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**THIS INSTRUMENT IS TO BE FILED FOR RECORD IN THE REAL ESTATE RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED AND SHALL CONSTITUTE A FIXTURE FILING IN ACCORDANCE WITH THE PROVISIONS OF SECTION 9.502 OF THE TEXAS BUSINESS AND COMMERCIAL CODE.**

When recorded, return to:

Elkins Kalt Weintraub Reuben Gartside LLP  
10345 West Olympic Boulevard  
Los Angeles, California 90064  
Attention: Scott Kalt

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

**By**  
**PRESIDIO183 LLC, a Texas limited liability company, as Grantor**

**In favor of**

**CHRIS WHITT, an individual, as Trustee**

**For the benefit of**

**PRETIUM CEDAR PARK LENDER, LLC, a Texas limited liability company, as Lender**

**Made and dated as of August 24, 2022**

**THE NOTE SECURED BY THIS DEED OF TRUST BEARS INTEREST AT A VARIABLE RATE WHICH WILL FLUCTUATE DURING THE LOAN TERM. UPON THE OCCURRENCE OF CERTAIN EVENTS, THE INTEREST RATE APPLICABLE TO THE NOTE MAY SWITCH FROM A VARIABLE RATE TO A FIXED RATE OR TO A NEW VARIABLE RATE.**

**THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, FINANCING STATEMENT AND FIXTURE FILING** (this “*Deed of Trust*”) is made as of August 24, 2022, by **PRESIDIO183 LLC**, a Texas limited liability company, as grantor (“*Grantor*”) whose mailing address is 405 State Highway 121 Bypass, Suite C-140 Lewisville, Texas 75067; in favor of **CHRIS WHITT**, an individual (“*Trustee*”) whose mailing address is c/o Armbrust & Brown, PLLC, 100 Congress Avenue, Suite 1300, Austin, Texas 78701 for the benefit of **PRETIUM CEDAR PARK LENDER, LLC**, a Texas limited liability company (“*Lender*”), as grantee, whose mailing address is 1722 Routh Street, Suite 800, Dallas, Texas 75201.

**FOR VALUABLE CONSIDERATION**, it is agreed as follows:

#### **PRELIMINARY STATEMENT:**

Capitalized terms used in this Preliminary Statement are defined below. Grantor holds the fee simple interest in the Premises, subject to the Permitted Exceptions. Grantor is executing this Deed of Trust for the purpose of conveying the interest of Grantor in and to the Collateral to Trustee as security for the payment of the Secured Obligations. This Deed of Trust is to be construed as a deed passing title to the Collateral to Trustee, and not as a mortgage. Should the Secured Obligations be paid according to the tenor and effect thereof when the same shall become due and payable and should Grantor perform and satisfy all the Secured Obligations in a timely manner, then Trustee shall, at the request of Lender, reconvey its interest in the Collateral to Grantor without warranty.

GRANTOR IS JUSTLY INDEBTED TO LENDER IN THE AGGREGATE SUM OF \$9,825,000.00 IN LAWFUL MONEY OF THE UNITED STATES OF AMERICA, AND HAS AGREED TO PAY THE SAME, WITH INTEREST THEREON, ACCORDING TO THE TERMS OF THE LOAN AGREEMENT (AS DEFINED HEREIN), AND THE NOTE (WHICH HAS A MATURITY DATE OF AUGUST 24, 2025).

#### **ARTICLE 1 DEED OF TRUST**

1.1 Grant of Deed of Trust. Grantor in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, irrevocably grants, bargains, sells, pledges, gives, conveys, sets over, assigns, and transfers to Trustee, **WITH POWER OF SALE AND RIGHT OF ENTRY**, for the benefit and security of Lender, all of the Collateral; **TO HAVE AND TO HOLD** the Collateral hereby granted, conveyed, assigned, and transferred, or so intended, together with all estate, right, title and interest of Grantor and anyone claiming by, through or under Grantor, in, to, under or derived from the Collateral and all rights and appurtenances relating thereto, unto Trustee, its successors and assigns forever, upon the terms, provisions and conditions set forth in this Deed of Trust, subject only to the Permitted Exceptions. Grantor does hereby bind itself, its successors, and assigns to WARRANT AND FOREVER DEFEND the title to the Collateral unto Trustee against every person whomsoever lawfully claiming or to claim the same or any part thereof. This Deed of Trust is being made pursuant to the terms and conditions of the Term Loan Agreement, of even date herewith, between Grantor, as Borrower, and Lender (as it may be amended, restated, supplemented, extended or renewed from time to time, the “*Loan Agreement*”). Capitalized terms used in this Deed of Trust and not otherwise defined in this Deed of Trust have the meanings given to those terms in the Loan Agreement.

#### **IMPORTANT NOTICE TO LIEN CLAIMANTS:**

*Any lien attaching to the Collateral after the date hereof (each, a “Junior Lien”) shall be subject and subordinate to all of the Secured Obligations, including: (a) any debt now or hereafter owed Lender or any affiliate of Lender by Grantor or any other Credit Party, including advances (whether or not obligatory) made subsequent to the recording of this Deed of Trust; and (b) any modification to this Deed of Trust, any other Loan Document, or the Secured Obligations after the date of recording of this Deed of Trust, including, without limitation, increases in the amount of the Secured Obligations, increases in interest rates with respect to any Secured Obligation, and changes to the maturity date of any secured modification, notwithstanding that such modification may occur after the date such Junior Lien attaches or may adversely affect or prejudice the rights of any Junior Lien claimant. Nothing herein shall be deemed an approval or consent by Lender to, or waiver of Lender’s right to object to, any such Junior Lien.*

1.2 The Collateral. The “**Collateral**” consists of the following described property and property rights, whether now existing or hereafter acquired, including in any greater estate hereafter acquired, with references in this Deed of Trust to the Collateral to mean and include all or any portion of or interest in any of the Collateral:

(a) The Land and Improvements. The real property described on **Exhibit 1.2**, together with any and all rights and privileges appurtenant thereto (the “**Land**”), and all buildings and other improvements located or erected on the Land, including any and all items of property attached or affixed to such buildings or other improvements (or any portion thereof) (collectively, the “**Improvements**”), which Improvements are intended and agreed to be an integral part of the real property. The Land and the Improvements are referred to in this Deed of Trust as the “**Premises**.” If there is more than one parcel of real property described on **Exhibit 1.2**, references in this Deed of Trust to “Land” and “Improvements” shall be to the Land and Improvements relating to and encompassing each such parcel, each of which constitutes a “Premises,” and references to “Premises” shall include each such Premises.

(b) Leases and Rents. Subject to Grantor’s rights under **Article IV**, all of Grantor’s estate, right, title and interest in and to any and all leasehold estates covering any portion of the Premises, including sublease estates, and including all cash or security deposits, advance rentals, and deposits or payments of similar nature (collectively, the “**Leases**”), together with any and all rents, issues, profits, damages, income and other benefits now or hereafter derived from the Premises, including amounts paid as rents, fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties (collectively the “**Rents**”).

(c) Other Interests. Any and all (i) interest, estate or other claim, in law or in equity, in any of the Premises, including any greater estate in either the Land or the Improvements; (ii) easements, rights-of-way and other rights used in connection with the Premises, including all rights to the nonexclusive use of common drive entries; (iii) water rights, water stock, and claims or title to water; (iv) land lying within the right-of-way of any street, open or proposed, adjoining the Premises, and any and all sidewalks, parkways, driveways, alleys and strips and gores of land adjacent to or used in connection with the Premises; and (v) subject to Grantor’s rights under **Section 3.5**, awards made for the taking by eminent domain, or by any proceeding of purchase in lieu thereof, of the whole or any part of the Premises (including awards for severance damages).

(d) UCC Collateral. The “**UCC Collateral**” described on **Exhibit 1.2(d)**.

(e) Proceeds. All proceeds, both cash and non-cash, and products of any of the foregoing.

1.3 Duration of Deed of Trust. This Deed of Trust shall continue in full force and effect until such time as all indebtedness under the Note executed and delivered pursuant to the Loan Agreement and all other Secured Obligations (defined below) have been fully, finally, and irrevocably paid and performed, at which time Lender agrees to request Trustee execute an instrument reconveying its interest in the Collateral without warranty to Grantor. As a condition to such release, Grantor agrees to reimburse Lender for Lender’s reasonable out-of-pocket expenses incurred in connection with the release, and Grantor shall also pay Lender a reasonable processing fee in connection with such release. It is the intent of the parties, to the maximum extent permitted by law, to establish for the benefit of Lender herein, a perpetual or indefinite security interest in the property being conveyed hereby to secure the indebtedness under the Note and all other Secured Obligations.

1.4 Warranty. Grantor represents, warrants and covenants that Grantor (a) is, and, as to any portion of the Collateral acquired hereafter, will upon such acquisition be, the owner of the Collateral and all legal and beneficial interests therein, including a fee simple ownership interest in the Premises, free and clear of all Liens, other than the Permitted Exceptions; and (b) shall remain the owner of the entire Collateral and all legal and beneficial interests therein free and clear of all Liens, other than the Permitted Exceptions.

