

01115112 B: 2520 P: 1013

Page 1 of 49

Rhonda Francis Summit County Recorder

07/31/2019 01:57:04 PM Fee \$74.00

By First American Title Insurance Co. - NCS - Phoenix
Electronically Recorded

MOUNTAIN VALLEY RANCH VENTURES, LLC,
a Utah limited liability company, as trustor
(Organizational I.D. # 8740487-0160)

And

RIVERBEND RANCH VENTURES, LLC,
a Utah limited liability company, as trustor,
(Organizational I.D. # 8741950-0160)

(collectively, the Grantor)

to

FIRST AMERICAN TITLE INSURANCE COMPANY, as trustee
(Trustee)

for the benefit of

GOLDMAN SACHS BANK USA, as beneficiary
(Lender)

DEED OF TRUST, SECURITY AGREEMENT AND
FIXTURE FILING

Dated: July 31, 2019

Location: ~2,356 acres of raw land located near Oakley, UT also known by the street address of 4413 East Weber Canyon Road, Oakley, UT 84055 County: Summit	Tax Serial No.: CD-389-LLA-1, CD-389-LLA-2, CD-389- LLA-3, CD-389-LLA-4, CD-389-LLA-5, CD- 389-LLA-6, CD-389-LLA-7, CD-389-LLA-8, CD-679-LLA-9, CD-679-LLA-10, CD-679- LLA-11, CD-679-LLA-12, MO-9, MO-10, MO-11, MO-12, MO-15, MO-18, MO-19, MO-20, MO-21, MO-22, MO-33, MO-46, MO-47, MO-48
4343 East Weber Canyon Road Kamas, UT 84036 County: Summit	CD-679-A-2

PREPARED BY AND WHEN RECORDED RETURN TO:

Greenberg Traurig, LLP
445 Hamilton Avenue, 9th Floor
White Plains, New York 10601
Attention: Gregory P. Murphy

DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING

THIS DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING (this "**Deed of Trust**"), made this 31st day of July, 2019, by **MOUNTAIN VALLEY RANCH VENTURES, LLC**, a Utah limited liability company and **RIVERBEND RANCH VENTURES, LLC**, a Utah limited liability company, each as trustor, each having an address at 17595 Harvard Ave, Suite C511, Irvine, California 92614 (collectively, the "**Grantor**"), and **FIRST AMERICAN TITLE INSURANCE COMPANY**, as Trustee, having a business address at 560 South 300 East, Salt Lake City, Utah 84111 (the "**Trustee**") for the benefit of **GOLDMAN SACHS BANK USA**, 222 S. Main Street, Salt Lake City, Utah 84101 (the "**Lender**").

RECITALS

A. WHEREAS, this Deed of Trust is given to secure a revolving loan (the "**Loan**") in the principal sum of **SEVENTEEN MILLION AND 00/100 DOLLARS (\$17,000,000.00)** or so much thereof as may be advanced pursuant to that certain Revolving Loans (Committed Loan) Loan Agreement dated as of the date hereof among Grantor and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time (the "**Loan Agreement**"), and evidenced by that certain Note dated the date hereof made by Borrower to Lender in the original principal amount of up to **\$17,000,000.00** (such Note, together with all extensions, renewals, replacements, restatements or modifications thereof being hereinafter referred to collectively as the "**Note**"), (the Lender and any assignee or other lawful owner of the Note being hereinafter sometimes referred to as the "**Holder**"); and

B. WHEREAS, Grantor desires to secure the payment and the performance of the all unpaid principal of, and accrued and unpaid interest due on, the Note and the Cross Guaranty and all other obligations, interest, fees, charges and expenses of the Grantor to the Lender arising under or in connection with the Loan Documents (as hereinafter defined) (collectively, the "**Obligations**"), excluding, however, any obligations of Grantor under the Environmental Indemnity Agreement; and

C. WHEREAS, this Deed of Trust is given pursuant to the Loan Agreement, and payment, fulfillment, and performance of the Obligations are secured hereby, and each and every term and provision of the Loan Agreement and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Deed of Trust (the Loan Agreement, the Note, this Deed of Trust, that certain Assignment of Leases and Rents (as defined below), the Cross Guaranty and all other documents evidencing or securing the Obligations or delivered in connection with the making of the Loan are hereinafter referred to collectively as the "**Loan Documents**").

GRANT

NOW, THEREFORE, FOR AND IN CONSIDERATION of the said indebtedness evidenced by the Note and all other sums payable under or otherwise referenced in this Deed of Trust, of the acceptance by the Trustee of the trust hereby created, and for other good and

valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Grantor hereby irrevocably grants, bargains, sells, pledges, assigns, warrants, transfers and conveys to the Trustee, and its successor or successors in trust, and their assigns, with Power of Sale for the benefit of Lender as beneficiary in trust, in fee simple, all of that land described in **Exhibit A** (hereinafter sometimes referred to as the "**Land**");

TOGETHER WITH all additional lands, estates and development rights hereafter acquired by Grantor for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Deed of Trust; and

TOGETHER WITH all of the Grantor's right, title and interest, if any (including any after-acquired title or reversion), in and to the land lying in the bed of any street or road, open or proposed, located wholly or partially within the boundary of the Land or adjacent thereto; and

TOGETHER WITH all Leases (as defined below) (including, without limitation, any and all security interests, contractual liens and security deposits), whether before or after the filing by or against Grantor of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the "**Bankruptcy Code**") and all right, title and interest of Grantor, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all Rents (as defined below) whether paid or accruing before or after the filing by or against Grantor of any petition for relief under the Bankruptcy Code and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Obligations; and

TOGETHER WITH any and all rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging or in any way appertaining, as well as any after-acquired title, franchise, license, reversion and remainder; and

TOGETHER WITH every building, structure and improvement of every kind and description now or hereafter erected or placed on the Land, and all materials now owned or hereafter acquired by the Grantor and intended for construction, reconstruction, alteration and repair thereof, all of which materials shall be deemed to be included within the Property immediately on their delivery to the Land (all of which are hereinafter referred to collectively as the "**Improvements**"); and

TOGETHER WITH all easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Grantor of, in and to the Land and the Improvements and every part and parcel thereof, with the

appurtenances thereto; and

TOGETHER WITH all other, further or additional right, title, interest or estate at any time heretofore or hereafter acquired by the Grantor in or to the Land or the Improvements (all of which shall automatically be and become subject to the lien, operation and effect of this Deed of Trust upon their acquisition by the Grantor); and

TOGETHER WITH all equipment now owned, or the ownership of which is hereafter acquired, by Grantor which is so related to the Land and Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, plumbing, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Grantor's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "**Fixtures**"); and

TOGETHER WITH all proceeds in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property; and

TOGETHER WITH all refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction; and

TOGETHER WITH all agreements, contracts, certificates, instruments, franchise agreements, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof, and all licenses, permits, approvals and consents which are required for the sale and service of alcoholic beverages on the Property heretofore or hereafter obtained from applicable state and local authorities, and any Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest of Grantor therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Grantor thereunder; and

TOGETHER WITH all accounts, accounts receivable, escrows (including, without

Unofficial copy

limitation, all escrows, deposits, reserves and impounds established pursuant to this Deed of Trust), documents, instruments, chattel paper, claims, reserves (including deposits) representations, warranties and general intangibles, as one or more of the foregoing terms may be defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the "Uniform Commercial Code"), and all contract rights, franchises, books, records, plans, specifications, permits, licenses (to extent assignable), approvals, actions, choses, claims, suits, proofs of claims in bankruptcy and causes of action which now or hereafter relate to, are derived from or are used in connection with the Property, all receivables, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of property or rendering of services by Grantor or any operator or manager of the commercial space located in the Improvements or acquired from others, license, lease, sublease and concession fees and rentals, food and beverage wholesale and retail sales, service charges, vending machine sales and proceeds, if any, from business interruption or other loss of income insurance, or arising from the sale of any Property or the rendition of services in the ordinary course of business or otherwise (whether or not earned by performance), together with any Property returned by or reclaimed from customers wherever such Property is located, or the use, operation, maintenance, occupancy or enjoyment thereof or the conduct of any business activities thereon (collectively called the "Intangibles"); and

Unofficial copy

TOGETHER WITH all of the Grantor's right, title and interest in and to any and all awards heretofore or hereafter made by any federal, state or local governmental or quasi-governmental authority, or by any other authority or corporation, exercising the power of condemnation or eminent domain with respect to any or all of the Property (including but not limited to any award for any change of grade or widening of any street or road affecting the Land), all of which awards, rights thereto and shares therein are hereby assigned to the Trustee, who are hereby authorized to collect and receive the proceeds thereof and to give proper receipts and acquittances therefor and, subject to the provisions of the Section entitled "Condemnation", to apply the net proceeds thereof, after deducting expenses of collection, as a credit upon any portion, as selected by the Trustee of the indebtedness secured hereby (the Land, all of the buildings and other Improvements, Fixtures, Intangibles, tenements, hereditaments, appurtenances, "general intangibles" as defined in the Uniform Commercial Code and other property interests hereinabove mentioned being hereinafter referred to collectively as the "Property"); and

Unofficial copy

TOGETHER WITH all tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property; and

Unofficial copy

TOGETHER WITH the right, in the name and on behalf of Grantor, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property; and

Unofficial copy

TOGETHER WITH any and all other rights of Grantor in and to the items set forth above; and

Unofficial copy

TOGETHER WITH all proceeds, products, offspring, rents and profits from any of the

foregoing, including those from sale, exchange, transfer, collection, loss, damage, disposition, substitution or replacement of any of the foregoing.

TO HAVE AND TO HOLD the Property unto the Trustee, their respective survivors or other successor or successors in trust and their assigns, in fee simple, subject to and only to the operation and effect of those instruments and matters listed in Schedule B of the Title Insurance Policy (as defined below),

PROVIDED, HOWEVER, upon written request of Lender stating that all Obligations secured hereby have been paid; that Grantor has well and truly abided by and complied with each and every covenant and condition set forth in the Loan Documents, and upon the surrendering of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment by Grantor of Trustee's fees, Trustee shall reconvey to Grantor, or to the Person or Persons legally entitled thereto, without warranty, any portion of the estate hereby granted and then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the Person or Persons legally entitled thereto";

BUT IN TRUST, NEVERTHELESS, for and upon the uses, intents and purposes hereinafter mentioned, as security for the Holder's benefit and for enforcement of the Obligations; and

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, THE GRANTOR HEREBY COVENANTS, AGREES AND WARRANTS AS FOLLOWS:

1. **OBLIGATIONS.**

1.1 **Obligations Secured.** Grantor makes this Deed of Trust for the Obligations.

1.2 **Incorporation.** Except as otherwise set forth herein, all terms of the Obligations and the Loan Documents are incorporated herein by this reference. All Persons who may have acquired or acquire an interest in the Property shall be deemed to have notice of the terms of the Obligations and to have notice, if provided therein, that: (a) the Note evidences a one-time disbursement in the total amount of the Obligations; and (b) the rate of interest on one or more Obligations may vary from time to time.

1.3 **Payment of Obligations.** The Grantor shall pay promptly any and all Obligations at the date and place and in the manner provided in the Loan Documents. If the principal amount of the Obligations at any time exceeds **SEVENTEEN MILLION AND 00/100 DOLLARS (\$17,000,000.00)**, all payments in reduction of such indebtedness shall be applied first to such excess not secured hereby and the lien of this Deed of Trust shall continue until all Obligations secured hereby, including outstanding contingent liabilities, if any, are finally and irrevocably satisfied and paid in full.

1.4 **Payment of additional sums.** The Grantor shall repay to the Trustee or the Holder, as the case may be, at the times and in the manner provided herein, any additional sums advanced or expended by the Trustee or the Holder for the Grantor's account pursuant to

this Deed of Trust, together with interest thereon as set forth herein.

1.5 **Performance of other Obligations.** The Grantor shall comply with and perform each covenant and condition of the Grantor set forth in the Note, this Deed of Trust or any other document or agreement pertaining to the Property or referred to in this Deed of Trust.

1.6 **Future Advances.** This Deed of Trust secures not only existing indebtedness or advances made contemporaneously with the execution hereof, if any, but also future principal advances (with all interest thereon), to or for the benefit of Borrower, made pursuant to the terms of the Loan Documents (as the same may be amended or supplemented from time to time), the terms of all of which are incorporated herein by reference, whether such advances are obligatory, optional, or both, to the same extent as if such future advances were made contemporaneously with the execution of this Deed of Trust, even though no advance may have been made at the time of execution of this Deed of Trust and even though no indebtedness may be outstanding at the time any advance is made, and any liens attaching to the Property after the date hereof shall be under, subject and subordinate to all indebtedness, including, without limitation, future advances (regardless of when made), secured hereby. This Deed of Trust shall also secure, in addition to the principal amount specified herein, interest, service charges, and any disbursements made for the payment of taxes, assessments, maintenance, care, protection, or insurance on the Property, with interest on such disbursements to the extent incurred by Lender in accordance with the Loan Documents.

2. **INSURANCE.**

2.1 **Insurance.** Grantor, at its sole cost and expense, for the mutual benefit of Grantor and Lender, shall obtain and maintain, or cause to be obtained and maintained, during the entire term of this Deed of Trust (the "**Term**") the following policies of insurance.

2.1.1 Grantor will keep the Property insured against loss or damage by "Special" or "Broad Form" (formerly known as all risk) perils, including, but not limited to, fire, flood and such other hazards, risks and matters, including without limitation, Loss of Use, Personal Liability at no less than \$1,000,000, and Boiler & Machinery/Equipment breakdown (if applicable), as Lender may from time to time require in amounts required by Lender, and shall pay the premiums for such insurance (the "**Insurance Premiums**") as the same become due and payable and shall furnish to Lender evidence of the renewal of each of the Policies with receipts for the payment of the Insurance Premiums or other evidence of such payment reasonably satisfactory to Lender. The deductible shall not exceed \$50,000 without Lender's prior written approval. All policies of insurance (the "**Policies**") shall be issued by insurers acceptable to Lender and shall contain the standard Utah Mortgagee non-contribution clause naming Lender as the person to which all payments made by such insurance company shall be paid. Lender shall be listed as "Mortgagee" under such policies.

2.1.2 Flood insurance will be required if any portion of the Improvements is situated in a federally designated "special flood hazard area" (for example, Zones A and V) as designated by the Federal Emergency Management Agency, or any successor thereto, as an area having special flood hazards pursuant to the National Flood Insurance Act of 1968, The Flood Disaster Protection Act of 1973, or the National Flood Insurance Reform Act of

1994, as each may be amended (collectively the "**Flood Insurance Acts**"). The minimum amount of flood insurance required is the lesser of one hundred percent (100%) of the Full Replacement Cost (plus Contents coverage, if applicable) for those portions of the Improvements located in such special flood hazard area, the maximum limit of coverage available for the Improvements under the Flood Insurance Acts, or the maximum amount permitted by applicable law. Deductibles shall not exceed \$25,000 without Lender's prior written consent. Grantor will assign and deliver the Policies to Lender.

2.1.3 Sinkhole and Mine Subsidence insurance shall be obtained and maintained if in the opinion of a professional engineer with experience in this professional area there is a foreseeable risk of loss due to this hazard. If any of such coverage is determined by such engineer to be necessary, deductibles shall not exceed 5% of the values at risk without Lender's prior written approval.

2.1.4 Ordinance or Law Coverage is required if any of the improvements are or become "legal non-conforming" during the life of the loan (based on zoning reports) and should include; (a) Loss to the undamaged portion of the building (equals building replacement costs), (b) The cost of demolishing the undamaged portion of the building (c) The increased cost of reconstruction or repairs to comply with current ordinances or laws. (b) and (c) each at no less than 10% of the building replacement cost value.

2.1.5 Not later than fifteen (15) days prior to the expiration date of each of the Policies, Grantor will deliver evidence satisfactory to Lender (at: **Goldman Sachs Bank USA, ISAOA, ATTN: Insurance Operations, 2001 Ross Avenue, Suite 2800, Dallas, TX 75201**) of the renewal of each of the Policies. Grantor shall not take out any separate or additional insurance which is contributing in the event of loss unless it is properly endorsed and otherwise satisfactory to Lender in all respects.

2.1.6 All policies must contain a cancellation clause with thirty (30) days written notice to Lender which will prohibit the cancellation of or material changes to the policy for any reason except for non-payment of premium. The cancellation provision must provide for at least a 10-day written notification for non-payment of premium.

2.1.7 The insurer shall be an insurance company duly qualified as such under the laws of the states in which the Property is located and duly authorized and licensed in such states to transact the applicable insurance business and to write the insurance provided. The insurer shall be rated "A:IX" or better by A.M. Best or "A" or better by Standard & Poor's as to claims paying ability.

In all instances hereunder where Goldman Sachs Bank USA is to be listed as Mortgagee/Loss Payee/Additional Insured, the certification should read as follows: **Goldman Sachs Bank USA, ISAOA, Attn: Insurance Operations, 2001 Ross Avenue, Suite 2800, Dallas, TX 75201.**

2.2 Intentionally Omitted.

2.3 **Notice of Transfer or Loss.** In the event of a change in ownership or occupancy of the Property, the Grantor shall give immediate notice thereof by mail to all insurers thereof (provided, that nothing herein shall be construed to permit such change in ownership if

otherwise prohibited under the provisions hereof) and, in the event of loss, the Grantor will give immediate notice thereof to the Holder and the Holder may, but is not obligated to, make proof of loss if not made promptly by the Grantor.

