

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT, AT ANCHORAGE

ALASKA BUILDING, INC., an Alaska
corporation,

Plaintiff

vs.

716 WEST FOURTH AVENUE LLC, and
LEGISLATIVE AFFAIRS AGENCY

Defendants.

COPY
Original Received
FEB 22 2016
Clerk of the Trial Courts

Case No. 3AN-15-05969CI

**MOTION TO SHOW CAUSE WHY 716 WEST FOURTH
AVENUE LLC SHOULD NOT BE HELD IN CONTEMPT**

Alaska Building, Inc., hereby moves for an order to show cause why the Manager of defendant 716 West Fourth Avenue LLC (716 LLC) should not be held in contempt for disobeying this Court's (1) January 13, 2016, Order Regarding Alaska Building Inc's Motion to Compel, and (2) January 15, 2016, Discovery Order.

Dated February 22, 2016.


James B. Gottstein, ABA # 7811100
Attorney for Plaintiff

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT, AT ANCHORAGE

ALASKA BUILDING, INC., an Alaska
corporation,

Plaintiff

vs.

716 WEST FOURTH AVENUE LLC, and
LEGISLATIVE AFFAIRS AGENCY

Defendants.

COPY
Original Received

FEB 22 2016

Clerk of the Trial Courts

Case No. 3AN-15-05969CI

**MEMORANDUM IN SUPPORT OF
MOTION TO SHOW CAUSE WHY 716 WEST FOURTH
AVENUE LLC SHOULD NOT BE HELD IN CONTEMPT**

Alaska Building, Inc., has moved for an order to show cause why the Manager of defendant 716 West Fourth Avenue LLC (716 LLC) should not be held in contempt for disobeying this Court's January 13, 2016, Order Regarding Alaska Building Inc's Motion to Compel (Order to Compel), and its January 15, 2016, Discovery Order (Discovery Order).

A. Facts

The Order to Compel, required 716 LLC, among other things, to produce all documents responsive to Request for Production No. 1,¹ subject to (a) the right to seek a

¹ Request for Production No. 1 is for:

[A]ll loan applications and other documents relating to financing the New LIO Building, including without limitation, all projections and *pro formas*

protective order under Rule 26(c) contemporaneously with producing the documents, and (2) providing a proper privilege log as required by Rule 26(b)(5) for any documents withheld. More specifically, paragraph 5 of the Discovery Order provides:

5. A producing party wishing to . . . keep any documents confidential must produce the documents when due and properly seek a protective order under Civil Rule 26(c).²

In its February 17, 2016, Motion for Protective Order and Statement of Compliance With Court's Order Regarding AGI's Motion to Compel (Motion for Protective Order), at pages 2-3, 716 LLC states:

At this time, 716 is not producing loan documents that may include "personal financial statements" or any material previously found by the court to be 'irrelevant to the legality of the lease," including 716's financial information and seeks a protective order from this court relieving it of the obligation to produce financial information as to 716 and its members. . . .

Later on page 3, 716 LLC states:

In compliance with the court's ruling with respect to RFP 1, and subject to the instant protective order, as requested by the court, 716 hereby produces the following loan applications and other documents relating to financing the LIO building: Bates Nos.: 716-006147-716-00006172.

This statement is untrue. Bates Nos.: 716-006147-716-00006172 is the construction deed

and personal financial statements. This includes, without limitation, both interim or construction financing, and permanent financing and loans that were consummated and loans that were not, if any.

² 716 LLC is protected from dissemination during the pendency of any motion for protective order by paragraph 7 of the Discovery Order. In addition, paragraph 2 of the Discovery Order makes all personal financial information confidential and the interlineation by the Court at the end prohibits publication of financial information not involving a public figure (legislator or state employee) without court order.

*Memorandum in Support of
Motion for Order to Show Cause*

Page 2 of 4

of trust, Exhibit 1. That's it. No loan applications were produced. No *pro formas* or any other information that may be indicative of the value of the New LIO Building supplied with the loan application(s), other than the Lowe Appraisal that Alaska Building, Inc., specifically indicated need not be produced were produced.³ See, Affidavit of James B. Gottstein in Support of Motion to Show Cause.

In paragraph 6 of the Affidavit of Jeffrey W. Robinson in Support of Motion for Protective Order, Mr. Robinson states that if Alaska Building, Inc., wants 716 LLC to produce documents relating to the financing of the New LIO Building it has already been ordered to produce in the Order to Compel, it "should make a request to the court."

A. Analysis

Alaska Building, Inc., already made that request with its Motion to Compel and this Court ordered 716 LLC to produce documents responsive to Request Production No. 1 in its Order to Compel, which 716 LLC has willfully disobeyed.

Civil Rule 37(b)(2)(D) provides in pertinent part:

"If a party or an officer, director, or managing agent of a party . . . fails to obey an order to provide . . . discovery, . . . the court in which the action is pending may make an order treating as a contempt of court the failure to obey . . ."

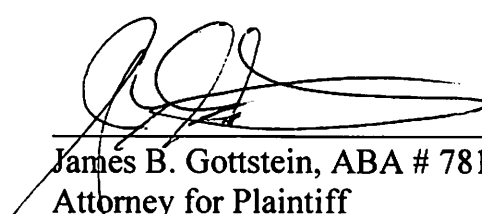
³ The copy of the Lowe Appraisal produced by 716 LLC appears to have been downloaded from the gottsteinlaw.com website because it has exactly the same highlighting where Mr. Lowe explicitly bases the appraisal on the rent being paid under the lease rather than market rates. See, Exhibit 2, which are the two relevant pages as they have been on the website since at least November 1, 2015, and Exhibit 3, which are the same two pages produced by 716 LLC as 716-006180 & 716-006182.

In *Lee v. State*, 141 P.3d 342 (Alaska 2006), the Alaska Supreme Court upheld an order to show cause why the defendant should not be held in contempt for violating an order requiring production of documents. This is exactly the situation here. Frankly, Alaska Building, Inc., finds 716 LLC's flouting of this Court's Order to Compel and Discovery Order stunning.

B. Conclusion

For the foregoing reasons, the Manager of 716 LLC should be ordered to show cause why he should not be held in contempt for 716 LLC's flouting of this Court's Order to Compel.

Dated February 22, 2016.



James B. Gottstein, ABA # 7811100
Attorney for Plaintiff

RECORDATION

REQUESTED BY:
Wells Fargo Bank,
National Association
Commercial Real
Estate
MAC # K3212-020
301 W. Northern
Lights Blvd, Suite
201
Anchorage, AK
99503

WHEN RECORDED MAIL

TO:
Wells Fargo Bank,
National Association
BBSG - Boise Loan
Ops LDI
P.O. Box 34656
San Antonio, TX
78265

FOR RECORDER'S USE ONLY



200174581206000235

CONSTRUCTION DEED OF TRUST

THIS DEED OF TRUST is dated December 6, 2013, among 716 West Fourth Avenue, LLC, an Alaska limited liability company, whose address is c/o Mark Pfeiffer, Manager, 425 G Street, Suite 210, Anchorage, AK 99501 ("Grantor"); Wells Fargo Bank, National Association, whose address is Commercial Real Estate, MAC # K3212-020, 301 W. Northern Lights Blvd, Suite 201, Anchorage, AK 99503 (referred to below sometimes as "Lender" and sometimes as "Beneficiary"); and Wells Fargo Financial National Bank, whose address is c/o BBSG-Boise Loan Ops LDI, P.O. Box 34656, San Antonio, TX 78265 (referred to below as "Trustee").

