

Karen Johnson Davidson County
Batch# 1104963 DOT
02/27/2024 11:43:30 AM 27 pgs
Fees: \$138.00 Taxes: \$59,222.70
20240227-0013226

Space Above Reserved for Recording Information

This instrument was prepared by and

Upon recording, please return to:

Burr & Forman LLP

420 North 20th Street

Suite 3400

Birmingham, Alabama 35203

Attention: Damon P. Denney, Esq.

The maximum principal indebtedness for Tennessee recording tax purposes is \$51,500,000.00.

THIS INSTRUMENT CONSTITUTES A FIXTURE FILING PURSUANT TO T.C.A. § 47-9-502(c). THE NAME OF THE DEBTOR (GRANTOR HEREIN) IS ROCK NASHVILLE PROPERTIES, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND THE NAME OF THE SECURED PARTY IS SYNOVUS BANK. THE ADDRESSES OF THE DEBTOR AND SECURED PARTY ARE SET FORTH IN THIS DEED OF TRUST. THE DESCRIPTION OF THE ITEMS AND TYPES OF COLLATERAL COVERED BY THIS FIXTURE FILING IS ALSO CONTAINED IN THE DEED OF TRUST. THIS FILING RELATES TO FIXTURES.

THIS INSTRUMENT IS INTENDED TO BE AND IS ACKNOWLEDGED BY GRANTOR TO BE AN INSTRUMENT FOR COMMERCIAL PURPOSES WHICH SECURES OBLIGATORY ADVANCES FOR PURPOSES OF T.C.A. §§ 47-28-101 THROUGH 47-28-110 (OR ANY SUCCESSOR STATUTE), AND ADVANCES MADE HEREUNDER SHALL RELATE BACK TO THE TIME OF THE RECORDING OF THIS INSTRUMENT AND ARE PRIOR TO AND SUPERIOR TO ENCUMBRANCES AND CONVEYANCES ARISING OR RECORDED SUBSEQUENT TO RECORDATION HEREOF. THIS INSTRUMENT SECURES OBLIGATORY FUTURE ADVANCES FOR COMMERCIAL PURPOSES PURSUANT TO THAT CERTAIN LOAN AGREEMENT OF EVEN DATE HERewith BETWEEN GRANTOR AND BENEFICIARY.

THIS INSTRUMENT SECURES, AMONG OTHER THINGS, AN OBLIGATION OR OBLIGATIONS INCURRED FOR THE CONSTRUCTION OF AN IMPROVEMENT ON THE HEREINAFTER DESCRIBED LAND, INCLUDING THE ACQUISITION COST OF THE LAND, AND TO THAT EXTENT THIS INSTRUMENT CONSTITUTES A CONSTRUCTION MORTGAGE, AS THAT TERM IS USED IN TENN. CODE ANN. SECTION 47-9-334.

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

THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (this "Deed of Trust"), made as of the 26th day of February, 2024, is from **ROCK NASHVILLE PROPERTIES, LLC**, a Delaware limited liability company ("Grantor"), as grantor and debtor, whose mailing address is c/o Al. Neyer, LLC, Attn: Legal Services, 302 W. 3rd Street, Suite 300, Cincinnati, OH 45202, to **DAVID W. HOUSTON, IV**, a resident of Williamson County, Tennessee, whose mailing address is c/o Burr & Forman LLP, 222 Second Avenue South, Suite 2000, Nashville, Tennessee 37201 ("Trustee"), in trust with power of sale for the use and benefit of **SYNOVUS BANK**, a Georgia banking corporation, as Administrative Agent (together with its successors and assigns, the "Administrative Agent"), as beneficiary and secured party, whose mailing address is Synovus Bank, 1033 Demonbreun Street, Suite 200, Nashville, TN 37203, Attention: C. Corum, Webb, CRE Lender IV.

RECITALS

WHEREAS, pursuant to a Loan Agreement of even date herewith between Grantor, Administrative Agent and the Lenders (as defined therein) from time to time parties thereto (as the same may hereafter be amended, the "Loan Agreement"; *capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Loan Agreement*), Lenders have agreed to make a loan (the "Loan") to Grantor in the aggregate principal amount of up to **Fifty-One Million Five Hundred Thousand and 00/100 Dollars (\$51,500,000.00)**, and Grantor has executed and delivered to the Lenders one or more Promissory Notes of even date herewith evidencing the Loan in such aggregate principal amount (whether one or more, and as the same may hereafter be extended, renewed, modified or amended, collectively the "Notes").

WHEREAS, in consideration of the Loan and to secure the prompt payment of same, with interest thereon, and any extensions or renewals of same, and further to secure the performance of the covenants, conditions, and agreements hereinafter set forth and as set forth in the Notes, the Loan Agreement and other Loan Documents, Administrative Agent and Lender have required and Grantor has agreed to convey to Trustee, in trust with the power of sale, for the benefit of Administrative Agent and Lenders, all of its right, title, and interest in the real and personal property hereinafter described.

GRANTING CLAUSES

NOW, THEREFORE, for and in consideration of the indebtedness above mentioned and other good and valuable consideration, and to secure the prompt and full payment and performance of all current and future monetary and non-monetary obligations under the Loan Documents, including but not limited to the "Obligations" (as defined in the Loan Agreement), the obligations under the Notes, together with interest thereon, due or to become due, and any extensions and renewals of the same, and further to secure the performance of the covenants, conditions, and agreements hereinafter set forth and set forth in the Loan Documents, and to

secure all other indebtedness of every description of Grantor to Lenders and Administrative Agent in connection with the Obligations, including, without limitation, all obligations under any Secured Hedge Agreement, all sums advanced by Administrative Agent (or any Lender) to Grantor or expended by Administrative Agent (or any Lender) for Grantor's account in accordance with the terms of this Deed of Trust or under any of the other Loan Documents hereafter described, including but not limited to advances for taxes and insurance, or for Grantor's benefit pursuant to the terms of this Deed of Trust, and all future advances under the Loan Documents that may subsequently be made by Lenders and/or Administrative Agent evidenced by the Loan Agreement, the Notes, any other Loan Document or any other promissory notes, and all renewals and extensions thereof, and all charges and expenses of collection incurred by Administrative Agent, including, without limitation, all court costs, expenses and costs of whatever kind incident to the collection of any indebtedness secured hereby and the enforcement or protection of the lien of this conveyance, including reasonable attorney's fees, whether at trial, on appeal, or in any bankruptcy proceedings (collectively, the "Obligations"), Grantor has bargained and sold and does hereby irrevocably **GRANT, BARGAIN, SELL, CONVEY, ALIENATE, ASSIGN, TRANSFER AND PLEDGE** in trust with power of sale unto Trustee and the successor and assigns of Trustee, for the benefit of Administrative Agent and Lenders, and their successors and assigns, all of Grantor's right, title and interest in and to the following described land and interests in land, estates, easements, rights, real estate, buildings, improvements, fixtures, equipment, furniture, furnishings, appliances, appurtenances, and other personal property, whether now owned or hereafter acquired and including replacements and additions thereto (which together with any additional such property hereafter acquired by the Grantor) and subject to the lien of this Deed of Trust, or intended to be so, as the same may be from time to time constituted, is hereinafter sometimes referred to as the "Property"), to-wit:

(a) All of those certain tracts, pieces or parcels of land located in Davidson County, Tennessee, more particularly described in Exhibit A attached hereto and by this reference made part hereof (the "Land"); and

(b) All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatus which are or shall be attached to said buildings, structures or improvements, and all other furnishings, furniture, fixtures, machinery, equipment, appliances, and personal property of every kind and nature whatsoever now or hereafter owned by Grantor and located in, on or about, or used or intended to be used with or in connection with the construction, use, operation or enjoyment of the Property, including all extensions, additions, improvements, betterments, renewals and replacements, substitutions, or proceeds from a permitted sale of any of the foregoing (collectively the "Improvements"), whether such interest exists in fee simple, or otherwise, all of which are hereby declared and shall be deemed to be fixtures and accessions to the Land and a part of the Property as between the parties hereto and all persons claiming by, through or under Grantor and which shall be deemed to be a portion of the security for the indebtedness herein described and to be secured by this Deed of Trust; and