## ARTICLE 2 OBLIGATIONS SECURED

2.1 The Secured Obligations. This Deed of Trust is given to secure the following obligations (collectively, the “*Secured Obligations*”):

(a) Note Indebtedness. Payment of the indebtedness evidenced by the Note more particularly described on the “*Secured Note Schedule*” attached as *Exhibit 2.1(a)* (each, a “*Note*”, with each such Note being incorporated herein by reference), with interest thereon, all as provided in the Note and other Loan Documents, **INCLUDING INTEREST RATE INCREASES OR DECREASES, MATURITY DATE EXTENSIONS, AND PAYMENT MODIFICATIONS (INCLUDING DEFERRALS OR ACCELERATIONS OF PRINCIPAL OR INTEREST)**. References herein to “*Note*” and “*Loan*” are to each such Note and related Loan.

(b) Loan Obligations. Payment of all other Indebtedness and other sums, with interest thereon, that may be owed or arise under, and performance of all other Obligations contained in or arising under, this Deed of Trust, the other Loan Documents, and in any other instrument now or hereafter given to evidence or further secure payment or performance of any Obligation.

(c) Related Agreement Obligations. Payment of all Indebtedness and other sums, with interest thereon, that may be owed under, and performance of all other Obligations contained in or arising under, each Related Agreement; ***provided, however***, that if the rights of the lender under any Related Agreement are transferred or assigned to any Person, other than the named Lender in this Deed of Trust or an Affiliate of such Lender, then from and after such transfer or assignment, the Obligations with respect to such Related Agreement shall cease to be secured by the Collateral unless Lender, in its sole discretion, elects otherwise by written notice to Grantor given concurrently with, or prior to, such transfer or assignment.

(d) Future Advances. All future principal advances, with all interest thereon, to or for the benefit of Grantor, made pursuant to the terms of this Deed of Trust or any of the other Loan Documents.

(e) Other Disbursements and Protective Advances. All disbursements and other advances made by Lender for (i) the payment of Taxes, maintenance, care, protection or insurance on or with respect to the Collateral; (ii) the discharge of Liens having priority over the lien of this Deed of Trust; (iii) the curing of waste of the Collateral; (iv) indemnification obligations regarding environmental liabilities associated with the Collateral; (v) service charges and expenses incurred by reason of an Event of Default hereunder, including late charges, reasonable, out-of-pocket attorneys’ fees and court costs; and (vi) all other charges, disbursements, advances, costs and expenses now or hereafter incurred by Lender pursuant to any of the Loan Documents evidencing the Secured Obligations or as permitted by Applicable Law, in all cases with interest thereon until paid at the rate of 10% per annum. Notwithstanding the foregoing, Lender shall have no obligation to make any disbursements or advance any sums as a result of this subsection.

(f) Obligations Generally. Payment and performance of all other Obligations, including any other obligations that are stated in this Deed of Trust to be included as Secured Obligations.

2.2 Priority. The Collateral shall secure all of the Secured Obligations presently or hereafter owed, and the priority of the Lien created hereby for all such Secured Obligations shall be as of the time this Deed of Trust is recorded. Without limiting the foregoing, all advances and disbursements pursuant to ***Sections 2.1(d)*** and ***2.1(e)***, whether such advances are obligatory, optional or both and whether made before or after default or maturity or other similar event, shall be secured hereby to the same extent as if such advance or disbursement has been made contemporaneously with the execution hereof, even though no advance may have been made at the time of execution hereof and even though no indebtedness is outstanding at the time any advance is made.

2.3 Certain Obligations Not Secured. Notwithstanding any other provision hereof or the other Loan Documents, this Deed of Trust does not secure any obligations of Grantor or any other Credit Party in any Loan Document with respect to state and federal environmental laws, rules, regulations and permits; hazardous materials

and other environmental conditions; environmental investigations; the release or threatened release of any hazardous materials; and all environmental remediation requirements.

2.4 Agency. To the extent that any Secured Obligation is held by an Affiliate of Lender, rather than directly by Lender, Lender is acting both for itself, with respect to the Secured Obligations held by Lender, and as the representative and collateral agent for and on behalf of such Affiliate with respect to Secured Obligations held by such Affiliate, and Lender is entitled, both on its own behalf and as the representative and collateral agent for and on behalf of such Affiliate, to exercise all rights and remedies of the secured party under this Deed of Trust.

### **ARTICLE 3 GRANTOR COVENANTS**

3.1 Use. Grantor shall use the Collateral solely for the operation of a Permitted Concept in accordance with the Franchise Agreement and Management Agreement and for no other purpose. Grantor shall not, without Lender's prior written consent, (a) initiate or acquiesce in a change in the zoning classification; or (b) grant, amend, modify or consent to any easement or covenants, conditions and restrictions pertaining to the Collateral.

3.2 Impositions; Right to Contest. Prior to delinquency, Grantor shall pay the following (collectively, the "**Impositions**"): (a) all Taxes, water and sewer rents and charges, and charges for utility services that may be assessed, levied or imposed upon Grantor, the Collateral, the Loan Documents, or the Secured Obligations; and (b) all claims and demands of mechanics, laborers, materialmen and others which, if unpaid, might create a Lien on the Collateral, unless Grantor shall contest the amount or validity thereof as permitted in this Section. If by law any Imposition is payable in installments, Grantor may pay the same in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. So long as no Event of Default has occurred that is continuing, Grantor may, at its own expense, contest by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity of any Imposition; **provided** that Grantor (y) shall have first demonstrated to Lender's reasonable satisfaction that such proceedings operate to prevent the sale of the Collateral to satisfy such Imposition prior to a final determination; and (z) shall have either (i) deposited with Lender adequate security for the payment of the Imposition (including any interest and penalties); or (ii) paid the Imposition in full under protest or furnished such other security or undertaking as may be permitted by Applicable Law to accomplish a stay of any sale of the Collateral.

3.3 Maintenance and Repair. Grantor shall: (a) construct or renovate the Improvements pursuant to the PIP on the Collateral in accordance with the applicable plans, specifications, contracts, and Applicable Law, and in accordance with the requirements of the Loan Documents, the Franchise Agreement and Management Agreement; (b) maintain the Collateral in good condition and repair, subject to reasonable and ordinary wear and tear, and free from actual or constructive waste; (c) operate, remodel, update and modernize the Collateral as required by the Franchise Agreement and Management Agreement and as is otherwise prudent and reasonable; and (d) pay all operating costs of the Collateral in the ordinary course of business, including utility costs. Grantor shall not do, nor allow any tenant or other user of the Collateral to do, any act that materially increases the dangers to human health or the environment, poses an unreasonable risk of harm to any Person (whether on or off the Premises), impairs or is reasonably likely to impair in any material respect the value of the Collateral, is contrary to Applicable Law, or violates in any material respect any applicable covenant, condition, restriction, agreement or easement.

3.4 Alterations. Except as may be required or permitted by the Loan Agreement (including in connection with the construction or renovation of the Improvements pursuant to the PIP), Grantor shall not make, nor permit to be made, any alterations (including additions) to the Improvements without Lender's prior written consent, not to be unreasonably withheld or conditioned or delayed, except that Grantor may make nonstructural alterations costing less than \$500,000 in the aggregate at any one time with Lender's consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Structural alterations include any alterations that would affect the foundation of the Improvements; involve the structural elements of the Improvements, such as a load-bearing wall, structural beams, columns, supports or roof; or materially affect any building systems, including electrical systems, plumbing, HVAC, and fire and safety systems. All such work shall (in addition to all requirements of the Loan Documents related to the construction or renovation of the Improvements pursuant to the PIP): (a) be at the sole cost of Grantor; (b) be undertaken using licensed contractors; (c) be prosecuted diligently to completion; (d) be of good workmanship and materials; (e) be free of all mechanics' and materialmen's liens; and (f) comply in all material

respects with the terms of this Deed of Trust, the Loan Agreement, the Franchise Agreement, the Management Agreement, and all Applicable Law.

### 3.5 Condemnation.

(a) Takings: Continuation of Obligations. If there is a taking of all or any portion of the Collateral or the commencement of any proceedings or negotiations which might result in a taking by any lawful authority by exercise of the right of condemnation or by agreement in lieu of condemnation (a “**Taking**”), Grantor shall promptly give Lender written notice of the Taking. No Taking shall relieve Grantor of any Secured Obligations, including its obligations to make regularly scheduled payments of principal and interest pursuant to the Note and the other Loan Documents. Grantor authorizes and empowers Lender, at Lender’s option and in Lender’s sole discretion, to settle, adjust, or compromise any claim for loss or damage in connection with any Taking or proposed Taking and to commence, appear in and prosecute in its own name or on behalf of Grantor any such action or proceeding arising out of or relating to a Taking or proposed Taking.

