregoing Deed of Trust, and he acknowledged that he, being authorized to do so, executed the foregoing instrument for the purposes therein contained as the duly authorized Vice President of Natelli Communities, Inc., by signing the name of the corporation by himself as Vice President of said corporation.

Given under my hand and official seal this 19<sup>th</sup> day of May, 2015.

Rebecca A. Whitbred Cruden  
Notary Public

My Commission expires: 9-3-17



## EXHIBIT A

The Land

Beginning at a #3 Rebar in the southern edge of Clovercroft Road and being the northeast corner of Belle Chase Farms S/D; thence, along said road South 82 Degrees 45 Minutes 09 Seconds East a distance of 187.80 feet, South 07 Degrees 14 Minutes 51 Seconds West a distance of 20.00 feet, South 82 Degrees 45 Minutes 09 Seconds East a distance of 72.78 feet, South 83 Degrees 06 Minutes 01 Seconds East a distance of 27.22 feet, North 07 Degrees 14 Minutes 51 Seconds East a distance of 20.00 feet, South 83 Degrees 06 Minutes 01 Seconds East a distance of 190.67 feet, South 83 Degrees 06 Minutes 56 Seconds East a distance of 226.99 feet, South 82 Degrees 51 Minutes 11 Seconds East a distance of 82.40 feet, South 07 Degrees 08 Minutes 49 Seconds West a distance of 10.00 feet, South 82 Degrees 51 Minutes 11 Seconds East a distance of 56.13 feet, South 83 Degrees 09 Minutes 08 Seconds East a distance of 43.87 feet, North 07 Degrees 08 Minutes 49 Seconds East a distance of 10.00 feet, South 83 Degrees 09 Minutes 08 Seconds East a distance of 193.71 feet, South 83 Degrees 27 Minutes 41 Seconds East a distance of 207.57 feet, South 83 Degrees 39 Minutes 05 Seconds East a distance of 147.66 feet and South 83 Degrees 31 Minutes 37 Seconds East a distance of 107.01 feet to a fence post; thence, with Eugene & Constance Woolsey along a fence South 06 Degrees 29 Minutes 40 Seconds West a distance of 376.28 feet, South 05 Degrees 45 Minutes 40 Seconds West a distance of 1096.85 feet and South 31 Degrees 57 Minutes 20 Seconds East a distance of 272.30 feet to a #5 Rebar having a Tennessee State Plane Coordinate of N:578,966.526 & E:1,752,494.189; thence continuing with Woolsey and generally following a fence South 46 Degrees 32 Minutes 08 Seconds East a distance of 210.63 feet, South 23 Degrees 42 Minutes 45 Seconds East a distance of 327.75 feet, South 14 Degrees 55 Minutes 20 Seconds East a distance of 113.73 feet, South 26 Degrees 59 Minutes 20 Seconds East a distance of 207.50 feet, North 74 Degrees 45 Minutes 40 Seconds East a distance of 346.50 feet and South 83 Degrees 30 Minutes 19 Seconds East a distance of 909.86 feet to a #4 Rebar; thence, North 63 Degrees 13 Minutes 28 Seconds West a distance of 7.10 feet to a Rock Pile; thence, with Jessie & Frankie Shacklett along a fence South 47 Degrees 28 Minutes 14 Seconds West a distance of 174.32 feet, South 56 Degrees 18 Minutes 00 Seconds West a distance of 120.00 feet, South 26 Degrees 30 Minutes 58 Seconds West a distance of 23.77 feet, South 44 Degrees 51 Minutes 22 Seconds West a distance of 215.27 feet, South 64 Degrees 14 Minutes 42 Seconds West a distance of 129.22 feet, South 74 Degrees 28 Minutes 28 Seconds West a distance of 277.87 feet, South 81 Degrees 21 Minutes 59 Seconds West a distance of 265.47 feet to a rock in the fence, South 78 Degrees 52 Minutes 14 Seconds West a distance of 100.72 feet, South 66 Degrees 15 Minutes 52 Seconds West a distance of 319.19 feet, South 50 Degrees 24 Minutes 37 Seconds West a distance of 266.23 feet, South 19 Degrees 26 Minutes 59 Seconds West a distance of 101.84 feet, South 12 Degrees 43 Minutes 40 Seconds West a distance of 383.65 feet and South 11 Degrees 45 Minutes 04 Seconds West a distance of 216.22 feet to a fence post; thence; South 85 Degrees 38 Minutes 27 Seconds West a distance of 6.85 feet to a fence post; thence, with Jason C. McCullar & J. Allen Reynolds III along a fence South 76 Degrees 10 Minutes 00 Seconds West a distance of 215.96 feet, South 83 Degrees 47 Minutes 08 Seconds West a distance of 239.22 feet, South 86 Degrees 33 Minutes 45 Seconds West a distance of 203.17 feet, North 83 Degrees 02 Minutes 13 Seconds West a distance of 238.13 feet,

