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08/18/2003 02:30 PM 87.00
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GARY W. CTT
RECORDER, SALT LAKE COUNTY, UTAH
LEGACY LAND TITLE
BY: LDT, DEPUTY - WI 36 P.

DEED OF TRUST, SECURITY AGREEMENT AND
FIXTURE FILING FINANCING STATEMENT

Cover Sheet

DATE: August 1, 2003

BORROWER/TRUSTOR: HILLSIDE PLAZA, LTD., a California limited partnership

BORROWER'S NOTICE ADDRESS: 1055 California Street, Apt. 10
San Francisco, CA 94108

WITH A COPY TO: Warren H. Clark
1055 California Street, Apt. 10
San Francisco, CA 94108

and
Heller Ehrman White & McAuliffe
333 Bush Street, Suite 3100
San Francisco, CA 94104
Attn: William R. Mackey

TRUSTEE: Legacy Land Title Company

TRUSTEE'S NOTICE ADDRESS: 575 East 4500 South, Suite B-240
Salt Lake City, Utah 84107

BENEFICIARY: PROTECTIVE LIFE INSURANCE COMPANY, a
Tennessee corporation, together with other holders
from time to time of the Note (as defined herein).

BENEFICIARY'S NOTICE ADDRESS: 2801 Highway 280 South
Birmingham, Alabama 35223
Attention: Investment Department

NOTE AMOUNT: \$4,000,000.00

MATURITY DATE: September 1, 2023

STATE: Utah

RECORD OWNER OF LAND
(AS DEFINED HEREIN): HILLSIDE PLAZA, LTD., a California limited partnership

ADDITIONAL BORROWER
INFORMATION: Borrower is an Organization
Type of Organization - Limited Partnership
Jurisdiction of Organization - California
Organizational Identification No. CO12859

22-27-201-001
22-27-201-002
22-27-201-003
22-27-201-004
22-27-201-005
22-27-201-006
22-27-201-007
22-27-201-008

Exhibits A, B and C: Attached hereto and incorporated herein by reference.

1. DEFINITION OF TERMS. As used herein, the terms defined in the cover sheet hereof shall have the meanings given on such sheet, and the following terms shall have the following meanings:

1.1. Borrower's Notice Address: as defined on cover hereof.

1.2. Casualty: as defined in Paragraph 5.1.

1.3. Commitment: as defined in Paragraph 3.7.

1.4. Contested Sum: as defined in clause (e) of Paragraph 4.1.

1.5. Events of Default: as defined in Paragraph 7.1.

1.6. Improvements: all buildings, structures and other improvements now or hereafter existing, erected or placed on the Land, or in any way used in connection with the use, enjoyment, occupancy or operation of the Land or any portion thereof; all fixtures and other articles of every kind and nature whatsoever now or hereafter owned by Borrower and used or procured for use in connection with the operation and maintenance of the Realty or Personalty.

1.7. In its sole unfettered discretion: as defined in Paragraph 9.8.

1.8. Indenture: this Deed of Trust, Security Agreement and Fixture Filing Financing Statement.

1.9. Insurance Premiums: as defined in paragraph 4.3.

1.10. Insurance Proceeds: as defined in clause (a) of Paragraph 5.3.

1.11. Land: the land described in Exhibit A attached hereto, together with all estate, title interests, title reversion rights, remainders, rents, increases, issues, profits, rights of way or uses, additions, accretions, servitudes, gaps, gores, liberties, privileges, water, water rights, water courses, ditch rights, water stock, alleys, streets, passages, ways, vaults, adjoining strips of ground, licenses, tenements, franchises, hereditaments, rights, appurtenances and easements including without limitation the Reciprocal Easement Agreement, now or hereafter owned by Borrower and existing, belonging or appertaining to the Land, all claims or demands whatsoever of Borrower therein or thereto, either in law or in equity, in possession or in expectancy and all estate, right, title and interest of Borrower in and to all streets, roads and public places opened or proposed, now or hereafter appertaining to, the Land.

1.12. Laws: as defined in clause (c) of Paragraph 4.2.

1.13. Leases: all leases, license agreements and other occupancy or use agreements (whether oral or written), now or hereafter existing, which cover or relate to all or any portion of the Property, together with all options therefor, amendments thereto and renewals, modifications and guarantees thereof, and all rents, royalties, issues, profits, revenue, income and other benefits of the Property arising from the use or enjoyment thereof or from the Leases, including, without limitation, cash or securities deposited thereunder to secure performance by the tenants of their obligations thereunder, whether said cash or securities are to be held until the expiration of the terms of the Leases or applied to one or more of the installments of rent coming due.

1.14. Lease Assignment: a certain Assignment of Rents and Leases by Borrower in favor of Beneficiary of even date herewith and all modifications or amendments thereto or extensions thereof.

1.15. Loan Documents: this Indenture, the Note, the Lease Assignment, guaranty, and any and all other documents or instruments related thereto or to the Secured Debt now or hereafter given by or on behalf of Borrower to Beneficiary but specifically excluding the separate environmental indemnity agreement.

1.16. Note: a certain Promissory Note of even date herewith made by Borrower in favor of and payable to the order of Beneficiary in the Note Amount and all modifications,

renewals and extensions thereof, which Note is payable in monthly installments until the Maturity Date (as defined in the Note and on the Cover Sheet), subject to any call option of Beneficiary to accelerate the principal due as may be set forth in the Note.

1.17. Parties in Interest: as defined in clause (d) of Paragraph 7.1.

1.18. Personalty: all of Borrower's right, title and interest in the personal property of any kind or nature whatsoever, whether tangible or intangible, whether or not any of such personal property is now or becomes a "fixture" or attached to the Realty, which is used or will be used in the construction of, or is or will be placed upon, or is derived from or used in connection with, the maintenance, use, occupancy or enjoyment of the Realty, including, without limitation, all accounts, documents, instruments, chattel paper (including electronic chattel paper and tangible chattel paper), general intangibles (including payment intangibles and software), goods (including consumer goods inventory, equipment and farm products), letter-of-credit rights and deposit accounts (as those terms are defined in the Uniform Commercial Code as now adopted and amended from time to time in the State), all plans and specifications, contracts and subcontracts for the construction, reconstruction or repair of the Improvements, bonds, permits, licenses, guarantees, warranties, causes of action, judgments, claims, profits, rents, royalties, issues, revenue, income, security deposits, utility deposits, refunds of fees or deposits paid to any governmental authority, letters of credit, policies, claims and proceeds of insurance, proceeds and claims arising from condemnation, motor vehicle and aircraft, together with all present and future attachments, accretions, accessions, replacements and additions thereto and products and proceeds thereof.

1.19. Property: the Realty and Personalty or any portion thereof or interest therein except as the context otherwise requires.

1.20. Property Liabilities: as defined in clause (d) of Paragraph 4.1.

1.21. Property Taxes and Charges: as defined in clause (b) of Paragraph 4.1.

1.22. Realty: the Land and Improvements or any portion thereof or interest therein, as the context requires.

1.23. Reciprocal Easement Agreement: that certain Declaration of Restrictions and Reciprocal Easements, dated August 1, 1976, recorded August 26, 1976 as Entry No. 2849657, in Book 4315 at Page 174 of the Recorder's Office of Salt Lake County.

1.24. Secured Debt: to the extent not prohibited by Law, all principal, interest, additional interest, interest at the After-Maturity Rate set forth in the Note on all applicable sums, late charges and other sums, charges, prepayment fees and premiums or amounts due or to become due under the Loan Documents, together with any other sums, together with interest thereon at the After-Maturity Rate, expended or advanced by Beneficiary under the Loan Documents or otherwise with respect to the care or preservation of the Property or the enforcement of the Loan Documents.

1.25. Taking: as defined in Paragraph 5.1.

1.26. Taking Proceeds: as defined in clause (a) of Paragraph 5.3.

1.27. State: as defined on cover hereof.

2. GRANTING CLAUSES AND OBLIGATIONS SECURED. For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower has executed and delivered the Loan Documents and hereby irrevocably and absolutely grants, transfers, assigns, mortgages, bargains, sells and conveys to Trustee, its successors and assigns, IN TRUST FOREVER, with all POWERS OF SALE AND STATUTORY RIGHTS in the State, all of Borrower's estate, right, title and interest in, to and under, and grants to Beneficiary a first and prior security interest in, the Property and any and all of the following, whether now owned or held or hereafter acquired or owned by Borrower:

(a) All Leases;

(b) All profits and sales proceeds, including, without limitation, earnest money and other deposits, now or hereafter becoming due by virtue of any contract or contracts for the sale of Borrower's interest in the Property;

(c) All proceeds (including claims thereto or demands therefor) of the conversion, voluntary or involuntary, permitted or otherwise, of any of the foregoing into cash or liquidated claims; and

(d) All Insurance Proceeds and all Taking Proceeds.

All of the foregoing is hereinafter referred to as the "Encumbered Property."

This Indenture is also intended to be and constitutes a Security Agreement under the Uniform Commercial Code as now adopted and amended from time to time in the State with respect to all of the Encumbered Property which is subject to Article 9 of the Uniform Commercial Code and Borrower hereby grants Beneficiary a security interest therein. Time is of the essence.

FOR THE PURPOSE OF SECURING THE FOLLOWING OBLIGATIONS OF BORROWER TO BENEFICIARY, in such order of priority as Beneficiary may elect:

(1) Payment of the Secured Debt;

(2) Payment of such additional sums with interest thereon which may hereafter be loaned to Borrower by Beneficiary or advanced under the Loan Documents (at the After-Maturity Rate set forth in the Note), even if the sum of the amounts outstanding at any time exceeds the Note Amount; and

(3) Due, prompt and complete observance, performance, fulfillment and discharge of each and every obligation, covenant, condition, warranty, agreement and representation contained in the Loan Documents.

TO HAVE AND TO HOLD the Encumbered Property and all parts thereof unto Beneficiary and its successors and assigns forever, subject, however, to the terms and conditions herein.

3. REPRESENTATIONS AND WARRANTIES. Borrower hereby represents and warrants to Beneficiary that the following warranties and representations in this paragraph are and will be true, correct and complete at all times:

3.1. Due Organization, Authority. If Borrower is a corporation, partnership (general, limited or joint venture), limited liability company or a trust, Borrower is duly organized and validly existing, and in good standing under the laws of the State and has power adequate to carry on its business as presently conducted, to own the Property, to make and enter into the Loan Documents and to carry out the transactions contemplated therein.

3.2. Execution, Delivery and Effect of Loan Documents. The Loan Documents have each been duly authorized, executed and delivered by Borrower, and each is a legal, valid and binding obligation of Borrower, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and subject to the exercise of judicial discretion in accordance with general principles of equity (regardless whether enforcement is sought in a proceeding in equity or at law).

3.3. Other Obligations. Borrower is not in violation of any term or provision of any document governing its organization or existence or in default under any instruments or obligations relating to Borrower's business, Borrower's assets or the Property. No party has asserted any claim or default relating to any of Borrower's assets or the Property. The execution and performance of the Loan Documents and the consummation of the transactions contemplated thereby will not result in any breach of, or constitute a default under, any contract, agreement, document or other instrument to which Borrower is a party or by which Borrower may be bound

or affected, and do not and will not violate or contravene any Law to which Borrower is subject; nor do any such instruments impose or contemplate any obligations which are or will be inconsistent with the Loan Documents. Borrower has filed all federal, state, county and municipal income tax returns required to have been filed by Borrower and has paid all taxes which have become due pursuant to such returns or pursuant to any assessment received by Borrower. Borrower does not know of any basis for additional assessment with regard to any such tax. No approval by, authorization of, or filing with any federal, state or municipal or other governmental commission, board or agency or other governmental authority is necessary in connection with the authorization, execution and delivery of the Loan Documents.

Borrower shall give Beneficiary prompt written notice of (a) the proposed creation of any county, municipal, quasi-governmental or other improvement or special district of any nature or (b) any action in respect to such district, which may affect the Property, including, without limitation, any proposed service plan or modification of such plan, proposed organization of such district and election in regard to such organization, the proposed issuance of bonds by such district and election in regard to such issuance and the proposed inclusion of the Property in any such district, and Borrower shall not consent to the creation of any such district or any such action in respect to such district without the prior written consent of the Beneficiary, which consent shall not be unreasonably withheld.

3.4. Construction and Completion of Improvements. The presently existing Improvements have been completed and installed in a good and workmanlike manner, in compliance with Laws and the plans and specifications previously delivered to, and approved in writing, by Beneficiary. Any unoccupied space in the Improvements has been completed as provided above except for floor and wall coverings. The Improvements are served by electric, gas, sewer, water, telephone and other utilities required for the present and contemplated uses and operation thereof. Any and all streets, other off-site improvements, access to the Property necessary for its present and contemplated uses and operation and service by utilities have been completed, are serviceable and have been accepted or approved by appropriate governmental bodies.

