

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Kari Smeltzer - CRE Loan Closer
MOUNTAIN AMERICA FEDERAL CREDIT UNION
9800 South Monroe Street
Sandy, Utah 84070

Tax Parcel Number(s): 07-286-0001

DEED OF TRUST, SECURITY AGREEMENT, AND FINANCING STATEMENT

Deed of Trust, Security Agreement, and Financing Statement ("Deed of Trust") made as of JAN 9th, 2020, between and among: (i) **BAER CREEK LULU LLC**, a Utah limited liability company, as to an undivided 62% interest, and **BAER CREEK SUE LLC**, a Utah limited liability company, as to an undivided 38% interest (the foregoing entities are sometimes hereinafter referred to collectively, individually, jointly, and severally as "Trustor" or the "entities constituting Trustor"), (ii) **MOUNTAIN AMERICA FEDERAL CREDIT UNION**, a federal credit union, as trustee ("Trustee"), and (iii) **MOUNTAIN AMERICA FEDERAL CREDIT UNION**, a federal credit union, as beneficiary (the "Beneficiary"). The entities constituting Trustor, Trustee, and Beneficiary are sometimes hereinafter referred to collectively as the "Parties" or, individually, as a "Party."

1. CONVEYANCE AND SECURED OBLIGATIONS.

1.1. Conveyance. For purposes of securing payment and performance of the Secured Obligations defined and described in Section 1.2 hereof, the entities constituting Trustor, jointly and severally, hereby irrevocably and unconditionally grant, transfer, convey, warrant, and assign to Trustee, in trust, with power of sale, for the benefit and security of Beneficiary, as beneficiary hereunder, subject to the terms and conditions of this Deed of Trust, all estate, right, title, and interest which the entities constituting Trustor, jointly and severally, now have or may later acquire in and to the following property (all or any part of such property, or any interest in all or any part of such property, as the context may require, is hereinafter referred to as the "Property"):

(a) that certain real property located in the County of Davis, State of Utah, and more particularly described in Exhibit A attached hereto, together with all existing and future easements and rights affording access to such real property (the "Land");

(b) all buildings, structures, and improvements now located or later to be constructed on the Land (the "Improvements");

(c) all existing and future appurtenances, privileges, easements, franchises, and tenements of the Land, including all minerals, oil, gas, other hydrocarbons, and associated substances, sulfur, nitrogen, carbon dioxide, helium, and other commercially valuable substances which may be in, under, or produced from any part of the Land, all development rights and credits, air rights, water, water rights (whether riparian, appropriative, or otherwise, and whether or not appurtenant), and water stock, and any land lying in the streets, roads, or avenues, open or proposed, in front of or adjoining the Land and Improvements;

(d) all existing and future leases, subleases, subtenancies, licenses, occupancy agreements, and concessions (collectively, "Leases") relating to the use and enjoyment of all or any part of the Land and Improvements, and any and all guaranties and other agreements relating to or made in connection with any of such Leases, together with all rents, proceeds, issues, and profits arising therefrom or in any way associated therewith (collectively, "Rents");

(e) all goods, materials, supplies, chattels, furniture, fixtures, equipment, and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy, or operation of all or any part of the Land and Improvements, whether stored on the Land or elsewhere, including all pumping plants, engines, pipes, ditches, and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration, and plumbing fixtures and equipment, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Deed of Trust;

(f) all building materials, equipment, work in process, or other personal property of any kind, whether stored on the Land or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into, or installed in or about the Land or Improvements;

(g) all of the interests of the entities constituting Trustor, jointly and severally, in and to loan funds, whether disbursed or not, and any of the funds of the entities constituting Trustor, jointly and severally, now or later to be held by or on behalf of Beneficiary;

(h) all rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, cost savings, payments, and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) or deposited by the entities constituting Trustor, jointly and severally, with third parties (including all utility deposits), contract rights, development and use rights, governmental permits and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, chattel paper, instruments, documents, notes, drafts, and letters of credit (other than letters of credit in favor of Beneficiary), which arise from or relate to construction on the Land or to any business now or later to be conducted on the Land, or to the Land and Improvements generally;

