

3562568
BK 8450 PG 325

E 3562568 B 8450 P 325-366
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
03/01/2024 11:25:15 AM
FEE: \$40.00 Pgs: 42
DEP eCASH REC'D FOR: FIRST AMERICAN TITLE
INSURANCE COMPANY - NCS CHICAGO

**Recording Requested By
And When Recorded Mail To:**

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
633 Chestnut Street, Suite 1900
Chattanooga, Tennessee 37450
Attention: Richard D. Faulkner, Jr.

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

MONUMENT REAL ESTATE BOUNTIFUL, LLC,
a Utah limited liability company
(as Grantor)

FIRST AMERICAN TITLE INSURANCE COMPANY
(as Trustee)

SALT LAKE MEDICAL INVESTORS, LLC and BOUNTIFUL REAL ESTATE INVESTORS,
LLC,
each a Tennessee limited liability company
(individually and collectively, as Lender)

Dated: February 1, 2024

Monument Health Bountiful
460 West 2600 South,
Bountiful, UT
84010

Assessor's Property Tax Serial Number: [05-003-0086]

Assessor's Property Tax Serial Number: [05-003-0086] **THIS INSTRUMENT COVERS GOODS THAT ARE OR WILL BECOME FIXTURES ON THE DESCRIBED REAL PROPERTY AND SHOULD BE FILED FOR RECORD IN THE REAL PROPERTY RECORDS WHERE DEEDS OF TRUST ON REAL ESTATE ARE RECORDED. THIS INSTRUMENT SHOULD ALSO BE INDEXED AS A UNIFORM COMMERCIAL CODE FINANCING STATEMENT COVERING GOODS THAT ARE OR WILL BECOME FIXTURES ON THE DESCRIBED REAL PROPERTY, THE MAILING ADDRESSES OF THE SECURED PARTY AND DEBTOR ARE WITHIN.**

THIS INSTRUMENT SECURES FUTURE ADVANCES.

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

THIS DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Security Instrument"), is made as of February 1, 2024 (the "Closing Date"), is executed by MONUMENT REAL ESTATE BOUNTIFUL, LLC, a Utah limited liability company, whose address is 31752 S. Coast Highway, #300, Laguna Beach, California 92651 (together with its successors and assigns, "Grantor"), as trustor, to FIRST AMERICAN TITLE INSURANCE COMPANY having an address of 215 S. State Street, Suite 380, Salt Lake City, Utah 84111 (the "Trustee"), as trustee, for the benefit of SALT LAKE MEDICAL INVESTORS, LLC and BOUNTIFUL REAL ESTATE INVESTORS, LLC, each a Tennessee limited liability company having its principal office at 3570 Keith St, NW, Cleveland, TN 37312, as beneficiary (together with their successors and assigns, individually and collectively, "Lender"). All capitalized terms not defined herein shall have the respective meanings set forth in the Note (defined below).

WHEREAS, Grantor is the owner and holder of fee simple title in and to all of the real estate located in the City of Bountiful, County of Davis, State of Utah, which is described on Exhibit A attached hereto and made a part hereof, which real estate forms a portion of the Mortgaged Property defined and described below;

WHEREAS, Grantor and MONUMENT REAL ESTATE MILLCREEK, LLC, a Utah limited liability company (together with Grantor, collectively, "Borrowers"), have agreed to borrow from Lender a loan in the original principal amount of Three Million and 00/100 Dollars (\$3,000,000.00) (the "Loan"), which Loan is evidenced by that certain Seller Note of even date herewith, made by Borrowers in favor of Lender (as the same may be amended, restated, supplemented or otherwise modified from time to time, collectively, the "Note");

WHEREAS, Grantor wishes and intends, by the execution and delivery of this Security Instrument, to (a) secure the full and punctual payment and performance of the Loan Obligations (as defined herein), and (b) induce Lender to make the Loan.

WHEREAS, Grantor IRREVOCABLY GRANTS, CONVEYS, TRANSFERS AND ASSIGNS to Trustee, its successors and assigns, in trust, with power of sale, for the benefit and security of Lender, and grants a security interest to Lender and Trustee, all of Grantor's present and future estate, right, title and interest in and to the Land (as defined herein) located in Davis County, Utah, together with all of the other Mortgaged Property (as defined herein); and

WHEREAS, Grantor covenants that Grantor is lawfully seized of the estate hereby conveyed and has the right to grant, convey and assign all of its right, title and interest in and to the Mortgaged Property, that the Mortgaged Property is unencumbered and that Grantor will warrant and defend generally the title to the Mortgaged Property against all claims and demands, subject to the Permitted Encumbrances.

NOW, THEREFORE, THIS SECURITY INSTRUMENT WITNESSETH, that, in consideration of the premises and the sum of Ten Dollars (\$10.00) lawful money of the United States of America, to the Grantor in hand paid, the receipt and sufficiency of which are hereby acknowledged, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by Grantor, Grantor by these presents does irrevocably and unconditionally grant, convey, transfer and assign to Trustee, its successors and assigns, in trust, for the benefit of Lender, with power of sale and right of entry and possession all of Grantor's fee simple interest in the Land (as more fully described on Exhibit A attached hereto and made a part hereof) together with all of the other Mortgaged Property (as defined herein).

THIS INSTRUMENT IS SUBJECT TO THE TERMS OF A SELLER NOTE SUBORDINATION AGREEMENT DATED AS OF EVEN DATE HERewith AMONG BORROWERS, CAPITAL FUNDING, LLC, AS "SENIOR LENDER", AND LENDER, AS "SUBORDINATED LENDER" (THE "SUBORDINATION AGREEMENT") AND WHICH SUBORDINATION AGREEMENT (AS MAY BE AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE. IF THERE IS A CONFLICT BETWEEN THE TERMS OF THE SUBORDINATION AGREEMENT AND THIS INSTRUMENT THE SUBORDINATION AGREEMENT WILL GOVERN AND CONTROL.