CONVEYANCE AND GRANT. For valuable consideration, Grantor conveys to Trustee in trust,

716-006147

DEED OF TRUST
(Continued)

Page 2

with power of sale, for the benefit of Lender as Beneficiary, all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements; rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in the Anchorage Recording District, Third Judicial District, the State of Alaska:

Parcel No. 1:

The West 39 and 1/2 feet of Lot 2, Block 40, ORIGINAL TOWNSITE OF ANCHORAGE, Records of the Anchorage Recording District, Third Judicial District, State of Alaska;

EXCEPTING THEREFROM the North 10 feet taken by the City of Anchorage for street and sidewalk purposes.

Parcel No. 2:

Lot 3A, Block 40, ANCHORAGE TOWNSITE, according to the official plat thereof, filed under Plat Number 84-58, Records of the Anchorage Recording District, Third Judicial District, State of Alaska.

The Real Property of its address is commonly known as 712 & 718 W 4TH AVE, ANCHORAGE, AK 99501. The Real Property tax identification number is 002-105-26 & 002-105-49.

CROSS-COLLATERALIZATION. In addition to the Note, this Deed of Trust secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations; and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

Grantor presently assigns to Lender (also known as Beneficiary in this Deed of Trust) all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property as security for the indebtedness. In addition to this assignment under common law, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents:

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE: (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS ALSO GIVEN TO SECURE ANY AND ALL OF GRANTOR'S OBLIGATIONS UNDER THAT CERTAIN CONSTRUCTION LOAN AGREEMENT BETWEEN

716-006148

DEED OF TRUST
(Continued)

Page 3

GRANTOR AND LENDER OF EVEN DATE HERewith. ANY EVENT OF DEFAULT UNDER THE CONSTRUCTION LOAN AGREEMENT, OR ANY OF THE RELATED DOCUMENTS REFERRED TO THEREIN, SHALL ALSO BE AN EVENT OF DEFAULT UNDER THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Deed of Trust, Grantor shall pay to Lender all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Grantor's obligations under the Note, this Deed of Trust, and the Related Documents.

CONSTRUCTION MORTGAGE. This Deed of Trust is a "construction mortgage" for the purposes of Sections 9-534 and 2A-309 of the Uniform Commercial Code, as those sections have been adopted by the State of Alaska.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may: (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property (this privilege is a license from Lender to Grantor automatically revoked upon default).

Duty to Maintain. Grantor shall maintain the Property in tenable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Compliance With Environmental Laws. Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with the section of the Deed of Trust. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby: (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Lender against any and all

716-006149

DEED OF TRUST
(Continued)

Page 4

claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Deed of Trust or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Deed of Trust, including the obligation to indemnify and defend, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Deed of Trust and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

Removal of Improvements. Grantor shall not demolish or remove any improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Deed of Trust.

Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Duty to Protect. Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which, from the character and use of the Property are reasonably necessary to protect and preserve the Property.

DUE ON SALE - CONSENT BY LENDER. Lender may, at Lender's option, declare immediately due and payable all sums secured by this Deed of Trust upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. "A sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property, whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, community property agreement or community property trust or other trust, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or

716-006150

**DEED OF TRUST
(Continued)**

Page 5

by any other method of conveyance of an interest in the Real Property. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Alaska law.

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are part of this Deed of Trust:

Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, special taxes, assessments, charges (including water and sewer), fines and impositions levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Deed of Trust, except for the lien of taxes and assessments not due and except as otherwise provided in this Deed of Trust.

Right to Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and reasonable attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

Notice of Construction. Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Deed of Trust.

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a cash basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgage clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such

716-006151

DEED OF TRUST
(Continued)

Page 6

coverage amounts as Lender may request with Trustee and Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption, and boiler insurance, as Lender may reasonably require. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to Lender and issued by a company or companies reasonably acceptable to Lender. Grantor, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least thirty (30) days prior written notice to Lender. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Deed of Trust. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Deed of Trust, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

Grantor's Report on Insurance. Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Deed of Trust or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts, Grantor is required to discharge or pay under this Deed

716-006152

DEED OF TRUST
(Continued)

Page 7

of Trust or any Related Documents. Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note unless payment of interest at that rate would be contrary to applicable law, in which event such expenses shall bear interest at the highest rate permitted by applicable law from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Deed of Trust also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

WARRANTY; DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Deed of Trust:

Title. Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Deed of Trust, and (b) Grantor has the full right, power, and authority to execute and deliver this Deed of Trust to Lender.

Defense of Title. Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Trustee or Lender under this Deed of Trust, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

Compliance With Laws. Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Grantor in this Deed of Trust shall survive the execution and delivery of this Deed of Trust, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's indebtedness shall be paid in full.

CONDEMNATION. The following provisions relating to condemnation proceedings are a part of this Deed of Trust:

Proceedings. If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such

716-006153

**DEED OF TRUST
(Continued)**

Page 8

proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice all at Grantor's expense, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

Application of Net Proceeds. If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Trustee or Lender in connection with the condemnation.

IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES. The following provisions relating to governmental taxes, fees and charges are a part of this Deed of Trust:

Current Taxes, Fees and Charges. Upon request by Lender, Grantor shall execute such documents in addition to this Deed of Trust and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Deed of Trust, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Deed of Trust.

Taxes. The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Deed of Trust or upon all or any part of the indebtedness secured by this Deed of Trust; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the indebtedness secured by this type of Deed of Trust; (3) a tax on this type of Deed of Trust chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the indebtedness or on payments of principal and interest made by Grantor.

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Deed of Trust, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either: (1) pays the tax before it becomes delinquent; or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Deed of Trust as a security agreement are a part of this Deed of Trust:

Security Agreement. This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures; and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

Security Interest. Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Real and Personal Property. In addition to recording this Deed of Trust in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Deed of Trust as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest.

716-006154

**DEED OF TRUST
(Continued)**

Page 9

Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

Addresses. The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Deed of Trust may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Deed of Trust.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Deed of Trust:

Further Assurances. At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refilled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Deed of Trust, and the Related Documents; and (2) the liens and security interests created by this Deed of Trust as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

Attorney-in-Fact. If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. If Grantor pays all the indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Deed of Trust, Lender shall execute and deliver to Trustee a request for full reconveyance and shall execute and deliver to Grantor suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Pents and the Personal Property. Any reconveyance fee required by law shall be paid by Grantor, if permitted by applicable law.

EVENTS OF DEFAULT. Each of the following, at Lender's option, shall constitute an Event of Default under this Deed of Trust:

Payment Default. Grantor fails to make any payment when due under the indebtedness.

Other Defaults. Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Deed of Trust or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

716-006155

DEED OF TRUST
(Continued)

Page 10

Compliance Default. Failure to comply with any other term, obligation, covenant or condition contained in this Deed of Trust, the Note or in any of the Related Documents.

Default on Other Payments. Failure of Grantor within the time required by this Deed of Trust to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

Default in Favor of Third Parties. Should Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement or any other agreement in favor of any other creditor or person that may materially affect any of Grantor's property or Grantor's ability to repay the indebtedness or Grantor's ability to perform Grantor's obligations under this Deed of Trust or any of the Related Documents.

False Statements. Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Deed of Trust or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Defective Collateralization. This Deed of Trust or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Death or Insolvency. The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

Creditor or Foreclosure Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any property securing the indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or foreclosure proceeding; and if Grantor gives Lender written notice of the creditor or foreclosure proceeding and deposits with Lender monies or a surety bond for the creditor or foreclosure proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Breach of Other Agreement. Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the indebtedness.

Adverse Change. A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the indebtedness is impaired.

716-006156

DEED OF TRUST
(Continued)

Page 11

Insecurity. Lender in good faith believes itself insecure.