(i) all proceeds, including all claims to and demands for such proceeds, of the voluntary or involuntary conversion of any of the Land, Improvements, or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard, or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Land, Improvements, or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud, or concealment of a material fact;

(j) all books and records pertaining to any and all of the property described above, including computer-readable memory and any computer hardware or software necessary to access and process such memory (collectively, "Books and Records");

(k) (i) all agreements heretofore or hereafter entered into relating to the construction, ownership, operation, management, leasing, or use of the Land or Improvements and any and all present and future amendments, modifications, supplements, and addenda to any of such items; (ii) any and all guarantees, warranties, and other undertakings (including payment and performance bonds) heretofore or hereafter entered into or delivered with respect to any of the items described in clause (i) above; (iii) all trade names, trademarks, logos, and other materials used to identify or advertise, or otherwise relating to the Land or Improvements; and (iv) all building permits, governmental permits, licenses, variances, conditional or special use permits, and other authorizations (collectively, "Permits") now or hereafter issued in connection with the construction, development, ownership, operation, management, leasing, or use of the Land or Improvements, to the fullest extent that the same or any interest therein may be legally assigned by the entities constituting Trustor, jointly and severally; and

(l) all proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

1.2 Secured Obligations. This Deed of Trust is made for the purpose of securing the following obligations (the "Secured Obligations") in any order of priority that Beneficiary may choose:

(a) Payment of all obligations at any time owing under a certain Non-Revolving Promissory Note (the "Note") of even date herewith, payable by BAHR CREEK LULU LLC, a Utah limited liability company, and BAHR CREEK SUB LLC, a Utah limited liability company, jointly and severally, as makers in the stated principal amount of One Million Eight Hundred Fifty-Five Thousand and 00/100 Dollars (\$1,855,000.00) to the order of Beneficiary, which Note matures and is due and payable in full as set forth in the Note; and

(b) Payment and performance of all obligations of the entities constituting Trustor, jointly and severally, under this Deed of Trust; and

(c) Payment and performance of all future advances and other obligations that the entities constituting Trustor, jointly and severally, or any successor in ownership of all or part of the Property may agree to

pay and/or perform (whether as principal, surety, or guarantor) for the benefit of Beneficiary, when a writing evidences the Parties' agreement that the advance or obligation is to be secured by this Deed of Trust; and

(d) Payment and performance of all modifications, amendments, extensions, and renewals, however evidenced, of any of the Secured Obligations.

All persons who may have or acquire an interest in all or any part of the Property will be considered to have notice of, and will be bound by, the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations.

The Note, a certain Loan And Security Agreement (the "Loan Agreement"), and certain other documents (collectively, the "Other Loan Documents") being executed and delivered in connection with the Note and the Loan Agreement evidence a certain loan (the "Loan") from Beneficiary to the entities constituting Trustor, jointly and severally (the Note, the Loan Agreement, and the Other Loan Documents are sometimes hereinafter referred to collectively as the "Loan Documents").

2. GRANT OF SECURITY INTEREST.

2.1 **Security Agreement.** The Parties acknowledge that some of the Property may be determined under applicable law to be personal property or fixtures. To the extent that any Property may be personal property, the entities constituting Trustor, jointly and severally, as debtor, hereby grant Beneficiary, as secured party, a security interest in all such Property, to secure payment and performance of the Secured Obligations. This Deed of Trust constitutes a security agreement under the Uniform Commercial Code as in effect in the State of Utah (the "Code"), covering all such Property.

2.2. **Financing Statements.** If required by Beneficiary at any time or from time to time, the entities constituting Trustor, jointly and severally, shall execute one or more financing statements and such other documents which Beneficiary determines to be necessary or appropriate to perfect or continue the perfection of Beneficiary's security interest in any Property. The entities constituting Trustor, jointly and severally, shall pay all fees and costs that Beneficiary may incur in filing such documents in public offices and in obtaining such record searches as Beneficiary may reasonably require. In case the entities constituting Trustor, jointly and severally, fail to execute any financing statements or other documents for the perfection or continuation of any security interest, the entities constituting Trustor, jointly and severally, hereby appoint Beneficiary as such persons' true and lawful attorney-in-fact to execute any such documents on behalf of the entities constituting Trustor, jointly and severally.