2.4 **Holder's Rights.** The Grantor hereby authorizes the Holder, at its sole option, to collect, adjust and compromise any loss claimed under any such insurance and, after deducting the costs of such collection, adjustment and compromise, at its option, (a) to the extent that an Event of Default has occurred, to apply the proceeds as a credit upon the Obligations secured hereby, or to the extent that an Event of Default has not occurred to the restoration of the Property (in which event the Holder shall not be obligated to see to the proper application thereof nor shall the amount so released or used be deemed a payment on any indebtedness secured hereby), or (b) to deliver the same to the owner of the Property.

2.5 **Foreclosure or Extinguishment of Obligations.** If any or all of the Property is sold in a foreclosure proceeding brought under this Deed of Trust, or if the title to any or all of the Property is transferred in extinguishment of the Obligations secured hereby, all of the Grantor's right, title and interest in and to any such insurance policy then in force shall inure to the benefit of, and pass to, the purchaser or grantee of the Property.

3. PAYMENT OF ASSESSMENTS, LIENS AND OTHER CHARGES.

3.1 **Payment by Grantor.** Except as set forth in Section 3.3 hereof, the Grantor shall (a) keep the Property free from liens of every kind (other than Permitted Encumbrances), and (b) pay, at least ten (10) days before delinquency and before any interest or penalty for nonpayment attaches thereto, all taxes, bonds, assessments, levies, water rates, sewer rentals and other governmental, quasi-governmental, public and private dues, fines, impositions (including but not limited to any benefit charge assessed for water and sewer facilities) and other charges heretofore or hereafter levied or assessed against any or all of the Property (including but not limited to all taxes to which the Grantor and any company, corporation, joint stock association or limited partnership in which the title to any or all of the Property may hereafter vest may now or hereafter be liable under applicable law, and which under such law may become a lien against the Property or be first distributable, allowable or payable before any amount evidenced by the Note, out of the proceeds of any judicial sale of the Property) (all of which are hereinafter referred to collectively as "**Assessments**"), excluding, however, the Holder's income and franchise taxes. If any ad valorem or excise tax or other public charge (other than any tax in the nature of an income tax) is imposed or levied on the Note, this Deed of Trust or any other instrument held by the Holder as additional security for the Note, or on the Holder's interest in or acquisition of any of the foregoing, the Grantor shall promptly upon demand pay such tax or charge, including any interest and penalties incurred in connection therewith. At least ten (10) days before delinquency, the Grantor shall submit to the Holder evidence satisfactory to the Holder of the payment of each Assessment.

3.2 **Payment by Holder.** From the occurrence and during the continuance of an Event of Default, the Holder shall be entitled, in connection with any payment hereby authorized in the Grantor's place and stead relating to (a) any Assessment, sale, forfeiture, tax lien, or title or claim thereof made against the Property, to make such payment according to any bill, statement or estimate procured from the appropriate governmental or quasi-governmental

authority without inquiring as to its accuracy or as to the validity of such Assessment, sale, forfeiture, tax lien, or title or claim thereof; or (b) any apparent or threatened adverse title, lien, statement of lien, encumbrance, claim or charge, to be the sole judge of its legality or validity; or (c) the expense of any repair or replacement of any of the Property, to be the sole judge of its state of repair and of the necessity for incurring the expense of any such repair or replacement; or (d) any other purpose hereby authorized, but not listed in this subsection, to make such payment whenever in the Holder's judgment it is necessary or desirable to protect the full security intended to be created by this Deed of Trust.

3.3 **Contested Matters.** The Grantor shall have the right to contest in good faith the amount or validity of any Assessment by appropriate judicial proceedings conducted promptly and at the Grantor's sole expense, but such proceedings shall not relieve the Grantor of its covenant hereunder to pay such Assessments at the time and in the manner herein provided, or to extend the time for such payment, unless such judicial proceedings operate to prevent or suspend the collection of the Assessments so contested and the sale of the Property for or on account of their non-payment, but only upon posting, and concurrently supplying to Lender a certified copy of a statutory bond or other security sufficient under applicable law fully to protect any and all of the Property encumbered by such claim of Assessment and otherwise sufficient in Lender's sole opinion to protect Lender against any judgment in favor of the lien claimant or assessor, as applicable.

3.4 **Change In Law.** In the event of (a) the passage, after the date hereof, of any applicable law changing the laws for the taxation of mortgages or deeds of trust or indebtedness secured thereby for federal, state or local purposes, or the manner of collection of any such Assessments, so as to affect this Deed of Trust, or (b) the passage, after the date hereof, of any applicable law, or the determination by any governmental or quasi-governmental entity requiring internal revenue or other documentary stamps to be purchased for or placed on this Deed of Trust or the Note, or (c) the rendition by any court of competent jurisdiction of a decision that any undertaking by the Grantor under the provisions of this Section is legally inoperative, then, in any such event, the Obligations secured hereby and the interest accrued thereon shall, at the Holder's option and upon one hundred twenty (120) days prior written notice to the Grantor, become immediately due and payable (but there shall accrue no premium or penalty for prepayment which, but for this provision, would accrue under the provisions of this Deed of Trust, the Note or any other document relating to the loan secured hereby, because of any payment made pursuant to such notice); provided, that such option and right shall be unavailing and the Note and this Deed of Trust shall remain in effect as though such law had not been enacted or promulgated if, notwithstanding such law, the Grantor lawfully pays when due and payable all such Assessments or the amount of all internal revenue or other documentary stamps, including all interest and penalties accrued thereon, to or for the Holder. The provisions of this Section are not intended in any way to affect the Holder with respect to any Obligations which may now or hereafter be payable on demand.

3.5 **Tax and Insurance Impound.** Upon the occurrence and during the continuance of an Event of Default, Grantor shall pay to Lender on demand for deposit into the Tax and Insurance Impound (defined below) an amount equal to the monthly amount that Lender estimates it must collect each month in order to have sufficient funds to pay the next payment of (i) the Taxes Lender reasonably estimates will be due to the applicable taxing authorities as of

the date such Taxes are first due and payable without penalty or interest after the date hereof, and (ii) one twelfth of the Insurance Premiums that Lender reasonably estimates will be payable for the renewal of the coverage afforded by the Policies upon the expiration thereof multiplied by the number of months elapsed from and including the first month in which the currently effective Policies became effective to and including the first month occurring after the month in which this Deed of Trust becomes effective. Thereafter, Grantor shall pay to Lender on the sixth (6th) day of each calendar month an amount equal to the monthly amount that Lender estimates it must collect each month in order to have sufficient funds to pay the next payment of (a) Taxes that Lender reasonably estimates will be payable during the next ensuing twelve (12) months in order to accumulate with Lender sufficient funds to pay all such Taxes at least thirty (30) days prior to the earlier of the date on which the Taxes would become delinquent if not paid or the date on which penalties and/or interest would commence to accrue on the Taxes due to non-payment and (b) one twelfth of the Insurance Premiums that Lender reasonably estimates will be payable for the renewal of the coverage afforded by the Policies upon the expiration thereof in order to accumulate with Lender sufficient funds to pay all such Insurance Premiums at least thirty (30) days prior to the expiration of the Policies (the fund into which said amounts provided in clauses (a) and (b) above shall be deposited is called the "**Tax and Insurance Impound**"). The monthly payment into the Tax and Insurance Impound and the monthly payment payable pursuant to the Note shall be added together and shall be paid as an aggregate sum by Grantor to Lender. Grantor agrees to notify Lender immediately of any changes to the amounts, schedules and instructions for payment of any Taxes and Insurance Premiums of which it has or obtains knowledge and authorizes Lender or its agent to obtain the bills for Taxes and Other Charges directly from the appropriate taxing authority. Grantor hereby pledges to Lender and grants to Lender a security interest in any and all monies now or hereafter deposited in the Tax and Insurance Impound as additional security for the payment of the Obligations. Provided that there are sufficient amounts on deposit in the Tax and Insurance Impound and no Event of Default exists, Lender will apply the Tax and Insurance Impound to payments of Taxes and Insurance Premiums required to be made by Grantor pursuant hereto. In making any payment relating to the Tax and Insurance Impound, Lender may do so according to any bill, statement or estimate procured from the appropriate public office (with respect to Taxes) or insurer or agent (with respect to Insurance Premiums), without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof. If the amounts on deposit in the Tax and Insurance Impound shall exceed the amounts due for Taxes and Insurance Premiums, Lender may at its election either return any excess to Grantor or credit such excess against future payments to be made to the Tax and Insurance Impound. In allocating such excess, Lender may deal with the person shown on the records of Lender to be the owner of the Property. If at any time Lender determines that the amounts on deposit in the Tax and Insurance Impound are not or will not be sufficient to pay the Taxes and Insurance Premiums, Lender shall notify Grantor of such determination and Grantor shall increase its monthly payments to Lender by the amount that Lender reasonably estimates is sufficient to make up the deficiency at least thirty (30) days prior to (x) the earlier of the date on which the Taxes would become delinquent if not paid or the date on which penalties and/or interest would commence to accrue on the Taxes due to non-payment of the Taxes and/or (y) the date any of the Policies would expire, as the case may be. Whenever an Event of Default exists, Lender may apply any sums then present in the Tax and Insurance Impound to the payment of the Obligations in any order in its sole discretion. Until expended or applied as above provided,

all amounts in the Tax and Insurance Impound shall constitute additional security for the Obligations. The Tax and Insurance Impound shall not constitute a trust fund and may be commingled with other monies held by Lender. Unless otherwise required by applicable law, Grantor shall not receive interest or other earnings on the Tax and Insurance Impound, which shall be held in Lender's name at a financial institution selected by Lender in its sole discretion. Following the delivery and recording of a satisfaction, release, reconveyance or discharge of this Deed of Trust duly executed by Lender, any funds remaining on deposit in the Tax and Insurance Impound will be disbursed to Grantor. If Lender so elects at any time, Grantor shall provide, at Grantor's reasonable expense, a tax service contract for the Term issued by a tax reporting agency acceptable to Lender. If Lender does not so elect, Grantor shall reimburse Lender for the reasonable cost of making annual tax searches throughout the Term.

4. **FURTHER ASSURANCES.** The Grantor shall, at its expense, promptly execute, acknowledge, deliver and cause to be recorded or filed all such further instruments, deeds, conveyances, supplemental deeds of trust, assignments, financing statements, renewals, continuation statements, transfers, assurances or other documents as are necessary, in the Holder's sole opinion, to (a) subject the Property to the lien of this Deed of Trust; (b) create, provide, perfect, preserve, continue and protect such lien thereon, whether now owned or hereafter acquired by the Grantor; (c) secure the rights and remedies of the Trustee and the Holder hereunder or under the Note; (d) transfer the Property to any new trustee or trustee; or (e) better assure, assign and confirm to the Holder the Assignment of Leases and the Rents (defined below). The Grantor shall pay to the Holder within fifteen (15) days of demand by Lender the amount of the expenses, charges and taxes incurred by the Holder in preparing, executing, recording, rerecording, filing or refiling any such document and such amounts shall accrue with Default Interest until payment thereof.

5. **MAINTENANCE AND USE OF PROPERTY.** The Grantor shall (a) maintain the Property in good condition and repair; (b) effect such repairs thereof as the Holder reasonably requires; (c) from time to time make all needed and proper replacements thereto so that the Property will at all times be in good condition, fit and proper for the purposes for which it was originally erected or installed; (d) not commit or suffer any waste or deterioration of the Property or make change in the use of the Property which may increase any ordinary fire, environmental or other risk thereto; (e) (except for the replacement of fixtures and non-structural elements of the improvements made for the purpose of enhancing the economic viability of the Property, and by fixtures and non-structural elements which are of at least like quality), not permit the removal, demolition or material alteration of any building or other Improvement covered by the lien of this Deed of Trust, without obtaining the Holder's prior written consent thereto, which will not be unreasonably withheld, conditioned or delayed; (f) 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 affected by any proceeding of the character referred to in Section 11; (g) obey and comply with every federal, state, local governmental and quasi-governmental law, statute, rule, directive, order, standard, ordinance and requirement applicable to or affecting any or all of the Property, now or hereafter enacted, adopted or issued and in force, the failure with which to comply would not reasonably be expected to have a Material Adverse Effect; (h) observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including but not limited to all zoning variances, special exceptions and non-

conforming uses), privileges, franchises and concessions applicable to the Property or granted to or contracted for by the Grantor in connection with any existing or contemplated use of the Property, the failure with which to comply would not reasonably be expected to have a Material Adverse Effect; (i) obey and carry out every covenant, agreement, restriction and encumbrance contained in any instrument recorded among the land records of the said county where the Property is located or known to the Grantor, which may from time to time be in force and apply to or affect the Property or the Grantor's interest therein, and not use or permit the use of any or all of the Property in contravention thereof, the failure with which to comply would not reasonably be expected to have a Material Adverse Effect; and (j) permit the Holder, the Trustee, and their agents or employees to enter upon and inspect the Property upon reasonable prior written notice and at any reasonable time during normal business hours and to examine, audit, copy and extract each record of the Grantor relating to the Property or any portion thereof.

6. ENVIRONMENTAL REPRESENTATIONS, WARRANTIES AND INDEMNIFICATION. Grantor shall enter into that certain Environmental Indemnity Agreement of even date herewith made by Grantor in favor of Lender (the "**Environmental Indemnity Agreement**"). Notwithstanding anything to the contrary contained herein, the terms of the Environmental Indemnity Agreement are not incorporated herein.

7. SUBSEQUENT ENACTMENTS. The Grantor agrees that in the event of the enactment of any law or ordinance, the promulgation of any zoning or other governmental or quasi-governmental regulation, or the rendition of any judicial decree restricting or affecting the use of the Property or rezoning the area wherein the same shall be situate, which has a Material Adverse Effect, the Holder may, upon at least one hundred twenty (120) days written notice to the Grantor, require payment of the Note at such time as may be stipulated in such notice, and the Note shall thereupon become due and payable. The provisions of this Section are not intended in any way to affect the Holder with respect to any Obligations which may now or hereafter be payable on demand.

8. TRANSFERS, LIENS AND ENCUMBRANCES. The Grantor shall (a) not sell, abandon, cease to own, assign, transfer or dispose of any or all of the Property or any interest therein, without obtaining the Holder's prior written consent thereto; (b) except as provided in Section 3.3 hereof, not create or otherwise permit to be created any lien or encumbrance against the Property or any interest of the Grantor therein, by or pursuant to any mortgage, deed of trust, security agreement or other instrument, as security for the repayment of any indebtedness or the performance of any obligation or undertaking by the Grantor or any other Person; (c) not create or permit to be created or filed against the Property any other lien or encumbrance other than permitted hereunder or the Lien created hereunder in favor of Holder or provided the Lien has within thirty (30) days been bonded pursuant to a statutory bond or other security in accordance with all applicable Legal Requirements sufficient fully to protect any and all of the Property encumbered by such claim of Lien and to stay the sale of all or any portion of the Property on account of such Lien; and (d) except as provided in Section 3.3 hereof, keep and maintain the Property free from the claims of all Persons supplying labor or materials in connection with the construction or reconstruction of any Improvements on the Property, regardless of by whom such labor or materials may have been contracted. A "**transfer**" of the Property includes (i) the direct or indirect sale, transfer or conveyance of the Property or any portion thereof or interest therein; (ii) the execution of an installment sale contract or similar

instrument affecting all or a portion of the Property; and (iii) if Grantor is a partnership, joint venture, limited liability company, corporation or some other type of legal entity, any direct or indirect change (whether in one transaction or a series of transactions or whether by operation of law or otherwise) in the beneficial ownership or number of issued and outstanding ownership interests in such entity (e.g., shares in a corporation) of any class after which the percentage of such ownership interest in such entity owned by any Person or group of Persons is at least ten percent (10%) more or less than it was on the date of this Deed of Trust.

9. **INTENTIONALLY OMITTED.**

10. **ASSIGNMENT OF LEASES AND RENTS.** Grantor shall enter into that certain Assignment of Leases and Rents of even date hereof in favor of Lender (the "**Assignment of Leases and Rents**").

11. **CASUALTY; CONDEMNATION; USE OF PROCEEDS.**

11.1 **Casualty and Condemnation.**

(a) If the Property shall be damaged or destroyed, in whole or in part, by fire or other casualty (a "**Casualty**") or if Grantor shall have knowledge of the actual or threatened commencement of any condemnation or eminent domain proceeding that would affect any portion of the Land or Improvements (a "**Condemnation**"). Grantor shall give prompt written notice thereof to Lender and, with respect to a Condemnation, shall deliver to Lender copies of any and all papers served in connection with such Condemnation.

(b) Lender may participate in any proceedings for any taking by any public or quasi public authority accomplished through a Condemnation or any transfer made in lieu of or in anticipation of a Condemnation (which transfer in lieu and Condemnation are collectively referred to as a "**Taking**") to the extent permitted by law. Upon Lender's written request, Grantor shall deliver to Lender all instruments requested by it to permit such participation. Grantor shall, at its expense, diligently prosecute any such proceedings, and shall consult with Lender, its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings. Grantor shall not consent or agree to a Taking without the prior written consent of Lender in each instance, which consent shall not be unreasonably withheld, conditioned or delayed in the case of a Taking of an insubstantial portion of the Property.

(c) Subject to the terms of Section 11.2, all insurance proceeds payable under the Policies and all awards or payments payable on account of a Taking ("**Award**"), and all causes of action, claims, compensation, awards and recoveries for any other damage, injury, or loss or diminution in value of the Property, are hereby assigned, transferred and set over to and shall be paid to Lender. Grantor agrees to execute and deliver from time to time such further instruments as may be reasonably requested by Lender to confirm the foregoing assignment to Lender. Grantor hereby irrevocably constitutes and appoints Lender as the attorney in fact of Grantor (which power of attorney shall be irrevocable so long as any of the Obligations is outstanding, shall be deemed coupled with an interest, and shall survive the voluntary or involuntary dissolution of Grantor), with full power of substitution, subject to the terms of Section 11.2, to settle for, collect and receive all proceeds of insurance and any Award and any

other awards, damages, insurance proceeds, payments or other compensation from the parties or authorities making the same, to appear in and prosecute any proceedings therefor and to give receipts and acquittance therefor; provided that Lender shall not exercise such power of attorney except either when an Event of Default exists or when Grantor has failed to take any of the actions described in this sentence after a reasonable period of time has passed following receipt of written notice from Lender of its intent to use such power to take the action.

