

14378170 B: 11567 P: 6539 Total Pages: 25
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Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: COTTONWOOD TITLE INSURANCE AGENCY, INC.
1996 EAST 6400 SOUTH SUITE 120 SALT LAKE CITY, UT 84121

**RECORDING REQUESTED BY AND
UPON RECORDATION RETURN TO:**

AMERICA FIRST FEDERAL CREDIT UNION
Attn: Jill Ulm
4051 South 1900 West
Roy, Utah 84067
Attention: Commercial Real Estate Dept.

Loan No. 4767867701

Tax ID No's:
26-24-101-017
26-24-101-022

178037-DMF

*SPACE ABOVE THIS LINE FOR RECORDER'S
USE*

**CONSTRUCTION DEED OF TRUST, SECURITY AGREEMENT,
Fixture Filing and Assignment of Rents**

This CONSTRUCTION DEED OF TRUST, SECURITY AGREEMENT, FIXTURE FILING AND ASSIGNMENT OF RENTS (this "*Trust Deed*") is made effective as of April 30, 2025, by DTDB 13, LLC, a Utah limited liability company ("*Trustor*") (together with its respective permitted successors and assigns, individually or collectively as the context requires, "*Trustor*"), having an address at 9350 South 150 East, Suite 900, Sandy, Utah 84070, to COTTONWOOD TITLE INSURANCE AGENCY, INC., a Utah corporation, as trustee, having an address at 1996 East 6400 South, Suite 120, Salt Lake City, UT 84121 (together with its successors and assigns, "*Trustee*"), for the benefit of AMERICA FIRST FEDERAL CREDIT UNION, a federally-charted credit union, dba America First Credit Union, having an address to which notices may be mailed or delivered of 4051 South 1900 West, Roy, Utah 84067, Attn: Commercial Real Estate Dept. ("*Beneficiary*").

THIS TRUST DEED CONSTITUTES A "CONSTRUCTION MORTGAGE" WITHIN THE MEANING OF UTAH CODE ANNOTATED §70A-9a-334(8) OR ANY SUCCESSOR STATUTE. THE PROCEEDS OF THE LOAN SECURED BY THIS TRUST DEED ARE TO BE USED BY TRUSTOR IN PART FOR THE PURPOSE OF FUNDING THE CONSTRUCTION AND DEVELOPMENT OR REHABILITATION OF THE PROPERTY AND IMPROVEMENTS DESCRIBED HEREIN AND ARE TO BE DISBURSED IN ACCORDANCE WITH THE PROVISIONS OF THE LOAN DOCUMENTS (AS HEREINAFTER DEFINED). TRUSTOR IS THE OWNER OF THE PROPERTY DESCRIBED HEREIN

RECITALS:

A. Trustor is a borrower under that certain Construction Loan Agreement of even date herewith (as from time to time may be amended, modified, or restated, the "***Loan Agreement***"), by and among Trustor, as borrower, and Beneficiary. All capitalized terms used in this Trust Deed without definition shall have the respective meanings ascribed to them in the Loan Agreement. The Loan Agreement, this Trust Deed, the Note (as defined herein), the Guaranty (as defined herein), the Completion Guaranty (as defined herein), and the other documents executed by Trustor in connection with the Loan and as defined in the Loan Agreement are sometimes collectively referred to herein as the "***Loan Documents***."

B. Trustor has requested and Lender has agreed to make available to Trustor construction loans in the amount of Five Million Seven Hundred Twenty-Five Thousand and NO/100 Dollars (\$5,725,000.00) (the "***Loan***") for the benefit of Trustor related to their interests in the Secured Property (as such term is defined in Section 1.1 below) and improvements and personalty associated with the Secured Property.

C. The Loan is evidenced by that certain Construction Loan Promissory Note (together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for, collectively, the "***Note***") executed by Trustor and dated of even date herewith in connection with the Loan Agreement and in conjunction with the Loan.

D. Pursuant to the terms of the Loan Agreement, Trustor agreed to pledge its interest in the Collateral Property as collateral for Beneficiary (the "***Secured Property***") for the Secured Obligations (as such term is defined in Section 2.4 below) as set forth in this Trust Deed.

E. Trustor's obligations under the Loan shall be guaranteed by Karen Gail Miller, trustee of the Larry H. Miller Revocable Trust, dated October 30, 2008, as amended from time to time, and Windsong Single Family Private Trust Company, LLC, a Wyoming limited liability company, trustee of The Gail Miller GST Trust, dated December 1, 2019, as amended from time to time (collectively, "***Guarantor***"), through that certain Continuing Guaranty Agreement, to be executed by Guarantor of even date herewith ("***Guaranty***"), and through that certain Completion Guaranty, to be executed by Guarantor in favor of Beneficiary (the "***Completion Guaranty***").

F. The Loan shall be in the original maximum principal amount of Five Million Seven Hundred Twenty-Five Thousand and NO/100 Dollars (\$5,725,000.00), and it is the intention of Trustor and Beneficiary that this Trust Deed shall secure such amount together with all of the Secured Obligations.

G. This Trust Deed is given pursuant to the Loan Agreement, and payment, fulfillment, and performance of the Obligations are secured by and in accordance with the terms of this Trust Deed.

ARTICLE 1
GRANTS OF SECURITY

IN CONSIDERATION of the principal sum of all advances made to Trustor under the Loan Agreement and the Note, including future advances as provided under the Loan Documents, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and for the purpose of securing when due, whether by stated maturity, demand, acceleration or otherwise, the Indebtedness (as defined below), which specifically excludes any guaranty of the Secured Obligations or any separate indemnity agreement executed in connection with this Trust Deed, Trustor hereby:

1.1 **Secured Property**. Trustor, for good and valuable consideration, irrevocably grants, bargains, sells, pledges, assigns, warrants, transfers, and conveys a security interest to Trustee, its successors and assigns IN TRUST, WITH THE POWER OF SALE AND RIGHT OF ENTRY, for the benefit of Beneficiary and its successors and assigns, all right, title, and interest of Trustor in and to the following property, rights, interests and estates, each to the extent now owned, leased, or hereafter acquired, by Trustor (collectively, "**Secured Property**"):

(a) **Real Property**. Trustor's right, title, and interest in and to that certain improved real property, Tax Parcel Nos. 26-24-101-017 and 26-24-101-022 (the "**Property**"), and located at 5444 and 5446 West Center Field Drive, South Jordan, Utah 84009, and more particularly described on attached Exhibit A.