2.3. **Fixture Filing.** This Deed of Trust constitutes a financing statement filed as a fixture filing under the Code, as amended or recodified from time to time, covering any of the Property which now is or later may become fixtures attached to the Land or the Improvements. The following addresses are the mailing addresses of the entities constituting Trustor, as debtor under the Code, and Beneficiary, as secured party under the Code, respectively:

Trustor: BAER CREEK LULU LLC
BAER CREEK SUB LLC
c/o 7611 SW Pine Street
Portland, Oregon 97223

Beneficiary: MOUNTAIN AMERICA FEDERAL CREDIT UNION
9800 South Monroe Street
Sandy, Utah 84070

3. REPRESENTATIONS, COVENANTS AND AGREEMENTS.

3.1. **Good Title.** The entities constituting Trustor, jointly and severally, covenant that they are lawfully seized of the Property, that the Property is unencumbered, and that the entities constituting Trustor, jointly and severally, have good right, full power, and lawful authority to convey and mortgage the same, and that the entities constituting Trustor, jointly and severally, will warrant and forever defend the Property and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever.

3.2. Subrogation. Beneficiary shall be subrogated to the liens of all encumbrances, whether released of record or not, which are discharged in whole or in part by Beneficiary in accordance with this Deed of Trust or with the proceeds of the Loan or any other loan secured by this Deed of Trust.

3.3. Releases, Extensions, Modifications, and Additional Security. From time to time, Beneficiary may perform any of the following acts without incurring any liability or giving notice to any person: (i) release any person liable for payment of any Secured Obligations; (ii) extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligations; (iii) accept additional real or personal property of any kind as security for any Secured Obligations, whether evidenced by deeds of trust, mortgages, security agreements, or any other instruments of security; (iv) alter, substitute, release, or partially release, any Property securing the Secured Obligations; (v) consent to the making of any plat or map of the Property or any part of it; (vi) join in granting any easement or creating any restriction affecting the Property; or (vii) join in any subordination or other agreement affecting this Deed of Trust.

3.4 Hazardous Materials. The entities constituting Trustor, jointly and severally, hereby represent and warrant that: (a) the Property and all of the collateral or other security (collectively, the "Collateral") for the Loan, are not now and have never been used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce, process, or in any manner deal with "Hazardous Materials" (as such term is hereinafter defined), and that no Hazardous Materials have ever been installed, placed, or in any manner dealt with in connection with the Collateral or the Property, and (b) that no owner of the Collateral or the Property or any tenant, subtenant, occupant, prior tenant, prior subtenant, prior occupant, or person (collectively "Occupant") has received any notice or advise from any governmental agency or any Occupant with regard to Hazardous Materials on, from, or affecting the Collateral or the Property.

As used herein, the term "Hazardous Materials" shall include, without limitation, gasoline, petroleum products, explosives, radio-active materials, hazardous materials, hazardous wastes, hazardous or toxic substances, polychlorinated biphenyls, or related or similar materials, asbestos, or any material containing asbestos, or any other substance or material as may be defined as a hazardous or toxic substance by any federal, state, or local environmental law, ordinance, Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Superfund Amendment and Reauthorization Act, the Hazardous Materials Transportation Act, as amended, the Resource Conservation and Recovery Act, as amended, the Federal Water Pollution Control Act, the Clean Air Act, and any other laws, rules, or regulations adopted and publications promulgated pursuant thereto.