(b) Restoration Obligations. Promptly following the occurrence of a Taking, other than a Total Taking (defined below), Grantor shall, at its expense, commence and diligently complete the repair, restoration, replacement, and rebuilding of the Collateral as nearly as possible to its value, condition and character immediately prior to the Taking (a “**Restoration**”); **provided, however**, Grantor shall not be required to complete the Restoration if Lender does not make the Condemnation Proceeds (as defined in the following **subsection (c)**) available to Grantor pursuant to the following **subsection (c)**. If Lender makes such Condemnation Proceeds available to Grantor, Grantor shall not be excused from Grantor’s Restoration obligation, regardless of whether or not there are Condemnation Proceeds available to Grantor or whether any such Condemnation Proceeds are sufficient in amount, and the application or release by Lender of any Condemnation Proceeds shall not cure or waive any Default under this Deed of Trust or the other Loan Documents or invalidate any act done pursuant thereto.

(c) Condemnation Proceeds. All compensation, awards, damages, rights of action, and proceeds awarded to Grantor by reason of any such Taking or received by Grantor as the result of a transfer in lieu of a Taking (the “**Condemnation Proceeds**”) are hereby assigned, and shall be paid, directly to Lender. Grantor agrees to execute such further assignments of the Condemnation Proceeds as Lender may reasonably require. If Grantor receives any Condemnation Proceeds, Grantor shall promptly pay the Condemnation Proceeds to Lender, to be applied by Lender to payment of the Secured Obligations in such order as Lender, in its sole discretion, shall determine. To the extent that Condemnation Proceeds are applied to prepay principal on Note, no prepayment fee will be charged in connection with such prepayment or in connection with any other prepayment of the Loan by Grantor resulting from such Taking. Notwithstanding the foregoing, if no Default has occurred and is continuing and if the Taking is not a Total Taking, the Condemnation Proceeds, less costs, fees and expenses actually incurred by Lender and Grantor in the collection thereof, including reasonable out-of-pocket attorneys’ fees and expenses (the “**Net Condemnation Proceeds**”), shall be made available to Grantor, to be used by Grantor to satisfy its Restoration obligations, substantially in the manner and according to the procedures, limitations, and requirements provided in the Loan Agreement for the distribution of Net Insurance Proceeds, as if the Net Condemnation Proceeds were Net Insurance Proceeds. “**Total Taking**” means a Taking of substantially all of the Collateral or of such a portion of the Collateral that the remainder cannot reasonably be used for the purposes for which used prior to the Taking.

3.6 No Discharge. Grantor’s obligations and liabilities hereunder or under any other Loan Document shall not be released, discharged or otherwise affected by reason of: (a) any damage to, destruction of, or condemnation or similar taking of the Collateral; (b) any restriction on, or interference by any Person with, any use of any of the Collateral; (c) any title defect or encumbrance affecting the Collateral; (d) any claim that Grantor has or might have against Lender; (e) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Lender, or any action taken with respect to this Deed of Trust by any trustee or receiver of Lender, or by any court, in any such proceeding; (f) any default or failure on Lender’s part to perform or comply with any of the terms of the Loan Documents or of any Related Agreement; or (g) any other act or occurrence whatsoever, whether similar or dissimilar to the foregoing.

3.7 Actions Affecting Collateral. Grantor shall give Lender written notice of and, unless otherwise directed in writing by Lender, shall appear in and contest any action or proceeding purporting to affect the security or priority of this Deed of Trust or the rights or powers of Lender and shall pay all reasonable costs and expenses (including costs of evidence of title, litigation, and reasonable out-of-pocket attorneys' fees actually incurred) in any such action or proceeding in which Lender may appear.

3.8 Actions by Lender. If Grantor fails to make any payment or to do any act required hereby, Lender may, each in its sole discretion, but without obligation so to do, without releasing Grantor from any obligation, and with only such notice to or demand upon Grantor as is reasonable under the circumstances, but in no event exceeding five days' prior written notice, make or do the same in such manner and to such extent as Lender may deem necessary or appropriate, including: (a) entering upon and taking possession of the Collateral and otherwise exercising its rights and remedies hereunder and under the other Loan Documents; (b) taking such actions and making such additions, alterations, repairs and improvements to the Collateral as Lender reasonably may consider necessary or appropriate to keep the Collateral in good condition and repair or otherwise to protect the value or security of any of the Collateral, including payment of Impositions and insurance premiums; and (c) taking such actions as Lender reasonably may consider necessary or appropriate to protect the priority, validity and enforceability of the lien of this Deed of Trust on the Collateral. Grantor shall, within ten (10) Business Days of written demand by Lender, pay to Lender all amounts expended by Lender, including all costs and expenses reasonably incurred by Lender in connection with the exercise by Lender of the foregoing rights (including costs of evidence of title, court costs, appraisals, surveys, fees of receivers, and reasonable out-of-pocket attorneys' fees actually incurred), together with interest at the rate of 10% on such amounts from the date incurred until paid.

3.9 Prohibited Transactions. In order to induce Lender to make the Loan, Grantor agrees that, upon the occurrence of a Prohibited Transaction (as defined in the Loan Agreement) without the prior written consent of Lender, as required by or in accordance with the Loan Agreement, Lender shall have the absolute right, at its option, without prior demand or notice, to declare all sums secured hereby immediately due and payable. In connection with any request for consent to a Prohibited Transaction, Grantor agrees to pay Lender such fees and other amounts as Lender may require, as consideration to Lender in connection with, and as a condition precedent to, any such matter.

3.10 No Liens or Encumbrances. Grantor covenants not to grant or suffer to exist, and Grantor covenants to pay and promptly discharge, at Grantor's sole cost and expense, all Liens upon the Collateral, other than Permitted Exceptions. Grantor covenants to notify Lender immediately in writing of any such Lien. Except as otherwise provided in this Deed of Trust with respect to Impositions, Grantor may contest in good faith the validity of any involuntary Lien, provided Grantor shall within 20 days of Grantor's receipt of notice of such Lien, first deposit with Lender a bond or other security satisfactory to Lender in such amount as Lender shall reasonably require, but not more than 150% of the amount of the claim, and provided further that if Grantor loses such contest, Grantor will thereafter diligently proceed to cause such Lien to be removed and discharged, at Grantor's sole cost and expense. If Grantor fails to remove or discharge any Lien, then, in addition to any other right or remedy of Lender, Lender may, after only such notice to Grantor as may be reasonable under the then existing circumstances, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such Lien by depositing in a court a bond or the amount claimed or otherwise giving security for such claim, or by procuring such discharge in such manner as is or may be prescribed by law. Grantor shall, within ten (10) Business Days of written demand therefor by Lender, pay to Lender an amount equal to all amounts expended by Lender, including all costs and expenses incurred by Lender in connection with the exercise by Lender of the foregoing rights, together with interest thereon from the date of each such expenditure at the rate of 10% per annum. Such costs and expenses shall be secured by the Liens in favor of Lender, including the lien of this Deed of Trust, and are part of the Secured Obligations. Grantor shall also comply with all provisions of the Loan Agreement with respect to Liens.

3.11 Periodic Appraisals. Lender may require an appraisal of the Premises, or an update to a previously provided appraisal of the Premises, indicating the present appraised fair market value thereof: (a) if Lender determines in good faith that an appraisal is required as a result of (i) any law, regulation or guideline or any change or interpretation thereof; or (ii) any central bank or other fiscal, monetary or other Government Authority having jurisdiction over Lender or its activities requesting, directing or imposing a condition upon Lender (whether or not such request, direction or condition shall have the force of law); (b) at any time after the occurrence and during the continuance of an Event of Default; or (c) at any other time that Lender, in its reasonable discretion deems it appropriate. Appraisals and updates pursuant *to subsections (a) and (b)* shall be at Grantor's sole cost and expense.

Appraisals and updates pursuant to subsection (c) shall be at Lender's sole cost and expense; ***provided, however***, that Lender may charge Grantor for one such appraisal or update for the Premises in each calendar year during the continuance of the Deed of Trust. All such appraisals and updates shall comply with Applicable Law, as well as Lender's internal requirements, and shall be conducted by appraisers selected and retained by or on behalf of Lender.

