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Book - 9648 Pg - 9127-9151  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
LOUISE FILLERUP FAMILY TRUST  
180 E DURFEE  
GRANTSVILLE UT 84029  
BY: DDK, DEPUTY - WI 25 P.

2/4

When Recorded Return To:  
Edward and Louise Fillerup Family Trust  
c/o Louise Fillerup  
180 East Durfee  
Grantsville, Utah 84029

**DEED OF TRUST**

With Assignment of Rents, Security Agreement and Fixture Filing

**ATTENTION COUNTY RECORDER** THIS INSTRUMENT IS INTENDED TO BE EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING PURSUANT TO THE UNIFORM COMMERCIAL CODE APPLICABLE IN THE STATE OF UTAH. PORTIONS OF THE GOODS COMPRISING A PART OF THE MORTGAGED PROPERTY ARE OR ARE TO BECOME FIXTURES RELATED TO THE LAND DESCRIBED IN EXHIBIT A HERETO. THIS INSTRUMENT IS TO BE FILED FOR RECORD IN THE RECORDS OF THE COUNTY WHERE DEEDS OF TRUST ON REAL PROPERTY ARE RECORDED AND SHOULD BE INDEXED AS BOTH A DEED OF TRUST AND AS A FINANCING STATEMENT COVERING FIXTURES. THE ADDRESSES OF BORROWER (DEBTOR) AND LENDER (SECURED PARTY) ARE SPECIFIED IN THE FIRST PARAGRAPH ON PAGE 1 OF THIS INSTRUMENT.

THIS DEED OF TRUST, is made as of the date shown at the end of this document by and between the "Trustor", as provided at the end of this document; **ALVIN ROBERT THORUP, ESQ.** ("Trustee"), whose address is P.O. Box 58369, Salt Lake City, Utah 84158-0369, and the "Beneficiary", as proved at the end of this document.

For good and valuable consideration, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby GRANTS, CONVEYS AND ASSIGNS TO TRUSTEE, IN TRUST, WITH POWER OF SALE AND RIGHT OF ENTRY AND POSSESSION, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, the real property situated in Salt Lake County, State of Utah, described as follows:

All of Lots 45, 46, 47 48 and the E1/2 of Lot 49 Block 1, Oakland Place  
Subdivision, Salt Lake County

TOGETHER WITH all the estate, right, title and interest, including insurance, which Trustor now has or may hereafter acquire, either in law or in equity, in and to said property; to have and to hold the same, together with the buildings and improvements thereon and all alterations, additions or improvements now or hereafter made thereto, including without limitation all fixtures, attachments, appliances, equipment, machinery and other articles (including, but not limited to, HVAC equipment, elevators, kitchen or restaurant fixtures, etc.) now or hereafter attached thereto; together with all and singular lands, tenements, hereditaments, reversions, remainders, rents, issues, profits, royalties, income, privileges, easements, rights of way and rights used in connection therewith or as a means of access thereto, water rights (including shares of water stock evidencing the same and also including the statutory or other right to file applications to change, and any and all applications to change such water rights or interests), and appurtenances of every kind and nature thereunto belonging or in any way appertaining, or which may be hereafter acquired and used or enjoyed with said property, or any part thereof SUBJECT HOWEVER, to the right, power and authority hereinafter given to and conferred upon Trustor to collect and apply such rents, issues and profits;

TOGETHER WITH all leasehold estate, right, title and interest of Trustor in and to all leases or subleases covering said property or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Trustor thereunder, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature;

TOGETHER WITH all development and use rights, governmental permits, licenses (excepting licenses which are not transferable), authorizations, certificates, variances, use permits, consents, approvals, applications, architectural and engineering plans, specifications and drawings, as-built drawings, surveys, guaranties, warranties, management agreements, operating and/or licensing agreements, supply and service contracts for water, sanitary and storm sewer, drainage and other discharge permits, electricity, steam, gas, telephone, cable and other utility service agreements or contracts, title insurance policies, chattel paper or other general intangibles which arise from or relate to ownership, use, occupancy, or operation of the said property and all other items listed in this granting clause or are related to the construction of improvements;

TOGETHER WITH all right, title and interest of Trustor in and to any contracts or agreements with, grants of leasehold estates, licenses, use, occupancy or concession rights to other persons, parties or entities with respect to the aforesaid property and the improvements thereon, including all rents, deposits (security or otherwise), royalties, issues, profits, receipts, earnings, revenue, income, proceeds, fees, charges or other payments derived from the same, including room, unit or facility use charges or rents, including, if any, charges for parking and all revenues from the sale of merchandise by Trustor (if any), or any utilities or amenities, including cable television,

satellite television, telephone or other revenues;

TOGETHER WITH all right, title and interest of Trustor in and to all options to purchase or lease said property or any portion thereof or interest therein, and any greater estate in said property owned or hereafter acquired by Trustor;

TOGETHER WITH all right, title and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining said property, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with said property;

TOGETHER WITH all right, title and interest of Trustor, now owned or hereafter acquired, in and to all tangible personal property of Trustor now owned or hereafter acquired and either located on said property or used or intended to be used primarily in connection therewith, including but not limited to all building components and materials, equipment, inventory and general intangibles, and all replacements, substitutions, additions, improvements and accessions thereto (as more specifically provided in paragraph 17 which creates and grants a security interest in and to such personalty), together with all rent, revenues, receipts or rights to the payment of monies arising from or out of the use of any of the same, including but not limited to merchandise sale revenues of Trustor (if any), laundramat and vending machine revenues, etc.;

TOGETHER WITH all the estate, interest, right, title, other claim or demand, including claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire in said property, and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of said property, including without limitation any awards resulting from a change of grade of streets and awards for severance damages;

The foregoing entire estate, property and interest hereby conveyed, granted and created (including all of the rights, property and interest set forth in paragraph 17 following) in and to Trustee being hereinafter referred to as the "Property"; provided, however, that nothing herein is intended to constitute a grant, assignment, transfer or giving of a security interest in or lien on any property of any kind described hereinabove or hereinafter, except and to the extent of the now existing or hereafter acquired right, title or interest of the Trustor in the same.

