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BK7774 PG 513

Tax ID No. 143810001

When Recorded, Return to:

The Northern Trust Company
4747 Executive Street Drive, Suite 1100
San Diego, CA 92121
Attn: Dennise Pentecostes
FATCO NCS-1050582

**DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY
AGREEMENT, AND FIXTURE FILING**

MADE BY

BAYDAYS, L.L.C.,
a California limited liability company
Hereinafter referred to as "Trustor"

TO

First American Title Insurance Company,
a Nebraska corporation
Hereinafter referred to as "Trustee"

FOR THE BENEFIT AND SECURITY
OF

The Northern Trust Company,
an Illinois banking corporation
Hereinafter referred to as "Beneficiary"

LOAN AMOUNT:
\$2,600,000.00

Dated as of May 17, 2021

THIS INSTRUMENT IS A DEED OF TRUST WITHIN THE MEANING OF UTAH CODE ANN. SECTION 57-1-19. THIS INSTRUMENT IS ALSO A FIXTURE FILING IN ACCORDANCE WITH SECTIONS 70A-9A-501 AND 70A-9A-502 OF THE UTAH UNIFORM COMMERCIAL CODE AND IS TO BE FILED AND INDEXED IN THE REAL ESTATE RECORDS AS A "FIXTURE FILING," AS DEFINED IN UTAH CODE ANN. SECTION 70A-9A-102 AND COVERS GOODS THAT ARE OR ARE TO BECOME FIXTURES. THIS INSTRUMENT IS ALSO TO BE INDEXED IN THE INDEX OF FINANCING STATEMENTS UNDER THE NAMES OF TRUSTOR, AS "DEBTOR," AND BENEFICIARY AS "SECURED PARTY."

This DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FIXTURE FILING ("Deed of Trust") is being executed by Baydays, L.L.C., a California limited liability company, located at 1681 1/2 Los Altos Road, San Diego, California 92109 ("Trustor") in favor of First American Title Insurance Company, a Nebraska corporation, located at 215 South State Street, Suite 380, Salt Lake City, Utah 84111 ("Trustee"), for the benefit and security of The Northern Trust Company, an Illinois banking corporation, located at 4747 Executive Drive, Suite 1100, San Diego, California 92121 ("Beneficiary").

RECITALS

A. This Deed of Trust is given to secure a loan (the "Loan") in the principal sum of TWO MILLION SIX HUNDRED THOUSAND and No/100 DOLLARS (\$2,600,000.00) pursuant to that certain Term Loan Agreement dated as of the date hereof by and between Trustor and Beneficiary (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Loan Agreement"), and evidenced by that certain Term Note Secured by Deed of Trust dated as of the date hereof, made by Trustor to Beneficiary (such Term Note Secured by Deed of Trust, together with all extensions, renewals, replacements, restatements or modifications thereof, being hereinafter referred to as the "Note"). Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Agreement.

B. Trustor desires to secure the payment of the Loan together with all interest accrued and unpaid thereon and all other sums due to Beneficiary in respect of the Loan under the Note, the Loan Agreement and the other Loan Documents (the "Debt") and the performance of all its obligations under the Note, the Loan Agreement, any Swap Agreement (as that term is defined in the Loan Agreement) and all present and future agreements executed by Trustor in favor of Beneficiary and relating to the Loan (collectively, the "Loan Documents").

C. This Deed of Trust is given as a condition of Beneficiary making the Loan and pursuant to and the Loan Agreement, and payment, fulfillment and performance by Trustor of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Deed of Trust.

NOW THEREFORE, in consideration of the making of the Loan by Beneficiary and the covenants, agreements, representations and warranties set forth in this Deed of Trust and the Loan Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Trustor:

1. BASIC PROVISIONS.

1.1. Loan; Loan Documents. Beneficiary is making the Loan to Trustor. The Loan is evidenced by the Note. The terms and conditions of the Loan are evidenced by and subject to the terms and conditions of the Loan Agreement and the other Loan Documents.

1.2. Grant of Security in Property. In consideration of the Loan, and as security for the payment and performance of the Obligations (defined below), Trustor hereby irrevocably and

unconditionally GRANTS, PLEDGES, SELLS, CONVEYS, TRANSFERS, and ASSIGNS to Trustee, its successors and assigns, IN TRUST, for the benefit and security of Beneficiary, WITH POWER OF SALE and right of entry and possession as provided below, all of its present and future estate, right, title and interest in and to the following described property now or hereafter acquired (collectively, the "Property"):

1.2.1. Real Property. The real property described in Exhibit A attached hereto (the "Real Property"), including (a) all minerals, oil, gas and other hydrocarbon substances on or under the surface of the Real Property (to the extent owned by Trustor); (b) all rights to the land lying in alleys, streets, and roads adjoining or abutting the Real Property; and (c) all development rights, permits, licenses, air rights, water, water rights, and water stock relating to the Real Property.

1.2.2. Improvements. All present and future structures, buildings, improvements, appurtenances and fixtures of any kind on the Real Property, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Real Property, and all window coverings, drapes and rods, carpeting and floor coverings, it being intended and agreed that all such items will be conclusively considered to be part of the Real Property conveyed by this Deed of Trust, whether or not attached or affixed to the Real Property (collectively, the "Improvements").

1.2.3. Equipment. All "equipment" as such term is defined in Section 70A-9a-102 of the Utah Uniform Commercial Code, now owned or hereafter acquired by Trustor, which is used at or in connection with the Improvements or the Real Property or is located thereon or therein and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "Equipment").

1.2.4. Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, by Trustor which is so related to the Real Property and Improvements that it is deemed fixtures or real property under Utah law, together with all appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "Fixtures").

1.2.5. Personal Property. The term "Personal Property" shall include all property described in Exhibit B attached hereto and all proceeds and products thereof.

1.2.6. Appurtenances of Real Property. All appurtenances of the Real Property and all rights of Trustor in and to any streets, roads, access ways, easements or rights of way, relating to the Real Property.

1.2.7. Leases. All of Trustor's right, title and interest in and to all leases, subleases, subtenancies, licenses, occupancy agreements and concessions covering the Real Property or Improvements, or any portion thereof or space therein, now or hereafter existing, including all modifications, amendments, extensions and renewals thereof, and all rights and privileges incident thereto (collectively, the "Leases").

1.2.8. Rents. All "rents" as defined in the Utah Uniform Assignment of Rents Act, U.C.A. 57-26-101 *et. seq.* (the "Rents Act"), as well as additional rents, revenues, issues, profits, royalties, income, cash proceeds, security deposits, and other benefits from the Real Property and Improvements (collectively, the "Rents").

1.2.9. Proceeds. All Proceeds (as defined below) and all claims arising on account of any damage to or taking of the Real Property or any Improvements thereon or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Real Property or any Improvements.

1.2.10. Other Assets and Collateral. All other accounts, general intangibles, instruments, investment property, documents, chattel paper, goods, moneys, letters of credit, letter of credit rights, certificates of deposit, deposit accounts, commercial tort claims, oil, gas and minerals, and all other property and interests in property of Trustor, whether tangible or intangible related to the Real Property or Improvements and all other collateral pledged by Trustor as security for the Loan.

1.3. Obligations Secured. This Deed of Trust secures the following obligations (collectively, the "Obligations"):

1.3.1. Note Payments. Payment and performance of the Note, including all extensions, renewals and modifications of the Note.

1.3.2. Performance of the Deed of Trust Obligations. The performance of Trustor's obligations under this Deed of Trust and the Loan Agreement.

1.3.3. Payment of Advanced Sums. The payment of all sums advanced or paid out by Beneficiary under any provision of this Deed of Trust, or to protect the security of this Deed of Trust, together with interest thereon as provided herein, should an Event of Default (defined in Section 13 below) exist and be continuing, Beneficiary, without obligation and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereunder, may make any payment or do any act in such manner and to such extent as herein provided or as either may deem necessary to protect the security hereof.

1.3.4. Payment of Future Advances. The payment of the principal and interest on all other future loans or advances made by Beneficiary to Trustor secured by the Property (or any successor in interest to Trustor as the owner of all or any part of the Property) when the promissory note evidencing such loan or advance specifically states that it is secured by this Deed of Trust (the "Future Advances"), including all extensions, renewals and modifications of any Future Advances.

1.3.5. Performance of the Loan Obligations. The performance of Trustor's obligations under the Loan Agreement and under all other Loan Documents including, without limitation, Trustor's payment and/or reimbursement of actual, third party costs, charges, fees and expenses reasonably incurred by Beneficiary in connection with (i) the enforcement of any of Beneficiary's rights under the Loan Documents (including court costs, reasonable attorneys' fees and expert witness charges, whether incurred in any court action, arbitration, mediation, alternative dispute resolution forum, appeal proceedings or bankruptcy proceedings involving Trustor or any

Guarantor), (ii) Beneficiary's or any receiver's entry upon and taking possession of all or any part of the Property, (iii) any reappraisal or updated appraisal of the Property obtained by Beneficiary, either following the occurrence of an Event of Default or pursuant to the terms of the Loan Agreement, and (iv) Beneficiary exercising any of its rights under Article 4 below.

1.4. Excluded Obligations. Notwithstanding anything herein or in any other Loan Document to the contrary, the term "Obligations" shall not include:

1.4.1. Any "Excluded Swap Obligation" as such term is defined in the Loan Documents.

1.4.2. The obligations of Trustor under that certain Environmental Indemnity Agreement among Trustor, other indemnitors, and Beneficiary dated as of the date hereof.