3.12 Flood Insurance. If Grantor owns the Improvements and if the Premises are located in a Special Flood Hazard Area ("***SFHA***") designated by the Federal Emergency Management Administration, Grantor shall, at its expense, obtain and maintain flood insurance under the National Flood Insurance Program ("***NFIP***") for the Premises meeting the Insurance Requirements in the Loan Agreement and providing insurance coverage sufficient to rebuild or replace the Improvements in an amount not less than the lesser of: (a) the outstanding principal balance of each Note secured hereby, including any prior liens on the Premises; (b) the maximum amount of coverage allowed for the type of property under the NFIP; or (c) the value of the Improvements and equipment located on the Land, but not the value of the Land itself. The policy must state the proper SFHA zone for the Premises (i.e., SFHA zones beginning with "A" or "V"). Deductibles must be stated and may not exceed \$50,000. ***SPECIAL NOTICE: Notice is hereby given to Grantor that, if Grantor fails to renew or keep in effect adequate flood insurance on the Premises during the time that the NFIP mandates flood insurance coverage, federal law requires Lender to purchase the flood insurance for the Premises and authorizes Lender to charge Grantor the cost of premiums and fees incurred in purchasing the insurance. Any flood insurance that Lender purchases may not fully protect Grantor's interest and equity in the Premises and will be substantially more expensive than the insurance Grantor may obtain.***

3.13 Granting of Easements, Etc. If no Event of Default shall have occurred and be continuing, Grantor may, from time to time with respect to its interest in the Collateral and with Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed: (a) grant easements and other rights in the nature of easements; (b) release existing easements or other rights in the nature of easements which are for the benefit of the Collateral; (c) dedicate or transfer unimproved portions of the Collateral for road, highway or other public purposes; (d) execute petitions to have the Collateral annexed to any municipal corporation or utility district; and (e) execute and deliver to any person any instrument appropriate to confirm or effect such grants, releases, dedications and transfers. At any time, or from time to time, without liability therefor and without notice, upon written request of Lender and without affecting the personal liability of any Person for payment of the Secured Obligations or the effect of this Deed of Trust upon the remainder of the Collateral, Lender may release any part of the Collateral or join in any of the foregoing actions.

3.14 Lender's Power. Without affecting the liability of any Person liable for the payment or performance of any of the Secured Obligations and without affecting the lien of this Deed of Trust upon the Collateral not then or theretofore released as security for the Secured Obligations, Lender may, from time to time and without notice: (a) release any Person so liable; (b) extend the Secured Obligations; (c) grant other indulgences; (d) release or reconvey, or cause to be released or reconveyed, at any time at Lender's option any parcel, portion or all of the Collateral; (e) take or release any other or additional security or any guaranty for any of the Secured Obligations; or (f) make adjustments or other arrangements with debtors in relation thereto.

3.15 Recording; Further Assurances. Grantor shall, from time to time, perform or cause to be performed any other act and shall execute or cause to be executed any and all further instruments (in recordable form) as Lender may reasonably request for carrying out the intention of, or facilitating the performance of, this Deed of Trust, including to maintain the priority of the Deed of Trust at the date of initial recording, provided the obligations of Grantor under this Deed of Trust and under the other Loan Documents shall not be increased, and the rights of Grantor under this Deed of Trust and under the other Loan Documents shall not be diminished by, such instruments.

3.16 Representations and Warranties. Grantor represents and warrants to Lender that: (a) to the best of Grantor's knowledge: (i) except as may be reflected by the Survey, all Improvements are, or upon completion will be, located within the boundary lines of the Land and do not and will not, upon completion, encroach upon the land of any adjacent owner; (ii) except as may be reflected by the Survey, no improvements of any third Person encroach upon the Land; and (iii) no Person has any unrecorded right, title or interest in the Premises or any other part of the Collateral, whether by right of adverse possession, prescriptive easement, right of first refusal, right of first offer, option to purchase, lease, or other Contractual Obligation; and (b) there are no delinquent accounts payable or mechanics' or materialmen's Liens in favor of any materialman, laborer, or other Person in connection with labor or materials furnished to or performed on any of the Premises and no work has been performed or is in progress, nor



have materials been supplied to any portion of the Collateral or agreements entered into for work to be performed or materials to be supplied to any portion of the Collateral prior to the date of this Deed of Trust.

3.17 Grant of Security Interest. As further security for payment and performance of the Secured Obligations, Grantor grants to Lender a lien on and security interest in and to all of the UCC Collateral, and this Deed of Trust constitutes a security agreement with Grantor, as debtor, and Lender, as secured party. Lender confirms that, notwithstanding the inclusion of general intangibles as part of the UCC Collateral and the creation, attachment and perfection of Lender's lien on and security interest in general intangibles in accordance with the provision of UCC Section 9-408(a), such creation, attachment and perfection is subject to the limitations imposed by UCC Section 9-408(d) which provide that such creation, attachment, and perfection (a) is not enforceable against Franchisor or Manager; (b) does not impose a duty or obligation on Franchisor or Manager; (c) does not require Franchisor or Manager to recognize such lien and security interest, pay or render performance to Lender, or accept payment or performance from Lender; (d) does not entitle Lender to use or assign Grantor's rights under the Franchise Agreement or the Management Agreement; and (e) does not entitle Lender to use, assign, possess, or have access to any trade secrets or confidential information of Franchisor or Manager.

3.18 Fixture Filing. This Deed of Trust shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Collateral and is to be filed for record in the real estate records of each county where any part of the Collateral (including said fixtures) is situated. The mailing address of Grantor is the address of Grantor set forth in the introductory paragraph in this Deed of Trust, and the address of Lender from which information concerning the Liens may be obtained is the address of Lender as set forth in the introductory paragraph of this Deed of Trust.

#### **ARTICLE 4 ASSIGNMENT OF LEASES AND RENTS**

4.1 Assignment of Leases and Rents. Grantor assigns, transfers, and conveys to Lender all of Grantor's estate, right, title and interest in and to the Leases and Rents and gives to and confers upon Lender the right, power and authority to collect the Rents; to give receipts, releases and satisfactions; to sue, in the name of Grantor or Lender, for all Rents; and to apply the Rents to the payment of the Secured Obligations in such order as Lender shall determine. Grantor further irrevocably appoints Lender its true and lawful attorney-in-fact, at the option of Lender at any time and from time to time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Grantor or Lender, for all Rents. Grantor authorizes and directs the lessees, tenants and occupants to make all payments under the Leases directly to Lender upon written demand by Lender, without further consent of Grantor; ***provided, however,*** that Grantor shall have the right to collect such Rents (but not more than one month in advance unless the written approval of Lender is first obtained), and to retain and enjoy same and enforce such Lease, so long as an Event of Default shall not have occurred and be continuing. Rents collected subsequent to any Event of Default shall be applied to the costs, if any, of taking possession and control of and managing the Collateral and collecting such amounts, including to pay reasonable out-of-pocket attorney's fees actually incurred, receiver's fees, premiums on receiver's bonds, costs of repairs to the Collateral, premiums on insurance policies, taxes, assessments and other charges on the Collateral, and the costs of discharging any obligation or liability of Grantor with respect to the Leases and to the sums secured by this Deed of Trust, all in such order as Lender may, in its sole discretion, determine.

4.2 Rights of Lender. Upon the occurrence and during the continuance of an Event of Default, Lender may, at any time without notice (except if required by any Applicable Law), either in person, by agent or by a court-appointed receiver (with such receiver to have all powers and duties set forth for receivers in this Deed of Trust and as prescribed by Applicable Law), regardless of the adequacy of Lender's security, and at Lender's sole election (without any obligation to do so), to the extent permitted by Applicable Law, enter upon and take possession and control of the Collateral to perform all acts necessary and appropriate to operate and maintain the Collateral, including to execute, cancel or modify the Leases, make repairs to the Collateral, execute or terminate contracts providing for the management or maintenance of the Collateral, all on such terms as are deemed best to protect the security of this assignment. Lender or the receiver, to the extent permitted by Applicable Law, shall have access to the books and records used in the operation and maintenance of the Collateral and shall be liable to account only for those Rents actually received. Lender shall not be liable to Grantor, anyone claiming under or through Grantor or anyone having an interest in the Collateral by reason of anything done or left undone by Lender hereunder, except to the extent of

Lender's gross negligence or willful misconduct. Any entering upon and taking possession and control of the Collateral by Lender or the receiver and any application of Rents as provided herein shall not cure or waive any Default or invalidate any other right or remedy of Lender.

4.3 Grantor's Affirmative Obligations. Grantor shall: (a) fulfill, perform and observe in all respects each and every condition and covenant of Grantor contained in any Lease; (b) give prompt notice to Lender of any claim or event of default under any Lease given to or by Grantor, together with a complete copy or statement of any information submitted or referenced in support of such claim or event of default; (c) at the sole cost and expense of Grantor, enforce the performance and observance of each and every covenant and condition of any Lease to be performed or observed by any other party thereto, unless such enforcement is waived in writing by Lender; and (d) appear in and defend any action challenging the validity, enforceability or priority of the Lien created hereby or the validity or enforceability of any Lease. Grantor shall cause the tenant under each Lease to comply with Grantor's obligations contained in **Article 3**; *provided, however*, this requirement shall not relieve or release Grantor from any of its obligations under **Article 3** or elsewhere in any of the Loan Documents.