(c) All building materials, equipment, fixtures, fittings, and personal property of every kind or character now owned or hereafter acquired by the Grantor for the purpose of being used or useful in connection with the Improvements located or to be located on the Land, whether such materials, equipment, fixtures, fittings, and personal property are actually located on or adjacent to said Land or not, and whether in storage or otherwise, wheresoever the same may be located, including, but without limitation, all lumber and lumber products, bricks, building stones, and building blocks, sand and cement, roofing material, paint, doors, windows, hardware, nails, wires and wiring, plumbing and plumbing fixtures, heating and air conditioning equipment and appliances, electrical and ornamental and decorative fixtures, furniture, ranges, refrigerators, dishwashers, disposals, washers, dryers, and in general all building materials and equipment of every kind and character used or useful in connection with said Improvements; and

(d) All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Land or under or above the same or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating or appertaining to the Property or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Grantor (collectively, the "Appurtenant Rights"); and

(e) All rents, issues, profits, revenues, accounts receivable, and general intangibles of the Grantor now existing or hereafter accruing from or relating to the Property (including, without limitation, all payments under Tenant Lease Documents (as defined in the Loan Agreement)), proceeds of insurance, condemnation payments, tenant security deposits and escrow funds), and all of the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Grantor of, in and to the same, reserving only the right to them to collect the same so long as no Event of Default (as herein defined) exists hereunder or such collection is not otherwise restricted by this Deed of Trust; and

(f) All zoning and land use approvals accorded to and development rights and entitlements conferred upon and which are of benefit and appurtenant to the Land, to the extent the same are or may be freely transferable and/or assignable by Grantor under Applicable Law, and all permits which are of benefit and appurtenant to the Land, to the extent the same are or may be freely transferable and/or assignable by Grantor under Applicable Law;

(g) The Plans and Specifications (as defined in the Loan Agreement); Grantor's books and records relating to the Land and/or the construction of the Improvements on the Land; all licenses and permits and all contracts now or hereafter made by Grantor relating to the Land or the construction, equipping, marketing, management, sale or lease of all or any part of the Land or Improvements, and all bonds and other guarantees of performance in favor of Grantor with respect to any such contracts (and Grantor agrees that upon any Event of Default under this Deed of Trust, Administrative Agent shall have the absolute right to make such use of the property so assigned in this Subsection (g) as Administrative Agent shall desire, and will not be limited to remedies available under the UCC, but may at its option avail itself of the rights to use such property as set forth herein or in the Loan Agreement in addition to or in substitution for its UCC remedies);

(h) All licenses, permits, general intangibles, accounts, trade names, trademarks, contract rights and other intangible property now owned or hereafter acquired, relating to the Land or any business now or hereafter conducted thereat by Grantor from time to time (it being agreed that Grantor shall have no right to utilize any of them, whether or not transferable, at any location other than the Land); and

(i) All rights to the payment of money under any swap, derivative, foreign exchange or hedge transaction or arrangement (or similar transaction or arrangement howsoever described or defined) or other Financial Contract (as defined in the Loan Agreement) at any time entered into between Grantor, Administrative Agent and/or any Lender (or any affiliate thereof); and

(j) Proceeds and products of all of the foregoing real and personal property.

TO HAVE AND TO HOLD the Property and all parts, rights, members and appurtenances thereof, to the use and benefit of Trustee and the successors, successors-in-title and assigns of Trustee, forever.

ARTICLE I **REPRESENTATIONS AND WARRANTIES OF GRANTOR**

Grantor represents and warrants to Administrative Agent, knowing that Administrative Agent and Lenders will rely on such representations and warranties as an incentive to make the Loan, as follows:

1.1 **Recitals.** The recitals set forth above are true and correct and are incorporated herein by reference.

1.2 **Loan Agreement.** The terms, conditions, representations, warranties and covenants of the Loan Agreement and other Loan Documents are incorporated herein by reference.

1.3 **Warranty of Title.** Grantor is lawfully seized of an indefeasible estate in fee simple in that portion of the Property constituting real property, has good and absolute title to all existing personal property described herein as a component of the Property and has good right, full power and lawful authority to sell, convey and encumber the same in the manner and form aforesaid; that, except for Permitted Exceptions and Permitted Liens (as such terms are defined in the Loan Agreement), the same is free and clear of all liens, charges, and encumbrances whatsoever, including, as to the personal property and fixtures, conditional sales contracts, chattel mortgages, security agreements, financing statements, and anything of a similar nature, and that Grantor shall and will warrant and forever defend the title thereto unto Administrative Agent and Lenders, their successors and assigns, against the lawful claims of all persons whomsoever.

ARTICLE II
AFFIRMATIVE COVENANTS OF GRANTOR

Grantor agrees and covenants unto the Administrative Agent and Lenders that until the Obligations have been paid in full, it shall comply with each of the following affirmative covenants:

2.1 **Performance of Obligations.** Grantor will duly and punctually pay or cause to be paid and performed all Obligations under each Loan Document, the terms and conditions of which are incorporated herein by reference.

2.2 **Further Assurances; After Acquired Property.** At any time, and from time to time, upon reasonable request by the Administrative Agent, the Grantor will make, execute and deliver or cause to be made, executed and delivered, to the Administrative Agent and, where appropriate, to cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by the Administrative Agent any and all such other and further mortgages, deeds of trust, instruments of further assurance, certificates and other documents as may, in the opinion of the Administrative Agent, be necessary or desirable in order to effectuate, complete, perfect, or to continue and preserve the obligation of the Grantor and Grantor under the Notes and this Deed of Trust, respectively, and the lien of this Deed of Trust as a first and prior lien upon all of the Property, whether now owned or hereafter acquired by the Grantor. Upon any failure by the Grantor so to do within thirty (30) days after notice thereof to Grantor, Administrative Agent may make, execute, and record any and all such deeds of trust, instruments, certificates, and documents for and in the name of the Grantor as permitted by law. The lien hereof will automatically attach, without further act, to all after acquired property attached to and/or used in the operation of the Property or any part thereof.

2.3 **Expenses.** Grantor will pay or reimburse Trustee and Administrative Agent for all attorneys' fees, costs and expenses actually incurred by Administrative Agent in any action, proceeding or dispute of any kind in which Administrative Agent, Lenders or Trustee is made a party, or appear as party plaintiff or defendant, affecting this Deed of Trust, any other Loan Document, Grantor or the Property, including but not limited to the foreclosure of this Deed of Trust, any condemnation action involving the Property, or any action to protect the security hereof; and any such amounts paid by Administrative Agent, Lenders or Trustee shall bear interest at a rate equal to the Default Rate (as defined in the Loan Agreement), shall be payable upon demand, and shall be secured by the lien of this Deed of Trust.

2.4 **Performance by Administrative Agent of Defaults by Grantor.** If the Grantor shall default in the payment of any tax, lien, assessment, or charge levied or assessed against the Property, in the payment of any utility charge, whether public or private, in the payment of insurance premium; in the procurement of insurance coverage and the delivery of the insurance policies required hereunder, or in the performance or observance of any covenant, condition, or term of this Deed of Trust, then the Administrative Agent, at its option, at the end of any applicable cure period may perform or observe the same, and all payments made for costs or incurred by the Administrative Agent and/or any Lender in connection therewith, shall be secured hereby and shall be, immediately repaid by the Grantor to the Administrative Agent

and/or such Lender on demand by Administrative Agent with interest thereon at the Default Rate. The Administrative Agent is hereby empowered to enter and to authorize others to enter upon the Property or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to the Grantor or any person in possession holding under the Grantor. Administrative Agent shall be responsible for any gross negligence or willful misconduct of Administrative Agent, its officers, employees, agents, successors, assigns or others authorized by the Administrative Agent to enter the Property while on the Property and no indemnification obligations of Grantor in any Loan Document shall be applicable thereto.

