

12766421  
5/4/2018 10:15:00 AM \$52.00  
Book - 10671 Pg - 5132-5153  
ADAM GARDINER  
Recorder, Salt Lake County, UT  
US TITLE  
BY: eCASH, DEPUTY - EF 22 P.

**WHEN RECORDED, RETURN TO:**

MCKAY, BURTON, & THURMAN, P.C.  
c/o Mark C. Rose  
Gateway Tower West  
15 West South Temple, Suite 1000  
Salt Lake City, Utah 84101

**Parcel No. 16-08-152-020-0000**

**DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY  
AGREEMENT AND FINANCING STATEMENT**

**THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND FINANCING STATEMENT** (together with all amendments and supplements, this "Deed of Trust") is made this 3<sup>rd</sup> day of May, 2018 by Dorian Rosen and Juliana Harding, whose address is 814 South Lake Street, Salt Lake City, Utah 84102, and their successors and permitted assigns (collectively "Trustor"), to U.S. Title Insurance Agency, whose address is 6995 South Union Park Center Suite 150, Midvale, Utah 84047 ("Trustee") and Thomas Paul Harding and Monica Andrea Harding (collectively "Holder"), whose address is 13056 Coulthard Road, Surrey, British Columbia, Canada V3X 3E6, and their successors and assigns ("Beneficiary").

**RECITALS**

A. Trustor owns certain real property located 814 South Lake Street, Salt Lake City, Utah 84102 and more particularly described as Salt Lake County Parcel Number 16-08-152-020-0000 with a legal description of COM 7 RDS S FR THE NW COR LOT 6, BLK 3, PLAT B, SLC SUR; S 30 FT; E 70 FT; N 30 FT; W 70 FT TO BEG according to the official plat thereof on file and of record in the office of the Salt Lake County Recorder (the "Real Property").

B. Trustor has agreed to execute and deliver this Deed of Trust as security for repayment and performance of the Note (as hereinafter defined).

1. Granting Clause.

1.1 Trustor hereby CONVEYS AND WARRANTS TO TRUSTEE IN TRUST, WITH POWER OF SALE, the Real Property.

1.2 TOGETHER WITH all right, title, and interest of Trustor in and to all buildings and improvements now located or hereafter to be erected or placed upon the Real Property which, or upon any real property an interest in which, is now or hereafter subject to the lien of this Deed of Trust (all hereinafter referred to as the "Improvements"), and all right, title, and interest of Trustor, now owned or hereafter acquired, in and to any and all strips and gores of land, and in, to, and under the land within the streets, sidewalks, and alleys, adjoining such real

property, and in and to all and singular the tenements, hereditaments, privileges, easements, franchises, rights, appendages, and appurtenances belonging or in any way appertaining to all such real property.

1.3 TOGETHER WITH all the right, title, and interest of Trustor in and to all machinery, apparatus, equipment, fittings, and fixtures of every kind and nature whatsoever, all furniture, furnishings, and other personal property now or at any time hereafter attached to or used in any way in connection with the use, operation, and occupation of the Improvements or any part thereof, including, without limitation, furnaces, boilers, stokers, pumps, heaters, tanks, dynamos, motors, generators, fans, blowers, vents, switchboards, electrical equipment, telephone equipment, heating, plumbing, lifting, and ventilating apparatus, air-cooling and air-conditioning apparatus, gas and electric fixtures, elevators, escalators, compressors, vacuum cleaning systems, call systems, water fountains, refrigeration equipment, fire prevention and extinguishing apparatus (or any other safety equipment required by governmental regulation), electric signs, shades, venetian blinds, awnings, screens, partitions, drapes, carpeting, and maintenance equipment of every nature whatsoever, including machinery and equipment for the removal of snow and general maintenance. (All of the equipment described in this Section 1.3 is hereinafter referred to as the "Equipment").

1.4 TOGETHER WITH all accounts, contract rights, rents, issues, royalties, profits, revenues, incomes, proceeds, and other benefits of and from the property described above and property subject or required to be subject to the lien of this Deed of Trust, and any and all bank accounts and similar accounts containing any of the foregoing, and all of the estate, right, title, and interest of every nature whatsoever of Trustor in and to the same and every part and parcel thereof.

1.5 TOGETHER WITH any and all awards or payments, including interest thereon, and the right to receive the same, which may be made with respect to the property described above as a result of: (a) the exercise of the right of eminent domain; (b) the alteration of the grade of any street; or (c) any other injury to or decrease in the value of the property described above, to the extent of all amounts which may be secured by this Deed of Trust at the date of receipt of any such award or payment by Beneficiary, and of the reasonable attorneys' fees, costs, and disbursements incurred by Beneficiary in connection with the collection of such award or payment, and Trustor agrees to execute and deliver from time to time such further instruments as may be requested by Beneficiary to confirm such assignment to Beneficiary of any such award or payment.

1.6 TOGETHER WITH all existing and future goods located on the Real Property which are now or in the future owned by Trustor and used in the operation or occupancy of the Real Property or in any construction on the Real Property but which are not effectively made real property under Section 1.3 above, including but not limited to all appliances, furniture, furnishings, carpeting, draperies, building service equipment, building materials, supplies, and equipment.

1.7 TOGETHER WITH all existing and future general intangibles relating to the development or use of the Real Property or the Improvements, including but not limited to all governmental permits relating to construction on the Real Property, all existing and future names under or by which the Real Property or the building may at any time be operated or known, all rights to carry on business under any such names or any variant thereof, and all existing and future trademarks and good will in any way relating to the property.

1.8 TOGETHER WITH all existing and future water or water rights, ditch or ditch rights, and reservoir or reservoir rights which are appurtenant to or which have been used in connection with the Real Property, all existing and future water stock relating to the Real Property, all existing and future shares of stock or other evidence of ownership of any part of the Real Property that is owned by Trustor in common with others, and all existing and future documents of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Real Property.

1.9 TOGETHER WITH all right, title, and interest of Trustor in and to any security deposits, and any and all other amounts held as security under any lease or leases or sublease or subleases or other occupancy agreements now or hereafter outstanding on the Real Property (the "Leases").

1.10 TOGETHER WITH all and singular the privileges and appurtenances thereunto belonging, (the Real Property, Improvements, Equipment, interests, privileges, and appurtenances described in Sections 1.1 through 1.9 hereof being hereinafter referred to as the "Property"), it being the intention of Trustor that so far as may be permitted by law, all property, interests and rights of the character described in this Section 1 which is now owned or held or is hereafter acquired by Trustor and is affixed, attached, annexed to or placed upon any Property shall be and remain or become and constitute a portion of the security covered by and subject to the lien hereof and TRUSTOR WARRANTS THE TITLE TO THE SAME.