RIGHTS AND REMEDIES ON DEFAULT. If an Event of Default occurs under this Deed of Trust, at any time thereafter, Trustee or Lender may exercise any one or more of the following rights and remedies:

Election of Remedies. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Deed of Trust, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

Accelerate Indebtedness. Lender shall have the right at its option without notice to Grantor to declare the entire indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

Foreclosure. With respect to all or any part of the Property, Trustee shall have the right to sell the Property pursuant to a non-judicial foreclosure sale and Trustee or Lender shall have the right to sell the Property upon judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law. If the power of sale is invoked, Trustee shall execute a written notice of the occurrence of an Event of Default and of the election to cause the Property to be sold and shall record such notice in each Recording District in which the Property or some part of the Property is located. Trustee shall mail copies of the notice of default, in the manner provided by the laws of Alaska, to Grantor and to such other persons as the laws of Alaska prescribe. Trustee shall give notice of sale and shall sell the Property according to the laws of Alaska. After the lapse of time required by law following the recording of the notice of default, Trustee, without demand on Grantor, may sell the Property at the time and place and under the terms designated in the notice of sale, in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or Lender's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made in the Trustee's deed. Trustee shall apply the proceeds of the sale in the following order: (a) to all costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees, and cost of title evidence; (b) to all sums secured by this Deed of Trust in such order as Lender, in Lender's sole discretion, directs; and (c) the excess, if any, to the person or persons legally entitled to the excess proceeds.

UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

Collect Rents. Lender shall have the right, without notice to Grantor to take possession of and manage the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse

716-006157

716-006158

and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper ground for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

Appoint Receiver. Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rent from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the present value of the Property exceeds the indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

Tenancy at Sufferance. If Grantor remains in possession of the Property after the Property is sold, as provided above, or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

Other Remedies. Trustee or Lender shall have any other right or remedy provided in this Deed of Trust or the Note or available at law or in equity.

Notice of Sale. Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

Sale of the Property. To the extent permitted by applicable law, Grantor hereby waives any and all right to have the Property marshalled, in exercising its rights and remedies, the Trustee or Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

Mortgage Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Deed of Trust, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorney's fees at trial and upon any appeal. Whether or not any court action is involved or pending, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest at the Note rate unless payment of interest at that rate would be contrary to applicable law. In which event, such expenses shall bear interest at the lowest rate permitted by applicable law from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however, subject to any limits under applicable law, Lender's reasonable attorney's fees and Lender's legal expenses, whether or not there is a lawsuit, including reasonable attorney's fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic

DEED OF TRUST
(Continued)

Page 13

stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees; title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

Rights of Trustee. Trustee shall have all of the rights and duties of Lender as set forth in this section.

POWERS AND OBLIGATIONS OF TRUSTEE. The following provisions relating to the powers and obligations of Trustee (pursuant to Lender's instructions) are part of this Deed of Trust:

Powers of Trustee. In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Property upon the written request of Lender and Grantor: (a) join in preparing and filing a map or plat of the Real Property, including the dedication of streets or other rights to the public; (b) join in granting any easement or creating any restriction on the Real Property; and (c) join in any subordination or other agreement affecting this Deed of Trust or the interest of Lender under this Deed of Trust.

Trustee. Trustee shall meet all qualifications required for Trustee under applicable law. In addition to the rights and remedies set forth above, with respect to all or any part of the Property, the Trustee shall, upon default, have the right to sell the Property by notice and non-judicial sale, and Trustee or Lender shall have the right to sell the Property by judicial action and foreclosure sale, in either case in accordance with and to the full extent provided by applicable law.

Successor Trustee. Lender, at Lender's option, may from time to time appoint a successor Trustee to any Trustee appointed under this Deed of Trust by an instrument executed and acknowledged by Lender and recorded in the office for the Anchorage Recording District, Third Judicial District, State of Alaska. The instrument shall be executed and acknowledged by Lender or Lender's successor in interest, and shall contain, in addition to all other matters required by state law, the date this Deed of Trust was executed, the names of the original Lender, Trustee, and Grantor, the book and page where this Deed of Trust is recorded, the name and address of the successor trustee, and either an acknowledgment signed and acknowledged by the Trustee named in this Deed of Trust of a receipt of a copy of the instrument or an affidavit of service of a copy of the instrument on the Trustee. The successor trustee, without conveyance of the Property, shall succeed to all the title, power, and duties conferred upon the Trustee in this Deed of Trust and by applicable law. This procedure for substitution of Trustee shall govern to the exclusion of all other provisions for substitution.

NOTICES. Unless otherwise provided by applicable law, any notice required to be given under this Deed of Trust, including without limitation any notice of default and any notice of sale, shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Deed of Trust. All copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust shall be sent to Lender's address, as shown near the beginning

716-006159

**DEED OF TRUST
(Continued)**

Page 14

of this Deed of Trust. Any party may change its address for notices under this Deed of Trust by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

CONSENT TO SELL LOAN. The parties hereto agree: (a) Lender may sell or transfer all or part of this loan to one or more purchasers, whether related or unrelated to Lender, without notice and without the consent of the parties; (b) Lender may provide to any purchaser, or potential purchaser, any information or knowledge Lender may have about the parties or about any other matter relating to this loan obligation, without notice, and the parties waive any rights to privacy it may have with respect to such matters; (c) the purchaser of a loan will be considered its absolute owner and will have all the rights granted under the loan documents or agreements governing the sale of the loan; (d) the purchaser of a loan may enforce its interests irrespective of any claims or defenses that the parties may have against Lender; and (e) to waive all notices of sale of the loan, as well as all notices of any repurchase, and all rights of offset or counterclaim that the parties have now or later against Lender or against any purchaser of the loan.

FACSIMILE AND COUNTERPART. This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

COMMUNITY AND OTHER PROPERTY. In addition to the rights of Lender under any applicable community property laws, Borrower, Guarantor or Grantor who is a Married Person and who has an interest in marital or community property under applicable law acknowledges and agrees that his/her obligation as a Borrower, Guarantor or Grantor is incurred in the interest of and to benefit the marital community (or domestic partnership, if applicable), and expressly agrees that recourse may be had against his or her separate property and his or her rights in community property and community assets for all of his or her obligations to Lender, in addition to any other property that may be subject to rights of Lender. Borrower and Guarantor also agree not to, without Lender's prior written consent, enter into any community property agreement which alters the separate or community property character of any of such party's property. For the purpose of this provision, "Married Person" means a person in a spousal relationship and shall include parties to a duly registered and/or legally recognized same-sex civil union, domestic partnership, and other terms, whether or not gender-specific in a spousal relationship, that denote spousal relationship, as those terms are used throughout the laws, codes and regulations of states and/or jurisdictions that recognize legally married same-sex couples, civil unions and/or domestic partnerships; and any references herein to a married person or marital status shall be deemed to also include the applicable corresponding term, or other references relating to a party to a civil union or domestic partnership. To the extent this provision may conflict with another provision of this Guaranty that other provision shall control.

EXECUTION OF DOCUMENTS, CONSULTATION WITH COUNSEL. Each party hereto acknowledges and agrees that he/she/it has had an opportunity to review and consider the terms and provisions of this agreement and each related loan document, to consult with counsel

716-006160

**DEED OF TRUST
(Continued)**

Page 15

of his/her/its choice, if desired, and to suggest changes to the structure and terms of the agreements. Each party hereto warrants and agrees that his/her/its execution of this agreement and any related loan documents is made voluntarily and with full knowledge of the significance and effect of such agreements.