2.5 **Due on Sale or Encumbrance.** Grantor acknowledges that Administrative Agent has examined and relied on the experience of Grantor and the owners of the beneficial interest in Grantor and Grantor's constituent entities in developing, owning and operating properties such as the Property in agreeing to make the Loan, and that Administrative Agent will continue to rely on Grantor's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Obligations. Grantor acknowledges that Administrative Agent has a valid interest in maintaining the value of the Property so as to ensure that, if Grantor defaults in the repayment of the Obligations, Administrative Agent can recover all or a portion of the Obligations by a sale of the Property. Therefore, Administrative Agent may, at Administrative Agent's option, declare all the Obligations immediately due and payable and invoke any rights and remedies permitted by this Deed of Trust and the other Loan Documents, in the event that, except for Permitted Transfers (as defined in the Loan Agreement) and any other transfers permitted pursuant to the Loan Agreement, the Grantor, without the prior written consent of Administrative Agent, which consent may be denied or granted by Administrative Agent in its sole discretion, sells, disposes, assigns, transfers, alienates, pledges, hypothecates, or encumbers in any manner or in any way, whether voluntary, involuntary, or by operation of law, the Property or any part thereof or any interest therein, or grants a security interest in or assigns any membership interests or other equity interests in Grantor, including, without limitation, (a) an installment sales agreement wherein Grantor agrees to sell the Property or any part thereof or any interest therein for a price to be paid in installments, (b) an agreement by Grantor leasing all or a substantial part of the Property for other than actual occupancy by a space or unit lessee thereunder, (c) a sale, assignment or other transfer of, or the grant of a security interest in, Grantor's right, title and interest in and to any Tenant Lease Documents, or any rents, except the assignment in favor of Administrative Agent as evidenced by this Deed of Trust or the other Loan Documents, and (d) any divestiture of Grantor's title to the Property or any part thereof or any interest therein in any manner or way, whether voluntary or involuntary, or any merger, consolidation, dissolution or syndication affecting Grantor. Administrative Agent will not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Obligations immediately due and payable upon the occurrence of any transfer described without Administrative Agent's prior written consent or as otherwise expressly permitted herein. This provision will apply to every such transfer regardless of whether voluntary or not, or whether or not Administrative Agent has consented to any previous transfer, except for those expressly allowed herein. Any transfer made in contravention of this section shall be null and void and of no force and effect.

2.6 **Security Agreement.** With respect to the apparatus, fittings, fixtures and articles of personal property referred to or described in this Deed of Trust as "Property," this Deed of

Trust is hereby made and declared to be a security agreement encumbering each and every item of personal property included herein as a part of the Property, except for leased items of personal property, in compliance with the provisions of any applicable Uniform Commercial Code as enacted in the State of Tennessee or other applicable jurisdiction the "UCC") or other law applicable to the creation of liens upon and security interests in personal property, for any of the Property which, under Applicable Law, may be subject to a security interest under the UCC, whether acquired now or in the future, and all products and cash and non-cash Proceeds thereof (collectively, "UCC Collateral"), and Grantor hereby grants to Administrative Agent for its benefit and the benefit of Lenders a security interest in the UCC Collateral. Grantor hereby authorizes Administrative Agent to file financing statements, continuation statements and financing statement amendments in such form as Administrative Agent may reasonably require, a determined by Administrative Agent in its sole discretion, to perfect or continue the perfection of this security interest and Grantor agrees, if Administrative Agent so requests, to execute and deliver to Administrative Agent such financing statements, continuation statements and amendments. Grantor shall pay all filing costs and all costs and expenses of any record searches for financing statements that Administrative Agent may require. Without the prior written consent of Administrative Agent, Grantor shall not create or permit to exist any other lien or security interest in any of the UCC Collateral. The remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Deed of Trust which results in the occurrence of an Event of Default, or otherwise in respect of an Event of Default hereunder, shall be (i) as prescribed herein, or (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory consequences now or hereafter enacted and specified in the UCC, including, without limitation, Administrative Agent's right to sell, lease or otherwise dispose of the UCC Collateral through the Trustee, at Lender's option, pursuant to T.C.A. § 47-9-604, all at Administrative Agent's sole election. In exercising any remedies, Administrative Agent may exercise its remedies against the UCC Collateral separately or together and in any order, without in any way affecting the availability of Administrative Agent's other remedies hereunder and/or under Applicable Law. The terms "sign," "signed" and "signatures" shall have their ordinary meanings except that, to limited extent Administrative Agent in an authenticated record expressly agrees otherwise from time to time in the exercise of its sole and absolute discretion, the terms may also include other methods used to authenticate. Without implying any limitation on the foregoing, with respect to the UCC Collateral that may be perfected by control, Grantor shall take such steps as Administrative Agent may require in order that Administrative Agent may have such control. To the extent that the proceeds of any of the Accounts are expected to become subject to the control of, or in the possession of, a party other than Grantor or Administrative Agent, Grantor shall cause all such parties to execute and deliver on the date of this Deed of Trust and from time to time hereafter security documents, financing statements or other documents as requested by Administrative Agent and as may be necessary to evidence and/or perfect the security interest of Administrative Agent in those proceeds. Grantor agrees that a copy of a fully executed security agreement and/or financing statement shall be sufficient to satisfy for all purposes the requirements of a financing statement as set forth in Article 9 of the UCC, and this Deed of Trust covers property that is or may become fixtures attached or to be attached to the real property constituting the Land. Grantor hereby irrevocably appoints Administrative Agent as Grantor's attorney-in-fact, with power of substitution, in the name of Administrative Agent or in the name of Grantor or otherwise, for the use and benefit of Administrative Agent, but at the reasonable cost and expense of Grantor and without notice to

Grantor, to execute and deliver any and all of the instruments and other documents and take any action which Administrative Agent may require pursuant the foregoing provisions of this Section. Further, to the extent permitted by Applicable Laws, Administrative Agent may file, without Grantor's signature, one or more financing statements or other notices disclosing Administrative Agent's liens and other security interests. All financing statements and notices may describe Administrative Agent's collateral as all assets or all personal property of Grantor. Grantor hereby ratifies and confirms the validity of any and all financing statements filed by Administrative Agent prior to the date of this Deed of Trust.

2.7 Fixture Filing. THIS DEED OF TRUST SHALL BE EFFECTIVE AS A FIXTURE FILING AND IS TO BE FILED IN THE REAL ESTATE RECORDS. FOR PURPOSES OF THE UCC, THE FOLLOWING INFORMATION IS FURNISHED:

(A) The name and address of the record owner of the real estate described in this instrument is:

Rock Nashville Properties, LLC,
Attn: Legal Services,
302 W. 3rd Street, Suite 300, Cincinnati, OH 45202

(B) The name and address of the Debtor (Grantor) is:

Rock Nashville Properties, LLC,
Attn: Legal Services,
302 W. 3rd Street, Suite 300, Cincinnati, OH 45202

(C) The name and address of the Secured Party (Administrative Agent) is:

SYNOVUS BANK
1033 Demonbreun Street, Suite 200
Nashville, TN 37203
Attention: C. Corum Webb, CRE Lender IV

(D) This instrument covers goods which are or are to become fixtures.

ARTICLE III
EVENTS OF DEFAULT; REMEDIES

3.1 **Events of Default.** The term "Event of Default," wherever used in this Deed of Trust, shall mean the occurrence of any one or more of the following events:

(a) Failure by Grantor duly to observe any covenant, condition, or agreement of this Deed of Trust which is not cured within applicable cure periods specified herein or, if no cure period is specified, which failure continues for thirty (30) days or more after written notice to Grantor;

(b) The occurrence of an Event of Default under and as defined in any other Loan Document; or

(c) With respect to any of the foregoing wherein a notice is required, such Event of Default will be deemed to have occurred upon the occurrence of such event without notice being required if Administrative Agent is prevented from giving notice by bankruptcy or other Applicable Law. Nothing herein shall require notice in any item of this Section where notice is not expressly required.