The entities constituting Trustor, jointly and severally, covenant that the Collateral and the Property shall be kept free of Hazardous Materials, and shall not be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce, process, or in any manner deal with Hazardous Materials, and the entities constituting Trustor, jointly and severally, will not cause or permit, as a result of any intentional or unintentional act or omission on the part of the entities constituting Trustor, jointly and severally, or any Occupant, the installation or placement of Hazardous Materials in or on the Collateral or the Property or a release of Hazardous Materials onto the Collateral or the Property or onto any other property, or suffer the presence of Hazardous Materials on the Collateral or the Property. The entities constituting Trustor, jointly and severally, shall comply with, and ensure compliance by all Occupants, with all applicable federal, state, and local laws, ordinances, rules, or regulations with respect to Hazardous Materials, and shall keep the Collateral and the Property free and clear of any liens imposed pursuant to such laws, ordinances, rules, or regulations. In the event the entities constituting Trustor, jointly and severally, receive any notice or advise from any governmental agency or any Occupant with regard to Hazardous Materials on, from, or affecting the Collateral or the Property, the entities constituting Trustor, jointly and severally, shall immediately notify Beneficiary. The entities constituting Trustor, jointly and severally, shall thereafter conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from, or affecting the Collateral or the Property in accordance with all applicable federal, state, and local laws, ordinances, rules, regulations, and policies.

The entities constituting Trustor, jointly and severally, shall protect, indemnify, and save harmless Beneficiary from and against all liabilities, losses, obligations, claims, damages, penalties, causes of actions, costs, and expenses, including reasonable attorneys' fees, imposed upon or incurred by or asserted against Beneficiary and arising from any state of facts or circumstances existing prior to Beneficiary's acquiring title through foreclosure or deed-in-lieu of foreclosure or due to any action or inaction of the entities constituting Trustor, jointly and severally, by reason of: (a) ownership of the Collateral or the Property or any interest therein, (b) the presence, disposal, escape, seepage, leakage, spillage, discharge, emission, release, or threatened release of any Hazardous Materials on, from, or affecting the Collateral, the Property, or any other property, (c) any personal injury, including wrongful death or property damage arising out of or related to such Hazardous Materials, (d) any lawsuit brought or

threatened, settlement reached, or government order relating to such Hazardous Materials, or (e) any violation of laws, orders, regulations, requirements, or demands which are based upon or in any way related to such Hazardous Materials.

The obligations of the entities constituting Trustor, jointly and severally, with respect to the foregoing representations, warranties, covenants, and indemnifications relating to Hazardous Materials shall survive any termination, satisfaction, assignment, judgment of foreclosure, foreclosure by private sale, or delivery of deed-in-lieu of foreclosure with respect to this Deed of Trust, the Loan Documents, or any of the Collateral or the Property.

4. DEFAULTS AND REMEDIES.

4.1. Default. Any breach, default, or Event of Default defined in the Note or any of the other Loan Documents executed in connection therewith, shall constitute a breach, default, and Event of Default hereunder, and any breach, default, or Event of Default hereunder shall constitute a breach, default, or Event of Default under the Note and all of the other Loan Documents. In addition, the following shall constitute a breach, default, and Event of Default hereunder, under the Note, and under all of the other Loan Documents:

(a) Any of the entities constituting Trustor, jointly and severally, fails, within ten (10) days of receiving written notice thereof and a right to cure, in the timely payment or performance of any obligation, covenant, agreement, or liability created by or occurring under or in connection with, this Deed of Trust; or

(b) Transfer of the Property or a beneficial interest in any of the entities constituting Trustor. If all or any part of the Property, or any interest therein, is sold or transferred by any of the entities constituting Trustor, jointly and severally, or if a beneficial interest in any of the entities constituting Trustor, jointly and severally, is sold or transferred and such entity is not a natural person or persons but is a corporation, limited partnership, limited liability company, limited liability partnership, general partnership, limited partnership, trust, or other legal entity, without Beneficiary's prior written consent (including a transfer by devise, descent, or by operation of law upon death or otherwise), which consent may be withheld by Beneficiary in Beneficiary's sole discretion.

4.2. Remedies. At any time after a breach, default, or Event of Default, Beneficiary shall be entitled to invoke any and all of the rights and remedies described below, in addition to all other rights and remedies available to Beneficiary at law or in equity. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) Acceleration. Beneficiary may declare any or all of the Secured Obligations to be due and payable immediately.