1. **DEFINITIONS.** The following terms, when used in this Security Instrument (including when used in the above Recitals), shall have the following meanings:

(a) "Accounts" means with respect to the Facility, means any rights of Borrower, Manager or Operator arising from the ownership and/or operation of the Facility to payment for goods sold or leased or for services rendered, not evidenced by an Instrument, including, without limitation: (a) all accounts arising from the Lease and/or ownership and/or operation of the Facility; (b) all moneys and accounts held by Lender pursuant to this Security Instrument; and (c) all rights to payment from Medicare or Medicaid programs, or similar state or federal programs, boards bureaus or agencies and rights to payment from patients, residents, private insurers, and others arising from the operation of the Facility, including rights to payment pursuant to Reimbursement Contracts. Accounts shall include the proceeds thereof (whether cash or non-cash, moveable or immovable, tangible or intangible) received from the sale, exchange, transfer, collection or other disposition or substitution thereof.

(b) "Appurtenant Rights" means all air rights, development rights, zoning rights, easements, rights-of-way, strips and gores of land, vaults, streets, roads, alleys, tenements, royalties, passages, air space, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber, mineral interests and other emoluments now or hereafter appurtenant to, or used or useful in connection with, or located on, under or above the Land, or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating or appertaining to the Land, or any part thereof, now or hereafter.

(c) "Collateral" means, collectively, all of Grantor's right, title and interest in and to the Mortgaged Property and all of Grantor's rights as a secured party in and to the property

of Manager to which Grantor holds a security interest under the terms of the Lease, all whether now owned or hereafter acquired, and including replacements, additions, accessions, substitutions, and products thereof and thereto, and all other property which is or hereafter may become subject to a Lien in favor of Lender as security for any of the Loan Obligations.

(d) [Reserved].

(e) "Debt" means the outstanding principal amount set forth in, and evidenced by, the Note, together with all interest accrued and unpaid thereon and all other sums owing to Lender in respect of the Loan under the Note, this Security Instrument or any other Loan Document, including, without limitation, late charges, default interest and advances to protect the security of this Security Instrument under Section 8, if any.

(f) "Equipment" means all beds, linen, televisions, carpeting, telephones, cash registers, computers, lamps, glassware, rehabilitation equipment, restaurant, restaurant and kitchen equipment, and other fixtures and equipment of Grantor located on, attached to or used or useful in connection with any of the Land or the Facility and all renewals and replacements thereof and substitutions therefor; provided, however, that with respect to any items which are leased for the benefit of the Facility and not owned by Grantor, the Equipment shall include the leasehold interest only of Grantor together with any options to purchase any of said items and any additional or greater rights with respect to such items which Grantor may hereafter acquire, but the foregoing shall not be construed to mean that such leasing shall be permitted hereunder and under the other Loan Documents. Notwithstanding the foregoing, Equipment shall not include any property belonging to tenants under any Leases at the Facility, except to the extent Grantor shall have rights or interests therein.

(g) "Event of Default" means the occurrence of any event listed in Section 15, hereof.

(h) "Facility" means the long term skilled nursing care facility known as "Monument Health Bountiful" located on the Land, as it may now or hereafter exist, together with any other general or specialized care facilities, if any (including any Alzheimer's care unit, subacute, and any assisted care living facility, now or hereafter operated on the Mortgaged Property).

(i) "Fixtures" means all property which is now or hereafter so attached to the Land or the Improvements as to constitute a fixture under applicable law and all renewals and replacements thereof and substitutions therefor, including, without limitation: machinery, equipment, engines, boilers, incinerators, installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air, or light; antennas, cable, wiring and conduits used in connection with radio, television, security, fire prevention, or fire detection or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage

disposers, washers, dryers and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains and curtain rods; mirrors; cabinets, paneling, rugs and floor and wall coverings; fences, trees and plants; and exercise equipment.

(j) “General Intangibles” means all intangible personal property of Grantor arising out of or connected with the Land or the Facility and all renewals and replacements thereof and substitutions therefore (other than Accounts, Rents, Instruments, Inventory, Money, Permits and Reimbursement Contracts).

(k) “Governmental Authority” means any board, commission, department or body of any municipal, county, state or federal governmental unit, or any subdivision of any of them, that has or acquires jurisdiction over the Mortgaged Property and/or the Improvements or the use, operation or improvement of the Mortgaged Property.

(l) “Grantor” means all Persons identified as “Grantor” in the first paragraph of this Security Instrument, together with their successors and assigns.

(m) “Impositions” and “Imposition Deposits” are defined in Section 4, hereof.

(n) “Improvements” means all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, including, but not limited to, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatus which are or shall be attached to the Land or said buildings, structures or improvements.

(o) “Instruments” means all instruments, chattel paper, documents or other writings obtained by Grantor from or in connection with the operation of the Land or the Facility (including without limitation, all ledger sheets, computer records and printouts, data bases, programs, books of account and files of Grantor relating thereto).

(p) “Inventory” means all inventories of food, beverages and other comestibles held by Grantor for sale or use at or from the Land or the Facility, and soap, paper supplies, medical supplies, drugs and all other such goods, wares and merchandise held by Grantor for sale to or for consumption by residents, guests or patients of the Land or the Facility and all such other goods returned to or repossessed by Grantor.

(q) “Land” means the land described in Exhibit A attached hereto and incorporated herein.

(r) “Leases” means all present and future leases, subleases, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Mortgaged Property, or any portion of the Mortgaged Property and all modifications, extensions or renewals thereof, and includes, without limitation, the Master Lease and any agreement with a Manager to operate and/or manage the Facility.

(s) "Lender" means all Persons identified as "Lender" in the first paragraph of this Security Instrument, together with their successors and assigns.

(t) "Lien" means any voluntary or involuntary mortgage, security deed, deed of trust, lien, pledge, assignment, security interest, title retention agreement, financing lease, levy, execution, seizure, judgment, attachment, garnishment, charge, lien or other encumbrance of any kind, including those contemplated by or permitted in this Security Instrument and the other Loan Documents.