TO HAVE AND TO HOLD the same IN TRUST, WITH POWER OF SALE, however, for the purpose of securing:

a. FOR THE PURPOSE OF SECURING (i) payment of the indebtedness evidenced by a Trust Deed Note (the "Note") of even date herewith, in the principal amount sum of FIFTY THOUSAND DOLLARS (\$50,000.00), all of which is obligatory thereunder, made by Trustor, payable to the order of Beneficiary at the times, in the manner and with the interest as therein set forth, and any extensions and/or renewals or modifications thereof; (ii) the performance of each agreement of Trustor herein contained; and (iii) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms hereof, together with interest thereon as herein provided.

b. The payment of all sums expended or advanced by Beneficiary pursuant to the terms hereof. (The principal and interest on the Note, and protective advances, if

any, made by Beneficiary pursuant to the terms of this Deed of Trust or any other instrument now in existence or hereafter executed or any amendment or modification thereto, the purpose of which is to secure the payment of the Note, are hereinafter referred to as the "Indebtedness"); and

c. The performance of each covenant and agreement of Trustor contained herein and in any modification or amendment of this Deed of Trust ("Secured Obligations"). The term Secured Obligations is used herein in its broadest and most comprehensive sense.

2. Second Position.

Trustor agrees that this Deed of Trust shall be in a second priority position behind that certain deed of trust dated February 16, 2018 between Mr. Rosen and SecurityNational Mortgage Company, which was recorded against the Property on February 22, 2018 as entry number 12721035 (the "SecurityNational Deed of Trust"), and shall at all times remain in a second priority position while the SecurityNational Deed of Trust is in effect.

3. Covenants.

3.1 Repayment of Indebtedness. Trustor covenants and agrees to pay promptly the principal of and interest on the Note, to pay promptly all other sums due pursuant hereto, and to perform each and every agreement and condition contained in the Note, this Deed of Trust, and the transaction agreements and documents between Trustor and Beneficiary executed contemporaneously herewith and all other documents or instruments executed to obtain the Indebtedness and secure the payment of the Note (the "Transaction Documents").

3.2 Insurance.

a. Trustor, at its sole expense, shall keep and maintain constantly during the time any of the Indebtedness remains outstanding, with companies authorized to do business in Utah, which companies and policies shall be satisfactory to Beneficiary, the following:

(i) General public liability insurance against claims for bodily injury, death or property damage occurring on, in or about the Property (including within the Improvements thereon) and the adjoining parking area, streets, sidewalks, and passageways, with bodily injury, loss of life and property damage coverage in an amount as Beneficiary shall reasonably require, and an endorsement naming Beneficiary as an additional insured; and

(ii) Insurance in an amount not less than the full insurable value of any Improvements owned by Trustor and constituting a portion of the Property on a replacement cost basis (in the reasonable opinion of Beneficiary and without regard to depreciation) or the amount of all outstanding Indebtedness secured by the Property,

including the Indebtedness, whichever is greater, insuring against loss or damage by fire, lightning and other risks included from time to time in what is commonly called extended coverage insurance, accompanied with an inflation guard endorsement and such other endorsements as the Beneficiary may require, and including sprinkler leakage, water damage, collapse, vandalism, malicious mischief, and explosion (including gas leak coverage and coverage with respect to any steam or pressure boilers or similar apparatus located on the Property);

b. All hazard policies required by this Deed of Trust shall contain a standard noncontributory lenders' loss payable clause in favor of and in form acceptable to Beneficiary, and to the extent available a waiver of subrogation rights. All such insurance policies shall provide that such policy shall not be canceled, modified or lapse without at least thirty (30) days' prior written notice to Beneficiary.

c. Upon the execution of this Deed of Trust, and thereafter not less than fifteen (15) days prior to the expiration dates of the expiring insurance policies required by this Section 3.2, Trustor shall deliver to Beneficiary originals of the policies bearing notations evidencing the payment of premiums or accompanied by other evidence satisfactory to Beneficiary of such payment. Such delivery shall constitute assignment to Beneficiary of all return premiums which Beneficiary shall hold as additional security for the Indebtedness.

d. Trustor and Beneficiary shall adjust with the insurance companies the loss, if any, under any policies required by this Deed of Trust in the case of any particular casualty resulting in damage or destruction. The proceeds of any such insurance shall be payable to Beneficiary to be applied in accordance with the terms of Section 3.3 hereof.

e. As a result of approving, disapproving, accepting, preventing, obtaining or failing to obtain any insurance, Beneficiary shall not incur any liability for or with respect to the amount of such insurance, the form or legal sufficiency of such insurance policies, the solvency of the insurer, defense of lawsuits or payments in connection with any lawsuits. Trustor hereby expressly assumes full responsibility and liability, if any, for all of the foregoing.

f. If Trustor fails to procure, pay the premium of, or deliver to Beneficiary any of the insurance policies or renewals as required herein, Beneficiary may elect, but shall not be obligated, to effect such insurance and pay the premiums. Trustor shall pay to Beneficiary on demand any premiums so paid with interest thereon at the interest rate specified in the Note) from the time of the Beneficiary's payment, and such advance and interest shall be secured by this Deed of Trust.

g. In the event of foreclosure of this Deed of Trust, or other transfer of title to the Property in extinguishment of the Indebtedness, the purchaser of the Property shall succeed to all of Trustor's rights, including any rights to unearned premiums, in and to all insurance policies required by this Section 3.2, but Trustor shall be entitled to a credit for any such unearned

premium with respect to the period after the transfer of title as against any deficiency judgment obtained by Beneficiary, and if no such deficiency exists, to a return of such unearned premium.

### 3.3 Condemnation and Insurance Proceeds.

a. Trustor hereby assigns to Beneficiary: (1) the proceeds of any award or claim for damages, direct, consequential or of whatever nature, in connection with any condemnation or other taking of or damage or injury to the Property, or any part thereof, or for conveyance in lieu of condemnation; and (2) all causes of action, whether accrued before or after the date of this Deed of Trust, of all types for damages or injury to or otherwise in connection with all or any part of the Property, or in connection with any transaction financed by funds loaned to Trustor by Beneficiary and secured hereby, including without limitation causes of action arising in tort or contract and causes of action for fraud or concealment of a material fact. Any such proceeds assigned to Beneficiary shall be paid directly to Beneficiary. Beneficiary may at its option appear in and prosecute in its own name any action or proceeding to enforce any such cause of action and may make any compromise or settlement thereof. Beneficiary may participate in any such proceedings and may join Trustor in adjusting any loss covered by insurance.

b. All compensation, awards, proceeds, damages, claims, insurance recoveries, rights of action and payments which Trustor may receive or to which Trustor may become entitled in the event of any damage or injury to or a condemnation or other taking of all or any part of the Property shall be paid over to Beneficiary. Trustor agrees to execute any and all further documents that may be required in order to facilitate collection of any such proceeds and the making of such payment. Beneficiary shall apply such payment first toward reimbursement of all costs and expenses of Beneficiary in connection with recovery of the same, and then such payment shall be applied, in Beneficiary's sole discretion, either to the prepayment of the Indebtedness (in which event there shall be no prepayment penalty or premium), or to the reimbursement of Trustor's expenses incurred in the restoration of the Property.

c. Any application of such amounts to the Indebtedness shall not be construed to cure or waive any default or notice of default hereunder or invalidate any act done pursuant to any such default or notice.