(b) Receiver. Beneficiary shall, as a matter of right, without notice and without giving bond to any of the entities constituting Trustor, jointly and severally, or anyone claiming by, under, or through any of the entities constituting Trustor, jointly and severally, and without regard for the solvency or insolvency of any of the entities constituting Trustor, jointly and severally, or the then value of the Property, to the extent permitted by applicable law, be entitled to have a receiver appointed for all or any part of the Property and the Rents, with the rights and powers referenced below and such other rights and powers as the court making such appointment shall confer, and the entities constituting Trustor, jointly and severally, hereby consent to the appointment of such receiver and shall not oppose any such appointment. Such receiver shall have all powers and duties prescribed by applicable law, all other powers which are necessary or usual in such cases for the protection, possession, control, management, and operation of the Property, and such rights and powers as Beneficiary would have upon entering and taking possession of the Property under subsection (c) below.

(c) Entry. Beneficiary, in person, by agent, or by court-appointed receiver, may enter, take possession of, manage, and operate all or any part of the Property, and may also do any and all other things in connection with those actions that Beneficiary may in Beneficiary's sole discretion consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include: taking and possessing all of the Books and Records of the entities constituting Trustor, jointly and severally; entering into, enforcing, modifying, or canceling Leases on such terms and conditions as Beneficiary may consider proper; obtaining and evicting tenants; fixing or modifying Rents; collecting and receiving any payment of money owing to any of the entities constituting Trustor, jointly and severally; completing any unfinished construction; and/or contracting for and making repairs and alterations. If Beneficiary so requests, the entities constituting Trustor, jointly and severally, shall assemble all of the Property that has been removed from the Land and make all of it available to Beneficiary at the site of the Land. The entities constituting Trustor, jointly and severally, hereby irrevocably constitute and appoint Beneficiary as their respective attorneys-in-fact to perform such acts and execute such documents as Beneficiary in Beneficiary's sole discretion may consider to be appropriate in connection with taking these

measures, including endorsement of the names of the entities constituting Trustor, jointly and severally, on any instruments.

(d) Cure; Protection of Security. Beneficiary may, but shall not be required to, cure any breach, default, or Event of Default of any of the entities constituting Trustor, jointly and severally, and if Beneficiary chooses to do so in connection with any such cure, Beneficiary may also enter the Property and/or do any and all other things which Beneficiary may in its sole discretion consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Beneficiary under, this Deed of Trust; paying, purchasing, contesting, or compromising any encumbrance, charge, lien, or claim of lien which in Beneficiary's sole judgment is or may be senior in priority to this Deed of Trust, such judgment of Beneficiary to be conclusive as between the Parties; obtaining insurance and/or paying any premiums or charges for insurance; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors, and other appropriate persons to assist Beneficiary. Beneficiary may take any of the actions permitted under this Section 4.2(d) either with or without giving notice to any person. Any amounts expended by Beneficiary under this Section 4.2(d) shall be secured by this Deed of Trust.

(e) Uniform Commercial Code Remedies. Beneficiary may exercise any or all of the remedies granted to a secured party under the Code.

(f) Foreclosure; Lawsuits. Beneficiary shall have the right, in one or several concurrent or consecutive proceedings, to foreclose the lien hereof upon the Property or any part thereof, for the Secured Obligations, or any part thereof, by any proceedings appropriate under applicable law. Beneficiary or its nominee may bid and become the purchaser of all or any part of the Property at any foreclosure or other sale hereunder ("Foreclosure Sale"), and the amount of Beneficiary's successful bid shall be credited to the Secured Obligations. Without limiting the foregoing, Beneficiary may proceed by a suit or suits in law or equity, whether for specific performance of any covenant or agreement herein contained or contained in the Note, or in aid of the execution of any power herein granted, or for any foreclosure under the judgment or decree of any court of competent jurisdiction, or for damages, or to collect the indebtedness secured hereby, or for the enforcement of any other appropriate legal, equitable, statutory, or contractual remedy. Beneficiary may sell the Property at public auction in one or more parcels, at Beneficiary's option, and convey the same to the purchaser in fee simple, entities constituting Trustor, jointly and severally, to remain liable for any deficiency.