DEFINITION OF INDEBTEDNESS. The definition of "Indebtedness" herein includes, without limitation, all liability of Borrower or other party having its obligations to Lender secured by this Deed of Trust, whether liquidated or unliquidated, defined, contingent, conditional or of any other nature whatsoever, and performance of all other obligations, arising under any swap, derivative, foreign exchange or hedge transaction or arrangement (or other similar transaction or arrangement) now or ever described or defined) at any time entered into with Lender in connection with the Note.

ENCUMBRANCES. Grantor/Mortgagor/Trustor shall not, without Lender's consent, mortgage, assign, grant a lien upon, or security interest in, or otherwise encumber the Property or any interest in the Property, or allow such a lien or security interest to exist or arise, whether voluntarily, involuntarily or by operation of law, except for liens and security interests in favor of Lender, or property taxes attributable to the Property which are not past due.

APPRAISALS, FEES AND EXPENSES. Grantor/Trustor agrees that Lender may obtain appraisals and reappraisals and perform property evaluations and appraisal reviews of the Real Property when required by the regulations of the Federal Reserve Board or the Office of the Comptroller of the Currency, or any other regulatory agency, or at such other times as Lender may reasonably require. Appraisals shall be performed by an independent third party appraiser selected by Lender; property evaluations and appraisal reviews may be performed by third party appraisers or appraisers and staff of Lender. The fees, expenses and other cost of such appraisals, reappraisals, property evaluations and appraisal reviews shall be paid by Grantor/Trustor. In addition, Grantor/Trustor shall be responsible for payment of all fees and expenses of Lender and third parties relating to: inspecting the Real Property; environmental review; title policies and endorsements (or title searches, abstracts of title or legal opinions of title where applicable); and monitoring the payment of property taxes, and any governmental taxes, fees and recording costs relating to this deed.

LEASES AND RENTS. Grantor/Trustor/Mortgagor hereby assigns to Lender all of Grantor/Trustor/Mortgagor's right, title and interest in and to all present and future leases of the Property and all rents from the Property. This Assignment of Rents is given to secure (A) Payment of the Indebtedness and (B) Performance of any and all obligations under the Note and Mortgage/Deed of Trust. Grantor/Trustor/Mortgagor's present assignment to Lender hereunder in of all present and future leases includes all leases, licenses, rental agreements and other agreements of any kind relating to the use or occupancy of any of the Property, together with all guarantees of and security for any tenant's performance, and all extensions, renewals and modifications thereto (as used in this paragraph, each a "Lease" and collectively, the "Leases"), together with any and all Rents from the Property. This assignment shall not impose upon Lender any duty to produce Rents, nor cause Lender to be a "Mortgagee in possession" or responsible for performing any of the obligations of the lessor under any Lease. Lender confers upon Grantor/Trustor/Mortgagor a license to collect and retain the Rents as they come due, until the occurrence of any Event of Default, at which time this license shall be automatically revoked, and Lender, or its designated agent may, at its option and without notice, make, cancel, enforce or modify any Lease or Rents, collect Rents and do any acts

716-006161

DEED OF TRUST
(Continued)

Page 16

which Lender deems proper to protect the security hereof or exercise any other right or remedy hereunder. Grantor/Trustor/Mortgagor represents and warrants that there exists no material default under present Leases and that those Leases are in full force and effect. Lender, at its option and without notice, may notify any tenant of this assignment of the Leases and Rents. Grantor/Trustor/Mortgagor agrees, at its expense, (i) to comply with and enforce all the terms and conditions under each Lease, and defend in any action in connection with any Lease; (ii) not to modify any Lease in any material respect, nor accept surrender under or terminate the term of any Lease, nor waive or release any tenant under any Lease; (iii) not to anticipate the Rents under any Lease; and (iv) to give prompt notice to Lender of any default by any tenant under any Lease, and of any notice of default on the part of Grantor/Trustor/Mortgagor under any Lease received from a tenant. Should Grantor/Trustor/Mortgagor fail to do any act required to be done by Grantor/Trustor/Mortgagor hereunder, then Lender, at its option and without notice, may make or do the same in such manner and to such extent as Lender deems necessary to protect the security hereof. Grantor/Trustor/Mortgagor agrees to pay to Lender immediately upon demand all sums expended under the authority hereof, including reasonable attorneys' fees, together with interest thereon at the highest rate per annum payable under any indebtedness, and the same, at Lender's option, may be added to the indebtedness and secured hereby.

ASSOCIATION OF UNIT OWNERS. The following provisions apply if the Real Property has been submitted to unit ownership law, or similar law for the establishment of condominiums or cooperative ownership of the Real Property:

A. Power of Attorney. Trustor/Grantor grants an irrevocable power of attorney to Lender to vote in Lender's discretion on any matter that may come before the association of unit owners. Lender shall have the right to exercise this power of attorney only after Trustor's/Grantor's default; however, Lender may decline to exercise this power as Lender sees fit.

B. Insurance. The insurance as required herein may be carried by the association of unit owners on Trustor's/Grantor's behalf, and the proceeds of such insurance may be paid to the association of unit owners for the purpose of repairing or reconstructing the Property. If not so used by the association, such proceeds shall be paid to Lender.

C. Default. Trustor's/Grantor's failure to perform any of the obligations imposed on Trustor/Grantor by the declaration submitting the Real Property to unit ownership, by the bylaws of the association of unit owners, or by any rules or regulations hereunder, shall be an event of default under this Deed of Trust. If Trustor's/Grantor's interest in the Real Property is a leasehold interest and such property has been submitted to unit ownership, any failure by Trustor/Grantor to perform any of the obligations imposed on Trustor/Grantor by the lease of the Real Property from its owner, any default under such lease which might result in termination of the lease as it pertains to the Real Property, or any failure of Trustor/Grantor as a member of an association of unit owners to take any reasonable action within Trustor's/Grantor's power to prevent a default under such lease by the association of unit owners or by any member of the association shall be an event of default under this Deed of Trust.

FAILURE TO PROVIDE INSURANCE. Grantor/Trustor/Mortgagor ("Owner") acknowledges and agrees that if Owner fails to provide any required insurance on the terms set forth herein or in any Related Documents, or fails to continue such insurance in force in compliance with the requirements of this agreement or any Related Documents, Lender may purchase insurance at

716-006162

DEED OF TRUST
(Continued)

Page 17

Owner's expense as provided therein. Such insurance may protect Lender's interests, and may otherwise protect none of, or less than all of, Owner's interests. The cost of any such insurance shall become a part of the indebtedness and shall be payable on demand or added to the Note as provided herein, at Lender's option. OWNER ACKNOWLEDGES THAT IF LENDER SO PURCHASES ANY SUCH INSURANCE, THE INSURANCE MAY PROVIDE LIMITED PROTECTION AGAINST PHYSICAL DAMAGE TO THE COLLATERAL, UP TO THE BALANCE OF THE LOAN; HOWEVER, OWNER'S EQUITY IN THE COLLATERAL MAY NOT BE INSURED. IN ADDITION, THE INSURANCE MAY NOT PROVIDE ANY PUBLIC LIABILITY OR PROPERTY DAMAGE INDEMNIFICATION AND MAY NOT MEET THE REQUIREMENTS OF ANY FINANCIAL RESPONSIBILITY LAWS.

LENDER TO BE NAMED LOSS PAYEE. All required policies and certificates of insurance shall name Mortgagee/Beneficiary as loss payee, and shall provide that the insurance cannot be terminated as to Mortgagee/Beneficiary except upon a minimum of ten (10) days' prior written notice to Mortgagee/Beneficiary. Immediately upon any request by Lender/Mortgagee/Beneficiary, Grantor/Trustor/Mortgagor shall deliver to Lender/Mortgagee/Beneficiary the original of all such policies or certificates, with receipts evidencing annual prepayment of the premiums.