3.4 Payment of Taxes and Assessments. Trustor covenants and agrees to pay before they become delinquent all taxes, special assessments, water and sewer rents or assessments, and all other charges imposed by law upon or against the Property, ordinary and extraordinary, unforeseen and foreseen (the "Impositions") which Trustor is obligated to pay. Trustor shall deliver to Beneficiary evidence of payment of Impositions and insurance premiums within thirty (30) days after such payment is made. Notwithstanding the delivery requirement of the preceding sentence, Beneficiary shall not declare a default hereunder on account of a failure to deliver such evidence unless such failure is continuing on the expiration of ten (10) days from notice to Trustor of such failure to deliver. Such evidence shall be in the form of the original or a copy of the official receipt evidencing such payment or other proof of payment satisfactory to

Beneficiary. The failure of Trustor to deliver to Beneficiary such receipts or to submit other satisfactory proof of such payment to Beneficiary shall constitute an Event of Default.

### 3.5 Funds for Taxes and Insurance.

a. Upon an Event of Default, Trustor shall deposit with Beneficiary or its designee, an additional amount to create a fund sufficient to discharge the obligations of Trustor to pay all Impositions and to pay the premiums on the hazard/casualty and rental insurance required to be maintained by this Deed of Trust (the "Escrow Fund"). Trustor shall make payments to the Escrow Fund at the time of each subsequent payment under the Note, which payments shall be equal to one-twelfth (1/12) of the estimated annual amount required for the Escrow Fund. Beneficiary in its reasonable discretion shall determine the amount to be deposited in the Escrow Fund. Beneficiary shall not hold the Escrow Fund in trust or as an agent of Trustor and the Escrow Fund shall not bear interest. Beneficiary may apply the Escrow Fund to the payment of the Impositions and insurance premiums in such order as Beneficiary may determine. If at any time Beneficiary in its reasonable discretion determines that the Escrow Fund is insufficient for the full payment of the Impositions and insurance premiums, Trustor shall deposit into the Escrow Fund the amount of the deficiency within ten (10) days after Beneficiary's demand. If the Escrow Fund exceeds the actual amount of the Impositions and insurance premiums, Beneficiary may, at its option, refund such excess or hold such excess in the Escrow Fund and proportionately reduce future required monthly deposits. Nothing in this Section shall affect any right or remedy which Beneficiary may have under any other provision of this Deed of Trust or under any statute or rule permitting Beneficiary to pay any Impositions or insurance premiums and to add the funds so advanced to the Indebtedness.

b. Beneficiary or its designee shall hold the Escrow Fund as additional security for the Indebtedness. Upon the occurrence of an Event of Default, Beneficiary may, in its sole discretion, apply all or any portion of the Escrow Fund toward reduction of the Indebtedness. Application of all or any portion of the Escrow Fund to the Indebtedness shall not be construed to cure or waive any Event of Default or breach hereunder or to invalidate any act done pursuant to any such breach or Event of Default.

c. If Beneficiary sells or assigns this Deed of Trust, Beneficiary may assign the Escrow Fund to the purchaser or assignee. Beneficiary shall thereupon have no further liability or obligation for the application of the Escrow Fund and Trustor shall look solely to such purchaser or assignee for the application of the Escrow Fund.

### 3.6 Preservation of Lien Priority by Trustor.

a. The lien of this Deed of Trust is and will be maintained as a valid second position priority not subject to any subsequent liens or encumbrances. Trustor will keep and maintain the Property free from all liens of persons supplying labor and materials entering into the construction, modification, or repair of the Improvements and obtain bonds or other security

required by Beneficiary in this respect. If any such lien is recorded against the Property, Trustor shall post a bond, as provided by statute, or discharge the same of record within fifteen (15) days after such lien is recorded. Without the prior consent of Beneficiary, Trustor shall not do, or permit to be done, or omit to do, or permit the omission of, any act or thing, the doing of which or the omission of which would impair the security of this Deed of Trust.

b. Nevertheless, Trustor will do all such further acts, and execute, acknowledge, and deliver all such further conveyances, mortgages, security agreements, and assurances as Beneficiary may reasonably require in order to confirm the lien of this Deed of Trust on the Property, the Improvements, and any Equipment, and Trustor shall pay all costs in connection therewith, including but not limited to Beneficiary's reasonable attorneys' fees and fees for filing or recording such instruments.

c. If any action or proceeding is instituted to evict Trustor or to recover possession of the Property or for any other purpose affecting this Deed of Trust or the lien of this Deed of Trust, Trustor shall deliver to Beneficiary a true copy of each precept, petition, summons, complaint, notice of motion, order to show cause, and all other process, pleading, or paper, however designated, served or received in such action or proceedings, immediately after Trustor receives them.

3.7 Deed of Trust as Security Agreement and Financing Statement. This Deed of Trust shall cover, and Trustor hereby grants to Beneficiary a security interest in, all of Trustor's right, title and interest, whether now owned or hereafter acquired, in any and all Goods (including but not limited to all Fixtures, Equipment, and Inventory), Accounts, General Intangibles, As Extracted Collateral, Certificates of Title, Commercial Tort Claims, Deposit Accounts, Documents, Instruments, Investment Property, Letters of Credit and Letter-of-Credit Rights, Supporting Obligations, and all cash and non-cash proceeds thereof and substitutions therefor, all as defined in the Uniform Commercial Code, and all other property affixed to or located upon the real property described herein, and all articles of personal property and all materials delivered to the Property for incorporation or use in any construction being conducted thereon and owned by Trustor (which to the fullest extent permitted by law shall be deemed fixtures and a part of the real property). If any property covered by this Deed of Trust consists of rights in action or personal property covered by the Uniform Commercial Code, this Deed of Trust constitutes a security agreement and financing statement and is intended when recorded to create a perfected security interest in such property in favor of Beneficiary. This Deed of Trust shall be self-operative with respect to such property, but Trustor agrees to execute and deliver on demand such security agreements, financing statements, and other instruments as Beneficiary may request in order to impose the lien hereof more specifically upon any of such property and to pay all costs in connection therewith, including but not limited to Beneficiary's reasonable attorneys' fees and all recording and/or filing fees associated therewith. If the lien of this Deed of Trust on any property is subject to a prior security agreement covering such property, then if any Event of Default occurs, Trustor hereby assigns to Beneficiary all its right, title, and interest in and to all deposits thereon, together with the benefit of any payments now or hereafter made thereon. For purposes of treating



this Deed of Trust as a security agreement and financing statement, Beneficiary shall be deemed to be the secured party and Trustor shall be deemed to be the debtor. As to all of the above described personal property which hereafter becomes a "fixture" under applicable law, this Deed of Trust constitutes a fixture filing under the Utah Uniform Commercial Code, as amended or recodified from time to time ("UCC"), and is acknowledged and agreed to be a "construction mortgage" under the UCC.