(g) Other Remedies. Beneficiary may exercise all rights and remedies contained in any other instrument, document, agreement, or other writing heretofore, concurrently, or in the future executed by the entities constituting Trustor, jointly and severally, or any other person or entity in favor of Beneficiary in connection with the Secured Obligations or any part thereof, without prejudice to the right of Beneficiary thereafter to enforce any appropriate remedy against any of the entities constituting Trustor, jointly and severally. Beneficiary shall have the right to pursue all remedies afforded to a Beneficiary under applicable law, and shall have the benefit of all of the provisions of such applicable law, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of such statutes which is specifically referred to herein may be repealed, Beneficiary shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference.

(h) Power of Sale for Personal Property. Under this power of sale, Beneficiary shall have the discretionary right to cause some or all of the Property which constitutes personal property, to be sold or otherwise disposed of in any combination and in any manner permitted by applicable law. For purposes of this power of sale, Beneficiary may elect to treat as personal property any Property which is intangible or which can be severed from the Land or Improvements without causing structural damage. If it chooses to do so, Beneficiary may dispose of any personal property in any manner permitted by Article 9 of the Code, including any public or private sale, or in any manner permitted by any other applicable law.

(i) Single or Multiple Foreclosure Sales. If the Property consists of more than one lot, parcel, or item of property, Beneficiary may:

(i) designate the order in which the lots, parcels, and/or items shall be sold or disposed of or offered for sale or disposition; and

(ii) if it chooses to have more than one Foreclosure Sale, Beneficiary at its option may cause the Foreclosure Sales to be held simultaneously or successively, on the same day, or on such different days and at such different times and in such order as it may deem to be in its best interests. No Foreclosure Sale shall terminate or affect the liens of this Deed of Trust on any part of the Property which has not been sold, until all of the Secured Obligations have been paid in full.

4.3 Application of Foreclosure Sale Proceeds. The proceeds of any Foreclosure Sale shall be applied in the following manner:

- (a) First, to pay the portion of the Secured Obligations attributable to the expenses of sale, costs of any action, and any other sums for which the entities constituting Trustor, jointly and severally, are obligated to reimburse Beneficiary hereunder, under the Note, in connection with the Loan, or under any of the Loan Documents;
- (b) Second, to pay the portion of the Secured Obligations attributable to any sums expended or advanced by Beneficiary under the terms of this Deed of Trust which then remain unpaid;
- (c) Third, to pay all other Secured Obligations in any order and proportions as Beneficiary in its sole discretion may choose; and
- (d) Fourth, to remit the remainder, if any, to the person or persons entitled thereto.

5. RELEASE OF LIEN.

If the entities constituting Trustor, jointly and severally, shall fully pay and perform all of the Secured Obligations and comply with all of the other terms and provisions hereof and the Note to be performed and complied with by the entities constituting Trustor, jointly and severally, then Beneficiary shall release this Deed of Trust and the lien thereof by proper instrument upon payment, performance, and discharge of all of the Secured Obligations and payment by the entities constituting Trustor, jointly and severally, of any filing fee in connection with such release.

6. MISCELLANEOUS PROVISIONS.

6.1 Notice. Any notice, demand, request, or other communication which any Party hereto may be required or may desire to give hereunder shall be in writing, addressed as follows and shall be deemed to have been properly given if hand delivered, if sent by reputable overnight courier (effective the business day following delivery to such courier) or if mailed (effective two business days after mailing) by United States registered or certified mail, postage prepaid, return receipt requested:

If to the entities constituting Trustor: BAER CREEK LULU LLC
BAER CREEK SUE LLC
c/o 7611 SW Pine Street
Portland, Oregon 97223
Attention: LOUISE E. DAVIS

If to Beneficiary: MOUNTAIN AMERICA FEDERAL CREDIT UNION
9800 South Monroe Street
Sandy, Utah 84070

with a copy to: Scott N. Rasmussen
Ben A. Picklesimer
SCALLEY READING BATES HANSEN & RASMUSSEN, P.C.
15 West South Temple, Suite 600
Salt Lake City, Utah 84101

or at such other address as the Party to be served with notice may have furnished in writing to the Party seeking or desiring to serve notice as a place for the service of notice. Notices given in any other fashion shall be deemed effective only upon receipt.