4.4 Negative Covenants. Grantor shall not, without Lender's consent, which consent shall not be unreasonably withheld, conditioned or delayed: (a) enter into any Lease; (b) modify or amend the terms of any Lease; (c) grant any consents under any Lease, including any consent to an assignment of any Lease, a mortgaging of the leasehold estate created by any Lease or a subletting by the tenant under any Lease; (d) terminate, cancel, surrender, or accept the surrender of, any Lease, or waive or release any Person from the observance or performance of any obligation to be performed pursuant to any Lease or from liability on account of any warranty given thereunder; or (e) assign, transfer, mortgage, pledge or hypothecate any Lease or any interest therein to any party other than Lender. Any lease, modification, grant, termination, cancellation, surrender, waiver or release in violation of the foregoing provisions shall be null and void and of no force and effect.

4.5 No Merger. Unless Lender otherwise consents or elects, Grantor's title to the Collateral and the leasehold interest in the Collateral created by any Lease shall not merge, but shall always be kept separate and distinct, notwithstanding the union of such estates in Grantor, Lender or any other person by purchase, operation of law, or by foreclosure or sale of the Collateral pursuant hereto or otherwise.

4.6 CHAPTER 64 TEXAS PROPERTY CODE. Notwithstanding anything to the contrary contained herein, Lender is entitled to all the rights and remedies of an assignee set forth in Chapter 64 of the Texas Property Code, the Texas Assignment of Rents Act ("TARA"). The assignment of Leases and Rents provided in this Deed of Trust shall constitute and serve as a security instrument under TARA. Lender shall have the ability to exercise its rights related to the Leases and Rents, in Lender's sole discretion and without prejudice to any other remedy available, as provided in this Deed of Trust or as otherwise allowed by applicable law, including, without limitation, TARA. Notwithstanding anything to the contrary contained in this Deed of Trust, to the extent this Deed of Trust contains any notice or cure period, the date enforcement of Lender's rights under TARA begins shall not be affected, extended or otherwise modified by reason of such periods.

## **ARTICLE 5 EVENTS OF DEFAULT AND REMEDIES**

5.1 Events of Default. Each Event of Default constitutes an "*Event of Default*" under this Deed of Trust.

5.2 Remedies. Grantor irrevocably agrees that, upon the occurrence and during the continuance of an Event of Default, in addition to all other rights and remedies provided in this Deed of Trust, in any of the other Loan Documents, or by Applicable Law, Lender may take (or may cause Trustee to take) all or any of the following actions, to the extent permitted by Applicable Law:

(a) Acceleration. Declare all or any part of the Secured Obligations immediately due and payable without any presentment, demand, protest or notice of any kind.

(b) Right of Entry. Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Collateral or any part thereof and do any acts that it deems necessary or desirable to preserve the value, marketability or rentability of, to increase the income from, or to protect the security of this Deed of Trust with respect to, the Collateral, or part thereof or interest therein, and, with or without taking possession of the Collateral, take any action described herein, sue for or otherwise collect the Rents, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection (including reasonable out-of-pocket attorneys' fees actually incurred) to the Secured Obligations, all in such order as Lender may determine. The entering upon and taking possession of the Collateral, the taking of any action described herein, and the collection of such Rents and the application thereof shall not cure or waive any default or notice of default or invalidate any act done in response to such default or pursuant to such notice of default. Notwithstanding the continuance in possession of the Collateral or the collection, receipt and application of Rents, Lender shall be entitled to exercise every right and remedy provided for in any of the Loan Documents or by law upon occurrence and during the continuance of any Event of Default, including without limitation the right to exercise the power of sale herein conferred.

(c) UCC Collateral. It is the express understanding and intent of the parties that as to any personal property interests subject to Article 9 of the UCC, Lender, upon the occurrence and during the continuance of an Event of Default, may proceed under the UCC or may proceed as to both real and personal property interests in accordance with the provisions of this Deed of Trust and its rights and remedies in respect to real property, as specifically permitted under Section 9-604 of the UCC.

(d) Grantor's Remedies. Exercise all of Grantor's rights and remedies under the Loan Documents, including, without limitation, making demands and claims and receiving payments under the Loan Documents. Grantor hereby grants Lender a power of attorney (which grant shall be deemed irrevocable and coupled with an interest) to exercise such rights and remedies;

(e) Payment of Taxes and Insurance. Apply any sums received on behalf of Grantor toward payment of the taxes, assessment and insurance premiums for the Collateral and/or as a credit on the Secured Obligations in such priority and proportion as Lender may determine in its sole discretion;

(f) Surrender of Insurance Policies. If held by Lender, surrender the insurance policies maintained with respect to the Collateral, collect the unearned insurance premiums and apply such sums as a credit on the Secured Obligations in such priority and proportion as Lender in its sole discretion shall deem proper, and in connection therewith, Grantor hereby appoints Lender as agent and attorney in fact (which is coupled with an interest and is therefore irrevocable) for Lender to collect such insurance premiums; and

(g) Exercise of Power of Sale. Sell Grantor's interest in the Collateral pursuant to the power of sale herein conferred. If Lender elects to sell Grantor's interest in the Collateral by exercise of such power of sale, Lender shall cause (or shall cause Trustee to cause) such sale to be performed in the manner then required by law. Any such sale (including notice thereof) shall comply with the applicable requirements, at the time of the sale, of Section 51.002 of the Texas Property Code or, if and to the extent such statute is not then in force, with the applicable requirements, at the time of the sale, of the successor statute or statutes, if any, governing sales of Texas real property under powers of sale conferred by deeds of trust.

(i) Lender, at its option, may sell the Collateral or any part of the Collateral at one or more public sale or sales at the usual place for conducting sales at the courthouse of the county in which the Collateral or any part of the Collateral is situated, to the highest bidder for cash, in order to pay the Secured Obligations, and all expenses of sale and of all proceedings in connection therewith, including reasonable attorneys' fees, after advertising the time, place and terms of sale once a week for four consecutive weeks immediately preceding such sale (but without regard to the number of days) in a newspaper in which Sheriff's sales are advertised in said county. At any such public sale, Lender may execute and deliver to the purchaser a conveyance of the Collateral or any part of the Collateral in fee simple with full warranties of title, and to this end Grantor hereby constitutes and appoints Lender the agent and attorney in fact of Grantor to make such sale and

conveyance, and thereby to divest Grantor of all right, title and equity that Grantor may have in and to the Collateral and to vest the same in lawful money of the United States payable at the time of sale, or as otherwise may then be required by law. Lender shall deliver to such purchaser or purchasers at such sale or sales, and all the acts and doings of said agent and attorney in fact are hereby ratified and confirmed and any recitals in said conveyance or conveyances as to facts essential to a valid sale shall be binding upon Grantor. The aforesaid power of sale and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise, are granted as cumulative of the other remedies provided hereby or by law for collection of the Secured Obligations and shall not be exhausted by one exercise thereof but may be exercised until full payment of all of the Secured Obligations. In the event of any sale under this Deed of Trust by virtue of the exercise of the powers herein granted, or pursuant to any order in any judicial proceeding or otherwise, the Collateral may be sold as an entirety or in separate parcels and in such manner or order as Lender in its sole discretion may elect, and, if Lender so elects, Lender may sell the personal property covered by this Deed of Trust at one or more separate sales in any manner permitted by the UCC, and one or more exercises of the powers herein granted shall not extinguish nor exhaust such powers, until the entire Collateral is sold or the Secured Obligations are paid in full. Without implying that other means of disposition would not be commercially reasonable, Grantor agrees that it would be commercially reasonable to foreclose the personal property covered by this Deed of Trust in the same foreclosure sale at which the Collateral is foreclosed, either with or without conducting a separate bid for the personal property covered by this Deed of Trust. Nevertheless, to the full extent permitted by law, all parts of the personal property covered by this Deed of Trust shall be deemed to be real property or fixtures and a part of the freehold, and not personal property. If the Secured Obligations are now or hereafter further secured by any chattel mortgages, pledges, contracts of guaranty, assignments of lease or other security instruments, Lender may at its option exhaust the remedies granted under any of said security instruments either concurrently or independently and in such order as Lender may determine.

(ii) If an Event of Default shall have occurred and be continuing, Lender may, in addition to and not in abrogation of the rights covered under *clause (g)(i)* above, either with or without entry or taking possession as herein provided or otherwise, proceed by a suit or suits in law or in equity or by any other appropriate proceeding or remedy (A) to enforce payment of the indebtedness under the Note and the Loan Agreement or the performance of any term, covenant, condition or agreement of this Deed of Trust or any other right; and (B) to pursue any other remedy available to it, all as Lender at its sole discretion shall elect.

(iii) As may be permitted by law, Lender shall apply the proceeds of sale to payment of (A) first, to payment of all costs, fees and expenses, including attorneys' fees and expenses incurred by Lender in exercising the power of sale or foreclosing this Deed of Trust; (B) second, to the Indebtedness in such order as Lender, in Lender's discretion, directs; and (C) third, to the person or persons legally entitled to same (which may include Guarantor).

(iv) Lender may in the manner provided by law postpone sale of all or any portion of the Collateral.