Borrower understands that any septic system or sewage treatment facility or sewer line on the Property or to be constructed from the Property to a public sewer line and all personal property and rights therein are conveyed to Beneficiary hereunder as part of the Property, whether located on the Land or adjacent to or connected with the same. Borrower covenants not to allow any tie-ons or connections to any such sewer facility or sewer line or to allow any person to use the sewer facility or sewer line or to make any modifications in the plans and specifications or construction contract for the construction of any such sewer facility or sewer line without the written consent of Beneficiary. Borrower understands that such consent may be withheld and/or conditioned upon receipt of documentation and assurances acceptable to Beneficiary, and that Beneficiary will have the first right and lien as secured hereby to any monies or revenues arising from any such tie-ons, connections, or use.

3.5. Legal Actions. There are no (i) actions, suits or proceedings including, without limitation, any condemnation, insolvency or bankruptcy proceedings, pending or, to the best of Borrower's knowledge and belief, threatened against or affecting Borrower, its business or the Property except as disclosed in writing to Beneficiary by the Borrower with respect to the Rite Aid Lease (as defined in Paragraph 11 of the Note), or (ii) investigations, at law or in equity, before or by any court or governmental authority, pending or, to the best of Borrower's knowledge and belief, threatened against or affecting Borrower, Borrower's business or the Property, except actions, suits and proceedings fully covered by insurance and heretofore fully disclosed in writing to Beneficiary. Borrower is not in default with respect to any order, writ, injunction, decree or demand of any court or any governmental authority affecting Borrower or the Property. Furthermore, to the best of Borrower's knowledge and belief, there is no basis for any unfavorable decision, ruling or finding by any court or governmental authority which would in any material respect adversely affect (a) the validity or enforceability of the Loan Documents, or (b) the condition (financial or otherwise) or ability of Borrower to meet Borrower's obligations under the Loan Documents.

3.6. Financial Statements. All statements, financial or otherwise, submitted to Beneficiary in connection with the transaction evidenced by the Loan Documents are true, correct and complete in all respects, and all such financial statements have been prepared in

accordance with federal income tax basis accounting principles, consistently applied, and fairly present the financial condition of the parties or entities covered by such statements as of the date thereof and no additional borrowings have been made by such parties or entities or any of them, since the date thereof, nor has Borrower, or any such party or entity experienced a material, adverse change in its finances, business, operations, affairs or prospects since the date thereof. Borrower and each such party or entity is now solvent.

3.7. Solvency of Tenants. To the best of Borrower's knowledge and belief, no Tenant (as specified in the loan commitment or the loan application, if any, to Beneficiary (the "Commitment") for the loan secured hereby) of the Realty or any part thereof has suffered or incurred any material, adverse change in its finances, business, operations, affairs or prospects since the date of the Commitment.

3.8. Adverse Change to Property. No event or series of events has or have intervened or occurred since the date of Borrower's submission of the Commitment which would, either individually or collectively, have a material adverse effect on the Property.

3.9. Title to Property. Borrower has good and clear record and marketable title to the Realty and good and merchantable title to the Personalty and Borrower shall and will warrant and forever defend the title thereto and Beneficiary's first and prior lien thereto and security interest therein unto Beneficiary, its successors and assigns, against the claims of all persons whomsoever subject only to the permitted exceptions ("Permitted Exceptions") set forth on Exhibit B attached hereto and incorporated herein.

3.10. Compliance with Laws and Private Covenants. The Property complies with all Laws. The Land is a separate and distinct parcel for tax purposes and shall not become subject to Property Taxes and Charges against any other land. Borrower has examined and is familiar with any applicable agreements affecting the Land, including the Reciprocal Easement Agreement, and there now exists no violation of any such agreements. Borrower has no notice that any of the Improvements encroaches upon any easement over the Land or upon adjacent property.

3.11. Independence of the Property Zoning and Development. Borrower has not by act or omission permitted any building or other improvements on property not covered by this Indenture to rely on the Property or any part thereof or any interest therein to fulfill any municipal or governmental requirement for the existence, use or operation of such property, except to the extent provided for in the Reciprocal Easement Agreement, building or improvements; and no improvement on the Property shall rely on any property not covered by this Indenture or any interest therein to fulfill any governmental or municipal requirement. Borrower has not by act or omission impaired the integrity of the Property as a single, separate, subdivided zoning lot separate and apart from all other property.

Without the prior written consent of Beneficiary, Borrower will not seek, make or consent to any change in the zoning or conditions of use of the Property. Borrower will comply with and make all payments required under the provisions of any covenants, conditions or restrictions affecting the Property, including the Reciprocal Easement Agreement, and shall not without Beneficiary's prior written consent (a) file any declaration and constituent documents of any condominium, townhome, cooperative or planned development project for the Property, or (b) join in the amendment or rescission of any covenants, conditions or restrictions now or hereafter affecting the Property, including without limitation, the Reciprocal Easement Agreement. Borrower will comply with all existing and future requirements of all governmental authorities having jurisdiction over the Property.

4. BORROWER'S COVENANTS.

4.1. Payments.

(a) Secured Debt. Borrower shall pay promptly to Beneficiary, when due, the Secured Debt at the times and in the manner provided in the Loan Documents.

(b) Property Taxes and Charges. Except as provided in Paragraph 4.1(e), Borrower shall pay, prior to delinquency, all real estate taxes and personal

property taxes, betterments, assessments (general and special), imposts, levies, water, utility and sewer charges, and any and all income, franchise, withholding, profits and gross receipts taxes, other taxes and charges, all other public charges whether of a like or different nature, imposed upon or assessed against Borrower or the Property or upon the revenues, rents, issues, income and profits or use or possession thereof, and any stamp or other taxes which may be required to be paid with respect to any of the Loan Documents, any of which might, if unpaid, result in a lien on the Property, regardless to whom paid or assessed ("Property Taxes and Charges"). Borrower shall furnish Beneficiary with receipts showing payment of the Property Taxes and Charges prior to the applicable delinquency date thereof.

As used in this Paragraph 4.1(b), the term "real estate taxes" shall include any form of assessment, license fee, license tax, business license fee, business license tax, commercial rental tax, levy, charge, penalty, tax or similar imposition, imposed by any authority having the direct power to tax, including any city, county, state or federal government, or any school, agricultural, lighting, drainage or other improvement or special assessment district thereof, against any legal or equitable interest in the Property.

If requested by Beneficiary, Borrower, at the sole cost and expense of Borrower, shall cause to be furnished to Beneficiary a tax reporting service covering the Property of the type and duration, and with a company satisfactory to Beneficiary.

(c) Taxes on Trustee or Beneficiary. If any Law of the State or the United States or any other governmental authority imposes upon Trustee or Beneficiary the obligation to pay the whole or any part of the Property Taxes and Charges or changes in any way the Laws relating to taxation so as to adversely affect the Loan Documents or Trustee or Beneficiary, then Borrower shall pay Property Taxes and Charges or reimburse Trustee and Beneficiary immediately therefor, unless in the opinion of counsel to Trustee or Beneficiary, it might be unlawful to require Borrower to pay the same or such payment might result in the imposition of interest prohibited by Law. In such case, an Event of Default shall exist.

(d) Liabilities. Borrower shall pay, prior to delinquency, all debts and liabilities incurred in the construction, operation, development, use, enjoyment, repair, maintenance, replacement, restorations and management of the Property ("Property Liabilities"), including, without limitation, utility charges, sums due mechanics and materialmen and other sums secured or which might be secured by liens on the Property.

(e) Right to Contest. Borrower may, in good faith, by appropriate proceedings, contest the validity, applicability or amount of any asserted Property Taxes and Charges or Property Liabilities ("Contested Sum"), after written notice of the same to Beneficiary. During such contest, Borrower shall not be deemed in default hereunder if (i) prior to delinquency of the Contested Sum, Borrower (A) deposits with Beneficiary cash or other security, in form satisfactory to Beneficiary in its sole unfettered discretion, adequate to cover the payment of such Contested Sum and any obligation, whether matured or contingent, of Borrower or Beneficiary therefor, together with interest, costs and penalties thereon, or (B) if required to do so by Law, pays the Contested Sum to the appropriate taxing authority as a condition to such contest, and (ii) Borrower promptly causes to be paid any amounts adjusted to be due, together with all costs, penalties and interest thereon, before execution on any such amount and in any event within ten (10) days after such judgment becomes final. Each such contest shall be concluded and the Contested Sum, interest, costs and penalties thereon shall be paid prior to the date such judgment becomes final or any writ or order is issued under which the Property could be sold pursuant to such judgment.

(f) Expenses. Borrower shall, to the extent allowed by Law, pay, on demand but without counterclaim, setoff, deduction, defense, abatement, suspension, deferment, discrimination or reduction, all fees (including, without limitation, attorneys' fees and disbursements), taxes, recording fees, commissions and other liabilities, costs and expenses incurred in connection with (i) the making or enforcement of the Loan Documents; (ii) Trustee or Beneficiary's exercise and enforcement of their respective rights and remedies under Paragraphs 6, 7, and elsewhere hereof; and (iii) Trustee or Beneficiary's protection of the Property and their respective interest therein.

Borrower shall not be entitled to any credit on the Secured Debt by reason of the payment of any sums required to be paid under subparagraph 4.1(b) through (f).

4.2. Operation of the Property.

(a) Maintenance; Alterations. Borrower shall maintain and preserve the Property in good repair and condition and shall correct any defects or faults in the Property. Borrower shall pursue diligently any remedies or recourse which Borrower may have under agreements, warranties and guarantees relating to the Property. Borrower shall not commit, permit or suffer any demolition or waste of the Property or any use or occupancy which constitutes a public or private nuisance. Borrower shall not do, permit or suffer to be done any act whereby the value of any part of the Property may be decreased. Borrower shall not make any material alterations, improvements, additions, utility installations or the like to the Property without the prior written consent of Beneficiary in each instance; provided, however, Borrower may make replacements or substitution of any items of the Personalty if the replacement or substitution is of a quality, utility, value, condition and character similar to or better than the replaced or substituted item and is free and clear of any lien, charge, security interest or encumbrance, except as created or permitted by this Indenture.

(b) Liens. Subject to Borrower's rights under Paragraph 4.1(e) above, Borrower shall promptly discharge any mechanics', laborers', materialmen's or similar lien, charge, attachment, or lis pendens filed or recorded which relates to Borrower or the Property.

(c) Compliance with Laws and Private Covenants. Borrower shall truly keep, observe and satisfy all, and not suffer violations of any Federal, regional, state and local laws, ordinances, rules, regulations, statutes, decisions, orders, judgments, directives, or decrees of any governmental or regulatory authority, court or arbitrator (herein collectively "Laws") and private covenants affecting the Property, including without limitation, the Reciprocal Easement Agreement. Borrower shall use its best efforts to give Beneficiary telephonic notice within one (1) day, and shall give Beneficiary written notice (which shall include a copy of any notice received by Borrower) within three (3) days, of Borrower's receipt of any notice received by or on behalf of Borrower with respect to Borrower's noncompliance with any of the provisions of any covenants, conditions or restrictions now or hereafter affecting the Property, including without limitation, the Reciprocal Easement Agreement. If Borrower fails to correct the conditions specified in the notice to it, Beneficiary may do so at the sole cost and expense of Borrower, and Borrower shall reimburse Beneficiary for such cost and expense upon demand. Any amounts so expended by Beneficiary shall bear interest at the After-Maturity Rate specified in the Note from the date of expenditure until repaid to Beneficiary, and shall be secured by this Indenture.

(d) Use and Management. The Property shall at all times be used for commercial purposes. The Property shall at all times be managed by Borrower (so long as no default exists under any of the Loan Documents) or a leasing and management agent which has been approved by Beneficiary prior to execution of any management agreement with the same. Any change in the use of the Property or the management agent shall be subject to the prior written approval of Beneficiary.

(e) Inspection. Borrower shall permit Trustee or Beneficiary to enter upon and inspect the Property at reasonable times without delay, hindrance or restriction.

4.3. Insurance. Borrower shall obtain and keep in force, with one or more insurers acceptable to Beneficiary, such insurance as Beneficiary may from time to time specify by notice to Borrower, including, without limitation, insurance providing (i) comprehensive general public liability and property damage coverage with a broad form coverage endorsement and a combined single limit of at least \$1,000,000, (ii) protection against fire, "extended coverage" and other "All Risk" perils, including, where required, flood, to the full replacement value of the Property with a waiver of subrogation, replacement cost, and difference in conditions endorsements, and (iii) rent loss insurance in an amount of not less than a sum equal to twelve (12) months' rental income from all Leases. Notwithstanding the foregoing, in no event shall the amount of insurance maintained by Borrower on the Property under clause (ii) above ever be less than the outstanding principal amount of the Note without the prior written waiver by Beneficiary of that requirement; and if the policy limit is based on the outstanding principal amount of the Note, the

policy must provide an agreed amount endorsement. Beneficiary agrees to waive the requirement if Borrower provides insurance in an amount at least equal to the appraised value of the Property, determined on the cost approach of appraisal, less land and approved soft costs, as shown on a current full narrative appraisal of the Property, acceptable to Beneficiary in form and content and conducted by an appraiser acceptable to Beneficiary. All property insurance policies shall include the standard mortgage clause in the State naming Beneficiary as the first mortgagee with loss payable to Beneficiary as such mortgagee, shall not be cancelable or modifiable without thirty (30) days' prior written notice to Beneficiary, and shall not have more than a \$10,000 deductible for any single Casualty. Borrower shall provide Beneficiary with evidence of compliance with this Paragraph 4.3, in such forms as required from time to time by Beneficiary, upon notice from Beneficiary or at least fifteen (15) days prior to the expiration date of any policy required hereunder, each bearing notations evidencing the prior payment of premiums ("Insurance Premiums") or accompanied by other evidence satisfactory to Beneficiary that such payment has been made shall be delivered by Borrower to Beneficiary.