FOR THE PURPOSE OF SECURING (1) payment of the indebtedness evidenced by (a) that certain Loan Agreement and Promissory Note dated September 25, 2008, in the original principal sum of up to Three Hundred Thirty Thousand Dollars (\$330,000) made by Trustor and payable to the order of Beneficiary at the times, in the manner and with interest as therein set forth in the Loan Agreement and Promissory Note), and any

extensions, renewals, substitutions and modifications thereof (the "Note"); (2) the performance of each agreement of Trustor herein contained or of Trustor contained in the Loan Agreement of even date with the Note (the "Loan Agreement") and any other agreement between either of them and Beneficiary relating to the use of the loan proceeds evidenced by the Note or securing the obligations of the Note or this Trust Deed; (3) the payment of all sums hereafter expended or advanced by Beneficiary under or pursuant to the terms hereof (including without limitation all sums advanced by Beneficiary or Trustee to protect the Property), together with interest thereon as herein provided; and (4) the payment of all sums which shall hereafter be advanced by Beneficiary to or for the benefit of Trustor by way of additional loan or loans, and to secure any and all indebtedness of any kind whatsoever owed by Trustor to Beneficiary hereafter arising, with interest, whether evidenced by promissory note or notes or otherwise and in all instances where a note evidencing such indebtedness recites that it is secured hereby; PROVIDED, HOWEVER, that the making of such further loans, advances or expenditures shall be optional with Beneficiary and PROVIDED FURTHER that it is the express intention of the parties to this Trust Deed that this Trust Deed shall stand as continuing security until all such further loans, advances and expenditures together with interest thereon, have been paid in full. Capitalized terms used herein shall, to the extent not defined herein, have the meanings specified in the Loan Agreement and the Loan Documents.

ALL PERSONS WHO MAY HAVE OR ACQUIRE AN INTEREST IN ALL OR ANY PART OF THE PROPERTY WILL BE CONSIDERED TO HAVE NOTICE OF, AND WILL HAVE OR WILL ACQUIRE SUCH INTEREST SUBJECT TO THE TERMS OF THE AFOREDESCRIBED OBLIGATIONS AND EACH OTHER INSTRUMENT AND AGREEMENT ENTERED INTO WITH RESPECT TO THE SAME, INCLUDING ANY PROVISIONS RELATIVE TO ANY INTEREST RATE WHICH MAY VARY FROM TIME TO TIME.

1. Payment and Performance of Obligations. Trustor shall pay when due all principal, interest, charges, fees and other sums required under the Note and any other loan documents or agreements executed by Trustor in connection with the loan evidenced by the Note, as well as all sums due with respect to future advances secured by this Trust Deed.

All payments to be made under the Note secured hereby shall be added together, and the aggregate amount thereof shall be paid by the Trustor as specified in the Note for the payment of monthly installments in a single payment to be allocated by Beneficiary to the following items in the order set forth:

- (i) taxes, assessments, fire and other hazard insurance premiums (as they become due or to the reserve therefor provided hereinabove, as applicable), costs, expenses, attorneys' fees, and advances made by Beneficiary to preserve the Property;

- (ii) Interest due on the indebtedness secured hereby;
- (iii) Principal due on the indebtedness secured hereby.

Any deficiency in the amount of any such aggregate monthly payment shall constitute a default under this Trust Deed.

TO PROTECT THE SECURITY OF THIS TRUST DEED, TRUSTOR FURTHER AGREES:

2. Maintenance and Repair of the Property. To keep the Property in good condition and repair, and not to commit or permit waste thereof; not to remove or demolish, nor alter the design or structural character of, any building, fixture, equipment, fence, canal, well, or other improvements comprising part of the Property, without the written consent of Beneficiary; to keep all buildings or improvements comprising part of the Property free of termites, dry rot, fungus, beetles and all other harmful or destructive insects; to keep all plants, trees and shrubs comprising part of the Property neatly pruned and in good condition; to keep the Property free of rubbish and other unsightly or unhealthful conditions; and not to in any way change or restrict the use of the Property without the prior written consent of Beneficiary. Beneficiary or Trustee, or both, may, at any time or from time to time and without notice to Trustor, enter and inspect or if an event of default shall have occurred hereunder, take actions to protect the Property or any portion thereof from damage, deterioration or loss, in person or by a representative, in such manner and to such extent as it may deem necessary. Trustor shall also: (a) complete promptly and in a good and workmanlike condition and manner any and all improvements that are constructed on the Property and actions in good faith pursuit of construction of improvements approved by the Beneficiary shall be exceptions to any prohibitions listed hereinabove; (b) pay when due all claims for labor performed and materials furnished (subject, however, to the right of Trustor to contest such claims in the same manner provided for contesting taxes, impositions, liens and encumbrances under paragraphs 8 and 33 below); and (c) comply with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Property or any part of it.

3. Insurance Requirements. Trustor, at its sole cost and expense, shall, throughout the entire term of this Trust Deed, keep the improvements and tangible personal property, if any, which comprise part of the Property insured for the mutual benefit of Trustor and Beneficiary, as their respective interests may appear, against loss or damage by fire, windstorm, lightning, tornado, hail and such other further and additional risks as now are or hereafter may be embraced by the standard extended coverage forms or endorsements with vandalism and malicious mischief endorsement and with an all perils endorsement, in each case in their full insurable value. The term "full insurable value" as used in this paragraph 5 shall mean actual replacement cost (exclusive in the case of the improvements, of costs of excavations, foundations and

footings below the ground floor), including the cost of debris removal. Whenever appropriate, while any alterations or improvements are in the course of being made, the aforesaid fire and extended coverage insurance shall be carried by Trustor in builder's risk form written on a completed value basis.

a. Other Insurance. Trustor, at its own sole cost and expense, shall, until the obligations secured by this Trust Deed are paid in full, procure and maintain in such amounts as Beneficiary may reasonably request from time to time: (a) comprehensive general public liability insurance against claims for bodily injury, death or property damage (providing a minimum of \$1,000,000 individual/\$5,000,000 aggregate per occurrence coverage) occurring upon, in or about the Property or the elevators or escalators therein, including, among other things, coverage against so-called "occurrences"; (b) [this requirement intentionally omitted]; (c) during any period when construction of improvements is being conducted on the Property, builder's risk insurance, including but not limited to course of construction and extended coverage endorsements and insuring against fire, casualty loss, vandalism, and malicious mischief, with loss payable clauses in favor of Beneficiary; (d) upon completion of the construction of the improvements, and if required by the Beneficiary in writing, rent and rental value or similar business interruption insurance against the perils covered by the insurance requirement in the hazard insurance paragraph above, in such reasonable amount or amounts specified by the Beneficiary; (e) during the entire period of making of any "Trustor's Alterations" as hereinafter defined, owner's contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above mentioned general public liability insurance policy; (f) appropriate worker's compensation insurance with respect to work on or about the Property; (g) if the Property is in a "flood plain area" as defined by the Federal Insurance Administration pursuant to Federal Flood Disaster Protection Act of 1973 (P.L. 93-234), Federal Flood Insurance in the maximum amount obtainable (but not in excess of the then principal balance of the Note) and (h) such other or different insurance and in such amounts as may be reasonably required by Beneficiary.