6.2 Remedies Not Exclusive. No action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and available to the Party interposing same in an action at law upon the Note. Beneficiary shall be entitled to enforce payment and performance of any of the Secured Obligations and to exercise all rights and powers under this Deed of Trust or other agreement or any laws now or hereafter in force, notwithstanding some or all of the Secured Obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment, or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or other powers herein contained, shall prejudice or in any manner affect Beneficiary's right to realize upon or enforce any other security now or hereafter held by Beneficiary, it being agreed that Beneficiary shall be entitled to enforce this Deed of Trust and any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No waiver of any breach, default, or Event of Default of any of the entities constituting Trustor, jointly and severally, hereunder shall be implied from any omission by Beneficiary to take any action on account of such breach, default, or Event of Default if such breach, default, or

Event of Default persists or is repeated, and no express waiver shall affect any breach, default, or Event of Default other than the breach, default, or Event of Default specified in the express waiver and that only for the time and to the extent therein stated.

6.3 Waiver of Statutory Rights. To the extent permitted by law, the entities constituting Trustor, jointly and severally, hereby agree that they shall not and will not apply for or avail themselves of any appraisal, valuation, stay, extension, or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust, but hereby waive the benefit of such laws. The entities constituting Trustor, jointly and severally, for themselves and all who may claim through or under the entities constituting Trustor, jointly and severally, waive any and all right to have the property and estates comprising the Property marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety. The entities constituting Trustor, jointly and severally, hereby waive any and all rights of redemption from sale under the power of sale contained herein or any order or decree of foreclosure of this Deed of Trust on behalf of the entities constituting Trustor, jointly and severally, and on behalf of each and every person, except decree or judgment creditors any of the entities constituting Trustor, jointly and severally, acquiring any interest in or title to the Property subsequent to the date of this Deed of Trust.

6.4 Estoppel Affidavits. The entities constituting Trustor, jointly and severally, within five (5) days after written request from Beneficiary, shall furnish a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the Secured Obligations and stating whether or not any offset or defense exists against such Secured Obligations, and covering such other matters as Beneficiary may reasonably require.

6.5 Merger. No merger shall occur as a result of Beneficiary acquiring any other estate in or any other lien on the Property unless Beneficiary consents to a merger in writing.

6.6 Binding on Successors and Assigns. This Deed of Trust and all provisions hereof shall be binding upon the entities constituting Trustor, jointly and severally, and all persons claiming under or through the entities constituting Trustor, jointly and severally, and shall inure to the benefit of Beneficiary and its successors and assigns.

6.7 Captions. The captions and headings of various paragraphs of this Deed of Trust are for convenience only, and are not to be construed as defining or limiting the scope or intent of the provisions hereof.

6.8 Severability. If all or any portion of any provision of this Deed of Trust shall be held to be invalid, illegal, or unenforceable in any respect, then such invalidity, illegality, or unenforceability shall not affect any other provision hereof or thereof, and such provision shall be limited and construed as if such invalid, illegal, or unenforceable provision or portion thereof was not contained herein.

6.9 Effect of Extensions of Time and Amendments. If the payment of the Secured Obligations or any part thereof be extended or varied, or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in the Property, shall be held to assent to such extension, variation, or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse, if any, against all such persons being expressly reserved by Beneficiary, notwithstanding such extension, variation, or release.

6.10 Applicable Law. This Deed of Trust shall be governed by and construed under the laws of Utah.

6.11 TIME IS OF THE ESSENCE. **TIME IS OF THE ESSENCE** with respect to each and every covenant, agreement, and obligation of the entities constituting Trustor, jointly and severally, under this Deed of Trust and the Note.

6.12 Recordation. Beneficiary is hereby expressly authorized to cause this Deed of Trust and any security instrument creating a lien or evidencing the lien hereof upon the Property, or any portion thereof, and each instrument of further assurance, to be filed, registered, or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of Beneficiary in, the Property.