(u) "Loan Documents" means, collectively, the Note, this Security Instrument, and the Millcreek Security Instrument.

(v) "Loan Obligations" means the aggregate of all principal and interest owing from time to time under the Note and the other Loan Documents and all expenses, charges and other amounts from time to time owing under the Note, this Security Instrument, or the other Loan Documents and all covenants, agreements and other obligations from time to time owing to, or for the benefit of Lender pursuant to the Loan Documents.

(w) "Management Agreement" means that certain Management Agreement of even date herewith by and between the Operator and Manager (defined below).

(x) "Manager" means MONUMENT HEALTH BOUNTIFUL, LLC, a Utah limited liability company, and any other entity engaged by Grantor or Manager to operate and/or manage the Facility.

(y) "Master Lease" means that certain Lease of even date herewith by and between Grantor, as landlord, and Manager, as tenant.

(z) "Medicaid" means that certain program of medical assistance, funded jointly by the federal government and the States, for impoverished individuals who are aged, blind and/or disabled, and/or members of families with dependent children, which program is more fully described in Title XIX of the Social Security Act (42 U.S.C. §§ 1396 *et seq.*) and the regulations promulgated thereunder.

(aa) "Medicare" means that certain federal program providing health insurance for eligible elderly and other individuals, under which physicians, hospitals, skilled nursing homes, home health care, and other providers are reimbursed for certain covered services they provide to the beneficiaries of such program, which program is more fully described in Title XVIII of the Social Security Act (42 U.S.C. §§ 1395 *et seq.*) and the regulations promulgated thereunder.

(bb) "Millcreek Security Instrument" means that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, made as of even date herewith, executed by MONUMENT REAL ESTATE MILLCREEK, LLC, a Utah limited liability company, as trustor, to Trustee, as trustee, for the benefit of Lender, covering the

"Mortgaged Property" as defined therein, including all schedules and exhibits thereto (as the same may be amended, restated, supplemented or otherwise modified from time to time).

(cc) "Money" means all monies, cash, rights to deposit or savings accounts or other items of legal tender obtained from or for use in connection with the operation of the Mortgaged Property.

(dd) "Mortgaged Property" means all of Grantor's present and future right, title and interest in and to all of the following:

- (1) the Land;
- (2) all Appurtenant Rights;
- (3) all Equipment;
- (4) all Improvements;
- (5) all Fixtures;
- (6) all Accounts;
- (7) all General Intangibles;
- (8) all Permits (to the extent assignable);
- (9) all Instruments;
- (10) all Inventory;
- (11) to the extent transferrable, all Reimbursement Contracts;
- (12) all Rents;
- (13) all Personalty;
- (14) all Leases;
- (15) all Money;
- (16) all Proceeds;
- (17) all contracts, options and other agreements for the sale of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property entered

into by Grantor now or in the future, including cash or securities deposited to secure performance by parties of their obligations;

(18) all Imposition Deposits;

(19) all refunds or rebates of Impositions by any municipal, state or federal authority or insurance company (other than refunds applicable to periods before the real property tax year in which this Security Instrument is dated);

(20) to the extent transferrable, all names under or by which any of the above Mortgaged Property may be operated or known, and all trademarks, trade names, and goodwill relating to any of the Mortgaged Property;

(21) all other assets of Grantor, wherever located, whether now owned or existing or hereafter acquired or arising, including replacements, accessions, additions, substitutions, and products thereof and thereto, together with all proceeds thereof, and all other property which is or hereafter may become subject to a Lien in favor of Lenders as security for any of the Loan Obligations; and

(22) all renewals, replacements and proceeds of any of the foregoing and any substitutions therefore.

(ee) "Note" has the meaning ascribed to such term in the Recitals of this Security Instrument.

(ff) "Note Guarantor" means Health Group Management, LLC, a California limited liability company.

(gg) "Operator" means MILFORD AREA HEALTH CARE SERVICE DISTRICT #3, a Utah special service district.

(hh) "Payment" with reference to the Loan Obligations means the payment of the Debt and the performance of the Loan Obligations.

(ii) "Permits" means all licenses, permits and certificates used or useful in connection with the ownership, operation, use or occupancy of the Mortgaged Property and/or the Facility, including, without limitation, business licenses, state health department licenses, food service licenses, licenses to conduct business, certificates of need, air quality permits and all such other permits, licenses and rights, obtained from any governmental, quasi-governmental or private person or entity whatsoever concerning ownership, operation, use or occupancy.

(jj) "Permitted Encumbrances" means (a) the lien of current real property taxes, water charges, sewer rents and assessments not yet due and payable; (b) the items specified in Exhibit B; (c) [reserved]; (d) other matters to which like properties are commonly subject; (e) the

rights of tenants (as tenants only) under leases (including subleases) pertaining to the related Mortgaged Property which the Loan Documents do not require to be subordinated to the lien of the Security Instrument; and (f) [reserved], provided that none of such items (a) through (f), individually or in the aggregate, materially interferes with the value, current use or operation of the Mortgaged Property or the security intended to be provided by the Security Instrument or with the current ability of the related Mortgaged Property to generate net cash flow sufficient to service the related Loan or the Borrower's ability to pay its obligations when they become due.

(kk) "Person" means any person, firm, corporation, limited liability company, partnership, trust or other entity.

(ll) "Personalty" means all furniture, furnishings, Equipment, machinery, building materials, appliances, goods, supplies, tools, books, records (whether in written or electronic form), computer equipment (hardware and software), all sewer and water taps, appurtenant water stock or water rights, any Type 2 non-irrigation grandfathered water rights, contractual rights to water and all tangible personal property (other than Fixtures) which are used now or in the future in connection with the ownership, management or operation of the Land or the Improvements or are located on the Land or in the Improvements, and any operating agreements relating to the Land or the Improvements, and any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements.