Borrower, to the full extent permitted by Law and to the full extent permitted without invalidating the insurance policies required above, hereby waives the right of subrogation against Trustee and Beneficiary. Borrower will inform its insurers of the waiver and obtain a waiver of subrogation endorsement if applicable.

Beneficiary shall not, because of accepting, rejecting, approving or obtaining insurance, incur any liability for (i) the existence, nonexistence, form or legal sufficiency thereof, (ii) the solvency of any insurer, or (iii) the payment of losses.

Borrower shall keep, observe and satisfy, and not suffer violations of, and shall cause to be kept and observed the requirements of insurance companies and any bureau or agency which establishes standards of insurability affecting the Property, and pertaining to acts committed or conditions existing thereon.

Upon foreclosure of this Indenture or other transfer of title or assignment of the Property in discharge, in whole or part of the Secured Debt, all right, title and interest of Borrower in and to all policies of insurance required by this Paragraph 4.3 shall inure to the benefit of and pass to Beneficiary.

4.4. Reserve Account. Subject to the following paragraph, Borrower shall pay to Beneficiary monthly, on each date on which a payment is due under the Note, one-twelfth (1/12th) of such amount as Beneficiary from time to time estimates will be required to pay all Property Taxes and Charges and Insurance Premiums before becoming past due. Beneficiary's estimates shall be based on the amounts actually payable or, if unknown, on the amounts actually paid for the year preceding that for which such payments are being made adjusted to reflect for any anticipated increases for the coming year. Beneficiary may require Borrower to pay one-sixth (1/6th) of said estimate as escrow overage, which may be retained by Beneficiary in escrow from year to year. Any deficiencies shall be promptly paid by Borrower to Beneficiary on demand. Borrower shall transmit bills for the Property Taxes and Charges and Insurance Premiums as soon as received. When Beneficiary has received from Borrower or on its account funds sufficient to pay the same, Beneficiary shall, except as provided in Paragraph 7.2, pay such bills. If the amount paid by Borrower in any year exceeds the aggregate required, such excess shall be applied to escrow payments for the succeeding year. Payments from said account for such purposes may be made by Beneficiary at its discretion even though subsequent owners of the Property may benefit thereby. Beneficiary shall not be a trustee of funds in said account and may commingle such funds with its general assets without any obligation to pay interest thereon or account for any earnings, income or interest on such funds. Upon the occurrence of an Event of Default hereunder, Beneficiary may apply, at any time and in such order as Beneficiary may determine, the balance then remaining in the account accumulated under this Paragraph against the amounts due and payable under the Note, this Indenture or any other Loan Document.

Beneficiary agrees to waive the requirements under the foregoing paragraph that Borrower pay to Beneficiary monthly escrow installments for Property Taxes and Charges and Insurance Premiums subject to the following conditions ("Conditions") and further reservation set forth below:

(a) No default after any applicable period of notice and cure shall exist under the Note or the Loan Documents;

(b) No change shall occur in the ownership or management of the Property; and

(c) Subject to the provisions of Paragraph 4.1(e) hereof, Property Taxes and Charges and Insurance Premiums shall be paid promptly when due and without accrual of interest or penalty, and Borrower shall promptly furnish to Beneficiary satisfactory evidence of such payment.

Notwithstanding the foregoing, Beneficiary reserves the right to revoke its waiver (x) if any one or more of the Conditions are at anytime not satisfied or (y) at such time as Beneficiary, in its sole unfettered discretion, deems such revocation necessary to protect the security granted by this Indenture or any of the other Loan Documents.

4.5. (a) Sales and Encumbrances. Borrower, shall not, without the prior written consent of Beneficiary, which consent, if given in Beneficiary's sole unfettered discretion, may be conditioned upon a change in the interest rate under the Note, payment of a fee or change in the terms of the Note, delivery of a management contract approved by Beneficiary with a management company approved by Beneficiary, and/or the satisfaction of other conditions required by Beneficiary or one or more of the foregoing or other requirements of Beneficiary:

(i) convey, assign, sell, mortgage, encumber, pledge, dispose of, hypothecate, grant a security interest in, grant options with respect to, or otherwise dispose of (directly or indirectly or by operation of law or otherwise, of record or not), all or any part of any legal or beneficial interest in any part or all of the Property or the Leases, or any interest therein, or any or all of the rents, issues, deposits or profits therefrom, or

(ii) sell, assign or otherwise dispose of (whether or not of record or for consideration or not), or permit the sale, assignment or other disposition of, any legal or beneficial interest in the stock of Borrower, if a corporation, in a member's interest, if a limited liability company, or in any general or limited partnership interest in Borrower, if a general or limited partnership or joint venture (all said encumbrances, sales, contracts, leases or other transfers described above being collectively described as a "Prohibited Transfer").

Any Prohibited Transfer made without the consent of Beneficiary, including without limitation any breach of the foregoing by a holder of any interest (legal or beneficial) or stock in Borrower shall constitute an Event of Default under Section 7.1(a) and, in addition to each and every of Beneficiary's rights and remedies under the Loan Documents for such default, Borrower shall be immediately obligated to pay Beneficiary a sum equal to the Assumption Fee, as hereinafter defined, which shall not be deemed liquidated damages.

Beneficiary's consent may be withheld regardless of whether any Prohibited Transfer may or may not impair Beneficiary's security or whether or not it may or may not be reasonable (commercially or otherwise) for Beneficiary to consent to any Prohibited Transfer. Without limiting the foregoing, Beneficiary's consent may, if given in Beneficiary's sole unfettered discretion, be conditioned upon (by way of illustration only and not being limited to): the payment of an assumption fee, an increase in the interest rate, an approval of the credit of any such grantee, vendee, optionee or transferee, a management contract acceptable to Beneficiary with a manager acceptable to Beneficiary, an assignment to Beneficiary of any security given to Borrower in connection with the transaction, including without limitation any purchase money second mortgage and/or a change in any of the other terms and conditions of this Indenture or in any of the Loan Documents.

(b) Notwithstanding the foregoing, Borrower may make a one-time sale of the Property to a purchaser without a change in loan terms, provided that (a) at least 30 days prior to the proposed transfer, Borrower shall provide Beneficiary with notice of and a detailed explanation of the proposed transaction and such financial information and other documentation regarding the prospective purchaser as the Beneficiary may request, (b) the prospective purchaser meets Beneficiary's credit, management and other criteria, as may be determined all in Beneficiary's sole discretion, (c) the purchaser, Borrower and Borrower's guarantor(s) execute

assumption documentation acceptable to Beneficiary, including without limitation an environmental indemnity agreement, and pay Beneficiary's reasonable attorneys' fees and costs incurred, (d) the purchaser or Borrower, at their expense, cause the Beneficiary's mortgagee's title insurance policy to be endorsed showing no adverse change in title to the Property, in connection with said assumption, (e) the purchaser pays Beneficiary an assumption fee ("Assumption Fee") not to exceed one percent (1%) of the loan balance at the time of approval of assumption or closing at Beneficiary's option, (f) Beneficiary shall have approved, in the exercise of its sole discretion, any management agreement to be executed by the prospective purchaser and any such management agreement shall be subordinated to this Indenture and the other Loan Documents, by subordination agreement acceptable to Beneficiary; and (g) no Event of Default exists under any of the Loan Documents and no event has occurred which, with the passage of time or the giving of notice or both could become an Event of Default, and (h) Borrower provides documentation and proof reasonably acceptable to Beneficiary that the "Annual Net Operating Income" of the Property, as defined in the next paragraph, is equal to at least one hundred forty percent (140%) of the total annual debt service under the Loan Documents [and any Subordinate Deed of Trust, defined below] and that such Annual Net Operating Income will continue for a duration reasonably acceptable to Beneficiary.

"Annual Net Operating Income" shall mean the positive difference between "Operating Income" and "Operating Expenses," defined below. "Operating Income" shall mean all lease payments and any triple net payments received by the Borrower from the Property for the applicable year. "Operating Expenses" shall mean all costs and expenses for the applicable year incurred or to be incurred by the Borrower in connection with the ownership and operation of the Property, including without limitation, real estate taxes and insurance in respect to the Property, utilities for and trash removal from the Property, repair and maintenance costs reasonably incurred for the Property and a reserve for repair, maintenance and replacement costs of the Property acceptable to Beneficiary, water charges for the Property and leasing commissions and management fees in respect to the Property.

(c) Further, provided no Event of Default exists under any of the Loan Documents and no event has occurred which, with the passage of time or giving of notice, or both, could become an Event of Default, transfers by sale, gift, inter vivos transfer in trust or devise (provided that, in the case of devise, in addition to the applicable Transfer Conditions, defined below, the requirements under Paragraph 7.1(f) below are timely and fully satisfied), as applicable (collectively referred to as "transfers"), may be made of (a) limited partnership interests in the Borrower, provided that subparagraph (iii) of the Transfer Conditions (defined below), and any of subparagraphs (i), (ii) or (iv) of the Transfer Conditions, defined below, is satisfied; and (b) the entire Property by the Borrower, provided that any of subparagraphs (i) or (ii) of the Transfer Conditions is satisfied. The term "Transfer Conditions", in respect to or after a transfer, shall mean: (i) the transferee is Warren H. Clark (referred to as "Principal"); (ii) the transferee is an entity controlled by the Principal (control meaning voting control); (iii) the Principal remains as the sole general partner of the Borrower and retains at least fourteen percent (14%) ownership interest of the Borrower; and (iv) the transferee is a Family Member, defined below, of the transferor or of the Principal. "Family Member" shall mean an adult who is a spouse, sibling or lineal descendant of the transferor or the Principal, or a spouse of such sibling or lineal descendant, or a trust for the benefit of one or more Family Members. Subsequent transfers by Family Members to other Family Members will be permitted. Transfers to minors, who but for their minority would fall within the definition of Family Member, shall not be permitted unless the transfer is to a trust or custodian under the Uniform Gifts to Minors Act or similar custodial law. At least thirty (30) days prior to any such transfer, Beneficiary shall be furnished with such documentation as is reasonably required by Beneficiary to evidence that such transfer is permitted under this paragraph. Any transfer permitted by this paragraph shall not relieve the Borrower or Principal from their obligations under the Loan Documents and any guaranty or environmental indemnity agreement. Upon any of the transfers described in this paragraph, the transferees (except limited partners of the Borrower) shall execute assumption documentation acceptable to Beneficiary, the transferees shall pay Beneficiary's reasonable attorney's fees and costs incurred and, at the transferee's expense, cause Beneficiary's mortgagee's title insurance policy to be endorsed showing no adverse change in title to the Property in connection with the assumption.

4.6. Financial Records and Statements. Borrower shall keep accurate books and records in accordance with federal income tax basis of accounting, consistently applied, in which

full, true and correct entries shall be promptly made as to all operations of the Property and shall permit all such books and records to be inspected and copied by Beneficiary, its designee or its representatives during customary business hours. Borrower shall deliver or cause to be delivered to Beneficiary within sixty (60) days after the end of each calendar year a statement of condition or balance sheet of Borrower relating solely to the Property as at the end of such year and an annual operating statement showing in reasonable detail all income and expenses of Borrower with respect to the Property, both certified as to accuracy at Beneficiary's option: (a) by Borrower; or (b) by an independent certified public accountant acceptable to Beneficiary (said documents need not be audited but shall be reviewed); and a current list of all persons then occupying portions of the Property under their Leases, the rentals payable by such tenants and the unexpired terms of their Leases, certified as to their accuracy by a representative of Borrower acceptable to Beneficiary, and in form and substance satisfactory to Beneficiary.

In addition, the Borrower and its guarantors shall deliver or cause to be delivered to Beneficiary their respective balance sheets and income and expense statements under original signature within sixty (60) days after the end of each calendar year.