(v) Upon any foreclosure sale or sales of all or any portion of the Collateral under the power herein granted, Lender may bid for and purchase the Collateral and shall be entitled to apply all or any part of the Secured Obligations as a credit to the purchase price.

(h) Appointment of Receiver. If an Event of Default shall have occurred and be continuing, Lender, as a matter of right and without notice to Grantor or anyone claiming under Grantor, and without regard to the then value of the Collateral or the interest of Grantor therein, or the insolvency of Grantor or the then owner of the Collateral, may seek the appointment of a receiver for the Collateral upon ex parte application to any court of the competent jurisdiction. Grantor waives any right to any hearing or notice of hearing prior to the appointment of a receiver. Such receiver shall be empowered (a) to take possession of the Collateral and any businesses conducted by Grantor thereon and any business assets used in connection therewith; (b) to exclude Grantor and Grantor's agents, servants and employees from the Collateral, or, at the

option of the receiver, in lieu of such exclusion, to collect a fair market rental from any such persons occupying any part of the Collateral; (c) to collect the Rents; (d) to complete any construction that may be in progress, (e) to continue the development, marketing and sale of the Collateral; (f) to do such maintenance and make such repairs and alterations as the receiver deems necessary; (g) to use all stores of materials, supplies and maintenance equipment on the Collateral and replace such items at the expense of the receivership estate; (h) to pay all taxes and assessments against the Collateral, all premiums for insurance thereon, all utility and other operating expenses, and all sums due under any prior or subsequent encumbrance; (i) to request that Lender advance such funds as may reasonably be necessary to the effective exercise of the receiver's powers, on such terms as may be agreed upon by the receiver and Lender, but not in excess of the Default Rate; and (j) generally to do anything that Grantor could legally do if Grantor were in possession of the Collateral. All expenses incurred by the receiver or his agents, including obligations to repay funds borrowed by the receiver, shall constitute a part of the Secured Obligations. Any revenues collected by the receiver shall be applied first to the expenses of the receivership, including reasonable attorneys' fees incurred by the receiver and by Lender, together with interest thereon at the highest rate of interest applicable in the Loan Agreement and the Note from the date incurred until repaid, and the balance shall be applied toward the Secured Obligations or in such other manner as the court may direct.

5.3 Lender's Exercise of Remedies. Lender shall be entitled to enforce payment and performance of any Secured Obligations and to exercise all rights and powers under this Deed of Trust or under any of the other Loan Documents or any laws now or hereafter in force, notwithstanding some or all of the Secured Obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers contained in this Deed of Trust, shall prejudice or in any manner affect Lender's right to realize upon or enforce any other security now or hereafter held by Lender or Trustee, it being agreed that Lender shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Lender in such order and manner as it may in its absolute discretion determine. No remedy herein conferred upon or reserved to Lender or Trustee is intended to be exclusive of any other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Documents to Lender, or to which Lender may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Lender. To the extent permitted by Applicable Law, Lender may pursue inconsistent remedies. The acceptance by Lender of any sum after the same is due shall not constitute a waiver of the right either to require prompt payment, when due, of all other sums hereby secured or to declare a subsequent Event of Default as herein provided. The acceptance by Lender of any sum in an amount less than the sum then due shall be deemed an acceptance on account only and upon condition that it shall not constitute a waiver of the obligation of Grantor to pay the entire sum then due, and failure of Grantor to pay such entire sum then due shall be an Event of Default, notwithstanding such acceptance of such amount on account, as aforesaid. Lender shall be, at all times thereafter and until the entire sum then due as contemplated by the Loan Documents shall have been paid, and notwithstanding the acceptance by Lender thereafter of further sums on account, or otherwise, entitled to exercise all rights in this instrument conferred upon them or either of them, and the right to proceed with a sale under any notice of default, or an election to sell, or the right to exercise any other rights or remedies hereunder, shall in no way be impaired, whether any of such amounts are received prior or subsequent to such proceeding, election or exercise. Consent by Lender to any action or inaction of Grantor which is subject to consent or approval of Lender hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions or inactions.

5.4 Possession of Collateral. In the event of a foreclosure sale hereunder and after the time of such sale, Grantor occupies the portion of the Collateral so sold, or any part thereof, Grantor shall immediately become the tenant of the purchaser at such sale, Grantor shall be deemed a tenant holding over, which tenancy shall be a tenancy from day to day, terminable at the will of either tenant or landlord, at a reasonable rental per day based upon the value of the portion of the Collateral so occupied, such rental to be due and payable daily to the purchaser. An action to summarily dispossess such tenant shall lie if the tenant holds over after a demand in writing for possession of such Collateral; and this Deed of Trust and a deed under power of sale shall constitute a lease and agreement under which the tenant's possession arose and continued. Nothing contained in this Deed of Trust shall be construed to constitute Lender or Trustee as a "mortgagee in possession" in the absence of its taking actual possession of the Collateral pursuant to the powers granted herein.

5.5 Waiver of Rights. To the maximum extent permitted under Applicable Law, Grantor knowingly, voluntarily, and unconditionally: (a) waives the benefit of any Applicable Law now or hereafter existing that (i) provides for any appraisal or valuation before sale of any portion of the Collateral; (ii) in any way extends the time for the enforcement of the collection of the Secured Obligations or creates or extends a moratorium or period of redemption from any sale made in furtherance of collecting the Secured Obligations; (iii) limits Lender's right to pursue a deficiency judgment after a judicial or non-judicial foreclosure or limits the amount of any deficiency judgment; or (iv) requires or permits Grantor or the court to determine or otherwise consider the fair market value of any of the Collateral in connection with such judicial or non-judicial foreclosure and as a potential limitation on the amount of any deficiency judgment; and (b) agrees that Grantor will not at any time insist upon, plea, claim or take the benefit or advantage of any law now or hereafter in force providing for any homestead exemption, and Grantor, for Grantor, Grantor's representatives, successors and assigns, and for any and all Persons ever claiming any interest in the Collateral, waives and releases all rights of homestead exemption. In addition, Grantor expressly waives and relinquishes any and all rights, remedies and defenses that Grantor may have or be able to assert by reason of any Applicable Law pertaining to the rights, remedies and defenses of sureties. The rights, benefits and defenses hereby waived in this Section include any and all rights, benefits and defenses which might otherwise be available to Grantor under any Applicable Law that might otherwise operate to limit the liability of Grantor under, or the enforcement of, this Deed of Trust, the other Loan Documents, or the Secured Obligations.

5.6 Waiver of Deficiency Statute.

(a) Without limiting Section 5.5 above, In the event an interest in any of the Premises is foreclosed upon pursuant to a judicial or nonjudicial foreclosure sale, Grantor agrees that notwithstanding the provisions of Sections 51.003, 51.004, and 51.005 of the Texas Property Code (as the same may be amended from time to time), and to the extent permitted by law, Lender shall be entitled to seek a deficiency judgment from Grantor and any other party obligated on the Note (to the extent of such express obligation) equal to the difference between the amount owing on the Note and the amount for which the Property was sold pursuant to judicial or nonjudicial foreclosure sale. Grantor expressly recognizes that this paragraph constitutes a waiver of the above-cited provisions of the Texas Property Code which would otherwise permit Grantor and other persons against whom recovery of deficiencies is sought (even absent the initiation of deficiency proceedings against them) to present competent evidence of the fair market value of the Property as of the date of the foreclosure sale and offset against any deficiency the amount by which the foreclosure sale price is determined to be less than such fair market value. Grantor further recognizes and agrees that this waiver creates an irrebuttable presumption that the foreclosure sale price is equal to the fair market value of the Property for purposes of calculating deficiencies owed by Grantor, and others against whom recovery of a deficiency is sought.

(b) Alternatively, in the event the waiver provided for in subsection (a) above is determined by a court of competent jurisdiction to be unenforceable, to the fullest extent not prohibited by applicable laws, the following shall be the basis for the finder of fact's determination of the fair market value of the Property as of the date of the foreclosure sale in proceedings governed by Sections 51.003, 51.004 and 51.005 of the Texas Property Code (as amended from time to time):

(i) the Premises shall be valued in an "as is" condition as of the date of the foreclosure sale, without any assumption or expectation that the Premises will be repaired or improved in any manner before a resale of the Premises after foreclosure;

(ii) the valuation shall be based upon an assumption that the foreclosure purchaser desires a resale of the Premises for cash promptly (but no later than twelve months) following the foreclosure sale;

(iii) all reasonable closing costs customarily borne by the seller in a commercial real estate transaction should be deducted from the gross fair market value of the Premises, including brokerage commissions, title insurance, a survey of the Premises, tax prorations, seller's attorneys' fees and marketing costs;

(iv) the gross fair market value of the Premises shall be further discounted to account for any estimated holding costs associated with maintaining the Premises pending sale, including

utilities expenses, property management fees, taxes and assessments (to the extent not accounted for in subsection (iii) above) and other maintenance expenses; and

(v) any expert opinion testimony given or considered in connection with a determination of the fair market value of the Premises must be given by persons having at least five years' experience in appraising property similar to the Premises and who have conducted and prepared a complete written appraisal of the Premises taking into consideration the factors set forth above.