ARBITRATION AGREEMENT. Arbitration - Binding Arbitration. Lender and each party to this agreement hereby agree, upon demand by any party, to submit any Dispute to binding arbitration in accordance with the terms of this Arbitration Program. Arbitration may be demanded before the institution of a judicial proceeding, or during a judicial proceeding, but not more than 60 days after service of a complaint, third party complaint, cross-claim, or any answer thereto, or any amendment to any of such pleadings. A "Dispute" shall include any dispute, claim or controversy of any kind, whether in contract or in tort, legal or equitable, now existing or hereafter arising, relating in any way to any aspect of this agreement, or any related note, instrument or agreement incorporating this Arbitration Program (the "Documents"), or any renewal, extension, modification or refinancing of any indebtedness or obligation relating thereto, including without limitation, their negotiation, execution, collateralization, administration, repayment, modification, extension, substitution, formation, inducement, enforcement, default or termination, or any request for additional credit. This provision is a material inducement for the parties entering into the transactions relating to this Agreement. In the event of a court ordered arbitration, the party requesting arbitration shall be responsible for timely filing the demand for arbitration and paying the appropriate filing fee within 30 days of the abatement order or the time specified by the court; the party's failure to do so shall result in that party's right to demand arbitration being automatically terminated with respect to such Dispute. DISPUTES SUBMITTED TO ARBITRATION ARE NOT RESOLVED IN COURT BY A JUDGE OR JURY TO THE EXTENT ALLOWED BY APPLICABLE LAW. THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARBITRATED PURSUANT TO THIS ARBITRATION PROGRAM.

A. Governing Rules. Any arbitration proceeding will (i) be governed by the Federal Arbitration Act (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (ii) be conducted by the American Arbitration Association ("AAA"), or such other administrator as the parties shall mutually agree upon, in accordance with the AAA's commercial dispute resolution procedures, unless the claim or

716-006163

DEED OF TRUST
(Continued)

Page 18

counterclaim is at least \$1,000,000.00 exclusive of claimed interest, arbitration fees and costs. In which case the arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large, complex commercial disputes are referred to herein, as applicable, as the "Rules"). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Arbitration proceedings hereunder shall be conducted at a location mutually agreeable to the parties, or if they cannot agree, then at a location selected by the AAA in the state of the applicable substantive law primarily governing the Note. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any Dispute. The arbitrator shall award all costs and expenses of the arbitration proceeding.

B. No Waiver of Provisional Remedies, Self-Help and Foreclosure. The arbitration requirement does not limit the right of any party to (i) foreclose against real or personal property collateral; (ii) exercise self-help remedies relating to collateral or proceeds of collateral such as replevin or repossession; or (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment or the appointment of a receiver, before during or after the pendency of any arbitration proceeding. This exclusion does not constitute a waiver of the right or obligation of any party to submit any Dispute to arbitration or reference hereunder, including those arising from the exercise of the actions detailed in sections (i), (ii) and (iii) of this paragraph.

C. Arbitrator Qualifications and Powers. Any arbitration proceeding in which the amount in controversy is \$5,000,000.00 or less will be decided by a single arbitrator selected according to the Rules, and who shall not render an award of greater than \$5,000,000.00. Any Dispute in which the amount in controversy exceeds \$5,000,000.00 shall be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations. Every arbitrator shall be a neutral practicing attorney or a retired member of the state or federal judiciary, in either case with a minimum of ten years experience in the substantive law applicable to the subject matter of the Dispute. The arbitrator will determine whether or not an issue is arbitrable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all Disputes in accordance with the applicable substantive law and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrator shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the applicable state rules of civil procedure, or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

D. Discovery. In any arbitration proceeding discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the Dispute being

716-006164

716-006165

arbitrated and must be completed no later than 20 days before the hearing date. Any request for an extension of the discovery period, or any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

F. Class Proceedings and Consolidations. No party hereto shall be entitled to join or consolidate disputes by or against others in any arbitration, except parties to this agreement, or any contract, instrument or document relating to this agreement, or to include in any arbitration dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity.

G. Small Claims Court. Any party may require that a Dispute be resolved in Small Claims Court if the Dispute and related claims are fully within that court's jurisdiction.

H. State Specific Provisions:

If Delaware, Pennsylvania or Virginia law governs the Dispute, the following provision is applicable: If there is a Confession of Judgment in the Note, any Guaranty, or Related Documents, the arbitration requirement does not limit or preclude the right of Lender to contest judgment pursuant to a warrant of attorney provision set forth in the Note, any Guaranty, or Related Documents. No party shall have the right to demand binding arbitration of any claim, dispute or controversy seeking to a controversy seeking to (i) strike-off or open a judgment obtained by confession pursuant to a warrant of attorney contained in the Note, any Guaranty, or Related Documents, or after judgment is entered, but before execution upon the judgment. Any claims, disputes or controversies challenging the confession of judgment shall be commenced and prosecuted in accordance with the procedures set forth, and in the forum specified by the applicable state rules of civil procedure or other applicable law.

If Maryland law governs the Dispute, the following provision is applicable: If there is a Confession of Judgment in the Note, any Guaranty, or Related Documents, the arbitration requirement does not limit or preclude the right of Lender to contest judgment, and no party shall have the right to demand binding arbitration of any claim, dispute or controversy seeking to open a judgment obtained by confession. Nothing herein, including the arbitration requirement, shall limit the right of any party to foreclose judicially or non-judicially against any real or personal property collateral, or exercise judicial or non-judicial power of sale rights. No provision regarding submission to a jurisdiction and/or waiver in any court or the waiver of any right to trial by jury shall be construed to be in derogation of the provisions for arbitration of any dispute. Any claim or counterclaim or defense raised in connection with Lender's exercise of any right set forth in the Note, any Guaranty, or Related Documents shall be subject to the arbitration requirement.

If South Carolina law governs the Dispute, the following provision is included: WAIVER OF JURY TRIAL. NOTWITHSTANDING ANYTHING HEREIN, TO THE CONTRARY, WITHOUT INTENDING IN ANY WAY TO LIMIT THE PARTIES' AGREEMENT TO ARBITRATE ANY DISPUTE AS SET FORTH IN THIS MORTGAGE, TO THE EXTENT ANY DISPUTE IS NOT SUBMITTED TO ARBITRATION OR IS DEEMED BY THE ARBITRATOR OR BY ANY COURT WITH JURISDICTION

716-006166

to be not arbitrable or not required to be arbitrated, lender and mortgagor waive trial by jury in respect of any such dispute and any action on such dispute. This waiver is knowingly, willingly and voluntarily made by lender and mortgagor and they hereby represent that no representations or fact or opinion have been made by any person or entity to induce this waiver or trial by jury or to in any way modify or nullify its effect. This provision is a material inducement for the parties entering into the loan documents. Lender and mortgagor are each hereby authorized to file a copy of this section in any proceeding as conclusive evidence of this waiver of jury trial. Mortgagor further represents and warrants that it has been represented in the signing of this mortgage and in the making of this waiver by independent legal counsel or has had the opportunity to be represented by independent legal counsel selected of its own free will and that it has had the opportunity to discuss this waiver with counsel.