4.7. Further Assurances. Borrower shall promptly upon request of Beneficiary (a) correct any defect, error or omission which may be discovered in the contents of any Loan Document or in the execution or acknowledgment thereof; or (b) execute, acknowledge, deliver and record or file such further instruments (including, without limitation, mortgages, deeds of trust, security agreements, financing statements and specified assignments of rents or leases); or (c) join with the Beneficiary in notifying any third party, who is in possession of any Personalty, of Beneficiary's security interest in such Personalty and obtaining the acknowledgment from such third party that it is holding such Personalty for the benefit of Beneficiary; or (d) cooperate with Beneficiary in obtaining control (as defined in the Uniform Commercial Code as now adopted and amended from time to time in the State) with respect to Personalty consisting of deposit accounts, letter-of-credit rights and electronic chattel paper and do such further acts, in any case as may be necessary, desirable or proper in Beneficiary's opinion to (i) carry out more effectively the purposes of the Loan Documents, (ii) protect and preserve the first and valid lien and security interest of this Indenture on the Property or to subject thereto any property intended by the terms thereof to be covered thereby, including, without limitation, any renewals, additions, substitutions or replacements thereto or (iii) protect the interest and security interest of Beneficiary in the Property against the rights or interests of third parties. By signing this Indenture, Borrower authorizes Beneficiary to file such financing statements, with or without the signature of Borrower, as Beneficiary may elect, as may be necessary or desirable to perfect the lien of Beneficiary's security interest in the Fixtures and Personalty. Borrower further authorizes Beneficiary to file, with or without any additional signature from Borrower, as Beneficiary may elect, such amendments and continuation statements as Beneficiary may deem necessary or desirable from time to time to perfect or continue the lien of Beneficiary's security interest in the Fixtures and Personalty. Borrower hereby expressly ratifies any financing statements that may have been filed by Beneficiary in advance of the date hereof to perfect Beneficiary's security interest in the Fixtures and Personalty.

Borrower hereby appoints Beneficiary as its attorney-in-fact, coupled with an interest, to take the above actions and to perform such obligations on behalf of Borrower, at Borrower's sole expense, if Borrower fails to comply fully with Borrower's obligations under this Paragraph 4.7.

4.8. Indemnity. Borrower shall and does hereby agree to, indemnify, defend and hold harmless Trustee and Beneficiary from and against, and reimburse Trustee and Beneficiary for all claims, demands, liabilities, losses, damages, judgments, penalties, costs and expenses, including, without limitation, attorneys' fees and disbursements, which may be imposed upon, asserted against or incurred or paid by either Trustee or Beneficiary by reason of, on account of or in connection with any bodily injury or death or property damage occurring in, upon or in the vicinity of the Property through any cause whatsoever, or asserted against Beneficiary on account of any act performed or omitted to be performed under the Loan Documents or on account of any transaction arising out of or in any way connected with the Property or the Loan Documents.

4.9. No Preferences. Borrower shall not repay any sums borrowed from anyone other than Beneficiary, if, as a result of, or concurrently with the making of, such payments,

Borrower would then be in default under the Loan Documents or in the payment of obligations incurred in the ordinary operation of the Property.

4.10. Notices. Borrower shall deliver to Beneficiary at Beneficiary's Notice Address promptly upon receipt of the same, copies of all notices, certificates, documents and instruments received by Borrower which materially and adversely affect Borrower, the Property or the Leases.

4.11. Estoppel Certificates. Borrower shall promptly furnish to Beneficiary from time to time, on the request of Beneficiary, written statements signed and, if so requested, acknowledged, setting forth the then unpaid principal, premium and interest on the Note and specifying any claims, offsets or defenses which Borrower asserts against the Secured Debt or any obligations to be paid or performed by Borrower under the Loan Documents, together with any other information reasonably requested by Beneficiary.

4.12. Legal Existence and Place of Business. If Borrower as an entity is executing this instrument:

(a) Authorization; Organization. Borrower warrants that (i) it is duly organized and validly existing, in good standing under the laws of the state of its organization, (ii) it is duly qualified to do business and is in good standing in the state of its organization and in the state where the Property is located, (iii) it has the power, authority and legal right to carry on the business now being conducted by it and to engage in the transactions contemplated by the Loan Documents, and (iv) the execution and delivery of the Loan Documents and the performance and observance of the provisions thereof have been duly authorized by all necessary actions of Borrower.

(b) Dissolution; Disposition of Assets; State of Organization. Borrower agrees that so long as any of its obligations hereunder, or under the Loan Documents remain unsatisfied, it will not dissolve or liquidate (in whole or in part) its existence, that it will maintain its existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another entity, and will not change the state of its organization, without the prior express written consent of the Beneficiary except as may be otherwise provided herein.

(c) Place of Business. Borrower agrees that so long as any of its obligations hereunder, or under the Loan Documents, remain unsatisfied it will not change its place of business, or if it has more than one place of business, it will not change its chief executive office (i.e. the place from where the Borrower manages the main part of its business operations or affairs), unless Borrower shall have delivered to Beneficiary written notice of such proposed change not less than thirty (30) days before the effective date of such change and shall have taken all action which Beneficiary determines to be reasonably necessary or desirable to file or amend any Uniform Commercial Code financing statement or continuation statement regarding the loan evidenced and secured by the Note and the Loan Documents.

4.13 Place of Residence. If Borrower as an individual is executing this instrument, Borrower agrees that so long as any of its obligations hereunder, or under the Loan Documents, remain unsatisfied, Borrower will not change his/her place of residence, unless Borrower shall have delivered to Beneficiary written notice of such proposed change not less than thirty (30) days before the effective date of such change, and shall have taken all action which Beneficiary determines to be reasonably necessary or desirable to file or amend any Uniform Commercial Code financing statement or continuation statement regarding the loan evidenced and secured by the Note and the Loan Documents.

4.14 Borrower Name or Identity. Borrower shall not change its name or identity unless Borrower shall have delivered to Beneficiary written notice of such proposed change not less than thirty (30) days before the effective date of such change and shall have taken all action which Beneficiary determines to be reasonably necessary or desirable to file or amend any Uniform Commercial Code financing statement or continuation statement regarding the loan evidenced and secured by the Note and the Loan Documents.

4.15. Defense and Notice of Actions. Borrower shall, without liability, cost or expense to Trustee or Beneficiary, protect, preserve and defend title to the Property, the security hereof and the rights or powers of Trustee or Beneficiary, against all adverse claimants to title or any possessory or non-possessory interests therein, whether or not such claimants or encumbrancers assert title paramount to that of Borrower or Trustee or Beneficiary or claim their interest on the basis of events or conditions arising subsequent to the date hereof.

4.16. Lost Note. Borrower shall, if the Note is mutilated, destroyed, lost or stolen, deliver to Beneficiary, in substitution therefor, a new promissory note containing the same terms and conditions as the Note with a notation thereon of the unpaid principal and accrued and unpaid interest, and that it is in substitution for the Note.

4.17. Personalty. Borrower shall use the Personalty primarily for business purposes and keep it at the Land. Borrower shall immediately notify Beneficiary in writing of any change in its place of business and, as of the execution hereof and hereafter from time to time when requested by Beneficiary, upon any acquisition of items or property constituting Personalty, Borrower shall provide Beneficiary with a current, accurate inventory of the Personalty.

4.18. Assignment of Leases. (a) All of the existing and future Leases are hereby absolutely and presently assigned to the Beneficiary. However, Beneficiary hereby grants to Borrower a license to collect, subject to the provisions set forth below and in the Loan Documents, the rents, royalties, income, profits and other sums due under the Leases as they respectively come due, and to enforce the Leases so long as there is no default by Borrower in the performance of the terms, covenants or provisions of the Note, the Loan Documents or this Indenture. Upon any Event of Default by the Borrower, Beneficiary may in its discretion at any time without notice to Borrower collect the rents, royalties, income, profits and other sums due thereunder itself or by an agent or receiver. No action taken by the Beneficiary to collect any rents, royalties, income, profits or such other sums will make the Beneficiary a "mortgagee-in-possession" of the Property. Possession by a court-appointed receiver will not be considered possession by the Beneficiary. All rents, royalties, income, profits and other sums collected by the Beneficiary or a receiver will be applied first to pay all expenses of collection, and then to the payment of all costs of operation and management of the Property, and then to the payment of the indebtedness and obligations secured by this Indenture in whatever order Beneficiary directs in its absolute discretion and without regard to the adequacy of its security.

(b) Except as provided in the Lease Assignment, Borrower will not execute any Leases or occupancy agreements affecting any of the Property without first having received the prior written approval from Beneficiary of the same. Without limiting the foregoing, any managing, leasing or similar fees shall be and are subordinated to the lien of this Indenture.

(c) Without the prior written consent of the Beneficiary, the Borrower shall not accept prepayments of rent exceeding one (1) month under any of the Leases, nor in any manner impair the Borrower's interest in the rents, royalties, income, profits and other sums due and payable under the Leases. The Borrower will perform all covenants of the lessor under the Leases.

(d) If required by the Beneficiary, each Lease affecting any of the Property must provide, in a manner approved by the Beneficiary, that the Lease is junior and subordinate to the lien of this Indenture, and that the tenant will recognize as its lessor any person succeeding to the interest of the Borrower upon any foreclosure of this Indenture or upon deed-in-lieu of foreclosure of this Indenture.

(e) Nothing herein shall render Beneficiary liable under any existing or future Lease, regardless of the collection of rents thereunder, for any of the covenants or agreements of Borrower under such leases.

5. CASUALTIES AND TAKINGS.

5.1. Notice to Beneficiary. In the case of any act or occurrence of any kind or nature which results in damage, loss or destruction to the Property (a "Casualty"), or commencement of any proceedings or actions which might result in a condemnation or other

taking for public or private use of the property or which relates to injury, damage, benefit or betterment thereto (a "Taking"), Borrower shall immediately notify Beneficiary describing the nature and the extent of the Taking or the Casualty, as the case may be. Borrower shall promptly furnish to Beneficiary copies of all notices, pleadings, determinations and other papers in any such proceedings or negotiations.

5.2. **Repair and Replacement.** In case of a Casualty, the Borrower will promptly restore the Property to the equivalent of its original condition, regardless of whether insurance proceeds exist or are sufficient. In case of a Taking, the Borrower will promptly restore, repair or alter the remaining property in a manner reasonably satisfactory to the Beneficiary. Provided, however, upon a Casualty or Taking, if Beneficiary applies the Insurance Proceeds (defined below) or the Taking Proceeds (defined below) to the reduction of the Secured Debt, Borrower shall be obligated only to remove any debris from the Property and take such actions as are necessary to make the undamaged or non-taken portion of the Property into a functional economic unit, insofar as is practicable under the circumstances.

5.3. **Proceeds.**

(a) **Collection.** Borrower shall use its best efforts to collect the maximum amount of insurance proceeds payable on account of any Casualty ("Insurance Proceeds"), and the maximum award of payment or compensation payable on account of any Taking ("Taking Proceeds"). In the case of a Casualty, Beneficiary may, at its sole option, make proof of loss to the insurer, if not made promptly by Borrower. Borrower shall not settle or otherwise compromise any claim for Insurance Proceeds or Taking Proceeds without Beneficiary's prior written consent.

(b) **Assignment to Beneficiary.** Borrower hereby assigns, sets over and transfers to Beneficiary all Insurance Proceeds and Taking Proceeds and authorizes payments of such Proceeds to be made directly to Beneficiary. Beneficiary may, at its sole option, apply such Proceeds to either of the following, or any combination thereof:

(i) payment of the Secured Debt, either in whole or in part, in any order determined by Beneficiary in its sole unfettered discretion, even if the proceeds in such case are in an amount less than would be available if applied to repair or replacement; or

(ii) repair or replacement, either partly or entirely, of any part of the Property so destroyed, damaged or taken, in which case Beneficiary may impose such terms, conditions and requirements for the disbursement of proceeds for such purposes as it, in its sole unfettered discretion, deems advisable. Beneficiary shall not be a trustee with respect to any Insurance Proceeds or Taking Proceeds, and may commingle Insurance Proceeds or Taking Proceeds with its funds without obligation to pay interest thereon.

If any portion of the Secured Debt shall thereafter be unpaid, Borrower shall not be excused from the payment thereof in accordance with the terms of the Loan Documents. Beneficiary shall not, in any event or circumstances, be liable or responsible for failure to collect or exercise diligence in the collection of any Insurance Proceeds or Taking Proceeds.

5.4. Notwithstanding anything to the contrary which may be contained in Paragraph 5.3, and so long as (i) no default exists under the Loan Documents, (ii) none of the Anchor Tenant Leases (as defined in paragraph 11) of the Note are terminated as a result of such Casualty or Taking, and (iii) the Anchor Tenant Leases require Borrower to rebuild or restore the leased premises pursuant to the Leases, then upon written request by Borrower to Beneficiary, Borrower shall be entitled to the Insurance Proceeds and Taking Proceeds, as the case may be, all of which are payable to Beneficiary pursuant to the terms of Paragraph 5.3, and such proceeds shall be disbursed by Beneficiary to Borrower only upon the terms and conditions hereinafter set forth:

(a) Such proceeds shall be first applied to pay all expenses incurred by Beneficiary in connection with the Casualty or Taking, including, without limitation, attorneys' fees. Proceeds remaining thereafter are referred to hereafter as "Net Proceeds."