b. Form of Insurance. All insurance provided for in this paragraph shall (a) be effected under valid and enforceable policies, that are in forms issued by financially sound and responsible insurance companies authorized to do business in Utah which have been approved by Beneficiary and that are made payable as in this Trust Deed provided; (b) shall name Beneficiary and Trustor as their respective interests may appear, with standard mortgagee clauses in favor of Beneficiary with loss payable (other than in the case of liability insurance) to and subject to adjustment and settlement by Beneficiary; (c) shall be acceptable to Beneficiary in form and substance, and shall to the extent obtainable, contain clauses or endorsements (including a lender's loss payable endorsement, form 438 BFU or its equivalent) to the effect that: (i) no act or negligence of either

Trustor or anyone acting for Trustor, which might otherwise result in a forfeiture of such insurance or any part thereof, no occupancy or use of the Property for purposes more hazardous than permitted by the terms of the policy, and no foreclosure or any other change in title to the Property or any part thereof shall in any way affect the validity or enforceability of such insurance insofar as Beneficiary is concerned, (ii) such policies shall not be changed or canceled without at least thirty (30) days' prior written notice to Beneficiary, and (iii) Beneficiary shall not be liable for any premiums thereon or subject to any assessments thereunder; and (d) shall in all events be in amounts sufficient to avoid any coinsurance. Trustor may carry the insurance described hereinabove on a blanket basis under a policy covering the Property and other properties of Trustor, but only if such blanket coverage provides all the insurance described hereinabove in the amounts and on the terms there set forth and in compliance with the requirements of this subparagraph.

c. Delivery of Policies. Trustor will deliver to Beneficiary the originals of all insurance policies (or satisfactory certificate of blanket coverage) with respect to the Property which Trustor is required to maintain or cause to be maintained pursuant to this paragraph 5, together with evidence as to the payment of all premiums then due thereon. A renewal policy or certificate with respect to each policy and evidence of payment of the premium for such renewal will be delivered by no later than 15 days prior to the expiration of the current policy.

d. Separate Insurance. Trustor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be furnished pursuant to this paragraph unless losses thereunder are made payable as herein provided and the policies thereof are delivered to Beneficiary.

e. Adjustment, etc. Whether or not expressed in the policies, Beneficiary shall, if more than six months have elapsed since the occurrence of the insured event and the Trustor is not diligently pursuing a settlement, or if an Event of Default is occurring, have the right, without consent of or participation by Trustor to make proof of loss and compromise, settle and adjust all claims under policies maintained pursuant to this paragraph, except comprehensive general liability insurance with respect to which Beneficiary shall have none of the rights provided hereby. The insurer under any policy of insurance may conclusively rely upon a statement of Beneficiary that it is entitled to make proof of loss, settle, compromise or adjust a claim without participation by Trustor.

4. Protection and Maintenance of Title and Title Priority. To deliver to, pay for and maintain with Beneficiary until the indebtedness and other obligations secured hereby are paid and performed in full, such evidence of title as Beneficiary may require, including abstracts of title or policies of title insurance and any extensions or renewals thereof or supplements thereto, in such form as Beneficiary may require,

assuring and insuring that the lien of this Trust Deed is and shall remain, at all times, a first and prior lien and encumbrance against the Property subject only to those items which have been accepted, in writing and set forth in EXHIBIT B attached hereto and incorporated herein by this reference, by the Beneficiary as permitted encumbrances (hereinafter "Permitted Encumbrances").

5. Defense of Title. To appear in and defend any action or proceeding purporting to affect the security hereof, the title to said Property, or the rights or powers of Beneficiary or Trustee, and should Beneficiary or Trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and attorneys' fees in reasonable sums incurred by Beneficiary or Trustee.

6. Payment of Taxes and Assessments. To pay before delinquency all taxes and assessments affecting said Property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used in connection with said Property; to pay, when due, all encumbrances, charges, and liens, with interest, on said Property or any part thereof, which at any time appear to be prior or superior hereto; to pay all costs, fees and expenses of this Trust. Notwithstanding the foregoing, Trustor shall have the right to contest any tax, assessment, lien, encumbrance or charge so long as written notice thereof is provided to Beneficiary, such contest is pursued diligently and in good faith, during the pendency of any such contest, the priority of the lien of this Trust Deed is not adversely affected and the Trustor shall have, in the reasonable good faith judgment of the Beneficiary, adequate reserves to pay the contested amounts should the contest be unsuccessful. The obligations of the Trustor to pay taxes and assessments under this paragraph are supplemented by the provisions of paragraph 2 preceding and Trustor's timely payment of sufficient funds to Beneficiary to cover taxes and assessments subject of the payment provisions of paragraph 2 are compliance with these provisions with respect to taxes and assessments covered by the paragraph 2 provisions.

7. Substitute Performance Rights. Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation thereof, may: Make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said Property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such power, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefor, including cost of evidence of title, employment of counsel, and payment of reasonable counsel fees.



8. Inspection Rights. To permit and allow the Beneficiary to inspect said Property at any and all times during usual business hours of the Trustor or its Tenants and such inspection rights shall include, with respect to the Trustor, the right to inspect books, records, plans, proposals, reports, studies, surveys, appraisals and any other data or information pertaining to the Property. Trustor hereby agrees to fully cooperate in and facilitate any and all such inspections. From and after the occurrence of an Event of Default, Trustor shall fully cooperate in providing to Beneficiary full and free access to the Property, and Beneficiary shall have full rights of entry and possession for all purposes related to the rights, remedies and interests of Beneficiary hereunder or in preservation, protection or exercise of the same.

9. Reimbursement and Other Payment Obligations. To pay immediately upon demand all sums expended hereunder by Beneficiary or Trustee in the exercise of rights of substitute performance or otherwise in the exercise of remedies for any default, breach or failure to perform by the Trustor hereunder, together with interest from date of expenditure at the highest default rate (or, if the Note does not contain a default rate, the rate) specified in the Note until paid, and the repayment thereof shall be secured hereby.