3.2 **Acceleration of Maturity.** If an Event of Default shall have occurred, then the entire Obligations shall, at the option of Administrative Agent, immediately become due and payable without notice or demand, time being of the essence of this Deed of Trust, and no omission on the part of Administrative Agent to exercise such option when entitled to do so shall be construed as a waiver of such right.

3.3 **Uniform Commercial Code.** Administrative Agent shall have all of the rights and remedies of a secured party under the UCC. Upon demand by Administrative Agent, Grantor shall assemble the UCC Collateral and make it available to Administrative Agent, at a place designated by Administrative Agent. Administrative Agent or its agents may without notice from time to time enter upon Grantor's premises to take possession of the UCC Collateral, to remove it, to render it unusable, to process it or otherwise prepare it for sale, or to sell or otherwise dispose of it. Any written notice of the sale, disposition or other intended action by Administrative Agent with respect to the UCC Collateral which is sent by regular mail, postage prepaid, to Grantor at the address of Grantor which may from time to time be shown on Administrative Agent's records, at least ten (10) days prior to such sale, disposition or other action, shall constitute commercially reasonable notice to Grantor. Administrative Agent may alternatively or additionally give such notice in any other commercially reasonable manner. Nothing in this Security Instrument shall require Administrative Agent to give any notice not required by Applicable Laws. If any consent, approval, or authorization of any state, municipal or other governmental department, agency or authority or of any person, or any person, corporation, partnership or other entity having any interest therein, should be necessary to effectuate any sale or other disposition of the UCC Collateral, Grantor agrees to execute all such applications and other instruments, and to take all other action, as may be required in connection with securing any such consent, approval or authorization.

Grantor recognizes that Administrative Agent may be unable to effect a public sale of all or a part of the UCC Collateral consisting of securities by reason of certain prohibitions contained in the Securities Act of 1933, as amended (the "1933 Act"), and other applicable federal and state laws. Administrative Agent may, therefore, in its discretion, take such steps as it may deem appropriate to comply with such laws and may, for example, at any sale of the UCC Collateral consisting of securities restrict the prospective bidders or purchasers as to their number, nature of business and investment intention, including, without limitation, a requirement that the Persons making such purchases represent and agree to the satisfaction of Administrative Agent that they are purchasing such securities for their account, for investment, and not with a view to the distribution or resale of any thereof. Grantor covenants and agrees to do or cause to be done promptly all such acts and things as Administrative Agent may request from time to time and as may be necessary to offer and/or sell the securities or any part thereof in a manner which

is valid and binding and in conformance with all Applicable Laws. Upon any such sale or disposition, Administrative Agent shall have the right to deliver, assign and transfer to the purchaser thereof the UCC Collateral consisting of securities so sold.

3.4 **Right to Enter and Take Possession.**

(a) If an Event of Default shall have occurred, Grantor, upon demand of Administrative Agent, shall forthwith surrender to Administrative Agent the actual possession of the Property and if, and to the extent permitted by law, Administrative Agent itself, or by such officers or agents as it may appoint, may enter and take possession of all or any part of the Property without the appointment of a receiver or an application therefor, and may exclude Grantor and its agents and employees wholly therefrom, and take possession of the books, papers and accounts of Grantor.

(b) If Grantor shall for any reason fail to surrender or deliver the Property or any part thereof after such demand by Administrative Agent, Administrative Agent may obtain a judgment or decree conferring upon Administrative Agent the right to immediate possession or requiring Grantor to deliver immediate possession of the Property to Administrative Agent, and Grantor hereby specifically consents to the entry of such judgment or decree. Grantor will pay to Administrative Agent, upon demand, all reasonable expenses of obtaining such judgment or decree, including reasonable compensation to Administrative Agent's attorneys and agents, and all such expenses and compensation shall, until paid, become part of the Obligations and shall be secured by this Deed of Trust.

(c) Upon every such entering upon or taking of possession, Administrative Agent may hold, store, use, operate, manage and control the Property and conduct the business thereof, and, from time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property; (ii) insure or keep the Property insured; (iii) manage and operate the Property and exercise all of the rights and powers of Grantor to the same extent as Grantor could in its own name or otherwise act with respect to the same; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Administrative Agent, all as Administrative Agent from time to time may determine to be in its best interest. Administrative Agent may collect and receive all the rents, issues, profits and revenues from the Property, including those past due as well as those accruing thereafter, and apply them in the manner set forth in Section 2.18 of the Loan Agreement; provided, however, Administrative Agent shall also be entitled to pay (and/or escrow for) any one or more of the following sums in such order and priority as Administrative Agent may determine in its sole and absolute discretion: (aa) expenses of taking, holding, managing and operating the Property (including compensation for the services of all persons employed for such purposes); (bb) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions; (cc) the cost of such insurance; (dd) such taxes, assessments and other similar charges as Administrative Agent may at its option pay; (ee) other proper charges upon the Property or any part thereof; and (ff) the reasonable compensation, expenses and disbursements of the attorneys and agents of Administrative Agent. Anything in this Section 3.4 to the contrary notwithstanding, Administrative Agent shall not be obligated to discharge or perform the duties of a landlord to any tenant or incur any liability as a result of any

exercise by Administrative Agent of its rights under this Deed of Trust, and Administrative Agent shall be liable to account only for the rents, income, issues and profits actually received by Administrative Agent. Notwithstanding the foregoing, Administrative Agent shall be responsible for any gross negligence or willful misconduct of Administrative Agent, its officers, employees, agents, successors and assigns in the prosecution of any acts allowed in this Section 3.4 and no indemnification obligations of Grantor in any Loan Documents shall be applicable thereto.

(d) Whenever all such interest, deposits and principal installments and other sums due under any of the terms, covenants, conditions and agreements of this Deed of Trust shall have been paid or all Events of Default shall have been cured, Administrative Agent shall surrender possession of the Property to Grantor, its successors or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

3.5 Power of Sale.

(a) Upon the occurrence and during the existence of an Event of Default, should Administrative Agent elect to foreclose by exercise of the power of sale herein contained, Administrative Agent shall notify Trustee and shall deposit with Trustee this Deed of Trust and the Notes and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

(b) Upon receipt of such notice from Administrative Agent, Trustee shall advertise the sale of all or any portion of the Property for twenty-one (21) days by three (3) weekly notices in some newspaper of general circulation published in the county or counties in which the Property is situated, and sell the Property at public sale before the door of the courthouse of the county in which the Property or any portion thereof is situated for cash to the highest bidder, free from equity of redemption, statutory right of redemption under T.C.A. § 66-8-101 et. seq. or any similar statute, homestead, dower, elective share, and all other rights and exemptions of every kind, all of which are hereby expressly waived, and said Trustee shall execute a conveyance to the purchaser in fee simple, and deliver possession to such purchaser, which Grantor binds itself shall be given without obstruction, hindrance or delay. To the extent permitted by Applicable Law, said sale may be adjourned by the Trustee, or his agent or successors, and reset at a later date without additional publication; provided that an announcement to that effect be made at the scheduled place of sale at the time and on the date the sale is originally set, the rescheduled sale occurs within one (1) year of the originally scheduled sale and notice is given to the debtor and co-debtor as required by T.C.A. § 35-5-101(f)(3). Administrative Agent shall have the right to enforce any of its remedies set forth herein without notice to Grantor except as otherwise expressly provided for herein. The failure of the Administrative Agent to give any notice shall not in any way impair the exercise or the validity of the exercise of any such remedies.

(c) As may be permitted by, but subject to, Applicable Law, after deducting all costs, fees and expenses of Trustee and of this Deed of Trust, including costs of evidence of title in connection with sale, Trustee or Administrative Agent shall apply the proceeds of sale in the manner set forth in Section 2.18 of the Loan Agreement; provided, however, Administrative

Agent shall also be entitled to pay (and/or escrow for) all costs, fees and expenses, including attorneys' fees and expenses incurred by Administrative Agent in exercising the power of sale or foreclosing this Deed of Trust, in such order and priority as Administrative may determine in its sole and absolute discretion.