1.5. Warranty of Title. Trustor warrants that, except for Permitted Encumbrances (defined below) Trustor lawfully possesses and holds fee simple title to the Property, including without limitation the right to encumber the Property, and that this Deed of Trust is a valid first and prior lien on the Property subject only to the matters set forth in Schedule B, Parts I and II of the title insurance policy issued in favor of Beneficiary that ensures the priority of this Deed of Trust. "Permitted Encumbrances" means, at any particular time, (a) liens for taxes, assessments, or governmental charges not then due and payable or not then delinquent; (b) liens, easements, encumbrances, and restrictions on the Property that, in advance of recordation of this Deed of Trust, are allowed by Beneficiary to appear in Schedule B, with Parts I and II of the title insurance policy issued in favor of Beneficiary following recordation of the Deed of Trust; and (c) liens in favor of or consented to in writing by Lender. Trustor, at its sole cost and expense, shall at all times keep, protect, defend, and maintain title to the Property free and clear of any liens or encumbrances (other than Permitted Encumbrances) that would or could impair the validity or priority of this Deed of Trust. Trustor will not do or suffer any act or omission whereby the value of said Property, or lien hereof or of any estate or title covered hereby, may be diminished or impaired in any way. Should Trustor fail to make any payment under any other deeds of trust or other encumbrances which may now or hereafter affect the Property encumbered by this Deed of Trust or comply with any such obligation, Beneficiary may, without notice to or authorization from Trustor, and without releasing Trustor from any obligation hereunder or under said deed of trust or other encumbrance, pay any sum which may be owing under any other deed of trust or other encumbrance or otherwise cure any default of Trustor thereunder, and the sums so expended by Beneficiary shall be secured hereby and shall be immediately due and payable by Trustor to Beneficiary upon notice to Trustor, and shall bear interest at the rate applicable when an Event of Default has occurred and is continuing, as set forth in the Note (the "Default Interest Rate"), until paid. Trustor's failure to pay said amounts within ten (10) calendar days after notice from Beneficiary shall constitute an Event of Default hereunder.

1.6. Business Purposes. Trustor hereby represents, covenants, and warrants that the proceeds of the Loan will be used exclusively for business purposes.

1.7. Non-Agricultural. Trustor hereby represents, covenants, and warrants that no portion of the Property is used or will be used principally for agricultural purposes.

2. COVENANTS OF TRUSTOR. To protect the security of this Deed of Trust, Trustor agrees:

2.1. Performance. To pay all indebtedness and perform all Obligations that are secured by this Deed of Trust in accordance with their terms.

2.2. Insurance. Trustor shall comply with all of the policies of insurance for Trustor and/or the Property as set forth in Section 8(o) of the Loan Agreement. In the event of Trustor's failure to obtain or maintain any of said policies of insurance, Beneficiary upon giving notice to Trustor may procure such insurance to be effected upon Beneficiary's interest or upon the interest of Trustee or upon the interest of the owners of said Property and in their names, and Beneficiary may pay and expend for premiums for such insurance such sums as Beneficiary may deem to be reasonably necessary. At its option, in its own name, Beneficiary shall be entitled to commence, appear in and prosecute any action or proceedings or to make any compromise or settlement, in connection with such loss, taking or damage.

2.3. Assignment of Proceeds.

2.3.1. Definition of Proceeds. The term "Proceeds" shall mean all insurance proceeds on the Property, and all causes of action, claims, Compensation (defined below), awards and recoveries for any damage, condemnation or taking of all or any part of the Property or for any damage or injury to it or for any loss or diminution in value of the Property. All Proceeds are hereby assigned to and shall be paid to Beneficiary. At any time Beneficiary reasonably determines that Trustor is not diligently pursuing any such process, Beneficiary may appear in and prosecute (either in its own name or in the name of Trustor) or participate in any suits or proceedings relating to any such proceeds, causes of actions, claims, Compensation, awards or recoveries and may adjust, compromise or settle any claim in connection therewith.

2.3.2. Application of Proceeds. Subject to disbursement to Trustor in accordance with the provisions of Section 2.3.3 below, Beneficiary shall apply any Proceeds received by it as follows: first, to the payment of all of Beneficiary's reasonable costs and expenses (including but not limited to legal fees and disbursements) actually incurred in obtaining those sums; and, then to the payment of the indebtedness and obligations secured by this Deed of Trust. Any application of such funds to the indebtedness secured hereby shall not be construed to cure or waive any Event of Default or invalidate any acts of Beneficiary or Trustee arising out of such Event of Default.

2.3.3. Application of Insurance Proceeds. Notwithstanding anything to the contrary contained herein, any Proceeds (in addition to any funds provided by Trustor, as set forth in Section 8.3 below) shall be applied to the restoration of the Property pursuant to Section 8 below.

2.4. Property Taxes and Assessments. Trustor agrees to pay when due all taxes, fees, impositions, and assessments which are or may become a lien on all or any portion of or interest in the Property or which are assessed against the Property or its rents, royalties, profits and income.

2.5. Mechanic's Liens. Trustor also agrees to pay when due all lawful claims and demands of mechanics, materialmen, laborers and others for any work performed at Trustor's

request or materials delivered in connection therewith with respect to the Property, unless Trustor is contesting any such claims as provided in the Loan Agreement.

2.6. Taxation of Deed of Trust. In the event of the passage after the date of this Deed of Trust of any law of the State of Utah deducting from the value of land, for the purpose of taxation, any lien thereon, or changing in any way the laws now in force for the taxation of deeds of trust or debts secured by deeds of trust for state or local purposes or the manner of the collection of such taxes so as to materially and adversely affect this Deed of Trust, then Trustor shall promptly pay to Beneficiary, on demand, all taxes, reasonable costs and charges for which Beneficiary is liable as a result thereof; provided, however that if such payment is prohibited by law, Beneficiary may, at its option, declare the entire principal balance under the Note, together with all accrued interest thereon, to be immediately due and payable.

2.7. Perfection of Security. Trustor agrees to execute and deliver to Beneficiary, from time to time on demand and at Trustor's cost and expense, any documents required to perfect and continue the perfection of Beneficiary's interest in the Property, or to effect the terms and conditions of this Agreement.

3. ASSIGNMENT OF LEASES, RENTS, AND INCOME.

3.1. Scope of Assignment. This assignment is intended to confer upon Beneficiary all rights, and impose upon Trustor all obligations, under applicable law and is intended to be construed in accordance with said statutory requirements. Trustor hereby absolutely and irrevocably grants, sells, assigns, transfers and sets over to Beneficiary, as security for the payment and performance of the Obligations:

3.1.1. Rents. All of Trustor's right, title and interest in and to all Rents now or hereafter due with respect to all or any portion of the Property or the use or occupancy thereof.

3.1.2. Leases. All of Trustor's right, title and interest in and to all Leases now existing or hereafter created and affecting all or any portion of the Property or the use or occupancy thereof.

3.1.3. Security Deposits. All security deposits, guaranties and other security now or hereafter held by Trustor as security for the performance of the obligations of the lessees under the Leases (collectively, the "Security Deposits").

3.2. Assignment. This assignment is intended by Trustor and Beneficiary to create and shall be construed to create a present, absolute assignment to Beneficiary of all of Trustor's right, title and interest in the Rents, Leases, and Security Deposits. Trustor and Beneficiary further agree that, during the term of this assignment, the Rents shall not constitute property of Trustor (or of any estate of Trustor) within the meaning of 11 U.S.C. Section 541, as amended from time to time.

3.3. Grant of License. By its acceptance of this assignment and so long as an Event of Default shall not have occurred and be continuing hereunder, Beneficiary hereby grants to Trustor a revocable license to enforce the Leases, to collect the Rents, to apply the Rents to the payment of reasonable costs and expenses incurred in connection with the development, construction,

operation, maintenance, repair and restoration of the Property, and to any indebtedness secured thereby and to distribute the balance, if any, to Trustor.

3.4. Revocation of License. Upon the occurrence of an Event of Default, and at any time thereafter during the continuance of such Event of Default, Beneficiary shall have the right to revoke the license granted to Trustor hereby by giving written notice of such revocation to Trustor. Upon such revocation, Trustor shall promptly deliver to Beneficiary all Rents then held by Trustor and Beneficiary shall thereafter be entitled to: (a) enforce the Leases, to collect and receive, without deduction or offset, all Rents payable thereunder, including, but not limited to, all Rents which were accrued and unpaid as of the date of such revocation; and (b) apply such Rents as provided in this Deed of Trust.

3.5. Appointment of Trustor as Agent for Beneficiary.

3.5.1. Purpose of Appointment. Upon revocation of the license granted in Section 3.3, Beneficiary may, at its option, appoint Trustor to act as agent for Beneficiary for the purpose of: (a) managing and operating the Property and paying all expenses incurred in connection therewith and approved by Beneficiary; (b) enforcing the provisions of the Leases; and (c) collecting all Rents due thereunder.

3.5.2. Notice to Trustor to Act as Agent. If Beneficiary so elects, Beneficiary shall give written notice thereof to Trustor to act as agent of Beneficiary for the purpose or purposes specified in such notice. Trustor shall promptly comply with all instructions and directions from Beneficiary with respect thereto.

3.5.3. Deposit of Rents Collected. All Rents collected by Trustor as agent for Beneficiary shall be immediately deposited in an insured account in the name of Beneficiary in a bank or other financial institution designated by Beneficiary. All Rents collected by Trustor and all amounts deposited in such account, including interest thereon, shall be the property of Beneficiary and Trustor shall not be entitled to withdraw any amount from such account without the prior written consent of Beneficiary.

3.5.4. Purpose of Agency. The agency hereby created shall be solely responsible for the purpose of implementing the provisions of this assignment and collecting the Rents due Beneficiary hereunder. Nothing contained herein shall place upon Beneficiary the responsibility for the management, control, operation, repair, maintenance or restoration of the Property, nor shall Beneficiary be liable under or be deemed to have assumed Trustor's obligations with respect to the Leases. Beneficiary may at any time terminate the agency relationship with Trustor by written notice to Trustor.