(b) Beneficiary shall disburse the Net Proceeds to Borrower on the following terms and conditions:

(i) Prior to the first and each subsequent disbursement, Beneficiary must be satisfied that:

(1.) Beneficiary is holding a fund comprised of (a) the Net Proceeds and, if necessary, (b) additional deposits made by Borrower or tenants of the Property, which, in the reasonable judgment of Beneficiary, are sufficient to restore the Improvements on the Land to their condition immediately prior to the loss or damage, together with (c) a fund (comprised of rental interruption insurance proceeds or funds deposited by Borrower) sufficient to pay operating expenses, taxes, debt service on the Note and other so-called "carrying costs" of the Property during the period of repair;

(2.) after the repairs are completed, the Property will produce sufficient income to pay operating expenses, taxes, debt service on the Note and other so-called "carrying costs" of the Property;

(3.) the repairs will be conducted under the supervision of an architect, engineer and/or a general contractor selected and paid by Borrower and approved by Beneficiary;

(4.) the repairs will be performed pursuant to plans and specifications approved by Beneficiary and by a contractor selected and paid by Borrower and approved by Beneficiary;

(5.) the Property, after the repairs are completed, will be in compliance with all applicable laws, ordinances, regulations and the like; and

(6.) no default, or occurrence which with the passage of time or the giving of notice will be a default, exists under any of the terms, covenants and conditions of the Loan Documents.

(ii) With respect to each disbursement and accompanying each request therefor, Borrower will deliver to Beneficiary:

(1.) a certificate addressed to Beneficiary executed by Borrower and by the architect, engineer or general contractor supervising the repairs, stating that such disbursement is to pay for costs of repair not paid previously by any other prior disbursement and that the amount of such disbursement does not exceed the aggregate of such costs incurred or paid on account of work, labor or services performed and material installed in or stored upon the Property at the date of such certificate; and

(2.) an endorsement to Beneficiary's mortgagee's title insurance policy, in which the making of the disbursement is recognized and the effective date of coverage is changed to the date of disbursement.

(iii) Each disbursement shall be in an amount equal to ninety percent (90%) of the costs described in the certificate referred to in Paragraph (b)(ii)(1) above. Disbursement of the final balance of the Net Proceeds, constituting not less than ten percent (10%) thereof, shall be disbursed only upon delivery to Beneficiary of the following, in addition to the foregoing:

(1.) evidence satisfactory to Beneficiary that all claims then existing for labor, services and materials enforceable by lien upon the Property have been paid in full or provision acceptable to Beneficiary has been made therefor;

(2.) a certificate of such architect or engineer or general contractor that the repairs of the Property have been completed in a good and workmanlike manner pursuant to the plans and specifications approved by Beneficiary and in accordance with all laws, rules, regulations, orders, codes and ordinances then applicable to such restoration; and

(3.) an estoppel certificate in form satisfactory to Beneficiary from each tenant occupying or leasing space in the Property affected by the loss.

(c) If the loss or damage is repaired pursuant to paragraph (b) above, Beneficiary shall apply any Net Proceeds in excess of the amount used for such repairs to reduction of the obligations secured hereby.

(d) If any of the foregoing conditions are not or cannot be satisfied, the provisions of this Indenture relating to disposition of Insurance Proceeds and Taking Proceeds shall again become applicable. Moreover, in such cases, Beneficiary shall have the option to make the repairs for and on Borrower's behalf and do any other act Beneficiary deems necessary and appropriate.

(e) Beneficiary shall in no event be liable for the performance or observance of any covenant or condition arising under any of the Leases in connection with the Property nor be obligated to take any action to repair or restore the Property.

(f) Notwithstanding the foregoing, the obligations of Beneficiary hereunder are subject always to the right and option of Beneficiary to apply all or any portion of the Net Proceeds to cure any default existing or arising at any time or times in the terms, covenants and conditions of the Note or other Loan Documents.

6. LEGAL PROCEEDINGS. Whether or not an Event of Default (as defined in Paragraph 7.1) has occurred and exists, Beneficiary shall have the right, but not the duty or obligation, to intervene or otherwise participate in, prosecute or defend at any time any legal or equitable proceedings (including, without limitation, any eminent domain proceedings) which, in Beneficiary's sole unfettered discretion, affect the Property, the Leases or any of the rights created by the Loan Documents.

7. DEFAULTS; REMEDIES OF BENEFICIARY

7.1. Defaults; Events of Default. Any of the following shall constitute an "Event of Default" hereunder (notice and cure periods, if and to the extent applicable to the particular Events of Default, appear in the paragraph immediately following Subparagraph 7.1(g) below):

(a) Breach of Named Covenant. Any breach by Borrower of the covenants in this Indenture in Paragraphs 4.1 (Payments), 4.3 (Insurance), 4.5 (Sales and Encumbrances), 4.8 (Indemnity) or under the environmental indemnity agreement of even date; or

(b) Misrepresentations. Any representation or warranty made by Borrower or any person(s) or entity(ies) comprising Borrower or any guarantor(s) under the loan application or Loan Documents or any certificate or side letter delivered in connection with the loan application or Loan Documents proves to be untrue, misleading or is not fulfilled; or

(c) Breach of Covenant. Any breach by Borrower of any other covenant in the Loan Documents or any covenant contained in any of the Leases or failure to observe or perform any other covenant, agreement, condition, term or provision of any of the Loan Documents or any Lease or any certificate or side letter delivered in connection with the Loan Documents; or

(d) Bankruptcy. Immediately upon the occurrence of any of the following without the doing of any act or the giving of any notice by Beneficiary: (i) any one or more of the then legal or beneficial owners of the Property, or any individual or entity then personally liable on the Secured Debt (including, without limitation, any guarantor) or, if Borrower is a partnership, any general partners or joint venturer (collectively the "Parties in Interest") becomes insolvent, makes a transfer in fraud of, or assignment for the benefit of, creditors or admits in writing its inability, or is unable, to pay debts as they become due; or (ii) a receiver or trustee is appointed for all or substantially all of the assets of a Party in Interest or for the Property in any proceeding brought by a Party in Interest, or any such receiver or trustee is appointed in any proceeding brought against a Party in Interest or the Property and not discharged within sixty (60) days after such appointment, or a Party in Interest consents or

acquiesces in such appointment; or (iii) a Party in Interest files a petition under the Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof, or is adjudged a debtor under the Bankruptcy Code or insolvent; or (iv) a petition or answer proposing the adjudication of a Party in Interest as a bankrupt or its reorganization under any present or future federal or state bankruptcy or similar law is filed in any court and such petition or answer is not discharged or denied within sixty (60) days after the filing thereof; or (v) any composition, rearrangement, liquidation, extension, reorganization or other relief of debtors now or hereafter existing is requested by a Party in Interest; or

(e) Adverse Court Action. A court of competent jurisdiction enters a stay order with respect to, assumes custody of or sequesters all or a substantial part of the Property, or the Property is taken on execution or by other process of law; or

(f) Suspension. Borrower or any person(s) or entity(ies) comprising Borrower or any guarantor(s) under the Loan Documents dies or terminates or suspends its business. In the case of death, however, the default may be cured, provided that, within ninety (90) days of the death of a general partner or any guarantor, (i) the Beneficiary, on one hand, and the decedent's personal representative, administrator or other person or entity lawfully authorized to deal with decedent's assets, the person or entity, who is to receive the decedent's interest in the Property, and any of the remaining original obligors, as applicable, on the other hand, reach written agreement as to the assumption of the decedent's obligations upon the Loan Documents, the Guaranty and the separate Environmental Indemnity Agreement by a person or entity, who meets Beneficiary's credit, management and other criteria, as may be determined all in Beneficiary's reasonable discretion, and (ii) if such death results in the transfer of the Property, the terms and conditions of Paragraph 4.5 are satisfied with respect to such transfer; or

(g) Other Events. Any other event occurs which, under the Loan Documents, constitutes a default by the Borrower or gives the Beneficiary the right to accelerate the indebtedness secured by this Indenture.

Upon an Event of Default under Paragraph 7.1(a) above, except for a breach by Borrower under Paragraphs 4.1, 4.3 or 4.5 hereof for which Borrower shall have no notice and cure rights, Beneficiary shall give Borrower ten (10) days' written notice of such failure prior to exercising any rights or remedies it has under this Indenture or the other Loan Documents (except the right to appointment of a receiver), during which time the Borrower may cure the failure to pay. Upon any Event of Default except under Paragraph 7.1(a), Beneficiary shall give Borrower thirty (30) days' written notice of such default prior to exercising any rights it has under this Indenture or the other Loan Documents (except the right to appointment of a receiver), during which time the Borrower may cure the default. Provided, however, any late charge accruing during the cure period shall be due and payable as part of the cure and these cure provisions shall not affect the accrual of late charges.

7.2. Remedies. In case of an Event of Default, Beneficiary may, at any time thereafter, at its continuing option and without notice except as provided in the immediately preceding paragraph, exercise any or all of the following remedies:

(a) Acceleration. Declare the entire Secured Debt due and payable, and it shall thereupon be immediately due and payable;

(b) Possession of Property and Receiver. Enter onto and take the Encumbered Property, in person or by agent or by court-appointed receiver, and take any and all steps which may be desirable in Beneficiary's judgment to manage and operate the Encumbered Property, and the Beneficiary may apply any rents, royalties, income or profits collected against the obligations secured by this Indenture without in anyway curing or waiving any Event of Default as to Borrower. Without limiting the foregoing,

(i) Beneficiary shall be entitled to a receiver for the Encumbered Property and of the rents, issues and profits thereof, and shall be entitled thereto as a matter of right, including whether or not a non-judicial foreclosure has been initiated, without regard to the solvency or insolvency of the Borrower or the then owner of the Encumbered Property and, if allowed by law, without regard to the value of the Encumbered Property, and, if allowed by law, and such receiver may be appointed by any court of competent jurisdiction upon

ex parte application and without notice (notice being expressly waived hereby), and all rents, issues and profits, income and revenue of and from the Encumbered Property shall be applied and accounted for as the court appointing such receiver may direct.

(ii) That if the appointment of a receiver is made before or after Trustee's or judicial sale and the Beneficiary is the successful bidder, the appointment shall continue until the earlier of redemption from sale, as provided by statute, or issuance of a Trustee's or sheriff's deed even in the event the full indebtedness has been bid.

(iii) If for any reason Beneficiary deems a receiver necessary and if application for appointment of receiver is made after sale, Trustee or Beneficiary, if allowed by law, shall be entitled to a receiver and shall be entitled thereto as a matter of right, without regard to its bid amount or to the solvency of the Borrower or the then owner of the Encumbered Property and, if allowed by law, without regard to the value of the Encumbered Property; and such receiver may be appointed by any court of competent jurisdiction upon ex parte application and without notice (notice being expressly waived hereby), and all rents, issues and profits, income and revenue of and from the Encumbered Property shall be applied and accounted for as the court appointing such receiver may direct. It is the Borrower's intent that the Trustee or Beneficiary shall be absolutely entitled to the appointment of a receiver even after sale and that this language shall be sufficient for such appointment.

(iv) In the event redemption does not occur and subject to order of the court appointing the receiver, the Borrower shall be entitled to any excess funds held by the receiver after first paying from the rents, issues, profit, income and revenues of the Encumbered Property all court approved costs, expenses and fees of the receiver incurred in the performance of its duties and any sums owed to Beneficiary under the Note, this Indenture or any other Loan Document.

It is the Borrower's express agreement pursuant to Rule 66, Utah Rules of Civil Procedure, and any successor rule or statute, that Beneficiary shall have the rights to an appointment of a receiver as provided for herein.

(c) Foreclosure. Notify the Trustee of the Event of Default and direct the Trustee to record and deliver to Borrower, as provided by law, a notice of default and election to sell. After lapse of such time as may then be required by law and after notice of sale has been given as required by law, Trustee shall foreclose this Indenture and sell and dispose of the Property (in masse or in separate parcels, as said Beneficiary may think best to the fullest extent now or hereafter allowed by law), and all of the right, title and interest of the Borrower therein and thereto at public auction at the Courthouse in the County in which the Property is located, or at any other place then authorized by law, as may be specified in the notice of such sale, for the highest and best cash price the same will bring, payable in lawful money of the United States at the time of sale. Trustee shall deliver to the purchaser or purchasers thereof a Trustee's Deed conveying the property so sold, but without any warranty or covenant, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. The Trustee shall, out of the proceeds or avails of such sale, after first paying and retaining all fees, charges, expenses and costs of making said sale, including an attorney's fee in the amount as hereinafter provided for, pay to the Beneficiary the then existing amount of the indebtedness, rendering the excess proceeds of said sale, if any, unto (i) the Borrower, or the successors or assigns of the Borrower; (ii) other lien claimants having an interest in the Property; or (iii) interpleading such excess proceeds in a court, having jurisdiction, for distribution. The Beneficiary may purchase the Property, or any part thereof, applying the amount owing on the Note toward the payment of the purchase price bid; it shall not be obligatory upon any purchaser at any such sale to see to the application of the purchase money.

(d) Offset Rights. Apply in satisfaction of the Secured Debt or any amount at any time to become due or payable in connection with the ownership, occupancy, use, restoration or repair of the Property, any deposits or other sums credited by or due from Beneficiary to Borrower, including, without limitation, Insurance Proceeds, Taking Proceeds and funds held in the escrow account referred to in Paragraph 4.4.