### 3.8 Further Encumbrance or Sale.

a. Trustor shall not execute or deliver any pledge, security agreement, mortgage, deed of trust or other instrument of hypothecation, covering all or any portion of the Property nor sell, contract to sell, lease with option to purchase, convey, alienate, transfer or otherwise dispose of all or any portion of the Property, whether voluntarily or involuntarily, by operation of law or otherwise, and any act in contravention hereof shall constitute an Event of Default (without notice or passage of time). Trustor shall reimburse Beneficiary for all costs and expenses, including without limitation reasonable attorneys' fees, incurred by Beneficiary in connection with its review of Trustor's request for Beneficiary's consent to such a sale or other transfer pursuant to this Section.

b. If any of the events described in subsection (a) above occur without the prior written consent of Beneficiary, then the full principal of the Note, the total Indebtedness and all obligations secured by this Deed of Trust, irrespective of the maturity date expressed therein, and without demand or notice, shall immediately become due and payable.

3.9 Maintenance of Property. Trustor will not commit any waste on the Property or take any actions that might invalidate any insurance carried on the Property. Trustor at its sole cost and expense will maintain the Property and other parking areas, landscaping, sidewalks, curbs, and vaults adjoining the Improvements in good condition and promptly make all necessary repairs, interior and exterior, structural and non-structural, ordinary and extraordinary, foreseen and unforeseen. No improvements may be removed, demolished, or materially altered without the prior written consent of Beneficiary. All repairs shall be equal or superior in quality and class to the original work. No personal property in which Beneficiary has a security interest may be removed from the Property unless it is immediately replaced by similar property of at least equivalent value on which Beneficiary will immediately have a valid lien and security interest. Trustor, in the use and operation of the Property, shall comply with all covenants and conditions, restrictions, agreements or other matters affecting the Property. Trustor shall not bring or keep any article on the Property or cause or permit any condition to exist on the Property which is prohibited by or could invalidate any insurance coverage maintained, or required hereunder to be maintained, with respect to all or any part of the Property. Trustor shall do all acts which from the character or use of the Property may be reasonably necessary to protect the security of this Deed of Trust and not specifically set forth herein.

3.10 Protection of Security; Costs and Expenses. At any time and from time to time, Trustor will execute and deliver all such further documents and do all such other acts and things as Beneficiary may reasonably request in writing in order to protect the security and priority of the lien created hereby. If Trustor fails to perform any of the covenants or agreements contained in this Deed of Trust, or if any action or proceeding is commenced which affects Beneficiary's interest in the Property or any part thereof, including, but not limited to, eminent domain, code enforcement, or proceedings of any nature whatsoever under any federal, state or local law or regulation, whether now existing or hereafter enacted or amended, relating to bankruptcy, insolvency, arrangement, reorganization or other form of debtor relief, or to a decedent, then Beneficiary may, but without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereunder, make such appearances, disburse such sums and take such action as Beneficiary deems necessary or appropriate to protect Beneficiary's interest, including, but not limited to, disbursement of reasonable attorneys' fees, enter upon the Property to make repairs or take other action to protect the security hereof. Trustor further agrees to pay all reasonable expenses of Beneficiary (including fees and disbursements of counsel) incident of the protection of the rights of Beneficiary hereunder, or to enforcement or collection of payment of the Indebtedness, whether by judicial or nonjudicial proceedings, or in connection with any bankruptcy, insolvency, arrangement, reorganization or other debtor relief proceeding of Trustor, or otherwise. Any amounts disbursed by Beneficiary pursuant to this Section shall be part of the Indebtedness and secured by this Deed of Trust and shall bear interest at the interest rate stated in the Note. Trustor shall pay all such amounts immediately without demand. Nothing contained in this Section shall be construed to require Beneficiary to incur any expense, make any appearance, or take any other action. Trustee shall be entitled to reimbursement for expenses incurred by Trustee in the performance of Trustee's duties and to reasonable compensation. Trustor will, from time to time, pay the compensation due to Trustee hereunder and reimburse Trustee for, and indemnify and hold harmless Trustee against, any and all liability and expenses which may be incurred by Trustee in the performance of Trustee's duties.

3.11 Notify Lender of Default. Trustor shall notify Beneficiary in writing within five (5) days of Trustor's knowledge of the occurrence of any Event of Default or other event which, upon the giving of notice or the passage of time or both, would constitute an Event of Default.

3.12 Compliance with Laws. Trustor will comply promptly with all present and future laws, statutes, ordinances, orders, rules, regulations, restrictions, and requirements of all federal, state, and municipal governments, courts, departments, commissions, boards, and officers, any national or local fire departments, or any other body exercising similar functions, foreseen or unforeseen, ordinary or extraordinary, which may be applicable to Trustor, the Indebtedness, the Property, the landscaping, sidewalks, curbs, and vaults adjoining the Property, or to the use or manner of use of the Property whether or not such law, statute, ordinance, order, rule, regulation, restriction, or requirement necessitates structural changes or improvements, or the removal of any encroachments or projections, ornamental, structural, or otherwise, onto or over the streets adjacent to the Property, or onto or over property contiguous or adjacent thereto, and including

without limitation, all zoning, building code, environmental protection and equal employment opportunity laws, statutes, ordinances, orders, rules, regulations, restrictions, and requirements.

3.13 Beneficiary's Right to Cure Trustor's Default. If Trustor fails to pay any sum due hereunder prior to delinquency, whether for taxes, insurance premiums, or other charges, Beneficiary may elect, but shall not be obligated, to pay all or part of such items. Trustor agrees to repay immediately upon demand all funds so advanced by Beneficiary with interest thereon from the date of such payments until repaid at the interest rate stated in the Note, and all of such advances and the interest thereon shall become part of the Indebtedness and shall be secured by this Deed of Trust.