(mm) "Proceeds" means all awards, payments, earnings, royalties, issues, profits, liquidated claims, and proceeds (including proceeds of insurance and condemnation or any conveyance in lieu thereof) from the sale, conversion (whether voluntary or involuntary), exchange, transfer, collection, loss, damage, condemnation, disposition, substitution or replacement of any of the Collateral.

(nn) "Reimbursement Contracts" means all third-party reimbursement contracts and provider agreements for the Facility which are now or hereafter in effect with respect to residents or patients qualifying for coverage under the same, including Medicare and Medicaid and private insurance agreements, and any successor program or other similar reimbursement program and/or private insurance agreements.

(oo) "Rents" means all rent and other payments of whatever nature from time to time payable pursuant to the Leases (including, without limitation, rights to payment earned under leases for space in the Improvements for the operation of ongoing retail businesses such as newsstands, concession stands, barbershops, beauty shops, gift shops, cafeterias, dining rooms, restaurants, lounges, vending machines, physicians' offices, pharmacies, laboratories, gymnasiums, swimming pools, tennis courts, golf courses, recreational centers and specialty shops), deposits (whether for security or otherwise but excluding any resident trust accounts), issues, profits, revenues, royalties, rights, benefits, and income of every nature of and from the Mortgaged Property and the operations conducted or to be conducted thereon

(pp) "Restricted Person" means Borrower or Operator.

(qq) "Single Purpose Entity" shall mean a Person which owns no interest or property other than the Mortgaged Property and whose organizational documents provide substantially to the effect that it was formed or organized solely for the purpose of owning and operating the Mortgaged Property and prohibit it from engaging in any business unrelated to the Mortgaged Property, and whose organizational documents further provide substantially to the effect that it does not have any assets other than those related to its interest in and operation of the Mortgaged Property, or any indebtedness other than as permitted by the Loan Documents, that it has its own books and records and accounts separate and apart from those of any other person, and that it holds itself out as a legal entity, separate and apart from any other person or entity.

(rr) "Senior Credit Agreement" shall mean that certain Loan Agreement of even date herewith, by and among Borrowers, various financial institutions as are, or may from time to time become, parties thereto as lenders (collectively or individually, as the context may require, referred to herein as "Senior Lender" or "Senior Lenders") and Capital Funding, LLC, a Maryland limited liability company (together with its successors and assigns, as agent).

(ss) "Senior Credit Documents" shall mean collectively, the Senior Credit Agreement, together with any and all other documents executed by Borrowers, any other Loan Party (as defined in the Senior Credit Agreement), and Guarantor (as defined in the Senior Credit Agreement) or others evidencing, securing or otherwise relating to the Senior Loan.

(tt) "Senior Loan" shall mean the term loan in the original principal amount of Sixteen Million Two Hundred Fifty-Seven Thousand Four Hundred Nine and No/100 Dollars (\$16,257,409.00) made by Senior Lender to Borrowers under the Senior Credit Agreement, and as evidenced and/or secured by the other Senior Credit Documents.

(uu) "Stock" shall mean all shares, options, warrants, general or limited partnership interests, membership interests, participations or other equivalents (regardless of how designated) in a corporation, limited liability company, partnership or any equivalent entity, whether voting or nonvoting, including, without limitation, common stock, preferred stock, or any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended).

(vv) "Taxes" means all taxes, assessments, vault rentals and other charges, if any, general, special or otherwise, including all assessments for schools, public betterments and general or local improvements, which are levied, assessed or imposed by any public authority or quasi-public authority, and which, if not paid, will become a lien, on the Land or the Improvements.

(ww) "Transfer" means the conveyance, assignment, sale, transfer, mortgaging, collateral assignment, encumbrance, pledging, alienation, hypothecation, granting of a security interest in, granting of options with respect to, or other disposition of (directly or indirectly,

voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) all or any portion of any legal or beneficial interest (i) in the Mortgaged Property or any other real or personal property of the Grantor (other than pursuant to Permitted Encumbrances); (ii) in the Stock of any corporation which is a Restricted Person, a member of a Restricted Person (if the Restricted Person is a limited liability company), a partner of a Restricted Person or, if applicable, a partner of a general partner of a Restricted Person; or (iii) in a Restricted Person (or any trust of which the Restricted Person is a trustee), or, (iv) if a Restricted Person is a limited or general partnership, limited liability company, joint venture, trust, nominee trust, tenancy in common or other unincorporated form of business association or form of ownership interest, in any Person having a direct or indirect legal or beneficial ownership in the Restricted Person, including any legal or beneficial interest in any constituent limited partner or member of the Restricted Person whether directly or through multiple tiers of ownership. The term "Transfer" shall also include, without limitation, the following: an installment sales agreement wherein a Restricted Person agrees to sell the Mortgaged Property or any other real or personal property of Grantor or Manager, or any part thereof or any interest therein, for a price to be paid in installments; an agreement by a Restricted Person leasing all or a substantial part of the Mortgaged Property or any other real or personal property of Grantor or Manager to one or more Persons (other than pursuant to the Leases permitted under this Security Instrument) pursuant to a single transaction or related transactions, or a sale, assignment or other transfer of, or the grant of a security interest in, a Restricted Person's right, title and interest in and to any Leases or any Rent; any instrument subjecting the Mortgaged Property to a condominium regime or transferring ownership to a cooperative corporation or other form of multiple ownership or governance; the dissolution or termination of a Restricted Person, any general partner of a Restricted Person, any general partner of any general partner of a Restricted Person, if applicable, or, if the Restricted Person is a limited liability company, any corporate member of a Restricted Person; the issuance of new Stock in any corporation which is a Restricted Person, a member of a Restricted Person (if the Restricted Person is a limited liability company), a partner of a Restricted Person or, if applicable, a partner of a general partner of a Restricted Person; or the merger or consolidation with any other Person of a Restricted Person, any general partner of a Restricted Person, any general partner of any general partner of a Restricted Person, if applicable, or, if a Restricted Person is a limited liability company, any corporate or member of a limited liability company that is a Restricted Person.