(b) **Improvements**. Trustor's right, title, and interest in: (i) any and all buildings and improvements of every kind and description now or hereafter erected or placed on the Property; (ii) all materials intended for construction, reconstruction, alteration and repairs of such buildings and improvements now or hereafter erected on the Property, all of which materials shall be deemed to be included within the Property immediately upon the delivery thereof to the Property, (iii) all items of furniture, furnishings, fixtures, machinery, engines, compressors, motors, elevators, pipes, pumps, tanks, fittings, conduit, wiring, radiators, awnings, shades, screens, all gas and electric fixtures, appliances, water heaters, carpeting and all other floor coverings, window coverings and treatments, plumbing, heating, lighting, ventilating, refrigerating, incinerating, air conditioning, lifting, cleaning, communications, fire prevention, fire extinguishing and sprinkler equipment and fixtures and appurtenances thereto, other equipment and personal property in which Trustor now or hereafter has any right, title and/or interest and used or useful in connection with the Property; and (iv) all renewals or replacements of all of the aforesaid property or articles in substitution therefore, whether or not the same are or shall be attached to said buildings or improvements in any manner and regardless of where situated, used, usable, or intended to be used in connection with any present or future use or operation of or upon said Property (the foregoing (i)-(iv) collectively, the "**Improvements**"); it being mutually agreed, intended and declared that all the aforesaid Improvements shall, so far as permitted by law, be deemed to form a part and parcel of the Property and for the purpose of this Trust Deed to be Property and covered by this Trust Deed, and as to any of the property aforesaid which does not form a part and parcel of the Property or does not constitute a "fixture" (as such term is defined in the Utah Uniform Commercial Code) this Trust Deed and the other Loan Documents, as defined

in the Loan Agreement (the terms of which grant a security interest in personal property or real property, the proceeds of which may become personal property) are each hereby deemed to be, as well, a security agreement under the Uniform Commercial Code (defined below) for the purpose of creating a security interest in all items, including, but not limited to all property and rights which Trustor may grant, assign, bargain, sell, transfer, set over, deliver, or otherwise convey to Beneficiary, as secured party, under the terms of this Trust Deed or any of the other Loan Documents, including any and all proceeds thereof (as used herein, Borrower shall mean "Debtor" under the Uniform Commercial Code and Lender shall mean "Secured Party" under the Uniform Commercial Code), and this instrument shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included in the Property.

(c) Interest in Easements. Trustor's right, title, and interest in any easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Property and the Improvements, and the reversions and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Property, to the center line thereof and all the estates, rights, titles, interests, rights of dower, rights of courtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Trustor of, in and to the Property and the Improvements, and every part and parcel thereof, with the appurtenances thereto.

(d) Fixtures and Personal Property. All of Trustor's interest in all machinery, equipment, furniture, furnishings, appliances, goods, fixtures (including, but not limited to, all heating, air-conditioning, plumbing, lighting, communications and elevator fixtures, inventory and goods), inventory, articles of personal property and accessions and renewals, replacements and substitutions of such property (including, but not limited to, electric and electronic equipment, computer equipment, lighting and plumbing fixtures, fire prevention and extinguishing apparatus, cooling and air-conditioning systems, elevators, escalators, fittings, plants, apparatus, machinery, engines, motors, boilers, incinerators, conduits, compressors and any and all software embedded in or used in connection with any of the foregoing), other customary equipment and other tangible property of every kind and nature whatsoever owned by Trustor, or in which Trustor has or shall have an interest (to the extent Trustor is not prohibited from granting a security interest in such equipment or property), now or hereafter attached or affixed to the Property and the Improvements, or appurtenant thereto, or used in connection with the present or future planning, development, use, operation and occupancy of the Property and the Improvements, and all building equipment, materials and supplies of any nature whatsoever owned by Trustor, or in which Trustor has or shall have an interest (to the extent Trustor is not prohibited from granting a security interest in such equipment or property), located upon the Property and the Improvements, now or in the future, for use or installation in or on the Property or the Improvements, or appurtenant thereto, or used in connection with the present or future planning, development, use, operation and occupancy of the Property and the Improvements, including the right, title and interest of Trustor in and to any of such property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the State of Utah (the "*Uniform Commercial*

Code"), or equipment leases superior in lien to the lien of this Trust Deed and all proceeds and products of all of the above, provided that the foregoing items shall not include (except to the extent Beneficiary has any right, title or interest therein) (a) any property which any tenant (other than Trustor) is entitled to remove pursuant to the terms of their respective leases and/or (b) any property belonging to tenants (other than Trustor) under the terms of their respective leases (collectively the "**Personal Property**").

(e) Insurance Proceeds. To the extent assignable, all insurance proceeds in respect of the Secured Property under any insurance policies covering the Secured Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu of such proceeds, for damage to the Secured Property (collectively, the "**Insurance Proceeds**"); provided, however, and for purposes of clarification, such insurance proceeds being pledged shall relate only to Trustor's interest in the Property, and no insurance proceeds relating to the fee interest in the Property are being pledged to Beneficiary. Further, nothing by this Trust Deed shall constitute a release of any obligations of Trustor to Beneficiary.

(f) Condemnation Awards. To the extent assignable, all condemnation awards, including accrued interest on such awards, which may be made now or in the future with respect to the Secured Property by reason of any taking or condemnation, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Secured Property (collectively, the "**Awards**"); provided, however, and for purposes of clarification, such Awards being pledged shall relate only to Trustor's interest in the Property and no Awards relating to the fee interest in the Property are being pledged to Beneficiary. Further, nothing by this Trust Deed shall constitute a release of any obligations of Trustor to Beneficiary.

(g) Tax Certiorari. All refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Secured Property as a result of tax certiorari or any applications or proceedings for reduction; provided, however, and for purposes of clarification, such refunds, rebates or credits being pledged shall relate only to Trustor's interest in the Property and no refunds, rebates or credits relating to the fee interest in the Property are being pledged to Beneficiary. Further, nothing by this Trust Deed shall constitute a release of any obligations of Trustor to Beneficiary.

(h) Agreements. To the extent assignable in accordance with their express terms, all agreements, contracts, certificates, instruments, franchises, permits, licenses, and other documents, now or hereafter entered into, and all rights in and to such documents, respecting or pertaining to the use, occupation, design, construction, development, management or operation of the Property and any part of thereof and any Improvements or any business or activity conducted on the Property and any part thereof (including, without limitation, all permits, licenses, variances and other rights and approvals issued by or obtained from any governmental authority or other Person in connection with the development of the Property or the construction or repair of the Improvements) and all right, title and interest of Trustor therein and thereunder, including, without

limitation, the right, upon the occurrence or during the continuance of an Event of Default, to receive and collect any sums payable to Trustor thereunder;

(i) Intangibles. All trade names, trademarks, service marks, logos and copyrights, goodwill, books and records, advertising materials, telephone exchange numbers identified in such materials, and all other general intangibles and payment intangibles relating to or used in connection with the operation of the Property, the Improvements and the Personal Property;

(j) Miscellaneous. All: (i) plans and specifications (to the extent owned by Trustor) for the Improvements; (ii) Trustor's rights, but not liability for any breach by Trustor, under all insurance policies (or additional or supplemental coverage related thereto, including from an insurance provider meeting the requirements of the Loan Documents or from or through any state or federal government sponsored program or entity); (iii) to the extent assignable deposits and deposit accounts arising from or related to any transactions related to the Property or the Improvements (including but not limited to Trustor's rights in deposits with respect to utility services to the Property or the Improvements), rebates or refunds of impact fees or other taxes, assessments or charges, money, accounts (including deposit accounts), instruments, documents, promissory notes and chattel paper (whether tangible or electronic) arising from or by virtue of any transactions related to the Property or the Improvements, and any account or deposit account from which Trustor may from time to time authorize Beneficiary to debit and/or credit payments due with respect to the Loan; (iv) to the extent assignable permits, licenses, franchises, certificates, development rights, commitments and rights for utilities, and other rights and privileges obtained in connection with the Property or the Improvements; (v) subject to the rights of others therein, as extracted collateral produced from or allocated to the Property including, without limitation, oil, gas and other hydrocarbons and other minerals and all products processed or obtained therefrom, and the proceeds thereof; and (vi) engineering, title, and other related data concerning the Secured Property which are in the possession of Trustor and in which Trustor can grant a security interest.

(k) Proceeds. All proceeds of any of the foregoing items set forth in Sections 1.1(a) through 1.1(j);

(l) Other Rights. To the extent assignable, any and all other rights of Trustor in and to the items set forth in Sections 1.1(a) through 1.1(k) above.

