

RECORDING REQUESTED BY:  
GUARDIAN TITLE COMPANY

AND WHEN RECORDED  
MAIL TO:

TRIUMPH COLLATERAL PROCESSING  
155 SOUTH HIGHWAY 101, SUITE 7  
SOLANA BEACH, CA 92075

TITLE ORDER NO.: 4220319-00569  
ESCROW NO.: 3435-JW  
APN: 615-100-14-00

DOC# 2019-0530611



Nov 15, 2019 03:16 PM

OFFICIAL RECORDS

Ernest J. Dronenburg, Jr.,

SAN DIEGO COUNTY RECORDER

FEES: \$131.00 (SB2 Atkins: \$0.00)

PCOR: N/A

PAGES: 26

THIS SPACE FOR RECORDER'S USE

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

(Please fill in document title(s) on this line)

(unrecorded leases)

- 1 ☒ Exempt from fee per GC27388.1 due to being recorded in connection with concurrent transfer that is subject to the imposition of documentary transfer tax, or,
- 2 ☐ Exempt from fee per GC27388.1 due to being recorded in connection with a transfer that was subject to documentary transfer tax which was paid on document recorded previously on \_\_\_\_\_ (date\*) as document number \_\_\_\_\_ of Official Records, or,
- 3 ☐ Exempt from fee per GC27388.1 due to the maximum fees being paid on documents in this transaction, or,
- 4 ☐ Exempt from fee per GC27388.1 due to the maximum fees having been paid on documents in the transaction(s) recorded previously on \_\_\_\_\_ (date\*) as document number(s) \_\_\_\_\_ of Official Records, or,
- 5 ☐ Exempt from fee per GC27388.1, document transfers real property that is a residential dwelling to an owner-occupier, or, document is recorded in connection with concurrent transfer that is a residential dwelling to an owner-occupier, or,
- 6 ☐ Exempt from fee per GC27388.1 due to it being recorded in connection with a transfer of real property that is a residential dwelling to an owner-occupier. The recorded document transferring the dwelling to the owner-occupier was recorded on \_\_\_\_\_ (date\*) as document number(s) \_\_\_\_\_
- 7 ☐ Exempt from fee per GC27388.1 due to being executed or recorded by the federal government in accordance with the Uniform Federal Lien Registration Act, by the state, or any county, municipality or other political subdivision of the state, or,
- 8 ☐ Exempt from the fee per GC 27388.1 (a) (1); Not related to real property, or,
- 9 ☐ Exempt from fee under GC27388.1 for the following reasons:

THIS PAGE ADDED TO PROVIDE SENATE BILL 2 EXEMPTION INFORMATION  
(Additional recording fee applies)

RECORDING REQUESTED BY  
AND  
WHEN RECORDED MAIL TO:

Triumph Collateral Processing  
155 South Highway 101, Suite 7  
Solana Beach, California 92075

SPACE ABOVE FOR RECORDER'S USE ONLY

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

THIS COMMERCIAL DEED OF TRUST, SECURITY AGREEMENT, FIXTURE FILING and ASSIGNMENT OF LEASES AND RENTS (this "**Deed of Trust**") is made and entered into effective November 8, 2019 (the "**Effective Date**") by and between 1 Green Turtle LLC, a Delaware Limited Liability Company DBA Uno Green Turtle having a principal place of business at 53 Spinnaker Way, Coronado, CA 92118 ("**Trustor**" or "**Borrower**," as the case maybe), in consideration of the Loan made by Lender hereinafter mentioned does hereby GRANT, BARGAIN, SELL, TRANSFER, ASSIGN, and CONVEY and WARRANT in trust unto Guardian Title Company ("**Trustee**"), the following described property for the benefit of LFB Capital Partners, Inc. at its principal place of business at 2292 Faraday Avenue, Suite 100, Carlsbad, CA 92008 ("**Beneficiary**" or "**Lender**," as the case may be):

(A) All right, title and interest in and to that certain real property more commonly known as 1 Green Turtle Road, Coronado, CA 92118, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (collectively, with all of the Improvements, property, rights, Rents, and Leases described in Paragraphs B, C, D, E, and F below, the "**Property**");

(B) TOGETHER WITH: (i) all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Property; and (ii) all building materials, supplies and other personal property stored at or delivered to the Property or any other location for incorporation into the improvements located or to be located on the Property, and all fixtures, machinery, appliances, equipment, furniture and personal property of every nature whatsoever now or hereafter owned by the Trustor and located in or on, or attached to, and used or intended to be used in connection with, or with the operation of, or the occupancy of, the Property, buildings, structures or other improvements, or in connection with any construction being conducted or which may be conducted thereon, and owned by the Trustor, and all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing, and all of the right, title and interest of the Trustor in and to such personal property which, to the fullest extent permitted by law, shall be conclusively deemed fixtures and a part of the real property encumbered hereby (the

**“Improvements”**);

(C) TOGETHER WITH: (i) all estate, right, title and interest of the Trustor, of whatever character, whether now owned or hereafter acquired, in and to (a) all streets, roads and public places, open or proposed, in front of or adjoining the Property, and the land lying in the bed of such streets, roads and public places, and (b) all other sidewalks, alleys, ways, passages, strips and gores of land adjoining or used or intended to be used in connection with any of the property described in **paragraphs (A) and (B)** hereof, or any part thereof; and (ii) all water courses, water rights, easements, rights-of-way and rights of use or passage, public or private, and all estates, interest, benefits, powers, rights (including, without limitation, any and all lateral support, drainage, slope, sewer, water, air, mineral, oil, gas and subsurface rights), privileges, licenses, profits, rents, royalties, tenements, hereditaments, reversions and subreversions, remainders and subremainders and appurtenances whatsoever in any way belonging, relating or appertaining to any of the property described in **paragraphs (A) and (B)** hereof, or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by the Trustor; and

(D) TOGETHER WITH: (i) all estate, right, title and interest of the Trustor of, in and to all judgments, insurance proceeds, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Property described in paragraphs (A), (B) and (C) hereof or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Property described in paragraphs (A), (B) or (C) hereof or any part thereof, or to any rights appurtenant thereto, and all proceeds of any sales or other dispositions of the Property described in paragraphs (A), (B) or (C) hereof, or any part thereof; and the Beneficiary is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor, and (if it so elects) to apply the same, after deducting therefrom any expenses incurred by the Beneficiary in the collection and handling thereof, toward the payment of the indebtedness and other sums secured hereby, notwithstanding the fact that the amount owing thereon may not then be due and payable; and (ii) all contract rights, general intangibles, governmental permits, licenses and approvals, actions and rights in action, including without limitation all rights to insurance proceeds and unearned premiums, arising from or relating to the Property described in paragraphs (A), (B) and (C) above; and (c) all proceeds, products, replacements additions, substitutions, renewals and accessions of and to the Property described in paragraphs (A), (B) and (C).

(E) TOGETHER WITH: all rents, revenues, issues, profits, proceeds, income, royalties, accounts, escrows, letter-of-credit rights, security deposits, impounds, reserves, tax refunds and other rights to monies from the Properties and/or the businesses and operations conducted by Trustor thereon (collectively, the **“Rents”**), to be applied against the Indebtedness (defined below), all of which Trustor hereby absolutely and unconditionally assigns to Beneficiary; provided, however, that Trustor, for so long as no Event of Default has occurred hereunder, may collect rent as it becomes due, but not more than one (1) month in advance.

(F) TOGETHER WITH all interest of Trustor in all leases now or hereafter of all or any portion of the Property, whether written or oral (the **“Leases”**), together with all security therefor and all monies payable thereunder, all of which Trustor hereby absolutely and unconditionally

assigns to Beneficiary; subject, however, to the conditional permission hereinabove given to Trustor to collect the rents under any such Lease;

TO HAVE AND TO HOLD the Property, unto Trustee and Trustee's successors, substitutes, or assigns, in trust and for the uses and purposes herein set forth, forever, together with all rights, privileges, hereditaments, and appurtenances in anywise appertaining or belonging thereto, and made a part hereof, and Trustor, for Trustor and Trustor's successors, hereby agrees to warrant and forever defend, all and singular, the Property unto Trustee and Trustee's successors or substitutes in this trust against the claim or claims of all persons claiming or to claim the same or any part thereof.