(d) If Lender applies an Award to the Obligations in accordance with Section 11.2, Lender shall be entitled to allocate out of the Award for the purpose of paying accrued unpaid interest on the Note interest at the rate or rates provided in the Note and shall not be limited to the interest paid on an Award by the condemning authority. Grantor shall use all commercially reasonable efforts to cause any Award that is payable to Grantor to be paid directly to Lender, and if any such Award is nevertheless paid to Grantor, Grantor shall promptly remit such Award to Lender to be held and applied in accordance with the terms of this Deed of Trust. If the Property is sold, through foreclosure or deed-in-lieu thereof, prior to the receipt by Lender of the Award, Lender shall have the right, whether or not a deficiency judgment on the Note (to the extent permitted in the Note or herein) shall have been sought, recovered or denied, to receive the Award, or a portion thereof, to the extent sufficient to pay the unpaid portion, if any, of the Obligations.

(e) The reasonable, actual out-of-pocket expenses incurred by Lender in the adjustment and collection of the proceeds of insurance or an Award shall become part of the Obligations and be secured hereby and shall be reimbursed by Grantor to Lender within ten (10) days after written demand or, at Lender's election, deducted by and reimbursed to Lender from such proceeds.

11.2 Use of Proceeds of Insurance or Award.

(a) In case of loss or damages covered by any of the Policies and in case of an Award for any Taking, the following provisions shall apply:

(i) In the event of a Casualty that does not exceed ten percent (10%) of the FMV (defined below) of the Land and Improvements, Grantor may settle and adjust any claim without the consent of Lender and agree with the insurance company or companies on the amount to be paid upon the loss; provided that such adjustment is carried out in a competent and timely manner. In such case, Grantor is hereby authorized to collect and receive any such insurance proceeds. As used in this Section 11.2, the term "**FMV**" means the fair market value of the Land and Improvements as set forth in the appraisal relied upon by Lender as of the date hereof or any subsequent Qualifying Appraisal. As used in this Deed of Trust, the term "**Qualifying Appraisal**" means an appraisal report of the Land and Improvements prepared by an appraiser licensed in the State in which the Land is located and who has at least five years' experience in appraising property similar to the Land and Improvements in the county in which the Land is located, which satisfies the criteria for appraisals that may be relied upon by national banks under applicable Federal laws, rules and regulations, which contains both an "as-is" and a "stabilized value" estimate, and which is otherwise reasonably satisfactory to Lender.

(ii) In the event of a Casualty that exceeds ten percent (10%) but does not exceed fifteen percent (15%) of the FMV of the Land and Improvements, then and in that event Lender may settle and adjust any claim, provided, however, that any final agreement with the insurance company or companies of the amount to be paid for the Casualty shall be subject to the approval of Grantor as hereinafter provided, such approval not to be unreasonably withheld, delayed or conditioned. In any such case, the proceeds under the Policies shall be due and payable solely to Lender and held in escrow by Lender in accordance with the terms of this Deed of Trust. Grantor shall have the right to participate in the settlement discussions with the applicable insurance company or companies, or applicable authorities, and Lender shall keep Grantor apprised of all material settlement offers and discussions and the results thereof. Lender shall provide ten (10) business days advance written notice to Grantor of the terms and amount of any proposed final agreement on any such claim (such proposed final amount, the "**Lender Approved Settlement Amount**"). If Grantor disapproves of Lender's settlement of the claim on such terms and at such amount, Grantor must furnish written notice of such disapproval (any such notice, an "**Arbitration Notice**") to Lender within ten (10) business days after Grantor's receipt of Lender's notice, such notice of disapproval by Grantor to state Grantor's election to implement the arbitration procedure set forth in this Section 11.2. Grantor's failure to furnish notice of disapproval prior to the expiration of such ten (10) business day period shall constitute and be deemed Grantor's consent and approval to Lender's settlement of the applicable claim for an amount not less than the Lender Approved Settlement Amount.

(iii) In the event of a Casualty that exceeds fifteen percent (15%) of the FMV of the Land and Improvements, Lender may settle and adjust any claim related thereto without the consent of Grantor and agree with the insurance company or companies on the amount to be paid on the loss, and the proceeds of any such policy shall be due and payable solely to Lender and held in escrow by Lender in accordance with the terms of this Deed of Trust.

(iv) In the event of (A) a Taking for which the Award is equal to or less than fifteen percent (15%) of the FMV of the Land and Improvements or the Taking renders fifteen percent (15%) or less of the rentable square feet of the Improvements untenable or (B) in the event of a Casualty where the loss is in an aggregate amount equal to or less than thirty percent (30%) of the FMV of the Land and Improvements or the Casualty renders thirty percent (30%) or less of the rentable square feet of the Improvements untenable, and (1) no Event of Default or an event which with notice and/or the passage of time would constitute an Event of Default exists and (2) in the reasonable judgment of Lender (i) the Property can be restored in all material respects to the condition thereof that existed prior to the Casualty or Taking within the time period that business income interruption insurance will be payable under the coverage obtained by Grantor pursuant to Section 2.1 above and in all events not less than six (6) months prior to the stated Maturity Date, (ii) (x) as restored the FMV of and the net income (i.e., gross revenues less all customary and regular operating expenses, including Obligations service) from the Property will not be less than the FMV of and net income from the Property that existed immediately prior to the Casualty or Taking or (y) Leases covering in the aggregate not less than sixty-five percent (65%) of the rentable square feet of the Improvements will be in full force and effect during and upon completion of the Repair Work (defined below), (iii) all necessary government approvals will be obtained to

allow the rebuilding and reoccupancy of the Improvements, and (iv) there are sufficient sums available (through insurance proceeds, the Award and contributions by Grantor, the full amount of which contribution shall at Lender's option have been deposited with Lender) for the Repair Work (including, without limitation, for any reasonable costs and expenses of Lender to be incurred in administering the Repair Work) and for payment of the Obligations as it becomes due and payable during the Repair Work, then, and only then, the proceeds of insurance or of the Award (after reimbursement of any expenses incurred by Lender) shall be applied in the manner set forth below and disbursed to Grantor for the cost of restoring, repairing, replacing or rebuilding (collectively the "**Repair Work**") the Property or part thereof subject to the Casualty or Taking. Grantor hereby covenants and agrees to commence and diligently to prosecute the Repair Work; provided always, that Grantor shall pay all costs (and if required by Lender, Grantor shall deposit the total thereof with Lender in advance) of the Repair Work in excess of the net proceeds of insurance or Award made available pursuant to the terms hereof.

(v) Except as otherwise provided in this Deed of Trust, in the event of any Casualty or Taking Lender may elect in its absolute sole discretion and without regard to the adequacy of the security for the Obligations, to (A) apply the proceeds of insurance collected upon any Casualty or Award collected upon any Taking to the payment of the Obligations in accordance with the Loan Agreement, with or without accelerating the Maturity Date and declaring the entire outstanding Obligations to be due and payable within one hundred twenty (120) days, or (B) hold the insurance proceeds or Award proceeds and make them available to Grantor for the cost of the Repair Work in the manner set forth below.

(vi) In the event Grantor is either entitled to disbursements from the insurance proceeds or Award proceeds held by Lender or Lender elects to make such proceeds available to Grantor for the Repair Work, such proceeds shall be disbursed to Grantor for costs and expenses incurred by Grantor for the Repair Work following (A) the receipt by Lender of a written request from Grantor for disbursement and a certification by Grantor to Lender that the applicable portion of the Repair Work has been completed or will be completed with the proceeds of the subject disbursement, (B) the delivery to Lender of invoices, receipts or other evidence verifying the cost of performing the applicable portion of the Repair Work, and (C) for disbursement requests in excess of \$10,000.00 with respect to any single portion of the Repair Work, or for any single portion of the Repair Work that is structural in nature, delivery to Lender of (1) affidavits, conditional lien waivers or other evidence reasonably satisfactory to Lender showing that all materialmen, laborers, subcontractors and any other parties who might or could claim statutory or common law liens and are furnishing or have furnished material or labor to the Property have been, or upon receipt of the payment described in such affidavit or conditional lien waiver will have been, paid all amounts due for labor and materials furnished to the Property through the date covered by such draw request, less any retainage, and (2) a certification from an inspecting architect or other third party reasonably acceptable to Lender describing the completed portion of the Repair Work and verifying its completion and cost. Lender shall not be required to make any such advances more frequently than one time in any calendar month. Lender may, in any event, require that all plans and specifications for the Repair Work be submitted to and approved by Lender prior to commencement of the Repair Work, which approval shall not be unreasonably withheld, delayed or conditioned. In no event shall

Lender assume any duty or obligation for the adequacy, form or content of any such plans and specifications, nor for the performance, quality or workmanship of any Repair Work. With respect to disbursements to be made by Lender, no payment made prior to the final completion of the Repair Work shall exceed ninety percent (90%) of the cost of the Repair Work performed from time to time (except that a contractor or subcontractor may be paid its share of any retainage upon such contractor's or subcontractor's completion of its entire portion of the Repair Work and its execution and delivery to Grantor (with copies to Lender) of all applicable lien waivers and/or lien releases); funds other than proceeds of insurance or the Award shall be disbursed prior to disbursement of such proceeds; and at all times, the undisbursed balance of such proceeds remaining in the hands of Lender, together with funds deposited for that purpose or irrevocably committed to the satisfaction of Lender by or on behalf of Grantor for that purpose, shall be at least sufficient in the reasonable judgment of Lender to pay for the cost of completion of the Repair Work, free and clear of all liens or claims for lien. Any surplus which may remain out of the proceeds of insurance or Award held by Lender after payment of the costs of the Repair Work shall be paid to Grantor or, if an Event of Default exists, shall in the sole and absolute discretion of Lender, be retained by Lender and applied to payment of the Obligations or paid to the party or parties legally entitled to such surplus.

(vii) If Grantor delivers an Arbitration Notice to Lender, Grantor and Lender shall, within five (5) business days after Lender's receipt of any such notice, jointly designate an independent and unaffiliated individual who has not less than ten (10) years' experience with respect to settlement of claims resulting from casualties in respect of properties similar to the Land and Improvements. Not later than five (5) business days after such joint designation of such individual, Grantor and Lender shall submit to such individual their separate determinations of the commercially reasonable settlement amount for the applicable Casualty together with any documentation and other backup therefor and shall simultaneously therewith provide a copy of such submission to the other party. The individual so appointed shall review the applicable submissions and within ten (10) days after such individual's designation either selects one of the submitted settlement amounts or an amount in between the submitted settlement amounts as more accurately reflective of the commercially reasonable settlement amount. Notice of such selection shall be furnished to Grantor and Lender by the applicable individual prior to the expiration of such ten-day period. Upon such selection, Lender shall be authorized to settle the applicable claim for an amount not less than the settlement amount so selected without any further right of consent of Grantor.

(viii) In the event that Grantor and Lender are unable to agree on one individual to act as arbitrator within the five (5) business day period following Lender's receipt of the Arbitration Notice as contemplated under Section 11.2(a)(vii), then, in such case, the procedure set forth in this subparagraph (viii) shall be observed in lieu thereof. Not later than five (5) business days after Lender's receipt of an Arbitration Notice, Grantor and Lender shall each designate an independent and unaffiliated individual who has not less than ten (10) years' experience with respect to settlement of claims resulting from casualties in respect of properties similar to the Land and Improvements and notify the other party of such appointment by identifying the appointee. Not later than five (5) business days after both arbitrators are appointed, the two selected arbitrators shall select a third arbitrator who shall

also be an independent and unaffiliated individual who has not less than ten (10) years' experience with respect to settlement of claims resulting from casualties in respect of properties similar to the Land and Improvements, such selection to take place within five (5) business days after such arbitrator's appointment. Grantor and Lender shall submit to such third arbitrator their separate determinations of the commercially reasonable settlement amount together with any documentation and other backup therefor and shall simultaneously therewith provide a copy of such submission to the other party. The third arbitrator so appointed shall review the applicable submissions and within ten (10) days after such individual's designation either selects one of the submitted settlement amounts or an amount in between the submitted settlement amounts as more accurately reflective of the commercially reasonable settlement amount. Notice of such selection shall be furnished to Grantor and Lender by the applicable individual prior to the expiration of such ten-day period. Upon such selection, Lender shall be authorized to settle the applicable claim for an amount not less than the settlement amount so selected without any further right of consent of Grantor.

(ix) Time shall be of the essence with respect to the performance of any and all rights and obligations under this Section 11.2. The decisions of the arbitrator(s), if any, engaged under this Section 11.2, shall be final and binding and may not be appealed to any court of competent jurisdiction or otherwise except upon a claim of fraud or corruption. All of the reasonable, actual costs and expenses of the arbitrator(s), if any, engaged under this Section 11.2, shall be the sole responsibility of Grantor.

(x) Notwithstanding anything to the contrary contained herein, the proceeds of insurance or Award disbursed to Grantor in accordance with the terms and provisions of this Deed of Trust shall be reduced by the reasonable costs (if any) incurred by Lender in the adjustment and collection thereof and by the reasonable costs incurred by Lender of paying out such proceeds (including, without limitation, reasonable attorneys' fees and costs paid to third parties for inspecting the Repair Work and reviewing the plans and specifications therefor).

(b) If Grantor undertakes the Repair Work, Grantor shall promptly and diligently, at Grantor's sole cost and expense and regardless of whether the insurance proceeds or Award, as applicable, shall be sufficient for the purpose, complete the Repair Work to restore the Property as nearly as possible to its value, condition and character immediately prior to the Casualty or Taking in accordance with the foregoing provisions.

(c) Any partial reduction in the Obligations resulting from Lender's application of any sums received by it under this Section 11.2 shall take effect only when Lender actually receives such sums and elects to apply such sums to the Obligations and, in any event, the unpaid portion of the Obligations shall remain in full force and effect and Grantor shall not be excused in the payment thereof. Partial payments received by Lender, as described in the preceding sentence, shall be applied against the Note consistent with the prepayment provisions described therein for casualty or condemnation proceeds.

(d) Without limitation, Grantor hereby unconditionally and irrevocably waives all rights of a property owner granted under applicable Utah law, which provides for the

allocation of condemnation proceeds between a property owner and a lienholder, and any other law or successor statute of similar import.

12. **EXPENSES.** The Grantor shall pay to the Holder on demand all costs and expenses (including but not limited to reasonable attorneys' fees and disbursements whether for internal or outside counsel) incurred by the Holder in connection with the Obligations or this Deed of Trust at any time, including after entry of a judgment of foreclosure, and which shall in all instances include, without limitation, costs of collection, of preserving or exercising any right or remedy of the Holder or the Trustee under this Deed of Trust or any related security agreement or guaranty, of workout or bankruptcy proceedings by or against the Grantor, of defending against any claim asserted as a direct or indirect result of the Obligations or of performing any Obligation of the Grantor pursuant to this Deed of Trust or otherwise (including payment of any amount the Grantor is obligated to pay to the Holder pursuant to the Note and/or this Deed of Trust). The Holder reserves the right to have the Grantor pay, upon demand, administrative fee(s) in regard to any administrative action the Holder is required or requested to take including the preparation of discharges, releases or assignments to third parties. Such costs, expenses and fees due by Grantor shall accrue with Default Interest from the date of demand until payment is actually received by the Holder. Each such cost, expense and fee, and any interest thereon, shall constitute part of the Obligations and be secured by this Deed of Trust and may be added to the judgment in any suit brought by the Holder against the Grantor on this Deed of Trust. In any action or proceeding to foreclose this Deed of Trust or to recover or collect the Obligations secured hereby, the provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

13. **INDEMNIFICATION.** The Grantor shall indemnify the Holder and its Affiliates (as defined in the Loan Agreement) and each officer, employee, accountant, attorney and other agent thereof and each Trustee (each such Person being an "**Indemnified Party**") on demand, without any limitation as to amount, against each liability, claim of liability, loss, damage, demand or expense (including all reasonable fees and disbursements of external counsel retained for advice, suit, appeal or other proceedings or purpose, and of any expert or agents an Indemnified Party may retain) heretofore or hereafter imposed on, incurred by or asserted against any Indemnified Party (including any claim involving any allegation of any violation of applicable law of any governmental or quasi-governmental authority (including any environmental law or criminal law)), however asserted and whether now existing or hereafter arising, arising out of or relating to Grantor's ownership, or disposition or use of any of the Property, the Lien thereon granted under this Deed of Trust or any other right granted hereunder and under the Assignment of Leases and Rents as set forth herein and further agrees to pay, upon demand, any expense that Holder may incur (including attorneys' fees and disbursements for outside counsel) due to Grantor's failure to provide appropriate defense and indemnification to Holder in a timely manner. The foregoing indemnity shall not apply to liability, cost or expense solely attributable to an Indemnified Party's gross negligence or willful misconduct. The amount of any such liability, loss, damage, demand or expense, together with Default Interest thereon from the date of loss, shall, immediately and without notice, be due and payable by the Grantor to the Holder. This indemnity agreement shall survive payment and performance of the Obligations. Any amounts payable under this or any other section of this Deed of Trust shall be additional Obligations secured hereby.

14. **EVENTS OF DEFAULT.** An Event of Default under the Loan Agreement shall constitute an Event of Default under this Deed of Trust.