IT IS MUTUALLY AGREED THAT:

10. Damage or Destruction by Fire or Other Casualty/Condemnation.

a. Notice of Partial Loss. In the event of any partial damage or loss by fire or other casualty whatsoever to the improvements or any portion thereof, Trustor shall give immediate notice thereof to Beneficiary if the same equals or exceeds \$10,000, and shall, if Beneficiary makes insurance proceeds available for such purposes, and regardless of the dollar amount of such damage or loss or of the adequacy of insurance proceeds, with reasonable diligence (subject to unavoidable delays), at Trustor's own cost and expense, complete restoration in accordance with all applicable legal requirements, insurance requirements and leases. If any of the "Collateral" (as defined in paragraph 17 following) is damaged or lost as a result of such fire or other casualty, Trustor shall likewise, at its own sole cost and expense, if Beneficiary makes insurance proceeds available for restoration, repair or replace the Collateral so damaged or lost, whether or not insurance proceeds are adequate for that purpose.

b. Restoration. In the event that the improvements or any of them shall be totally destroyed, or so substantially damaged by fire or other casualty whatsoever that the repair and restoration of the structures and improvements remaining thereof would be impracticable, Trustor shall give prompt notice thereof to Beneficiary, and, if Beneficiary makes insurance proceeds available for restoration, shall proceed with reasonable diligence (subject to unavoidable delays), to remove the damaged Improvement and all debris caused by the

damage or destruction and thereafter complete restoration of the replacement improvements, and shall equip such building(s) with the Collateral all at Trustor's sole cost and expense, whether or not any insurance proceeds are adequate for such purpose, in accordance with all applicable legal requirements, insurance requirements and leases. Such demolition, removal and construction shall be without cost, charge or expenses of any kind to Beneficiary. Before commencing the construction of any replacement building(s), Trustor shall submit copies of the plans and specifications therefor to Beneficiary for its approval, which approval will not be unreasonably withheld or delayed.

c. Application of Insurance Proceeds. If by reason of any damage or destruction mentioned in subparagraphs a. or b. hereof, any sums are paid under any insurance policy mentioned in paragraph 5 hereinabove (other than rent or rental value insurance policies), such sums shall be paid to Beneficiary or, at Beneficiary's option, to a disbursing agent designated by Beneficiary (Beneficiary or said agent being referred to herein as a "Depository") which, except as provided below, may apply them, in Beneficiary's absolute discretion, regardless of the adequacy of security, in any one or more of the following ways: (i) to the indebtedness secured hereby, whether or not then due and payable, in any order of priority (but without prepayment penalty); (ii) to fulfillment of such of the covenants contained herein as Beneficiary may determine; (iii) to restoration; and, (iv) to Trustor. Any insurance proceeds (and interest thereon, if any) remaining after any payment to restoration as provided in this paragraph may at the option of Beneficiary be applied to indebtedness secured by this Trust Deed (whether or not then due and in any order of priority but without prepayment penalty) or paid to Trustor. If no default exists at the time of payment, then the Depository shall apply such sums to restoration in installments as restoration proceeds, subject to (a) deposit with Depository from time to time of such sums in addition to net insurance proceeds as Beneficiary may from time to time determine to be necessary to complete restoration and (b) such conditions to advances as are specified by the Beneficiary in the exercise of its reasonable judgment (including such conditions as would be within the scope of normal practices and procedures of Beneficiary with respect to construction loan advances), provided, however, that Beneficiary may at its option apply any remaining funds so held, together with interest thereon, if any, to payment of indebtedness or to restoration, in accordance with this paragraph; if at any time prior to the time that such funds are applied to restoration (i) a default occurs, or (ii) Trustor is not diligently proceeding with restoration or is not proceeding in accordance with applicable legal requirements, insurance requirements or leases. Trustor shall promptly reimburse Beneficiary and the Depository upon demand for all charges, fees and costs (including reasonable attorneys' fees) incurred or charged by them in connection with the collection of insurance proceeds and their disbursement in accordance with this paragraph, and all such charges and costs, together with interest at the interest rate applicable under

the Note for the principal outstanding thereunder, from and after the date of payment, shall be additional amounts secured by this Trust Deed. No damage or destruction or retention of insurance proceeds as provided in this paragraph shall suspend any obligation to make payments pursuant to the Note or suspend the accrual of interest under the Note, and the Note shall bear interest and shall be payable in accordance with its tenor. If Beneficiary applies any insurance proceeds (other than proceeds remaining after proceeds have been applied to restoration and other than proceeds of rent or business interruption insurance) to payment of the indebtedness secured hereby, Trustor may, at any time within 180 days after such application, prepay the indebtedness secured hereby in full (though not in part) without penalty.

d. Trustor to Give Notice of Condemnation. Forthwith upon receipt by Trustor of notice of the institution of any proceeding or negotiations for a taking of all or any part of the Property, or any interest therein or right accruing thereto, including without limitation, any right of access thereto existing on the date of this Trust Deed as the result of or in lieu or in anticipation of the exercise of the right of condemnation or eminent domain or a change of grade adversely affecting the Property or any part thereof (hereinafter a "Taking"), Trustor shall give notice thereof to Beneficiary. Beneficiary may appear in any such proceedings and participate in any such negotiations and may be represented by counsel, and, if a default is occurring or more than six months have occurred since the Taking, Beneficiary may compromise and settle any damage claim without participation by Trustor. A condemning authority may conclusively rely upon Beneficiary's statement that it is entitled to compromise or settle a damage claim without participation by Trustor. Trustor, notwithstanding that Beneficiary may not be a party to any such proceeding, will promptly give to Beneficiary copies of all notices, pleadings, judgments, determinations and other papers received by Trustor therein. Trustor will not enter into any agreement permitting or consenting to the taking of the Property, or any part thereof, or providing for the conveyance thereof in lieu of condemnation, with anyone authorized to acquire the same in condemnation or by eminent domain unless Beneficiary shall first have consented thereto in writing.

e. Restoration; Application of Proceeds in Condemnation. In the event of a Taking, all awards payable as a result of a Taking shall be paid to Beneficiary, which may, in its absolute discretion, regardless of the adequacy of security, apply them in any one or more of the ways specified in the first sentence of subparagraph 12.c. of this Trust Deed (without prepayment penalty, in the case of application to the indebtedness secured hereby). If the Taking involves a taking of any Improvement, Trustor shall, if Beneficiary makes condemnation awards available therefor, proceed with reasonable diligence, subject to unavoidable delays, and except to the extent that restoration is made impossible by reduction in area, to demolish and remove any ruins and complete restoration

of the Property in accordance with all applicable legal requirements, insurance requirements and leases, whether or not available condemnation awards are adequate to complete restoration. No damage or destruction or retention of awards as provided in this paragraph shall suspend any obligation to make payments pursuant to the Note or suspend the accrual of interest under the Note, and the Note shall bear interest and shall be payable in accordance with its tenor. Trustor shall promptly reimburse Beneficiary upon demand for all charges and costs (including reasonable attorneys' fees) incurred by it in collection of awards and their disbursement in accordance with this paragraph, and all such charges and costs, together with interest at the interest rate applicable under the Note, from and after the date of demand, shall be additional amounts secured by this Trust Deed. If Beneficiary applies any condemnation awards (other than awards remaining after awards have been applied to restoration) to the indebtedness secured hereby, Trustor may, at any time within 180 days after such application, prepay the indebtedness secured hereby in full (though not in part) without penalty.