(e) Cure of Default. Without releasing Borrower from any obligation hereunder or under the Loan Documents or waiving any Event of Default, Beneficiary may cure

any Event of Default. In connection therewith, Beneficiary may enter upon the Property and do such acts and things as Beneficiary deems necessary or desirable to protect the Property or the Leases, including, without limitation: (i) paying, purchasing, contesting or compromising any encumbrance, charge, lien, or claim, Property Taxes and Charges or Property Liabilities; (ii) paying any Insurance Premiums and (iii) employing counsel, accountants, contractors and other appropriate persons to assist Beneficiary in the foregoing. Should Beneficiary make any such payments, the amount thereof shall be secured hereby and Borrower shall reimburse Beneficiary therefor immediately upon demand, and said amount shall bear interest at the After-Maturity Rate specified in the Note until repaid.

(f) Uniform Commercial Code Remedies. Exercise any and all rights of a secured party under the Uniform Commercial Code of the State with respect to all of the Encumbered Property which is subject to the Uniform Commercial Code and in conjunction with, in addition to or in substitution for those rights and remedies:

(i) take possession of, assemble and collect the Personalty or render it unusable by Borrower; and

(ii) require Borrower to assemble the Personalty and make it available at any place Beneficiary may designate so as to allow Beneficiary to take possession or dispose of the Personalty.

Written notice mailed to Borrower, as provided herein, fifteen (15) days prior to the date of public sale of the Personalty or prior to the date after which private sale of the Personalty will be made, shall be deemed to have been a public sale conducted in a commercially reasonable manner. In the event of a foreclosure sale, whether made by the Trustee under the terms hereof, or under judgment of a court, the Personalty and the other parts of the Property may, at the option of Beneficiary, be sold in parts or as a whole. If allowed by law, the Personalty and the Property may be sold together by decree of Trustee under the power of sale granted hereby (which power of sale does and shall be deemed to apply to both the Personalty and the Property) or by a decree of the court in any judicial sale. It shall not be necessary that Beneficiary take possession of the Personalty prior to the time that any sale pursuant to the provisions of this subparagraph is conducted and it shall not be necessary that the Personalty be present at the location of such sale;

A CARBON, PHOTOGRAPH OR OTHER REPRODUCTION OF THIS INDENTURE OR ANY FINANCING STATEMENT RELATING TO THIS INDENTURE SHALL BE SUFFICIENT AS A FINANCING STATEMENT. THIS INDENTURE IS EFFECTIVE AND SHALL BE EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING WITH RESPECT TO ALL GOODS WHICH ARE OR ARE TO BECOME FIXTURES INCLUDED WITHIN THE PROPERTY AND IS TO BE FILED FOR RECORD IN THE REAL ESTATE RECORDS OF THE LOCATION IN THE STATE WHERE THE PROPERTY IS SITUATED. THE MAILING ADDRESS OF BENEFICIARY AND THE ADDRESS OF BORROWER FROM WHICH INFORMATION CONCERNING THE SECURITY INTEREST MAY BE OBTAINED ARE SET FORTH ON THE COVER SHEET HEREOF;

(g) Judicial Actions. Commence and maintain an action or actions in any court of competent jurisdiction at law or in equity to foreclose this Indenture as a mortgage pursuant to the Laws of the State or to obtain specific enforcement of the covenants of Borrower hereunder. Borrower agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy. Borrower agrees that any one action shall not abate or be a bar to or waiver of Beneficiary's right to institute or maintain any other, provided that Beneficiary shall have only one payment and satisfaction of the Secured Debt;

(h) Other Sale. Cause any or all of the Property to be sold in any manner permitted by applicable law.

(i) Subrogation. Have and exercise all rights and remedies of any person, entity or body politic to whom Beneficiary renders payment or performance in connection with the exercise of its rights and remedies under the Loan Documents, including, without limitation, any rights or remedies under any mechanics' or vendors' lien or liens, superior

titles, mortgages, deeds of trust, liens, encumbrances, rights, equities and charges of all kinds heretofore or hereafter existing on the Property to the extent that the same are paid or discharged from the proceeds of the Note whether or not released of record.

(j) Other. Exercise any other right or remedy available under Laws or in equity, or under the Loan Documents. Take such other actions or commence such other proceedings as Beneficiary deems necessary or advisable to protect its interest in the Property and its ability to collect the Secured Debt as are available under Laws.

Any sums advanced by Beneficiary under this Paragraph 7.2 shall bear interest at the After-Maturity Rate specified in the Note, shall be payable by Borrower on demand and, together with such interest, shall constitute a part of the Secured Debt.

7.3. General Provisions.

(a) Multiple Sales. Several sales may be made pursuant to Paragraph 7.2 without exhausting Beneficiary's right to such remedy for any unsatisfied part of the Secured Debt and without exhausting the power of sale or power to exercise such remedy for any other part of the Secured Debt, whether matured at the time or subsequently maturing. If a part of the Property is sold pursuant to Paragraph 7.2, and the proceeds thereof do not fully pay and satisfy the Secured Debt, such sale, if so made, shall not in any manner affect the unpaid and unsatisfied part of the Secured Debt, but as to such unpaid and unsatisfied part, the Loan Documents shall remain in full force and effect as though no such sale had been made.

(b) Cumulative Remedies. All of the rights, remedies and options set forth in Paragraph 7.2 or otherwise available at law or in equity are cumulative and may be exercised without regard to the adequacy of or exclusion of any other right, remedy, option or security held by Beneficiary.

(c) Right to Purchase. At any sale or sales of the Property pursuant to Paragraph 7.2, Beneficiary shall have the right to purchase the Property being sold, and in such cases the right to credit the amount of the bid made therefor (to the extent necessary to satisfy such bid) against the amount of the Secured Debt then due.

(d) Right to Termination Proceedings. Beneficiary may, at any time before conclusion of any proceeding or other action brought in connection with its exercise of the remedies provided for in Paragraph 7.2, terminate, without prejudice to Beneficiary, such proceedings or actions.

(e) No Waiver or Release. Beneficiary may resort to any remedies and the security given by the Loan Documents in whole or in part, and in such portions and in such order as may seem best to Beneficiary in its sole unfettered discretion, and any such action shall not in any way be considered as a waiver of any of the rights, benefits or remedies evidenced by the Loan Documents. The failure of Beneficiary to exercise any right, remedy or option provided for in the Loan Documents shall not be deemed to be a waiver of any of the covenants or obligations secured by the Loan Documents. No sale of all or any of the Property, no forbearance on the part of Beneficiary and no extension of the time for the payment of the whole or any part of the Secured Debt or any other indulgence given by Beneficiary to Borrower or any other person or entity, shall operate to release or in any manner affect Beneficiary's interest in the Property or the liability of Borrower to pay the Secured Debt.

(f) Waivers and Agreements Regarding Remedies. To the full extent Borrower may do so, Borrower hereby:

(i) agrees that Beneficiary may in its discretion sell all the Personalty and Realty together or in parts, in one or more sales, and in any sequence Beneficiary selects. It is the specific intent of Borrower and Beneficiary that Beneficiary, at its option, may cause the Encumbered Property to be sold in a single sale. The Trustee, or the Court if by judicial sale, is hereby authorized, upon the election of Beneficiary, to conduct or order a sale of both the items of Personalty and Realty. The Beneficiary's rights hereunder or under any of the other Loan Documents may be enforced alternatively, successively or cumulatively;

(ii) waives all rights and claims Borrower may now have as a Homestead Exemption or which may be hereafter acquired and to a marshalling of the assets of Borrower, including the Property, or to a sale in inverse order of alienation in the event of foreclosure of the interests hereby created, and agrees not to assert any right under any Law pertaining to the marshalling of assets, the sale in inverse order of alienation, the Homestead Exemption, the administration of estates of decedents, or other matters whatsoever to defeat, reduce or affect the right of Beneficiary under the terms of the Loan Documents to a sale of the Property for the collection of the Secured Debt without any prior or different resort for collection, or the right of Beneficiary to the payment of the Secured Debt out of proceeds of sale of the Property in preference to every other claimant whatsoever;

(iii) waives any right to bring or utilize any defense, counterclaim or setoff, other than one which denies the existence or sufficiency of the facts upon which the action is grounded. If any defense, counterclaim or setoff, other than one permitted by the preceding sentence, is timely raised in such foreclosure action, such defense, counterclaim or setoff shall be dismissed. If such defense, counterclaim or setoff is based on a claim which could be tried in an action for money damages, such claim may be brought in a separate action which shall not thereafter be consolidated with Beneficiary's foreclosure action. The bringing of such separate action for money damages shall not be deemed to afford any grounds for staying Beneficiary's action;

(iv) waives and relinquishes any and all rights and remedies which Borrower may have or be able to assert by reason of the provisions of any Laws pertaining to the rights and remedies of sureties; and

(v) to the extent allowed by law, waives the defense of laches and any applicable statutes of limitation.

(g) Beneficiary's Discretion. Beneficiary may exercise its options and remedies under any of the Loan Documents in its sole unfettered discretion. Without limiting the foregoing and by way of amplification, with respect to any right or remedy available to Beneficiary under this Deed of Trust, the Note and the other Loan Documents which arises upon or may be exercised at any time after the occurrence of a default or an Event of Default, or with respect to the Beneficiary's determination as to whether a circumstance or event constitutes a default or Event of Default under the Loan Documents, Beneficiary and Trustor agree that the provisions of this Deed of Trust, the Note and the other Loan Documents shall be strictly construed as written to afford the Beneficiary the full benefit of all such provisions, and Beneficiary and Trustor disclaim and expressly waive the applicability of the implied covenant of good faith and fair dealing. Beneficiary and Trustor intend with respect to such matters that Beneficiary shall be entitled to exercise Beneficiary's choices relating to the enforcement of any rights or remedies following a default or Event of Default in Beneficiary's sole discretion and solely with regard to Beneficiary's subjective determination of what is in the best interests of Beneficiary and without regard to the reasonableness or not of such right or remedy as it might affect the Trustor. Borrower acknowledges that it has adequate protections regarding defaults based upon notice provisions and rights to cure expressly stated in this Deed of Trust, the Note and pursuant to applicable statutes.

(h) Sales. In the event of a sale or other disposition of the Property pursuant to Section 7.2 and the execution of a deed or other conveyance pursuant thereto, the recitals therein of facts (such as 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, purchase, payment of purchase money and other facts affecting the regularity or validity of such sale or disposition) shall be conclusive proof of the truth of such facts. Any such deed or conveyance shall be conclusive against all persons as to such facts recited therein.

The acknowledgment of the receipt of the purchase money, contained in any deed or conveyance executed as aforesaid, shall be sufficient to discharge the grantee of all obligations to see to the proper application of the consideration therefor as herein provided.

(i) Attorneys Fees and Costs. In the event foreclosure be made by Trustee under the power of sale granted under this Indenture, reasonable attorney's, legal clerks

and assistants and paralegal fees shall be allowed as part of the cost of foreclosure, but in the event foreclosure proceedings be made through the courts, attorney's, legal clerks and assistants and paralegal fees in an amount determined by the courts to be reasonable shall be taxed by the court as a part of the costs of such foreclosure proceedings. In addition to such attorney's and other fees, Beneficiary shall be entitled to (and Borrower shall pay) all costs and expenses incurred in connection with the collection and satisfaction of the Secured Debt or otherwise evidenced or secured by the Loan Documents, and in supervision, administration, preservation, protection of and realization upon the Encumbered Property, or any other security, including without limitation, court costs, appraisal fees, survey costs, environmental inspection fees and costs, property management and receiver's fees and costs, and expert fees and costs of every nature, interest on funds advanced by Beneficiary, and other costs incurred by Beneficiary, whether incurred with or without or in any connection with litigation, judicial or non-judicial foreclosure, appeals, bankruptcy proceedings, and any other judicial or non-judicial proceeding.

8. POSSESSION AND DEFEASANCE.

8.1. Possession. Until the occurrence of an Event of Default and except as otherwise expressly provided to the contrary, Borrower shall retain full possession of the Property, subject, however, to all of the terms and provisions of the Loan Documents.

8.2. Defeasance. If all of the Secured Debt is paid as the same becomes due and payable and if all of the covenants, warranties, conditions, undertakings and agreements made in the Loan Documents are kept and performed, then in that event only, all rights under the Loan Documents shall terminate and the Property shall become wholly clear of the liens, grants, security interests, conveyances and assignments evidenced hereby, and Beneficiary shall release or cause to be released, such liens, grants, assignments, conveyances and security interest in due form at Borrower's cost, and this Indenture shall be void.

Recitals of any matters or facts in any instrument executed hereunder shall be conclusive proof of the truthfulness thereof. To the extent permitted by law, such an instrument may describe the grantee as "the person or persons legally entitled thereto." Beneficiary shall not have any duty to determine the rights of persons claiming to be rightful grantees of any of the Property. When the Property has been fully released, such release shall operate as a reassignment of all future rents, issues and profits of the Property to the person or persons legally entitled thereto, unless such release expressly provides to the contrary.