3.6. Collection by Beneficiary. Upon the occurrence of an Event of Default, and at any time thereafter during the continuance thereof, Beneficiary shall have the right to collect all or any portion of the Rents assigned hereby directly or through a court-appointed receiver or pursuant to a notice to the lessees or by any other means set forth under applicable law. Such rights shall include without limitation any and all of the following:

3.6.1. Notice to Lessees to Pay Rents to Beneficiary. The right to notify the lessees under the Leases, with or without taking possession of the Property, to demand that all Rents under such Leases thereafter be paid to Beneficiary;

3.6.2. Enter and Possess the Property. The right to enter into possession of the Property, either by a court-appointed receiver or by any other legally permissible means; to assume control with respect to and to pay all expenses incurred in connection with the development, construction, operation, maintenance, repair or restoration of the Property; to enforce all Leases and to collect all Rents due thereunder, and to apply all Rents received by Beneficiary as set forth herein; if ordered by a court of competent jurisdiction, to amend, modify, extend, renew and terminate any or all Leases or to execute new Leases; and to do all other lawful acts which Beneficiary shall determine, in its sole discretion, to be necessary or desirable to carry out the purposes of this Assignment;

3.6.3. Specific Performance. The right to specifically enforce the provisions of this assignment and, if Beneficiary shall so elect, to obtain the appointment of a receiver pursuant to and in accordance with the provisions of this Deed of Trust; and

3.6.4. Statutory Rights. The right to enforce the provisions of this assignment without regard to the adequacy of the security or the solvency of Trustor.

3.7. Protection of Lessees. Trustor and Beneficiary agree that all lessees under any Leases shall be bound by and required to comply with the provisions of this assignment. If requested by Beneficiary, Trustor shall: (a) notify each lessee under any Lease now or hereafter affecting all or any portion of the Property of the existence of this assignment and the rights and obligations of Trustor and Beneficiary hereunder; (b) provide each present or future lessee with a copy of this assignment; and (c) obtain each lessee's agreement to be bound and comply with the provisions hereof.

3.8. Occurrence of Event of Default. Upon the occurrence of an Event of Default and at any time thereafter during the continuance thereof, Beneficiary may, at its option, send any lessee a notice in compliance with applicable law to the effect that:

3.8.1. an Event of Default has occurred and that Beneficiary has revoked Trustor's license to collect the Rents;

3.8.2. Beneficiary has elected to exercise its rights under this assignment and the Rents Act; and

3.8.3. such lessee is thereby directed to thereafter make all payments of Rents and to perform all obligations under its Lease for the benefit of Beneficiary or as Beneficiary shall direct.

3.9. Notice to Lessee to Comply with Leases. Upon receipt of any notice from Beneficiary pursuant to Section 3.8, each lessee is hereby instructed by Trustor and Beneficiary to comply with the provisions of such notice, to make all payments of Rents and to perform all obligations under the Lease to and for the benefit of Beneficiary or as Beneficiary shall direct.

3.9.1. Effectiveness of Notice. Such notice and direction shall remain effective until the first to occur:

3.9.1.1. the receipt by lessee of a subsequent notice from Beneficiary to the effect that such Event of Default has been cured or that Beneficiary has appointed Trustor to act as agent for Beneficiary pursuant to Section 3.5;

3.9.1.2. the appointment of a receiver, in which event such lessee shall thereafter make payments of Rents and perform all obligations under the Leases as may be directed by such receiver; or

3.9.1.3. the issuance of an order of a court of competent jurisdiction terminating this assignment or otherwise directing such lessee to pay Rents and perform its obligations in a manner inconsistent with said notice.

3.9.2. Lessee's Reliance on Notice from Beneficiary. Each lessee shall be entitled to rely upon any notice from Beneficiary and shall be protected with respect to any payment of Rents made pursuant to such notice.

3.9.3. No Duty for Lessee to Investigate. Each lessee who receives a notice from Beneficiary pursuant to this assignment shall not be required to investigate or determine the validity or accuracy of such notice or the validity or enforceability of this assignment.

3.9.4. No Assumption by Beneficiary of Lease Obligations. The payment of Rents to Beneficiary pursuant to any such notice and the performance of obligations under any Lease to or for the benefit of Beneficiary shall not cause Beneficiary to assume or be bound by the provisions of such Lease, including, but not limited to, any duty to return any Security Deposit to the lessee under such Lease unless and to the extent such Security Deposit was paid to Beneficiary by Trustor.

3.9.5. Binding on Lessees. The provisions of this Section 3.9 are expressly made for the benefit of and shall be binding on and enforceable by each lessee under any Lease now or hereafter affecting all or any portion of the Property.

3.10. Application of Rents; Security Deposits. All Rents received by Beneficiary pursuant to this Section 3 shall be applied by Beneficiary, in its sole discretion, to any of the following:

3.10.1. First, to pay any reasonable costs and expenses of collection of the Rents that may be incurred by Beneficiary;

3.10.2. Second, to pay any reasonable costs and expenses incurred by beneficiary in connection with the development, construction, operation, maintenance, repair or restoration of the Property;

3.10.3. Third, to the establishment of reasonable reserves for working capital and for anticipated or projected costs and expenses of the Property, including, without limitation, capital improvements which may be necessary or desirable or required by law;

3.10.4. Fourth, to the payment of any indebtedness then owing by Trustor to Beneficiary; and

3.10.5. Thereafter to remit the remainder, if any, to the person or persons entitled thereto.

3.10.6. In connection herewith, Trustor further agrees that all Rents received by Beneficiary from any lessee may be allocated, if Beneficiary so elects, to the payment of all current obligations of such lessee under its Lease and not to amounts which may be accrued and unpaid as of the date of revocation of Trustor's license to collect such Rents. Beneficiary may, but shall have no obligation to, pursue any lessee for the payment of Rents which may be due under its Lease with respect to any period prior to the exercise of Beneficiary's rights under this assignment or which may become due thereafter. Beneficiary shall not be liable to any lessee for the payment or return of any Security Deposit under any Lease unless and to the extent that such Security Deposit has been paid to and received by Beneficiary, and Trustor agrees to indemnify, defend and hold Beneficiary harmless from and against any and all losses, claims, damages or liabilities arising out of any claim by a lessee with respect thereto, except to the extent such claim, loss, damage or liability arises from the gross negligence or willful misconduct of Beneficiary. Trustor further agrees that the collection of Rents by Beneficiary and the application of such Rents by Beneficiary to the reasonable costs, expenses and obligations referred to herein shall not cure or waive any default or Event of Default or invalidate any act (including, but not limited to, any sale of all or any portion of the Property or any property now or hereafter securing the Loan) done in response to or as a result of such Event of Default or pursuant to any notice of default or notice of sale issued pursuant to this Deed of Trust.

3.11. Covenants of Trustor on Leases and Rents. Trustor agrees as follows:

3.11.1. No Amendment or Termination of Leases. Trustor shall not enter into, amend, modify or terminate any Lease of all or any portion of the Property, except in accordance with the provisions of this Deed of Trust or as otherwise permitted by the Loan Agreement.

3.11.2. No Acceptance of Advance Rent. Trustor shall not accept advance rent in excess of one (1) month from any lessee without the prior written consent of Beneficiary.

3.11.3. Delivery of Leases. Upon request by written notice to Trustor by Beneficiary, Trustor shall provide Beneficiary with true, correct and complete copies of all Leases, together with such other information relating to the Leases or to the lessees thereunder as Beneficiary shall reasonably request.

3.11.4. Beneficiary's Rights to Inspect Books and Records. Upon request of Beneficiary, Trustor shall make available to Beneficiary all books, records, financial statements and other information relating to the Leases, the collection of all Rents, and the disposition and disbursement thereof.

3.12. Priority of Assignment; Further Assurances. Trustor hereby represents and warrants that the assignment hereby granted is a first priority assignment and that no other assignments of all or any portion of the Rents or the Leases exist or remain outstanding. Trustor agrees to take such action and to execute, deliver and record such documents as may be reasonably

necessary to evidence such assignment, and to establish the priority thereof and to carry out the intent and purpose hereof. If requested by Beneficiary, Trustor shall execute a specific assignment of any Lease now or hereafter affecting all or any portion of the Property.

3.13. Beneficiary Not Responsible for Trustor's Obligations. Nothing contained herein shall operate or be construed to obligate Beneficiary to perform any of the terms, covenants and conditions contained in any Lease or otherwise to impose any obligation upon Beneficiary with respect to any Lease, including, but not limited to, any obligation arising out of any covenant of quiet enjoyment therein contained in the event the lessee under any such Lease shall have been joined as a party defendant in any action to foreclose and the estate of such lessee shall have been thereby terminated. Prior to actual entry into and taking possession of the Property by Beneficiary, this assignment shall not operate to place upon Beneficiary any responsibility for the operation, control, care, management or repair of the Property or any portion thereof, and the execution of this assignment by Trustor shall constitute conclusive evidence that all responsibility for the operation control, care, management and repair of the Property is and shall be that of Trustor, prior to such actual entry and taking of possession.

3.14. Termination of Assignment. A full and complete release and reconveyance of this Deed of Trust shall operate as a full and complete release of all of Beneficiary's rights and interest hereunder. Upon the recordation of such release and reconveyance, this assignment shall thereafter be void and of no further effect.