5.7 Marshaling. Lender shall not be required to marshal any present or future collateral security (including the Collateral) for, or other assurances of payment of, the Secured Obligations or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights and remedies hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights and remedies, however existing or arising. To the extent that it lawfully may, Grantor agrees that it will not invoke any law relating to the marshaling of collateral which might cause a delay in or impede the enforcement of Lender's rights and remedies under this Deed of Trust or under any of the other Loan Documents, and, to the extent that it lawfully may, Grantor irrevocably waives the benefits of all such laws.

5.8 Multiple Security. If (a) the Collateral consists of one or more parcels, whether or not contiguous and whether or not located in the same county, and/or (b) if, in addition to this Deed of Trust, Lender now or hereafter holds one or more additional mortgages, liens, deeds of trust or other security for the Secured Obligations upon other property in the state where the Premises are located (whether such property is owned by Grantor or others), Lender may, at its election, commence or consolidate (or cause Trustee to commence or consolidate) in a single foreclosure action all of the foreclosure proceedings against all such collateral securing the Secured Obligations (including the Collateral), which action or sale may be brought, consolidated, or conducted in the courts of any county in which any of such collateral is located. Grantor irrevocably waives any objections to the commencement or consolidation of the foreclosure proceedings in a single action and any objections to the laying of venue or based on the grounds of forum non conveniens which it may now or hereafter have. Grantor agrees that if Lender is prosecuting one or more foreclosure or other proceedings against a portion of the Collateral or against any other collateral directly or indirectly securing the Secured Obligations, or if Lender obtains a judgment of foreclosure and sale or similar judgment against such collateral, then, whether or not such proceedings are being maintained or judgments were obtained in or outside the state in which the Premises are located, Lender may commence or continue any foreclosure proceedings and exercise its other remedies granted in this Deed of Trust against all or any part of the Collateral, and Grantor waives any objections to the commencement or continuation of a foreclosure of this Deed of Trust or exercise of any other remedies hereunder based on such other proceedings or judgments, and waives any right to seek to dismiss, stay the execution of, remove, transfer or consolidate either any action under this Deed of Trust or such other proceedings on such basis. It is expressly understood and agreed that to the fullest extent permitted by Applicable Law, Lender may, at its election, cause (or cause Trustee to cause) the sale of all collateral which is the subject of a single foreclosure action at either a single sale or at multiple sales conducted simultaneously and take such other measures as are appropriate in order to effect the agreement of the parties to dispose of and administer all collateral securing the Secured Obligations (directly or indirectly) in the most economical and least time-consuming manner.

5.9 Request for Notice. Grantor requests a copy of any notice of default and that any notice of sale under this Deed of Trust be mailed to it in accordance with the provisions below for the giving of notices.

## ARTICLE 6 MISCELLANEOUS

6.1 Applicability of General Provisions. All provisions of the Loan Agreement Article entitled "*General Provisions*" apply to this Deed of Trust, the same as if such provisions were set forth in full in this Deed of Trust.

6.2 Notices. Notices pursuant to this Deed of Trust shall be given as provided in the Loan Agreement.

6.3 Governing Law. **ALL PROVISIONS OF THIS DEED OF TRUST SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE WHERE THE PREMISES**

**ARE LOCATED; provided, however,** that with respect to any married individual signing this Agreement or any other Loan Document who is not a resident of the State of Texas, this Section shall not be a contractual choice of the community property laws of the State of Texas.

6.4 Other Security Documents. The provisions hereof supplement the provisions of any other Loan Document that grants a Lien to Lender or that otherwise secures payment or performance of any of the Secured Obligations, and nothing contained therein shall derogate from any of the rights or remedies of Lender hereunder.

6.5 Headings. The headings of sections and paragraphs in this Deed of Trust are for convenience or reference only and shall not be construed in any way to limit or define the content, scope, or intent of the provisions.

6.6 Grammar. As used in this Deed of Trust, the singular shall include the plural, and masculine, feminine, and neuter pronouns shall be fully interchangeable, where the context so requires.

6.7 Counterparts. This Deed of Trust may be executed in any number of separate counterparts, each of which shall collectively and separately constitute one Deed of Trust.

6.8 Severability. If any provision of this Deed of Trust, or any paragraph, sentence, clause, phrase, or word, or their application, in any circumstance, is held invalid, the validity of the remainder of this Deed of Trust shall be construed as if such invalid part were never included.

6.9 Non-Waiver. Unless expressly provided in this Deed of Trust to the contrary, no consent or waiver, express or implied, by any party, to or of any breach or default by any other party shall be deemed a consent to or waiver of the performance by such defaulting party of any other obligations or the performance by any other party of the same, or of any other, obligations.

6.10 Mortgagee in Possession. Nothing contained in this Deed of Trust shall be construed as constituting Lender a mortgagee in possession in the absence of the actual taking of possession of the Collateral.

6.11 Incorporation of Loan Agreement; No Conflicts. The terms of the Loan Agreement are incorporated by reference herein as though set forth in full detail. In the event of a conflict between any other term or provision of this Deed of Trust and the Loan Agreement, the terms and provisions of the Loan Agreement shall control.

6.12 Modifications. This Deed of Trust may not be modified except in a writing executed by Grantor and Lender. Any agreement made by Grantor and Lender after the date hereof relating hereto, to the Collateral, or to any Secured Obligation shall be superior to any intervening or subordinate Lien.

6.13 Last Dollars Secured; Priority. If at any time this Deed of Trust shall secure less than all of the principal amount of the Secured Obligations, it is expressly agreed that any repayments of the principal amount of the Secured Obligations shall not reduce the amount of the Lien of this Deed of Trust until the Lien amount shall equal the principal amount of the Secured Obligations outstanding.



6.14 Waiver of Grantor's Rights. BY EXECUTION OF THIS DEED OF TRUST, GRANTOR EXPRESSLY (A) ACKNOWLEDGES THE RIGHT OF LENDER TO ACCELERATE THE OBLIGATIONS EVIDENCED BY THE NOTE AND ANY OTHER OBLIGATIONS AND THE POWER OF ATTORNEY GIVEN HEREIN TO LENDER TO SELL THE COLLATERAL BY NONJUDICIAL FORECLOSURE UPON AN EVENT OF DEFAULT BY GRANTOR WHICH HAS OCCURRED AND IS CONTINUING WITHOUT ANY JUDICIAL HEARING AND WITHOUT ANY NOTICE OTHER THAN SUCH NOTICE (IF ANY) AS IS SPECIFICALLY REQUIRED TO BE GIVEN UNDER THE PROVISIONS OF THIS DEED OF TRUST; (B) WAIVES ANY AND ALL RIGHTS WHICH GRANTOR MAY HAVE UNDER THE CONSTITUTION OF THE UNITED STATES OF AMERICA (INCLUDING, WITHOUT LIMITATION, THE FIFTH AND FOURTEENTH AMENDMENTS THEREOF), THE VARIOUS PROVISIONS OF THE CONSTITUTIONS FOR THE SEVERAL STATES, OR BY REASON OF ANY OTHER APPLICABLE LAW, (1) TO NOTICE AND TO JUDICIAL HEARING PRIOR TO THE EXERCISE BY LENDER OF ANY RIGHT OR REMEDY HEREIN PROVIDED TO LENDER, EXCEPT SUCH NOTICE (IF ANY) AS IS SPECIFICALLY REQUIRED TO BE GIVEN UNDER THE PROVISIONS OF THIS DEED OF TRUST AND (2) CONCERNING THE APPLICATION, RIGHTS OR BENEFITS OF ANY STATUTE OF LIMITATION OR ANY MORATORIUM, REINSTATEMENT, MARSHALLING, FORBEARANCE, APPRAISEMENT, VALUATION, STAY, EXTENSION, HOMESTEAD, EXEMPTION OR REDEMPTION LAWS; (C) ACKNOWLEDGES THAT GRANTOR HAS READ THIS DEED OF TRUST AND ANY AND ALL QUESTIONS OF GRANTOR REGARDING THE LEGAL EFFECT OF THIS DEED OF TRUST AND ITS PROVISIONS HAVE BEEN EXPLAINED FULLY TO GRANTOR, AND GRANTOR HAS CONSULTED WITH COUNSEL OF GRANTOR'S CHOICE PRIOR TO EXECUTING THIS DEED OF TRUST; AND (D) ACKNOWLEDGES THAT ALL WAIVERS OF THE AFORESAID RIGHTS OF GRANTOR HAVE BEEN MADE KNOWINGLY, INTENTIONALLY AND WILLINGLY BY GRANTOR AS PART OF A BARGAINED-FOR LOAN TRANSACTION AND THAT THIS DEED OF TRUST IS VALID AND ENFORCEABLE BY LENDER AGAINST GRANTOR IN ACCORDANCE WITH ALL THE TERMS AND CONDITIONS HEREOF.