**THE CONDITION OF THIS DEED OF TRUST IS SUCH THAT:**

WHEREAS, the Trustor is indebted to the Beneficiary by virtue of a commercial loan transaction (the "**Loan**") in the sum of Three Million Four Hundred Ten Thousand Two Hundred Ninety-Four Dollars and No Cents (\$3,410,294.00) as evidenced by, among other documents: (i) that certain Commercial Promissory Note in the original principal amount of Three Million Four Hundred Ten Thousand Two Hundred Ninety-Four Dollars and No Cents (\$3,410,294.00) (as same may be amended, restated, or modified from time to time, the "**Note**") of even date herewith executed by the Trustor and delivered to the Beneficiary, with all amounts remaining unpaid thereon being finally due and payable on the Maturity Date (as defined in the Note) and (ii) that certain Loan Agreement (as same may be amended, restated, or modified from time to time, "**Loan Agreement**") of even date herewith;

WHEREAS, the terms and repayment of such obligations of the Trustor are set forth in the Note;

WHEREAS, to secure payment and performance of the indebtedness and obligations represented by the Note, the Trustor is hereby executing this Deed of Trust in favor of the Beneficiary;

WHEREAS, Trustor represents and warrants that it has full power and authority to execute and deliver the Note, this Deed of Trust, and all other documents, agreements and instruments required of it by Beneficiary in connection with the making of the Loan (the Note, this Deed of Trust, and all such other documents, agreements and instruments executed and delivered by Trustor in connection with the Loan being sometimes collectively referred to herein as the "**Loan Documents**").

NOW, THEREFORE, Trustor hereby covenants and agrees with Beneficiary as follows:

**ARTICLE ONE: COVENANTS OF THE TRUSTOR**

**1.01 Performance of Loan Documents.** The Trustor shall cause to be performed, observed and complied with all provisions hereof, of the Note, and each of the Loan Documents, and will promptly pay to the Beneficiary the principal, with interest thereon, and all other sums required to be paid by the Trustor under the Note and pursuant to the provisions of this Deed of Trust and of the Loan Documents when payment shall become due (the entire principal amount of the Note, all accrued interest thereon and all obligations and indebtedness thereunder and hereunder and under all of the Loan Documents described being referred to herein as the "**Indebtedness**").

**1.02 General Representations, Covenants and Warranties.** The Trustor represents and covenants that: (a) Trustor is now able to meet its debts as they mature, the fair market value of its assets exceeds its liabilities and no bankruptcy or insolvency case or proceeding is pending or contemplated by or against the Trustor; (b) all reports, statements and other data furnished by the Trustor to the Beneficiary in connection with the Loan are true, correct and complete in all material respects and do not omit to state any fact or circumstance necessary to make the statements contained therein not misleading; (c) this Deed of Trust, the Note and all other Loan Documents are legal, valid and binding obligations of the Trustor enforceable in accordance with their respective terms and the execution and delivery thereof do not contravene any contract or agreement to which the Trustor is a party or by which the Trustor may be bound and do not contravene any law, order, decree, rule or regulation to which the Trustor is subject; (d) there are no actions, suits or proceedings pending, or to the knowledge of the Trustor threatened, against or affecting the Trustor or any part of the Property; (e) all costs arising from construction of any improvements and the purchase of all equipment located on the Property which have been incurred prior to the date of this Deed of Trust have been paid; (f) the Property has frontage on, and direct access for, ingress and egress to the street(s) described in any survey submitted to the Beneficiary; (g) electric, sewer, water facilities and any other necessary utilities are, or will be, available in sufficient capacity to service the Property satisfactorily during the term of the Note, and any easements necessary to the furnishing of such utility service by the Trustor have been or will be obtained and duly recorded (evidence satisfactory to the Beneficiary that all utility services required for the use, occupancy and operations of the Property shall be provided to the Beneficiary immediately upon the Beneficiary's request); (h) there has not been, is not presently and will not in the future be any activity conducted by the Trustor or any tenant at or upon any part of the Property that has given or will give rise to the imposition of a lien on any part of the Property; (i) the Trustor is not in default under the terms of any instrument evidencing or securing any indebtedness of the Trustor, and there has occurred no event which would, if uncured or uncorrected, constitute a default under any such instrument with the giving of notice, or the passage of time or both; and (j) the Beneficiary has legal capacity to enter into the Loan and to execute and deliver the Loan Documents, and the Loan Documents have been duly and properly executed on behalf of the Beneficiary.

**1.03 Compliance with Laws; Permits; Notice.** The Trustor covenants and warrants that the Property presently complies with and shall continue to comply with all applicable restrictive covenants, applicable zoning, wetlands and subdivision ordinances and building codes, all applicable health and environmental laws and regulations and all other applicable laws, statutes, rules, ordinances, codes, and regulations, and the Trustor has not received any notice that the Property is not in compliance with any such laws, statutes, rules, ordinances, codes and regulations. If the Trustor receives notice from any federal, state or other governmental body that it is not in compliance with any such laws, statutes, rules, ordinances, codes and regulations, the Trustor shall provide the Beneficiary with a copy of such notice promptly. The Trustor agrees to comply with all federal, state and municipal local laws, statutes, rules, ordinances, codes and regulations in connection with the construction and development of the Property. The Trustor has obtained all licenses, permits, authorizations, consents and approvals necessary for the construction and development of the Property, and all such licenses, permits, authorizations, consents and approvals are in full force and effect and all appeal periods have expired. Unless required by applicable law or unless the Beneficiary has otherwise agreed in writing, the Trustor shall not allow changes in the nature of the occupancy for which the Property were intended at the time this Deed of Trust was executed. The

Trustor shall not initiate or acquiesce in a change in the zoning classification of the Property without the Beneficiary's prior written consent. The Trustor warrants and represents that its use, and the use by any of its tenants, of the Property is in accordance and compliance with the terms and conditions of any and all rules, regulations, and laws that may be applicable to the Property, including, without limitation, all federal, state and local laws, ordinances, rules and regulations regarding hazardous and toxic materials and that the Trustor shall maintain and continue such compliance and shall require and ensure its tenants' compliance with the same. the Trustor shall maintain or shall cause their agent to maintain in its possession, available for the inspection of the Beneficiary, and shall deliver to the Beneficiary, upon three (3) business days' request, evidence of compliance with all such requirements. The Trustor hereby indemnifies and holds the Beneficiary free of and harmless from and against any and all claims, demands, damages or liabilities that the Beneficiary may incur with regard thereto.

#### **1.04 Taxes and Other Charges.**

**1.04.1 Impositions.** Subject to the provisions of this **Section 1.04**, the Trustor shall pay, at least five (5) days before the date due, all real estate taxes, personal property taxes, assessments, water and sewer rates and charges, license fees, all charges which may be imposed for the use of vaults, chutes, areas and other space beyond the lot line and abutting the public sidewalks in front of or adjoining the Land, and all other governmental levies and charges (collectively, the "Impositions"), of every kind and nature whatsoever, general and special, ordinary and extraordinary, foreseen and unforeseen, which shall be assessed, levied, confirmed, imposed or become a lien upon or against the Property or any part thereof, or which shall become payable with respect thereto. The Trustor shall deliver to the Beneficiary, within twenty (20) days after the due date of each payment in connection with the Impositions or any assessment for local improvements ("Assessment"), the original or a true Photostatic copy of the official receipt evidencing such payment or other proof of payment satisfactory to the Beneficiary.

#### **1.04.2 Insurance.**

(a) The Trustor shall keep all buildings erected on or to be erected on the Property insured against loss by fire and such other hazards as the Beneficiary may require and the Trustor shall obtain and maintain insurance with respect to other insurable risks and coverage relating to the Property including, without limitation, fire, builder's risk, worker's compensation, physical damages, loss of rentals or business interruption, earthquake (if applicable), and liability insurance, all such insurance to be in such sums and upon such terms and conditions as the Beneficiary reasonably may require, with loss proceeds by the terms of such policies made payable to the Beneficiary as its interest may appear. The Trustor covenants that all insurance premiums shall be paid not later than fifteen (15) days prior to the date on which such policy could be cancelled for non-payment. If, to the Trustor's knowledge, any portion of the Property is in an area identified by any federal governmental authority as having special flood hazards, and flood insurance is available, a flood insurance policy meeting the current guidelines of the Federal Insurance Administration is in effect with a generally acceptable insurance carrier, in an amount representing coverage not less than the least of (1) the outstanding principal balance of the Loan, (2) the full insurable value of the Property, and (3) the maximum amount of insurance available under the Flood Disaster Protection Act of 1973, as amended. All such insurance policies (collectively, the "**hazard insurance policy**") shall contain a standard the



Beneficiary clause naming the Beneficiary and its successors and assigns as beneficiary, and may not be reduced, terminated, or canceled without thirty (30) days' prior written notice to the Beneficiary.