4. DUE-ON-SALE PROVISION. Trustor acknowledges and agrees that the creditworthiness and expertise of Trustor in owning and operating the Property is the basis upon which Beneficiary has determined that it is protected against impairment of the security and risk of default under the Loan Documents and thereby agreed to make the Loan to Trustor. Trustor agrees that (a) neither the Property nor any interest or portion of the Property shall be sold, agreed to be sold, conveyed, transferred, assigned, disposed of, or further encumbered, whether voluntarily, involuntarily, by operation of law or otherwise, and/or (b) any direct or indirect change in any manager or the management of Trustor or in any transfer or hypothecation of more than 49% of the direct or indirect ownership interest of Trustor, shall constitute a breach hereof. Any violation of the above restrictions shall cause the then outstanding principal balance and interest thereon and other sums secured by this Deed of Trust, at the option of Beneficiary, to immediately become due and payable.

5. WASTE; CHANGES IN ZONING; SUBDIVISION.

5.1. No Waste Permitted; Condition and Repair of Property. Trustor shall not commit any intentional physical waste on the Property or take any actions that invalidate any insurance carried on the Property. Trustor shall maintain the Property, and every portion thereof, in good condition and repair. If Trustor fails to maintain the Property in good condition and repair, Beneficiary shall have the right, but not the obligation, to enter upon and take possession of the Property and to make additions, alterations, repairs, or improvements to the Property which Beneficiary may reasonably consider necessary or proper to keep the Property in good condition and repair. Except for any demolition of existing improvements which has been approved by Beneficiary, no improvements may be removed, demolished or materially altered without the prior written consent of Beneficiary, which Beneficiary may withhold in its reasonable discretion, unless

the aggregate cost of such work does not exceed \$10,000.00. No Personal Property in which Beneficiary has a security interest may be removed from the Property unless in the ordinary course of business or it is replaced by similar property of at least equivalent value on which Beneficiary will immediately have a valid first lien and security interest. Trustor affirmatively warrants and represents that if any Improvements, or any part thereof, require inspection, repair or protection other than that given by Trustor, then, and in that event, Beneficiary may enter or cause entry to be made upon said property and into said building or buildings for inspection, repair or protection thereof, and such repair may be made by Beneficiary and be made or done in such manner as fully to protect the interest of Beneficiary, and any and all sums expended by Beneficiary in doing or causing to be done any of the things above authorized are secured by this Deed of Trust and shall be paid by Trustor on demand. Trustor shall materially comply with all laws, ordinances, governmental regulations, and covenants, conditions, and restrictions affecting the Property or requiring any alteration or improvement thereof, and shall not knowingly permit any material violation, as to the Property, of any such law, ordinance, governmental regulation, covenant, condition or restriction affecting the Property, unless such violations have been shown in any property condition report delivering to Beneficiary on or before the date hereof.

5.2. No Change in Zoning, CC&Rs, Etc. Without the prior written consent of Beneficiary, which Beneficiary may withhold in its sole and absolute discretion, Trustor shall not seek, make, or consent to any change in the zoning or conditions of use of the Property. Trustor, at its sole cost, shall comply with and make all payments required under the provisions of any covenants, conditions, and restrictions affecting the Property. Trustor, at its sole cost, shall comply with all existing and future requirements of all governmental authorities having jurisdiction over the Property.

6. BOOKS AND RECORDS.

6.1. Books and Records Maintained by Trustor. Trustor shall keep adequate books and records of account for the Property and for its own financial affairs in a manner sufficient to permit the preparation of financial statements therefrom in accordance with the forms of statements provided to and accepted by Beneficiary as of the date hereof. Beneficiary shall have the right to examine, copy and audit Trustor's records and books of account at all reasonable times by written notice to Trustor. Trustor will deliver to Beneficiary all financial statements for Trustor and the Property as required under the Loan Agreement.

6.2. Written Statement of Indebtedness. Trustor will promptly furnish from time to time, upon Beneficiary's request, a duly acknowledged written statement setting forth all amounts due on the indebtedness secured by this Deed of Trust and stating whether any offsets or defenses exist, and containing such other matters as Beneficiary may reasonably require.

7. DEFEND SECURITY.

7.1. Defense of Beneficiary. Trustor shall, at its own expense, appear in and defend any action or proceeding that is reasonably likely to materially affect Beneficiary's security or the rights or powers of Beneficiary or Trustee or that purports to adversely affect any of the Property. If Trustor fails to perform any of its covenants or agreements contained in this Deed of Trust, the Loan Agreement, or any of the other Loan Documents, or if any action or proceedings of any kind

(including but not limited to any bankruptcy, insolvency, arrangement, reorganization or other debtor relief proceeding) is commenced which would likely affect Beneficiary's or Trustee's interest in the Property or Beneficiary's right to enforce its security, then Beneficiary and/or Trustee may, at their option, make any appearances, disburse any sums and take any actions as may be necessary or desirable to protect or enforce the security of this Deed of Trust or to remedy the failure of Trustor to perform its covenants, including without limitation payment on behalf of Trustor of any taxes, assessments, liens, insurance premiums, and repair or maintenance costs (without, however, waiving any default of Trustor).

7.2. Payment of Defense Fees and Costs. Trustor agrees to pay all reasonable out-of-pocket expenses of Beneficiary and Trustee actually incurred under Section 7.1 above (including but not limited to fees and disbursements of counsel). Any sums disbursed or advanced by Beneficiary or Trustee shall be additional indebtedness of Trustor secured by this Deed of Trust and shall be payable by Trustor upon demand. Any such sums so disbursed or advanced by Beneficiary shall bear interest at the Default Interest Rate. This Section 7 shall not be construed to require Beneficiary or Trustee to incur any expenses, make any appearances, or take any other actions.

8. DAMAGE AND DESTRUCTION. Notwithstanding anything contained herein to the contrary, if any part of the Property is damaged or destroyed by any means, including, without limitation, by flood, earthquake, wind or fire, Trustor shall promptly restore the Property to its prior undamaged condition and Beneficiary shall disburse any Proceeds available by reason of such damage or destruction that are received by Beneficiary if the following conditions are satisfied:

8.1. Trustor presents within sixty (60) days of such damage or destruction to Beneficiary a written plan for restoration which includes, among other things, cost estimates and schedules that in Beneficiary's reasonable opinion are satisfactory.

8.2. Trustor enters into, with Beneficiary's prior written consent, which consent shall not be unreasonably withheld, a contract with contractor(s) providing for complete restoration in accordance with such restoration plan with the completion date for such restoration being no later than the date that is three (3) months prior to the Maturity Date.

8.3. The insurance proceeds available by reason of such damage or destruction that are received by Beneficiary pursuant to this Section 8, plus additional sums provided to Beneficiary by Trustor for restoration purposes, are at least equal to the anticipated reasonable costs of completing such restoration, which anticipated costs shall include, but not be limited to, appropriate interest reserves and contingency funds reasonably required by Beneficiary (to the extent not covered by insurance proceeds).

8.4. If Trustor complies with the preceding portions of this Section 8, Beneficiary shall disburse the sums specified in Subsection 8.3 above to Trustor using the same disbursement procedures by which Beneficiary makes disbursements of its construction loans. Provided, however, that nothing herein shall prevent Beneficiary from applying any such proceeds or awards in accordance with the terms of Section 2.3.2 if, as required by applicable law, Beneficiary determines in accordance with applicable law that its security for the Loan has been impaired.

9. CONDEMNATION. Trustor hereby assigns to Beneficiary, as security for Trustor's obligations under the Loan Documents, all compensation, awards, and other payments (collectively "Compensation") payable to Trustor in connection with any taking of all or any portion of the Property for public use, and any Proceeds of any related settlement regardless of whether eminent domain proceedings are instituted in connection therewith. Trustor shall deliver to Beneficiary immediately upon receipt all Compensation and related settlement proceeds.

10. SECURITY AGREEMENT AND FIXTURE FILING.

10.1. Deed of Trust Includes Security Agreement. This Deed of Trust is intended to be and shall constitute a "Security Agreement" as defined in the Utah Commercial Code, Trustor being the "debtor" and the Beneficiary being the "secured party." Trustor hereby grants Beneficiary a security interest in any items of Personal Property described in *Exhibit B* attached hereto which are not herein effectively made a part of the Real Property for the purpose of securing all indebtedness and other obligations of Trustor now or hereafter secured by this Deed of Trust. Portions of the Property described herein as encumbered by the Deed of Trust are goods which have become or are about to become fixtures relating to the Property and Improvements described herein, and Trustor herein expressly covenants and agrees that the filing of this Deed of Trust in the real estate records of the county where the encumbered Property is located shall also operate from the time of filing therein as a financing statement filed as a fixture filing in accordance with Utah's Uniform Commercial Code. Therefore, in accordance with the Utah's Uniform Commercial Code, the Deed of Trust shall continue to be prior to any other security interest in goods on the Property that may become or are about to become fixtures for the completion of construction.

10.2. Delivery of Financing Statements. Trustor agrees to execute and deliver financing and continuation statements covering the Personal Property from time to time in such form as Beneficiary may require to perfect and continue the perfection of Beneficiary's security interest with respect to said property, and to reimburse Beneficiary for any reasonable costs incurred in filing such financing statements and any continuation statements.

10.3. No Other Security Interest Permitted. Trustor shall not create or allow the creation of any other security interest in the Personal Property, except as expressly permitted herein and in the Loan Agreement.

10.4. Rights Upon Default. Upon the occurrence of any Event of Default by Trustor, Beneficiary shall have the rights and remedies of a secured party under the Utah Commercial Code, as well as all other rights and remedies available at law or in equity or as provided herein, all at Beneficiary's option.

10.5. Effect of Filing of Financing Statement. Trustor and Beneficiary agree that the filing of a financing statement in the records normally having to do with personal property shall never be construed as in any way impairing this declaration and the stated intention of the parties hereto that everything used in connection with the operation or occupancy of said property or the production of income therefrom (which is owned by Trustor) is and, at all times and for all purposes and in all proceedings, both legal and equitable, shall be regarded as Real Property encumbered by this Deed of Trust.