f. Temporary Taking. Trustor shall promptly notify Beneficiary of any Taking for a temporary use or occupancy. If, but only if, any award payable to Trustor on account of such Taking is made in a lump sum or is paid in other than equal monthly installments, Trustor shall pay over such award to Beneficiary promptly upon receipt, and Beneficiary shall apply such award to the payment of any sums coming due under the Note; provided, however, that any unapplied portion of such award held by Beneficiary when such Taking ceases or terminates, or after the indebtedness secured by this Trust Deed shall have been paid in full, shall be paid to Trustor.

g. Certain Waivers. Trustor specifically, knowingly, unconditionally and irrevocably waives all rights of a property owner granted under applicable law, which provide for allocation of condemnation proceeds between a property owner and a lienholder, and any other law or successor statute of similar import. Further, Trustor hereby specifically, knowingly, unconditionally and irrevocably waives all right to recover against Beneficiary (or any officer, employee, agent or representative of Beneficiary) for any loss incurred by Trustor from any cause insured against or required by any Loan Document to be insured against; provided, however, that this waiver of subrogation shall not be effective with respect to any insurance policy if the coverage thereunder would be materially reduced or impaired as a result of such waiver.

11. Trustee Authority for Certain Matters. At any time and from time to time upon written request of Beneficiary, payment of its fees and presentation of this Trust Deed and the Note for endorsement (in case of full reconveyance, for cancellation and retention) without affecting the liability of any person for the payment of the indebtedness secured hereby, Trustee may (a) consent to the making of any map or

plat of said Property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Trust Deed or the lien or charge thereof; (d) grant any extension or modification of the terms of the indebtedness secured hereby; (e) reconvey, without warranty, all or any part of said Property; (f) take other or additional security for the payment thereof. The grantee in any reconveyance may be described as "the person or persons entitled thereto," and the recitals therein of any matters of facts shall be conclusive proof of the truthfulness thereof. Trustor agrees to pay reasonable Trustee's fees for any of the services mentioned in this paragraph.

12. Assignment of Rents and Security Interest Therein. As additional security for all of the obligations secured by this Trust Deed, Trustor hereby assigns and grants to Beneficiary a security interest in, during the continuance of these trusts and during any time that obligations are owing and unpaid to the Beneficiary under the Note and related loan documentation, all rents (including room rents, daily or otherwise), proceeds, contract rights, general intangibles, instruments, issues, royalties, license or use fees or charges, credits and profits of or generated from or in connection with the Property affected by this Trust Deed and of any personal property located thereon. The grant and assignment of rents and other charges, income, revenues, profits, etc., arising from or out of the Property (as described in this paragraph 14 and also in the granting clauses of this Trust Deed) is an absolute grant and assignment and not an assignment for security only. Until Trustor shall default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Trustor shall have the right, by license hereby granted, to collect all such rents, issues, royalties, proceeds and profits earned prior to default as they become due and payable. If Trustor shall default as aforesaid, Trustor's right and license to collect any of such monies shall cease and be revoked and Beneficiary shall have the right, until such time as default is cured, with or without taking possession of the Property affected hereby, to notify such buyers and such lessees to make all payments of purchase and rental directly to Beneficiary, and to collect all rents, royalties, proceeds, issues and profits. Any and all amounts received by Beneficiary in such eventuality shall be applied, less costs and expenses of operation and collection, including reasonable attorneys' fees, to payment of any indebtedness secured hereby, and in such order as Beneficiary may determine. Authorization and permission to Beneficiary, the Trustee or their respective agents, employees, officers or designees to enter upon the Property for the purpose of effectuating or otherwise utilizing the rights and remedies herein provided is hereby irrevocably granted. Failure or discontinuance of Beneficiary at any time or from time to time to collect any such monies shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power and authority to collect the same. Nothing contained herein, nor the exercise of the right by Beneficiary to collect, shall be, or be construed to be, an affirmation by Beneficiary of any tenancy, lease or option, nor an assumption of liability under, nor a subordination of the lien or charge of this Trust Deed to any such contract, tenancy, lease or option. Under no circumstances shall Beneficiary have any duty to produce

rents, revenues or income from the Property. Regardless of whether or not Beneficiary, in person or by agent, takes actual possession of the Property, Beneficiary is not and shall not be deemed to be (a) a mortgagee in possession for any purpose, (b) responsible for performing any of the obligations under any lease of the Property, (c) responsible for any waste committed by lessees, licensees, concessionaires or other parties or for any dangerous or defective condition of the Property, or any negligence in the management, operation, upkeep, repair or control of the Property, or (d) liable in any manner for the Property, the use, occupancy, operation or enjoyment of all or any part thereof. As previously stated in this Trust Deed, the grants, conveyances, assignments and creation of liens and security interests in the Property are intended only to be with respect to property, property rights, assets and interests which are now or hereafter held by the Trustor and do not apply to any items described if Trustor has no interest therein.

13. Right of Entry and Possession. Upon default by Trustor, Beneficiary may at any time, without notice, either in person, by agent, or by a receiver to be appointed by a court (Trustor hereby consenting to the appointment of Beneficiary as such receiver), and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said Property or any part thereof, and (whether or not possession of said Property has been so taken) in its own name sue for or otherwise collect said rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The appointment of a receiver pursuant to this provision may be accomplished without the filing of an action independent of or as a predicate to an action for receivership and Trustor hereby also fully waives and relinquishes any right to insist upon the application of any conditions precedent to appointment of a receiver specified by statute, rule or other law.

14. Effect of Entry and Possession. The entering upon and taking possession of said Property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of said Property, and the application or release thereof as aforesaid, whether effectuated by Beneficiary, Trustee or a receiver, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. Further, such entry or possession or other exercise of remedies shall not excuse or otherwise abrogate any obligations or duty or debt of Trustor secured hereby or provided hereunder, except to the extent that funds so realized shall have been applied in satisfaction of such obligation, duty or indebtedness.