2. UNIFORM COMMERCIAL CODE; SECURITY AGREEMENT.

(a) This Security Instrument is also a security agreement under the Uniform Commercial Code as adopted in the State of Utah (as amended from time to time, the "UCC") for any of the Mortgaged Property which, under applicable law, may be subject to a security interest under the UCC whether acquired now or in the future, and all of Grantor's Collateral, products and cash and non-cash proceeds thereof (collectively, "UCC Collateral"), and Grantor hereby grants to Lender, for its benefit, a security interest in the UCC Collateral. Lender is authorized by Grantor to file such financing statements and any extensions, renewals and amendments thereof, and any termination statements, in such form as Lender may require to perfect or continue the perfection of this security interest. Any such financing statement may describe the collateral as "All assets of Debtor wherever located, whether now owned or hereafter existing or hereafter

acquired or arising, together with all proceeds thereof" or a similar description describing all assets or all personal property of Grantor. Grantor shall pay all filing costs and all costs and expenses of any record searches for financing statements that Lender may require. Without the prior written consent of Lender, Grantor shall not create or permit to exist any other lien or security interest in any of the UCC Collateral, other than Permitted Encumbrances. If an Event of Default has occurred and is continuing (or if Lender is limited from declaring an Event of Default pursuant to the terms of the Subordination Agreement with Senior Lender, then upon any default, breach or nonperformance by Grantor, all notices of default being hereby waived by Grantor), Lender shall have the remedies of a secured party under the UCC in addition to all remedies provided by this Security Instrument or existing under applicable law. In exercising any remedies, Lender may exercise its remedies against the UCC Collateral separately or together and in any order, without in any way affecting the availability of Lender's other remedies under applicable law.

(b) This Security Instrument covers goods which are to become fixtures on the Land, and this Security Instrument constitutes and is filed as a "fixture filing" (as the term is defined in the UCC) upon such of the Mortgaged Property which is or may become fixtures. Grantor has an interest of record in the Land. For purposes of the UCC, the following information is furnished, and Grantor represents and warrants to Lender that the information in subparagraphs (1) and (2) below is correct.

i. The name and address of the record owner of the Land described in this Security Instrument is MONUMENT REAL ESTATE BOUNTIFUL, LLC, a Utah limited liability company, 31752 S. Coast Highway, #300, Laguna Beach, CA 92651.

ii. The name and address of Grantor, and if Grantor is not an individual, type or organization and organization number of Grantor is MONUMENT REAL ESTATE BOUNTIFUL, LLC, a Utah limited liability company, 31752 S. Coast Highway, #300, Laguna Beach, CA 92651, with a Utah organization number of 13707889 - 0160.

3. GRANTOR COVENANTS.

(a) Grantor shall promptly pay and perform all Loan Obligations for which it is liable or obligated in accordance with the terms of the Loan Documents. Grantor acknowledges and agrees that this Security Instrument shall not be extinguished and that the priority of this Security Instrument shall not be altered in any way until Grantor has performed all Loan Obligations for which it is liable or obligated in accordance with the terms of the Loan Documents.

(b) At the time of the execution and delivery of this Security Instrument, Grantor is the owner of the Land in fee simple, free of any easements, liens, and encumbrances (other than Permitted Encumbrances), and will forever warrant and defend its title against any and all other claims other than Permitted Encumbrances. The lien created by this Security Instrument is and will be kept as a valid lien on the Mortgaged Property, subject only to these stated exceptions.

4. **LEASES.** Grantor shall not, without the prior written consent and approval of Lender, (which consent will not be unreasonably withheld or delayed), enter into or permit any Lease except for (a) the Master Lease, and (b) that certain Health Care Facility Sublease Agreement of even date herewith by and between Manager, as sublandlord, and Operator, as subtenant; or enter into or permit any management agreement of or affecting any part of the Mortgaged Property except for the Management Agreement by and between Manager and Health Group Management, LLC, a California limited liability company, as administrator.

5. **SENIOR LOAN.** Within three (3) business days of receipt by Borrower, Borrower shall provide Lender with copies of any notices received from Senior Lender with respect to any Event of Default under the Senior Credit Agreement or under any of the other Senior Credit Documents.

6. **APPLICATION OF PAYMENTS.** If at any time Lender receives, from Grantor or otherwise, any amount applicable to Loan Obligations which is less than all amounts due and payable at such time, then, except to the extent otherwise required by law, Lender may apply that payment in such manner and in such order of priority as Lender shall determine in Lender's sole discretion. Neither Lender's acceptance of an amount which is less than all amounts then due and payable nor Lender's application of such payment in the manner authorized in the immediately preceding sentence shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction. Notwithstanding the application of any such amount to Loan Obligations, Grantor's obligations under this Security Instrument and the Note shall remain unchanged.

7. **USE OF PROPERTY.** Unless required by applicable law or permitted pursuant to any of the Loan Documents, Grantor shall not (a) except for any change in use approved by Lender, allow changes in the use for which all or any part of the Mortgaged Property is being used at the time this Security Instrument was executed, (b) convert any part of the Facility to commercial use, (c) initiate or acquiesce in a change in the zoning classification of the Mortgaged Property or (d) consent to or vote in favor of the inclusion of the Mortgaged Property in any community facilities or limited improvement district or any other improvement, assessment or similar district.