(m) For purposes of clarification, no part of this Trust Deed encumbers any fee interest in the Property, or any portion of the Secured Property that is owned by Beneficiary.

1.2 Assignment of Rents. As additional security for the payment of the Indebtedness, Trustor hereby assigns, transfers, and sets over to Beneficiary: (i) the rents, profits, and income derived from the Property including all prepaid rent and security deposits (the "**Rents**"); (ii) all leases, including any guaranties of any lessee's obligations under such leases, and any modifications or renewals of the leases and such guaranties; (iii) any award or other payment to which Trustor may become entitled with respect to the leases as a result of or pursuant to any bankruptcy, insolvency or reorganization or similar proceedings involving the tenants under the leases; and (iv) all payments made by or on behalf of any tenant of any part of the Property in lieu

of Rent. This Section is subject to the Utah Uniform Assignment of Rents Act, Utah Code Annotated § 57-26-101 et seq. (the “*Act*”), and in the event of any conflict or inconsistency between the provisions of this Section and the provisions of the Act, the provisions of the Act shall control and Beneficiary shall have all rights and remedies available under the Act which rights and remedies shall be cumulative with all rights and remedies hereunder.

1.3 Security Agreement. This Trust Deed shall cover the Improvements and Personal Property affixed to the 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, together with all proceeds thereof (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 Trust Deed consists of rights in action, accounts receivable or personal property covered by the Uniform Commercial Code, this Trust Deed 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 Trust Deed shall be self-operative with respect to such property, but Trustor shall 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 recording and/or filing fees associated therewith. If the lien of this Trust Deed on any property is subject to a prior security agreement covering such property, then if any Event of Default occurs, Borrower 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 Trust Deed 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. Upon the occurrence and continuance beyond any applicable notice and cure period of any Event of Default under this Trust Deed, Beneficiary shall have all the rights and remedies of a secured party under the Uniform Commercial Code or otherwise provided by law or by this Trust Deed.

1.4 Fixture Filing. This Trust Deed covers goods which are or are to become fixtures, is effective as a financing statement filed as a fixture filing, and is to be filed in the real estate records in Salt Lake County, Utah. The filing of any other financing statement relating to any personal property, rights, or interests described herein shall not be construed to diminish any right or priority hereunder. This Trust Deed constitutes a security agreement, and is filed as a fixture filing with respect to any portion of the Property, as described in Exhibit A attached hereto and made a part hereof, in which a personal property security interest or lien may be granted or created pursuant to the Utah Uniform Commercial Code or under common law, and as to all replacements, substitutions, and additions to such property and the proceeds thereof. Information concerning the security interest herein granted may be obtained at the addresses set forth on the first page of this Trust Deed.

1.5 Conditions to Grant. TO HAVE AND TO HOLD the above granted and described Secured Property unto Trustee and its successors and assigns for and on behalf of Beneficiary and to the use and benefit of Beneficiary, as described in this Trust Deed, and its successors and assigns, forever; IN TRUST, WITH POWER OF SALE, to secure payment to Beneficiary of the Secured Obligations; PROVIDED, HOWEVER, these presents are upon the express condition

that, if (i) Beneficiary shall be paid the Indebtedness at the time and in the manner provided in the Loan Agreement, the Note, and this Trust Deed, if Trustor shall perform the Other Obligations as set forth in this Trust Deed, or (ii) upon Trustor's satisfaction of all material conditions of the Loan Agreement, these presents and the estate hereby granted shall cease, terminate and be void, and Beneficiary shall promptly execute and deliver to Trustor for recording at Trustor's expense among the appropriate public records a release of this Trust Deed in recordable form.

1.6 Grants to Beneficiary. This Trust Deed and the grants, assignments and transfers made to Beneficiary in this Article 1 shall inure to Beneficiary.

ARTICLE 2 DEBT AND OBLIGATIONS SECURED

2.1 Obligations. This Trust Deed and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Indebtedness.

2.2 Other Obligations. This Trust Deed and the grants, assignments and transfers made in Article 1 of this Trust Deed are also given for the purpose of securing the performance of the following (collectively, the "**Other Obligations**"): (a) all other obligations of Trustor contained this Trust Deed; (b) the obligations of Trustor contained in the Loan Agreement or any other Loan Document, and (c) the obligations of Trustor contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of any Note, the Loan Agreement, this Trust Deed or the other Loan Documents, subject to Section 2.3, whether now existing or hereafter arising, and whether joint or several, direct or indirect, primary or secondary, fixed or contingent, liquidated or unliquidated, and the cost of collection of all such amounts. This Trust Deed secures all obligations, debts and liabilities, plus interest thereon, of Trustor to Beneficiary, as well as all claims by Beneficiary against Trustor, whether now existing or hereafter arising, related to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Trustor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable. Such additional Indebtedness also includes debt, liabilities, or obligations, now existing or hereafter arising, due or to become due, absolute or contingent, of Trustor to Beneficiary and/or its affiliates permitted hereunder associated with the Note and Loan Documents. Notwithstanding the foregoing, this Trust Deed does not secure a consumer purpose transaction or any leasing product between Trustor and Beneficiary.

2.3 Guarantees and Unsecured Environmental Indemnities. Notwithstanding anything in this Trust Deed and the Loan Documents to the contrary, this Trust Deed shall not secure any obligations under the Guaranty, any other guaranty, or the Environmental Indemnity Agreement.

2.4 Obligations and Other Obligations. Trustor's obligations for the payment of the Indebtedness and the performance by Trustor of the Other Obligations shall be referred to collectively in this Trust Deed as, the "**Secured Obligations**."

2.5 Payment of Obligations and Final Maturity Date. Trustor will pay the Indebtedness at the time and in the manner provided in the Note, the Loan Agreement and this Trust Deed.

ARTICLE 3 PROPERTY COVENANTS

Trustor covenants and agrees that:

3.1 Insurance. Trustor shall obtain and maintain, or cause to be obtained and maintained, in full force and effect at all relevant times insurance with respect to Trustor and the Secured Property as required pursuant to the Loan Agreement.

3.2 Taxes and Other Charges. Trustor shall pay all real estate and personal property taxes, assessments, water rates or sewer rents (collectively, "Taxes"), ground rents, maintenance charges, impositions (other than Taxes), and any other charges, including, without limitation, vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Secured Property (collectively, "Other Charges"), now or hereafter levied or assessed or imposed against the Secured Property or any part thereof in accordance with the Loan Agreement.

3.3 Leases. Trustor shall not enter in any leases for all or any portion of the Secured Property without the prior written consent of the Beneficiary, except as otherwise set forth in the Loan Agreement.

3.4 Warranty of Title. Trustor shall forever warrant, defend and preserve the title and the validity and first position of the lien of this Trust Deed on the Property and shall forever warrant and defend the same to Beneficiary against the claims of all Persons whomsoever. Notwithstanding the above, Trustor may grant, without Beneficiary's consent, easements and other rights necessary or desirable for the operation and development of the Secured Property on the condition that the granting of such easements and other rights shall not, individually or in the aggregate, interfere with the benefits intended to be provided by this Trust Deed, adversely affect the marketability of the Secured Property, or impair the use or operation of the Secured Property, and any such easement or other right shall constitute a permitted encumbrance.