(d) In case of any sale under this Deed of Trust, the Property may be sold as an entirety or in parcels, by one sale or by several sales, as may be deemed by the Trustee to be appropriate and without regard to any right of the Grantor or any other person to the marshalling of assets, and if Administrative Agent so elects, Trustee or Administrative Agent may sell the UCC Collateral at one or more separate sales in any manner permitted by the UCC. In the event that a sale of less than all of the Property has been effected and the Obligations secured hereby have not been paid in full, then the unsold portion of the Property shall continue to be subject to this Deed of Trust, and the Deed of Trust shall continue in full force and effect in accordance with its terms. One or more exercises of the power of sale granted herein shall not exhaust or extinguish the power until all of the Property has been sold or all of the Obligations are paid in full. If the Obligations are now or hereafter further secured by any security agreements, chattel mortgages, pledges, contracts of guaranty, assignments of leases or other security instruments, Administrative Agent at its option may exhaust the remedies granted under any of said security instruments or this Deed of Trust either concurrently or independently, and in such order as Administrative Agent may determine.

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

(f) In case of an insured loss after judicial or non-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 Obligations. In the event of judicial foreclosure or Trustee's sale, Administrative Agent or Trustee 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 Administrative Agent or Trustee may deem advisable to cause the interest of such purchaser to be protected by any of the said insurance policies.

(g) Nothing in this Section dealing with foreclosure procedures or specifying particular actions to be taken by Administrative Agent or by Trustee or any similar officer shall be deemed to contradict or add to the requirements and procedures now or hereafter specified by

Tennessee law, and any such inconsistency shall be resolved in favor of Tennessee law applicable at the time of foreclosure.

3.6 **Performance by Administrative Agent.** Upon the occurrence and during the continuance of an Event of Default, Administrative Agent may, at its sole option, pay, perform or observe the same, and all reasonable, out-of-pocket payments made or costs or expenses incurred by Administrative Agent in connection therewith, with interest thereon at the Default Rate or at the maximum rate from time to time allowed by Applicable Law, whichever is less, shall be secured hereby and shall be, without demand, immediately repaid by Grantor to Administrative Agent. Notwithstanding anything to the contrary herein, Administrative Agent shall have no obligation, explicit or implied to pay, perform, or observe any term, covenant, or condition.

3.7 **Receiver.** If any Event of Default shall have occurred and is continuing, Administrative Agent, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right, without notice and without regard to the value of any security for the Obligations or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Property and to collect and apply the rents, issues, profits and revenues thereof and to sell all or any part of the Property to the extent approved by the court appointing such receiver. The receiver shall have all of the rights and powers permitted under the laws of the state wherein the Land is situated, including the right to sell the Property as aforesaid. Grantor will pay unto Administrative Agent upon demand all reasonable expenses, including receiver's fees, reasonable attorney's fees, costs and agent's compensation, incurred pursuant to the provisions of this Section, and any such amounts paid by Grantor shall be added to the Obligations and shall be secured by this Deed of Trust.

3.8 **Enforcement.** If an Event of Default shall have occurred and be continuing, Administrative Agent may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or any other appropriate proceeding or remedy (a) to enforce payment of the Notes or the performance of any term thereof or any other right, (b) to foreclose this Deed of Trust as provided by law, and (c) to pursue any other remedy available to it, all as Administrative Agent shall deem most effectual for such purposes. Administrative Agent shall take action either by such proceedings or by the exercise of the powers herein with respect to entry or taking possession, as Administrative Agent may determine

3.9 **Purchase by Administrative Agent.** Upon any foreclosure sale or sale of all or any portion of the Property under the power herein granted, Administrative Agent may bid for and purchase the Property and shall be entitled to apply all or any part of the Obligations as a credit to the purchase price. In determining such credit bid, to the extent permitted by law, Administrative Agent may, but is not obligated to, take into account all or any of the following: (a) appraisals of the Property as such appraisals may be discounted or adjusted by Administrative Agent in its sole and absolute underwriting discretion; (b) expenses and costs incurred by Administrative Agent with respect to the Property prior to foreclosure; (c) expenses and costs which Administrative Agent anticipates will be incurred with respect to the Property after foreclosure, but prior to resale, including, without limitation, costs of structural reports and other due diligence, costs to carry the Property prior to resale, costs of resale (e.g. commissions,

attorneys' fees, and taxes), costs of any hazardous materials clean-up and monitoring, costs of deferred maintenance, repair, refurbishment and retrofit, costs of defending or settling litigation affecting the Property, and lost opportunity costs (if any), including the time value of money during any anticipated holding period by Administrative Agent; (d) declining trends in real property values generally and with respect to properties similar to the Property; (e) anticipated discounts upon resale of the Property as a distressed or foreclosed property; (f) the fact of additional collateral (if any), for the Obligations; and (g) such other factors or matters that Lessee (in its sole and absolute discretion) deems appropriate. In regard to the above, Grantor acknowledges and agrees that: (i) Administrative Agent is not required to use any or all of the foregoing factors to determine the amount of its credit bid; (ii) this Section does not impose upon Administrative Agent any additional obligations that are not imposed by law at the time the credit bid is made; (iii) the amount of Administrative Agent's credit bid need not have any relation to any loan-to-value ratios specified in the Loan Documents or previously discussed between Grantor and Administrative Agent; and (iv) Administrative Agent's credit bid may be (at Administrative Agent's sole and absolute discretion) higher or lower than any appraised value of the Property.

3.10 **Application of Proceeds of Sale.** Except for proceeds arising from power of sale as addressed in Section 3.5(c) hereof, in the event of a foreclosure or other sale of all or any portion of the Property, the proceeds of said sale shall be applied as required by Applicable Law and, to the extent not inconsistent therewith, in the manner required by Section 2.18 of the Loan Agreement; provided, however, Administrative Agent shall also be entitled to pay (and/or escrow for) any one or more of the following sums in such order and priority as Administrative Agent may determine in its sole and absolute discretion: expenses of such sale or suit, including, without limitation, those hereafter enumerated, and of all proceedings in connection therewith, including actual attorney's fees and expenses (and attorney's fees and expenses shall become absolutely due and payable whenever foreclosure is commenced); insurance premiums, liens, assessments, impositions and charges, including utility charges and any other amounts advanced or incurred by Administrative Agent hereunder, and interest thereon. Grantor will pay a reasonable fee for title searches, sale guarantees, publication costs, appraisal reports or environmental assessments made in preparation for and in the conduct of any such proceedings or suit. All of the foregoing amounts must be paid to Administrative Agent as part of any reinstatement tendered hereunder.

3.11 **Grantor as Tenant Holding Over.** In the event of any such foreclosure sale or sale under the powers herein granted, Grantor (if Grantor shall remain in possession) shall be deemed a tenant holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or, to the extent permitted by Applicable Law, be summarily dispossessed according to provisions of law applicable to tenants holding over.

3.12 **Waiver of Appraisement, Valuation, Etc.** Grantor agrees, to the full extent permitted by law, that in case of an Event of Default, neither Grantor nor anyone claiming through or under Grantor will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension, homestead, or exemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust, or the absolute sale of the Property, or the delivery of possession thereof immediately after such sale to the purchaser at such sale, and Grantor, for itself and all who may at any time claim through or under it, hereby

waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets subject to the security interest of this Deed of Trust marshaled upon any foreclosure or sale under the power herein granted. Grantor waives and relinquishes, to the extent permitted by law, the statutory right of redemption, all equities of redemption and all other rights and exemptions of every kind in, to and with respect to the real and personal property described herein.

3.13 **Tenant Lease Documents.** Administrative Agent, at its option, upon an uncured Event of Default, is authorized to foreclose this Deed of Trust and the failure to make any Tenant, any Tenant Lease Guarantor or any other Person obligated under any Tenant Lease Document a party to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by Grantor, a defense to any proceeding instituted by Administrative Agent to collect the sums secured hereby.