10.6. Fixture Filing. The personal property in which Beneficiary has a security interest includes goods which are or shall become fixtures on the Property. This Deed of Trust is intended to serve as a fixture filing pursuant to the terms of the Utah Uniform Commercial Code. This filing is to be recorded in the real estate records of the county in which the Property is located. This filing remains in effect as a fixture filing until this Deed of Trust is released or satisfied of record or its effectiveness otherwise terminates as to the Property. In that regard, the following information is provided:

Name and Address of Debtor: Baydays, L.L.C.
1681 1/2 Los Altos Road
San Diego, CA 82109
Attn: Michael C. Copley

Name and Address of Secured Party: The Northern Trust Company
4747 Executive Drive, Suite 1100
San Diego, CA 82121
Attn: Credit Administration Team

Property Description: See *Exhibit A* attached hereto.

11. INDEMNIFICATION OF TRUSTEE AND BENEFICIARY.

11.1. Indemnification. Subject to the limitations of Section 11.2 below, Trustor hereby agrees to indemnify Trustee and Beneficiary against, and hold them harmless from, all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, which either may suffer or reasonably incur:

11.1.1. By reason of this Deed of Trust (excluding any regulatory or other administrative losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses arising out of claims against Beneficiary in connection with its lending activities); or

11.1.2. By reason of the execution of this Deed of Trust or in performance of any act by Trustor which is required or permitted hereunder or by law.

11.2. No Liability of Trustor. Notwithstanding the foregoing, Trustor shall not be liable under Section 11.1 to the extent that Trustor establishes that such liability is attributable to the gross negligence or willful misconduct of Trustee or Beneficiary or the breach of any Loan Document by Trustee or Beneficiary.

11.3. Payment of Indebtedness. Trustor shall pay all indebtedness arising under this Section 11 promptly upon demand by Trustee or Beneficiary, together with interest thereon from the date Trustor receives notice thereof at the Default Interest Rate (after giving effect to any notice and/or cure periods). Trustor's duty to indemnify Trustee and Beneficiary shall survive the release and cancellation of the Obligations and the release and reconveyance or any partial release or reconveyance of this Deed of Trust.

12. INSURANCE AND TAX IMPOUNDS. Upon notice by Beneficiary to Trustor after the occurrence of an Event of Default which has not been cured within thirty (30) days after Beneficiary's notice of the existence of the Event of Default ("Impound Triggering Event"), Trustor shall establish and maintain an impound account ("Impound Account") with Beneficiary for the payment of real estate taxes and assessments and insurance on the Property and as additional security for the indebtedness secured hereby.

12.1. Deposit into Impound Account. Trustor shall deposit in the Impound Account after the occurrence of an Impound Triggering Event, an amount determined by Beneficiary to be necessary to ensure that there will be on deposit with Beneficiary an amount which, when added to the monthly payments subsequently required to be deposited with Beneficiary hereunder on account of real estate taxes, assessments and insurance premiums, will result in there always being on deposit with Beneficiary in the Impound Account an amount sufficient to pay the next due semiannual installments of real estate taxes and assessments on the Property and the next due annual insurance premiums with respect to the Property (if paid in one installment).

12.1.1. Commencing on the next payment date under the Note following said Impound Triggering Event and continuing thereafter on each subsequent payment date until the Note and all other indebtedness secured hereby is fully paid and performed, deposits in an amount equal to one-twelfth (1/12) of the amount of the annual real estate taxes and assessments that will next become due and payable on the Property, plus one-twelfth (1/12) of the amount of the annual premiums that will next become due and payable on insurance policies which Trustor is required to maintain hereunder, each as estimated and determined by Beneficiary in its good faith

12.1.2. Notwithstanding anything to the contrary herein, if the amount of the monthly deposit being paid at any time pursuant to subsection (a) above, multiplied by the number of subsequent monthly installments, when added to the amount held on deposit at such time, will be insufficient to pay, thirty (30) days prior to delinquency, the next annual installments of insurance and taxes and assessments due and payable, then Trustor shall immediately deposit the amount of the deficiency, and any failure to do so within five (5) Business Days after notice from Beneficiary shall be deemed to be an Event of Default under this Deed of Trust.

12.2. Responsibility. Trustor shall be responsible for ensuring the receipt by Beneficiary, at least thirty (30) days prior to the respective due dates for payment thereof, of all bills, invoices and statements for all taxes, assessments and insurance premiums to be paid from the Impound Account, and Beneficiary shall pay the governmental authority or other party entitled thereto directly to the extent funds are available for such purpose in the Impound Account.

12.3. Reliance. In making any payment from the Impound Account, Beneficiary shall be entitled to rely on any bill, statement or estimate procured from the appropriate public office or insurance company or agent without any inquiry into the accuracy of such bill, statement or estimate and without any inquiry into the accuracy, validity, enforceability or contestability of any tax, assessment, valuation, sale, forfeiture, tax lien or title or claim thereof.

12.4. Funds in Impound Account. The Impound Account shall not, unless otherwise explicitly required by applicable law, be or be deemed to be escrow or trust funds, but, at Beneficiary's option and in Beneficiary's discretion, may either be held in a separate account or

be commingled by Beneficiary with the general funds of Beneficiary. No interest on funds contained in the Impound Account shall be paid by Beneficiary to Trustor. The Impound Account is solely for the protection of Beneficiary and entails no responsibility on Beneficiary's part beyond the payment of taxes, assessments and insurance premiums following receipt of bills, invoices or statements therefor in accordance with the terms hereof and beyond the allowing of due credit for the sums actually received.

12.4.1. Upon assignment of this Deed of Trust by Beneficiary, any funds in the Impound Account shall be turned over to the assignee and any responsibility of Beneficiary, as assignor, with respect thereto shall terminate.

12.4.2. If the total funds in the Impound Account shall exceed the amount of payments actually applied by Beneficiary for the purposes of the Impound Account, such excess may be credited by Beneficiary on subsequent payments to be made hereunder or, at the option of Beneficiary, refunded to Trustor. If, however, the Impound Account shall not contain sufficient funds to pay the sums required when the same shall become due and payable, Trustor shall, within ten (10) days after receipt of written notice thereof, deposit with Beneficiary the full amount of any such deficiency. If Trustor shall fail to deposit with Beneficiary the full amount of such deficiency as provided above, Beneficiary shall have the option, but not the obligation, to make such deposit and all amounts so deposited by Beneficiary, together with interest thereon at the Default Interest Rate from the date incurred by Beneficiary until actually paid by Trustor, shall be immediately paid by Trustor on demand and shall be secured by this Deed of Trust and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note. If there is a default under this Deed of Trust which is not cured within any applicable grace or cure period, Beneficiary may, but shall not be obligated to, apply at any time the balance then remaining in the Impound Account against the indebtedness secured hereby in whatever order Beneficiary shall subjectively determine.

12.5. No Cure or Waiver. No such application of the Impound Account shall be deemed to cure any default hereunder. Upon full payment of the indebtedness secured hereby in accordance with its terms or at such earlier time as Beneficiary may elect, the balance of the Impound Account then in Beneficiary's possession shall be paid over to Trustor and no other party shall have any right or claim thereto. Upon the indefeasible payment and performance in full of all obligations under the Loan Documents, Beneficiary shall disburse to Trustor or to such Person(s) legally entitled thereto the balance of funds held in the Impound Account.

13. EVENTS OF DEFAULT. An "Event of Default" shall include any Event of Default, as such term is defined in the Loan Agreement, as well as:

13.1. Trustor's failure to make any payment when due under this Deed of Trust;

13.2. Trustor's failure to perform any covenant, agreement, or obligation under this Deed of Trust and such failure shall continue unremedied for thirty days after the earlier of such time that Trustor has actual knowledge of such failure or notice thereof is given by Beneficiary to Trustor;

13.3. any representation or warranty made under this Deed of Trust is false or misleading in any material respect when made; and

13.4. any transfer, conveyance, sale, or assignment of the Real Property.

14. REMEDIES FOR DEFAULT.

14.1. List of Remedies for Default. If an Event of Default exists, Beneficiary may, at its option, and without notice to or demand upon Trustor (except as may be required under applicable law), and in addition to all rights and remedies available to Beneficiary under the Loan Documents, at law, or in equity:

14.1.1. Acceleration of Debt. Declare any or all indebtedness secured by this Deed of Trust to be due and payable immediately.

14.1.2. Enter and Possess Property. Enter onto the Property in accordance with applicable laws, in person or by agent or by court appointed receiver, and take any and all steps which may be desirable in Beneficiary's judgment to complete any unfinished construction and/or to manage, operate, preserve, develop, maintain and protect the Property, and Beneficiary may apply any Rents, royalties, income or profits collected against the Obligations secured by this Deed of Trust without in any way curing or waiving any default of Trustor.

14.1.3. Operate Property. Use, operate, manage, and control all or any portion of the Property for any lawful purpose and conduct the business thereof.

14.1.4. Assemble and Deliver Personal Property. Cause Trustor to assemble any Personal Property and deliver it to Beneficiary at a place designated by Beneficiary.

14.1.5. Judicial Foreclosure. Bring a court action to foreclose this Deed of Trust or to enforce its provisions or any of the indebtedness or Obligations secured by this Deed of Trust.

14.1.6. Power of Sale. Cause any or all of the Property to be sold under the power of sale granted by this Deed of Trust in any manner permitted by applicable law.