3.5 Additions to Security. All right, title and interest of Trustor in and to all Improvements hereafter constructed or placed on the Secured Property and in and to any Personal Property hereafter acquired shall, without any further pledge, conveyance, assignment or other act by Trustor, become subject to the lien of this Trust Deed as fully and completely, and with the same effect, as though now owned by Trustor and specifically described in the granting clauses of this Trust Deed. Trustor agrees, however, to execute and deliver to Beneficiary such further documents as may be required by the terms of the Loan Agreement and the other Loan Documents.

ARTICLE 4 FURTHER ASSURANCES

4.1 Authorization to File Financing Statements; Power of Attorney. Trustor authorizes Beneficiary at any time and from time to time to file any initial financing statements, amendments

thereto and continuation statements as authorized by applicable law, as applicable to all or part of the Personal Property and as necessary or required in connection herewith. For purposes of such filings, Trustor agrees to furnish any information reasonably requested by Beneficiary promptly upon request by Beneficiary. Trustor irrevocably constitutes and appoints Beneficiary, with full power of substitution, as Trustor's true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of Trustor or in Trustor's own name to execute in Trustor's name any such documents and otherwise to carry out the purposes of this Section 4.1, to the extent that Trustor's authorization above is not sufficient and Trustor fails or refuses to promptly execute such documents. This power of attorney is a power coupled with an interest and shall be irrevocable prior to the full and final payment and performance of the Secured Obligations.

ARTICLE 5 DUE ON SALE/ENCUMBRANCE

5.1 No Sale/Encumbrance. Except for a transfer permitted by written consent of Beneficiary or otherwise in accordance with the express terms and conditions contained in the Loan Agreement, Trustor shall not cause or permit a sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or grant of any options with respect to, or any other transfer or disposition (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) of a legal or beneficial interest in the Secured Property or any part thereof.

ARTICLE 6 RELEASE OF PROPERTY

6.1 Release of Property. Trustor shall not be entitled to a release of any portion of the Secured Property from the lien of this Trust Deed except in accordance with Section 1.5 hereof, or otherwise in accordance with the terms and conditions of the Loan Agreement.

6.2 Satisfaction of Indebtedness. Upon payment in full of the Indebtedness, or such earlier time as may be permitted pursuant to the terms of the Loan Agreement, Beneficiary shall deliver a satisfaction or release of this Trust Deed.

ARTICLE 7 DEFAULT

7.1 Event of Default. The term "***Event of Default***" as used in this Trust Deed shall mean an "***Event of Default***" as such term is defined in the Loan Agreement.

ARTICLE 8 RIGHTS AND REMEDIES UPON DEFAULT

8.1 Remedies. Upon the occurrence and during the continuance of any Event of Default, Trustor agrees that Beneficiary may, or acting by and through Trustee may, take such action, upon such notice or demand required by applicable law, as it deems advisable to protect and enforce its rights against Trustor and in and to the Secured Property, including, but not limited

to, any one or more of the following actions, to the extent permitted by applicable law, each of which may be pursued concurrently or otherwise, at such time and in such order as Beneficiary may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Beneficiary:

- (a) declare the entire unpaid Indebtedness to be immediately due and payable;
- (b) after the lapse of such time as may then be required by Utah Code Annotated § 57-1-24 or other applicable law following the recordation of the notice of default, and notice of default and notice of sale having been given as then required by Utah Code Annotated §§ 57-1-25 and 57-1-26 or other applicable law, Beneficiary or Trustee, if and as directed by Beneficiary, without demand on Trustor shall sell the Property on the date and at the time and place designated in the notice of sale, in such order as Beneficiary may determine (but subject to Trustor's statutory right under Utah Code Annotated § 57-1-27 to direct the order in which the Property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale or on such other terms as are set forth in the notice of sale. The person conducting the sale may, for any cause deemed expedient, postpone the sale from time to time until it shall be completed and, in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale; provided, if the sale is postponed for longer than forty-five (45) days beyond the date designated in the notice of sale, notice of the time, date, and place of sale shall be given in the same manner as the original notice of sale as required by Utah Code Annotated § 57-1-27. Trustee shall execute and deliver to the purchaser a deed, in accordance with Utah Code Annotated § 57-1-28, conveying the Property so sold, but without any covenant of warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Beneficiary shall apply the proceeds of the sale as follows: (i) first, to the costs and expenses of exercising the power of sale and of the sale, including the payment of Beneficiary's and attorneys' fees actually incurred not to exceed the amount which may be provided for in the deed; (ii) second, to payment of the Indebtedness secured by this Trust Deed; and (iii) third, the balance, if any, to the person or persons legally entitled to the proceeds, or Beneficiary, in the Beneficiary's discretion, may deposit the balance of the proceeds with the clerk of the district court of the county in which the sale took place in accordance with Utah Code Annotated § 57-1-29. Upon any sale made under or by virtue of this Section 8.1(b), whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, the Beneficiary may bid for and acquire the Property, whether by payment of cash or by credit bid in accordance with Utah Code Annotated § 57-1-28(1)(b). In the event of a successful credit bid, Beneficiary shall make settlement for the purchase price by crediting to the Indebtedness of Trustor secured by this Trust Deed such credit bid amount. Beneficiary, upon so acquiring the Property or any part thereof, shall be entitled to hold, lease, rent, operate, manage, and sell the same in any manner provided by applicable law;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Trust Deed on the Property and the other Secured Property for the portion of the Indebtedness then due and

payable, subject to the continuing lien and security interest of this Trust Deed for the balance of the Indebtedness not then due, unimpaired and without loss of priority;

- (d) intentionally omitted;
- (e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained in this Trust Deed, in the Loan Agreement or in the other Loan Documents;
- (f) recover judgment on the Indebtedness either before, during or after any proceedings for the enforcement of this Trust Deed or the other Loan Documents;
- (g) apply to a court of competent jurisdiction for the appointment of a receiver, trustee, liquidator or conservator of the Secured Property, without notice and without regard for the adequacy of the security for the Secured Obligations and without regard for the solvency of Trustor or any other Trustor (as applicable) or any other Person liable for the payment of the Indebtedness;
- (h) the license granted to Trustor under Article 1 hereof shall automatically be revoked (for so long as an Event of Default shall be continuing) and, to the extent permitted under applicable Legal Requirements, Beneficiary may enter into or upon the Secured Property, either personally or by its agents, nominees or attorneys and dispossess Trustor and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Trustor and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Trustor agrees to surrender possession of the Secured Property and of such books, records and accounts to Beneficiary upon demand, and thereupon Beneficiary may, subject to the terms of leases for the Property or any portion thereof, if any, (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Secured Property and conduct the business thereat; (ii) make alterations, additions, renewals, replacements and improvements to or on the Secured Property; (iii) exercise all rights and powers of Trustor with respect to the Secured Property, whether in the name of Trustor or otherwise, including, without limitation, the right to make, cancel, enforce or modify leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Secured Property and every part thereof; (iv) require Trustor to pay monthly in advance to Beneficiary, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Secured Property as may be occupied by Trustor; (v) require Trustor to vacate and surrender possession of the Secured Property to Beneficiary or to such receiver and, in default thereof, Trustor may be evicted by summary proceedings or otherwise; and (vi) apply the receipts from the Secured Property to the payment of the Indebtedness in accordance with the provisions of the Loan Agreement or any of the other Loan Documents after deducting therefrom all out-of-pocket expenses (including reasonable attorneys' fees) actually incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance premiums and other expenses in connection with the Secured Property;
- (i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the

foregoing: (i) the right to take possession of the Personal Property or any part thereof, and to take such other measures as Beneficiary may deem necessary for the care, protection and preservation of the Personal Property, and (ii) request Trustor at its expense to assemble the Personal Property and make it available to Beneficiary at a convenient place acceptable to Beneficiary;

(j) apply any sums then deposited or held in escrow or otherwise by or on behalf of Beneficiary in accordance with the terms of the Note, Loan Agreement, this Trust Deed or any of the other Loan Documents;

(k) apply the undisbursed balance of any deposit made by Trustor with Beneficiary in connection with the restoration of the Secured Property, together with interest thereon, to the payment of the Indebtedness; or

(l) pursue such other remedies as Beneficiary may have under applicable law.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of the Secured Property, this Trust Deed shall continue as a lien and security interest on the remaining portion of the Secured Property unimpaired and without loss of priority.