8. **PROTECTION OF LENDER'S SECURITY.**

(a) If Grantor fails to perform any of its obligations under this Security Instrument or any other Loan Document, or if any action or proceeding is commenced which purports to affect the Mortgaged Property, Lender's security or Lender's rights under this Security Instrument, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of Hazardous Materials Laws, fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent, then Lender, at Lender's option and upon notice to Grantor may make such appearances, disburse such sums and take such actions as Lender reasonably deems necessary to perform such obligations of Grantor and to protect Lender's interest, including (1) disbursement of reasonable fees and out of pocket expenses of attorneys, accountants, inspectors and consultants, (2) entry upon the Mortgaged Property to make repairs or secure the Mortgaged Property, (3) procurement of the insurance coverages required under this

Security Instrument, and (4) payment of amounts which Grantor has failed to pay under Section 10.

(b) Any amounts disbursed by Lender under this Section 8, under any other provision of this Security Instrument, or under any of the other Loan Documents, that treats such disbursement as being made under this Section 8, shall be added to, and become part of Loan Obligations, shall be immediately due and payable and shall bear interest from the date of disbursement until paid at the "Default Rate", as defined in the Note.

(c) Nothing in this Section 8 shall require Lender to incur any expense or take any action.

9. **INSPECTION.** Subject to the rights of tenants under Leases, and subject to the rights of the patients or residents under any tenant resident or occupancy agreement, Lender, their agents, representatives, and designees may make or cause to be made entries upon and inspections of the Mortgaged Property (including environmental inspections and tests) during normal business hours, or at any other reasonable time, upon reasonable advance written notice to Grantor except in an emergency or during the continuance of an Event of Default. Grantor shall use its best efforts not to materially interfere with patient care at the Facility during such inspections.

10. **TAXES; OPERATING EXPENSES.**

(a) Subject to the provisions of Section 10(c) and Section 10(d), Grantor shall pay, or cause to be paid, all Taxes when due and before the addition of any interest, fine, penalty or cost for nonpayment.

(b) Subject to the provisions of Section 10(c), Grantor shall pay or cause to be paid the expenses of operating, managing, maintaining and repairing the Mortgaged Property (including insurance premiums, utilities, repairs and replacements) before the last date upon which each such payment may be made without any penalty or interest charge being added or lien imposed.

(c) [Reserved]..

(d) Grantor, at its own expense, may contest by appropriate legal proceedings, conducted diligently and in good faith, the amount or validity of any Imposition other than insurance premiums, if (1) Grantor notifies Lender of the commencement or expected commencement of such proceedings, (2) the Mortgaged Property is not in danger of being sold or forfeited as determined by Lender in its sole and absolute discretion, (3) if requested by Lender, Grantor deposits with Lender cash reserves or other collateral sufficient to pay the contested Imposition and all interest and penalties, as determined by Lender in its sole and absolute discretion, (4) Grantor furnishes whatever security is required in the proceedings or is reasonably requested by Lender, which may include the delivery to Lender of the reserves established by Grantor to pay the contested Imposition and all interest and penalties, as determined by Lender in

its sole and absolute discretion, as additional security, and (5) such contest operates to suspend enforcement of such Imposition.

(e) Grantor shall promptly deliver to Lender a copy of all notices of, and invoices for, Impositions, and if Grantor pays any Imposition directly, Grantor shall promptly furnish to Lender receipts evidencing such payments.

11. **LIENS; ENCUMBRANCES.** Grantor acknowledges that the existence of any Lien on the Mortgaged Property, other than Permitted Encumbrances and liens which are imposed in connection with Impositions being contested strictly in accordance with Section 10(d) above, whether voluntary, involuntary or by operation of law, is a "Transfer" which constitutes an Event of Default as provided under Section 14.

12. **INSURANCE; PRESERVATION, MANAGEMENT AND MAINTENANCE OF MORTGAGED PROPERTY.**

(a) Grantor shall obtain and maintain insurance (i) in accordance with the requirements under the Senior Credit Agreement and other Senior Loan Documents or (ii) if the requirements under the Senior Credit Agreement and other Loan Documents are reduced or eliminated after the Closing Date, under such policies of insurance as may be required by Lender in its reasonable discretion.

(b) Grantor shall, or shall cause Manager to (a) not commit waste or permit impairment or deterioration of the Mortgaged Property, (b) not abandon the Facility, (c) restore or repair promptly, in a good and workmanlike manner, any damaged part of the Mortgaged Property to the equivalent of its original condition (ordinary wear and tear excepted), or such other condition as Lender may approve in writing, whether or not insurance proceeds or condemnation awards are available to cover any costs of such restoration or repair except to the extent Lender applies such insurance proceeds or condemnation awards to reduce the Debt, (d) keep the Mortgaged Property in good repair (ordinary wear and tear excepted), including the replacement of Personalty and Fixtures with items of equal or better function and quality, (e) provide for professional management of the Facility by Manager or if Manager shall no longer be managing the Facility, by a manager reasonably satisfactory to Lender, in its sole discretion, under a contract approved by Lender in writing, and (f) give notice to Lender of and, unless otherwise directed in writing by Lender, shall appear in and defend any action or proceeding purporting to affect the Mortgaged Property, Lender's security or Lender's rights under this Security Instrument. Grantor shall not (and shall not permit any other person to) remove, demolish or alter the Mortgaged Property or any part of the Mortgaged Property except in connection with the replacement of tangible Personalty or for the sale of Inventory in the ordinary course of business.

13. **CONDEMNATION.**

(a) Grantor shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Mortgaged Property, whether direct or indirect (a "Condemnation"). Grantor shall appear in and

prosecute or defend any proceeding relating to any Condemnation unless otherwise directed by Lender in writing. Grantor authorizes and appoints Lender as attorney-in-fact for Grantor to commence, appear in and prosecute, in Lender's or Grantor's name, any action or proceeding relating to any Condemnation and to settle or compromise any claim in connection with any Condemnation. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section 13 shall require Lender to incur any expense or take any action. Grantor hereby transfers and assigns to Lender all right, title and interest of Grantor in and to any award or payment with respect to (i) any Condemnation, or any conveyance in lieu of Condemnation, and (ii) any damage to the Mortgaged Property caused by governmental action that does not result in a Condemnation.