15. Grant of Security Interest. Trustor hereby grants to Beneficiary, for the purpose of securing all obligations of Trustor described above and secured by this Trust Deed, a security interest in all of Trustor's right, title and interest in and to (i) the equipment, inventory, fixtures, machinery and other personal property (now existing or

hereafter acquired) located on or at the Property (including all goods and equipment, furniture, furnishing, appliances and other items of tangible personal property of the Trustor employed on or in connection with the hotel operations or the business office or management office of the Trustor on the Property or any other business enterprise or concession of the Trustor thereon), all building materials to be incorporated into the improvements on the Property, also including, without limitation, any and all property of similar type or kind hereafter located on or at the Property; (ii) all of the improvements consisting of fixtures, attachments, appliances, equipment, machinery and other articles now or hereafter attached to buildings and improvements now or hereafter located on the Property; (iii) all awards made for the taking by eminent domain or by any proceeding or purchase in lieu thereof of the whole or any part of the Property or the Collateral (as hereinafter defined) or any estate or easement therein (including any awards for change of grade of streets); (iv) all proceeds of insurance paid on account of any partial or total loss, destruction or taking of any part of the Property or the Collateral; (v) all right, title and interest of Trustor in and to any and all present and future sale contracts or leases of lots upon the Property, or of any portion thereof or of any portion of the Property or the Collateral, including the right to receive sale proceeds or rent, together with all other rents or other monies or income generated by or derived from the Property or the Collateral, the improvements located or to be located on the Property, or any interest or estate therein, together with all right or privilege of Trustor to cancel or terminate any such present or future lease, to accept payment of more than one installment of rent payable thereunder prior to its due date, to accept a surrender thereof, or to modify any such lease; (vi) all blueprints, plans, maps, books and records, and general intangibles relating to the Property, the business operations of Trustor thereon, including all licenses of any kind necessary to or employed by the Trustor in connection with such business operations or other activities on the Property; and (vii) any and all water rights and shares of water company stock now held by Trustor and intended to benefit the Property. The foregoing property, together with all personal property and fixtures, as referred to in the granting clauses of this Trust Deed and in which Beneficiary is granted a security interest may be referred to as the "Collateral" and wherever that term is used throughout this Trust Deed shall have that meaning. This Trust Deed shall be deemed a security agreement as defined in any applicable Uniform Commercial Code, and the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be as prescribed (i) herein, or (ii) by general law, or (iii) as to such part of the security which is also reflected in any financing statement or statements ("Financing Statement") by the specified statutory remedies now or hereafter enacted and specified in any applicable Uniform Commercial Code, all with the fullest possible lawful discretion of the Beneficiary in the election of the same. In exercising any of said remedies, Beneficiary may proceed against the real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever without in any way affecting the availability of Beneficiary's remedies under the Uniform Commercial Code or of the remedies provided in this Trust Deed or any other loan documents. Trustor and Beneficiary agree that the filing of

such a Financing Statement in the records normally having to do with personal property shall never be construed as in anywise derogating from or impairing this declaration and hereby stated intention of the parties hereto, that everything located at or on the Property used in connection with the Trustor's production of income from the Property and the Collateral and/or adapted for use therein and/or which is described or reflected in this Trust Deed is, and at all times and for all purposes and in all proceedings both legal and equitable shall be, regarded as part of the Collateral irrespective of whether (i) any such item is physically attached to the improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with the Beneficiary or (iii) any such item is referred to or reflected in any such Financing Statement so filed at any time. Similarly, the mention in any such Financing Statement of (1) the rights in or to the proceeds of any fire and/or hazard insurance policy, (2) any award in eminent domain proceedings for a taking or for loss of value, or (3) the debtor's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the premises, whether pursuant to lease or otherwise, shall never be construed as in anywise altering any of the rights of Beneficiary as determined by this Trust Deed or impugning the priority of the Beneficiary's lien granted hereby or by any other recorded document, but such mention in the Financing Statement is declared to be for the protection of the Beneficiary in the event any court or judge shall at any time with respect to (1), (2) and (3) determine that for notice of Beneficiary's priority of interest to be effective against a particular class of persons, divisions or entity of the federal government, such notice must be filed in the Uniform Commercial Code records. As stated above, this instrument is intended to be a security agreement pursuant to the Uniform Commercial Code. Trustor agrees that Beneficiary may file this Trust Deed or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property, and agrees that the same shall be a fixture filing under the Uniform Commercial Code covering any property which now is or may hereafter become affixed to or located on the subject land, real property or improvements and are fixtures thereon. Any reproduction of this Trust Deed or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Trustor agrees to execute and deliver to Beneficiary, upon Beneficiary's request, any financing statement, as well as extensions, renewals and amendments thereof, and reproductions of this Trust Deed in such form as Beneficiary may require to perfect a security interest with respect to said items. Trustor shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Beneficiary may reasonably require. This Trust Deed shall also be construed and considered to be a "construction mortgage" under the provisions of the applicable version of the Uniform Commercial Code and shall be entitled to the priority which afforded thereby.



16. Warranties and Representations. Trustor hereby warrants, represents and covenants as follows:

(a) Except for the security interest granted hereby, the encumbrances securing loans to be hereafter paid and satisfied as a condition precedent to the advance of any proceeds of the loan being secured hereby, and Permitted Encumbrances, Trustor is, and as to portions of the Collateral or Property to be acquired after the date hereof will be, the sole owner of the Collateral and the Property, free from any adverse lien, security interest, encumbrance or adverse claims thereon of any kind whatsoever (provided that nothing herein shall abrogate or otherwise restrict the rights of the Trustor to contest such matters, as otherwise provided in this Trust Deed). Trustor will notify Beneficiary of, and will protect the Collateral and Property against, all claims and demands of all persons at any time claiming the same or any interest therein.

(b) Trustor will not lease, sell, convey or in any manner transfer the Collateral or the Property without the prior written consent of Beneficiary, except in the ordinary course of business.

(c) The Collateral is not used or bought for personal, family or household purposes.

(d) The Collateral will be kept on or at the Property and Trustor will not remove the Collateral from the Property without the prior written consent of Beneficiary, except such portions or items of Collateral which are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Trustor, and except such portions or items of Collateral which are sold or leased in the ordinary course of business.

(e) Trustor maintains its principal place of business in the State of Utah and Trustor will immediately notify Beneficiary in writing of any change in its principal place of business as set forth in the beginning of this Trust Deed.

(f) At the request of Beneficiary, Trustor will join Beneficiary in executing one or more financing statements, continuation statements and renewals and amendments thereof pursuant to applicable Uniform Commercial Codes in form satisfactory to Beneficiary, and will pay the cost of filing the same in all public offices wherever filing is deemed by Beneficiary to be necessary or desirable.

(g) All covenants and obligations of Trustor contained herein relating to the Property shall be deemed to apply to the Collateral whether or not expressly referred to herein.