15. **HOLDER'S RIGHTS ON EVENT OF DEFAULT.** From the occurrence and during the continuance of an Event of Default and without further notice to or demand upon the Grantor or any other party having an interest in the Property or any Guarantor, and without regard to the value of the Property held as security for the Obligations due hereunder or the solvency of any Person liable for the payment of such Obligations, the Holder (or the Trustee on written authorization of the Holder) may, at its option and whether or not electing to declare the whole Obligation due and payable, do any or all of the following:

15.1 Declare the entire amount of the Obligations which is then unpaid, including any interest and other unpaid sums accruing thereunder, and any other amounts payable under this Deed of Trust or any other document executed in connection therewith, to be immediately due and payable. All Obligations, whether or not payable on demand, shall be immediately due and payable, without demand or notice of any kind, automatically upon the commencement of the Grantor's bankruptcy, if voluntary, and upon the lapse of forty-five (45) days without dismissal, if involuntary. The provisions of this Section are not intended in any way to affect any rights of the Holder with respect to any Obligations which may now or hereafter be payable on demand.

15.2 Terminate the license granted to the Grantor under the Assignment of Leases and Rents and, either personally or by any attorney or agent without bringing any action or proceeding, or by a receiver appointed by a court of competent jurisdiction, to the extent permissible by law, enter upon and/or take possession of any or all of the Property. Upon such entry, the Holder shall have the right, to the extent permissible by law (a) to exclude the Grantor its agents and servants wholly from the Property, and to have, hold, manage, lease, use, operate and control it on such terms and for such period of time as the Holder deems proper in its sole discretion; and (b) to collect and receive all payments and Rents with respect to any Leases, for which this Deed of Trust shall be sufficient authority whether or not any such Leases have been assigned to the Holder. Upon every such entry, the Holder, at the Grantor's expense, may from time to time (a) take such steps and expend such sums as are reasonably necessary to preserve and protect the Property; and (b) make all necessary and proper repairs, renewals, replacements and useful or required alterations and improvements to the Property as, in the Holder's sole judgment, are reasonably necessary or desirable. After deducting the expenses of, or incident to, managing and operating the Property, conducting the business thereof, making any repairs, maintenance, renewals, replacements, alterations and improvements thereto, taking and retaining possession of the Property, and keeping it properly insured, the Holder shall be entitled to apply the residue of the Rents and the payments, if any, arising as aforesaid, to the payment of (a) any Assessment having priority over the lien created by this Deed of Trust; (b) premiums for all insurance which the Holder deems necessary or desirable, with interest thereon; (c) the Obligations secured by this Deed of Trust; and (d) all costs and reasonable attorneys' fees incurred in connection therewith, all in such order or priority as the Holder determines, any statute, law, custom or use to the contrary notwithstanding.

15.3 Cure any Event of Default without releasing the Grantor from any obligation hereunder.

15.4 Commence and maintain one or more actions at law or in equity or by any other appropriate remedy to (a) protect and enforce the Holder's rights, whether for the specific performance of any covenant or agreement herein contained (which covenants and agreements the Grantor agrees shall be specifically enforceable by injunctive or other appropriate equitable remedy); or (b) collect any sum then due hereunder; or (c) aid the execution of any power herein granted; or (d) foreclose this Deed of Trust either by judicial action or through Trustee; or (e) sell the Property in accordance with applicable law, without regard to whether or not any sum secured by this Deed of Trust is then due and payable and without prejudice to the right of the Holder thereafter to pursue and enforce any other appropriate remedy against the Grantor, whether such remedy is provided for hereunder or by any applicable law for any Event of Default which may have occurred at the time at which any such earlier action was commenced.

16. **POWER OF SALE.** To the extent allowed by applicable law, from the occurrence and during the continuance of an Event of Default the Lender, its successors and assigns, may elect to cause the Property or any part thereof to be sold as follows:

(a) Lender may proceed as if all of the Property were real property, in accordance with subparagraph (d) below, or Lender may elect to treat any of the Property which consists of a right in action or which is property that can be severed from the Property without causing structural damage thereto as if the same were personal property, and dispose of the same in accordance with subparagraph (c) below, separate and apart from the sale of real property, the remainder of the Property being treated as real property.

(b) Lender may cause any such sale or other disposition to be conducted immediately following the expiration of any grace period, if any, herein provided (or immediately upon the expiration of any redemption period required by law) or Lender may delay any such sale or other disposition for such period of time as Lender deems to be in its best interest. Should Lender desire that more than one such sale or other disposition be conducted, Lender may at its option, cause the same to be conducted simultaneously, or successively on the same day, or at such different days or times and in such order as Lender may deem to be in its best interest.

(c) Should Lender elect to cause any of the Property to be disposed of as personal property as permitted by subparagraph (a) above, it may dispose of any part hereof in any manner now or hereafter permitted by Article 9 of the Uniform Commercial Code or in accordance with any other remedy provided by law. Both Grantor and Lender shall be eligible to purchase any part or all of such property at any such disposition. Any such disposition may be either public or private as Lender may so elect, subject to the provisions of the Uniform Commercial Code. Lender has no obligation to clean up or otherwise prepare any of the Property for sale. Lender shall give Grantor at least five (5) days prior written notice of the time and place of any public sale or other disposition of such property or of the time at or after which any private sale or any other intended disposition is to be made, and if such notice is sent to Grantor as provided in subparagraph (k) hereof, it shall constitute reasonable notice to Grantor.

(d) Should Lender elect to sell the Property which is real property or which Lender has elected to treat as real property, upon such election Lender or Trustee shall give such notice of default and election to sell as may then be required by law. Thereafter, upon the

expiration of such time and the giving of such notice of sale as may then be required by law, Trustee, without demand on Grantor, at the time and place specified in the notice of sale shall sell such Property, or any portion thereof specified by Lender, at public auction to the highest bidder for cash in lawful money of the United States, subject, however, to the provisions of subparagraph (i) hereof. Trustee for good cause may, and upon request of Lender shall, from time to time, postpone the sale by public announcement thereof at the time and place noticed therefor. If the Property consists of several lots or parcels, Lender may designate the order in which such lots or parcels shall be offered for sale or sold. Any Person, including Grantor, Trustee or Lender, may purchase at the sale, and if Lender is the highest bidder, Lender may credit the portion of the purchase price that would be distributed to Lender against the obligations in lieu of paying cash. Upon any sale Trustee shall execute and deliver to the purchaser or purchasers a deed or deeds conveying the property so sold, but without any covenant or warranty whatsoever, express or implied, whereupon such purchaser or purchasers shall be let into immediate possession.

(e) In the event of a sale or other disposition of any such property, or any part thereof, and the execution of a deed or other conveyance, pursuant thereto, the recitals therein of facts, such as a default, the giving of notice of default and notice of sale, demand that such sale should be made, postponement of sale, terms of sale, sale, purchaser, payment of purchase money, and any other fact affecting the regularity or validity of such sale or disposition, shall be conclusive proof of the truth of such facts; and any such deed of conveyance shall be conclusive against all Persons as to such facts recited therein.

(f) The proceeds of any sale of, and the Rents and other amounts generated by the holding, leasing, management, operation or other use of the Property, shall be applied by Lender or Trustee (or the receiver, if one is appointed) in the following order unless otherwise required by applicable law:

(i) to the payment of the costs and expenses of taking possession of the Property and of holding, using, leasing, repairing, improving and selling the same, including, without limitation (A) trustee's and receiver's fees and expenses, (B) court costs, (C) attorneys' and accountants' fees and expenses, (D) costs of advertisement, and (E) the payment of all ground rent, real estate taxes and assessments, except any taxes, assessments, or other charges subject to which the Property shall have been sold;

(ii) to the payment of all amounts (including interest), other than the unpaid principal balance of the Note and accrued but unpaid interest, which may be due to Lender under the Loan Documents;

(iii) to the payment of the Obligations in such manner and order of preference as Lender in its sole discretion may determine; and

(iv) the balance, if any, to the payment of the Persons legally entitled thereto.

(g) The acknowledgment of the receipt of the purchase money, contained in any deed or conveyance executed as aforesaid, shall be sufficient discharge from all obligations

to see to the proper application of the consideration therefor.

(h) Grantor hereby expressly waives any right which it may have to direct the order in which any of the Property shall be sold in the event of any sale or sales pursuant hereto.

(i) Upon any sale of the Property, whether made under a power of sale herein granted or pursuant to judicial proceedings, if the holder of the Note is a purchaser at such sale, it shall be entitled to use and apply all or any portion of the indebtedness then secured hereby for or in settlement or payment of all or any portion of the purchase price of the property purchased, and, in such case, this Deed of Trust, the Note and documents evidencing expenditures secured hereby shall be presented to the Person conducting the sale in order that the amount of said indebtedness so used or applied may be credited thereon as having been paid.

(j) No remedy herein conferred upon or reserved to Trustee or Lender is intended to be exclusive of any other remedy herein or by law provided, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by this instrument to Trustee or Lender, or to which either of them may be otherwise entitled, may be exercised from time to time and as often as may be deemed expedient by Trustee or Lender, and either of them may pursue inconsistent remedies. If there exists additional security for the performance of the Obligations secured hereby, the holder of the Note, at its sole option and without limiting or affecting any rights or remedies hereunder, may exercise any of the rights and remedies to which it may be entitled hereunder either concurrently with whatever other rights it may have in connection with such other security or in such order as it may determine.

(k) Grantor hereby requests that every notice of default and every notice of sale be given in accordance with the provisions of Section 23 hereof except as otherwise required by statute. Grantor may, from time to time, change the address to which notice of default and sale hereunder shall be sent by both filing a request therefor, in the manner provided by applicable law, and sending a copy of such request to Lender, its successors or assigns in accordance with the provisions of Section 23 hereof.

17. FORECLOSURE SALE.

17.1 If any or all of the Property or any estate or interest therein is to be sold pursuant to this Deed of Trust, by a judicial action or through Trustee, it may be sold at public auction, as an entirety or in one or more parcels, by one sale or several sales held at one time or at different times, with such postponement of any such sale as the Trustee deems appropriate and without regard to any right of the Grantor or any other Person to the marshaling of assets. Any such sale shall be held at such time and at such place as permitted by law, and shall be made upon such terms and after such previous public notice as required by law, as the Trustee deems appropriate. The Holder may bid and become the purchaser at any such sale, and shall, upon presentation of the Note or a true copy thereof at such sale, be credited for the unpaid balance due under the Note and any interest accrued and unpaid thereon, or such portion of such unpaid balance or interest as the Holder may specify, against any price bid by the Holder thereat or any deposit required or paid in connection therewith. The terms of sale being complied with, the Trustee shall (at the expense of the purchaser) convey to the purchaser at such sale the Grantor's

interest in so much of the Property as is so sold, free of and discharged from all estate, right, title or interest of the Grantor at law or in equity, such purchaser being hereby discharged from all liability to see to the application of the purchase money.

17.2 On any sale of the Grantor's interest in any or all of the Property, whether under the assent to a decree or power of sale herein granted, or by other foreclosure or judicial proceedings, the proceeds of such sale, together with any other sum then held as security hereunder or due under any of the provisions hereof as part of the Property, shall be applied (after paying all expenses of sale, including reasonable attorneys' fees and a commission to the party making the sale equal to the commission allowed to Trustee for making sales of property under orders or decrees of a court having competent jurisdiction, and all Assessments which the Trustee and the Holder deem it advisable to pay and all sums advanced, with interest thereon, as herein provided) to the payment of the aggregate Obligations then secured hereby and interest thereon to the date of payment, paying over the surplus, if any, less the expense, if any, of obtaining possession, to the Grantor or any Person entitled thereto upon the surrender and delivery to the purchaser of possession of the Property.

18. **COMMISSIONS: PREPAYMENT PREMIUMS.** Immediately on the first insertion of any advertisement or notice of any such sale under Section 16 and 17 hereof, there shall become due and owing by the Grantor to the Holder all expenses incident to such advertisement or notice, all court costs and all expenses incident to any foreclosure proceedings brought under this Deed of Trust or otherwise in connection with such sale, and no party shall be required to receive only the aggregate Obligations then secured hereby with interest thereon to the date of payment unless accompanied by a tender of payment of such expenses, costs and commissions.

19. **EFFECT OF PAYMENT.** Any payment made under this Deed of Trust by any subsequent owner of any or all of the Property, any other Person whose interest in the Property might be prejudiced in the event of a failure to make such payment, or any stockholder, officer or director of a corporation which at any time is liable for such payment or owns or has an interest in the Property or in the Grantor, shall be deemed, as between the Holder and all Persons who at any time may be liable as aforesaid or may own any or all of the Property or the Grantor, to have been made on behalf of all such Persons.

20. **TRUSTEE.** The Holder shall have, and is hereby granted by the Grantor, with a warranty of further assurances, the irrevocable power to appoint a substitute Trustee or Trustee hereunder and to remove any or all of the Trustee hereunder from time to time without notice and without specifying any reason therefor, by recording a substitution of trustee in the office in which this Deed of Trust is recorded. Such power of removal and appointment may be exercised from time to time as the Holder deems advisable, and such exercise no matter how often, shall not result in its exhaustion. Upon the recordation of each such substitution of trustee, each Trustee so appointed shall thereupon, without any further act or deed or conveyance, become fully vested with identically the same title and estate in and to the Property and with all of the identical rights, powers, trusts and duties of his predecessor or predecessors in the Property, as if originally named as one of the Trustee. Whenever in this Deed of Trust reference is made to the Trustee, it shall be construed to mean the Trustee or Trustee for the time being, whether the original or any successor Trustee. All title, estate, rights, powers, trusts and duties hereunder

given, appertaining to or devolving upon the Trustee shall be in each of the Trustee, so that any action hereunder, or purporting to be hereunder, of either one of the original or any successor Trustee shall for all purposes be considered to be, and shall be as effective as, the action of both Trustee. If two or more Persons are Trustee and the substitution of a Trustee becomes necessary for any reason, the substitution of one or more Trustee in the place of the said two or more Persons shall be sufficient. Trustee accepts the trust created by this Deed of Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Grantor, Lender or Trustee shall be a party, unless brought by Trustee.

21. **ESTOPPEL CERTIFICATES.** The Grantor shall, within five (5) business days after receiving a written request thereof from the Holder, certify to the Holder or any party designated by the Holder, by a writing duly acknowledged, the amount of principal and interest then owing under the Note and whether any offset or defense exists against the Obligations secured thereby.

22. **INTENTIONALLY OMITTED.**

23. **NOTICES.** Any notice, demand, consent, approval, request or other communication or document to be provided hereunder or under any applicable law pertaining hereto to a party hereto shall be in writing and duly given if delivered pursuant to Section 8.12 of the Loan Agreement.

24. **WARRANTY OF TITLE; TITLE INSURANCE.** The Grantor hereby warrants that it (a) lawfully holds good and marketable title to, and possesses, the Property in fee simple absolute, subject to and only to the operation and effect of those instruments and matters listed in Schedule B of the Title Insurance Policy, as aforesaid or such Assessments as are the subject of Section 3.3 hereof; (b) holds the right to encumber such title by this Deed of Trust; (c) will protect, preserve and defend the Property and the title thereto against the claims of any party whatsoever; and (d) will give such further assurances thereof as may be required by the Holder. Upon request by the Holder, the Grantor shall furnish to the Holder at the Grantor's own cost and expense a title insurance policy in the then outstanding amount of the Obligations, (a) naming the Holder as mortgagee; (b) covering the lien on the Property granted pursuant to this Deed of Trust; (c) containing no exception not otherwise approved by the Holder; (d) issued by a title insurance company qualified to do business in the state where the Property is located and satisfactory to the Holder; and (e) otherwise in form and substance satisfactory to the Holder.

25. **AUTHORIZATION AND POWER OF ATTORNEY.** From the occurrence and during the continuance of an Event of Default the Holder is irrevocably and unconditionally authorized to act, and the Grantor irrevocably and unconditionally appoints the Holder, as the attorney-in-fact of the Grantor, with full power of substitution and of revocation, to take, in the name of the Grantor or otherwise at the sole option of the Holder, each action relating to the Property or any portion thereof that, subject to this Deed of Trust, the Grantor could take in the same manner, to the same extent and with the same effect as if the Grantor were to take such action; provided, however, that the Holder shall not have the right, pursuant to such authorization or as such attorney-in-fact, to sell or otherwise dispose of the Property or any portion thereof.

Such power of attorney is irrevocable and is coupled with an interest in the Property in favor of the Holder, and shall not be terminated or otherwise affected by the death, disability or incompetence of the Grantor, if an individual. No other Person shall be appointed the Grantor's attorney with any of such powers, so long as any part of Obligations secured hereby is unpaid.

26. **RIGHT OF SETOFF.** After the occurrence and during the continuance of an Event of Default the Holder shall have the right to set off against the Obligations any property held in a deposit or other account with the Holder or any of its Affiliates or otherwise owing by the Holder or any of its Affiliates in any capacity to the Grantor or any Guarantor. Such set-off shall be deemed to have been exercised immediately at the time the Holder or such Affiliate elect to do so.

27. **GENERAL.**

27.1 **Definitions and Construction.**

27.1.1 As used herein:

"Debtor Relief Laws" means any applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, fraudulent conveyance, reorganization, or similar laws affecting the rights, remedies, or recourse of creditors generally, including without limitation the Bankruptcy Code and all amendments thereto, as are in effect from time to time during the Term.

"Lease" shall mean any lease, sublease or subsublease, letting, license, concession or other agreement (whether written or oral and whether now or hereafter in effect) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of any space in the Property, and every modification, amendment or other agreement relating to such lease, sublease, subsublease, or other agreement entered into in connection with such lease, sublease, subsublease, or other agreement and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), preference, priority or other security interest of any kind or nature whatsoever (including, without limitation, any such encumbrance arising out of or pursuant to any security agreement, conditional sale or other title retention agreement, any financing or similar statement or notice filed under any recording or notice statute, and any capital lease having substantially the same effect as any of the foregoing).