The entities constituting Trustor, jointly and severally, will pay all filing, registration, and recording fees and taxes, and all expenses incident to the preparation, execution, and acknowledgment of this Deed of Trust, any mortgage supplemental hereto, any security instrument with respect to the Property, and any instrument of further assurance, and all federal, state, county, and municipal stamp taxes, duties, impositions, assessments, and charges arising out of or in connection with the execution and delivery of the Note or this Deed of Trust.

6.13 Modifications. This Deed of Trust may not be changed or terminated except in writing signed by the entities constituting Trustor, jointly and severally, and Beneficiary. The provisions of this Deed of Trust shall extend and be applicable to all renewals, amendments, extensions, consolidations, and modifications of the Note and

the Loan, and any and all references herein to the Note and the Loan shall be deemed to include any such renewals, amendments, extensions, consolidations or modifications thereof.

The entities constituting Trustor, jointly and severally, have executed this Deed of Trust as of the date first written above.

BAER CREEK LULU LLC, a Utah
limited liability company

By: _____
LOUISE E. DAVIS, Member-Manager

BAER CREEK SUE LLC, a Utah
limited liability company

By: *Russell Rikio Watanabe*
SHIZUE K. WATANABE, Member-Manager,
by RUSSELL RIKIO WATANABE, Attorney-
in-Fact

STATE OF _____)
: ss.
COUNTY OF _____)

On this ____ day of _____, 2020, the foregoing instrument was acknowledged before me by
~~LOUISE E. DAVIS, the Member-Manager of BAER CREEK LULU LLC, a Utah limited liability company.~~

NOTARY PUBLIC

STATE OF Hawaii)
COUNTY OF Honolulu : ss.

On this 14 day of January, 2020, the foregoing instrument was acknowledged before me by
RUSSELL RIKIO WATANABE, as Attorney-in-Fact for SHIZUE K. WATANABE, the Member-Manager of
BAER CRBEK SUE LLC, a Utah limited liability company.

Gloria B Poland
NOTARY PUBLIC

MY COMMISSION EXPIRES: 10-29-2022



NOTARY PUBLIC CERTIFICATION
Gloria B Poland First Circuit
Doc Description Deed of Trust
Security Agreement and
Financial Statement
No. of Pages 19 Date of Doc 1-9-2020
Russell Rikio Watanabe 1-9-2020
Notary Signature Date

the Loan, and any and all references herein to the Note and the Loan shall be deemed to include any such renewals, amendments, extensions, consolidations or modifications thereof.

The entities constituting Trustor, jointly and severally, have executed this Deed of Trust as of the date first written above.

BAER CREEK LULU LLC, a Utah
limited liability company

By: Louise E. Davis
LOUISE E. DAVIS, Member-Manager

BAER CREEK SUE LLC, a Utah
limited liability company

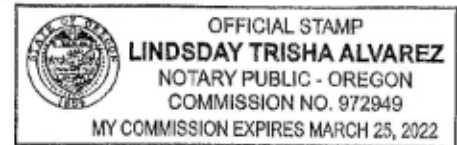
By: _____
SHIZUE K. WATANABE, Member-Manager,
by RUSSELL RIKIO WATANABE, Attorney-
in-Fact

STATE OF Oregon)
) ss.
COUNTY OF Clatsop)

On this 9 day of January, 2020, the foregoing instrument was acknowledged before me by
LOUISE E. DAVIS, the Member-Manager of BAER CREEK LULU LLC, a Utah limited liability company.

Linda Alvarez
NOTARY PUBLIC

STATE OF _____)
) ss.
COUNTY OF _____)



On this _____ day of _____, 2020, the foregoing instrument was acknowledged before me by
RUSSELL RIKIO WATANABE, as Attorney-in-Fact for SHIZUE K. WATANABE, the Member-Manager of
BAER CREEK SUE LLC, a Utah limited liability company.

NOTARY PUBLIC

File No. 159178

EXHIBIT "A"
LEGAL DESCRIPTION

Lot 1, BAER CREEK HEALTH CARE SUBDIVISION, according to the official plat thereof as recorded in the office of the DAVIS County Recorder, State of Utah.

07-286-0001