3.14 Effect of Changes in Laws Regarding Taxation. In the event of the passage of any law of the United States or the State of Utah or any other authority having jurisdiction which law for taxation purposes deducts any lien from the value of land, or imposes upon Beneficiary the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Trustor, or changes in any way laws relating to the taxation of deeds of trusts or debts secured by deeds of trust or Beneficiary's interest in the Property or the manner of collection of taxes, so as to affect this Deed of Trust or the debt secured hereby, then Trustor, upon demand by Beneficiary, shall pay the full amount of such taxes or assessments, or reimburse Beneficiary therefor; provided, if in the opinion of Beneficiary's counsel (a) it may be unlawful to require Trustor to make such payment, or (b) the making of such payment might constitute usury or render the loan or the Indebtedness wholly or partially usurious under any of the terms or provisions of the Note or this Deed of Trust or any Loan Document, then Beneficiary may elect, by written notice to Trustor, to declare all of the Indebtedness with interest thereon to be and become due and payable within ninety (90) days of the giving of such notice, or Beneficiary may, at its option, pay whatever amount or portion of such taxes as renders the Indebtedness unlawful or usurious, in which event Trustor shall concurrently pay the remaining lawful and non-usurious portions or balance of such taxes.

3.15 Information to be Supplied by Trustor to Beneficiary. Trustor will deliver to Beneficiary:

a. Within five (5) business days after Beneficiary's request in person or ten (10) business days after Beneficiary's request by mail, a written statement in recordable form executed by Trustor, setting forth the amount then secured by this Deed of Trust and whether any offsets or defenses exist against the Indebtedness and if any offsets or defenses are alleged to exist, specifying the nature of such alleged offsets or defenses and, as to such other matters relating to the Indebtedness as Beneficiary may reasonably require; and

b. Within a reasonable time after Beneficiary's request (but in no event longer than thirty (30) days), such other information with respect to the Property as Beneficiary reasonably requests from time to time.

3.16 Zoning and Private Covenants. Trustor will not initiate, join in, or consent to any change in any zoning ordinance or classification, any private restrictive covenant, or any other public or private restriction limiting or defining the uses of all or any part of the Property without Beneficiary's prior written consent. If the use of all or any part of the Property is or becomes a nonconforming use under applicable zoning provisions, Trustor will not cause or permit such use to be discontinued or abandoned without Beneficiary's prior written consent.

3.17 Improvements; Alterations. In the absence of prior written consent from Beneficiary, Trustor may not construct, add to, alter, expand, or extend the Improvements or any other improvements on the Property, or consent to or permit any such construction, addition, alteration, expansion, or extension. Beneficiary's consent to such improvements or alterations shall not be unreasonably withheld or delayed. Notwithstanding anything in this Section 3.17 to the contrary, Beneficiary acknowledges and consents to the improvements to be made by Trustor in connection with the initial construction of improvements to the Property; provided that such alterations do not affect the structural integrity of the Property, that all such work is diligently prosecuted to completion in a good and workmanlike manner, in compliance with all necessary governmental approvals and permits and that no liens attach to the Property in connection with such work.

3.18 Cross Default Effect of Other Security Instruments. If the Indebtedness is now or hereafter further secured by assignments of Trustor's interest in Leases, conditional assignments of rents, security agreements, financing statements, deeds of trust, collateral assignments, pledges, contracts of guarantee, or other additional securities, any default under the provisions of any such further security or any other obligation owing from Trustor to Beneficiary, or from Trustor to any other person and secured by the Property, shall be a default under this Deed of Trust. Beneficiary may, at its option, exhaust any one or more of such securities as well as security hereunder, either concurrently or independently and in such order as it may determine, and may apply the proceeds to the Indebtedness without waiving or affecting the status of any breach or default of any right or power, whether contained herein or exercised hereunder or whether contained or exercised under any other security.

#### 4. Representations and Warranties.

To induce Beneficiary to make the loan secured hereby, Trustor represents and warrants to Beneficiary, in addition to any representations and warranties in the Note or any transaction documents, that as of the date hereof and throughout the term of the Indebtedness until the Indebtedness is paid in full and all obligations under this Deed of Trust are performed:

4.1 Liens. Title to the Property, or any part thereof is not subject to any liens, encumbrances or defects of any nature whatsoever, whether or not of record, and whether or not customarily shown on title insurance policies, except as identified in the title insurance policy obtained by Beneficiary and approved by Beneficiary.

4.2 Hazardous Substances. Trustor shall not conduct or permit any activity on the Property or use or permit the use of the Property in any manner in violation of any Environmental Law. "Hazardous Substance means all pollutants, contaminants, hazardous substances, hazardous wastes, hazardous materials, toxic waste, and any other carcinogenic, ignitable, corrosive, reactive, toxic or otherwise hazardous substances or materials as defined in or subject to regulation, control, or remediation under Environmental Laws (as defined herein) now existing or hereinafter enacted. "Hazardous Substance" shall include but not be limited to: (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*, as amended; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.*, as amended and any other Environmental Law; (iii) asbestos-containing materials, polychlorinated biphenyls, radioactive materials, urea-formaldehyde, pesticides, herbicides, sludge, slag, tailings, acids, chlorinated solvents, or waste waters; and (iv) spilled or leaked petroleum products, distillates, or fractions. For purposes of this instrument, "Environmental Laws" shall include all federal, state, district, and local laws, all rules or regulations promulgated thereunder, and all orders, consent orders, judgments, notices, permits, or demand letters issued, promulgated or entered pursuant thereto, relating to pollution or protection of the environment, including without limitation (i) laws relating to emissions, discharges, releases or threatened releases of Hazardous Substances, pollutants, contaminants, chemicals, materials, wastes or other substances into the environment and (ii) laws relating to the identification, generation, manufacture, processing, distribution, use, treatment, storage, disposal, recovery, transport or other handling of Hazardous Substances, pollutants, contaminants, chemicals, industrial materials, wastes, or other substances. Environmental Laws shall include, without limitation, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*; the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*; the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 *et seq.*; and all existing and future amendments to those statutes; and Utah environmental statutes and regulations, including, but not limited to, the Utah Hazardous Substances Mitigation Act, Utah Code Ann. § 19-6-301, *et seq.*; the Utah Underground Storage Tank Act, Utah Code Ann. § 19-6-401, *et seq.*; the Utah Air Conservation Act, Utah Code Ann. § 19-2-101, *et seq.*; the Utah Radiation Control Act, Utah Code Ann. § 19-3-101, *et seq.*; the Utah Water Quality Act, Utah Code Ann. § 19-5-101, *et seq.*; the Utah Solid and Hazardous Waste Act, Utah Code Ann. § 19-6-101, *et seq.*; the Hazardous Waste Facility Siting Act, Utah Code Ann. § 19-6-201, *et seq.*; and the Utah Solid Waste Management Act, Utah Code Ann. § 19-6-501, *et seq.*

Trustor shall provide Beneficiary with immediate notice in the event Trustor learns that any Hazardous Substance has been released onto the Property.