"Legal Requirement" means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, court orders, decrees, direct duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“Permitted Encumbrances” shall mean, collectively, (i) the Liens and security interests created by this Deed of Trust and the other Loan Documents, (ii) all Liens, encumbrances and other matters expressly set forth on Schedule A or Schedule B of the Title Insurance Policy, (iii) Liens, if any, for taxes imposed by any Governmental Authority not yet due or delinquent, and (iv) such other title and survey exceptions as Lender has approved or may approve in writing in Lender’s sole discretion.

“Rents” shall mean all rents (including, without limitation, percentage rents), rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Grantor or its agents or employees from any and all sources arising from or attributable to the Property, and proceeds, if any, from business interruption or other loss of income insurance.

“Taxes” shall mean all real estate and personal property taxes, assessments, water rates or sewer rents, now or hereafter levied or assessed or imposed against the Property or any part thereof, together with all interest and penalties thereon.

“Title Insurance Policy” shall mean, individually and collectively, as the context may require, an ALTA mortgagee title insurance policy or policies in the form(s) acceptable to Lender issued with respect to the Property and insuring the lien of this Deed of Trust together with such endorsements and affirmative coverages as Lender may require.

27.1.2 Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

27.1.3 All references made (a) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders; (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well; (c) the word “or” has the inclusive meaning represented by the phrase “and/or”, the word “including”, “includes” and “include” shall be deemed to be followed by the words “without limitation”; and (d) to any section, subsection, paragraph or subparagraph shall, unless therein expressly indicated to the contrary, be deemed to have been made to such section, subsection, paragraph or subparagraph of this Deed of Trust.

27.2 Governing Law; Jurisdiction. THIS DEED OF TRUST SHALL BE CONSTRUED, INTERPRETED, ENFORCED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF UTAH (WITHOUT REFERENCE TO PRINCIPLES OF CONFLICTS OF LAW) AND THE LAWS OF THE UNITED STATES APPLICABLE TO TRANSACTIONS WITHIN UTAH, EXCEPT THE LAWS OF THE STATE OF NEW YORK AND THE LAWS OF THE UNITED STATES APPLICABLE TO TRANSACTIONS WITHIN NEW YORK SHALL GOVERN THE CONSTRUCTION, INTERPRETATION, ENFORCEMENT AND GOVERNANCE OF THE LOAN AGREEMENT, THE GUARANTY AND THE OTHER LOAN DOCUMENTS AND THE INDEBTEDNESS SECURED HEREBY AND THEREBY. The Grantor consents that the

Holder may affect any service of process in the manner and at the Grantor's address set forth above in the Section entitled "Notices" for providing notice or demand; provided, however, the Grantor agrees that nothing contained herein will prevent the Holder from bringing any action, enforcing any award or judgment or exercising any rights against the Grantor individually, against any of the Property or against any other property of the Grantor within any other county, state or other foreign or domestic jurisdiction, including, without limitation, at the election of and in the sole discretion of Holder, the State of California. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. The Grantor acknowledges and agrees that the venue provided above is the most convenient forum for the Grantor, the Trustee and the Holder and the Grantor waives any objection to venue and any objection based on a more convenient forum in any action instituted under this Deed of Trust.

27.3 Covenants to Run with Land. The grants, terms, covenants, provisions and conditions hereof shall run with the land and shall be binding upon the Grantor, its heirs, personal representatives, successors and permitted assigns, and shall inure to the benefit of the Trustee and their survivors and successors, and the Holder and its successors and assigns.

27.4 Miscellaneous. Time shall be of the essence with respect to this Deed of Trust. This Deed of Trust may be amended or supplemented only by a written agreement executed and, if necessary, acknowledged by the party against whom enforcement of such amendment or supplement is sought. The headings of the sections, subsections, paragraphs and subparagraphs hereof are provided herein for and only for convenience of reference, and shall not be considered in construing their contents. Each writing or plat referred to herein as being attached hereto as an exhibit or otherwise designated herein as an exhibit hereto is hereby made a part hereof. Nothing in this Deed of Trust and no transaction related hereto shall operate or be construed to require the Grantor to make any payment or do anything contrary to applicable law. No determination by any court, governmental or quasi-governmental body or otherwise that any provision of this Deed of Trust or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such provision; or (b) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

27.5 Waiver. All rights, remedies, privileges or discretions of the Holder and the Trustee under this Deed of Trust and applicable law are cumulative, and no right or remedy shall be exclusive of any other right or remedy. No single, partial or delayed exercise by the Holder and the Trustee of any right or remedy shall preclude full and timely exercise by the Holder and the Trustee at any time of any right or remedy of the Holder and the Trustee without notice or demand, at the Holder's or Trustee's sole option. No course of dealing or other conduct, no oral agreement or representation made by the Holder or the Trustee or usage of trade shall operate as a waiver of any right or remedy of the Holder or the Trustee. No waiver of any right or remedy of the Holder or the Trustee shall be effective unless made specifically in writing by the Holder or the Trustee. Neither the Grantor nor any other Person now or hereafter obligated to pay any or all of the Obligations secured by this Deed of Trust shall be relieved of such obligation by reason of (a) the failure of the Holder, the Trustee or any other Person to comply with any request of the Grantor, or to take any action to foreclose this Deed of Trust or otherwise

enforce any of the provisions of this Deed of Trust or any Obligations secured hereby; (b) the release, regardless of consideration, of any or all of the Property; or (c) the agreement or stipulation, by any subsequent owner of any or all of the Property and the Holder, extending the time of payment or modifying the terms of the Note, this Deed of Trust or any other document executed in connection therewith, without the prior written consent of the Grantor or such other Person, and in the event of any such agreement or stipulation, the Grantor and each such other Person shall continue to be liable to make such payments according to the terms of any such agreement of extension or modification unless expressly released and discharged in writing by the Holder.

27.6 **Joint and Several Liability.** If there is more than one Grantor, each of them shall be jointly and severally liable for adhering to the terms and satisfying the conditions hereof and the term "**Grantor**" shall include each as well as all of them. If there is more than one Guarantor the term "**Guarantor**" shall include each as well as all of them.

28. **SECURITY AGREEMENT AND FIXTURE FILING.** This Deed of Trust constitutes a "**security agreement**" within the meaning of, and creates and grants (and the Grantor does hereby create and grant) to the Holder a security interest under, Article 9 of the Uniform Commercial Code, in all Property (other than the Land and the Improvements). Grantor acknowledges and agrees that, in applying the law of any jurisdiction that at any time enacts all or substantially all of the uniform provisions of Revised Article 9 of the Uniform Commercial Code, the foregoing collateral description covers all assets of Grantor affixed to, or used in connection with any portion of the Property. The Holder shall have the right to file in any public office, without the signature of the Grantor, each financing statement relating to such fixtures and proceeds therefrom that the Holder shall deem necessary or desirable at the sole option of the Holder.

This Deed of Trust is being recorded in the county where the Property is located and constitutes as a fixture filing in accordance with the Uniform Commercial Code. With respect to said fixture filing, (i) the debtor is the Grantor, and Grantor's name and address appear in the first paragraph of this Deed of Trust, and (ii) the secured party is Lender, and Lender's name and address appear in the first paragraph of this Deed of Trust.

29. **NO MERGER OF ESTATES.** So long as any part of the Obligations secured hereby remain unpaid and undischarged, the fee and leasehold estates to the Property shall not merge, but shall remain separate and distinct notwithstanding the union of such estates either in Grantor, Lender, any lessee or any third party by purchase or otherwise.

30. **WAIVER OF JURY TRIAL.** TO THE EXTENT NOT PROHIBITED UNDER APPLICABLE LAW, GRANTOR, HOLDER AND TRUSTEE EACH HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE TO THE FULLEST EXTENT NOT PROHIBITED BY LAW ANY RIGHT TO TRIAL BY JURY THEY MAY HAVE IN ANY ACTION OR PROCEEDING, IN LAW OR IN EQUITY, IN CONNECTION WITH THIS DEED OF TRUST OR THE TRANSACTIONS RELATED THERETO. THE GRANTOR REPRESENTS AND WARRANTS THAT NO REPRESENTATIVE OR AGENT OF THE HOLDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE HOLDER WILL NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THIS

RIGHT TO JURY TRIAL WAIVER. THE GRANTOR ACKNOWLEDGES THAT THE LENDER HAS BEEN INDUCED TO ACCEPT THIS DEED OF TRUST BY, AMONG OTHER THINGS, THE PROVISIONS OF THIS SECTION.

31. **CONVEYANCE OR TRANSFER OF PROPERTY.** Grantor expressly agrees that upon a violation of Section 8 of this Deed of Trust by Grantor and acceleration of the principal balance of the Note because of such violation, Grantor will pay all sums required to be paid in connection therewith. Grantor expressly acknowledges that Grantor has received adequate consideration for the foregoing agreement.

32. **ADDITIONAL ADVANCES AND DISBURSEMENTS; COSTS OF ENFORCEMENT.**

(a) If any Event of Default exists and is continuing beyond all applicable notice and cure periods, Lender shall have the right, but not the obligation, to cure such Event of Default in the name and on behalf of Grantor after five (5) days prior written notice. All sums advanced and expenses incurred at any time by Lender under this Section or otherwise under this Deed of Trust or any of the other Loan Documents or applicable law, shall bear interest from the date that such sum is advanced or expense incurred, to and including the date of reimbursement, with Default Interest, and all such sums, together with interest thereon, shall be secured by this Deed of Trust.

(b) Grantor shall pay all expenses (including reasonable attorneys' fees and expenses) of or incidental to the perfection and enforcement of this Deed of Trust and the other Loan Documents, or the enforcement, compromise or settlement of the indebtedness or any claim under this Deed of Trust and the other Loan Documents, and for the curing thereof, or for defending or asserting the rights and claims of Lender in respect thereof, by litigation or otherwise.

33. **NO MORTGAGEE IN POSSESSION.** Neither the enforcement of any of the remedies under this Deed of Trust, the Assignment of the Leases and Rents, the Environmental Indemnity Agreement, the security interests, nor any other remedies afforded to Lender under the Loan Documents, at law or in equity shall cause Lender or Trustee to be deemed or construed to be a mortgagee in possession of the Property, to obligate Grantor or Trustee to lease the Property or attempt to do so, or to take any action, incur any expense, or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

34. **TRUSTEE/LENDER INDEMNIFICATION.** Except with respect to the gross negligence or willful misconduct of Trustee and Lender, Trustee and Lender shall be indemnified, held harmless and reimbursed by Grantor for any liability, damage or expense, including reasonable attorneys' fees and amounts paid in settlement, which they or either of them may incur or sustain in the execution of this Deed of Trust or in the doing of any act which they, or either of them, are required to permitted to do by the terms hereof or by law.

35. **MARSHALING AND OTHER MATTERS.** Grantor hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshaling in the event of any

sale hereunder of the Property or any part thereof or any interest therein. Further, Grantor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this security agreement on behalf of Grantor, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Deed of Trust and on behalf of all persons to the extent permitted by applicable law.

36. REQUEST FOR NOTICES. PURSUANT TO APPLICABLE LAW, GRANTOR REQUESTS THAT A COPY OF ANY NOTICE OF DEFAULT AND A COPY OF ANY NOTICE OF SALE HEREUNDER BE MAILED TO IT AT THE ADDRESS SET FORTH IN THE FIRST PARAGRAPH OF THIS DEED OF TRUST.

37. UTAH SPECIFIC PROVISIONS

37.1 PRINCIPALS OF CONSTRUCTION. In the event of any inconsistencies between the terms and conditions of this Section 37 and the other terms and conditions of this Deed of Trust, the terms and conditions of this Section 37 shall control and be binding.

37.2 MECHANIC'S AND MATERIALMAN'S LIENS.

37.2.1 If there shall be any construction, renovation or improvement of the Property, whether with respect to a casualty, condemnation or otherwise, Grantor shall timely comply with all requirements of Title 38 Part of Utah Code Annotated with regard to filings and notices and further agrees that Lender may, if appropriate, file a notice of construction Loan and notice of completion as contemplated by Chapter 1a of Title 38 of the Utah Code Annotated, in each case in the State Construction Registry of the State of Utah. Grantor shall cause Lender to be named as a person interested in receiving electronic notices of all filings with respect to the Property in the State Construction Registry in accordance with Chapter 1a of Title 38 of the Utah Code Annotated. Grantor shall also provide to Lender copies of all preliminary notices or other notices filed by any contractor, subcontractor or supplier with respect to the Property. Grantor shall, upon completion of the Improvements, promptly file a notice of completion in the State Construction Registry as permitted by Utah Code Annotated § 38-1a-507.

37.2.2 Grantor shall pay and promptly discharge, at Grantor's cost and expense, all liens, encumbrances and charges upon the Property, or any part thereof or interest therein whether inferior or superior to this Deed of Trust and keep and maintain the same free from the claim of all persons supplying labor, services or materials that will be used in connection with or enter into the construction of any and all buildings now being erected or that hereafter may be erected on the Property regardless of by whom such services, labor or materials may have been contracted, provided, however, that Grantor shall have the right to contest any such claim or lien so long as Grantor previously records a notice of release of lien and substitution of alternate security as contemplated by Utah Code Annotated § 38-1a-804 and otherwise complies with the requirements of Utah Code Annotated § 38-1a-804 to release the Property from such lien or claim. Notwithstanding the foregoing, Grantor may, with the prior written consent of Lender, contest the amount of any such lien or claim related to services, labor or materials in accordance with Utah Code Annotated § 38-1a-804(7) without previously recording a notice of release of lien and substitution of alternate security.

37.2.3 If Grantor shall fail to remove and discharge any such lien, encumbrance or charge, or if Grantor shall dispute the amount thereof in contravention of the requirements hereof, then, in addition to any other right or remedy of Lender, Lender may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the release of the Property from the effect of such lien, encumbrance or charge by obtaining a bond in the name of and for the account of Grantor and recording a notice of release of lien and substitution of alternate security in the name of Grantor, each as contemplated by Utah Code Annotated § 38-1a-804 or other applicable law, or otherwise by giving security for such claim. Grantor shall, immediately upon demand therefor by Lender, pay to Lender an amount equal to all costs and expenses incurred by Lender in connection with the exercise by Lender of the foregoing right to discharge any such lien, encumbrance or charge, including costs of any bond or additional security, together with interest thereon from the date of such expenditure at the default rate set forth in the Note.

37.3 **FINANCING STATEMENTS.** Grantor further authorizes Lender at any time and from time to time to file in any filing office in any Uniform Commercial Code jurisdiction any initial financing statements and amendments thereto that (A) indicate the Personal Property (1) as all assets of Grantor or words of similar effect, regardless of whether any particular asset comprised in the Personal Property falls within the scope of Article 9 of the Uniform Commercial Code or such jurisdiction, or (2) as being of an equal or lesser scope or with greater detail, and (B) contain any other information required by Part 5 of Article 9 of the Uniform Commercial Code for the sufficiency or filing office acceptance of any financing statement or amendment. Grantor acknowledges that it is not authorized to file any financing statement or amendment or termination statement with respect to any financing statement without the prior written consent of Lender and agrees that it will not do so without the prior written consent of Lender, subject only to Grantor's rights under Section 9-509(4)(b) of the Uniform Commercial Code.

37.4 **SALE BY TRUSTEE PURSUANT TO POWER OF SALE; JUDICIAL FORECLOSURE.** After the lapse of such time as may then be required by Utah Code Annotated § 57-1-24 or other applicable law following the recordation of the notice of default, and notice of default and notice of sale having been given as then required by Utah Code Annotated § 57-1-24 and § 57-1-25 or other applicable law, Trustee, without demand on Grantor, shall sell the Property on the date and at the time and place designated in the notice of sale, in such order as Lender may determine (but subject to Grantor's statutory right under Utah Code Annotated § 57-1-27 to direct the order in which the 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 or on such other terms as are set forth in the notice of sale. The person conducting the sale may, for any cause deemed expedient, postpone the sale from time to time until it shall be completed and, in every such case, notice of postponement shall be given by public declaration, by written notice or oral postponement, at the time and place last appointed for the sale; provided, if the sale is postponed for longer than forty-five (45) days beyond the date designated in the notice of sale, notice of the time, date, and place of sale shall be given in the same manner as the original notice of sale as required by Utah Code Annotated § 57-1-27. Trustee shall execute and deliver to the purchaser a Trustee's Deed, in accordance with Utah Code Annotated § 57-1-28, conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in the Trustee's Deed of any matters or facts shall be

conclusive proof of the truthfulness thereof. Any person, including Lender, may bid at the sale. Trustee shall apply the proceeds of the sale as follows, notwithstanding Section 16 of the Deed of Trust:

First: To the costs and expenses of exercising the power of sale and of the sale, including the payment of Trustee's and attorneys' fees actually incurred not to exceed the amount which may be provided for in this Deed of Trust.

Second: To payment of the obligations secured by this Deed of Trust.

Third: The balance, if any, to the person or person's legally entitled to the proceeds, or Trustee, in the Trustee's discretion, may deposit the balance of the proceeds with the clerk of the district court of the county in which the sale took place, in accordance with Utah Code Annotated § 57-1-29.