17. No Waiver. Failure on the part of Beneficiary to promptly enforce any right or remedy hereunder, no matter the number of times such failure shall have occurred, shall not operate as a waiver of such right, and the waiver by Beneficiary of any default or acceptance of payment of any sum secured hereby after its due date shall not constitute a waiver of any other subsequent default.

18. Time of the Essence - Default. Time is of the essence hereof. In any instance in which the terms "default" or "event of default" are used in this Trust Deed, they shall have the meaning hereinafter set forth in the Loan Agreement as "Default" and "Event of Default" respectively.

19. Remedies upon Default. In the event of a default, Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause said Property to be sold to satisfy all obligations secured hereby, and Trustee shall file such notice for record in each county wherein said Property or some part or parcel thereof is situated. Beneficiary also shall deposit with Trustee, the Note and all documents evidencing expenditures secured hereby. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustor shall sell said Property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Trustor to direct the order in which such Property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he deems expedient, and as permitted by applicable law, 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 thereof by such person at the time and place last appointed for the sale and by such other means as designated by law; provided, if the sale is postponed for longer than any period of time beyond the day designated in the notice of sale for which oral notice will suffice, notice thereof shall be given in the same manner as the original notice of sale or in such other manner as shall be required by law. Trustee shall execute and deliver to the purchaser its Deed conveying said Property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and attorneys' fees; (2) cost of any evidence of title procured in connection with such sale and revenue stamps, if any, on Trustee's Deed; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at the highest default rate of interest specified in the Note from date of expenditure; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the County

Clerk of the county in which the sale took place. Beneficiary is also entitled upon the occurrence of a default, to exercise any other remedies for default which are available under this Trust Deed, the Loan Agreement, the Note or any other applicable agreement or document, including the rights of a secured party under the applicable Uniform Commercial Code. All rights and remedies of the Beneficiary are cumulative and may be exercised in such order as shall be deemed appropriate by Beneficiary, including simultaneous exercise of any such remedies or rights. Regardless of any provision of this Trust Deed, the Loan Agreement or the Note, Beneficiary shall not be considered to have accepted any property other than cash or immediately available funds of the United States of America in satisfaction of any obligation of Trustor to Beneficiary, unless Beneficiary has given express written notice of Beneficiary's election of that remedy. Beneficiary has the sole and absolute discretion and election as to when and in what order and, generally, how the enforcement of this Trust Deed and any and all remedies or rights associated with the same are to be undertaken or executed. No right to direct the order of the same, the timing of the same or to otherwise assert any control over the exercise of such rights or remedies is in the Trustor.

20. Surrender of Premises. Unless already accomplished pursuant to other provisions of this Trust Deed, Trustor 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 Trustor.

21. Debt Acceleration. Upon the occurrence of any event of default (as defined hereinabove), Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclose this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property, and Beneficiary shall be entitled to recover in such proceedings all costs and expenses incident thereto, including reasonable attorneys' fees in such amount as shall be fixed by the court. The debt acceleration right provided hereby shall not be contingent upon written notice of the same being given by the Beneficiary or Trustee.

22. Successor Trustee. Beneficiary, at Beneficiary's option, may from time to time, by a written instrument, appoint a successor trustee, which instrument, when executed and acknowledged by Beneficiary and recorded in the office of the recorder of the county or counties where the Property is situated, shall be conclusive proof of proper substitution of the successor trustee. The successor trustee shall, without conveyance of the Property, succeed to all the title, power and duties conferred upon the Trustee in this Trust Deed and by Utah law. The instrument of substitution shall contain the name of the original Beneficiary, Trustee and Trustor under this Trust Deed, the book and page where this Trust Deed is recorded, and the name and address of the successor trustee. If notice of default has been recorded, this power of substitution cannot be exercised until after the costs, fees and expenses of the then acting Trustee have been paid to such Trustee, who shall endorse receipt of those

costs, fees and expenses upon the instrument of substitution. The procedure provided for substitution of trustee in this Trust Deed shall govern to the exclusion of all other provisions for substitution, statutory or otherwise.

23. Binding on Successors and Assigns. This Trust Deed shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. All obligations of Trustor hereunder are joint and several. The term "Beneficiary" shall mean the owner and holder, including any pledgee, of the Note, or any other notes or evidences of indebtedness secured hereby. In this Trust Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

24. Trustee Acceptance of Trust. Trustee accepts this Trust when this Trust Deed, 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 trust deed or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party, unless brought by Trustee.

25. Governing Law. This Trust Deed shall be governed by and construed under and according to the laws of the State of Utah.

26. Obligations Effective to Extent Permitted by Applicable Law. Notwithstanding any provision herein, the total liability for payments in the nature of interest shall not exceed the limits now imposed by the applicable laws of the State of Utah. Reference is made to the Note for procedures to be followed regarding excess interest rates.

27. Severability. If any provision hereof should be held unenforceable or void, then such provision shall be deemed separable from the remaining provisions and shall in no way affect the validity of this Trust Deed.

28. Trustor Request for Notice. The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to him at the address hereinbefore set forth.

29. Due on Transfer Provisions. Except for a transfer to a subsidiary or affiliate entity under the control (by contract or by reason of controlling ownership interest) of the Trustor, if the Trustor shall sell, convey or alienate the Property, or any part thereof, or any interest therein, or shall be divested of Trustor's title or any interest therein in any manner or way, whether voluntarily or involuntarily, without the written consent of Beneficiary, which consent shall not be unreasonably withheld, Beneficiary shall have the right to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in the Note evidencing the same,

immediately due and payable. In all events, any and all transfers of any kind, voluntary or otherwise shall be disclosed to the Beneficiary in advance by written notice.

30. Discharge of Liens. Except for Permitted Encumbrances, and subject to a right to contest the same subject to the same conditions as set forth in paragraph 8 above, Trustor shall promptly discharge any lien which has, or may have, priority over or equality with this Trust Deed (except such liens as are specifically permitted in writing by Beneficiary) and shall keep and maintain the Property free from the claims of all persons supplying labor or materials to the Property. Without Beneficiary's prior written permission, Trustor shall not allow any lien inferior to this Trust Deed to be perfected against the Property.