8.2 Application of Proceeds. Subject to applicable law, upon the occurrence and during the continuance of an Event of Default, the purchase money, proceeds and avails of any disposition of the Secured Property, and or any part thereof, or any other sums collected by Beneficiary pursuant to the Note, Loan Agreement, this Trust Deed or the other Loan Documents, shall be applied by Beneficiary in accordance with this Trust Deed and the Loan Agreement.

8.3 Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default, Beneficiary may, but without any obligation to do so, and, without notice or demand (except as expressly required by the Loan Agreement or applicable law), and without releasing Trustor from any obligation hereunder, make any payment or do any act required of Trustor hereunder in such manner and to such extent as Beneficiary may deem necessary to protect the security hereof. In connection with the foregoing, to the extent permitted by applicable Legal Requirements, Beneficiary is authorized to enter upon the Secured Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Secured Property or to foreclose this Trust Deed or collect the Indebtedness, and the cost and expense of any cure thereof (including reasonable attorneys' fees to the extent permitted by applicable Legal Requirements), with interest as provided in this Section 8.3, shall constitute a portion of the Indebtedness and shall be due and payable to Beneficiary ten (10) Business Days following receipt by Trustor of written demand along with a reasonably detailed invoice accompanying therewith. All such out of pocket costs and expenses incurred by Beneficiary in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at any default rate specified in the Loan Agreement, if any (the "**Default Rate**"), for the period following such ten (10) Business Day period referred to in the previous sentence to the date of payment to Beneficiary if not repaid within such time. All such costs and expenses actually incurred by Beneficiary or Trustee together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Indebtedness and be secured by this Trust Deed and the other Loan Documents and shall be due and payable ten (10)

Business Days following receipt by Trustor of written demand along with a reasonably detailed invoice accompanying therewith by Beneficiary.

8.4 Actions and Proceedings. Subject to the terms and conditions of the Loan Agreement, during the continuance of an Event of Default, Beneficiary has the right to appear in and defend any action or proceeding brought with respect to the Secured Property, and, after the occurrence and during the continuance of any Event of Default, to bring any action or proceeding, in the name and on behalf of Trustor, which Beneficiary, in its sole discretion, decides should be brought to protect its interest in the Secured Property.

8.5 Recovery of Sums Required to Be Paid. Upon the occurrence and during the continuance of an Event of Default, Beneficiary shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Indebtedness as the same become due, without regard to whether or not the balance of the Indebtedness shall be due, and without prejudice to the right of Beneficiary thereafter to bring an action of foreclosure, or any other action, for any Event of Default by Trustor existing at the time such earlier action was commenced.

8.6 Other Rights, etc.

(a) The failure of Beneficiary to insist upon strict performance of any term in this Trust Deed shall not be deemed to be a waiver of any term of this Trust Deed. Trustor shall not be relieved of Trustor's obligations hereunder by reason of (i) the failure of Beneficiary to comply with any request of Trustor or Guarantor to take any action to foreclose this Trust Deed or otherwise enforce any of the provisions hereof or of the Loan Agreement, any Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Secured Property, or of any Person liable for the Indebtedness or any portion of the Indebtedness, or (iii) any agreement or stipulation by Beneficiary extending the time of payment or otherwise modifying or supplementing the terms of the Loan Agreement, this Trust Deed or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Secured Property is on Trustor, and Beneficiary shall have no liability whatsoever for decline in the value of the Secured Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured, except to the extent of Beneficiary's gross negligence or willful misconduct while in actual possession and control of the Secured Property. Possession by Beneficiary shall not be deemed an election of judicial relief if any such possession is requested or obtained with respect to any Secured Property or any other Collateral not in Beneficiary's possession.

(c) Subject to applicable Legal Requirements, Beneficiary may resort for the payment of the Indebtedness to any other security held by Beneficiary in such order and manner as Beneficiary, in its sole discretion, may elect. To the extent permitted by applicable law, Beneficiary may take action to recover the Indebtedness, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Beneficiary thereafter to foreclose this Trust Deed. The rights of Beneficiary and Trustee under this Trust Deed shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Beneficiary or

Trustee shall be construed as an election to proceed under any one provision in this Trust Deed to the exclusion of any other provision. Neither Beneficiary nor Trustee shall be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

(d) In the event of a foreclosure sale the Personal Property and the Secured Property may, at the option of Beneficiary, be sold as a whole.

8.7 Right to Release Any Portion of the Property. Beneficiary may release any portion of the Secured Property for such consideration as Beneficiary may reasonably require without, as to the remainder of the Secured Property, in any way impairing or affecting the lien or priority of this Trust Deed, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Beneficiary for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Beneficiary may require without being accountable for so doing to any other lienholder. This Trust Deed shall continue as a lien and security interest in the remaining portion of the Secured Property.

8.8 Right of Entry. Upon reasonable notice to Trustor and subject to the rights of any tenants or other occupants then in occupancy of all or any part of the Secured Property, pursuant to the express terms of their leases and the terms of the Loan Agreement, Beneficiary and its agents shall have the right to enter and inspect the Secured Property.

8.9 Attorney Fees and Expenses. Trustor agrees to pay within thirty (30) days of written demand Beneficiary's reasonable costs and expenses, including Beneficiary's reasonable, documented attorney fees and legal expenses, incurred in connection with enforcement of this Trust Deed. Beneficiary may hire or pay someone else to help enforce this Trust Deed. Beneficiary may also use attorneys who are salaried employees of Beneficiary to enforce this Agreement (and a reasonable portion of such salaries reflecting the actual time spent by such employees may be included as costs or expenses payable under this Trust Deed for legal fees). The undersigned shall pay all actual, documented, out-of-pocket costs and expenses of all such enforcement. In the event arbitration, suit, action or other legal proceeding is brought to interpret or enforce this Trust Deed, the undersigned agrees to pay all additional sums as the arbitrator or court may adjudge reasonable as Beneficiary's actual costs, disbursements, and reasonably, documented attorney fees at hearing, trial, and on any and all appeals. As used in this paragraph "*Agreement*" means the Loan Agreement, Promissory Note, Continuing Guaranty, Trust Deed, or other agreement, document, or instrument in which this paragraph is found, even if this document is also described by another name. The attorney fees and expenses covered by this paragraph include without limitation all of Beneficiary's reasonable attorney fees (including reasonable fees charged by Beneficiary's in-house attorneys, calculated at hourly rates based on the compensation of such in-house attorneys and comparable to reasonable outside counsel rates), Beneficiary's fees and expenses for bankruptcy proceedings (including efforts to modify, vacate, or obtain relief from any automatic stay), fees and expenses for Beneficiary's post-judgment collection activities, Beneficiary's cost of searching lien records, searching public record databases, on-line computer legal research, title

reports, surveyor reports, appraisal reports, collateral inspection reports, title insurance, and bonds issued to protect Beneficiary's collateral, all to the fullest extent allowed by law.