3.14 **Discontinuance of Proceedings.** In case Administrative Agent shall have proceeded to enforce any right, power or remedy under this Deed of Trust by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Administrative Agent and/or any Lender, then in every such case, Grantor and Administrative Agent shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Administrative Agent shall continue as if no such proceedings had occurred.

3.15 **Remedies Cumulative.** No right, power or remedy conferred upon or reserved to Administrative Agent or any Lender 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, subject to limits on recourse hereinafter set forth, shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law, in equity or by statute.

3.16 **Waiver.**

(a) No delay or omission by Administrative Agent or by any holder of the Notes to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein, and every right, power and remedy given by this Deed of Trust to Administrative Agent may be exercised from time to time and as often as may be deemed expedient by Administrative Agent. No consent or waiver expressed or implied by Administrative Agent to or of any breach or default by Grantor in the performance of the obligations of Grantor hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of the same or any other obligations of Grantor hereunder. Failure on the part of Administrative Agent to complain of any act or failure to act or failure to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Administrative Agent of its rights hereunder or impair any rights, powers or remedies of Administrative Agent hereunder.

(b) No act or omission by Administrative Agent or any Lender shall release, discharge, modify, change or otherwise affect the original liability under the Notes or this Deed

of Trust or any other obligation of Grantor or any subsequent purchaser of the Property or any part thereof, or any maker, cosigner, endorser, surety or guarantor, nor preclude Administrative Agent from exercising any right, power or privilege herein granted or intended to be granted in the event of any default then existing or of any subsequent default, nor alter the lien of this Deed of Trust, except as expressly provided in an instrument or instruments executed by Administrative Agent. Without limiting the generality of the foregoing, Administrative Agent may (i) grant forbearance or an extension of time for the payment of all or any portion of the Obligations; (ii) take other or additional security for the payment of any of the Obligations; (iii) waive or fail to exercise any right granted herein or in the Notes; (iv) release any part of the Property from the security interest or lien of this Deed of Trust or otherwise change any of the terms, covenants, conditions or agreements of the Notes or this Deed of Trust; (v) consent to the filing of any map, plat or replat affecting the Property; (vi) consent to the granting of any easement or other right affecting the Property; (vii) make or consent to any agreement subordinating the security title or lien hereof, or (viii) take or omit to take any action whatsoever with respect to the Notes, this Deed of Trust, the Property or any document or instrument evidencing, securing or in any way related to the Obligations, all without releasing, discharging, modifying, changing or affecting any such liability, or precluding Administrative Agent from exercising any such right, power or privilege or affecting the lien of this Deed of Trust. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Property, Administrative Agent, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Property or the Obligations, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings.

(c) Grantor waives and relinquishes any and all rights it may have, whether at law or equity, to require Administrative Agent to proceed to enforce or exercise any rights, powers and remedies it may have under the Loan Documents in any particular manner, in any particular order, or in any particular state or other jurisdiction. Grantor expressly waives and relinquishes any and all rights and remedies that Grantor may have or be able to assert by reason of the laws of the state of jurisdiction pertaining to the rights and remedies of sureties.

Grantor makes these arrangements, waivers and relinquishments knowingly and as a material inducement to Lenders in making the Loan, after consulting with and considering the advice of independent legal counsel selected by Grantor.

3.17 Suits to Protect the Property. Administrative Agent shall have power to institute and maintain such suits and proceedings as it may deem expedient (a) to prevent any impairment of the Property by any acts which may be unlawful or constitute a Default or Event of Default under this Deed of Trust; (b) to preserve or protect its interest in the Property and in the rents, issues, profits and revenues arising therefrom; and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would materially impair the security hereunder or be prejudicial to the interest of Administrative Agent.

3.18 **Proofs of Claim.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Grantor, its creditors or its property, Administrative Agent, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Administrative Agent and/or any Lender allowed in such proceedings for the entire amount due and payable by Grantor under this Deed of Trust at the date of the institution of such proceedings and for any additional amount which may become due and payable by Grantor hereunder after such date.

3.19 **Trade names, etc.** During the exercise of any right in the Property pursuant to this Article IV, neither Administrative Agent nor Lender shall be liable to Grantor for any inadvertent violation or infringement upon any tradename, trademark, service mark, or logo relating to the Property, and Grantor waives any claim for any such inadvertent violation or infringement that occurs prior to notice of such infringement by Grantor to Administrative Agent.

3.20 **Remedies Cumulative.** Each right and remedy provided in this Deed of Trust is distinct from all other rights or remedies under this Deed of Trust or any other Loan Document or afforded by Applicable Law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order.

ARTICLE IV **DEFEASANCE**

This Deed of Trust shall cease, terminate, and thereafter be of no further force and effect in the event that all of the Obligations shall have been paid, performed, and satisfied in full. Upon such termination and at Grantor's request and expense, Administrative Agent shall execute, acknowledge, and deliver to Grantor an instrument, in proper form for recording, without warranty, releasing the lien and security interest of this Deed of Trust and reconveying to Grantor the Property.

ARTICLE V **TRUSTEE PROVISIONS**

5.1 **Concerning Trustee.** Trustee shall be under no duty to take any action hereunder except as expressly required hereunder or by law or to perform any act which would involve Trustee in any expense or liability or to institute or defend any suit in respect hereof, unless properly indemnified to Trustee's reasonable satisfaction. Trustee, by acceptance of this Deed of Trust, covenants to perform and fulfill the trusts herein created. Trustee shall not be answerable or accountable hereunder except for its own willful misconduct or gross negligence, and Grantor agrees to indemnify, defend and hold Trustee harmless from and against any cost, loss, damage, liability or expense (including, without limitation, reasonable attorney's fees and disbursements) which Trustee may incur or sustain in the exercise or performance of its powers and duties hereunder except arising from its gross negligence or willful misconduct. Trustee hereby waives any statutory fee and agrees to accept reasonable compensation, in lieu thereof, for any services rendered by Trustee in accordance with the terms hereof. Trustee may resign by the giving of notice of such resignation in writing to Administrative Agent. If Trustee shall die, resign or

become disqualified from acting in the execution of this trust, or if, for any reason, Administrative Agent, in Administrative Agent's sole discretion and with or without cause, shall prefer to appoint a substitute trustee or multiple substitute trustees, or successive substitute trustees or successive multiple substitute trustees, to act instead of the aforementioned Trustee, Administrative Agent shall have full power to appoint a substitute trustee (or, if preferred, multiple substitute trustees) in succession who shall succeed (and if multiple substitute trustees are appointed, each of such multiple substitute trustees shall succeed) to all the estates, rights, powers and duties of the aforementioned Trustee without other formality than appointment and designation in writing executed by Administrative Agent, recorded in the Register's Office for the County where the Land is located. Such appointment may be executed by any authorized agent of Administrative Agent, and if Administrative Agent be a corporation and such appointment be executed on its behalf by any officer of such corporation, such appointment shall be conclusively presumed to be executed with authority and shall be valid and sufficient without proof of any action by the board of directors or any superior officer of the corporation. Grantor hereby ratifies and confirms any and all acts which the aforementioned Trustee, or his or her successor or successors in this trust, shall do lawfully by virtue hereof. If multiple substitute trustees are appointed, each of such multiple substitute trustees shall be empowered and authorized to act alone without the necessity of the joinder of the other multiple substitute trustees, whenever any action or undertaking of such substitute trustees is requested or required under or pursuant to this Deed of Trust or Applicable Law. Any prior election to act jointly or severally shall not prevent either or both of such multiple substitute Trustees from subsequently executing, jointly or severally, any or all of the provisions hereof. Upon the written request of Administrative Agent or of the substitute trustee, the predecessor trustee ceasing to act shall execute and deliver any instrument transferring to such substitute trustee, upon the trusts herein expressed, all of the estates, properties, rights, powers and trusts of such predecessor trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such trustee to such substitute trustee.