(b) Such insurance companies shall be duly qualified as such under the laws of the states in which the Property is located, duly authorized and licensed in such states to transact the applicable insurance business and to write the insurance provided, and companies whose claims paying ability is rated in the two highest rating categories by A.M. Best with respect to hazard and flood insurance. Such insurance shall be in amounts not less than the greater of: (i) the outstanding principal balance of the Loan, or (ii) the amount necessary to avoid the operation of any co- insurance provisions with respect to the Property.

(c) All such policies must provide for a minimum of thirty (30) days prior written cancellation notice to the Beneficiary. the Beneficiary, upon its request to the Trustor, will have custody of all such policies and all other policies which may be procured insuring said Property, the same to be delivered, to the Beneficiary at its office and all renewal policies to be delivered and premiums paid to the Beneficiary at its office at least twenty (20) days before the expiration of the old policies, and the Trustor agrees that upon failure to maintain the insurance as above stipulated or to deliver said renewal policies as aforesaid, or the pay the premiums therefor, the Beneficiary may, without obligation to do so, procure such insurance and pay the premiums therefor and all sums so expended shall immediately be paid by the Trustor and unless so paid, shall be deemed part of the debt secured hereby and shall bear interest at the rate set forth in the Note, and thereupon the entire principal sum unpaid, including such sums as have been paid for premiums of insurance as aforesaid, and any and all other sums which shall be payable hereunder shall become due and payable forthwith at the option of the Beneficiary, anything herein contained to the contrary notwithstanding. In case of loss and payment by any insurance company, the amount of insurance money received shall be applied either to the Indebtedness secured hereby, or in rebuilding and restoring the damaged property, as the Beneficiary may elect.

(d) The Trustor has not engaged in and shall not engage in any act or omission which would impair the coverage of any such policy, the benefits of the endorsement provided for herein, or the validity and binding effect of either including, without limitation, no unlawful fee, commission, kickback, or other unlawful compensation or value of any kind has been or will be received, retained, or realized by any attorney, firm, or other person, and no such unlawful items have been received, retained, or realized by the Trustor.

(e) No action, inaction, or event has occurred and no state of facts exists or has existed that has resulted or will result in the exclusion from, denial of, or defense to coverage under any applicable special hazard insurance policy or bankruptcy bond, irrespective of the cause of such failure of coverage.

**1.04.3 Deposits for Impositions and Insurance.** Notwithstanding anything to the contrary contained in any of the Loan Documents, upon demand by the Beneficiary, after failure by the Trustor to pay any of the amounts specified in **Subsections 1.04.1 or 1.04.2**, the Trustor shall deposit with the Beneficiary on the first day of each month an amount equal to one twelfth (1/12th) of the sum of: (i) the aggregate annual payments for the Impositions; (ii) the annual insurance premiums on the policies of insurance required to be obtained and kept in force by the Trustor under

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this Deed of Trust; and (iii) all other periodic charges (other than interest and principal under the Note) arising out of the ownership of the Property or any portion thereof which are or with notice or the passage of time or both will become a lien against the Property or any part thereof ((i), (ii), and (iii), collectively, the “**Annual Payments**”). Such sums will not bear interest and are subject to adjustment or additional payments in order to assure the Beneficiary that it will have the full amount of any payment on hand at least one (1) month prior to its due date. the Beneficiary shall hold said sums in escrow to pay said Annual Payments in the manner and to the extent permitted by law when the same become due and payable. Notwithstanding anything herein to the contrary, however, such deposits shall not be, nor be deemed to be, trust funds but may be commingled with the general funds of the Beneficiary. If the total payments made by the Trustor to the Beneficiary, on account of said Annual Payments up to the time when the same become due and payable, shall exceed the amount of payment for said Annual Payments actually made by the Beneficiary, such excess shall be credited by the Beneficiary against the next payment or payments due from the Trustor to the Beneficiary on account of said Annual Payments. If, however, said payments made by the Trustor shall not be sufficient to pay said Annual Payments when the same become due and payable, the Trustor agrees to promptly pay to the Beneficiary the amount necessary to make up any deficiency. In case of default in the performance of any of the agreements or provisions contained in the Note, the Beneficiary may, at its option, at any time after such default, apply the balance remaining of the sums accumulated, as a credit against the principal or interest of the Deed of Trust Indebtedness, or both.

**1.04.4 Late Charge.** The Beneficiary may collect a “**late charge**” of ten percent (10%) on any payment or installment due or required to be paid pursuant to the terms of this Deed of Trust or the Note which is not paid within five (5) days of when the same is required to be paid to cover the extra expenses involved in handling such delinquent payment.

**1.04.5 Proof of Payment.** Upon request of the Beneficiary, the Trustor shall deliver to the Beneficiary, within twenty (20) days after the due date of any payment required in this Section 1.04, proof of payment satisfactory to the Beneficiary.

**1.04.6 Condemnation.** The Beneficiary shall be entitled to all compensation awards, damages, claims, rights of action and proceeds of, or on account of, any damage or taking through condemnation, eminent domain or the like, and the Beneficiary is hereby authorized, at its option, to commence, appear in and prosecute in its own or the Trustor's name any action or proceeding relating to any such condemnation, taking or the like and to settle or compromise any claim in connection therewith.

**1.05 Care of Property; Demolition and Alteration.** The Trustor shall maintain the Property in good condition and repair, shall not commit or suffer any waste of the Property, and shall comply with or cause to be complied with, all statutes, laws, rules, ordinances and requirements of any governmental authority relating to the Property; and the Trustor shall promptly repair, restore, replace or rebuild any part of the Property now or hereafter subject to the lien of this Deed of Trust which may be damaged or destroyed by any casualty whatsoever or which may be affected by any proceeding of the character referred to in Section 1.05. The Trustor shall complete and pay for, within a reasonable time, any structure in the process of construction on the Property at any time during the term of the Loan; and the Trustor shall not initiate, join in, or consent to any change in any private



restrictive covenants, or private restrictions, limiting or defining the uses which may be made of the Property or any part thereof, without the written consent of the Beneficiary. The Trustor agrees that no building or other property now or hereafter covered by the lien of this Deed of Trust shall be removed, demolished, or materially altered, without the prior written consent of the Beneficiary, except that the Trustor shall have the right, without such consent, to remove and dispose of, free from the lien of this Deed of Trust, such equipment as from time to time may become worn out or obsolete, provided that simultaneously with or prior to such removal any such equipment shall be replaced with other equipment of value at least equal to that of the replaced equipment and free from any title retention or security agreement or other encumbrance, and by such removal and replacement the Trustor shall be deemed to have subjected such equipment to the lien of this Deed of Trust.

#### **1.06 Transfer and Encumbrance of Property.**

(a) The Trustor shall not sell, convey, transfer, suffer any type of change in title or ownership, lease, assign or further encumber any interest in any part of the Property, without the prior written consent of the Beneficiary. Any such sale, conveyance, transfer, pledge, lease, assignment or encumbrance made without the Beneficiary's prior written consent shall be null and void and shall constitute a default hereunder. the Trustor shall not, without the prior written consent of the Beneficiary, permit any further assignment of the rents, royalties, issues, revenues, income, profits or other benefits from the Property, or any part thereof, and any such assignment without the prior written consent of the Beneficiary shall be null and void and shall constitute a default hereunder. the Trustor agrees that in the event the ownership of the Property or any part thereof is permitted by the Beneficiary to be vested in a person other than the Trustor, the Beneficiary may, without notice to the Trustor, deal in any way with such successor or successors in interest with reference to this Deed of Trust and the Note and other sums hereby secured without in any way vitiating or discharging the Trustor's liability hereunder or upon the Note and other sums hereby secured. No sale of the Property and no forbearance to any person with respect to this Deed of Trust and no extension to any person of the time for payment of the Note and other sums hereby secured given by the Beneficiary shall operate to release, discharge, modify, change or affect the original liability of the Trustor either in whole or in part.

(b) If the Trustor shall sell, convey, assign or transfer all or any part of the Property or any interest therein or any beneficial interest in the Trustor without the Beneficiary's prior written consent, the Beneficiary may, at the Beneficiary's option, without demand, presentment, protest, notice of protest, notice of intent to accelerate, notice of acceleration or other notice, or any other action, all of which are hereby waived by the Trustor and all other parties obligated in any manner on the Indebtedness, declare the Indebtedness to be immediately due and payable, which option may be exercised at any time following such sale, conveyance, assignment, lease or transfer, and upon such declaration the entire unpaid balance of the Indebtedness shall be immediately due and payable.