Upon any sale made under or by virtue of this Section 37.4, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, the Lender may bid for and acquire the Property, whether by payment of cash or by credit bid in accordance with Utah Code Annotated § 57-1-28(1)(b). In the event of a successful credit bid, Lender shall make settlement for the purchase price by crediting upon the Obligations of Grantor secured by this Deed of Trust such credit bid amount. Lender, upon so acquiring the Property or any part thereof, shall be entitled to hold, lease, rent, operate, manage, and sell the same in any manner provided by applicable laws. For purposes of Utah Code Annotated § 57-1-28, Grantor agrees that all default rate interest, late charges, prepayment premiums, breakage fees, or other similarly fees or costs, if any, owing from time to time under the Note shall constitute a part of and be entitled to the benefits of Lender's Deed of Trust lien upon the Property, and (ii) Lender may add all such default rate interest, late charges, prepayment premiums, breakage fees, or other similarly fees or costs, if any, owing from time to time under the Note to the principal balance of the Note, and in either case Lender may include the amount of all unpaid late charges in any credit bid Lender may make at a foreclosure sale of the Property pursuant to this Deed of Trust.

In the event of any amendment to the provisions of Utah Code Annotated Title 57 or other provisions of Utah Code Annotated referenced in this Deed of Trust, this Deed of Trust shall, at the sole election of Lender, be deemed amended to be consistent with such amendments or Lender may elect not to give effect to such deemed amendments hereto if permitted by applicable law.

37.5 **DEFICIENCY.** Grantor agrees to pay any deficiency arising from any cause, to which Lender may be entitled after applications of the proceeds of any trustee's sale, and Lender may commence suit to collect such deficiency in accordance with Utah Code Annotated § 57-1-32 or other applicable law. Grantor agrees for purposes of Utah Code Annotated § 57-1-32 that the value of the Property as determined and set forth in an MAI appraisal of the Property as obtained by Lender on or about the date of the sale or the recording of a notice of default and election to sell shall constitute the "fair market value of the Property for purposes of Utah Code Annotated § 57-1-32.

37.6 **REINSTATEMENT.** If Grantor, Grantor's successor in interest or any other person having a subordinate lien or encumbrance of record on the Property, reinstates this Deed of Trust and the Loan within three (3) months of the recordation of a notice of default in accordance with Utah Code Annotated § 57-1-31(1), such party shall pay to Lender the reasonable cancellation fee contemplated by Utah Code Annotated § 57-1-31(2), as determined by Lender, in accordance with its then current policies and procedures, whereupon Trustee shall record a notice of cancellation of the pending trustee's sale.

37.7 **PERSONAL PROPERTY REMEDIES.** It is the express understanding and intent of the parties that as to any personal property interests subject to Article 9a of the Utah Uniform Commercial Code, Lender, upon an Event of Default, may proceed under the Uniform Commercial Code or may proceed as to both real and personal property interests in accordance with the provisions of this Deed of Trust and its rights and remedies in respect of real property, and treat both real and personal property interests as one parcel or package of security as permitted by Utah Code Annotated § 70A-9a-601 or other applicable law, and further may sell any shares of corporate stock evidencing water rights in accordance with Utah Code Annotated § 57-1-30 or other applicable law.

37.8 **SUBSTITUTION OF TRUSTEE.** Lender, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Lender and duly acknowledged and recorded in the office of the recorder of the county or counties where the Property is situated, with a copy thereof being provided to the persons required by Utah Code Annotated § 57-1-22 or any successor statute, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Grantor, Trustee and Lender hereunder, the book and page where this Deed of Trust is recorded and the name and address of the new Trustee and all other information required by Utah Code Annotated § 57-1-22 or any successor statute.

37.9 **INTEGRATION. PURSUANT TO UTAH CODE ANNOTATED § 25-5-4, GRANTOR IS NOTIFIED THAT THE WRITTEN LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

37.10 **SURRENDER OF POSSESSION.** Grantor agrees to surrender possession of the Property to the purchaser at the aforesaid sale, immediately after such sale, in the event such possession has not previously been surrendered by the Grantor.

37.11 **PROPERTY STATUS.** For purposes of Utah Code Annotated §§ 57-1-25 and 78B-6-901.5, Trustor agrees that the stated purpose for which this Deed of Trust was given is not to finance residential rental property.

37.12 **MORTGAGE LANGUAGE.** Notwithstanding any references to Grantor agreeing to mortgage the Property contained in this Deed of Trust, such language shall not be deemed to create a mortgage, it being the intent of the parties to create a deed of trust lien and associated rights and remedies. In accordance with applicable law, Lender nonetheless retains

all rights to foreclose the lien hereof as mortgage.

38. **ADDITIONAL REPRESENTATIONS AND WARRANTIES.** The Grantor represents and warrants to the Lender that:

38.1 Title; Priority of Liens; Permitted Encumbrances. Grantor has good, marketable and insurable fee simple title to the Land and good title to the balance of the Property, free and clear of all Liens whatsoever except for the Permitted Encumbrances. This Deed of Trust, when properly recorded in the appropriate records, together with any UCC financing statements required to be filed in connection therewith, will create (a) a legal, valid and enforceable (as enforceability may be limited by Debtor Relief Laws) perfected first priority lien on the Property, subject only to the Permitted Encumbrances, and (b) perfected first priority security interests in and to, and perfected collateral assignments of, all personalty (including Leases), all in accordance with the terms thereof, in each case subject only to any Permitted Encumbrances. There are no mechanics' liens, materialmen's liens or other encumbrances affecting the Property, and no rights exist which under law could give rise to any such claims for payment of work, labor or materials which are or may become a lien prior to, or of equal priority with, the Liens created by the Loan Documents. The Assignment of Leases and Rents is freely assignable without the consent of Grantor and, when properly recorded in the appropriate records, will create a perfected first priority security interest in and to, and perfected collateral assignment of, all Leases and Rents, all in accordance with the terms thereof, in each case subject only to any Permitted Encumbrances.

38.2 Compliance. Grantor and the Property and the use thereof comply in all material respects with all applicable Legal Requirements, including, without limitation, building and zoning ordinances and codes. Grantor is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority, the violation of which would have a Material Adverse Effect. There has not been and shall never be committed by Grantor or any other person in occupancy of or involved with the operation or use of the Property any act or omission affording the federal government or any state or local government the right of forfeiture as against the Property or any part thereof or any monies paid in performance of Grantor's obligations under any of the Loan Documents. Grantor hereby covenants and agrees not to commit, permit or suffer to exist any act or omission affording such right of forfeiture.

38.3 Condemnation. No Condemnation or other proceeding has been commenced or, to Grantor's best knowledge, is threatened or contemplated with respect to all or any portion of the Property or for the relocation of roadways providing access to the Property.

38.4 Utilities and Public Access. The Property (a) is located on or adjacent to a public road and has direct legal access to such road, or has access via an irrevocable easement or irrevocable right of way permitting ingress and egress to/from a public road, and (b) is served by or has uninhibited access rights to public or private water and sewer (or well and septic) and all required utilities, all of which are appropriate for the current use of the Property. All public utilities necessary or convenient to the full use and enjoyment of the Property are located either in the public right-of-way abutting the Property (which are connected so as to serve the Property without passing over other property) or in recorded easements serving the Property and such easements are set forth in and insured by the Title Insurance Policy. All roads necessary for the

use of the Property for its respective current purposes have been completed, are physically open and are dedicated to public use and have been accepted by all Governmental Authorities.

38.5 Separate Lots. The Land is comprised of one (1) or more parcels which constitute a separate tax lot or lots and does not constitute a portion of any other tax lot not a part of the Property.

38.6 Assessments. There are no taxes, pending or proposed special or other governmental assessments for public improvements or other outstanding governmental charges (including, without limitation, water and sewage charges) otherwise affecting the Property, nor are there any contemplated improvements to the Property that may result in such special or other assessments.

38.7 Assignment of Leases. The Assignment of Leases and Rents creates a valid assignment of, or a valid security interest in, certain rights under the Leases, subject only to a license granted to Grantor to exercise certain rights and to perform certain obligations of the lessor under the Leases, as more particularly set forth therein. No Person other than Lender has any interest in or assignment of Grantor's interest in the Leases or any portion of the rents due and payable or to become due and payable thereunder.

38.8 Licenses. All permits and approvals, including, without limitation, certificates of occupancy required by any Governmental Authority for the use, occupancy and operation of the Property in the manner in which the Property is currently being used, occupied and operated have been obtained and are in full force and effect.

38.9 Physical Condition. The Property, including, without limitation, all buildings, improvements, parking facilities, sidewalks, storm drainage systems, roofs, plumbing systems, HVAC systems, fire protection systems, electrical systems, equipment, elevators, exterior sidings and doors, landscaping, irrigation systems and all structural components, are in good condition, order and repair in all material respects; there exists no structural or other material defects or damages in the Property, whether latent or otherwise, and Grantor has not received notice from any insurance company or bonding company of any defects or inadequacies in the Property, or any part thereof, which would adversely affect the insurability of the same or cause the imposition of extraordinary premiums or charges thereon or of any termination or threatened termination of any policy of insurance or bond.

38.10 Insurance. Grantor has obtained and has delivered to Lender certified copies of all Policies reflecting the insurance coverages, amounts and other requirements set forth in this Deed of Trust. No Person, including Grantor, has done, by act or omission, anything which would impair the coverage of any such Policy.

38.11 Flood Zone. None of the Improvements are located in an area as identified by the Federal Emergency Management Agency as an area having special flood hazards and, if so located, the flood insurance required pursuant to this Security Instrument is in full force and effect.

38.12 Leases. The Property is not subject to any Leases. Grantor is the owner and lessor of landlord's interest in the Leases. No Person has any possessory interest in the

Property or right to occupy the same except under and pursuant to the provisions of the Leases. The current Leases are in full force and effect and, there are no defaults by Grantor or any tenant under any Lease, and there are no conditions that, with the passage of time or the giving of notice, or both, would constitute defaults under any Lease. No Rent has been paid more than one (1) month in advance of its due date. There are no offsets or defenses to the payment of any portion of the Rents. All work to be performed by Grantor under each Lease has been performed as required and has been accepted by the applicable tenant, and any payments, free rent, partial rent, rebate of rent or other payments, credits, allowances or abatements required to be given by Grantor to any tenant has already been received by such tenant. There has been no prior sale, transfer or assignment, hypothecation or pledge of any Lease or of the Rents received therein which is still in effect. Except as described on the Rent Roll, no tenant under any Lease has sublet all or any portion of the premises demised thereby, no such tenant holds its leased premises under sublease, nor does anyone except such tenant and its employees occupy such leased premises. No tenant under any Lease has a right or option pursuant to such Lease or otherwise to purchase all or any part of the leased premises or the building of which the leased premises are a part. No tenant under any Lease has any right or option for additional space in the Improvements.

38.13 Boundaries. All of the improvements which were included in determining the appraised value of the Property lie wholly within the boundaries and building restriction lines of the Property, and no improvements on adjoining properties encroach upon the Property, and no easements or other encumbrances affecting the Property encroach upon any of the improvements, so as to affect the value or marketability of the Property except those which are insured against by title insurance.

38.14 Filing and Recording Taxes. All transfer taxes, deed stamps, intangible taxes or other amounts in the nature of transfer taxes required to be paid under applicable Legal Requirements in connection with the transfer of the Property to Grantor have been paid or are being paid simultaneously herewith. All mortgage, mortgage recording, stamp, intangible or other similar tax required to be paid under applicable Legal Requirements in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Loan Documents, including, without limitation, this Security Instrument, have been paid or are being paid simultaneously herewith. All taxes and governmental assessments due and owing in respect of the Property have been paid, or an escrow of funds in an amount sufficient to cover such payments has been established hereunder.

38.15 Illegal Activity. No portion of the Property has been or will be purchased with proceeds of any illegal activity and to the best of Grantor's knowledge, there are no illegal activities or activities relating to any controlled substances at the Property.

38.16 Management Agreements. There are no (i) management agreements in effect with respect to the Property, and (ii) management fees, asset management fees or other expenses payable to any Person with respect to the Property.

38.17 Title Insurance Policy and Survey. The Title Insurance Policy is in full force and effect, all premiums thereon have been paid and no claims have been made thereunder and no claims have been paid thereunder. Neither Grantor, nor to Grantor's knowledge, any

other Person, has done, by act or omission, anything that would materially impair the coverage under the Title Insurance Policy. The Title Insurance Policy contains no exclusion for, or affirmatively insures (except if the Property is located in a jurisdiction where such affirmative insurance is not available in which case such exclusion may exist), to the extent that the Property consists of two or more adjoining parcels, such parcels are contiguous.

38.18 Survival of Representations. Grantor agrees that all of the representations and warranties of Grantor set forth in this Section 38 and elsewhere in this Deed of Trust and in the other Loan Documents shall survive for so long as any amount remains owing to Lender under this Deed of Trust or any of the other Loan Documents by Grantor. All representations, warranties, covenants and agreements made in this Deed of Trust or in the other Loan Documents by Grantor shall be deemed to have been relied upon by Lender notwithstanding any investigation heretofore or hereafter made by Lender or on its behalf.

39. **ADDITIONAL COVENANTS**. For the duration of the Term, unless the Lender shall otherwise consent in writing, the Grantor shall:

39.1 Access. Permit agents, representatives and employees of Lender to inspect the Property or any part thereof at reasonable hours upon reasonable advance notice.

39.2 Title. Warrant and defend the validity and priority of the Liens of this Deed of Trust and the Assignment of Leases and Rents on the Property against the claims of all Persons whomsoever, subject only to Permitted Encumbrances.

39.3 Zoning. Not initiate or consent to any zoning reclassification of any portion of the Property or seek any variance under any existing zoning ordinance or use or permit the use of any portion of the Property in any manner that could result in such use becoming a non-conforming use under any zoning ordinance or any other applicable land use law, rule or regulation, without the prior written consent of Lender.

39.4 Property Management Agreements. Not enter into any management agreement with respect to any Property without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

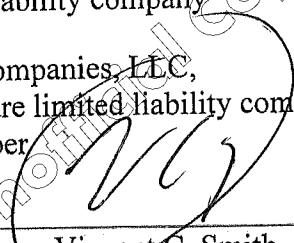
**[NO FURTHER TEXT ON THIS PAGE/
SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, THIS DEED OF TRUST has been executed
Grantor as of the day and year first above written.

GRANTOR:

MOUNTAIN VALLEY RANCH VENTURES, LLC,
a Utah limited liability company


By: Arden Companies, LLC,
a Delaware limited liability company,
its Member

By: 
Name: Vincent C. Smith
Title: Managing Member

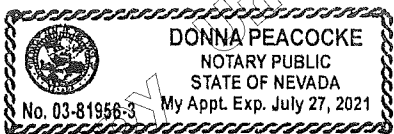
ACKNOWLEDGMENT

STATE OF Nevada)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this July 15,
2019 by Vincent C. Smith (person acknowledging, title or representative
capacity, if any).


Signature of Person Taking Acknowledgment

Residing at:
Carson City Nevada



(Seal)

My Commission Expires:

7-27-21

[The phrase "My commission expires" and "Residing at" may be omitted if this information is
included in the notarial seal.]

[SIGNATURE PAGE CONTINUES ON NEXT PAGE]

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

BEGINNING AT A POINT SOUTH 715.18 FEET AND WEST 693.69 FEET SOUTHEAST CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING; THENCE SOUTH 00°59'46" EAST 1882.06 FEET; THENCE NORTH 88°12'10" EAST 1904.10 FEET; THENCE SOUTH 00°34'23" EAST 2452.18 FEET; THENCE SOUTH 85°51'54" WEST 443.75 FEET; THENCE SOUTH 47°04'54" WEST 202.06 FEET; THENCE SOUTH 88°21'26" WEST 2053.15 FEET; THENCE NORTH 00°49'19" WEST 2597.45 FEET; THENCE NORTH 00°23'48" WEST 1901.70 FEET; THENCE NORTH 89°42'31" EAST 732.90 FEET TO BEGINNING.

PARCEL 2:

BEGINNING AT A POINT SOUTH 1011.93 FEET AND WEST 54.74 FEET SOUTHEAST CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING; THENCE NORTH 66°04'50" EAST 661.23 FEET; THENCE NORTH 11°04'31" EAST 157.12 FEET; THENCE SOUTH 75°14'35" EAST 84.32 FEET; THENCE NORTH 80°23'58" EAST 263.27 FEET; THENCE NORTH 67°48'52" EAST 424.91 FEET; THENCE NORTH 82°33'31" EAST 309.19 FEET; THENCE NORTH 86°46'18" EAST 195.26 FEET; THENCE NORTH 66°06'00" EAST 294.66 FEET; THENCE NORTH 52°34'18" EAST 150.00 FEET; THENCE NORTH 00°11'25" WEST 186.92 FEET; THENCE NORTH 88°54'54" EAST 1679.92 FEET; THENCE SOUTH 00°09'57" WEST 2528.16 FEET; THENCE SOUTH 88°12'10" WEST 4539.38 FEET; THENCE NORTH 00°59'46" WEST 1429.22 FEET; THENCE NORTH 89°42'26" EAST 282.58 FEET; THENCE SOUTH 23°55'10" EAST 342.78 FEET; THENCE NORTH 66°04'50" EAST 381.24 FEET; THENCE NORTH 23°55'10" WEST 342.78 FEET TO BEGINNING.