INITIALED BY GRANTOR

By: ML

Its: AUTHORIZED SIGNATORY

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

6.16 Binding Effect. This Deed of Trust shall be binding upon and inure to the benefit of Grantor and Lender and their respective successors and permitted assigns, including, any United States trustee, any debtor in possession or any trustee appointed from a private panel.

6.17 TEXAS FINANCE CODE SECTION 307.052 COLLATERAL PROTECTION INSURANCE NOTICE: (A) GRANTOR IS REQUIRED TO: (I) KEEP THE PREMISES INSURED AGAINST DAMAGE IN THE AMOUNT LENDER SPECIFIES; (II) PURCHASE THE INSURANCE FROM AN INSURER THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE OF TEXAS OR AN ELIGIBLE SURPLUS LINES INSURER; AND (III) NAME LENDER AS THE PERSON TO BE PAID UNDER THE POLICY IN THE EVENT OF A LOSS; (B) GRANTOR MUST, IF REQUIRED BY LENDER, DELIVER TO BENEFICIARY A COPY OF THE POLICY AND PROOF OF THE PAYMENT OF PREMIUMS; AND (C) IF GRANTOR FAILS TO MEET ANY REQUIREMENT LISTED IN CALUSE (A) OR (B), LENDER MAY OBTAIN COLLATERAL PROTECTION INSURANCE ON BEHALF OF GRANTOR AT THE GRANTOR'S EXPENSE.

6.18 WAIVER OF CONSUMER RIGHTS. TO THE EXTENT NOW OR HEREAFTER APPLICABLE, GRANTOR HEREBY WAIVES GRANTOR'S RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES - CONSUMER PROTECTION ACT, SECTION 17.41 ET SEQ., BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF GRANTOR'S OWN SELECTION, GRANTOR VOLUNTARILY CONSENTS TO THIS WAIVER.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, Grantor has hereto set its hand and seal the day and year first above written.

Signed, sealed and delivered  
in presence of

**GRANTOR:**

**PRESIDIO183 LLC**, a Texas limited liability  
company

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

*[Signature]*

By: Space506 Manager LLC,  
a Texas limited liability company  
Its: Manager

By: *[Signature]*  
Name: Minhas Ladiwalla  
Its: Authorized Signatory

My Commission Expires:

(AFFIX NOTARY SEAL)



(Corporate Seal)

Principal Place of Business and Address for Notices:  
405 State Highway 121 Bypass, Suite C-140  
Lewisville, TX 75067

## **EXHIBIT 1.2 LEGAL DESCRIPTION**

**Tract 1:**

Lot 2, PURE LODGING SUBDIVISION, a subdivision in Williamson County, Texas, according to the map or plat recorded in Cabinet GG, Slides 301-302, Plat Records of Williamson County, Texas.

**Tract 2:**

Lot 1, Block A, PURE LODGING DRIVEWAY SUBDIVISION, a subdivision in Williamson County, Texas, according to the map or plat recorded in Document No. 2011041937, Official Public Records of Williamson County, Texas.

**Tract 3:**

EASEMENT ESTATE ONLY as created and described in Declaration of Easements and Restrictive Covenant Regarding Unified Development and Maintenance of Drainage Facilities dated December 20, 2010, by and between Pure Lodging Hospitality, L.L.C. and Pure Lodging Hospitality Two, L.L.C., recorded in Document No. 2011002326, Official Public Records of Williamson County, Texas, being over and across portions of Lot 1, PURE LODGING SUBDIVISION, a subdivision in Williamson County, Texas, according to the map or plat recorded in Cabinet GG, Slides 301-302, Plat Records of Williamson County, Texas.

**Tract 4:**

An EASEMENT ESTATE ONLY as created and described in Access Easement Agreement dated January 13, 2011 by and between Pure Lodging Hospitality, L.L.C., a Texas limited liability company and 183 BLW, LP, a Texas limited partnership, recorded in Document No. 2011007017, as affected by First Amendment to Access Easement Agreement dated August 19, 2011, recorded in Document No. 2011055234, Official Public Records of Williamson County, Texas, being over and across Lot 1, Block A, PURE LODGING DRIVEWAY SUBDIVISION, a subdivision in Williamson County, Texas, according to the map or plat recorded in Document No. 2011041937, Official Public Records of Williamson County, Texas.

**Tract 5:**

An EASEMENT ESTATE ONLY as created and described in Joint Use Access Easement dated July 14, 2011, by and between Pure Lodging Hospitality, L.L.C, a Texas limited liability company and 183 BLW, LP, a Texas limited partnership, recorded in Document No. 2011054889, Official Public Records of Williamson County, Texas, being over and across Lot 1, Block A, PURE LODGING DRIVEWAY SUBDIVISION, a subdivision in Williamson County, Texas, according to the map or plat recorded in Document No. 2011041937, Official Public Records of Williamson County, Texas.

**Tract 6:**

EASEMENT ESTATE ONLY appurtenant to Tract 1 as created and described in Sign Easement Agreement dated March 29, 2012, by and between Pure Lodging Hospitality, L.L.C, a Texas limited liability company and Pure Lodging Hospitality Two, L.L.C, a Texas limited liability company, recorded in Document No. 2012023519, Official Public Records of Williamson County, Texas, being over and across a portion of Lot 1, PURE LODGING SUBDIVISION, a subdivision in Williamson County, Texas, according to the map or plat recorded in Cabinet GG, Slides 301-302, Plat Records of Williamson County, Texas.

**Tract 7:**

EASEMENT ESTATE ONLY appurtenant to Tract 1 as created and described in Storm Water and Drainage Easement and Agreement dated March 29, 2012, by and between Pure Lodging Hospitality, L.L.C, a Texas limited liability company and Pure Lodging Hospitality Two, L.L.C, a Texas limited liability company, recorded in Document No. 2012023521, Official Public Records of Williamson County, Texas, being over and across a portion of Lot 1, PURE LODGING SUBDIVISION, a subdivision in Williamson County, Texas, according to the map or plat recorded in Cabinet GG, Slides 301-302, Plat Records of Williamson County, Texas.

**Tract 8:**

EASEMENT ESTATE ONLY appurtenant to Tract 1 as created and described in Joint Use Driveway and Parking Easement and Shared Costs Agreement dated March 29, 2012, by and between Pure Lodging Hospitality, L.L.C, a Texas limited liability company and Pure Lodging Hospitality Two, L.L.C, a Texas limited liability company, recorded in Document No. 2012023522, Official Public Records of Williamson County, Texas, being over and across a portion of Lot 1, PURE LODGING SUBDIVISION, a subdivision in Williamson County, Texas, according to the map or plat recorded in Cabinet GG, Slides 301-302, Plat Records of Williamson County, Texas.

**EXHIBIT 1.2(d)**  
**THE UCC COLLATERAL**

The "UCC Collateral" consists of all of the following described property, whether now owned or hereafter acquired and wherever located, together with all replacements and substitutions therefor and all cash and non-cash proceeds (including insurance proceeds and any title or UCC insurance proceeds) and products thereof, and, in the case of tangible property, together with all additions, attachments, accessions, parts, equipment and repairs now or hereafter attached or affixed thereto or used in connection therewith, excluding, however, any and all "consumer goods," as defined in the Texas Uniform Commercial Code (the "**TX UCC**"): All of Grantor's right, title, and interest in: (a) all types of property included within the term "equipment" as defined by the TX UCC (except vehicles, boats and airplanes), including machinery, furniture, appliances, trade fixtures, tools, and office and record keeping equipment; (b) all inventory, including all goods held for sale, raw materials, work in process and materials or supplies used or consumed in Grantor's business; (c) all documents; general intangibles; accounts; contract rights; chattel paper and instruments; money; securities; investment properties; deposit accounts; supporting obligations; letters of credit and letter of credit rights; commercial tort claims; and records, software and information contained in computer media (such as databases, source and object codes and information therein), together with any equipment and software to create, utilize, maintain or process any such records or data on electronic media; (d) any and all plans and specifications, designs, drawings and other matters prepared for any construction on any of the Premises or regarding any improvements to any of the Premises and any and all construction contracts, design agreements, engineering agreements and other agreements related to the construction of any such improvements; (e) goodwill; and (f) to the extent constituting collateral with respect to which a security interest may be created pursuant to ~~Article 9~~ of the TX UCC, amounts paid as rents, fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties.

**EXHIBIT 2.1(a)**  
**SECURED NOTE SCHEDULE**

<b>Borrower</b>	<b>Lender</b>	<b>Note Description</b>	<b>Note Date</b>	<b>Original Principal Amount</b>
PRESIDIO183 LLC, a Texas limited liability company	PRETIUM CEDAR PARK LENDER, LLC, a Texas limited liability company	Term Loan Note	August 24, 2022	\$9,825,000.00