(c) The Trustor shall keep the Property free from mechanics' liens, materialmen's liens and encumbrances. If any prohibited lien or encumbrance is filed against the Property, the Trustor shall cause the same to be removed and discharged of record within thirty (30) days after the date of filing thereof.

(d) The Trustor shall obtain, upon request by the Beneficiary, from all persons hereafter

having or acquiring any interest in or encumbrance on the Property or the said equipment or accessions, a writing duly acknowledged, and stating the nature and extent of such interest or encumbrance and that the same is subordinate to this Deed of Trust and no offsets or defenses exist in favor thereof against this Deed of Trust or the Note hereby secured, and deliver such writing to the Beneficiary.

**1.07 Further Assurances.** At any time and from time to time upon the Beneficiary's request, the Trustor shall make, execute and deliver, or cause to be made, executed and delivered, to the Beneficiary and, where appropriate, shall cause to be recorded or filed, and from time to time thereafter to be re-recorded and refiled, at such time and in such offices and places as shall be deemed desirable by the Beneficiary, any and all such further Deed of Trusts, instruments of further assurance, certificates and such other documents as the Beneficiary may consider necessary or desirable in order to effectuate, complete or perfect, or to continue and preserve, the obligations of the Trustor under the Note and this Deed of Trust, the lien of this Deed of Trust as a lien upon all of the Property, and unto all and every person or persons deriving any estate, right, title or interest under this Deed of Trust. Upon any failure by the Trustor to do so, the Beneficiary may make, execute, record, file, re-record or refile any and all such Deed of Trusts, instruments, certificates and documents for and in the name of the Trustor, and the Trustor hereby irrevocably appoints the Beneficiary the agent and attorney-in-fact of the Trustor to do so.

**1.08 Uniform Commercial Code Security Agreement and Fixture Filing.** This Deed of Trust is intended to be a security agreement and fixture filing which is to be filed for record in the real estate records pursuant to the Uniform Commercial Code in effect from time to time in the State of California for any of the goods specified above in this Deed of Trust as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code and the Trustor hereby agrees to execute and deliver any additional financing statements covering said goods from time to time and in such form as the Beneficiary may require to perfect a security interest with respect to said goods. The Trustor shall pay all costs of filing such financing statements and renewals and releases thereof and shall pay all reasonable costs and expenses of any record searches for financing statements which the Beneficiary may reasonably require. Without the prior written consent of the Beneficiary, the Trustor shall not create or suffer to be created, pursuant to the Uniform Commercial Code, any other security interest in said goods, including replacements and additions thereto. Upon the Trustor's breach of any covenant or agreement of the Trustor contained in this Deed of Trust, including the covenants to pay when due all sums secured by this Deed of Trust, the Beneficiary shall have the remedies of a secured party under the Uniform Commercial Code and, at the Beneficiary's option, may also invoke the remedies permitted by applicable law as to such goods.

AS IT IS RELATED HERETO:

DEBTOR IS:

1 Green Turtle LLC, a Delaware Limited Liability Company DBA Uno Green Turtle  
53 Spinnaker Way, Coronado, CA 92118

SECURED PARTY IS:

LFB Capital Partners, Inc.  
2292 Faraday Avenue, Suite 100, Carlsbad, CA 92008

The Trustor represents, covenants, and warrants that as of the date hereof as follows: the Trustor's full, correct, and exact legal name is set forth immediately above in this Section 1.08. The Trustor is an organization of the type and is incorporated in, organized, or formed under the laws of the state specified in the introductory paragraph to this Deed of Trust. In the event of any change in name or identity of the Trustor, the Trustor hereby authorizes the Beneficiary to file such Uniform Commercial Code forms as are necessary to maintain the priority of the Beneficiary's lien upon the Property which may be deemed personal property or fixtures, including future replacement thereof, which serves as collateral under this Deed of Trust.

**1.09 Lease Covenants.** Each and every covenant on the part of the Trustor contained in any assignment of lessor's interest in leases or any assignment of rents, royalties, issues, revenues, profits, income or other benefits made collateral hereto is made an obligation of the Trustor hereunder as if fully set forth herein.

**1.10 After-Acquired Property.** To the extent permitted by and subject to applicable law, the lien of this Deed of Trust will automatically attach, without further act, to all after-acquired property located in, on, or attached to, or used, or intended to be used, in connection with, or with the renovation of, the Property or any part thereof; provided, however, that, upon request of the Beneficiary, the Trustor shall execute and deliver such instrument or instruments as shall reasonably be requested by the Beneficiary to confirm such lien, and the Trustor hereby appoints the Beneficiary its attorney-in-fact to execute all such instruments, which power is coupled with an interest and is irrevocable.

**1.11 Expenses.** Unless otherwise agreed in writing, the Trustor will pay when due and payable all appraisal fees, recording fees, taxes, brokerage fees and commissions, abstract fees, title policy fees, escrow fees, attorneys' fees, court costs, fees of inspecting architect(s) and engineer(s) and all other costs and expenses of every character which have been incurred or which may hereafter be incurred by the Beneficiary in connection with: (a) the preparation and execution of the Loan Documents; (b) the funding of the Loan; (c) in the event an Event of Default occurs hereunder or under the Note or any of the Loan Documents, all costs, fees and expenses, including, without limitation, all reasonable attorneys' fees in connection with the enforcement under the Note or foreclosure under this Deed of Trust, preparation for enforcement of this Deed of Trust or any other Loan Documents, whether or not suit or other action is actually commenced or undertaken; (d) enforcement of this Deed of Trust or any other Loan Documents; (e) court or administrative proceedings of any kind to which the Beneficiary may be a party, either as plaintiff or defendant, by reason of the Note, the Deed of Trust or any other Loan Documents; (f) preparation for and actions taken in connection with the Beneficiary's taking possession of the Property; (g) negotiations with the Trustor, its beneficiary, or any of its agents in connection with the existence or cure of any Event of Default or default; (h) any proposed refinancing by the Trustor or any other person or entity of the debt secured hereby; (i) the transfer of the Property in lieu of foreclosure; (j) inspection of the Property pursuant to Section 1.15; and (k) the approval by the Beneficiary of actions taken or proposed to be taken by the Trustor, its beneficiary, or other person or entity which approval is required by the terms of this Deed of Trust

or any other of the Loan Document. The Trustor will, upon demand by the Beneficiary, reimburse the Beneficiary or any takeout lender for all such expenses which have been incurred or which shall be incurred by either of them; and will indemnify and hold harmless the Beneficiary from and against, and reimburse it for, the same and for all claims, demands, liabilities, losses, damages, judgments, penalties, costs and expenses (including, without limitation, attorneys' fees) which may be imposed upon, asserted against, or incurred or paid by it by reason of, on account of or in connection with any bodily injury or death or property damage occurring in or upon or in the vicinity of the Property through any cause whatsoever or asserted against it on account of any act performed or omitted to be performed hereunder or on account of any transaction arising out of or in any way connected with the Property, or with this Deed of Trust or the Indebtedness.

**1.12 The Beneficiary's Performance of Defaults.** If the Trustor defaults in the payment of any tax, Assessment, encumbrance or other Imposition, in its obligation to furnish insurance hereunder, or in the performance or observance of any other covenant, condition, agreement or term in this Deed of Trust, the Note or in any of the Loan Documents, the Beneficiary may, without obligation to do so, to preserve its interest in the Property, perform or observe the same, and all payments made (whether such payments are regular or accelerated payments) and costs and expenses incurred or paid by the Beneficiary in connection therewith shall become due and payable immediately. The amounts so incurred or paid by the Beneficiary, together with interest thereon at the default rate, as provided in the Note, from the date incurred until paid by the Trustor, shall be added to the Indebtedness and secured by the lien of this Deed of Trust to the extent permitted by law. The Beneficiary is hereby empowered to enter and to authorize others to enter upon the Property or any part thereof for the purpose of performing or observing any such defaulted covenant, condition, agreement or term, without thereby becoming liable to the Trustor or any person in possession holding under the Trustor.

**1.13 Financial Statements, Books, and Records.** The Trustor will furnish to the Beneficiary, within thirty (30) days after a request therefor, a detailed statement in writing, covering the period of time specified in such request, showing all income derived from the operation of the Property, and all disbursements made in connection therewith, and containing a list of the names of all tenants and occupants of the Property, the portion or portions of the Property occupied by each such tenant and occupant, the rent and other charges payable under the terms of their leases or other agreements and the period covered by such leases or other agreements.

**1.14 Inspection.** The Beneficiary, and any persons authorized by the Beneficiary, shall have the right, at the Beneficiary's option, to enter and inspect the Property upon reasonable notice and at all other reasonable times during the term of the Loan. The Trustor shall pay any professional fees and expenses, which may be incurred by the Beneficiary in connection with such inspection.