4.3 Other Statements to Beneficiary. Neither this Deed of Trust, the Note, any Loan Documents, nor any document, agreement, report, schedule, notice or other writing furnished to Beneficiary by or on behalf of Trustor, contains any omission or misleading or untrue statement of any fact material to any of the foregoing.

4.4 No Violation of Agreement by Trustor. The Note, this Deed of Trust and the transaction documents are valid and enforceable obligations of Trustor in accordance with their respective terms. Trustor further covenants and warrants that the Note, this Deed of Trust, and the transaction documents, and the performance or observance by Trustor of any of the matters or things in the Note, this Deed of Trust, and the transaction documents do not provide for or contravene any covenant in any indenture or agreement affecting Trustor.

5. Assignment of Rents and Leases. As additional security for the payment of the Indebtedness, Trustor hereby presently and unconditionally assigns, transfers, and sets over to Beneficiary, all rents, profits, accounts, issues and income now or hereafter derived from the Property including all prepaid rent and security deposits (the "Rents") and all right, title, and interest of Trustor in and to the Leases, any modifications or renewals of the Leases and all guaranties of any lessee's obligation under the Leases. Trustor reserves and Beneficiary grants to Trustor a license to collect the Rents until there is an Event of Default. Upon the occurrence and during the continuance of an Event of Default, all Rent shall be paid directly to Beneficiary. If an Event of Default occurs and is continuing, and without regard to the adequacy of its security hereunder and without notice to or demand upon Trustor, Beneficiary shall thereafter have full and complete right and authority to demand, collect, receive, and receipt for the Rents, to take possession of the Property without having a receiver appointed, to rent and manage the Property from time to time, and to apply the net proceeds of the Rents to the Indebtedness until all delinquencies, advances, and the Indebtedness are paid in full or until Beneficiary obtains title to the Property through foreclosure or otherwise. Trustor hereby irrevocably authorizes and directs the lessee under the Leases, upon receipt of notice from Beneficiary, to pay thereafter all Rents directly to Beneficiary. Upon the occurrence of an Event of Default, Beneficiary or the holder of the certificate of purchase (issued by the Trustee after the Trustee's sale) may enforce its rights to the Rents by any appropriate civil suit or proceeding. Beneficiary or the holder of such certificate of purchase shall be entitled as a matter of right to a receiver for the Property without regard to the solvency or insolvency of Trustor or of the then owner of the Property or of the Property's value. Such receiver shall apply the Rents according to the law and the orders and directions of a court of competent jurisdiction. Neither the foregoing assignment of Rents to Beneficiary nor the exercise by Beneficiary of any of its rights or remedies hereunder shall be deemed to make Beneficiary a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Property or the use, occupancy, enjoyment or operation of all or any part of the Property, unless and until Beneficiary, in person or by agent, obtains title to the Property. The appointment of a receiver for the Property by any court at the request of Beneficiary or by agreement with Trustor, or the entering into possession of the Property by such receiver, shall not be deemed to make Beneficiary a mortgagee-in-possession or otherwise responsible or liable in any manner with respect to the Property or the use, occupancy, enjoyment or operation of all or any part of the Property.

6. Events of Default.

Each of the following shall constitute an Event of Default ("*Event of Default*") hereunder (including if Trustor consists of more than one person or entity the occurrence of any of such events with respect to any one or more of such person or entities):

6.1 Overdue Payment. Trustor fails to pay when due, without notice or demand, any installment of principal or of interest on the Note or any other sum required to be paid pursuant to the terms of this Deed of Trust, the Note, or any transaction document.

6.2 Non-monetary Breach. Trustor commits any breach, not involving the payment of moneys, in the due observance or performance of any covenant, condition, or agreement contained in the Note, this Deed of Trust, or any other transaction document, and Trustor fails to cure such breach within thirty (30) days after Beneficiary gives written notice to Trustor of such breach provided that if the default is of a nature that it cannot be cured within the 30-day period and during that period Trustor commences to cure, and thereafter diligently continues to proceed to cure the default, then the 30-day period will be extended for a reasonable period; provided, if a different period or notice requirement is specified for any particular breach under this Deed of Trust or under the Note or any other transaction document, such specific provision shall control.

6.3 Acceleration. Beneficiary has accelerated the payment of the Indebtedness pursuant to the provisions of Section 3.8 hereof.

6.4 Voluntary Insolvency. Trustor (or any guarantor of the Indebtedness) commences (by petition, application, or otherwise) a voluntary case or other proceeding under the laws of any jurisdiction seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect, or seeking the appointment of a trustee, self-trusteeship, receiver, custodian, or other similar official of it or any substantial part of its property, or consents (by answer or failure to answer or otherwise) to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or makes an assignment for the benefit of creditors, or generally does not pay its debts as they become due, or admits in writing its inability to pay its debts as they become due, or takes any action to authorize any of the foregoing.

6.5 Involuntary Insolvency. An involuntary case or other proceeding is commenced under the laws of any jurisdiction against Trustor (or any guarantor of the Indebtedness) seeking liquidation, reorganization, or other relief with respect to it or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, custodian, or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding remains undismissed and unstayed for a period of thirty (30) days, or a trustee, receiver, custodian, or other similar official is appointed in such involuntary case.

6.6 Governmental Control. Any governmental authority takes possession of any part of the property of, or assumes control over the affairs or operations of, or a receiver is appointed for the property of Trustor (or any guarantor of the Indebtedness).

6.7 False Representation. Any of the representations or warranties contained herein or in the Note or in any of the transaction documents was false, misleading, or untrue in any respect when made, or, so long as this Deed of Trust remains in effect, becomes false, misleading, or untrue in any respect, in which event Trustor shall have no opportunity to cure such default and the whole of the Indebtedness shall become immediately due and payable at the option of Beneficiary.

6.8 Dissolution. If Trustor is not an individual, the dissolution or termination of existence of Trustor, voluntarily or involuntarily, or any change of the Trustor's name or form of existence.

6.9 Other Indebtedness. A default by Trustor under, or the acceleration of payment for any reason, of any other indebtedness secured by the Property.

## 7. Remedies.

Upon the occurrence of any Event of Default, Beneficiary shall have the following rights and remedies:

7.1 Acceleration. Beneficiary may declare the entire principal amount of the Indebtedness then outstanding (if not then due and payable), and accrued and unpaid interest thereon, and all other sums or payments required thereunder, to be due and payable immediately, and notwithstanding the stated maturity in the Note, the principal amount of the Indebtedness and the accrued and unpaid interest thereon and all other sums or payments required thereunder shall thereupon become and be immediately due and payable, and the Indebtedness shall thereafter bear interest at the Default Rate from the due date until paid and payment of such default interest shall be secured by this Deed of Trust.