5.2 **Trustee's Fees.** Grantor shall pay all reasonable costs, fees and expenses incurred by Trustee and Trustee's agents and counsel in connection with the performance by Trustee of Trustee's duties hereunder, and all such costs, fees and expenses shall be secured by this Deed of Trust.

5.3 **Certain Rights.** Trustee shall not be personally liable in case of entry by Trustee, or anyone entering by virtue of the powers herein granted to Trustee, upon the Property for debts contracted for or liability or damages incurred in the management or operation of the Property. Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting an action taken or proposed to be taken by Trustee hereunder, which is believed by Trustee in good faith to be genuine.

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

5.5 **Perfection of Appointment.** If any deed, conveyance or other instrument of any nature be required from Grantor by Trustee or any substitute trustee to more fully and certainly vest in and confirm to Trustee or such substitute trustee the estates rights, powers, and duties conferred hereunder unto Trustee, then, upon request by Trustee or such substitute trustee, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged, and delivered and shall be caused to be recorded and/or filed by Grantor at its sole expense.

ARTICLE VI **MISCELLANEOUS**

6.1 **Future Advances.** In addition to all other indebtedness secured by this Deed of Trust, this Deed of Trust shall also secure and constitute a first lien on the Property for present and future obligations of Grantor to Administrative Agent, and this Deed of Trust is executed to secure all such obligations. Any future obligations and advances may be made in accordance with the Loan Agreement or the Loan Documents, at the option of the Administrative Agent. The total amount of the indebtedness that may be secured by this Deed of Trust may increase or decrease from time to time. The maximum principal amount which may be secured hereby at any one time is set forth on the first page of this Deed of Trust, together with interest thereon; provided, however, the said maximum principal amount which may be increased by such additional sums or amounts as may be advanced by Administrative Agent pursuant to this Deed of Trust, Loan Agreement and all other Loan Documents and all such additional sums and amounts shall be deemed necessary expenditures.

6.2 **Waiver of Statute Of Limitations.** Grantor hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Deed of Trust or to any action brought to enforce any Loan Document.

6.3 **Waiver of Marshaling.** Notwithstanding the existence of any other security interests in the Property held by Administrative Agent or by any other party, Administrative Agent shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided in this Deed of Trust, the Notes, the Loan Agreement, any other Loan Document or under Applicable Law. Administrative Agent shall have the right to determine the order in which any or all portions of the Obligations are satisfied from the proceeds realized upon the exercise of such remedies. Grantor and any party who now or in the future acquires a security interest in the Property and who has actual or constructive notice of this Deed of Trust waives any and all right to require the marshaling of assets or to require that any of the Property be sold in the inverse order of alienation or that any of the Property be sold in parcels or as an entirety in connection with the exercise of any of the remedies permitted by Applicable Law or provided in this Deed of Trust.

6.4 **Subrogation.** If, and to the extent that, the proceeds of the Loan are used to pay, satisfy or discharge any obligation of Grantor for the payment of money that is secured by a pre-existing mortgage, deed of trust or other lien encumbering the Property (a "Prior Lien"), such loan proceeds shall be deemed to have been advanced by Administrative Agent and Lenders at Grantor's request, and Administrative Agent and Lenders shall automatically, and without further action on their part, be subrogated to the rights, including lien priority, of the owner or holder of the obligation secured by the Prior Lien, whether or not the Prior Lien is released.

6.5 **Further Assurances.** Grantor shall execute, acknowledge, and deliver, at its sole (but reasonable) cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates, financing statements, transfers and assurances as Administrative Agent may reasonably require from time to time in order to better assure, grant, and convey to Administrative Agent the rights intended to be granted, now or in the future, to Administrative Agent under this Deed of Trust and the Loan Documents.

6.6 **Disclosure of Information.** Administrative Agent may furnish financial information regarding Grantor or the Property to third parties with an existing or prospective interest in the enforcement, evaluation, performance, purchase or securitization of the Obligations, including but not limited to credit rating agencies. Grantor irrevocably waives any and all rights it may have under Applicable Law to prohibit such disclosure, including but not limited to any right of privacy.

6.7 **Administrative Agent Statement; Certain Charges.** With respect to (a) any statement, accounting, or similar information requested by Grantor or any other Person pursuant to Applicable Law; or (b) any other document furnished to Grantor or any other Person by Administrative Agent at Grantor's request, Administrative Agent shall have the right to charge Administrative Agent's customary charge for providing such statement, accounting, or other information. Grantor shall pay Administrative Agent its customary charge for any other service rendered by Administrative Agent in connection with the Loan or the Property, including the issuance of a request for full or partial release of the lien of this Security Instrument, transmitting proceeds of the Loan to an escrow holder and changing Administrative Agent's records relating to the Obligations.

6.8 **Successors and Assigns.** This Deed of Trust shall inure to the benefit of and be binding upon Grantor and Administrative Agent and the Lenders and their respective heirs, executors, legal representatives, successors, successors-in-title, and assigns. Whenever a reference is made in this Deed of Trust to "Grantor" or "Administrative Agent" or "Lenders" such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors, successors-in-title and assigns of Grantor or Administrative Agent or Lenders, as the case may be, but shall not imply any permission to make or permit any transfer which is otherwise prohibited.

6.9 **Terminology.** All personal pronouns used in this Deed of Trust, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit nor amplify the provisions of this Deed of Trust, and all references herein to Articles, Sections or Subsections shall refer to the corresponding Articles, Sections or Subsections of this Deed of Trust unless specific reference is made to Articles, Sections or Subsections of another document or instrument.

6.10 **Severability; Complete Agreement.** If any provisions of this Deed of Trust or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Deed of Trust and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. This Deed of Trust, the other Loan Documents and the instruments executed

in connection herewith constitute the full and complete agreement of the parties and supersede all prior negotiations, correspondence, and memoranda relating to the subject matter hereof, and this Deed of Trust may not be amended except by a writing signed by the parties hereto.

6.11 **Applicable Law.** The agreements of Grantor and Administrative Agent with respect to the Obligations and all other rights and obligations under this Deed of Trust and the other Loan documents (including, without limitation, the rights and remedies of Administrative Agent and Lenders with respect to the security for the Obligations and the enforcement of Administrative Agent's and Lenders' rights in such security) are to be governed by the laws of the State of Tennessee.

6.12 **Notice.** All notices and other communications provided for hereunder shall be in writing and shall be given and deemed received in accordance with the notice provision contained in the Loan Agreement.

6.13 **Replacement of Notes.** Upon receipt of evidence reasonably satisfactory to Grantor of the loss, theft, destruction or mutilation of a Note, and in the case of any such loss, theft or destruction, upon delivery of an indemnity agreement reasonably satisfactory to Grantor or, in the case of any such mutilation, upon surrender and cancellation of such Note, Grantor shall cause Grantor at Administrative Agent's expense will execute and deliver, in lieu thereof, a replacement note, identical in form and substance to such Note and dated as of the date of such Note, and upon such execution and delivery all references in this Deed of Trust to the Notes shall be deemed to refer to any existing Note that was not lost, stolen, destroyed or mutilated and such replacement note, collectively.

6.14 **Assignment.** This Deed of Trust is assignable by Administrative Agent and any assignment hereof by Administrative Agent shall operate to vest in the assignee all rights and powers herein conferred upon and granted to Administrative Agent for its benefit and for the benefit of the Lenders hereunder.

6.15 **Time of the Essence.** Time is of the essence with respect to each and every covenant, agreement and obligation of Grantor under this Deed of Trust, the other Loan Documents and any and all other instruments now or hereafter evidencing, securing or otherwise relating to the Obligations.

6.16 **WAIVER OF JURY TRIAL.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, GRANTOR HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (1) ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATING TO THE LOAN DOCUMENTS OR (2) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THE LOAN DOCUMENTS OR IN CONNECTION WITH THE TRANSACTIONS RELATED THERETO OR CONTEMPLATED THEREBY OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES THEREUNDER, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. GRANTOR AGREES THAT

ADMINISTRATIVE AGENT MAY FILE A COPY OF THIS SUBSECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED AGREEMENT OF GRANTOR IRREVOCABLY TO WAIVE ITS RIGHT TO TRIAL BY JURY, AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN THEM SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Grantor has caused this Deed of Trust to be duly executed on the date of the notary acknowledgment set forth below to be effective as of the day and year first above written.