**1.15 Loan to Value Covenant.** If at any one or more time(s) during the term of the Note the then aggregate outstanding and committed principal amount of the Note, plus accrued interest and fees thereon, plus all amounts outstanding under any debts secured by prior liens on the Property, is greater than eighty percent (80%) of the value of the Property, as determined by the Beneficiary based upon the Beneficiary's review of any appraisal and such other factors as the Beneficiary may deem appropriate, then the Trustor shall within thirty (30) days following a request by the Beneficiary, prepay the Note by an amount sufficient to cause the then outstanding principal amount of the Note, plus accrued interest and fees thereon, to be reduced to an amount equal to or less than

eighty percent (80%) of the value of the Property. The inability of the Trustor to reduce the principal balance of the Note within thirty (30) days following request by the Beneficiary shall be, at the Beneficiary's option, an Event of Default, hereunder.

**1.16 No Occupancy by Trustor et al.** None of (i) Trustor, (ii) any guarantor of Trustor, (iii) any person holding an equity or other ownership interest in Trustor or in any guarantor of Trustor or (iv) any member of the immediate family of the persons identified in (i), (ii), (iii) shall occupy or inhabit (or permit the occupancy or habitation of) any part of the Property, including without limitation any building, structure or other improvement located thereon.

## **ARTICLE TWO: DEFAULTS**

**2.01 Event of Default.** The term “Event of Default” or “default” wherever used in this Deed of Trust, shall mean anyone or more of the following events: (a) failure by the Trustor to pay any installment of principal and/or interest under the Note within five (5) days after the same becomes due and payable; (b) failure by the Trustor to observe or perform, or upon any default in, any other covenants, agreements or provisions herein, in the Note, or in any of the Loan Documents; (c) failure by the Trustor to pay any Imposition, Assessment, other utility charges on or lien against the Property; (d) failure by the Trustor to keep in force the insurance required in this Deed of Trust; (e) failure by the Trustor to either deliver the policies of insurance described in this Deed of Trust or to pay the premiums for such insurance as provided herein; (f) failure by the Trustor to pay any installment, which may not then be due or delinquent, of any Assessment for local improvements for which an official bill has been issued by the appropriate authorities and which may now or hereafter affect the Property, and may be or become payable in installments; (g) the actual or threatened waste, removal or demolition of, or material alteration to, any part of the Property, except as permitted herein; (h) the vesting of title, or any sale, conveyance, transfer, leasing, assignment or further encumbrance in any manner whatsoever of any interest in the Property, or any part thereof, in or to anyone other than the present owner, or any change in title or ownership of the Property, or any part thereof, without the prior written consent of the Beneficiary; (i) all or a material portion of the Property being taken through condemnation, eminent domain, or any other taking such that the Beneficiary has reason to believe that the remaining portion of the Property is insufficient to satisfy the outstanding balance of the Note, or the value of the Property being impaired by condemnation, eminent domain or any other taking, (which term when used herein shall include, but not be limited to, any damage or taking by any governmental authority or any other authority authorized by the laws of any state or the United States of America to so damage or take, and any transfer by private sale in lieu thereof), either temporarily for a period in excess of thirty (30) days, or permanently; (j) the merger or dissolution of the Trustor or the death of any guarantor of the Note (“Guarantor”); (k) any representation or warranty of the Trustor or any Guarantor made herein or in any such guaranty or in any certificate, report, financial statement, or other instrument furnished in connection with the making of the Note, the Deed of Trust, or any such guaranty, shall prove false or misleading in any material respect; (l) Trustor makes or takes any action to make a general assignment for the benefit of its creditors or becomes insolvent or has a receiver, custodian, trustee in Bankruptcy, or conservator appointed for it or for substantially all or any of its assets; (m) the Trustor files, or becomes the subject of, a petition in bankruptcy, or upon the commencement of any proceeding or action under any bankruptcy laws, insolvency laws, relief of debtors laws, or any other similar law affecting the Trustor, provided however, that the Trustor shall have sixty (60) days from the filing of any involuntary petition in

bankruptcy to have the same discharged and dismissed; (n) the Property becomes subject to (1) any tax lien which is superior to the lien of the Deed of Trust, other than a lien for local real estate taxes and assessments not due and payable or (2) any mechanic's, materialman's, or other lien which is, or is asserted to be, superior to the lien of the Deed of Trust and such lien shall remain undischarged for thirty (30) days, (o) the Trustor fails to promptly cure any violations of laws or ordinances affecting or which may be interpreted to affect the Property; (p) in the event of any material adverse change in the financial condition of the Trustor; or (q) any of the aforementioned events occur with respect to any Guarantor.

### **ARTICLE THREE: REMEDIES**

In the event that an Event of Default or default shall have occurred, the remedies available to the Beneficiary include, but are not limited to, any and all rights and remedies available hereunder, any and all rights and remedies available at law, in equity, or by statute. Without limiting the foregoing, the rights and remedies available to the Beneficiary shall include, but not be limited to, any one or more of the following:

**3.01 Acceleration of Maturity.** If an Event of Default shall have occurred, the Beneficiary may, at its option, declare without demand or notice all of the outstanding Indebtedness to be due and payable immediately, and upon such declaration such Indebtedness shall immediately become and be due and payable without demand or notice.

**3.02 The Beneficiary's Right to Enter and Take Possession.** If an Event of Default shall have occurred, the Trustor, upon demand on the Beneficiary, shall forthwith surrender to the Beneficiary the actual possession of the Property and the Beneficiary itself, or by such officers or agents as it may appoint, may enter and take possession of the Property, collect and receive the rents and income therefrom, and to apply so much of said rents and income as may be required in the necessary expenses of running said Property, including reasonable attorneys' fees, management agents' fees, and if the Beneficiary manages the Property with its own employees, an amount equal to the customary management agents' fees charged for similar property in the area where the Property are located, and to apply the balance of said rents and income to the payment of the amounts due upon said Note, or in payment of taxes assessed against the Property, or both. And for this purpose, and in case of such default, the Trustor hereby assigns, transfers, and sets over to the Beneficiary the rents and income accruing from said Property. Nothing contained in the foregoing provisions shall impair or affect any right or remedy which the Beneficiary might now or hereafter have, were it not for such provisions, but the rights herein given shall be in addition to any others which the Beneficiary may have hereunder.

**3.03 Receiver.** If an Event of Default shall have occurred, the Beneficiary, to the extent permitted by law and without regard to the value or occupancy of the security, shall be entitled to apply for the appointment of a receiver of the rents and profit of the Property without notice, and shall be entitled to the appointment of such a receiver as a matter of right, without consideration of the value of the Property as security for the amounts due the Beneficiary, or the solvency of any person or limited liability company liable for the payment of such amounts.

**3.04 Trustee's Sale.** If any Event of Default occurs, Beneficiary is authorized and empowered,



without further notice, to execute or cause the Trustee to execute a written notice of default and of election to cause the Property to be sold as required by law or as otherwise provided herein, and the Trustee shall file such notice for record in each county wherein the Property or any part thereof is situated. After such filing, the Trustee may lawfully foreclose and shall foreclose the lien of this Deed of Trust, and sell and dispose of the Property in masse or in separate parcels (as Beneficiary may elect) and all the right, title, and interest of Trustor therein, at a public auction at any place then authorized by law as may be specified in the notice of such sale, for the price permitted by law (the "Trustee's Sale"), legally required public notice having previously been given of the time and place of such sale. The Trustee, without demand on Trustor, shall sell the Property on the date and at the time and place designated in the notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Trustor to direct the order in which such Property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he deems expedient in accordance with applicable law, postpone the sale from time to time until it shall be completed and, in every case, notice of postponement shall be given as required by law. Trustee shall execute and deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and attorneys' fees; (2) cost of any evidence of title procured in connection with such sale; (3) all sums expended under the terms hereof, not then repaid, with accrued interest as provided herein from date of expenditure; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the County Clerk of the county in which the sale took place.

**3.05 Attorneys' Fees.** If this Deed of Trust is foreclosed by the Trustee, the Trustee shall allow a reasonable amount of attorneys' fees for services rendered in the supervision of such foreclosure proceedings as a part of the cost of foreclosure. If the foreclosure proceedings are made through court proceedings, attorneys' fees in an amount determined by the court to be reasonable shall be taxed by the court as a part of the cost of such foreclosure proceedings.