7.2 Entry. Irrespective of whether Beneficiary exercises the option provided in Section 7.1 above, Beneficiary in person or by agent or by court-appointed receiver may enter upon, take possession of, manage and operate the Property or any part thereof and do all things necessary or appropriate in Beneficiary's sole discretion in connection therewith, including without limitation making and enforcing, and if the same be subject to modification or cancellation, modifying or canceling Leases upon such terms or conditions as Beneficiary deems proper, obtaining and evicting tenants, and fixing or modifying Rents, contracting for and making repairs and alterations, and doing any and all other acts which Beneficiary deems proper to protect the security thereof, including taking any remedial measures resulting from the actual or threatened release of Hazardous substances on the Property, in which event the decision of Beneficiary as to



whether there exists an actual or threatened release of Hazardous substances shall be deemed reasonable and conclusive; and either with or without so taking possession, in its own name or in the name of Trustor, sue for or otherwise collect and receive the Rents, including those past due and unpaid, and apply the same less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. Upon request of Beneficiary, Trustor shall assemble and make available to Beneficiary at the site of the real property encumbered hereby any of the Property which has been removed therefrom. The entering upon and taking possession of the Property, or any part thereof, and the collection of any Rents and the application thereof as aforesaid shall not cure or waive any default theretofore or thereafter occurring or affect any notice or default hereunder or invalidate any act done pursuant to any such default or notice. Notwithstanding continuance in possession of the Property or any part thereof by Beneficiary, Trustor or a receiver, and notwithstanding the collection, receipt and application of the Rents, Beneficiary shall be entitled to exercise every right provided for in this Deed of Trust or by law or in equity upon or after the occurrence of an Event of Default, including without limitation the right to exercise the power of sale. Any of the actions referred to in this Section may be taken by Beneficiary irrespective of whether any notice of default of election to sell has been given hereunder and without regard to the adequacy of the security for the indebtedness hereby secured.

7.3 Judicial Action. Beneficiary may bring an action in any court of competent jurisdiction to foreclose this instrument or to enforce any of the covenants and agreements hereof.

7.4 Adequate Assurances. If any Event of Default occurs under Section 6.4 or Section 6.5 hereof, then Trustor or any guarantor of the Indebtedness (or in the event of bankruptcy the trustee in bankruptcy) may cure such default, within the applicable grace period or as may otherwise be provided by law, provided adequate assurances of future performance are given to Beneficiary of its ability to fulfill the terms and conditions of this Deed of Trust, the Note and any transaction document.

7.5 Receiver. Beneficiary shall have the right, with the irrevocable consent of Trustor hereby given and evidenced by the execution of this Deed of Trust, to obtain appointment of a receiver by any court of competent jurisdiction without further notice to Trustor, which receiver shall be authorized and empowered to enter upon and take possession of the Property, including all personal property used upon or in connection with the real property herein conveyed and all bank accounts encumbered by this Deed of Trust or the Loan Documents and containing funds associated with the Property, to let the Property, to receive all the Rents due or to become due, and apply the Rents after payment of all necessary charges and expenses to reduction of the Indebtedness. Trustor hereby assigns the Rents to Beneficiary as additional security for the Indebtedness, together with the Leases and all other documents evidencing the Rents, bank accounts, and any and all deposits held as security under the Leases. At the option of Beneficiary, the receiver shall accomplish such entry and taking possession of the Property by actual entry and possession or by notice to Trustor. The receiver so appointed by a court of competent jurisdiction shall be empowered to issue receiver's certificates for funds advanced by Beneficiary for the

purpose of protecting the value of the Property as security for the Indebtedness. The amounts evidenced by receiver's certificates shall bear interest at the Interest Rate and may be added to the cost of redemption if the owners of the Property, Trustor, or a junior lienholder redeems at the Trustee's Sale.

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

7.7 Power of Attorney. Trustor hereby grants to Beneficiary an irrevocable power of attorney, coupled with an interest, to take any and all of the actions set forth herein and any or all other actions designated by Beneficiary hereunder. Any such action shall have the same force and effect as if performed directly by Trustor.

7.8 Election to Foreclose as a Mortgage. Upon the occurrence of an Event of Default, Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclose this Deed of Trust in the manner provided by law for the foreclosure of mortgages on real property and Beneficiary shall be entitled to recover in such proceeding all costs and expenses incident thereto, including reasonable attorneys' fees in such amount as shall be fixed

by the court. Trustor hereby waives all rights to the marshalling of Trustor's assets encumbered by this Deed of Trust to the fullest extent permitted by law, including the Property, and all rights to require the Property to be sold in several parcels. The proceeds or avails of such a sale pursuant to the foreclosure of this Deed of Trust as a mortgage shall first be applied to pay all reasonable fees, charges, costs of conducting such sale and advertising the Property, and reasonable attorneys' fees as herein provided, second to pay to Beneficiary the then outstanding amount of the Indebtedness with interest at the rate set forth in the Note, and third to the person so entitled. Beneficiary may purchase all or any part of the Property at such sale. Any purchaser at such sale shall not be responsible for the application of the purchase money. During any redemption period subsequent to the such sale, the amount of Beneficiary's bid entered at such sale shall bear interest at the Interest Rate.

7.9 Hazardous Substances Representations. Upon the occurrence of an Event of Default as a result of any of the representations or warranties set forth in Section 4.2 being untrue, Beneficiary may commence and maintain an action or actions in any court of competent jurisdiction for breach of contract, whether commenced prior to foreclosure of the Property or after foreclosure of the Property, and to seek the recovery of any and all costs, damages, expenses, fees, penalties, fines, judgments, indemnification payments to third parties, and other out-of-pocket costs or expenses actually incurred by Beneficiary (the "Environmental Costs") incurred or advanced by Beneficiary relating to the cleanup, remediation or other response action required by any applicable law relating to Hazardous Substances or to which Beneficiary believes necessary to protect the Property, it being conclusively presumed between Beneficiary and Trustor that all such Environmental Costs incurred or advanced by Beneficiary relating to the cleanup, remediation or other response action of or to the Property were made by Beneficiary in good faith. All Environmental Costs incurred by Beneficiary under this Section (including without limitation court costs, consultant fees and reasonable attorneys' fees, whether incurred in litigation or not and whether before or after judgment) shall be considered Indebtedness and shall bear interest at the Default Rate from the date of expenditure until paid in full. Beneficiary shall have the right to bid, at the sale of the Property held under Section 7.6 the amount of the Environmental Costs, plus interest at the Default Rate, in addition to any other amounts comprising the Indebtedness.

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

7.11 Waiver of Right to Marshall Assets. Trustor, for itself and for all persons hereafter claiming through or under it or who may at any time hereafter become holders of liens junior to the lien of this Deed of Trust, hereby expressly waives and releases all rights to direct the order in which any of the Property shall be sold and to have the Property and any other property now or hereafter constituting security for the Indebtedness marshalled upon any foreclosure of the

lien of this Deed of Trust. Beneficiary shall have the right to sell the Property as a whole or in separate parcels.