(b) Lender, in its sole and absolute discretion, may apply such awards or proceeds, after the deduction of Lender's reasonable expenses incurred in the collection of such amounts, at Lender's option, to the restoration or repair of the Mortgaged Property or to the payment of Loan Obligations, with the balance, if any, to Grantor. Unless Lender otherwise agrees in writing, any application of any awards or proceeds to Loan Obligations shall not extend or postpone the due date of any monthly installments referred to in the Note or change the amount of such installments. Grantor agrees to execute such further evidence of assignment of any awards or proceeds as Lender may require.

14. **TRANSFER RESTRICTIONS.**

(a) Except as otherwise permitted under this Section 14, Transfers shall not be permitted. Any Transfer made in violation of this Security Instrument shall constitute an automatic Event of Default

(b) Notwithstanding the foregoing, Lender consents to the Transfer of the direct or indirect ownership interests of Borrower (a) between or among partners, members or shareholders of Borrower existing as such on the Closing Date, or (b) to immediate family members of existing partners, members or shareholders or to trusts for estate planning purposes for the benefit of existing partners, members or shareholders or members of the transferor's immediate family, provided the following conditions are met: (i) the Transfer does not result in a Person accumulating 25% or more of the direct or indirect ownership interest in Borrower (unless such Person owns 25% or more on the Closing Date), (ii) such Transfer does not result in a change in control of Borrower, (iii) Borrower provides prior written notice to Lender of the Transfer and delivers to Lender all documents reasonably requested by Lender related to the Transfer, (iv) Borrower delivers to Lender all organizational documents reflecting the modified ownership interests after the Transfer takes effect and (v) no Event of Default exists beyond any applicable notice or cure period both before and after giving effect to the Transfer.

15. **EVENTS OF DEFAULT.** The occurrence of any one or more of the following shall constitute an Event of Default under this Security Instrument

(a) Borrower's failure to pay the entire amount of the Debt and other Loan Obligations on or before the Maturity Date; or

(b) Borrower's failure to pay on or before the 10th day of the month in which payment is due, for credit to the Loan, any regularly scheduled monthly installment of principal or interest (other than the amount payable on the Maturity Date) that is payable pursuant to the Note; or

(c) the failure to pay when due, any Taxes, insurance premiums or payment of money (other than as provided in Section 15(a) or (b)) required by the Note, this Security Instrument, or any of the other Loan Documents or owed to Lender by Borrower; or

(d) dissolution or a change in composition of Borrower (including without limitation any Transfer) not expressly permitted in this Security Instrument or any of the other Loan Documents; or

(e) the failure of Borrower to perform or keep or abide by any term, covenant or term, covenant or condition of any of the Loan Documents (other than as set forth in Section 15(a), (b), (c) or (d)), which can be cured with the payment of money, within fifteen (15) days after notice from Lender; or

(f) the failure of Borrower to perform or keep or abide by any term, covenant or term, covenant or condition of any of the Loan Documents (other than as set forth in Section 15(a), (b), (c) or (d)), that cannot be cured with the payment of money (but is otherwise susceptible of curing), within thirty (30) days after notice from Lender, provided that if such failure cannot reasonably be cured within such thirty (30) day period and Borrower shall have commenced to cure within such thirty(30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as it shall require Borrower in the exercise of due diligence to cure such failure, it being agreed that no such extension shall be for a period in excess of sixty (60) days; or

(g) the commencement of an involuntary bankruptcy proceeding against Borrower, Manager, Operator, or Note Guarantor or the commencement of any other proceeding seeking an assignment for the benefit of creditors or the appointment of a trustee, receiver, liquidator, custodian or other similar official for any such parties or any of their properties, or the commencement of any proceeding for the relief from indebtedness against Borrower, Manager, Operator, or Note Guarantor, in each case which shall remain undismissed or unstayed for a period of sixty (60) days; or the entry of order for relief against Borrower, Manager, Operator, or Note Guarantor under the Federal Bankruptcy Code; or

(h) the commencement by Borrower, Manager, Operator, or Note Guarantor of a voluntary bankruptcy or other proceeding seeking relief from indebtedness or the appointment of a trustee, receiver, liquidator, custodian or other similar official for any such parties or their properties or the consent by Borrower, Manager, Operator, or Note Guarantor to any such relief or to the appointment of or taking possession by any receiver or other official in an involuntary case or other proceeding commenced against it, or the making by Borrower, Manager, Operator, or Note Guarantor of a general assignment for the benefit of creditors, or any action by Borrower, Manager, Operator, or Note Guarantor to authorize or effect any of the foregoing; or

- (i) [reserved];
- (j) [reserved];
- (k) if any written representation, covenant or warranty made to Lender by Borrower is breached or is untrue in any material respect when made; or
- (l) the occurrence of a breach or default under any other document or instrument given to Lender in connection with the Loan after the expiration of all notice, grace or cure periods set forth in the Loan Documents; or
- (m) fraud or material misrepresentation or material omission by Borrower, any of its officers, directors, trustees, members, general partners or managers in connection with any material information required to be provided to Lender during the term of Loan Obligations; or
- (n) [reserved]; or
- (o) the Borrower shall convey, transfer or otherwise divest itself of title to the Property; or
- (p) the Borrower shall encumber the Mortgaged Property with any secondary financing, without the prior written approval of Lender which shall not be unreasonably withheld, conditioned or delayed; or
- (q) revocation or suspension of an Operator's or a Borrower's Certificate of Need (if required), Facility License, the Medicaid or Medicare provider agreements or any other Permit or Reimbursement Contract necessary to operate the Facility; or
- (r) if Borrower incurs additional Indebtedness not permitted by the Loan Documents to which each are a party without the prior written approval of the Agent; or
- (s) a default by Borrower on any other obligations owed by it to Lender; or
- (t) a default under the Senior Loan beyond any applicable notice and/or cure period; or
- (u) [reserved]; or
- (v) [reserved]; or
- (w) [reserved]; or
- (x) the occurrence of an event of default under and as defined in the Lease Agreement, which default continues beyond any applicable grace or cure period.