**3.06 Waiver of Appraisalment, Valuation, Stay, Exemption, and Redemption Laws, etc.; Marshaling.** The Trustor agrees to the full extent permitted by law that after an Event of Default neither the Trustor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisalment, valuation, stay, exemption, moratorium, or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust, and the Trustor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, any and all right to have the assets comprising the Property marshaled upon any foreclosure hereof.

**3.07 Suits to Protect the Property.** The Beneficiary shall have the power and authority to institute and maintain any suits and proceedings as the Beneficiary may deem advisable in order to (a) prevent any impairment of the Property, (b) foreclose this Deed of Trust, (c) preserve and protect its interest in the Property, and (d) to restrain the enforcement of, or compliance with, any legislation or other

governmental enactment, rule, or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order might impair the security hereunder or be prejudicial to the Beneficiary's interest.

**3.08 Proofs of Claim.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial case or proceeding affecting the Trustor, its creditors or its property, the Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have its claims allowed in such case or proceeding for the entire Indebtedness at the date of the institution of such case or proceeding, and for any additional amounts which may become due and payable by the Trustor after such date.

**3.09 Application of Monies by the Beneficiary.** After the occurrence of an Event of Default, any monies collected or received by the Beneficiary shall be applied in such priority as the Beneficiary may determine in its sole and absolute discretion, to such matters including, but not limited to, the payment of compensation, expenses and disbursements of the agents, attorneys and other representatives of the Beneficiary, to deposits for Impositions and Insurance and insurance premiums due, to the cost of insurance, Impositions, Assessments, and other charges and to the payment of the Indebtedness.

**3.10 No Waiver.** Notwithstanding any course of dealing or course of performance, neither failure nor delay on the part of the Beneficiary to exercise any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power, or privilege.

**3.11 No Waiver of One Default to Affect Another.** No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other Event of Default then existing, or impair any rights, powers or remedies consequent thereon. If the Beneficiary (a) grants forbearance or an extension of time for the payment of any of the Indebtedness; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted in the Note, this Deed of Trust or any other of the Loan Documents; (d) releases any part of the Property from the lien of this Deed of Trust or any other of the Loan Documents or releases or any party liable under the Note; (e) consents to the filing of any map, plat or replat of the Land; (f) consents to the granting of any easement on the Land; or (g) makes or consents to any agreement changing the terms of this Deed of Trust or subordinating the lien or any charge hereof, no such act or omission shall release, discharge, modify, change or affect the original liability under this Deed of Trust or otherwise of the Trustor, or any subsequent purchaser of the Property or any part thereof or any trustor, co-signer, endorser, surety or guarantor. No such act or omission shall preclude the Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in case of any Event of Default then existing or of any subsequent Event of Default nor, except as otherwise expressly provided in an instrument or instruments executed by the Beneficiary, shall the lien of this Deed of Trust be altered thereby.

**3.12 Remedies Cumulative.** No right, power or remedy conferred upon or reserved to the Beneficiary by the Note, this Deed of Trust or any other of the Loan Documents is exclusive of any other right, power and remedy, but each and every such right, power and remedy shall be cumulative

and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Note or any other of the Loan Documents, or now or hereafter existing at law, in equity or by statute.

**3.13 Interest after Event of Default; Default Rate.** If an Event of Default shall have occurred, all sums outstanding and unpaid under the Note and this Deed of Trust shall, at the Beneficiary's option, bear interest at the default rate set forth in the Note.

**3.14 Indemnification of Trustee.** Except for gross negligence or willful misconduct, Trustee shall not be liable for any act or omission or error of judgment. Trustee may rely on any document believed by Trustee in good faith to be genuine. All money received by Trustee shall, until used or applied as herein provided, be held in trust, but need not be segregated (except to the extent required by law), and Trustee shall not be liable for interest thereon. Trustor shall indemnify Trustee against all liability and expenses which Trustee may incur in the performance of Trustee's duties hereunder.

**3.15 Substitute Trustee.** Beneficiary may appoint a substitute Trustee (a) if Trustee herein named or any substitute Trustee shall die, resign, or fail, refuse or be unable, for any reason, to make any such sale or to perform any of the trusts herein declared; or (b) at the option of Beneficiary from time to time as often and whenever Beneficiary prefers and with or without any reason or cause. Each appointment shall be in writing, but without the necessity of recordation, notice to Trustor, or any other action or formality. Each substitute Trustee so appointed shall thereupon by such appointment become Trustee and succeed to all the estates, titles, rights, powers, trusts and duties of predecessor Trustee. Any such appointment may be executed by Beneficiary or any authorized representative of Beneficiary, and such appointment shall be presumed conclusively to have been executed with due and proper authority. Without limiting the generality of the foregoing, if Beneficiary is a corporation, bank or association, of any type or character, such appointment may be executed in its behalf by any officer of Beneficiary and shall be presumed conclusively to have been executed with due and proper authority without necessity of proof of any action by the board of directors or any superior officer. Wherever herein the word "Trustee" is used, the same shall mean the duly appointed trustee or substitute trustee hereunder at the time in question. Trustee may resign by written notice to Beneficiary.

**3.16 Provisional Remedies: Foreclosure And Injunctive Relief:** Nothing shall be deemed to apply to limit the right of Trustee to: (a) exercise self-help remedies, (b) foreclose judicially or non-judicially against any real or personal property collateral, or to exercise judicial or non-judicial power of sale rights, (c) obtain from a court provisional or ancillary remedies (including, but not limited to, injunctive relief, a writ of possession, prejudgment attachment, a protective order or the appointment of a receiver) or (d) pursue rights against Trustor or any other party in a third party proceeding in action brought against Beneficiary (including, but not limited to, actions in bankruptcy court). Beneficiary may exercise the rights set forth in the foregoing clauses (a) through (d), inclusive, before, during, or after the pendency of any proceeding.

#### **ARTICLE FOUR: ASSIGNMENT OF LEASES AND RENTS.**

**4.1 Assignment.** Trustor hereby irrevocably, absolutely, presently and unconditionally assigns to Beneficiary all of Trustor's right, title and interest in and to all Leases and Rents, and confers upon

Beneficiary the right to collect such Rents with or without taking possession of the Property. In the event that anyone establishes and exercises any right to develop, bore for or mine for any water, gas, oil or mineral on or under the surface of the Property, any sums that may become due and payable to Trustor as bonus or royalty payments, and any damages or other compensation payable to Trustor in connection with the exercise of any such rights, shall also be considered Rents assigned under this Section. THIS IS AN ABSOLUTE ASSIGNMENT, NOT AN ASSIGNMENT FOR SECURITY ONLY.

**4.2 Grant of License.** Notwithstanding the provisions of Section 4.1, Beneficiary hereby confers upon Trustor a license (“License”) to collect and retain the Rents as they become due and payable, so long as no Event of Default shall exist and be continuing. If an Event of Default has occurred and is continuing, Beneficiary shall have the right, which it may choose to exercise in its sole discretion, to terminate this License without notice to or demand upon Trustor, and without regard to the adequacy of the security for the Indebtedness.

**4.3 Effect of Assignment.** The foregoing irrevocable and absolute assignment shall not cause Beneficiary to be: (a) a mortgagee in possession; (b) responsible or liable for the control, care, management or repair of the Property or for performing any of the terms, agreements, undertakings, obligations, representations, warranties, covenants and conditions of the Leases; or (c) responsible or liable for any waste committed on the Property by the lessees under any of the Leases or any other parties; for any dangerous or defective condition of the Property; or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any lessee, licensee, employee, invitee or other person. Beneficiary and Trustee shall not directly or indirectly be liable to Trustor or any other person as a consequence of: (i) the exercise or failure to exercise by Beneficiary or Trustee, or any of their respective employees, agents, contractors or subcontractors, any of the rights remedies or powers granted to Beneficiary or Trustee hereunder; or (ii) the failure or refusal of Beneficiary to perform or discharge any obligation, duty or liability of Trustor arising under the Leases.

**4.4 Representations and Warranties.** Trustor represents and warrants that: (a) it has provided to Beneficiary a true, correct and complete list of all Leases, if any, (b) all existing Leases, if any, are in full force and effect and are enforceable in accordance with their respective terms subject to applicable laws affecting creditors’ rights and principles of equity, (c) no breach or default, or event which would constitute a breach or default after notice or the passage of time, or both, exists under any existing Leases on the part of Trustor or, to the best of Trustor’s knowledge, any other party; (d) no rent or other payment under any existing Lease has been paid by any lessee for more than one (1) month in advance; and (e) none of the lessor’s interests under any of the Leases has been transferred or assigned.