PARCEL 3:

BEGINNING AT A POINT SOUTH 88°36'27" WEST 101.49 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE SOUTH 88°45'33" WEST 908.72 FEET; THENCE NORTH 69°58'22" EAST 27.40 FEET; THENCE NORTH 43°24'28" EAST 142.62 FEET; THENCE NORTH 62°10'22" EAST 81.42 FEET; THENCE NORTH 76°27'36" EAST 170.25 FEET; THENCE SOUTH 88°34'33" EAST 228.37 FEET; THENCE NORTH 47°46'28" EAST 307.74 FEET; THENCE NORTH 67°24'42" EAST 190.95 FEET; THENCE NORTH 73°01'03" EAST 327.81 FEET; THENCE NORTH 35°10'54" EAST 173.62 FEET; THENCE NORTH 14°58'47" EAST 65.67 FEET; THENCE SOUTH 79°57'45" EAST 65.79 FEET TO THE POINT OF A 671.64 FOOT RADIUS CURVE TO THE LEFT; THENCE ALONG SAID CURVE A DISTANCE OF 63.52 FEET THROUGH A CENTRAL ANGLE OF 5°25'07" (CHORD BEARS SOUTH 82°40'18" EAST 63.49 FEET); THENCE SOUTH 02°19'56" WEST 719.36 FEET; THENCE SOUTH 00°45'28" EAST 840.26 FEET; THENCE SOUTH 89°14'32" WEST 520.00 FEET; THENCE NORTH 09°52'48" WEST 302.13 FEET; THENCE NORTH 00°23'54" WEST 151.66 FEET; THENCE SOUTH 89°14'32" WEST 50.00 FEET; THENCE NORTH 00°22'16" WEST 390.00 FEET TO THE POINT OF BEGINNING.

PARCEL 4:

BEGINNING AT A POINT SOUTH 954.21 FEET AND EAST 525.49 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 00°45'28" WEST 960.26 FEET; THENCE NORTH 02°19'56" EAST 719.36 FEET TO A POINT OF A NON-TANGENT CURVE; THENCE NORTHEASTERLY ALONG A 671.64 FOOT RADIUS

DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING
44184503

CURVE TO THE LEFT A DISTANCE OF 304.01 (CHORD BEARS NORTH 81°39'07" EAST 301.42 FEET), WITH A DISTANCE 304.01 FEET; THENCE NORTH 68°41'04" EAST 178.40 FEET; THENCE NORTH 85°27'54" EAST 103.93 FEET; THENCE NORTH 68°41'04" EAST 100.00 FEET; THENCE SOUTH 00°12'05" EAST 863.06 FEET; THENCE SOUTH 00°23'47" EAST 960.00 FEET; THENCE SOUTH 89°14'32" WEST 687.50 FEET TO THE POINT OF BEGINNING.

PARCEL 5:

BEGINNING AT A POINT BEING WEST 706.21 FEET AND NORTH 5.41 FEET FROM SOUTHEAST CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 00°59'46" EAST 273.47 FEET; THENCE SOUTH 89°42'26" WEST 728.22 FEET; THENCE NORTH 00°23'47" WEST 253.39 FEET; THENCE NORTH 00°12'05" WEST 863.06 FEET; THENCE NORTH 62°58'26" EAST 123.84 FEET; THENCE SOUTH 00°02'15" EAST 124.32 FEET; THENCE EAST 313.41 FEET TO A POINT OF CURVATURE ON A 753.10 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHWESTERLY 86.07 FEET ALONG THE ARC OF SAID CURVE (CHORD BEARS SOUTH 19°11'36" WEST 86.02 FEET) THROUGH A CENTRAL ANGLE OF 06°32'53" TO A POINT OF CURVATURE ON A 939.04 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHWESTERLY 317.78 FEET ALONG THE ARC OF SAID CURVE (CHORD BEARS SOUTH 18°47'08" WEST 316.27 FEET) THROUGH A CENTRAL ANGLE OF 19°23'22" TO A POINT OF CURVATURE ON A 1837.64 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHEASTERLY 115.90 FEET ALONG THE ARC OF SAID CURVE (CHORD BEARS SOUTH 05°41'52" EAST 115.88 FEET) THROUGH A CENTRAL ANGLE OF 03°36'49" TO A POINT OF CURVATURE ON A 72.45 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHEASTERLY 98.17 FEET ALONG THE ARC OF SAID CURVE (CHORD BEARS SOUTH 46°19'29" EAST 90.83 FEET) THROUGH A CENTRAL ANGLE OF 77°38'27" TO A POINT OF CURVATURE ON A 6559.98 FOOT RADIUS CURVE TO THE RIGHT; THENCE EASTERLY 172.59 FEET ALONG THE ARC OF SAID CURVE (CHORD BEARS SOUTH 88°58'21" EAST 172.59 FEET) THROUGH A CENTRAL ANGLE OF 01°30'27" TO A POINT OF CURVATURE ON A 193.77 FOOT RADIUS CURVE TO RIGHT; THENCE SOUTHEASTERLY 212.62 FEET ALONG THE ARC OF SAID CURVE (CHORD BEARS SOUTH 52°51'22" EAST 202.11 FEET) THROUGH A CENTRAL ANGLE OF 62°52'18" TO A POINT OF CURVATURE ON A 1117.99 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHEASTERLY 75.29 FEET ALONG THE ARC OF SAID CURVE (CHORD BEARS SOUTH 14°50'31" EAST 75.27 FEET) THROUGH A CENTRAL ANGLE OF 03°51'30"; THENCE SOUTH 16°46'15" EAST 15.30 FEET TO THE POINT OF BEGINNING.

PARCEL 6:

BEGINNING AT A POINT SOUTH 268.01 FEET AND WEST 701.46 FEET FROM THE SOUTHEAST CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING; THENCE SOUTH 00°59'46" EAST 447.23 FEET; THENCE SOUTH 89°42'31" WEST 732.90 FEET; THENCE NORTH 00°23'48" WEST 447.18 FEET; THENCE NORTH 89°42'26" EAST 728.22 FEET TO BEGINNING.

PARCEL 7:

BEGINNING AT THE NORTHWEST CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING; THENCE SOUTH 59°30'35" WEST 1444.88 FEET; THENCE SOUTH 89°31'35" WEST 59.46 FEET; THENCE SOUTH 59°30'35" WEST 110.00 FEET; THENCE SOUTH 70°51'22" WEST 1000.00 FEET; THENCE SOUTH 89°59'53" WEST 2930.00 FEET; THENCE NORTH 00°00'31" WEST 814.08 FEET; THENCE NORTH 00°08'39" WEST 2620.61 FEET; THENCE NORTH 00°17'50" WEST 2611.99 FEET; THENCE NORTH 89°39'26" EAST 2638.98 FEET; THENCE NORTH 00°02'12" WEST 5280.45 FEET; THENCE NORTH 89°52'51" EAST 2627.48 FEET; THENCE NORTH 00°09'11" WEST 373.32 FEET; THENCE NORTH 89°48'02" EAST 1991.23 FEET; THENCE SOUTH 00°16'31" EAST 5357.81 FEET; THENCE NORTH 89°52'22" EAST 1968.84 FEET; THENCE SOUTH 00°02'15" EAST 6396.35 FEET; THENCE SOUTH 61°47'21" WEST 1240.58 FEET; THENCE NORTH 66°19'49" WEST 22.53 FEET; THENCE NORTH 50°07'17" WEST 59.07 FEET; THENCE NORTH 80°15'24"

WEST 41.31 FEET; THENCE NORTH 26°53'27" WEST 22.23 FEET; THENCE NORTH 47°45'30" WEST 81.02 FEET; THENCE NORTH 75°00'00" WEST 18.45 FEET; THENCE NORTH 20°02'01" WEST 29.32 FEET; THENCE NORTH 47°49'47" WEST 37.88 FEET; THENCE NORTH 85°23'10" WEST 24.00 FEET; THENCE NORTH 42°46'19" WEST 42.71 FEET; THENCE NORTH 09°04'12" WEST 42.12 FEET; THENCE NORTH 26°48'18" WEST 98.53 FEET; THENCE NORTH 41.49 FEET; THENCE NORTH 40°40'24" WEST 132.00 FEET; THENCE NORTH 35°05'45" WEST 103.23 FEET; THENCE NORTH 48°25'30" WEST 25.97 FEET; THENCE NORTH 63°09'30" WEST 99.69 FEET; THENCE NORTH 18.99 FEET; THENCE NORTH 39°27'25" WEST 31.02 FEET; THENCE NORTH 27°56'06" WEST 14.07 FEET; THENCE NORTH 32°58'14" WEST 76.76 FEET; THENCE NORTH 55°03'15" WEST 20.37 FEET; THENCE NORTH 25°22'09" WEST 20.34 FEET; THENCE NORTH 60°55'52" WEST 17.76 FEET; THENCE NORTH 22°40'00" WEST 30.47 FEET; THENCE NORTH 18°03'25" EAST 22.28 FEET; THENCE NORTH 51°18'11" WEST 31.31 FEET; THENCE NORTH 27°16'12" WEST 22.61 FEET; THENCE NORTH 27°16'12" WEST 19.15 FEET; THENCE NORTH 35°48'38" WEST 40.83 FEET; THENCE NORTH 46°37'08" WEST 56.74 FEET; THENCE NORTH 42°51'19" WEST 30.63 FEET; THENCE NORTH 54°50'36" WEST 26.93 FEET; THENCE NORTH 53°38'46" WEST 24.81 FEET; THENCE NORTH 06°13'48" WEST 54.92 FEET; THENCE NORTH 09°48'50" WEST 28.43 FEET; THENCE NORTH 40°23'07" WEST 19.33 FEET; THENCE NORTH 17°24'50" EAST 70.93 FEET; THENCE NORTH 46°24'00" WEST 37.33 FEET; THENCE NORTH 27°13'32" WEST 56.81 FEET; THENCE NORTH 34°05'10" WEST 16.06 FEET; THENCE NORTH 16°01'59" WEST 16.89 FEET; THENCE NORTH 44°03'13" WEST 44.57 FEET; THENCE NORTH 19°45'41" WEST 57.77 FEET; THENCE NORTH 16°02'46" WEST 33.98 FEET; THENCE NORTH 27°17'52" WEST 45.25 FEET; THENCE NORTH 30°18'26" EAST 24.80 FEET; THENCE NORTH 38°30'13" WEST 31.92 FEET; THENCE NORTH 59°15'20" WEST 36.36 FEET; THENCE NORTH 39°22'12" WEST 24.10 FEET; THENCE NORTH 61°52'41" WEST 42.68 FEET; THENCE NORTH 44°10'25" WEST 9.86 FEET; THENCE NORTH 18°24'58" EAST 30.60 FEET; THENCE NORTH 52°13'32" WEST 30.98 FEET; THENCE NORTH 75°52'21" WEST 42.49 FEET; THENCE NORTH 34°59'01" WEST 46.04 FEET; THENCE NORTH 29°18'47" EAST 16.04 FEET; THENCE SOUTH 84°55'30" WEST 47.14 FEET; THENCE NORTH 37°36'08" WEST 41.00 FEET; THENCE NORTH 63°06'15" WEST 73.93 FEET; THENCE NORTH 43°10'43" WEST 68.11 FEET; THENCE SOUTH 87°32'31" WEST 1483.15 FEET TO BEGINNING.

LESS AND EXCEPTING THEREFROM SAID PARCEL OF LAND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT NORTH 3505.67 FEET AND WEST 752.65 FEET FROM THE NORTHWEST CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING; THENCE WEST 1320.00 FEET; THENCE NORTH 1320.00 FEET; THENCE EAST 1320.00 FEET; THENCE SOUTH 1320.00 FEET TO BEGINNING.

LESS AND EXCEPTING THEREFROM THAT PORTION CONVEYED BY SPECIAL WARRANTY DEED RECORDED AUGUST 22, 2012 AS ENTRY NO. 951740 IN BOOK 2143 AT PAGE 862 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A PILE OF ROCKS MARKING THE NORTH QUARTER CORNER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 6 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE SOUTH 00°02'12" EAST 300.00 FEET; THENCE SOUTH 65°58'23" WEST 800.00 FEET; THENCE SOUTH 12°43'45" WEST 1330.00 FEET; THENCE SOUTH 66°15'13" WEST 1750.00 TO THE WEST QUARTER CORNER OF SAID SECTION 25; THENCE NORTH 00°17'50" WEST ALONG THE WEST LINE OF SAID SECTION 25 2611.99 FEET; THENCE NORTH 89°39'26" EAST 2638.98 FEET TO THE POINT OF BEGINNING.

PARCEL 8:

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING; THENCE NORTH 00°59'27" WEST 1738.20 FEET TO A POINT ON A 2230.86 FOOT RADIUS CURVE TO THE LEFT; THENCE ALONG SAID CURVE A DISTANCE OF 136.81 FEET (CHORD BEARS SOUTH 47°53'29" WEST 136.79) WITH A CENTRAL ANGLE OF 03°30'50"; THENCE

SOUTH 46°08'04" WEST 251.89 TO A POINT ON A 1915.96 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG SAID CURVE A DISTANCE OF 754.07 FEET (CHORD BEARS SOUTH 57°24'34" WEST 749.21) WITH A CENTRAL ANGLE OF 22°33'00"; THENCE SOUTH 68°41'04" WEST 137.76 FEET; THENCE SOUTH 65°49'20" WEST 200.25 FEET; THENCE SOUTH 62°58'26" WEST 77.16 FEET; THENCE SOUTH 00°02'15" EAST 124.32 FEET; THENCE EAST 313.41 FEET TO A POINT ON A 753.10 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG SAID CURVE A DISTANCE OF 86.07 FEET WITH A CENTRAL ANGLE OF 83°27'07" (CHORD BEARS SOUTH 19°11'36" WEST 86.02') TO A POINT ON A 939.04 FOOT RADIUS CURVE TO THE LEFT; THENCE ALONG SAID CURVE A DISTANCE OF 317.78 FEET WITH A CENTRAL ANGLE OF 70°36'38" (CHORD BEARS SOUTH 18°47'08" WEST 316.27') TO POINT ON A 1837.64 FOOT RADIUS NON TANGENT CURVE TO THE LEFT; THENCE ALONG SAID CURVE A DISTANCE OF 115.90 FEET WITH A CENTRAL ANGLE OF 86°23'11" (CHORD BEARS SOUTH 5°41'52" EAST 115.88') TO A POINT ON A 72.45 FOOT RADIUS CURVE TO THE LEFT; THENCE ALONG SAID CURVE A DISTANCE OF 98.17 FEET WITH A CENTRAL ANGLE OF 12°21'33" (CHORD BEARS SOUTH 46°19'29" EAST 90.83') TO A POINT ON A 6559.98 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG SAID CURVE A DISTANCE OF 172.59 FEET WITH A CENTRAL ANGLE OF 1°30'27" (CHORD BEARS SOUTH 88°58'21" EAST 172.59'); THENCE TO POINT ON A 193.77 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG SAID CURVE A DISTANCE OF 212.62 FEET WITH A CENTRAL ANGLE OF 27°07'42" (CHORD BEARS SOUTH 52°51'22" EAST 202.11') TO A POINT ON A 1117.99 FOOT RADIUS CURVE TO THE LEFT; THENCE ALONG SAID CURVE A DISTANCE OF 75.29 FEET WITH A CENTRAL ANGLE 86°8'30" (CHORD BEARS SOUTH 14°50'31" EAST 75.27'); THENCE SOUTH 16°46'15" EAST 15.30 FEET; THENCE SOUTH 00°59'46" EAST 14.47 FEET; THENCE SOUTH 00°59'46" EAST 19.88 FEET; THENCE SOUTH 52°51'34" EAST 82.51 FEET; THENCE SOUTH 73°06'33" EAST 420.00 FEET; THENCE SOUTH 46°13'54" EAST 100.29 FEET; THENCE NORTH 67°33'26" EAST 179.83 FEET; THENCE NORTH 00°23'43" WEST 201.50 FEET; THENCE NORTH 89°15'54" EAST 0.72 FEET TO BEGINNING.

PARCEL 9:

BEGINNING AT A POINT NORTH 88°38'53" EAST 4370.28 FEET THE NORTHWEST CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 00°22'34" EAST 4048.34 FEET; THENCE SOUTH 66°21'41" WEST 46.59 FEET; THENCE SOUTH 68°22'10" WEST 423.07 FEET; THENCE NORTH 00°02'15" WEST 4225.00 FEET; THENCE SOUTH 89°42'22" EAST 412.16 FEET THE POINT OF BEGINNING.

PARCEL 10:

BEGINNING AT A POINT NORTH 88°38'53" EAST 4370.28 FEET THE NORTHWEST CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 89°42'22" EAST 412.16 FEET; THENCE SOUTH 00°42'55" EAST 3786.56 FEET; THENCE SOUTH 51°19'59" WEST 131.15 FEET; THENCE SOUTH 59°35'34" WEST 258.81 FEET; THENCE SOUTH 66°21'35" WEST 117.06 FEET; THENCE NORTH 00°22'34" WEST 4048.34 FEET TO THE POINT OF BEGINNING.

PARCEL 11:

BEGINNING AT A POINT NORTH 88°28'36" EAST 3958.31 FEET AND SOUTH 89°42'22" EAST 824.32 FEET FROM THE NORTHWEST CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 89°42'22" EAST 412.15 FEET; THENCE SOUTH 01°03'17" EAST 3400.48 FEET; THENCE SOUTH 47°54'07" WEST 145.02 FEET; THENCE SOUTH 46°09'16" WEST 268.80 FEET; THENCE SOUTH 51°19'59" WEST 161.37 FEET; THENCE NORTH 00°42'55" WEST 3786.56 FEET TO THE POINT OF BEGINNING.