14.1.7. Appointment of Receiver. Beneficiary shall have the right to petition the court, on an ex parte basis and without giving notice, for the appointment of a receiver for the Property. Trustor acknowledges and agrees that Beneficiary is entitled to the appointment of a receiver for the Property without regard to (a) the adequacy of the collateral or (b) the existence of any waste with respect to the Property. TRUSTOR HEREBY CONSENTS TO THE APPOINTMENT OF A RECEIVER ON AN EX PARTE BASIS. BENEFICIARY MAY PROVIDE ANY COURT WITH A COPY OF THIS AGREEMENT AS PROOF OF BENEFICIARY'S AUTHORITY, AND TRUSTOR'S AND GUARANTOR'S CONSENT THERETO, TO OBTAIN A RECEIVER FOR THE PROPERTY. Such right shall be exercised, if at all, by Beneficiary in Beneficiary's sole and absolute discretion at any time on or after the date hereof. Such receiver shall have power to collect the Rents (a) during the pendency of a foreclosure suit or proceeding, (b) in case of a judicial foreclosure sale, during the full statutory period of redemption, if applicable, whether there be redemption or not, and (c) during any further times when the Trustor, but for the intervention of the receiver, would be entitled to collect the

Rents. The receive shall also have all other powers and rights that may be necessary or are usual in such cases for the protection, possession, control, management, and operation of the Property during said period, including, to the extent permitted by law, the right to lease all or any portion of the Property for a term that extends beyond the time of the receiver's possession without obtaining prior court approval of such lease. The court may, from time to time, authorize the application of the net income received by the receiver in payment of (i) the Obligations, (ii) any tax, special assessment, or other lien which may be or become superior to the lien of this Deed of Trust, provided such application is made prior to foreclosure sale, and (iii) any deficiency. In addition to any other rights provided for in this Deed of Trust, Beneficiary may appoint a receiver as and when provided in the Utah Uniform Commercial Real Estate Receivership Act, Utah Code Ann. § 78B-21-101 *et seq.*

14.1.8. Other Rights and Remedies. Exercise any other right or remedy available under any of the Loan Documents or otherwise available under law or in equity, including without limitation, rights and remedies with respect to the Personal Property that are available to a Secured Party under the Utah Uniform Commercial Code.

14.2. Sale of Property.

14.2.1. Record Notices of Default and Sale. For any sale under the power of sale granted by this Deed of Trust, Beneficiary shall cause Trustee to record and give and record all notices required by law. After compliance with such notice requirements, and upon the expiration of such time as is required by law, Trustee may sell the Property upon any terms and conditions specified by Beneficiary and permitted by applicable law.

14.2.2. Right to Postpone Sale. Trustee may postpone any sale by public announcement at the time and place noticed for the sale.

14.2.3. Sale of Multiple Lots/Parcels. If the Property consists of several lots or parcels, Beneficiary in its discretion may designate their order of sale or may elect to sell them through a single sale, or through two (2) or more successive sales, or in any other manner Beneficiary may elect. In the event Beneficiary elects to dispose of the Property through more than one (1) sale, Trustor shall pay the costs and expenses of each such sale and of any judicial proceedings wherein the same may be made.

14.2.4. Right to Purchase at Nonjudicial Sale. Any person, including Trustor, Trustee, and Beneficiary, may purchase at any sale, and Beneficiary shall have the right to purchase at any sale hereunder by crediting upon the bid price the amount of all or any part of the indebtedness secured hereby.

14.2.5. Deed at Sale. Upon the completion of the sale, Trustee shall execute and deliver to the purchaser or purchasers a trustee's deed or deeds, in accordance with applicable law, conveying the property sold, but without any covenant, representation, or warranty, express or implied, and the recitals in the trustee's deed or deeds of any facts affecting the regularity or validity of the sale shall be conclusive against all persons. The recitals in the trustee's deed or deeds shall be prima facie evidence of the truthfulness thereof and of the fact that the sale was regularly and validly made in accordance with all requirements of the laws of the State of Utah

and this Deed of Trust. Any such trustee's deed or deeds, with such recitals therein, shall be effective and conclusive against Trustor and all other persons, and the receipt for the purchase money recited therein to any purchaser shall be sufficient discharge to such purchaser from all obligations to see to the proper application of the purchase money according to the terms hereof.

14.3. Application of Proceeds. The proceeds of any sale under this Deed of Trust shall be applied in the following manner:

14.3.1. First: Payment of the costs and expenses of the sale, including but not limited to Trustee's fees, legal fees and disbursements, title charges and transfer taxes, and payment of all expenses, liabilities and advances of Trustee, together with interest on all advances made by Trustee at the maximum rate permitted to be charged by Trustee under applicable law and payment of all expenses of every kind reasonably paid or incurred by Beneficiary or Trustee for the enforcement, protection, or collection of this Deed of Trust and the Property, including court costs, reasonable attorneys' fees, costs of advertising, and costs of title insurance.

14.3.2. Second: Payment of all sums expended by Beneficiary under the terms of this Deed of Trust and not yet repaid, together with interest on such sums at the Default Interest Rate.

14.3.3. Third: Payment of the entire indebtedness and Obligations of Trustor secured by this Deed of Trust, in any order that Beneficiary chooses.

14.3.4. Fourth: The remainder, if any, to the person or persons legally entitled thereto, upon satisfactory proof of such right, or Trustee, in Trustee's sole discretion, may deposit the remainder with the clerk of the district court of the county in which the sale took place in accordance with applicable law.

14.4. Waiver of Rights. Trustor waives all rights to direct the order in which any of the Property shall be sold in the event of any sale under this Deed of Trust, and also any right to have any of the Property marshaled upon any sale.

14.5. Remedies Are Cumulative. All remedies contained in this Deed of Trust are cumulative, and Beneficiary has all other remedies provided by law, in equity, or in any other agreement between Trustor and Beneficiary. No delay or failure by Beneficiary to exercise any right or remedy under this Deed of Trust shall be construed to be a waiver of that right or remedy or of any default by Trustor. Beneficiary may exercise any one (1) or more of its rights and remedies at its option without regard to the adequacy of its security.

14.6. Payment of Expenses. Trustor shall pay all of Beneficiary's and Trustee's reasonable expenses incurred in any efforts to enforce any terms of this Deed of Trust, whether or not any lawsuit is filed, including but not limited to legal fees and disbursements, foreclosure costs, escrow fees, filing fees, recording fees, and title charges.

14.7. No Cure or Waiver. Neither Beneficiary's nor Trustee's nor any receiver's entry upon and taking possession of all or any part of the Property, nor any collection of Rents, issues, profits, Proceeds, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Obligation, nor the exercise of any other right or remedy by

Beneficiary or Trustee or any receiver shall cure or waive any breach, Event of Default or notice of default under this Deed of Trust, or nullify the effect of any notice of default or sale (unless all Obligations then due have been paid and performed and Trustor has cured all other defaults), or impair the status of the security, or prejudice Beneficiary or Trustee in the exercise of any right or remedy, or be construed as an affirmation by Beneficiary of any tenancy, Lease, or option or a subordination of the lien of this Deed of Trust.

14.8. Power to File Notices and Cure Defaults. Subject to any notice and cure rights set forth herein or in any of the Loan Documents, Trustor hereby irrevocably appoints Beneficiary and its successors and assigns as Trustor's attorney-in-fact, which agency is coupled with an interest:

14.8.1. to execute and record any notices of completion, cessation of labor, or any other notices that Beneficiary deems reasonably appropriate to protect Beneficiary's interest, and

14.8.2. upon the occurrence and continuation of an Event of Default, to perform any obligation of Trustor hereunder; provided, that:

14.8.2.1. Beneficiary, as such attorney-in-fact, shall only be accountable for such funds as are actually received by Beneficiary, and

14.8.2.2. Beneficiary shall not be liable to Trustor or any other person or entity for any failure to act under this section.

14.9. Waivers. To the full extent permitted by applicable law, Trustor hereby:

14.9.1. agrees that it will not at any time plead, claim or take advantage of any Laws now or hereafter in force providing for any appraisal, valuation, stay, extension or redemption, and waives and releases all rights of redemption, valuation, appraisal, stay of execution, extension and notice of election to accelerate the Obligations; waives all rights to a marshaling of the assets of Trustor, including, without limitation, the Property, or to a sale in the inverse order of alienation in the event of a foreclosure of the Property, and agrees not to assert any right under any Laws pertaining to the marshaling of assets, the sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents, or other matters whatsoever, to defeat, reduce or affect the right of Beneficiary under the terms of this Deed of Trust to a sale of the Property without any prior or different resort for collection, or the right of Beneficiary to the payment of the Obligations out of the proceeds of sale of the Property in preference to every other claimant whatsoever;

14.9.2. waives and relinquishes any and all rights and remedies which Trustor may have or be able to assert by reason of the provision of any laws pertaining to the rights and remedies of sureties; and

14.9.3. waives, to the fullest extent permitted by applicable law, the rights, protections and benefits afforded to Trustor under Utah Code Ann. § 78B-6-901 *et seq.* and Utah Code Ann. § 57-1-19 *et seq.* and any successor or replacement statute or any similar laws or benefits.

14.10. Limitation on Remedies. All rights, powers and remedies provided in this Deed of Trust may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Deed of Trust invalid, unenforceable or not entitled to be recorded under the provisions of any applicable law. In addition to the foregoing, Section 3 of this Deed of Trust is subject to the Rents Act, and in the event of any conflict or inconsistency between the provisions of this Deed of Trust and the provisions of the Rents Act, the provisions of the Rents Act shall control and Beneficiary shall have all rights and remedies available under the Rents Act, which rights and remedies shall be cumulative with all rights and remedies hereunder.