GRANTOR:

ROCK NASHVILLE PROPERTIES, LLC,
a Delaware limited liability company

By: Rock Nashville Campus, LLC,
an Delaware limited liability company,
its Sole Member

By: Neyer Rock LP, LLC,
an Ohio limited liability company,
its Manager

By: Al. Neyer Fund Manager, LLC,
an Ohio limited liability company,
its Manager

By: Al. Neyer, LLC,
an Ohio limited liability company,
its Manager

By: [Signature]
Printed Name: Stephanie P. Gaitner
Title: EVP & COO, Real Estate

STATE OF Ohio
COUNTY OF Hamilton

Before me, a Notary Public of the state and county mentioned, personally appeared Stephanie P. Gaitner with whom I am personally acquainted (or proved to be on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be the EVP & COO, Real Estate (or other officer authorized to execute the instrument) of Al. Neyer, LLC, an Ohio limited liability company, the ultimate Manager of **ROCK NASHVILLE PROPERTIES, LLC, a Delaware limited liability company**, the within named bargainor, and that such officer, executed the foregoing instrument for the purpose therein contained, by personally signing the name of the bargainor as EVP & COO, Real Estate and in such capacity.

Witness my hand and seal, at office, this 21 day of February, 2024.

[Signature]
NOTARY PUBLIC

My Commission Expires: 9.1.2025



EMILY T. LUCAS
Notary Public, State of Ohio
My Commission Expires
September 1, 2025

EXHIBIT A

Legal Description

Situate in the 3rd Council District of Davidson County, Tennessee and being a portion of the property of record in Instrument No. 20001020-0104344, Register's Office of Davidson County, Tennessee (RODC, TN) and more particularly described as follows:

Beginning at a capped iron pin found (ELLIOT) in the southerly margin of Briley Parkway, aka SR -155 (varying width public right-or-way), the westerly margin of Whites Creek Pike, aka SR-65 & US Highway 431 (varying width public right-or-way) and being a common corner with Louis J. Baltz, of record in Book 5403 Page 898 (RODC, TN); thence with said margins of said Briley Parkway and said Whites Creek Pike, the following five (5) courses and distances: 1) N 83°46'49" E a distance of 232.00' to a 5\8" capped iron pin set (CESO); thence 2) with a curve turning to the right having an arc length of 131.42', a radius of 204.19', a chord bearing of S 77°46'52" E and a chord length of 129.16' to a 5\8" capped iron pin set (CESO); thence 3) S 59°20'31" E a distance of 85.00' to a 5\8" capped iron pin set (CESO); thence 4) with a curve turning to the left having an arc length of 118.94', a radius of 139.59', a chord bearing of N 83°38'41" E and a chord length of 115.37' to a 5\8" capped iron pin set (CESO); thence 5) with a reverse curve turning to the right having an arc length of 39.62', a radius of 25.00', a chord bearing of S 75°22'01" E and a chord length of 35.60' to a 5\8" capped iron pin set (CESO) in the westerly margin of said Whites Creek Pike; thence with said westerly margin of said Whites Creek Pike the following four (4) courses and distances: 1) S 29°58'08" E a distance of 170.04' to a 5\8" capped iron pin set (CESO); thence 2) S 20°44'25" E a distance of 148.46' to a 5\8" capped iron pin set (CESO); thence 3) S 26°04'49" E a distance of 251.37' to a 5\8" capped iron pin set (CESO); thence (4) S 33°16'32" E a distance of 328.40' to a point in the center of Ewing Creek; thence with the center of said Ewing Creek and the line of Earth Credits Inc., of record in Instrument No. 20130312-0024315 (RODC, TN) the following three (3) courses and distances: 1) S 51°07'27" W a distance of 109.13' to a point; thence 2) S 46°43'30" W a distance of 170.46' to a point; thence 3) S 43°32'05" W a distance of 109.77' to a point; thence leaving said center of Ewing Creek and Continuing with the line of said Earth Credits, Inc. the following seven (7) courses and distances: 1) S 86°27'55" W a distance of 252.78' to a point; thence 2) N 81°07'42" W a distance of 200.49' to a point; thence 3) N 89°44'35" W a distance of 174.18' to a point; thence 4) S 44°01'18" W a distance of 151.32' to a point; thence 5) S 65°36'58" W a distance of 36.90' to a point; thence 6) S 22°12'51" W a distance of 72.70' to a point; thence 7) S 12°46'29" W a distance of 118.09' to a point in the center of said Ewing Creek; thence continuing with the center of said Ewing Creek and said line of said Earth Credits, Inc. the following eight (8) courses and distances: 1) thence S 40°28'41" W a distance of 134.59' to a point; thence 2) S 58°23'16" W a distance of 100.60' to a point; thence 3) S 66°28'09" W a distance of 56.45' to a point; thence 4) N 76°53'21" W a distance of 146.98' to a point; thence 5) N 74°27'28" W a distance of 70.35' to a point; thence 6) N 71°36'35" W a distance of 100.13' to a point; thence 7) S 24°03'38" W a distance of 51.45' to a point; thence 8) S 28°19'02" W a distance of 99.35' to a point; thence leaving said Ewing Creek and with a proposed new line over and through said William J. Baltz, Jr. et al,) N 90°00'00" W a distance of 896.12' to a point in the center of Whites Creek and said point also being in the line of George & Margaret Geist, of record in Book 10020 Page 231 & Book 10020 Page 231 (RODC, TN), thence with said center of said Whites Creek and said line of said George & Margaret Geist, the following four (4) courses and distances: 1) N 35°22'30" E a distance of 32.14' to a point; thence 2) N 07°24'24" W a distance of 52.68' to a point; thence 3) N 00°35'37" W a distance of 500.03' to a point; thence 4) N 23°28'45" W a distance of 79.02' to a point; thence leaving said center of said Whites Creek and with the line of Stephen T. Baltz, of record in Book 5740 Page 921 & Book 5740 Page 923 (RODC, TN) the following seven (7) courses and distances: 1) S 87°28'02" E a distance of 84.80' to a 1/2" iron pin found; thence 2) S 76°34'17" E a distance of 383.60' to a 5\8" capped iron pin set

(CESO); thence 3) S 38°46'17" E a distance of 118.75' to a ¾" iron pin found; thence 4) S 85°24'59" E a distance of 133.91' to a capped iron pin found (ELLIOT); thence 5) N 05°38'29" E a distance of 666.06' to a capped iron pin found (ELLIOT); thence 6) N 64°26'29" E a distance of 319.42' to a capped iron pin found (ELLIOT); thence 7) N 54°29'14" E a distance of 329.31' to a capped iron pin found (ELLIOT) in the line of Louis J. Baltz, of record in Book 5403 page 898 (RODC, TN); thence with said line of said Louis J. Baltz, N 63°11'25" E a distance of 366.10' to the **Point of Beginning**, having an area of 54.730 acres (2,384,035 square feet), more or less.

Being the same property conveyed to Rock Nashville Properties, LLC by deed of record at Instrument Number 202402270013224, Register's Office for Davidson County, Tennessee.

Tennessee Certification of Electronic Document

I, Bainbridge Dillion, do hereby make oath that I am a licensed attorney and/or the custodian of the original version of the electronic document tendered for registration herewith and that this electronic document is a true and exact correct copy of the original document executed and authenticated according to law on 02/26/2024

Bainbridge Dillion
Affiant Signature

Date: 02/26/2024

State of Tennessee

County of Davidson

Sworn to and subscribed before me this 26th
day of February, 2024.

Jodean M. King
Notary's Signature

Notary's Seal

My Commission Expires: 7/22/2025
Date: 02/26/2024