H. Real Property Collateral:

If California law governs the Dispute, the following provisions are included: Real Property Collateral: Notwithstanding anything herein to the contrary, no Dispute shall be submitted to arbitration if the Dispute concerns indebtedness secured directly or indirectly, in whole or in part, by any real property unless (i) the holder of the mortgage, lien or security interest specifically elects in writing to proceed with the arbitration, or (ii) as part of the arbitration waive any right or benefit that might accrue to them by virtue of the single action rule statute of California. (hereby agreeing that all indebtedness and obligations of the parties and all mortgages, liens and security interests securing such indebtedness and obligations, shall remain fully enforceable, if any such Dispute is not submitted to arbitration, the Dispute shall be referred to a referee in accordance with California Code of Civil Procedure Section 538, et seq., and the general reference agreement is intended to be specifically enforceable in accordance with said Section 538, as amended or replaced from time to time. A reference with the qualifications required herein for arbitration shall be selected pursuant to the AAA's selection procedures. Judgment upon the decision rendered by a referee shall be entered in the court in which such proceeding was commenced in accordance with California Code of Civil Procedure Sections 644 and 645, as amended or replaced from time to time.

If Connecticut law governs the Dispute, the following provision is included: Real Property Collateral: Notwithstanding anything herein to the contrary, no Dispute shall be submitted to arbitration if the Dispute concerns indebtedness secured directly or indirectly, in whole or in part, by any real property located in Connecticut unless (i) the holder of the mortgage, lien or security interest specifically elects in writing to proceed with the arbitration, or (ii) all parties to the arbitration waive any right or benefit that might accrue to them by virtue of Sections 45-1 and 45-14 of the Connecticut General Statutes, as amended or replaced from time to time, hereby agreeing that all indebtedness and obligations of the parties, and all mortgages, liens and security interests securing such indebtedness and obligations, shall remain fully enforceable.

If Kansas, Kansas, Montana, Nevada, South Dakota or Virginia law governs the Dispute, the following provision is included: Real Property Collateral: Notwithstanding anything herein to the contrary, no Dispute shall be submitted to arbitration if the Dispute concerns indebtedness secured directly or indirectly, in

DEED OF TRUST
(Continued)

Page 21

whole or in part, by any real property unless (i) the holder of the mortgage, lien or security interest specifically elects in writing to proceed with the arbitration, or (ii) all parties to the arbitration waive any rights or benefits that might accrue to them by virtue of the single action rule statute of Idaho, Kansas, Montana, Nevada, South Dakota or Virginia, thereby agreeing that all indebtedness and obligations of the parties, and all mortgages, liens and security interests securing such indebtedness and obligations, shall remain fully valid and enforceable.

If Utah law governs the Dispute, the following provision is included: Real Property Collateral Judicial Reference. Notwithstanding anything herein to the contrary, no Dispute shall be submitted to arbitration if the Dispute concerns indebtedness secured directly or indirectly, in whole or in part, by any real property unless (i) the holder of the mortgage, lien or security interest specifically elects in writing to proceed with the arbitration, or (ii) all parties to the arbitration waive any rights or benefits that might accrue to them by virtue of the single action rule statute of Utah, thereby agreeing that all indebtedness and obligations of the parties, and all mortgages, liens and security interests securing such indebtedness and obligations, shall remain fully valid and enforceable. If any such Dispute is not submitted to arbitration, the Dispute shall be referred to a master in accordance with Utah Rule of Civil Procedure 53, as amended or replaced from time to time, and this general reference agreement is intended to be specifically enforceable. A master with the qualifications required herein for arbitrators shall be selected pursuant to the AAA's selection procedures. Judgment upon the decision rendered by a master shall be entered in the court in which such proceeding was commenced in accordance with Utah Rule of Civil Procedure 53(e), as amended or replaced from time to time.

1. Miscellaneous. To the maximum extent practicable, the AAA, the arbitrators and the parties shall take all action required to conclude any arbitration proceeding within 180 days of the filing of the Dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the parties potentially applies to a Dispute, the arbitration provision most directly related to the documents between the parties or the subject matter of the Dispute shall control. This arbitration provision shall survive the repayment of the Note and the termination, amendment or expiration of any of the Documents or any relationship between the parties.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Deed of Trust:

Amendments. This Deed of Trust, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Deed of Trust. No alteration or amendment to this Deed of Trust shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Annual Reports. If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property, less all cash expenditures made in connection with the operation of the Property.

Caption Headings. Caption headings in this Deed of Trust are for convenience purposes

716-006167

DEED OF TRUST
(Continued)

Page 22

only and are not to be used to interpret or define the provisions of this Deed of Trust.

Merger. There shall be no merger of the interest or estate created by this Deed of Trust with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Governing Law. This Deed of Trust will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Alaska without regard to its conflicts of law provisions. This Deed of Trust has been accepted by Lender in the State of Alaska.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Deed of Trust unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Deed of Trust shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Deed of Trust. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Deed of Trust, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Severability. If a court of competent jurisdiction finds any provision of this Deed of Trust to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Deed of Trust. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Deed of Trust shall not affect the legality, validity or enforceability of any other provision of this Deed of Trust.

Successors and Assigns. Subject to any limitations stated in this Deed of Trust on transfer of Grantor's interest, this Deed of Trust shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Deed of Trust and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Deed of Trust or liability under the indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Deed of Trust.

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Alaska as to all indebtedness secured by this Deed of Trust.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Deed of Trust. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular.

716-006168

**DEED OF TRUST
(Continued)**

Page 23

as the context may require. Words and terms not otherwise defined in this Deed of Trust shall have the meanings attributed to such terms in the Uniform Commercial Code:

Beneficiary. The word "Beneficiary" means Wells Fargo Bank, National Association, and its successors and assigns.

Borrower. The word "Borrower" means 716 West Fourth Avenue, LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Deed of Trust. The words "Deed of Trust" mean this Deed of Trust among Grantor, Lender, and Trustee, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

Default. The word "Default" means the Default set forth in this Deed of Trust in the section titled "Default".

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-489 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 9601, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Deed of Trust in the events of default section of this Deed of Trust.

Grantor. The word "Grantor" means 716 West Fourth Avenue, LLC.

Guarantor. The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the indebtedness.

Guaranty. The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

Improvements. The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

Indebtedness. The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the

716-006169

**DEED OF TRUST
(Continued)**

Page 24

Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Trustee or Lender to enforce Grantor's obligations under this Deed of Trust, together with interest on such amounts as provided in this Deed of Trust. Specifically, without limitation, indebtedness includes all amounts that may be indirectly secured by the Cross-Collateralization provision of this Deed of Trust.

Lender. The word "Lender" means Wells Fargo Bank, National Association, its successors and assigns.

Note. The word "Note" means the promissory note dated December 6, 2013, in the original principal amount of \$28,222,653.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of this Deed of Trust is 12-05-2068. **NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.**

Personal Property. The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessories, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all issues and profits thereon and proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Deed of Trust.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guarantees, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the indebtedness.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

Trustee. The word "Trustee" means Wells Fargo Financial National Bank, whose address is c/o BBSG-Base Loan Ops LDI, PO Box 34656, San Antonio, TX 78286 and any substitute or successor trustees.

716-006170

DEED OF TRUST
(Continued)

Page 25

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS DEED OF TRUST,
AND GRANTOR AGREES TO ITS TERMS.

GRANTOR:

716 WEST FOURTH AVENUE, LLC

By: 

Robert B. Acree, Member of 716 West Fourth Avenue,
LLC

MOUNT TRIDENT, LLC, Member of 716 West Fourth Avenue, LLC

MARK E. PFEFFER ALASKA TRUST, Member of Mount Trident,
LLC

By: 

Alana Williams, Trustee

716-006171

DEED OF TRUST
(Continued)

Page 26

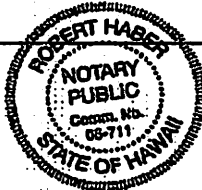
LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Hawaii)
 3rd) SS
 JUDICIAL DISTRICT)

On this 14th day of December, 2013, before me, the undersigned Notary Public, personally appeared Robert E. Acres, Member of 718 West Fourth Avenue, LLC; and known to me to be a member or designated agent of the limited liability company that executed the Deed of Trust and acknowledged the Deed of Trust to be the true and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Deed of Trust and in fact executed the Deed of Trust on behalf of the limited liability company.