**4.5 Covenants.** Trustor shall (i) fulfill or perform each and every term, covenant and provision of the Leases to be fulfilled or performed by the lessor thereunder; (ii) give prompt notice to Beneficiary of any notice received by Trustor of default thereunder or of any alleged default or failure of performance that could become a default thereunder, together with a complete copy of any such notice; and (iii) enforce, short of termination thereof, the performance or observance of each and every material term, covenant and provision of each Lease to be performed or observed by the lessees and tenants thereunder. Trustor, without the prior written consent of Beneficiary, shall not: (i) cancel,

materially modify or alter, or accept the surrender of, any Lease; (ii) assign, transfer, pledge or encumber, the whole or any part of the Leases and Rents to anyone other than Beneficiary; (iii) accept any Rents more than one month in advance of the accrual thereof; (iv) do or permit anything to be done, the doing of which, or omit or refrain from doing anything, the omission of which, could be a breach or default under the terms of any Lease or a basis for termination thereof; or (v) enter in to any new tenant leases.

**4.6 Beneficiary's Right to Proceeds.** Without in any way limiting the requirement of Beneficiary's consent hereunder, any sums received by Trustor in consideration of any termination (or the release or discharge of any lessee), modification or amendment of any Lease shall be paid over to Beneficiary and applied to reduce the outstanding Indebtedness and any such sums received by Trustor shall be held in trust by Trustor for such purpose.

#### **ARTICLE FIVE: MISCELLANEOUS PROVISIONS**

**5.1 Heirs, Successors and Assigns Included in Parties.** Whenever one of the parties hereto is named or referred to herein, the heirs, successors and assigns of such party shall be included and all covenants and agreements contained in this Deed of Trust, by or on behalf of the Trustor or the Beneficiary shall bind and inure to the benefit of their respective heirs, successors and assigns, whether so expressed or not.

**5.2 Addresses for Notices, etc.**

(a) Any notice, report, demand or other instrument authorized or required to be given or furnished under this Deed of Trust shall be in writing, signed by the party giving or making the same, and shall be sent by certified mail, return receipt requested, as follows:

**THE TRUSTOR:**

1 Green Turtle LLC, a Delaware Limited Liability Company DBA Uno Green Turtle  
53 Spinnaker Way, Coronado, CA 92118

**THE BENEFICIARY:**

LFB Capital Partners, Inc.  
2292 Faraday Avenue, Suite 100, Carlsbad, CA 92008

**With a copy to:**

The Weiss Group, LLP  
PO Box 9474  
Rancho Santa Fe, California 92067  
Attn: Benjamin M. Weiss, Esq.

(b) Either party may change the address to which any such notice, report, demand or other

instrument is to be delivered or mailed, by furnishing written notice of such change to the other party, but no such notice of change shall be effective unless and until received by such other party.

**5.3 Headings.** The headings of the articles, sections, paragraphs and subdivisions of this Deed of Trust are for convenience of reference only, are not to be considered a part hereof and shall not limit or expand or otherwise affect any of the terms hereof.

**5.4 Provisions Subject to Applicable Laws; Severability** All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any law and are intended to be limited to the extent necessary so that they will not render this Deed of Trust invalid or unenforceable. In the event that any of the covenants, agreements, terms or provisions contained in the Note, or in this Deed of Trust or in any other Loan Documents shall be deemed invalid, illegal or unenforceable in any respect by a court with appropriate jurisdiction, the validity of the remaining covenants, agreements, terms or provisions contained herein or in the Note or in any other Loan Documents shall be in no way affected, prejudiced or disturbed thereby.

**5.5 Modification.** This Deed of Trust, the Note, and all other Indebtedness are subject to modification. Neither this Deed of Trust, nor any term hereof, may be changed, waived, discharged or terminated orally or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge, or termination is sought.

**5.6 Governing Law.** THIS DEED OF TRUST IS MADE BY THE BENEFICIARY AND ACCEPTED BY THE TRUSTOR IN THE STATE OF CALIFORNIA EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, PRIORITY, ENFORCEMENT AND FORECLOSURE OF THE LIENS AND SECURITY INTERESTS CREATED IN THE PROPERTY UNDER THE LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE WHERE THE PROPERTY IS LOCATED. TO THE FULLEST EXTENT PERMITTED BY THE LAW OF THE STATE WHERE THE PROPERTY IS LOCATED, THE LAW OF THE STATE OF CALIFORNIA SHALL GOVERN THE VALIDITY AND ENFORCEABILITY OF ALL LOAN DOCUMENTS, AND THE DEBT OR OBLIGATIONS ARISING HEREUNDER (BUT THE FOREGOING SHALL NOT BE CONSTRUED TO LIMIT BENEFICIARY'S RIGHTS WITH RESPECT TO SUCH SECURITY INTEREST CREATED IN THE STATE WHERE THE PROPERTY IS LOCATED).

**5.7 Prejudgment Remedies.** THE TRUSTOR HEREBY REPRESENTS, COVENANTS, AND AGREES THAT THE PROCEEDS OF THE LOAN SECURED BY THIS DEED OF TRUST, AND EVIDENCED BY THE LOAN AGREEMENT, AND THE NOTE SHALL BE USED FOR GENERAL COMMERCIAL PURPOSES AND THAT SUCH LOAN IS A "COMMERCIAL TRANSACTION" AS DEFINED BY THE STATUTES OF THE STATE OF CALIFORNIA. THE TRUSTOR HEREBY WAIVES SUCH RIGHTS AS IT MAY HAVE TO NOTICE AND/OR HEARING UNDER ANY APPLICABLE FEDERAL OR STATE LAWS INCLUDING, WITHOUT LIMITATION, CALIFORNIA GENERAL STATUTES, PERTAINING TO THE EXERCISE BY THE BENEFICIARY OF SUCH RIGHTS AS THE BENEFICIARY MAY HAVE INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK PREJUDGMENT REMEDIES AND/OR TO DEPRIVE THE



TRUSTOR OF OR AFFECT THE USE OF OR POSSESSION OR ENJOYMENT OF THE TRUSTOR'S PROPERTY PRIOR TO THE RENDITION OF A FINAL JUDGMENT AGAINST THE TRUSTOR. THE TRUSTOR FURTHER WAIVES ANY RIGHT IT MAY HAVE TO REQUIRE THE BENEFICIARY TO PROVIDE A BOND OR OTHER SECURITY AS A PRECONDITION TO OR IN CONNECTION WITH ANY PREJUDGMENT REMEDY SOUGHT BY THE BENEFICIARY, AND WAIVES ANY OBJECTION TO THE ISSUANCE OF SUCH PREJUDGMENT REMEDY BASED ON ANY OFFSETS, CLAIMS, DEFENSES, OR COUNTERCLAIMS TO ANY ACTION BROUGHT BY THE BENEFICIARY. FURTHER, THE TRUSTOR HEREBY WAIVES, TO THE EXTENT PERMITTED BY LAW, THE BENEFITS OF ALL PRESENT AND FUTURE VALUATION, APPRAISAL, HOMESTEAD, EXEMPTION, STAY, REDEMPTION AND MORATORIUM LAWS.

**5.8 Effects of Changes and Laws Regarding Taxation.** In the event of an enactment of any law deducting from the value of the Property any Deed of Trust lien thereon, or imposing upon the Beneficiary the payment of any or part of the Impositions, charges, or Assessments previously paid by the Trustor pursuant to this Deed of Trust, or change in the law relating to the taxation of Deed of Trusts, debts secured by Deed of Trusts or the Beneficiary's interest in the Property so as to impose new incidents of taxes on the Beneficiary, then the Trustor shall pay such Impositions or Assessments or shall reimburse the Beneficiary therefor; provided that, however, if in the opinion of counsel to the Beneficiary such payment cannot lawfully be made by the Trustor, then the Beneficiary may, at the Beneficiary's option, declare all of the sums secured by this Deed of Trust to be immediately due and payable without prior notice to the Trustor, and the Beneficiary may invoke any remedies permitted by applicable law.

**5.9 Purpose of Loan.** The Trustor represents and warrants that the proceeds from this Loan are to be used solely for business and commercial purposes and not at all for any personal, family, household, or other noncommercial or farming or agricultural purposes. The Trustor acknowledges that the Beneficiary has made this Loan to the Trustor in reliance upon the above representation. Said representation will survive the closing and repayment of the Loan. The Trustor acknowledges that the Federal and California Truth in Lending disclosures are not required for loans that are given solely for business and commercial purposes.

**5.10 Duplicate Originals.** This Deed of Trust may be executed in any number of duplicate originals and each such duplicate original shall be deemed to be an original.