8.10 Bankruptcy.

(a) Upon the occurrence and during the continuance of an Event of Default, Beneficiary shall have the right to proceed in its own name or in the name of Trustor in respect of any claim, suit, action or proceeding relating to the rejection of any lease, including, without limitation, the right to file and prosecute, to the exclusion of Trustor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such lease under the Bankruptcy Code (defined below) or Debtor Relief Law (defined below).

(b) If there shall be filed by or against Trustor a petition under 11 U.S.C. §§ 101 et seq., as the same may be amended from time to time (the "***Bankruptcy Code***"), or under any other present or future state or federal law regarding bankruptcy, reorganization or other relief to debtors (collectively, "***Debtor Relief Law***"), and Trustor, as lessor under any lease, shall determine to reject such lease pursuant to Section 365(a) of the Bankruptcy Code or similar Debtor Relief Law, then Trustor shall give Beneficiary not less than ten (10) days' prior notice of the date on which Trustor shall apply to the bankruptcy court for authority to reject the lease. Beneficiary shall have the right, but not the obligation, to serve upon Trustor within such ten (10) day period a notice stating that: (i) Beneficiary demands that Trustor assume and assign the lease to Beneficiary pursuant to Section 365 of the Bankruptcy Code or similar Debtor Relief Law; and (ii) Beneficiary covenants to cure or provide adequate assurance of future performance under the lease. If Beneficiary serves upon Trustor the notice described in the preceding sentence, Trustor shall not seek to reject the lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Beneficiary of the covenant provided for in clause (ii) of the preceding sentence.

ARTICLE 9 WAIVERS

9.1 Marshalling and Other Matters. To the extent permitted by Legal Requirements and subject to the terms and provisions of the Loan Agreement, Trustor waives, to the extent permitted by applicable Legal Requirements, the benefit of all Legal Requirements now or hereafter in force regarding appraisement, valuation, stay, extension, reinstatement and redemption and all rights of marshalling in the event of any sale hereunder of the Secured Property or any part of or any interest in such property. Further, to the extent permitted by law, Trustor by this Trust Deed expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Trust Deed on behalf of Trustor, and on behalf of each and every Person acquiring any interest in or title to the Secured Property subsequent to the date of this Trust Deed and on behalf of all Persons to the extent permitted by applicable Legal Requirements.

9.2 Waiver of Notice. Subject to the terms and provisions of this Trust Deed and the Loan Agreement, to the extent permitted by applicable Legal Requirements, Trustor shall not be entitled to any notices of any nature whatsoever from Beneficiary or Trustee except with respect

to matters for which this Trust Deed, the Loan Agreement or any of the other Loan Documents specifically and expressly provides for the giving of notice by Beneficiary or Trustee to Trustor and except with respect to matters for which Trustor is not permitted by applicable Legal Requirements to waive its right to receive notice, and Trustor expressly waives the right to receive any notice from Beneficiary or Trustee with respect to any matter for which this Trust Deed, the Loan Agreement, or any of the other Loan Documents does not specifically and expressly provide for the giving of notice by Beneficiary or Trustee to Trustor. Notwithstanding the foregoing, pursuant to Section 57-1-26 of the Utah Code, Trustor requests that a copy of any notice of default and a copy of any notice of sale under this Trust Deed be mailed to Trustor at the address set forth herein.

9.3 Sole Discretion of Beneficiary. Whenever pursuant to this Trust Deed, Beneficiary exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Beneficiary, the decision of Beneficiary to approve or disapprove or to decide whether arrangements or terms are satisfactory or not satisfactory shall (except as is otherwise specifically provided in this Trust Deed) be in the sole (but reasonable) discretion of Beneficiary and shall be final and conclusive.

9.4 Intentionally Omitted.

9.5 Jury Trial Waiver. THE PARTIES HERETO WAIVE FULLY ITS RESPECTIVE RIGHTS TO A TRIAL BY JURY IN EACH AND EVERY TRIAL OR OTHER PROCEEDING IN WHICH ONE OR MORE CAUSES OF ACTION OR ISSUES ARE RAISED WHICH RESULT FROM OR ARISE OUT OF THIS TRUST DEED OR ANY OF THE LOAN DOCUMENTS. THE PARTIES REPRESENT THAT THIS AGREEMENT IS EXECUTED, KNOWINGLY, FREELY, AND VOLUNTARILY AFTER HAVING BEEN FULLY AND COMPLETELY READ AND UNDERSTOOD BY THE PARTIES OR THEIR RESPECTIVE AUTHORIZED OFFICERS, AND THAT THE PARTIES UNDERSTAND THE NATURE OF THE RIGHT BEING WAIVED AND THAT SUCH PARTY HAS HAD THE ADEQUATE OPPORTUNITY TO DISCUSS THIS WAIVER WITH ITS COUNSEL.

9.6 Class Action Waiver. TRUSTOR WAIVES THE RIGHT TO LITIGATE IN COURT ANY CLAIM OR DISPUTE AS A CLASS ACTION, EITHER AS A MEMBER OF A CLASS OR AS A REPRESENTATIVE, OR TO ACT AS A PRIVATE ATTORNEY GENERAL.

ARTICLE 10 BENEFICIARY AND NOTICES

10.1 Failure to Act. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, the failure of Beneficiary to take any action hereunder or under any of the other Loan Documents shall not (a) be deemed to be a waiver of any term or condition of this Trust Deed or any of the other Loan Documents, (b) materially adversely affect any rights of Beneficiary hereunder or under any of the other Loan Documents, or (c) relieve Trustor of any of Trustor's obligations hereunder or under any of the other Loan Documents.

10.2 Notices. Except as otherwise provided by applicable law, all notices or other written communications hereunder shall be delivered in accordance with the applicable terms and conditions of Section 14.5 of the Loan Agreement.

ARTICLE 11 APPLICABLE LAW

11.1 Governing Law and Venue. THIS TRUST DEED SHALL BE DEEMED TO BE A CONTRACT ENTERED INTO PURSUANT TO THE LAWS OF THE STATE OF UTAH AND SHALL IN ALL RESPECTS BE GOVERNED, CONSTRUED, APPLIED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF UTAH. THE PARTIES AGREE THAT THE STATE AND FEDERAL COURTS IN SALT LAKE COUNTY, UTAH SHALL BE THE PROPER VENUE FOR ANY LITIGATION, SUIT, ARBITRATION OR OTHER PROCEEDING BROUGHT TO ENFORCE OR INTERPRET THIS TRUST DEED.

11.2 Provisions Subject to Applicable Legal Requirements. All rights, powers and remedies provided in this Trust Deed may be exercised only to the extent that the exercise thereof does not violate any applicable Legal Requirements and are intended to be limited to the extent necessary so that they will not render this Trust Deed invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable Legal Requirements.

ARTICLE 12 DEFINITIONS

12.1 General Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided in this Trust Deed, words used in this Trust Deed may be used interchangeably in singular or plural form, and the masculine gender includes the feminine and/or neuter.

12.2 “**Trustor**” means each Trustor and any subsequent owner or owners (or lessees, as applicable) of the Secured Property or any part of such property or any interest in this Trust Deed.

12.3 “**Beneficiary**” means Beneficiary and any of Beneficiary’s successors and assigns.