31. Waiver of Marshalling. To the extent permitted by law, Trustor waives (i) the benefit of all present or future laws providing for any appraisal before sale of any portion of the Property, (ii) all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the indebtedness or obligations secured hereby and marshalling in the event of foreclosure of the lien created by this Trust Deed, (iii) all rights and remedies which Trustor may have or be able to assert by reason of the laws of the State of Utah pertaining to the rights and remedies of sureties, (iv) the right to assert any statute of limitations as a bar to the enforcement of the lien of this Trust Deed or to any action brought to enforce the Note, the Loan Agreement or any other obligation secured by this Trust Deed, and (v) any rights, legal or equitable, to require marshalling of assets or to require upon foreclosure sales in a particular order, including any rights under Utah law. Beneficiary shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided by this Trust Deed. Beneficiary shall have the right to determine the order in which any or all portions of the indebtedness and obligations secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided by this Trust Deed.

32. General Indemnity Obligation. Trustor hereby agrees to and shall hold Beneficiary and Trustee harmless from and shall defend them against any and all loss, liability, damage, injury, expense, action, claim or suit arising out of the Trustor's use, operation, ownership, possession, leasing, letting, licensing or other actions or inactions with respect to the Property or any part or portion thereof and with respect to the acts, actions, omissions, representations or misrepresentations of the Trustor in general; provided, however, that this general indemnity shall not cover the negligence, gross negligence or intentional wrongdoing of the Beneficiary, Trustee or their officers, employees or agents acting within the actual (as opposed to ostensible) scope of their authority, employment or agency for such Beneficiary or Trustee. In all instances in which any claim, action or suit possibly covered by this indemnity shall be threatened or asserted against either the Beneficiary or Trustee, Trustor shall immediately notify Beneficiary or Trustee, as the case may be, of the same and Beneficiary and Trustee shall have the right to direct the appointment of legal counsel to protect and defend

each of them; provided, however, that if in the judgment of the Beneficiary or Trustee, as the case may be, joint defense may be adequately provided without the existence of or potential for conflict of interest or other prejudice to the respective interests of the Trustor, Beneficiary or Trustee, such joint defense shall be undertaken by legal counsel selected by the Trustor with the approval and consent of Beneficiary and Trustee, which approval and consent shall not be unreasonably withheld.

33. Miscellaneous Provisions. All blanks appearing in this Trust Deed were filled in prior to Trustor's execution hereof. Headings of paragraphs which are set forth herein are for convenience in reference and shall have no application for purposes of construing the meaning of any of the provisions of this Trust Deed. In addition to other remedies and rights of the Beneficiary hereunder, all reasonable attorneys' fees and costs charged by attorneys to Beneficiary in connection with the rendition of legal services for the Beneficiary in connection with or otherwise incurred in the exercise of remedies for default hereunder shall be paid or reimbursed by the Trustor. Beneficiary is obligated to release and reconvey this Trust Deed upon payment and satisfaction in full of all of the obligations and indebtedness secured hereby.

34. [reserved]

35. Fixture Filing. This Trust Deed is also a fixture filing under the Uniform Commercial Code of Utah.

36. Additional Provisions Concerning Environmental Hazards. In addition to any other covenants, agreements, warranties or representations of the Trustor with respect to environmental hazards or "Environmental Laws" (as defined in the Environmental Indemnity Agreement executed in connection herewith):

(a) Except for matters covered by an operations and maintenance program approved by Beneficiary, Trustor shall not cause or permit any lien (whether or not such lien has priority over the lien created by this Trust Deed) upon the Property imposed pursuant to any Environmental Laws.

(b) Trustor represents and warrants to Beneficiary that, except as previously disclosed by Trustor to Beneficiary in writing, at the time of acquiring the Property, Trustor undertook all appropriate inquiry into the previous ownership and uses of the Property consistent with good commercial or customary practice and no evidence or indication came to light which would suggest that the Property has been or is now being used in a fashion violative of the covenants and provisions of the Environmental Indemnity Agreement.

The representations and warranties in this Paragraph 36(b) shall be continuing representations and warranties that shall be deemed to be made by Trustor throughout the term of the loan evidenced by the Note, until the indebtedness and obligations

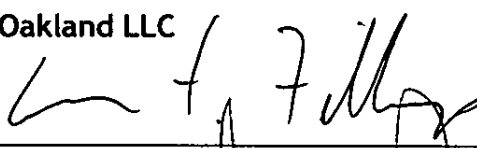
secured hereby have been paid in full.

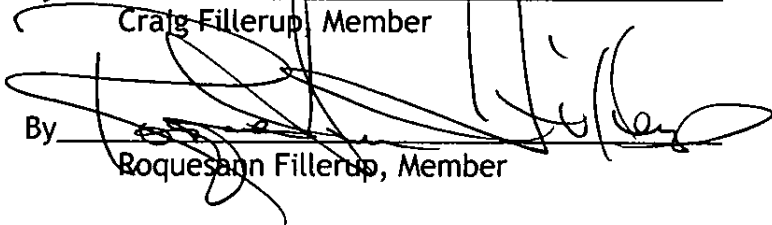
(c) Any reference in this Trust Deed or in any other Loan Document to the Environmental Indemnity Agreement shall be construed as referring together to the Environmental Indemnity Agreement and this Paragraph 36.

IN WITNESS WHEREOF, the parties have caused this Trust Deed to be duly executed and delivered as of the date and year first above written.

TRUSTOR:

62 Oakland LLC

By   
\_\_\_\_\_  
Craig Fillerup, Member

By   
\_\_\_\_\_  
Roquesann Fillerup, Member

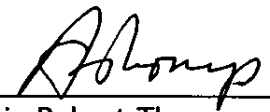
BENEFICIARY:

Edward and Louise Fillerup Family Trust, Louise Fillerup, Trustee  
c/o Louise Fillerup  
180 East Durfee  
Grantsville, Utah 84029

Acknowledged:   
\_\_\_\_\_  
Louise Fillerup, Trustee

TRUSTEE:

ALVIN ROBERT THORUP

Acknowledged:   
\_\_\_\_\_  
Alvin Robert Thorup

ACKNOWLEDGMENT

STATE OF UTAH     )  
                              : ss.  
COUNTY OF UTAH    )

*Oct* The foregoing instrument was acknowledged before me this 6 day of ~~September~~, 2008, by Craig Fillerup and Roquesann Fillerup, the Members of 62 Oakland LLC, a Utah limited liability company, on behalf of said company.

My Commission Expires: *12-01-2010*

Notary Public *[Signature]*  
Residing at *Utah South Salt Lake*





**EXHIBIT B TO DEED OF TRUST  
Permitted Encumbrances**

That certain Trust Deed in favor of Roger Ferguson, Trustee of the Roger Ferguson Trust, with Craig Fillerup and Roquesann Fillerup as Trustors, and affecting Lot 48 and the E1/2 of Lot 49 of Block 1, Oakland Subdivision, Salt Lake County, Utah.