**5.11 Usury Laws.** This Deed of Trust, the Note, and the other Loan Documents are subject to the express condition that at no time shall the Trustor be obligated or required to pay interest on the debt at a rate which could subject the holder of the Note to either civil or criminal liability as a result of being in excess of the maximum interest rate permitted by applicable law. If, by the terms of this Deed of Trust, the Note, or any of the Loan Documents, the Trustor is at any time required or obligated to pay interest on the debt at a rate in excess of such maximum rate, the rate of interest under the same shall be deemed to be immediately reduced to such maximum rate and the interest payable shall be computed at such maximum rate and all prior interest payments in excess of such maximum rate shall be applied and shall be deemed to have been payments in reduction of the principal balance of the Note.

**5.12 Construction.** This Deed of Trust and the Note shall be construed without regard to any presumption or other rule requiring construction against the party causing this Deed of Trust and the Note to be drafted.

**5.13 Release and Reconveyance.** If all of Trustor's obligations under the Loan Documents are paid in full in accordance with the terms of the Loan Documents, no Default then exists hereunder and no Event of Default then exists under any other Loan Document, and if Trustor shall well and truly perform all of Trustor's covenants contained herein, then this conveyance shall become null and void and be released, and the Property shall be reconveyed to Trustor, at Trustor's request and expense.

**5.14 Entire Agreement.** This Deed of Trust, together with the other Loan Documents executed in connection herewith, constitutes the entire agreement and understanding among the parties relating to the subject matter hereof and supersedes all prior proposals, negotiations, agreements, and understandings relating to such subject matter. In entering into this Deed of Trust, Trustor acknowledges that it is not relying on any representation, warranty, covenant, promise, assurance, or other statement of any kind made by the Beneficiary or by any employee or agent of the Beneficiary.

**5.15 Protection of Lender's Security; Instrument Secures Future Advances.** If Borrower fails to perform any of its obligations under this Instrument or any other Loan Document, or if any action or proceeding is commenced which purports to affect the Property, Lender's security, or Lender's rights under this Instrument, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of Hazardous Materials Laws (as defined in Subsection 5.15(A) of this Instrument), fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent, then Lender at Lender's option may make such appearances, file such documents, disburse such sums and take such actions as Lender reasonably deems necessary to perform such obligations of Borrower and to protect Lender's interest, including all of the following: (i) payment of attorney's fees and costs; (ii) enter upon the Property to make repairs or secure the Property; (iii) pay any amounts which Borrower has failed to pay under this Instrument, the Loan Agreement, or any of the Loan Documents; (iv) perform any of Borrower's obligations under the Loan Agreement; (v) make advances to pay, satisfy or discharge any obligation of Borrower for the payment of money that is secured by a lien on the Property. Any amounts disbursed by Lender under this Section 5.15 or under any other provision of this Instrument that treats such disbursement as being made under this Section 5.15, will be secured by this Instrument, will be added to, and become part of, the principal component of the Indebtedness, will be immediately due and payable and will bear interest from the date of disbursement until paid at the Default Rate (as defined in the Note.) Nothing in this Section 5.15 will require Lender to incur any expense or take any action. The provisions in Section 5.15, including the obligation to indemnify the Lender, shall survive the payment of the indebtedness and the satisfaction and conveyance of the lien of this Instrument and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**A.** As used herein, the term "**Hazardous Materials Law**" and "**Hazardous Materials Laws**" mean any and all federal, state and local laws, ordinances, regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees in

effect now or in the future, including all amendments, that relate to Hazardous Materials (as defined in Subsection 5.15B of this Instrument) or the protection of human health or the environment and apply to Borrower or to the Property. Hazardous Material Laws include Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq., the Clean Water Act, 33 U.S.C. Section 1251, and the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101 et seq., and their state analogs.

B. As used herein, the term “**Hazardous Materials**” means petroleum and petroleum products and compounds containing them, including gasoline, diesel, fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (PCBs) and compounds containing them; lead and lead-based paint; asbestos containing them; lead and lead-based paint; asbestos or asbestos containing materials in any form that is or could become friable; underground or above-ground tanks, whether empty or containing any substance; any substance the presence of which on the Property is prohibited by any governmental authority; any substance that requires special handling and any other material or substance that requires special handling and any other material or substance now or in the future that (i) is defined as a “hazardous substance”, “hazardous material”, “hazardous waste”, “toxic substance”, “toxic pollutant”, “containment”, or “pollutant” by or within the meaning of any Hazardous Material Law, or (ii) is regulated in any way by or within the meaning of any Hazardous Materials Law.

NOW, THEREFORE, If the Note and any Indebtedness secured by this Deed of Trust shall be well and truly paid according to their tenor and if all the terms, covenants, conditions, and agreements of the Trustor contained herein and in the Note and Loan Documents, shall be fully and faithfully performed, observed, and complied with, then this Deed of Trust deed shall be void, but shall otherwise remain in full force and effect.

*Remainder of page intentionally left blank. Signatures appear on following page.*

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the Effective Date.

**TRUSTOR:**

1 Green Turtle LLC, a Delaware Limited Liability Company DBA Uno Green Turtle,

By:

  
\_\_\_\_\_  
Emilio Hank  
Manager

# CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

On 14 NOV 2019 before me, JOHN D. SCHUERMAN Notary  
Public,

Date

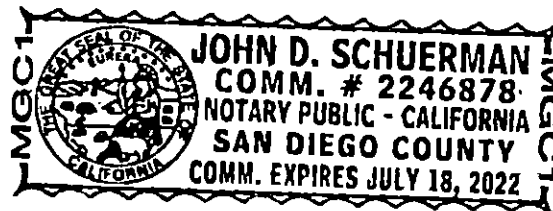
(here insert name and title of the officer)

personally appeared EMILIO HANK

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity~~(ies)~~, and that by his/~~her~~/~~their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature: [Handwritten Signature] (Seal)

OPTIONAL

Description of Attached Document

Title or Type of Document: COMMERCIAL DEED OF TRUST Number of Pages: 23

Document Date: 11/08/19 Other: \_\_\_\_\_

**EXHIBIT "A"**

**PARCEL 1:**

**LOT 272, CORONADO CAYS FOUR, IN THE CITY OF CORONADO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 6714, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AUGUST 21, 1970.**

**EXCEPTING THEREFROM ALL OF THE MINERALS AND MINERAL RIGHTS IN SAID LAND, INCLUDING, WITHOUT LIMITATION, OIL, GAS AND OTHER HYDROCARBON SUBSTANCES THEREIN LYING AND BEING BELOW A DEPTH OF 500 FEET MEASURED VERTICALLY FROM THE SURFACE AS THE SURFACE EXISTS ON THE DATE OF THE CONVEYANCE, WITHOUT RIGHT OF SURFACE ENTRY, AS RESERVED BY THE CITY OF CORONADO, IN DEED RECORDED MAY 24, 1968 RECORDER'S FILE NO. 87450, OF OFFICIAL RECORDS.**

**PARCEL 2:**

**EASEMENT AND RIGHT OF WAY FOR THE PURPOSE OF LOCATING, CONSTRUCTING AND MAINTAINING, USING AND OPERATING THEREON, DOCKS, WHARFS, SLIPS, RAMPS, RAFTS, BEACHES, NAVIGATIONAL AIDS, PIERS, FLOATS, LANDING, DECKS (INCLUDING BUT NOT LIMITED TO PLATFORMS EXTENDING FROM ADJACENT LANDS), FOOTINGS, PILINGS AND ANCILLARY STRUCTURES FOR BULKHEADS ON ADJACENT PROPERTIES AND SIMILAR OR RELATED WHARFAGE FACILITIES IN, OVER, ACROSS, UPON AND THROUGH LOT NO. 272-W OF CORONADO CAYS WHARFAGE NUMBERS FOUR AND SIX, IN THE CITY OF CORONADO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 6719, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON AUGUST 21, 1970.**

**PARCEL 3:**

**LOT 272-A, OF CORONADO CAYS WHARFAGE NUMBERS FOUR AND SIX, IN THE CITY OF CORONADO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 6719, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY AUGUST 21, 1970.**

**EXCEPT THEREFROM ALL DEPOSITS OF MINERALS INCLUDING OIL AND GAS IN SAID LAND, TOGETHER WITH THE RIGHT TO PROSPECT FOR, MINE AND REMOVE SUCH DEPOSITS AS RESERVED BY THE STATE OF CALIFORNIA, IN AN ACT OF LEGISLATURE APPROVED IN 1965, STATUTES OF 1965, CHAPTER 1744.**

**APN: 615-100-14-00**

**\*\*\*END OF LEGAL DESCRIPTION\*\*\***