12.4 “**Indebtedness**” means the indebtedness evidenced by the Note or Loan Documents (excluding any guaranty or unsecured environmental indemnity), and all modifications, renewals or extensions of any of foregoing, including all principal and interest together with all other indebtedness and costs and expenses for which Trustor is responsible under this Trust Deed or under any of the Loan Documents. Specifically, without limitation, indebtedness includes all amounts that may be indirectly secured by any cross-collateralization provision of this Trust Deed and any indebtedness, liabilities, or obligations, now existing or hereafter arising, due or to become due, absolute or contingent, of the Trustor to the Beneficiary and/or its affiliates permitted hereunder.

12.5 “**Person**” means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture or other entity, or a government or any political subdivision or agency thereof.

12.6 “**Trustee**” means “Trustee and any substitute Trustee of the estates, properties, powers, trusts and rights conferred upon Trustee pursuant to this Trust Deed”.

12.7 “**Secured Property**” includes any portion of the Secured Property and any interest in such property.

12.8 “**Attorney fees**,” “**legal fees**,” and “**counsel fees**” include any and all attorneys’, paralegal, and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Beneficiary in protecting its interest in the Secured Property, the leases and the Rents and enforcing its rights hereunder.

ARTICLE 13 MISCELLANEOUS PROVISIONS

13.1 No Oral Change. This Trust Deed, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Trustor or Beneficiary, but only by an agreement in writing signed by Trustor and Beneficiary in accordance with the Loan Agreement.

13.2 Successors and Assigns. This Trust Deed shall be binding upon and inure to the benefit of Trustor, Beneficiary, and Trustee and their respective successors and assigns.

13.3 Inapplicable Provisions. If any term, covenant or condition of the Loan Agreement, the Note or this Trust Deed is held to be invalid, illegal or unenforceable in any respect, the Loan Agreement, the Note and this Trust Deed shall be construed without such provision.

13.4 Headings, etc. The headings and captions of various Sections of this Trust Deed are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

13.5 Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

13.6 Entire Agreement. This Trust Deed, the Loan Agreement and the other Loan Documents contain the entire agreement of the parties hereto and thereto in respect of the transactions contemplated hereby and thereby, and all prior agreements among or between such parties, whether oral or written, are superseded by the terms of this Trust Deed, the Loan Agreement and the other Loan Documents.

13.7 Joint and Several Liability. The liability of all persons and entities obligated in any manner under this Trust Deed and under any of the Loan Documents shall be joint and several.

13.8 Limitation on Beneficiary's Responsibility. No provision of this Trust Deed shall operate to place any obligation or liability for the control, care, management or repair of the Secured Property upon Beneficiary, nor shall it operate to make Beneficiary responsible or liable for any waste committed on the Secured Property by the tenants or any other Person, or for any dangerous or defective condition of the Secured Property, or for any negligence in the management, upkeep, repair or control of the Secured Property resulting in loss or injury or death to any tenant, licensee, employee or stranger, except to the extent of Beneficiary's gross negligence or willful misconduct while in actual possession and control of the Secured Property. Nothing herein contained shall be construed as constituting Beneficiary a "mortgagee in possession."

13.9 Agreement of the Parties. TRUSTOR SPECIFICALLY ACKNOWLEDGES AND AGREES (a) THAT IT HAS A DUTY TO READ THIS TRUST DEED AND THAT IT IS CHARGED WITH NOTICE AND KNOWLEDGE OF THE TERMS OF THIS TRUST DEED, (b) THAT IT HAS IN FACT READ THIS TRUST DEED AND IS FULLY INFORMED AND HAS FULL NOTICE AND KNOWLEDGE OF THE TERMS, CONDITIONS AND EFFECTS OF THIS TRUST DEED, (c) THAT IT HAS BEEN REPRESENTED BY LEGAL COUNSEL OF ITS CHOICE THROUGHOUT THE NEGOTIATIONS PRECEDING ITS EXECUTION OF THIS TRUST DEED AND HAS RECEIVED THE ADVICE OF SUCH COUNSEL IN CONNECTION WITH ENTERING INTO THIS TRUST DEED, AND (d) THAT IT RECOGNIZES THAT CERTAIN OF THE TERMS OF THIS TRUST DEED PROVIDE FOR (i) CERTAIN WAIVERS AND FOR (ii) THE ASSUMPTION BY ONE PARTY OF, AND/OR RELEASE OF THE OTHER PARTY FROM, CERTAIN LIABILITIES THAT SUCH PARTY MIGHT OTHERWISE BE RESPONSIBLE FOR UNDER THE LAW. TRUSTOR FURTHER AGREES AND COVENANTS THAT IT WILL NOT CONTEST THE VALIDITY OR ENFORCEABILITY OF ANY SUCH PROVISIONS OF THIS TRUST DEED ON THE BASIS THAT THE PARTY HAD NO NOTICE OR KNOWLEDGE OF SUCH PROVISION OR THAT SUCH PROVISIONS ARE NOT "CONSPICUOUS."

13.10 Conflict. In the event of any inconsistencies between the terms and conditions of this Trust Deed and the terms and conditions of the Loan Agreement, the terms and conditions of the Loan Agreement shall control and be binding.

13.11 Incorporation. Trustor hereby acknowledges and agrees that all of the covenants, conditions and agreements of Trustor set forth in the Loan Agreement are hereby incorporated herein by reference.

13.12 Assignments of Rents Act. Without in any way limiting or restricting any of Beneficiary's other rights, benefits or privileges hereunder, Trustor hereby expressly agrees that Beneficiary shall be entitled to all rights, benefits or privileges provided for in the Uniform Assignment of Rents Act found at Utah Code Annotated § 57-26-101 *et seq.*

13.13 One-Action Rule. If a conflict exists between the provisions elsewhere in this Trust Deed and the requirements and restrictions of Utah Code Annotated Sections 78B-6-901 *et seq.*,

relating to a creditor seeking to recover on a debt or other rights secured solely by a mortgage or deed of trust on real property, Utah Code Annotated Sections 78B-6-901 et seq. shall govern.

13.14 Time is of the Essence. Time is of the essence of each and every term in this Trust Deed.

ARTICLE 14 STATUS OF TRUSTOR

14.1 Status of Trustor. Trustor's exact legal name is correctly set forth in the first paragraph of this Trust Deed and the signature block at the end of this Trust Deed. Trustor is an organization of the type specified in the first paragraph of this Trust Deed. Trustor is incorporated in or organized under the laws of the State of Utah. Trustor's principal place of business and chief executive office, and the place where Trustor kept its principal books and records, including recorded data of any kind or nature, regardless of the medium or recording, including software, and writings, has been for the preceding four (4) months (or, if less, the entire period of the existence of Trustor) the address shown on the first page of this Trust Deed. Trustor will not change or permit to be changed (a) Trustor's name, (b) the corporate, partnership or other organizational structure of Trustor, (c) Trustor's state of organization or (d) Trustor's organizational number, in each case, without notifying Beneficiary of such change in writing at least fifteen (15) days prior to the effective date of such change and, in the case of a change in Trustor's structure, without first obtaining the prior written consent of Beneficiary. If Trustor does not now have an organizational identification number and later obtains one, Trustor promptly shall notify the Beneficiary of such organizational identification number.