PARCEL 12:

BEGINNING AT A POINT EAST 3170.92 FEET AND NORTH 924.92 FEET FROM THE SOUTHWEST

CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING; THENCE NORTH 17°37'18" EAST 26.09 FEET; THENCE NORTH 05°49'38" EAST 134.80 FEET; THENCE NORTH 12°13'45" EAST 84.92 FEET; THENCE NORTH 01°35'26" EAST 176.06 FEET; THENCE NORTH 23°57'15" EAST 28.84 FEET; THENCE NORTH 30°46'45" EAST 98.74 FEET; THENCE NORTH 40°42'53" EAST 40.52 FEET; THENCE NORTH 86°30'30" EAST 113.60 FEET; THENCE SOUTH 79°38'17" EAST 69.15 FEET; THENCE NORTH 84°58'43" EAST 38.12 FEET; THENCE NORTH 75°45'55" EAST 9.94 FEET; THENCE NORTH 52°08'42" EAST 47.72 FEET; THENCE NORTH 11°20'33" WEST 30.92 FEET; THENCE NORTH 32°35'07" WEST 348.32 FEET; THENCE NORTH 20°00'05" WEST 50.67 FEET; THENCE NORTH 10°36'11" EAST 112.84 FEET; THENCE NORTH 10°06'34" WEST 94.07 FEET; THENCE NORTH 02°59'55" WEST 88.21 FEET; THENCE NORTH 07°01'56" EAST 63.88 FEET; THENCE NORTH 06°54'01" WEST 60.56 FEET; THENCE NORTH 01°06'01" EAST 78.27 FEET; THENCE NORTH 17°00'55" EAST 57.07 FEET; THENCE NORTH 56°15'50" EAST 9.98 FEET; THENCE NORTH 09°13'19" WEST 43.01 FEET; THENCE NORTH 32°05'36" WEST 29.05 FEET; THENCE NORTH 06°35'56" EAST 39.79 FEET; THENCE NORTH 14°26'36" WEST 36.64 FEET; THENCE NORTH 37°22'15" EAST 30.43 FEET; THENCE NORTH 00°49'02" EAST 78.16 FEET; THENCE NORTH 32°50'11" WEST 46.91 FEET; THENCE NORTH 10°36'16" EAST 38.08 FEET; THENCE SOUTH 65°51'51" WEST 35.18 FEET; THENCE NORTH 00°19'02" WEST 91.93 FEET; THENCE NORTH 00°45'02" EAST 46.71 FEET; THENCE NORTH 42°20'13" WEST 45.18 FEET; THENCE NORTH 15°24'53" WEST 28.10 FEET; THENCE NORTH 24°26'35" EAST 27.19 FEET; THENCE NORTH 37°28'44" WEST 36.60 FEET; THENCE NORTH 47°48'51" WEST 19.04 FEET; THENCE NORTH 02°10'31" EAST 24.08 FEET; THENCE NORTH 78°22'09" WEST 31.20 FEET; THENCE NORTH 29°22'23" WEST 29.93 FEET; THENCE NORTH 04°40'16" WEST 48.22 FEET; THENCE NORTH 05°01'48" WEST 73.47 FEET; THENCE NORTH 13°26'59" WEST 44.71 FEET; THENCE NORTH 35°01'08" EAST 33.76 FEET; THENCE NORTH 26°36'40" WEST 20.55 FEET; THENCE SOUTH 87°14'36" WEST 16.13 FEET; THENCE SOUTH 54°35'21" WEST 21.64 FEET; THENCE NORTH 69°52'31" WEST 14.27 FEET; THENCE NORTH 51°31'58" WEST 33.70 FEET; THENCE NORTH 59°01'58" WEST 36.05 FEET; THENCE NORTH 25°32'03" WEST 22.22 FEET; THENCE NORTH 8°59'31" EAST 8.67 FEET; THENCE NORTH 14°25'33" EAST 27.00 FEET; THENCE NORTH 61°33'33" WEST 23.14 FEET; THENCE NORTH 47°51'47" WEST 33.92 FEET; THENCE NORTH 16°01'22" WEST 25.40 FEET; THENCE NORTH 76°46'09" WEST 28.32 FEET; THENCE SOUTH 41°14'50" WEST 30.63 FEET; THENCE SOUTH 86°22'34" WEST 31.20 FEET; THENCE NORTH 59°32'32" WEST 8.95 FEET; THENCE NORTH 09°38'19" EAST 27.47 FEET; THENCE NORTH 83°00'50" WEST 20.04 FEET; THENCE NORTH 66°33'03" WEST 25.94 FEET; THENCE NORTH 41°14'58" WEST 31.41 FEET; THENCE NORTH 18°13'54" WEST 31.01 FEET; THENCE NORTH 55°07'57" WEST 16.86 FEET; THENCE SOUTH 70°57'56" WEST 34.66 FEET; THENCE NORTH 66°19'22" WEST 1.42 FEET; THENCE NORTH 61°47'21" EAST 1240.57 FEET; THENCE SOUTH 00°02'15" EAST 2981.19 FEET; THENCE SOUTH 68°22'10" WEST 348.02 FEET; THENCE SOUTH 71°52'50" WEST 161.90 FEET; THENCE SOUTH 86°10'44" WEST 212.48 FEET; THENCE NORTH 82°04'42" WEST 83.93 FEET TO BEGINNING.

PARCEL 13:

LOTS 9, 10, 11, 12, 15, 18, 19, 20, 21, 22, 33, 46, 47, AND 48, MOUNTAIN VALLEY RANCH, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE.

PARCEL 14:

BEGINNING AT A POINT NORTH 48°15'16" EAST 1827.74 FEET FROM THE SOUTHWEST CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING; THENCE SOUTH 81°12'28" WEST 560.31 FEET; THENCE NORTH 26°36'18" WEST 1492.68 FEET; THENCE NORTH 16°00'03" EAST 1410.09 FEET; THENCE NORTH 70°20'39" EAST 1676.74 FEET TO THE CENTERLINE OF NEIL CREEK; THENCE ALONG SAID CENTERLINE OF CREEK THE FOLLOWING NINETY-ONE (91) COURSES; THENCE SOUTH 27°16'12" EAST 22.61 FEET; THENCE SOUTH 51°18'11" EAST 31.31 FEET; THENCE SOUTH 18°03'59" WEST 22.27 FEET; THENCE SOUTH 22°39'39" EAST 30.48 FEET; THENCE SOUTH 60°57'04" EAST 17.76 FEET; THENCE SOUTH 25°22'09" EAST 20.34 FEET; THENCE

SOUTH 55°03'15" EAST 40.73 FEET; THENCE SOUTH 04°41'30" EAST 39.14 FEET; THENCE SOUTH 85°09'27" EAST 15.34 FEET; THENCE SOUTH 27°56'06" EAST 28.15 FEET; THENCE SOUTH 39°27'25" EAST 31.02 FEET; THENCE SOUTH 05°51'50" EAST 18.89 FEET; THENCE SOUTH 60°41'36" EAST 47.18 FEET; THENCE SOUTH 61°15'11" EAST 50.47 FEET; THENCE SOUTH 52°56'01" EAST 34.31 FEET; THENCE SOUTH 40°14'06" EAST 31.44 FEET; THENCE SOUTH 17°44'44" EAST 21.03 FEET; THENCE SOUTH 27°30'50" EAST 23.03 FEET; THENCE SOUTH 47°25'49" EAST 42.56 FEET; THENCE SOUTH 45°15'17" EAST 47.55 FEET; THENCE SOUTH 38°38'48" EAST 43.45 FEET; THENCE SOUTH 27°18'09" EAST 20.61 FEET; THENCE SOUTH 00°08'17" WEST 41.49 FEET; THENCE SOUTH 33°30'45" EAST 26.31 FEET; THENCE SOUTH 28°31'25" EAST 57.73 FEET; THENCE SOUTH 09°04'05" EAST 57.60 FEET; THENCE SOUTH 42°46'33" EAST 40.08 FEET; THENCE SOUTH 81°27'30" EAST 26.00 FEET; THENCE SOUTH 47°49'48" EAST 37.88 FEET; THENCE SOUTH 20°02'06" EAST 29.32 FEET; THENCE SOUTH 76°26'49" EAST 39.14 FEET; THENCE SOUTH 61°38'10" EAST 22.47 FEET; THENCE SOUTH 26°53'27" EAST 66.40 FEET; THENCE SOUTH 80°15'24" EAST 41.31 FEET; THENCE SOUTH 50°07'27" EAST 59.07 FEET; THENCE SOUTH 66°19'22" EAST 23.95 FEET; THENCE NORTH 70°57'56" EAST 34.66 FEET; THENCE SOUTH 55°07'57" EAST 16.86 FEET; THENCE SOUTH 18°13'54" EAST 31.01 FEET; THENCE SOUTH 41°14'58" EAST 31.41 FEET; THENCE SOUTH 66°33'03" EAST 25.94 FEET; THENCE SOUTH 83°00'50" EAST 20.04 FEET; THENCE SOUTH 09°38'19" WEST 27.47 FEET; THENCE SOUTH 59°32'32" EAST 8.95 FEET; THENCE NORTH 86°22'34" EAST 31.20 FEET; THENCE NORTH 41°14'50" EAST 30.63 FEET; THENCE SOUTH 76°46'09" EAST 28.32 FEET; THENCE SOUTH 16°01'22" EAST 25.40 FEET; THENCE SOUTH 47°51'47" EAST 33.92 FEET; THENCE SOUTH 61°33'33" EAST 23.14 FEET; THENCE SOUTH 14°25'33" WEST 27.00 FEET; THENCE SOUTH 08°59'31" WEST 8.67 FEET; THENCE SOUTH 25°32'03" EAST 22.22 FEET; THENCE SOUTH 59°01'58" EAST 36.05 FEET; THENCE SOUTH 51°31'58" EAST 33.70 FEET; THENCE SOUTH 69°52'31" EAST 14.27 FEET; THENCE NORTH 54°35'21" EAST 21.64 FEET; THENCE NORTH 87°14'36" EAST 16.13 FEET; THENCE SOUTH 26°36'40" EAST 20.55 FEET; THENCE SOUTH 35°01'08" WEST 33.76 FEET; THENCE SOUTH 13°26'59" EAST 44.71 FEET; THENCE SOUTH 05°01'48" EAST 73.47 FEET; THENCE SOUTH 04°40'16" EAST 48.22 FEET; THENCE SOUTH 29°22'23" EAST 29.93 FEET; THENCE SOUTH 78°22'09" EAST 31.20 FEET; THENCE SOUTH 02°10'31" WEST 24.08 FEET; THENCE SOUTH 47°48'51" EAST 19.04 FEET; THENCE SOUTH 37°28'44" EAST 36.60 FEET; THENCE SOUTH 24°26'35" WEST 27.19 FEET; THENCE SOUTH 15°24'53" EAST 28.10 FEET; THENCE SOUTH 42°20'13" EAST 45.18 FEET; THENCE SOUTH 00°45'02" WEST 46.71 FEET; THENCE SOUTH 00°19'02" EAST 91.93 FEET; THENCE NORTH 65°51'51" EAST 35.18 FEET; THENCE SOUTH 10°36'16" WEST 38.08 FEET; THENCE SOUTH 32°50'11" EAST 46.91 FEET; THENCE SOUTH 00°49'02" WEST 78.16 FEET; THENCE SOUTH 37°22'15" WEST 30.43 FEET; THENCE SOUTH 14°26'36" EAST 36.64 FEET; THENCE SOUTH 06°35'56" WEST 39.79 FEET; THENCE SOUTH 32°05'36" EAST 29.05 FEET; THENCE SOUTH 09°13'19" EAST 43.01 FEET; THENCE SOUTH 56°15'50" WEST 9.98 FEET; THENCE SOUTH 17°00'55" WEST 57.07 FEET; THENCE SOUTH 01°06'01" WEST 78.27 FEET; THENCE SOUTH 06°54'01" EAST 60.56 FEET; THENCE SOUTH 07°01'56" WEST 63.88 FEET; THENCE SOUTH 02°59'55" EAST 88.21 FEET; THENCE SOUTH 10°06'34" EAST 94.07 FEET; THENCE SOUTH 10°36'11" WEST 112.84 FEET; THENCE SOUTH 20°00'05" EAST 50.67 FEET; THENCE SOUTH 32°35'07" EAST 348.32 FEET; THENCE SOUTH 11°20'33" EAST 30.92 FEET; THENCE SOUTH 52°08'42" WEST 47.72 FEET; THENCE SOUTH 75°45'55" WEST 9.94 FEET; THENCE SOUTH 84°58'43" WEST 38.12 FEET; THENCE NORTH 79°38'17" WEST 69.15 FEET; THENCE SOUTH 86°30'30" WEST 113.60 FEET; THENCE SOUTH 40°42'53" WEST 40.52 FEET; THENCE SOUTH 30°46'45" WEST 98.74 FEET; THENCE SOUTH 23°57'15" WEST 28.84 FEET; THENCE SOUTH 01°35'26" WEST 176.06 FEET; THENCE SOUTH 12°13'45" WEST 84.92 FEET; THENCE SOUTH 05°49'38" WEST 134.80 FEET; THENCE SOUTH 17°37'18" WEST 26.09 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE WEBER CANYON COUNTY ROAD; THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING 8 COURSES AND DISTANCES, NORTH 79°47'38" WEST 208.74 FEET TO A POINT OF TANGENT CURVATURE ON A 671.62 FOOT RADIUS CURVE TO THE LEFT; THENCE WESTERLY 123.35 FEET ALONG THE ARC OF SAID CURVE (CHORD BEARS NORTH 85°03'19" WEST 123.18 FEET) THROUGH A CENTRAL ANGLE OF 10°21'24"; THENCE NORTH 06°51'59" WEST 97.81 FEET; THENCE NORTH 73°37'11" WEST 60.99 FEET; THENCE SOUTH 63°30'52" WEST 61.88 FEET; THENCE SOUTH 17°09'29" EAST 98.61 FEET TO A POINT OF NON-TANGENT CURVATURE ON A 671.62 FOOT RADIUS CURVE TO THE LEFT; THENCE

DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING
44184503

WESTERLY 209.02 FEET ALONG THE ARC OF SAID CURVE (CHORD BEARS SOUTH 72°25'50" WEST 208.18 FEET) THROUGH A CENTRAL ANGLE OF 17°49'53"; THENCE SOUTH 63°30'53" WEST 1084.62 FEET; THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE NORTH 14°57'28" WEST 826.49 FEET TO THE POINT OF BEGINNING.

PARCEL 15:

BEGINNING AT A 5/8 INCH DIAMETER REBAR WITH PLASTIC CAP MARKED D L BAILEY 175754, SAID REBAR LOCATED 1673.54 FEET NORTH 85°57'23" EAST FROM THE SOUTHWEST CORNER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN, BASIS OF BEARING IS NORTH 88°44'30" EAST FROM SOUTHWEST CORNER TO THE SOUTH QUARTER CORNER OF SAID SECTION 31, BOTH SECTION MONUMENTS BRASS CAPS (BASIS OF BEARING MATCHING GRID BEARING OF THE UTAH COORDINATE SYSTEM OF 1983 NORTH ZONE); THENCE SOUTH 85°53'44" WEST 630.61 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF THE WEBER CANYON COUNTY ROAD; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES:

(1) NORTH 63°30'53" EAST 1719.07 FEET TO THE BEGINNING OF A CURVE TANGENT TO SAID LINE; (2) NORTHEASTERLY AND EASTERLY 385.27 FEET ALONG THE CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 601.62 FEET AND A CENTRAL ANGLE OF 36°41'29"; AND (3) SOUTH 79°47'38" EAST TANGENT TO SAID CURVE 118.11 FEET TO A POINT ON THE CENTERLINE OF THE WEBER RIVER;

THENCE SOUTHERLY AND WESTERLY ALONG THE CENTERLINE OF THE WEBER RIVER THE FOLLOWING THIRTEEN (13) COURSES (NOTE: BEARINGS ALONG THE CENTERLINE OF THE WEBER RIVER AND ROTATED 00°18'49" COUNTERCLOCKWISE FROM THOSE IN THE PREVIOUS DESCRIPTION);

(1) SOUTH 17°37'18" WEST 54.92 FEET; (2) SOUTH 14°39'58" WEST 86.47 FEET; (3) SOUTH 34°52'05" WEST 173.62 FEET; (4) SOUTH 73°04'17" WEST 255.79 FEET; (5) SOUTH 71°23'58" WEST 72.04 FEET; (6) SOUTH 67°05'53" WEST 190.95 FEET; (7) SOUTH 45°52'16" WEST 106.83 FEET; (8) SOUTH 48°18'21" WEST 200.97 FEET; (9) NORTH 87°40'38" WEST 171.94 FEET; (10) SOUTH 87°25'31" WEST 56.59 FEET; (11) SOUTH 76°08'47" WEST 170.25 FEET; (12) SOUTH 61°51'33" WEST 81.42 FEET; AND (13) SOUTH 43°05'39" WEST 58.42 FEET, MORE OR LESS, TO A POINT BEARING SOUTH 62°58'13" EAST FROM THE POINT OF BEGINNING; THENCE NORTH 62°58'13" WEST 47.22 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL 16:

AN EASEMENT FOR INGRESS AND EGRESS APPURTENANT TO PARCEL 14, AS SET FORTH IN SPECIAL WARRANTY DEED RECORDED OCTOBER 29, 1999 AS ENTRY NO. 551728 IN BOOK 1293, PAGES 366-376, COMMENCING AT THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 7 EAST, SALT LAKE BASE AND MERIDIAN, AND EXTENDING ALONG A ROUTE TO THE NEIL CREEK ROAD IN THE NORTH HALF OF SECTION 31.

PARCEL 17:

AN EASEMENT FOR INGRESS AND EGRESS APPURTENANT TO PARCEL 14, AS SET FORTH IN SPECIAL WARRANTY DEED RECORDED OCTOBER 29, 1999 AS ENTRY NO. 551728 IN BOOK 1293, PAGES 366-376, OVER AND ACROSS THE EXISTING NEIL CREEK ROAD, COMMENCING AT THE TERMINATION POINT OF THE RIGHT-OF-WAY DESCRIBED IN THE PARAGRAPH NEXT ABOVE AND EXTENDING TO THE POINT WHERE SAID NEIL CREEK ROAD INTERSECTS THE RIGHT-OF-WAY REFERRED TO IN THE NEXT SUCCEEDING PARAGRAPH AT OR NEAR THE NORTH LINE OF SECTION 31.