8.3. Partial Release of Northwest Parcel. Beneficiary agrees to partially release that certain parcel of the Property, located at the northwest corner of the Property and legally described on Exhibit C attached hereto (the "Northwest Parcel"), from the encumbrance of this Indenture provided the following conditions are satisfied: (a) no Event of Default exists, irrespective of notice and cure rights, (b)(i) the Northwest Parcel has been subdivided in accordance with applicable Laws, (ii) the Northwest Parcel and the Property remaining subject to this Indenture, after such release, shall be in compliance with applicable Laws, including without limitation, applicable subdivision, zoning and land use laws, and (iii) the Property remaining subject to this Indenture, after such release, shall be a separate tax parcel and shall not be taxed with any additional property, (c) the Property remaining subject to this Indenture, after such release, will have reasonable and adequate vehicular parking easements and rights and vehicular and pedestrian ingress and egress easements and rights, which shall include ingress and egress rights through the presently existing curb cuts from the entirety of the Property to 700 South Street and 2300 East Street, as determined by Beneficiary in its reasonable discretion, and if such easements and rights are not already insured under Beneficiary's mortgagee's title insurance policy, Borrower shall cause such policy, at Borrower's expense, to be endorsed to insure such easements and rights, (d)(i) Borrower has made written request to Beneficiary for such partial release at least thirty (30) days prior to the date upon which the release is requested to be effectuated and (ii) Borrower has provided Beneficiary with such documentation and assurances as Beneficiary may reasonably require in connection with subparagraphs (b) and (c) above, including without limitation as subdivision map act compliance endorsement and separate tax parcel endorsement upon the Property remaining subject to this Indenture, after such release, and (e) the Borrower pays the Beneficiary's costs and expenses of document review and preparation and release fees incurred in connection with such partial release.

9. GENERAL.

9.1. Beneficiary's Right to Waive, Consent or Release. Beneficiary may at any time and from time to time, in writing: (a) waive compliance by Borrower with any covenant herein made by Borrower to the extent and in the manner specified in such writing; (b) consent to Borrower doing any act which Borrower is prohibited hereunder from doing, or consent to Borrower's failing to do any act which Borrower is required hereunder to do, to the extent and in the manner specified in such writing; or (c) release any part of the Property, or any interest therein from this Indenture and the lien of the Loan Documents. No such act shall in any way impair the rights hereunder of Beneficiary, except to the extent specifically agreed to by Beneficiary in such writing.

9.2. No Impairment. The interests and rights of Beneficiary under the Loan Documents shall not be impaired by any indulgence, including, without limitation, (a) any renewal, extension or modification which Beneficiary may grant with respect to any of the Secured Debt, (b) any surrender, compromise, release, renewal, extension, exchange or substitution which Beneficiary may grant in respect of the Property or any interest therein, or (c) any release or indulgence granted to any maker, endorser, guarantor or surety of any of the Secured Debt.

9.3. Amendments. THE LOAN DOCUMENTS, AS WRITTEN, REPRESENT AND ARE THE FINAL EXPRESSION OF AGREEMENT BETWEEN THE BENEFICIARY AND THE BORROWER AND BORROWER'S GUARANTORS AND MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED ORAL AGREEMENT.

The Loan Documents may not be waived, changed or discharged orally, but only by an agreement in writing and signed by Beneficiary, and any oral waiver, change or discharge of any provision of the Loan Documents shall be without authority and of no force and effect. Such waiver, change or discharge shall be effective only in the specific instances and for the purposes for which given and to the extent therein specified.

9.4. No Usury. Any provision contained in any of the Loan Documents notwithstanding, Beneficiary shall not be entitled to receive or collect, nor shall Borrower be obligated to pay interest on, any of the Secured Debt in excess of the maximum rate of interest permitted by applicable Laws, and if any provision of the Loan Documents shall ever be construed or held to permit the collection or to require the payment of any amount of interest in excess of that permitted by such Laws, the provisions of this Paragraph 9.4 shall control unless contrary or inconsistent with any provision of the Note, in which case the provision of the Note shall control. Borrower's and Beneficiary's intent is to conform strictly to the usury laws now in force, and the Loan Documents evidencing or relating to any of the Secured Debt shall be held subject to reduction to conform to said Laws as now or hereafter construed.

9.5. Notices. Any notice, request, demand or other communication required or permitted under the Loan Documents (unless otherwise expressly provided therein) shall be given in writing by delivering the same in person to the intended addressee, by overnight courier service with guaranteed next day delivery or by certified United States Mail, postage prepaid or telegram sent to the intended addressee at the applicable notice address set forth in the cover sheet of this Indenture, or to such different address as either Borrower or Beneficiary shall have designated by written notice to the other sent in accordance herewith. Such notices shall be deemed given when received or, in the case of delivery by certified United States Mail, two (2) days after deposit therein. No notice or demand on Borrower in any case shall of itself entitle Borrower to any other or further notice or demand in similar or other circumstances.

9.6. Successors and Assigns. Without in any way limiting or affecting the due on sale and encumbrance provisions of this Indenture, the terms, provisions, covenants and conditions hereof shall be binding upon Borrower, and any permitted successors and assigns of Borrower, and shall inure to the benefit of Beneficiary and its successors, substitutes and assigns and Trustee and its successors and assigns in trust, and shall constitute covenants running with the Land. All references in this Indenture to Borrower, Beneficiary or Trustee shall be deemed to include all such successors, substitutes and assigns.

If, in contravention of the provisions of this Indenture or otherwise, ownership of the Property or any portion thereof becomes vested in a person other than Borrower, Beneficiary may, without notice to Borrower, whether or not Beneficiary has given written consent to such change in ownership, deal with such successor or successors in interest with reference to the Loan Documents and the Secured Debt in the same manner as with Borrower, without in any way vitiating or discharging Beneficiary's remedies under or Borrower's liability under the Loan Documents or on the Secured Debt.

9.7. Severability. A determination that any provision of the Loan Documents is unenforceable or invalid shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of the Loan Documents to any person or circumstances is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

9.8. Gender and Construction. Within this Indenture, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. References in this Indenture to "herein," "hereunder," or "hereby" shall refer to this entire Indenture, unless the context otherwise requires. When the phrase "in its sole unfettered discretion" is used in the Loan Documents with respect to Beneficiary, it shall permit Beneficiary to evaluate such criteria as it chooses in approving or disapproving the requested or pending action.

9.9. Joint and Several Liability. If Borrower is composed of more than one party, the obligations, covenants, agreements, representations and warranties contained within the Loan Documents, as well as the obligations arising thereunder, are and shall be joint and several as to each such party.

9.10. Modifications. References to any of the Loan Documents in this Indenture shall be deemed to include all amendments, modifications, extensions and renewals thereof.

9.11. Governing Laws. This Indenture shall be construed according to and governed by the laws of the State.

9.12. Captions. All paragraph and subparagraph captions are for convenience of reference only and shall not affect the construction of any provisions herein.

9.13. Acknowledgment of Receipt. Borrower hereby acknowledges receipt, without charge, of a true and complete copy of this Indenture.

9.14. Hazardous Waste. Borrower covenants, represents, and warrants that (a) no toxic or hazardous substances, including without limitation asbestos and the group of organic compounds known as polychlorinated biphenyls, have been or shall be generated, treated, stored or disposed of, or otherwise deposited in or located on the Property, including without limitation the surface and subsurface waters of the Property; (b) no activity has been or shall be undertaken on the Property which would cause (i) the Property to become a hazardous waste treatment, storage or disposal facility within the meaning of, or otherwise bring the Property within the ambit of, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. § 6901 *et seq.*, or any similar State law or local ordinance, (ii) a release or threatened release of hazardous waste from the Property within the meaning of, or otherwise bring the Property within the ambit of, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§ 9601 - 9657, as amended by Superfund Amendments and Reauthorization Act of 1986 ("SARA"), or any similar State law or local ordinance or any other environmental law, or (iii) the discharge of pollutants or effluents into any water source or system, or the discharge into the air of any emissions, which would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, or the Clean Air Act, 42 U.S.C. § 7401, *et seq.*, or any similar State law or local ordinance; (c) there are and shall be no substances or conditions in or on the Property which may support a claim or cause of action under RCRA, CERCLA, SARA, or any other federal, State or local environmental statutes, regulations, ordinances or other environmental regulatory requirements; and (d) there are and shall be no underground storage tanks or underground deposits located on the Property.

9.15. Conflict. The terms of this Indenture, to the degree applicable, shall modify and amend any agreements between Borrower, its general partner, its guarantor and any third parties, or any of them, related to the Encumbered Property. In the event of any conflict between this Indenture and any such other agreement, this Indenture shall control. The Borrower, its general partner and guarantor, individually subordinate to Beneficiary's rights under this Indenture and the other Loan Documents any claims, demands, rights or interests they may now or hereafter have in the Encumbered Property except as created herein.

9.16. After-Acquired Title. The conveyance of the Encumbered Property to Trustee and Beneficiary contained herein shall be effective to convey any after-acquired title which Borrower may obtain in the Encumbered Property.

9.17. Survival. All provisions, covenants and promises of Borrower contained or incorporated herein shall survive foreclosure sale whether or not the full indebtedness has been bid. Without limiting the foregoing and by way of specification only, Borrower shall remain liable to Beneficiary for any sums advanced by Beneficiary for obligations owed to Beneficiary by Borrower whether advanced before or after foreclosure sale or after issuance of deed; provided that, in the case of a full indebtedness bid, such sums advanced have not been included in the indebtedness upon which a full indebtedness bid is made.

9.18. Exhibits. The following are the Exhibits referred to in this Indenture, which are hereby incorporated by reference herein:

Exhibit A - Property Description

Exhibit B - Permitted Exceptions

Exhibit C - Northwest Parcel

10. CONCERNING TRUSTEE.

10.1. Trustee's Covenants. Trustee, by Trustee's acceptance hereof, covenants faithfully to perform and fulfill the trusts herein created, being liable, however, only for gross negligence or willful misconduct, and hereby waives any statutory fee and agrees to accept reasonable compensation, in lieu thereof, for any services rendered by it in accordance with the terms hereof.

10.2. Resignation of Trustee. Trustee may resign at any time upon giving thirty (30) days' notice in writing to Borrower and to Beneficiary.

10.3. Substitution of Trustee. In the event of the death, removal, resignation, refusal to act, or the inability to act of Trustee or in Beneficiary's sole unfettered discretion for any reason whatsoever, Beneficiary may, at any time or from time to time without notice and without specifying any reason therefor and without applying to any court, select and appoint a successor Trustee, and all powers, rights, duties and authority of Trustee, as aforesaid, shall thereupon become vested in such successor without conveyance from the predecessor Trustee. Neither Trustee nor any substitute Trustee shall be required to give bond for the faithful performance of its duties unless required by Beneficiary. Such substitute Trustee shall be appointed by written instrument duly recorded in the county where the Realty is located, which appointment may be executed by an authorized agent of Beneficiary and such appointment shall be conclusively presumed to be executed with authority and shall be valid and sufficient without proof of any action by the Board of Directors and any superior officer of Beneficiary. Borrower hereby ratifies and confirms any and all acts which the herein-named Trustee, or its successors or assigns in this trust, shall do lawfully by virtue hereof. Borrower hereby agrees, on behalf of itself and of its heirs, executors, administrators and assigns, that the recitals contained in any deed or deeds executed in due form by Trustee or any substitute Trustee, acting under the provisions of this Indenture, shall be prima facie evidence of the facts recited, and that it shall not be necessary to prove in any court, otherwise than by such recitals, the existence of the facts essential to authorize the execution and delivery of such deed or deeds and the passing of title thereby.

10.4. Reconveyance and Agreements. At any time, or from time to time, without liability therefor and without notice upon written request of Beneficiary and presentation of this Indenture and the Note or notes secured hereby for endorsement, and without affecting the personal liability of any person for the payment of the Secured Debt or the effect of this Indenture upon the remainder of the Property, Trustee may reconvey any part of the Property, consent in writing to the making of any map or plat thereof, join in granting any easement thereon, or join in any extension agreement or any agreement subordinating the lien or charge hereof.

10.5. Release of Lien. Upon written request of Beneficiary stating that the Secured Debt has been paid and upon surrender to Trustee of this Indenture and the Note or notes secured hereby for cancellation and retention and payment of Trustee's fees, Trustee shall reconvey, without warranty, the Property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."


10.6. Exculpation and Indemnification of Trustee. Trustee shall not be liable for any error of judgment or act done by Trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever, except for Trustee's gross negligence or willful misconduct. Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by it hereunder, believed by Trustee in good faith to be genuine. All monies received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other monies (except to the extent required by law), and Trustee shall be under no liability for interest on any monies received by it hereunder (except to the extent required by law). Borrower will reimburse Trustee for, and indemnify, save harmless and defend Trustee against, any and all liability and expense (including, without limitation, attorneys' fees and expenses) which Trustee may incur in performance of its duties under the Loan Documents.

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IN WITNESS WHEREOF, this instrument has been executed by the undersigned under seal on this 1st day of August, 2003.