ARTICLE 15 TRUST DEED PROVISIONS

15.1 Concerning the Trustee. Trustee shall be under no duty to take any action hereunder except as expressly required hereunder or by law, or to perform any act which would involve Trustee in any expense or liability or to institute or defend any suit in respect hereof, unless properly indemnified to Trustee's reasonable satisfaction. Trustee, by acceptance of this Trust Deed, covenants to perform and fulfill the trusts created in this Trust Deed, being liable, however, only for gross negligence or willful misconduct, and waives any statutory fee and agrees to accept reasonable compensation, in lieu thereof, for any services rendered by Trustee in accordance with the terms of this Trust Deed. Trustee may resign at any time upon giving thirty (30) days' prior notice to Trustor and to Beneficiary. Beneficiary may remove Trustee at any time or from time to time and select a successor trustee. In the event of the death, removal, resignation, refusal to act, or inability to act of Trustee, or in its sole discretion for any reason whatsoever Beneficiary may, to the extent permitted by applicable law, without notice and without specifying any reason therefor and without applying to any court, select and appoint a successor trustee, by an instrument recorded wherever this Trust Deed is recorded and all powers, rights, duties and authority of Trustee, as aforesaid, shall thereupon become vested in such successor. Such substitute trustee shall not be required to give bond for the faithful performance of the duties of Trustee hereunder unless required by Beneficiary. The procedure provided for in this paragraph for substitution of

Trustee shall be in addition to and not in exclusion of any other provisions for substitution, by law or otherwise.

15.2 Trustee's Fees. Subject to applicable law, Trustor shall pay all reasonable out of pocket costs, fees and expenses incurred by Trustee and Trustee's agents and counsel in connection with the performance by Trustee of Trustee's duties hereunder and all such reasonable out of pocket costs, fees and expenses shall be secured by this Trust Deed. Notwithstanding anything in this Trust Deed, the Loan Agreement, the Note, or the other documents executed in connection with the transaction contemplated herein to the contrary, in no event shall Trustor be required to pay to Beneficiary or Trustee any fees or compensation in excess of the amounts permitted by Utah Code Annotated § 57-1-21.5.

15.3 Certain Rights. With the approval of Beneficiary, Trustee shall have the right to take any and all of the following actions: (i) to select, employ, and advise with counsel (who may be, but need not be, counsel for Beneficiary) upon any matters arising hereunder, including the preparation, execution, and interpretation of any Note, this Trust Deed or the other Loan Documents, and shall be fully protected in relying as to legal matters on the advice of counsel, (ii) to execute any of the trusts and powers of this Trust Deed and to perform any duty hereunder either directly or through its agents or attorneys, (iii) to select and employ, in and about the execution of its duties hereunder, suitable accountants, engineers and other experts, agents and attorneys-in-fact, either corporate or individual, not regularly in the employ of Trustee, and Trustee shall not be answerable for any act, default, negligence, or misconduct of any such accountant, engineer or other expert, agent or attorney-in-fact, if selected with reasonable care, or 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 bad faith, and (iv) any and all other lawful action as Beneficiary may instruct Trustee to take to protect or enforce Beneficiary's rights hereunder. Trustee shall not be personally liable in case of entry by Trustee, or anyone entering by virtue of the powers in this Trust Deed granted to Trustee, upon the Secured Property for debts contracted for or liability or damages incurred in the management or operation of the Secured Property. Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting an action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. Subject to applicable law, Trustee shall be entitled to reimbursement for reasonable actual expenses incurred by Trustee in the performance of Trustee's duties hereunder and to reasonable compensation for such of Trustee's services hereunder as shall be rendered.

15.4 Retention of Money. Subject to applicable law, all moneys received by Trustee shall, until used or applied as provided in this Trust Deed, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by applicable law) and Trustee shall be under no liability for interest on any moneys received by Trustee hereunder.

15.5 Perfection of Appointment. Should any deed, conveyance, or instrument of any nature be required from Trustor by any Trustee or substitute trustee to more fully and certainly vest in and confirm to Trustee or the substitute trustee such estates, rights, powers, and duties,

then, upon request by Trustee or the substitute trustee, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged, and delivered and shall be caused to be recorded and/or filed by Trustor.

15.6 Succession Instruments. Any substitute trustee appointed pursuant to any of the provisions of this Trust Deed shall, without any further act, deed, or conveyance, become vested with all the estates, properties, rights, powers, and trusts of its or its predecessor in the rights hereunder with like effect as if originally named as Trustee in this Trust Deed; but nevertheless, upon the written request of Beneficiary or of the substitute trustee, Trustee ceasing to act shall execute and deliver any instrument transferring to such substitute trustee, upon the trusts expressed in this Trust Deed, all the estates, properties, rights, powers, and trusts of Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such Trustee to the substitute trustee so appointed in Trustee's place.

15.7 Additional Collateral. Concurrently with the execution, delivery and recording of this deed of trust, DTDB 14, LLC, a Utah limited liability company, is entering into a deed of trust similar to this Trust Deed. Both Trustor and DTDB 14, LLC, are borrowers under the Loan Agreement and the Loan Documents.

15.8 Record Obligations and Restrictions. As contemplated and required by that certain Special Warranty Deed, dated July 15, 2016, and recorded on July 18, 2016, as Entry No. 12322167 of the official records of the Salt Lake County Recorder, Trustor shall be bound by the requirements contained in such special warranty as those described therein and contained in those documents and agreements referred to therein that are intended to bind Trustor, and Trustor acknowledges and agrees to be bound by the same, including, without limitation, a prohibition against drilling water wells on the Property.

ARTICLE 16 MERGER

16.1 No Merger. There shall be no merger of the interest or estate created by this Trust Deed with any other interest or estate in the Property at any time held by or for the benefit of Beneficiary in any capacity, without the written consent of Beneficiary.

ARTICLE 17 ENVIRONMENTAL MATTERS

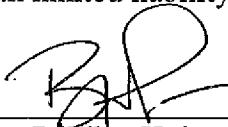
17.1 Environmental Representations and Warranties. Trustor, shall comply at all times with the obligations set forth in the Environmental Indemnity Agreement, entered into by Trustor and Guarantor pursuant to the Loan Agreement.

[Signature Page Follows]

This Trust Deed has been executed by the undersigned as of the effective date written on the first page.

TRUSTOR:

DTDB 13, LLC,
a Utah limited liability company

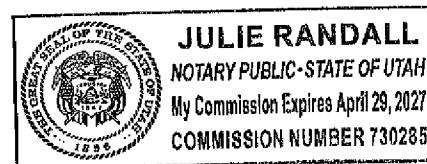
By: 
Name: Bradley Holmes
Its: President

ACKNOWLEDGMENT

STATE OF UTAH))
COUNTY OF Salt Lake §))

The foregoing instrument was acknowledged before me this 24th day of April, 2025,
by Bradley Holmes, the President of DTDB 13, LLC, a Utah limited liability company.


NOTARY PUBLIC
Residing at Sandy, Utah



Signature Page to Deed of Trust (DTDB 13)

Deed of Trust DTDB 13

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EXHIBIT A
(PROPERTY DESCRIPTION)

That certain real property located in Salt Lake County, Utah, and more particularly described as follows:

Lot C-108, DAYBREAK URBAN CENTER PLAT 1, according to the official plat thereof recorded March 8, 2024 as Entry No. 14214053 in Book 2024P at Page 58 in the office of the Salt Lake County Recorder.

Together with:

A non-exclusive easement of use and access as set forth and defined in that certain Declaration of Covenants, Conditions, and Restrictions for Downtown Daybreak, recorded April 9, 2025 as Entry No. 14368656 in Book 11562 at Page 4490.

Address: 5444 and 5446 West Center Field Drive, South Jordan, Utah 84009

Tax ID Numbers: 26-24-101-017 and 26-24-101-022

Exhibit A

34128057_v4

Deed of Trust DTDB 13

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