15. RECONVEYANCE. Upon the payment and performance in full of all Obligations secured by this Deed of Trust, Beneficiary agrees to cause Trustee to reconvey and release the Property, and upon payment by Trustor of its fees and all other sums owing to it under this Deed of Trust, Trustee shall reconvey and release the Property without warranty to the person or persons legally entitled to it. Such person or persons must pay all costs of recordation. The recitals in the reconveyance of any facts will be conclusive as to all persons. The grantee in the reconveyance may be described as "the person or persons legally entitled thereto." When the Property has been fully reconveyed, such reconveyance shall operate as a reassignment of all future rents, issues and profits of the Property to the person or persons legally entitled thereto.

16. MISCELLANEOUS.

16.1. Invalidity. The invalidity or unenforceability of any provision of this Deed of Trust will in no way affect any other provision.

16.2. Notices. All notices given under this Deed of Trust must be in writing and shall be in the form and delivered in the manner set forth in the Loan Agreement.

16.3. Rights of Beneficiary to Release Debtors or Security. Without affecting Trustor's liability for the payment of any of the indebtedness secured by this Deed of Trust, Beneficiary may from time to time and without notice to Trustor:

16.3.1. release any person liable for the payment of this indebtedness;

16.3.2. extend or modify the terms of that indebtedness in accordance with the terms of the Loan Documents;

16.3.3. accept additional real or personal property of any kind as security, or alter, substitute or release any property securing that indebtedness; or

16.3.4. cause Trustee to consent to the making of any map or plat of the Property, or to reconvey any part of the Property, or to join in granting any easement or creating any restriction on the Property, or to join in any subordination or other agreement affecting this Deed of Trust.

16.4. Governing Law. THIS DEED OF TRUST WILL BE GOVERNED BY, CONSTRUED, APPLIED, AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF ILLINOIS, WITHOUT REGARD TO CONFLICTS OF LAW

PRINCIPLES, PROVIDED, HOWEVER, THAT TO THE EXTENT THE MANDATORY PROVISIONS OF THE LAWS OF ANOTHER JURISDICTION RELATING TO (I) THE CREATION, VALIDITY, PRIORITY, PERFECTION, OR THE EFFECT OF PERFECTION OR NON-PERFECTION OF THE SECURITY INTERESTS IN ANY OF THE PROPERTY, (II) THE LIEN, ENCUMBRANCE, OR OTHER INTEREST IN THE PROPERTY GRANTED OR CONVEYED BY THIS DEED OF TRUST OR THE ENFORCEMENT THEREOF, OR (III) THE AVAILABILITY OF AND PROCEDURES RELATING TO ANY REMEDY UNDER THIS DEED OF TRUST OR RELATED TO THIS DEED OF TRUST ARE REQUIRED TO BE GOVERNED BY SUCH OTHER JURISDICTION'S LAWS, THOSE OTHER LAWS WILL BE DEEMED TO GOVERN AND CONTROL.

16.5. Waiver of Jury Trial. TRUSTOR AND BENEFICIARY EACH WAIVES ALL RIGHTS TO TRIAL BY JURY OF ANY SUITS, CLAIMS, COUNTERCLAIMS, AND ACTIONS OF ANY KIND ARISING UNDER OR RELATING TO THIS DEED OF TRUST, TRUSTOR, AND BENEFICIARY AND EACH ACKNOWLEDGE THAT THIS IS A WAIVER OF A LEGAL RIGHT AND REPRESENTS TO THE OTHER THAT THIS WAIVER IS MADE KNOWINGLY AND VOLUNTARILY. TRUSTOR AND BENEFICIARY EACH AGREES THAT ALL SUCH SUITS, CLAIMS, COUNTERCLAIMS, AND ACTIONS SHALL BE TRIED BEFORE A JUDGE OF A COURT OF COMPETENT JURISDICTION, WITHOUT A JURY.

16.6. Subsequent Trustors and Beneficiaries. The term "Trustor" includes both the original Trustor and any subsequent owner or owners of any of the Property, and the term "Beneficiary" includes the original Beneficiary and also any future owner or holder, including pledges and participants, of the Note or any interest therein.

16.7. Headings; Underlining. The headings of the sections of this Deed of Trust are for convenience only and do not limit its provisions. The use of underlining and/or bold type face in this Deed of Trust is for convenience only, and the parties understand and agree that the presence or absence of underlining shall not be used in interpreting or construing this Deed of Trust or any provision hereof.

16.8. Waiver. Neither the acceptance of any partial or delinquent payment or performance, nor the failure to exercise any rights upon a default, shall be a waiver of Trustor's obligations hereunder. Beneficiary's consent to any act or omission by Trustor will not be a consent to any other or subsequent act or omission or a waiver of the need for such consent in any future or other instance.

16.9. Successors and Assigns. The terms of this Deed of Trust shall bind and benefit heirs, legal representatives, successors and assigns of Trustor and Beneficiary and the successors in trust of Trustee.

16.10. Acceptance of Trust; Powers and Duties of Trustee. Trustee accepts this trust when this Deed of Trust is recorded. From time to time upon written request of Beneficiary and presentation of this Deed of Trust for endorsement, and without affecting the personal liability of any person for payment of any indebtedness or performance of any Obligation secured hereby, Trustee may, without liability therefor and without notice, and upon the direction of Beneficiary: (a) reconvey all or any part of the Property; (b) consent to the making of any map or plat thereof;

and (c) join in any grant of easement thereon, any declaration of covenants, conditions and restrictions, any extension agreement or any agreement subordinating the lien or charge hereof.

16.11. Removal of Trustee. Beneficiary may remove Trustee or any successor Trustee at any time or times and appoint a successor Trustee by recording a written substitution in the county where the Real Property is located, or in any other manner permitted by law. Upon that appointment, all of the powers, rights and authority of Trustee will immediately become vested in its successor.

16.12. Subrogation. Beneficiary shall be subrogated to the lien of all encumbrances, whether released of record or not, paid in whole or in part by Beneficiary pursuant to this Deed of Trust or by the proceeds of any loan secured by this Deed of Trust.

16.13. Statutes of Limitation. Trustor hereby waives the pleading of any and all statutes of limitation as a defense to any action brought against Trustor by Beneficiary, to the fullest extent permitted by law.

16.14. Time of the Essence. Time is of the essence as to all Obligations secured by or arising under this Deed of Trust and as to all terms and provisions hereof.

16.15. Attorneys' Fees. The prevailing party in any action shall recover all reasonable attorneys' fees incurred by said prevailing party in connection with any default hereunder and in any proceeding brought to enforce any of the provisions of this Deed of Trust. The prevailing party shall mean (a) the party who brings an action against the other after the other is in breach or default, if such action is dismissed upon the other's payment of the sums allegedly due or upon the other's performance of the covenants allegedly breached, or (b) the party obtains substantially the relief sought by it, whether or not such action proceeds to a hearing, a trial on the merits, or a final judgment or determination.

16.16. No Further Deed of Trust. THIS DEED OF TRUST SECURES A PROMISSORY NOTE. THIS DEED OF TRUST IS A FIRST DEED OF TRUST. NO FURTHER DEEDS OF TRUST MAY OR WILL BE RECORDED AGAINST THE REAL PROPERTY WITHOUT THE PRIOR WRITTEN CONSENT OF BENEFICIARY. FAILURE TO COMPLY WITH THIS PROVISION SHALL CONSTITUTE AN EVENT OF DEFAULT AND THE LOAN SHALL IMMEDIATELY BECOME DUE AND PAYABLE. CONSENT TO ONE FURTHER ENCUMBRANCE SHALL NOT BE DEEMED TO BE A WAIVER OF THE RIGHT TO REQUIRE SUCH CONSENT TO FUTURE OR SUCCESSIVE ENCUMBRANCES.

16.17. Statutory Disclosure. PURSUANT TO UTAH CODE ANN. SECTION 25-5-4, TRUSTOR IS NOTIFIED THAT THIS DEED OF TRUST AND THE OTHER LOAN DOCUMENTS EMBODY THE FINAL, ENTIRE AGREEMENT AMONG THE PARTIES HERETO AND SUPERSEDE ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT

ORAL AGREEMENTS OF THE PARTIES HERETO. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES HERETO.

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EXHIBIT A

LEGAL DESCRIPTION

Real property in the County of Davis, State of Utah, described as follows:

PARCEL 1:

A PART OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY IN CLINTON, DAVIS COUNTY, UTAH:

BEGINNING AT A POINT ON THE NORTH LINE OF STATE ROAD 37 (1800 NORTH STREET) BEING 212.00 FEET NORTH 89°59'17" EAST ALONG THE QUARTER SECTION LINE AND 42.02 FEET NORTH 0°07'29" EAST FROM THE WEST QUARTER CORNER OF SAID SECTION 27; AND RUNNING THENCE SOUTH 89°59'17" WEST 142.00 FEET ALONG SAID NORTH LINE; THENCE NORTH 44°56'37" WEST 21.19 FEET TO A POINT ON THE EAST LINE OF STATE ROAD 108 (2000 WEST STREET) AS WIDENED TO 55.00 FOOT HALF-WIDTH; THENCE NORTH 0°07'29" EAST 234.00 FEET ALONG SAID EAST LINE; THENCE NORTH 89°59'17" EAST 57 FEET; THENCE SOUTH 0°07'29" WEST 8.52 FEET; THENCE NORTH 89°59'17" EAST 251 FEET; THENCE SOUTH 0°07'29" WEST 240.48 FEET TO THE NORTH LINE OF STATE ROAD 37 (1800 NORTH STREET) AS WIDENED TO 42.02 FOOT HALFWIDTH; THENCE SOUTH 89°59'17" WEST 151.00 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING.

SAID PARCEL 1 IS ALSO KNOWN AS:

LOT 1, PIONEER SQUARE SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, HAVING BEEN RECORDED JUNE 4, 2004 AS ENTRY NO. 1992115 IN BOOK 3554 AT PAGE 508 IN THE OFFICE OF THE DAVIS COUNTY RECORDER.