By Robert E. Acres
Notary Public in and for the State of Hawaii

Residing at Waikoloa Hawaii 96735
My commission expires 11-19-2014



716-006172

Mr. Michael Buller
October 15, 2013
Page 2

Our estimate of Market Rent is based on the specific terms and conditions of the lease extension agreement now being finalized. Included in these terms and conditions is an agreement wherein the tenant (Legislative Affairs Agency acting on behalf of the Alaska Legislative Council) will contribute \$7.5 million to the cost of the renovation and expansion project for tenant improvements. We refer to this lease as a modified triple-net lease, and under its terms and conditions, the landlord will have certain maintenance and replacement obligations, while tenant will pay normal operating expenses, to include utilities, taxes, insurance and other usual costs of building operations. Our estimate of Market Rent is presented under the assumption that the tenant contributes \$7.5 million for tenant improvements costs; thus, the tenant's cost contribution is reflected in our conclusion of Market Rent. Our estimate of Market Rent also includes costs to the landlord for certain maintenance and replacement obligations specified under the lease extension agreement.

You have also asked us to express our opinion of Market Rent as if the lease terms and conditions were modified to reflect a level annual rent over the ten year term of the lease extension. Our conclusion of Market Rent stated above contemplates a two percent (2%) annual escalation in rent. We have performed an analysis to convert our estimate of Market Rent from an amount which escalates at two percent annually to a Market Rent estimate that remains level for each year of the ten year lease extension. Based then upon this analysis, we have formed the opinion that the estimated Market Rent for the renovated and expanded Legislative Information Office building, as contemplated by the lease extension agreement now under negotiation, and assuming a level rent payment for each of the ten years of the lease extension period, as of its effective date of June 1, 2014, assuming the building is completed per the lease agreement and landlord proposals, is:

THREE MILLION NINE HUNDRED AND EIGHT THOUSAND DOLLARS PER YEAR

\$3,908,000 PER YEAR

LEVEL ANNUAL RENT

The specific terms and conditions embodied in our conclusion of market rent are fully described within this appraisal report. **Our conclusions of Market Rent both incorporate a hypothetical condition that the building is completed per current plans on or about June 1, 2014, and the extraordinary assumption that the terms and conditions of the lease are as presently under negotiation.**

Our recommendations for a purchase price under a purchase option provision to be incorporated into the lease extension agreement is also described in our report.

The landlord's proposed rent under the terms and conditions of the lease extension agreement now under negotiation is \$247,756 per month plus Waronzo's estimate of the landlord's service obligations under the lease agreement, or \$12,687 per month, for a total of \$260,443 per month, or \$3,125,316 per year, with rent escalations of 2% per year over the ten year term of the lease extension. We find that for an escalating lease, the proposed contract rent of \$260,443 per month represents 86.48% of our Market Rent conclusion of \$301,167 per month (\$3,614,000 annually).

Landlord has also agreed to a level annual equivalent rent of \$3,379,658 per year, or \$281,638 per month, for each of the ten years of the lease extension, inclusive of the service obligation cost component, under an alternative rent escalation structure. Our Market Rent conclusion, under a level rent structure for ten years, is \$3,908,000 per year, or \$325,667 per month. We find that for a level lease, the proposed contract rent of \$281,638 per month also represents 86.48% of our Market Rent conclusion.



Anchorage Legislative Information Office
Estimate of Rental Value

Alaska Housing Finance Corporation
As of June 1, 2014

EXECUTIVE SUMMARY

Subject Property:	An expanded and renovated 64,068 gross sf six story special purpose office building leased for ten years to the Alaska Legislative Affairs Agency on behalf of the Alaska Legislative Council, serving as the Anchorage Legislative Information Office.
Location:	716 & 712 W. 4 th Avenue, Anchorage, Alaska 99501
Property Owner:	716 West Fourth Avenue, LLC or affiliate
Property Rights Appraised:	Leasehold interest, subject to specific terms and conditions of a lease extension agreement now under negotiation.
Date of Value:	June 1, 2014; the effective date of the lease extension.
Hypothetical Conditions:	Completion of the building and availability for occupancy on or about the lease extension date.
Extraordinary Assumptions:	Estimate of Market Rent expressed solely in the context of the lease extension agreement now under negotiation.
Site Description:	31,129 sf corner site, zoned B2-B
Existing Building Improvements	Existing six story office building containing 45,623 sf Existing commercial building containing 11,630 sf Existing approximately 100 space two level parking structure, containing approximately 40,000 sf.
Proposed Building Improvements	Six story office building with basement, containing 64,048 sf
Highest and Best Use	
If Vacant:	Office, Hotel, Retail or Commercial Development
As Improved as Proposed:	Special purpose occupancy by state agency.
Valuation Analysis	
Market Rent – Project Cost & Rate of Return	\$3,614,000 per year (Year One of a ten year lease)
Direct Rent Comparison	[to be determined]
Conclusion of Market Rent	\$3,614,000 per year (Year One of a ten year lease)

Our estimate of Market Rent is based on the specific terms and conditions of the lease extension agreement now being finalized. Included in these terms and conditions is an agreement wherein the tenant (Legislative Affairs Agency acting on behalf of the Alaska Legislative Council) will contribute \$7.5 million to the cost of the renovation and expansion project for tenant improvements. We refer to this lease as a modified triple-net lease, and under its terms and conditions, the landlord will have certain maintenance and replacement obligations, while tenant will pay normal operating expenses, to include utilities, taxes, insurance and other usual costs of building operations. Our estimate of Market Rent is presented under the assumption that the tenant contributes \$7.5 million for tenant improvements costs; thus, the tenant's cost contribution is reflected in our conclusion of Market Rent. Our estimate of Market Rent also includes costs to the landlord for certain maintenance and replacement obligations specified under the lease extension agreement.

You have also asked us to express our opinion of Market Rent as if the lease terms and conditions were modified to reflect a level annual rent over the ten year term of the lease extension. Our conclusion of Market Rent stated above contemplates a two percent (2%) annual escalation in rent. We have performed an analysis to convert our estimate of Market Rent from an amount which escalates at two percent annually to a Market Rent estimate that remains level for each year of the ten year lease extension. Based then upon this analysis, we have formed the opinion that the estimated Market Rent for the renovated and expanded Legislative Information Office building, as contemplated by the lease extension agreement now under negotiation, and assuming a level rent payment for each of the ten years of the lease extension period, as of its effective date of June 1, 2014, assuming the building is completed per the lease agreement and landlord proposals, is:

THREE MILLION NINE HUNDRED AND EIGHT THOUSAND DOLLARS PER YEAR

\$3,908,000 PER YEAR

LEVEL ANNUAL RENT

The specific terms and conditions embodied in our conclusion of market rent are fully described within this appraisal report. Our conclusions of Market Rent both incorporate a hypothetical condition that the building is completed per current plans on or about June 1, 2014, and the extraordinary assumption that the terms and conditions of the lease are as presently under negotiation.

Our recommendations for a purchase price under a purchase option provision to be incorporated into the lease extension agreement is also described in our report.

The landlord's proposed rent under the terms and conditions of the lease extension agreement now under negotiation is \$247,756 per month plus Waronzo's estimate of the landlord's service obligations under the lease agreement, or \$12,687 per month, for a total of \$260,443 per month, or \$3,125,316 per year, with rent escalations of 2% per year over the ten year term of the lease extension. We find that for an escalating lease, the proposed contract rent of \$260,443 per month represents 86.48% of our Market Rent conclusion of \$301,167 per month (\$3,614,000 annually).