7.12 Beneficiary's Remedies Cumulative. Each right, power, and remedy herein conferred upon Beneficiary or the Trustee is cumulative of every other right or remedy of Beneficiary or the Trustee, whether conferred herein or by law, and may be enforced concurrently.

8. Miscellaneous.

8.1 Severability of Clauses. If any term, covenant, condition, or provision of this Deed of Trust, the Note or the transaction documents is held to be invalid, illegal, or unenforceable, this Deed of Trust, the Note or the transaction documents shall be construed without such provision.

8.2 Notices. All notices, demands, and requests given or required to be given hereunder shall be in writing and shall be deemed to have been properly given when delivered in person, delivered via a commercially accepted rapid means of delivery or five (5) business days after having been deposited in any post office, branch post office, or mail depository regularly maintained by the U.S. Postal Service and sent by U.S. registered or certified mail, postage prepaid, return receipt requested, addressed at the addresses first set forth above or addressed to each respective party at such other address as such party may hereafter furnish to the other parties in writing.

8.3 Waiver. Failure by Beneficiary to insist upon the strict performance of any covenant, agreement, term, or condition of this Deed of Trust or to exercise any right or remedy consequent upon a breach thereof shall not constitute a waiver of any such breach or of such covenant, agreement, term, or condition. No covenant, agreement, term, or condition in this Deed of Trust and no breach thereof, may be waived, altered, or modified except by a written instrument executed by Beneficiary. The waiver of any breach shall not affect or alter this Deed of Trust, but each and every covenant, agreement, term, and condition of this Deed of Trust shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. No waiver, change, amendment, modification, cancellation, or discharge of any provision of this Deed of Trust, or any part hereof, will be valid unless in writing and signed by the parties hereto.

8.4 Inspection of Property. Beneficiary and its authorized representatives may enter and inspect all portions of the Property upon reasonable notice and at all reasonable times (subject to the rights of lessees and other occupants of the Property).

8.5 Binding Effect. This Deed of Trust shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors, and assigns. If Trustor is now or is ever composed of more than one party, the obligations and warranties contained herein and arising therefrom are and shall be joint and several as to each such party.

8.6 Applicable Law. This Deed of Trust shall be governed by the laws of the State of Utah.

8.7 Beneficiary Not Partner of Trustor; Trustor to Indemnify Beneficiary. The exercise by Beneficiary of any of its rights, privileges or remedies conferred hereunder or under the Note or any other Loan Documents or under applicable law, shall not be deemed to render Beneficiary a partner or a co-venturer with Trustor or with any other person. Any and all of such actions will be exercised by Beneficiary solely in furtherance of its role as a secured lender advancing funds for use by Trustor as provided in this Deed of Trust. Trustor shall indemnify Beneficiary against any claim by any third party for any injury, damage or liability of any kind arising out of any failure of Trustor to perform its obligations in this transaction, shall notify Beneficiary of any lawsuit based on such claim, and at Beneficiary's election, shall defend Beneficiary therein at Trustor's own expense by counsel satisfactory to Beneficiary or shall pay Beneficiary's costs and reasonable attorneys' fees if Beneficiary chooses to defend itself on any such claim.

8.8 Entire Agreement. Once the Note, this Deed of Trust and all of the other transaction documents, if any, have been executed, all of the foregoing constitutes the entire agreement between the parties hereto and none of the foregoing may be modified or amended in any manner other than by supplemental written agreement executed by the parties hereto; provided, all written and oral representations of Trustor, and of any partner, principal or agent of Trustor, previously made to Beneficiary shall be deemed to have been made to induce Beneficiary to make the loan secured hereby and to enter into the transaction evidenced hereby and shall survive the execution hereof and the closing pursuant hereto.

8.9 No Third Party Benefits. This Deed of Trust, the Note and the other transaction documents, if any, are made for the sole benefit of Trustor and Beneficiary and their successors and assigns, and no other legal interest of any kind shall be created hereunder or by reason of any of the foregoing. Whether or not Beneficiary elects to employ any or all the rights, powers or remedies available to it under any of the foregoing, Beneficiary shall have no obligation or liability of any kind to any third party by reason of any of the foregoing or any of Beneficiary's actions or omissions pursuant thereto or otherwise in connection with this transaction.

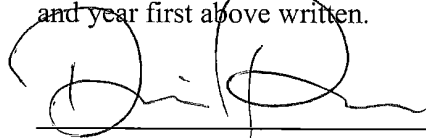
8.10 Effect of Foreclosure on Insurance Claims. In the event of foreclosure of this Deed of Trust, or other transfer of title to the Property in extinguishment of the Indebtedness, all right, title, and interest of Trustor in and to any insurance policies then in force shall pass to the purchaser or grantee. If, prior to any such transfer of title, any claim under any hazard insurance policy has not been paid and distributed in accordance with the terms of this Deed of Trust and any such claim is paid after any such transfer of title, then, to the extent the Indebtedness was not fully discharged in conjunction with such transfer of title, the insurance proceeds so paid shall be the property of Beneficiary and shall be paid to Beneficiary as payment on the Indebtedness to the extent not fully discharged, and Trustor hereby assigns, transfers, and sets over to Beneficiary all of its right, title, and interest in and to such sum. The balance, if any, shall belong to Trustor as its

interests may appear. Notwithstanding the above, Trustor shall retain an interest in the insurance policies above described during any redemption period.

8.11 Headings. Headings of the sections and paragraphs of this Deed of Trust are inserted for convenience only and shall not be deemed to constitute a part hereof.

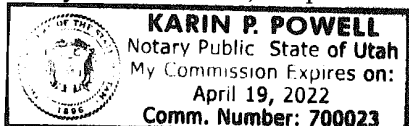
8.12 Request for Notice. Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at the address for Trustor specified above.


**IN WITNESS WHEREOF**, this Deed of Trust has been executed by Trustor as of the day and year first above written.

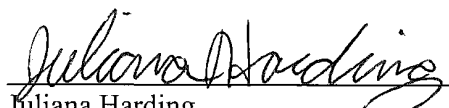
  
\_\_\_\_\_  
Dorian Rosen  
Maker

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of May, 2018 by Dorian Rosen, the person that executed the within instrument.

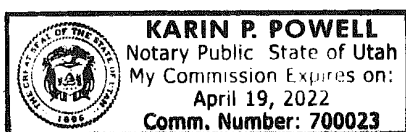


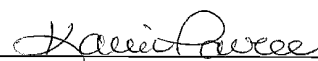
  
\_\_\_\_\_  
Notary Public

  
\_\_\_\_\_  
Juliana Harding  
Maker

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of May, 2018 by Dorian Rosen, the person that executed the within instrument.



  
\_\_\_\_\_  
Notary Public