PARCEL 1A:

A CERTAIN RIGHTS APPURTENANT TO PARCEL 1 AS CREATED THROUGH THAT CERTAIN RECIPROCAL EASEMENT AGREEMENT DATED FEBRUARY 2, 2004 AND RECORDED FEBRUARY 5, 2004 AS ENTRY NO. 1960275 IN BOOK 3470 AT PAGE 1005, AS AMENDED BY THAT CERTAIN FIRST AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT, RECORDED AUGUST 30, 2004 AS ENTRY NO. 2013948 IN BOOK 3613 AT PAGE 1428 OF OFFICIAL RECORDS, AND AS AMENDED BY THAT CERTAIN SECOND AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT, RECORDED JULY 10, 2008, AS ENTRY NO. 2378855 IN BOOK 4571 AT PAGE 646 OF OFFICIAL RECORDS.

Said property is also known by the street address of:
1962 West 1800 North, Clinton, UT 84015

Exhibit B
Description of Personal Property for Fixture Filing

All of Debtor's rights, title and interest in and to the following property or types of property, whether now owned or hereafter acquired or arising, wherever located:

- (a) All accounts, including without limitation: health care insurance receivables, leases; electronic and other chattel paper; contract rights; letters of credit and letter-of-credit rights; instruments; rights to payment under policies of insurance; and documents;
- (b) All general intangibles, including without limitation: all payment intangibles, patents, patent applications, trademarks, trademark applications, trade names, copyrights, copyright applications, software, plans, schematics, engineering drawings, writings and goodwill; all licenses, permits, approvals and agreements of any kind or nature pursuant to which Debtor possesses, uses or has the right to possess or use tangible or intangible property of others or pursuant to which others possess, use or have the right to possess or use the tangible or intangible property of Debtor; leasehold interests; tax refund claims; and guaranty claims;
- (c) All inventory, including without limitation returned and repossessed goods, raw materials, and work in progress;
- (d) All goods, equipment, vehicles, leasehold improvements, and fixtures, together with accessions thereto, replacement parts therefor and commingled goods but, if Debtor is an individual, excluding property bought or used by Debtor primarily for personal, family or household purposes;
- (e) All money, instruments, deposit accounts, certificates of deposit, deposits, investment property, and other property now or at any time hereafter in the possession or under the control of Secured Party or its bailee;
- (f) All books and records, including without limitation customer lists, credit files, computer programs, printouts, and other materials and records, pertaining to any of the foregoing;
- (g) All documents of title evidencing or issued with respect to, and supporting obligations pertaining to, any of the foregoing; and
- (h) All proceeds, products, replacements and increases of, additions and accessions to, and substitutions for, the property described above, and rights in and claims to or benefits under contracts of insurance covering any of the property described above.

In addition, and without limitation, the Collateral includes the following with respect to the real property commonly known as 1962 West 1800 North, Clinton, Utah 84015:

- (a) Improvements. All right, title, and interest of Debtor in, to, under, or derived from all buildings, structures, facilities, and other improvements of every kind and description now or hereafter located on the Property including all parking areas, roads, driveways, walks, fences, walls, drainage facilities, and other site improvements, all water, sanitary and storm sewer, drainage, electricity, steam, gas, telephone, and other utility equipment and facilities, all plumbing, lighting, heating, ventilating, air-conditioning, refrigerating, incinerating, compacting, fire, protection and sprinkler, surveillance and security, public address and communications equipment and systems, partitions, elevators, escalators, motors, machinery, pipes, fittings, and other items of equipment of every kind and description now or hereafter located on the Property or attached to the improvements which by the nature of their location thereon or attachment thereto are real property under applicable law; and including all materials intended for the construction, reconstruction, repair, replacement, alternation, addition, or improvement of or to such buildings,

equipment, fixtures, structures, and improvements, all of which materials shall be deemed to be part of the Property immediately upon delivery thereof on the Property and to be part of the improvements immediately upon their incorporation therein (hereinafter collectively called the "Improvements").

(b) Appurtenant Rights. All easements and rights of ways, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, liberties, tenements, hereditaments, and appurtenances of any nature whatsoever, in any way belonging, relating, or pertaining to the Property or the Improvements and the reversions, remainders, and all the estates, rights, titles, interests, property, possession, claim, and demand whatsoever, both in law and in equity, of Debtor of, in, and to the Property and the Improvements and every part and parcel thereof, with the appurtenances thereto.

(c) Permits. All estate, right, title, and interest of Debtor in, to, under, or derived from all licenses, authorizations, certificates, variances, consents, approvals, and other permits, now or hereafter pertaining to the Property and the Improvements and all estate, right, title, and interest of Debtor in, to, under, or derived from all trade names or business names relating to the Property or the Improvements or the present or future development, construction, operation, or use of the Property or the Improvements (hereinafter collectively called the "Permits").

(d) Leases. All estate, right, title, and interest of Debtor in, to, under, and derived from all leases (together with all amendments, supplements, consolidations, replacements, restatements, extensions, renewals, and other modifications of any thereof), now or hereafter in effect, whether or not of record (hereinafter collectively called the "Leases"); and the right to bring actions and proceedings under the Leases or for the enforcement thereof and to do anything which Debtor or any lessor is or may become entitled to do under the Leases.

(e) Rents, Issues, and Profits. All estate, right, title, and interest of Debtor in, to, under, or derived from all rents, royalties, issues, profits, receipts, revenue, income, earnings, and other benefits now or hereafter accruing with respect to all or any portion of the Property or the Improvements, including all rents and other sums now or hereafter payable pursuant to the Leases; all other sums now or hereafter payable with respect to the use, occupancy, management, operation, or control of the Property or the Improvements, including oil, gas, and mineral royalties (hereinafter collectively called the "Rents") all of which Debtor hereby irrevocably directs to be paid to Beneficiary, subject to the license granted to Debtor, to be held, applied, and disbursed as provided in the Loan Agreement or Related Documents.

(f) General Intangibles, Payment Rights, and Agreements. All estate, right, title, and interest of Debtor in, to, under, or derived from all contract rights, chattel paper, instruments, general intangibles, computer software, and in the property, accounts, guaranties, and warranties, letters of credit, and documents, in each case relating to the Property or to the present or future development, construction, operation, or use of the Property, and all plans, specifications, maps, surveys, studies, books of account, records, files, insurance policies, guarantees, and warranties, all relating to the Property or to the present or future development, construction, operation, or use of the Property, all architectural, engineering, construction, and management contracts, all supply and service contracts for water, sanitary and storm sewer, drainage, electricity, steam, gas, telephone, and other utilities relating to the Property (hereinafter collectively called the "Agreements").

(g) Proceeds and Awards. All awards of payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property to the extent actually received by Debtor, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer of the Property or part thereof made in lieu of or in anticipation of the exercise of said right), or for any other injury to or decrease in the value of the Property.

(h) Receivables and Accounts. All right, title, and interest of every nature of Debtor in all receivables and other accounts of Debtor relating to the Property and in all monies deposited or to be deposited in any funds or account maintained or deposited with Secured Party, or its assigns, in connection herewith, if any.

(i) Further Property. All estate, right, title, and interest of Debtor in, to, under, or derived from the Property hereafter acquired by Debtor, and all right, title, and interest of Debtor in, to, under, or derived from all extensions, improvements, betterment, renewal substitutions, and replacements of, and additions and appurtenances to the Property hereafter acquired by or released to Debtor or constructed or located on, or attached to, the Property.

(j) Despite any other provision of this Agreement, Secured Party is not granted, and will not have, a nonpurchase money security interest in household goods, to the extent such a security interest would be prohibited by applicable law. In addition, if because of the type of any Property, Secured Party is required to give a notice or right to cancel under the Truth in Lending laws for the Indebtedness, then Secured Party will not have a security interest in such Collateral unless and until such a notice is given. Finally, the term "Collateral" shall not be deemed to include any property owned by a tenant at the Property under any Lease of the Property.

All accessions, attachments, accessories, tools, parts, supplies, replacements of and additions to any of the Collateral located at the Property, or located elsewhere, whether added now or later. All products and proceeds of any of the Collateral. All accounts, general intangibles, instruments, rents, monies, payments, and all other rights, arising out of a sale, lease, consignment, or other disposition of any of the Collateral. All proceeds (including insurance proceeds) from the sale, destruction, loss, or other disposition of any of the Collateral, and sums due from a third party who has damaged or destroyed the Collateral or from that party's insurer, whether due to judgment, settlement, or other process. All records and data relating to any of the property, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of Debtor's right, title, and interest in and to all computer software required to utilize, create, maintain, and process any such records or data on electronic media.

ATTENTION: COUNTY RECORDER-THIS INSTRUMENT COVERS GOODS THAT ARE OR ARE TO BECOME FIXTURES ON THE REAL PROPERTY DESCRIBED HEREIN AND IS TO BE FILED FOR RECORD IN THE RECORDS WHERE DEEDS OF TRUST AND MORTGAGES ON REAL ESTATE ARE RECORDED.

ADDITIONALLY, THIS INSTRUMENT SHOULD BE APPROPRIATELY INDEXED, NOT ONLY AS A DEED OF TRUST OR MORTGAGE, BUT ALSO AS A FINANCING STATEMENT COVERING GOODS THAT ARE OR ARE TO BECOME FIXTURES ON THE REAL PROPERTY DESCRIBED HEREIN. THE MAILING ADDRESSES OF THE TRUSTOR (DEBTOR) AND BENEFICIARY (SECURED PARTY) ARE SET FORTH IN THIS INSTRUMENT.