Landlord has also agreed to a level annual equivalent rent of \$3,379,658 per year, or \$281,638 per month, for each of the ten years of the lease extension, inclusive of the service obligation cost component, under an alternative rent escalation structure. Our Market Rent conclusion, under a level rent structure for ten years, is \$3,908,000 per year, or \$325,667 per month. We find that for a level lease, the proposed contract rent of \$281,638 per month also represents 86.48% of our Market Rent conclusion.



716-006180

EXECUTIVE SUMMARY

Subject Property:	An expanded and renovated 64,068 gross sf six story special purpose office building leased for ten years to the Alaska Legislative Affairs Agency on behalf of the Alaska Legislative Council, serving as the Anchorage Legislative Information Office.
Location:	716 & 712 W. 4 th Avenue, Anchorage, Alaska 99501
Property Owner:	716 West Fourth Avenue, LLC or affiliate
Property Rights Appraised:	Leasehold interest, subject to specific terms and conditions of a lease extension agreement now under negotiation.
Date of Value:	June 1, 2014; the effective date of the lease extension.
Hypothetical Conditions:	Completion of the building and availability for occupancy on or about the lease extension date.
Extraordinary Assumptions:	Estimate of Market Rent expressed solely in the context of the lease extension agreement now under negotiation.
Site Description:	31,129 sf corner site, zoned B2-B
Existing Building Improvements	Existing six story office building containing 45,623 sf Existing commercial building containing 11,630 sf Existing approximately 100 space two level parking structure, containing approximately 40,000 sf.
Proposed Building Improvements	Six story office building with basement, containing 64,048 sf
Highest and Best Use	
If Vacant:	Office, Hotel, Retail or Commercial Development
As Improved as Proposed:	Special purpose occupancy by state agency.
Valuation Analysis	
Market Rent – Project Cost & Rate of Return	\$3,614,000 per year (Year One of a ten year lease)
Direct Rent Comparison	[to be determined]
Conclusion of Market Rent	\$3,614,000 per year (Year One of a ten year lease)

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT, AT ANCHORAGE

ALASKA BUILDING, INC., an Alaska
corporation,

Plaintiff

vs.

716 WEST FOURTH AVENUE LLC,
and LEGISLATIVE AFFAIRS AGENCY,

Defendants.

COPY
Original Received
FEB 22 2016
Clerk of the Trial Courts

Case No. 3AN-15-05969CI

**AFFIDAVIT OF JAMES B. GOTTSTEIN, ESQ.
IN SUPPORT OF MOTION TO SHOW CAUSE**

THIRD JUDICIAL DISTRICT)
)ss
STATE OF ALASKA)

JAMES B. GOTTSTEIN, Esq., being first sworn under oath, hereby deposes and
states as follows:

1. I am the attorney for plaintiff Alaska Building, Inc., in the above captioned
action.
2. On February 18, 2016, I received 150 pages of documents from defendant 716
West Fourth Avenue LLC (716 LLC), mailed the previous day, which 716 LLC purports to
fully comply with this Court's January 13, 2016, Order Regarding Alaska Building Inc's
Motion to Compel (Order to Compel).

3. These documents consist of the following:

(a) Pages 1-3, are an e-mail that was previously claimed as privileged, which it turns out was already in Alaska Building, Inc.'s possession, and had been produced to 716 LLC by Alaska Building, Inc.,

(b) Pages 4-29 are a Construction Deed of Trust,

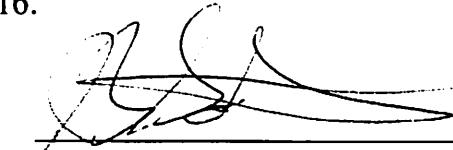
(c) Pages 30-34 pertain to applications for payment by Criterion General, Inc., the general contractor, and

(d) Pages 35-150 are the October 15, 2013, Rental Value Appraisal Report Anchorage Legislative Information Office, as of June 1, 2014, prepared by Timothy R. Lowe of Waronzof Associates, commonly (and generously) referred to as the "Lowe Appraisal," which appears to have been downloaded from my law office's website because it contains the same highlighting.

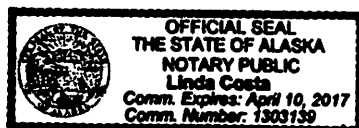
4. No other documents were received.

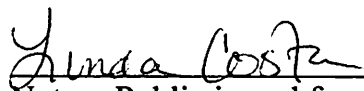
FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 22nd day of February, 2016.


James B. Gottstein, Esq.

SUBSCRIBED AND SWORN TO before me this 22nd day of February, 2016.




Notary Public in and for Alaska
My Commission Expires: 04/10/2017

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT, AT ANCHORAGE

ALASKA BUILDING, INC., an Alaska
corporation,

Plaintiff

vs.

716 WEST FOURTH AVENUE LLC, and
LEGISLATIVE AFFAIRS AGENCY

Defendants.

COPY
Original Received

FEB 22 2016

Clerk of the Trial Courts

Case No. 3AN-15-05969CI

**ORDER TO SHOW CAUSE WHY DEFENDANT 716
WEST FOURTH AVENUE LLC SHOULD NOT BE
HELD IN CONTEMPT**

**TO: MANAGER OF DEFENDANT 716
WEST FOURTH AVENUE LLC**

Upon the showing of plaintiff Alaska Building, Inc., you are hereby **ORDERED** to appear on _____, 2016, at _____.m., in Courtroom 301 of the Nesbett Courthouse, 825 West 4th Avenue, Anchorage, Alaska to give any legal reason why this Court should not find you guilty of contempt, and order any appropriate sanctions for your willful failure to obey this Court's January 13, 2016, Order Regarding Alaska Building Inc's Motion to Compel requiring you to produce all loan applications and other documents relating to financing the New LIO Building.

Dated _____, 2016.

LAW OFFICES OF
JAMES B. GOTTSTEIN
406 G STREET, SUITE 206
ANCHORAGE, ALASKA
99501
TELEPHONE
(907) 274-7686
FACSIMILE
(907) 274-9493

PATRICK J. McKAY,
SUPERIOR COURT JUDGE

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT, AT ANCHORAGE

ALASKA BUILDING, INC., an Alaska
corporation,

Plaintiff

vs.

716 WEST FOURTH AVENUE LLC, and
LEGISLATIVE AFFAIRS AGENCY

Defendants.

CERTIFICATE OF SERVICE

COPY
Original Received

FEB 22 2016

Clerk of the Trial Courts

Case No. 3AN-15-05969CI

I hereby certify that on this date I hand delivered a copy of:

1. Motion to Show Cause Why Defendant 716 West Fourth Avenue LLC Should Not Be Held in Contempt;
2. Memorandum in Support of Motion to Show Cause Why Defendant 716 West Fourth Avenue LLC Should Not Be Held in Contempt;
3. Affidavit of James B. Gottstein, Esq., In Support of Motion to Show Cause;
4. (Proposed) Order to Show Cause Why Defendant 716 West Fourth Avenue LLC Should Not Be Held in Contempt; and
5. this Certificate of Service, to:

Jeffrey W. Robinson/
Eva R. Gardner
Ashburn & Mason, PC
1227 W. 9th Ave., Ste. 200
Anchorage, AK 99501

Kevin M. Cuddy
Stoel Rives LLP
510 L St., Ste. 500
Anchorage, AK 99501

Dated: February 22, 2016


Jim Gottstein