BORROWER:

HILLSIDE PLAZA, LTD., a California limited partnership

By: 
Warren H. Clark, general partner

Borrower's Taxpayer Identification/Social Security Number: 94-2641567

STATE OF CALIFORNIA)
COUNTY OF San Francisco)

On August 13, 2003, before me, Samantha Andrada, personally appeared Warren H. Clark, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.




Signature  (Seal)

EXHIBIT A

Parcel 1:

Beginning at a point on the East line of 2300 East Street, said point being South 0 deg. 14'40" West 40.01 feet and South 89 deg. 51'30" East 33.00 feet from the North quarter corner of Section 27, Township 2 South, Range 1 East, Salt Lake Base and Meridian; and running thence South 89 deg. 51'30" East 830.752 feet; thence South 39 deg. 30'00" East 116.859 feet; thence South 39 deg. 10'00" West 243.69 feet; thence South 45 deg. 11'35" West 720.00 feet; thence South 66 deg. 22'30" West 102.47 feet; thence North 89 deg. 45'20" West 150.00 feet to the East line of 2300 East Street; thence North 0 deg. 14'40" East 828.99 feet to the point of beginning.

Parcel 2:

TOGETHER WITH AND SUBJECT TO all of the rights, easements, privileges, benefits and restrictions which are provided for in that certain "Declaration of Restrictions and Reciprocal Easements" dated as of August 1, 1976, executed by Hillside Plaza Associates, a Utah Limited Partnership, affecting the tract of real property described above and a certain parcel located immediately to the Northeast of, and contiguous with, said tract, and recorded in the office of the County Recorder of Salt Lake County as Entry No. 2849657.

Protective Life
Hillside Plaza
Salt Lake City, UT

BK 8864 PG 3426

EXHIBIT B

Permitted Exceptions

1. 2003 general property taxes are Exempt. (Sidwell No. 22-27-201-003) .
2. 2002 general property taxes were paid in the amount of \$6,432.65. Taxes for the year 2003, now accruing but not yet due and payable. (Sidwell No. 22-27-201-001.)
3. 2002 general property taxes were paid in the amount of \$9,388.88. Taxes for the year 2003, now accruing but not yet due and payable. (Sidwell No. 22-27-201-002.)
4. 2002 general property taxes were paid in the amount of \$30,272.70. Taxes for the year 2003, now accruing but not yet due and payable. (Sidwell No. 22-27-201-004)
5. 2002 general property taxes were paid in the amount of \$30,752.49. Taxes for the year 2003, now accruing but not yet due and payable. (Sidwell No. 22-27-201-005)
6. 2002 general property taxes were paid in the amount of \$22,956.21. Taxes for the year 2003, now accruing but not yet due and payable. (Sidwell No. 22-27-201-006)
7. 2002 general property taxes were paid in the amount of \$20,919.17. Taxes for the year 2003, now accruing but not yet due and payable. (Sidwell No. 22-27-201-007)
8. 2002 general property taxes were paid in the amount of \$23,414.12. Taxes for the year 2003, now accruing but not yet due and payable. (Sidwell No. 22-27-201-008)
9. The land described herein is located within the boundaries of the Cottonwood Improvement District and the Salt Lake County Special District #1 and is subject to any assessments levied thereby. Such assessments are collected with general real estate taxes. None are due or payable

EXHIBIT B

Permitted Exceptions

10. Easement, and the terms and conditions thereof:
- Grantee : Salt Lake City
- Purpose : perpetual right of way and easement for the construction, maintenance, repair and replacement of a water supply line, together with the necessary connections thereto, over, under, through and across the following:
- Recorded : October 21, 1964
- Entry No. : 2036121
- Book/Page : 2251-422
- Area Affected : Beginning at a point on the South line of 7000 South Street, said point being South 89 deg. 51'30" East 1732.94 feet along the Section line and South 0 deg. 08'30" West 33.00 feet from the North quarter corner of Section 27, Township 2 South, Range 1 East, Salt Lake Base and Meridian; and running thence South 0 deg. 08'30" West 182.00 feet; thence North 89 deg. 51'30" West 17.00 feet to a point of a 15.0 foot radius curve to the left; thence Westerly and Southerly 32.76 feet along the arc of said curve to a point of a reverse curve to the right, the center of which is North 86 deg. 47'15" West 265.00 feet; thence Southwesterly 227.96 feet along the arc of said curve to a point of tangency; thence South 52 deg. 30' West 246.015 feet to a point of a 320.0 foot radius curve to the right; thence Southerly and Westerly 210.23 feet along the arc of said curve to a point of reverse curve to the left, the radius point of which is South 0 deg. 08'30" West 15.0 feet; thence Westerly and Southerly 23.56 feet along the arc of said curve to a point of tangency; thence South 0 deg. 08'30" West 259.36 feet to a point of a 340.0 foot radius curve to the left; thence Southerly 140.29 feet along the arc of said curve to a point of tangency; thence South 66 deg. 30' West 60.00 feet to a point of a curve to the right, the radius point of which is North 66 deg. 30' East 400.0 feet; thence Northwesterly 87.31 feet along the arc of said curve to a point of a reverse curve to the left, the radius point of which is South 79 deg. 00'20" West 15.00 feet; thence Northerly and Westerly 21.32 feet along the arc of said curve to a point of a compound curve to the left, the radius point of which is South 2 deg. 26' East 175.0 feet; thence Southwesterly 130.01 feet along the arc of said curve to a point of tangency; thence South 45 deg. 00' West

EXHIBIT B

Permitted Exceptions

439.03 feet; thence North 45 deg. 00' West 50.00 feet; thence North 45 deg. 00' East 439.03 feet to a point of a 225.0 foot radius curve to the right; thence Northeasterly 162.76 feet along the arc of said curve to a point of a reverse curve to the left, the radius point of which is North 3 deg. 33'15" West 15.50 feet; thence Easterly and Northerly 23.35 feet along the arc of said curve to a point of tangency; thence North 0 deg. 08'30" East 259.36 feet to a point of a 15.0 foot radius curve to the left; thence Northerly and Westerly 23.56 feet along the arc of said curve to a point of compound curve to the left, the radius point of which is South 0 deg. 08'30" West 175.00 feet; thence Westerly and Southerly 137.88 feet along the arc of said curve to point of tangency; thence South 45 deg. 00' West 317.51 feet; thence North 45 deg. 00' West 50.00 feet; thence North 45 deg. 00' East 317.51 feet to a point of a 225.00 foot radius curve to the right; thence Northerly and Easterly 177.27 feet along the arc of said curve to a point of tangency; thence South 89 deg. 51'30" East 90.00 feet to a point of a 270.0 foot radius curve to the left; thence Easterly and Northerly 177.38 feet along the arc of said curve to a point of tangency; thence North 52 deg. 30' East 246.015 feet to a point of a 215.0 foot radius curve to the left; thence Northeasterly 180.33 feet along the arc of said curve to a point of a compound curve to the left, the radius of which is North 85 deg. 33'25" West 15.00 feet; thence Northerly and Westerly 24.69 feet along the arc of said curve; thence North 0 deg. 08'30" East 50.00 feet; thence South 89 deg. 51'30" East 77.16 feet; thence North 0 deg. 08'30" East 132.0 feet to the South line of 7000 South Street; thence South 89 deg. 51'30" East 20.00 feet along said South line of street to the point of beginning. (Affects Parcel 1 Only)

11. Easement, and the terms and conditions thereof:
- | | | |
|-----------|---|--|
| Grantee | : | Mountain Fuel Supply Company |
| Purpose | : | A right of way and easement to lay, maintain, operate, repair, inspect, protect, remove and replace pipelines, valves, valve boxes and other gas transmission and distribution facilities. |
| Recorded: | : | March 26, 1975 |
| Entry No. | : | 2693900 |
| Book/Page | : | 3814/336 |

EXHIBIT B

Permitted Exceptions

Area Affected : Beginning on the East line of 2300 East Street at a point 876 feet South and 33 feet East from the North quarter corner of Section 27, Township 2 South, Range 1 East, Salt Lake Base and Meridian; thence South 89 deg. 45'20" East 150 feet; thence North 66 deg. 22'30" East 102.47 feet; thence North 45 deg. 11'35" East 720 feet; thence North 39 deg. 10' East 150 feet; thence North 0 deg. 03'30" East 170 feet, more or less, to the South line of 7000 South Street; thence West 20 feet; thence South 0 deg. 03'30" West 162.9 feet; thence South 39 deg. 10' West 142.90 feet; thence South 45 deg 11'35" West 715.86 feet; thence South 66 deg. 22'30" West 93.93 feet; thence North 89 deg. 45'20" West 145.5 feet, more or less, to the East line of 2300 East Street; thence South 20 feet to the point of beginning. (Affects Parcel 1 Only)

12. Easement, and the terms and conditions thereof:

Grantee : Mountain States Telephone and Telegraph Company
Purpose : A right of way and the right to construct, operate, maintain, and remove such communication line facilities.
Recorded : July 2, 1976
Entry No. : 2830836
Book/Page : 4254/242
Area Affected : A five (5.0) foot easement, 2-1/2 feet on either side of buried telephone facilities on the following described property:

Commencing at the North quarter corner of Section 27, Township 2 South, Range 1 East, Salt Lake Base and Meridian; thence South 89 deg. 51'30" East 1117.93 feet; thence South 0 deg. 08'30" West 33 feet; thence Southeasterly along curve to the right 23.56 feet; thence South 0 deg. 08'30" East 102.52 feet; thence Southwesterly along curve to left 20.46 feet; thence South 35 deg. 38'30" West 122.42 feet; thence North 39 deg. 30' West 105.19 feet; thence South 39 deg. 10' West 243.69 feet; thence South 45 deg. 11'35" West 720 feet; thence South 66 deg. 22'30" West 102.47 feet; thence North 89 deg. 45'20" West 183 feet; thence North 0 deg. 14'40" East 868.94 feet to beginning (being less 2300 East Street). (Affects Parcel 1 Only)

EXHIBIT B

Permitted Exceptions

13. **Right of Way Agreement**
In Favor of : Salt Lake City Suburban Sanitary District No. 1
Purpose : The purpose of digging a trench along said right of way, and to lay, maintain, operate, repair, remove or replace main pipe line for transportation through and across the Grantor's land and premises.
Recorded : September 15, 1978
Entry No. : 3168882
Book/Page : 4740/465
Area Affected : The centerline of said main pipe shall extend through and across the subject property and premises on a line described approximately as follows:

Beginning at a point 85.0 feet North of the Southwest corner of said property; and running thence East 220 feet to a manhole; thence North 60 deg. East 85.0 feet to a manhole. (Affects Parcel 1 Only)

14. **Easement, and the terms and conditions thereof:**
Grantee : Utah Department of Transportation
Purpose : A perpetual easement for the purpose of constructing and maintaining thereon a signal pole and appurtenant parts thereof incident to the construction of a traffic safety project known as Project No. NM-000S(1)
Recorded : August 12, 1977
Entry No. : 2982094
Book/Page : 4532/276
Area Affected : Beginning on the South right of way line of 7000 South Street at a point 40.0 feet South and 37.0 feet East from the North quarter corner of said Section 27; thence South 4.0 feet; thence East 6.0 feet; thence North 4.0 feet; thence West 6.0 feet along said right of way line to the point of beginning. (Affects Parcel 2 Only)

EXHIBIT B

Permitted Exceptions

15. Easement, and the terms and conditions thereof:
Grantee : U S West Communications, Inc.
Purpose : A right of way and the right to construct, operate,
maintain and remove such communication line facilities.
Recorded : July 10, 1995
Entry No. : 6117258
Book/Page : 7183/2892
Area Affected : An easement 6 feet in width, the Southerly line of
which is described as follows:

Beginning South 00 deg. 14'40" West 869 feet
and South 89 deg. 51'30" East 33 feet from the North quarter corner of
Section 27, Township 2 South, Range 1 East, Salt Lake Base and Meridian,
said point of beginning; thence South 89 deg. 45'20" East 26 feet to end.

ALSO:

An easement 15 feet in width, the Southerly line of
which is described as follows:

Beginning at Point "A"; thence South 89 deg.
45'20" East 12 feet to end. (Affects Parcel 1 Only)

16. Covenants, conditions and restrictions and the obligations:
Recorded : August 26, 1976
Entry No. : 2849657
Book/Page : 4315/174 (Affects Parcel 1 & 2)
17. Rights of tenants, as tenants only, under leases set forth on approved
rent roll.

EXHIBIT C

Beginning at a point on the east line of 2300 East Street, said point being South 00 deg. 14'40" West 40.01 feet and South 89 deg. 51'30" East 33.00 feet from the North quarter corner of Section 27, Township 4 North, Range 1 West, Salt Lake Base and Meridian; and running South 89 degrees 51'30" East along the South line of 7000 South Street 263.25 feet; thence South 00 deg. 14'40" West 181.45 feet; thence North 89 deg. 51'30" West 263.25 feet to a point on the East line of 2300 East Street; thence North 00 deg. 14'40" East said along the East line of 2300 East Street 181.45 feet to the point of beginning.

Protective Life
Hillside Plaza
Salt Lake City, UT

BK 8864 PG 3433