North 82 Degrees 49 Minutes 16 Seconds West a distance of 329.29 feet,  
 North 82 Degrees 13 Minutes 52 Seconds West a distance of 324.76 feet,  
 North 82 Degrees 45 Minutes 03 Seconds West a distance of 267.26 feet and North 82 Degrees  
 53 Minutes 51 Seconds West a distance of 204.91 feet to a fence post; thence, with Sara T. Tune  
 and along a fence North 08 Degrees 22 Minutes 08 Seconds West a distance of 6.55 feet to a  
 fence post, North 07 Degrees 23 Minutes 52 Seconds East a distance of 246.90 feet, North 06  
 Degrees 44 Minutes 48 Seconds East a distance of 256.28 feet, North 07 Degrees 23 Minutes 31  
 Seconds East a distance of 200.19 feet, North 06 Degrees 46 Minutes 30 Seconds East a distance  
 of 303.65 feet, North 09 Degrees 19 Minutes 10 Seconds East a distance of 62.86 feet, North 08  
 Degrees 05 Minutes 15 Seconds East a distance of 210.54 feet, North 06 Degrees 21 Minutes 59  
 Seconds East a distance of 195.22 feet, North 06 Degrees 39 Minutes 34 Seconds East a distance  
 of 123.43 feet, North 06 Degrees 16 Minutes 11 Seconds East a distance of 396.47 feet and  
 North 06 Degrees 38 Minutes 18 Seconds East a distance of 191.71 feet to a fence post; thence,  
 North 66 Degrees 12 Minutes 13 Seconds East a distance of 2.11 feet to a rock; thence, with  
 Belle Chase Farms S/D South 84 Degrees 08 Minutes 34 Seconds East a distance of 144.64 feet,  
 North 06 Degrees 23 Minutes 21 Seconds East a distance of 547.64 feet to a #3 Rebar having a  
 Tennessee State Plane Coordinate of N:579,474.182 & E:1,750,811.070, North 06 Degrees 25  
 Minutes 05 Seconds East a distance of 803.71 feet to a #3 Rebar and North 06 Degrees 51  
 Minutes 35 Seconds East a distance of 577.95 feet to the **Point of Beginning** containing 193.82  
 acres more or less.

Being the same property conveyed to the Grantor named herein and recorded at Book 10457  
 page 755, Register's Office for Williamson County, Tennessee.

BK: 6457 PG: 759-782

15019760

24 PGS:AL-TRUST DEED	
384437	
05/20/2015 - 02:27 PM	
BATCH	384437
MORTGAGE TAX	10831.85
TRANSFER TAX	0.00
RECORDING FEE	120.00
DP FEE	2.00
REGISTER'S FEE	1.00
TOTAL AMOUNT	10954.85
STATE OF TENNESSEE, WILLIAMSON COUNTY	
SADIE WADE	
REGISTER OF DEEDS	