Notwithstanding anything in this Section, all requirements of notice shall be deemed eliminated if Lender is prevented from declaring an Event of Default by bankruptcy or other applicable law. The cure period, if any, shall then run from the occurrence of the event or condition of Default rather than from the date of notice.

16. **REMEDIES.**

(a) Acceleration of Maturity. If an Event of Default shall have occurred, then the entire Debt (and all other Loan Obligations) shall, at the option of Lender, immediately become due and payable without notice or demand, time being of the essence of this Security Instrument, and no omission on the part of Lender to exercise such option when entitled to do so shall be construed as a waiver of such right. If Lender is limited from declaring an Event of Default pursuant to the terms of the Subordination Agreement, then upon any default, breach or non-performance by Grantor, all notices of default being hereby waived by Grantor, the Loan Obligations shall immediately be and become due and payable without further notice or any further action by Lender.

(b) Right to Enter and Take Possession.

i. If an Event of Default shall have occurred, Grantor, upon demand of Lender, shall forthwith surrender to Lender the actual possession of the Mortgaged Property and, if and to the extent permitted by law, Lender itself, or by such officers or agents as it may appoint, may enter and take possession of all or any part of the Mortgaged Property without the appointment of a receiver or an application therefor, and may exclude Grantor and its agents and employees wholly therefrom, and take possession of the books, papers and accounts of Grantor relating thereto.

ii. If Grantor shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after such demand by Lender, Lender may apply for the appointment of a receiver or obtain a judicial order, judgment or decree conferring upon Lender the right to immediate possession or requiring Grantor to deliver immediate possession of the Mortgaged Property to Lender. Grantor will pay to Lender, upon demand, all expenses of obtaining such judgment or decree, including costs and expense incurred by Lender, its attorneys and agents, and all such expenses and costs shall, until paid, become part of Loan Obligations and shall be secured by this Security Instrument.

iii. Upon every such entering or taking of possession, Lender may, to the extent not prohibited by applicable law, hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof, and, from time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional Fixtures, Personalty and Equipment; (ii) insure or keep the Mortgaged Property insured; (iii) manage and operate the Mortgaged Property and exercise all of the rights and powers of Grantor to the same extent as Grantor could in its own name; (iv) enter into agreements with others (including, without limitation, new Leases or amendments, extensions, or cancellations to existing Leases) all as

Lender from time to time may determine in its sole discretion and/or (v) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Lender, all as Lender from time to time may determine to be in its best interest. Lender may collect and receive all the Rents, including those past due as well as those accruing thereafter, and, after deducting (A) all expenses of taking, holding, managing and operating the Mortgaged Property (including compensation for the services of all persons employed for such purposes); (B) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions; (C) the cost of such insurance deemed necessary by Grantor; (D) such taxes, assessments and other similar charges as Lender may at its option pay; (E) other proper charges upon the Mortgaged Property or any part thereof; and (F) the actual reasonable fees, expenses and disbursements of the attorneys and agents of Lender, Lender shall apply the remainder of the monies and proceeds so received by Lender, first, to the payment of accrued interest; second, to the payment of Imposition Deposits and to other sums required to be paid hereunder; and third, to the payment of overdue installments of principal and any other unpaid Debt then due. Anything in this Section to the contrary notwithstanding, Lender shall not incur any liability as a result of any exercise by Lender of its rights under this Security Instrument, except due to Lender's willful misconduct or gross negligence, and Lender shall be liable to account only for the Rents actually received by Lender.

iv. If an Event of Default shall have occurred, Lender may require that Grantor cause all of its Accounts, and cause Manager to cause all of its Accounts, to be paid to a lockbox or to one or more deposit accounts with Lender, or at Lender's option, with another financial institution approved by Lender. Grantor assigns and grants to Lender a security interest in, pledge of and right of setoff against all moneys from time to time held in such deposit accounts, to the extent permitted by applicable law. Grantor agrees to promptly notify all of its account debtors, including the Medicaid and Medicare agencies and other account debtors pursuant to all Reimbursement Contracts, to the extent permitted under applicable law and to the extent Grantor maintains such Accounts, to make payments to one or more such deposit accounts upon Lender's request and as designated by Lender, and Grantor agrees to provide any necessary endorsements to checks, drafts and other forms of payment so that such payments will be properly deposited in such accounts. Lender may require that the deposit accounts be established so as to comply with any applicable Medicaid, Medicare and other requirements applicable to payments of any accounts receivable. Lender may cause moneys to be withdrawn from such deposit accounts and applied to Loan Obligations in such order as Lender may elect, whether or not then due. Grantor appoints Lender as Grantor's attorney-in-fact, which appointment is coupled with an interest and is irrevocable, to provide any notice, endorse any check, draft or other payment for deposit, or take any other action which Grantor agrees to undertake in accordance with this Section. Lender shall not be liable for failure to collect or to enforce any Accounts or for any action or omission on the part of Lender, its officers, agents and employees in collecting or enforcing such Accounts.

v. Whenever all Loan Obligations shall have been paid and all Events of Default shall have been cured, Lender shall surrender possession of the Mortgaged Property to Grantor, its successors and/or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur.

(c) Performance by Lender. Upon the occurrence of an Event of Default, Lender may, at its sole option, pay, perform or observe the same, and all payments made or costs or expenses incurred by Lender in connection therewith, with interest thereon at the Default Rate (as defined in the Note) or at the maximum rate from time to time allowed by applicable law, whichever is less, shall be secured hereby and shall be, without demand, immediately repaid by Grantor to Lender. Notwithstanding anything to the contrary herein, Lender shall have no obligation, explicit or implied to pay, perform, or observe any term, covenant, or condition.

(d) Receiver. If any Event of Default shall have occurred, Lender, to the extent permitted by applicable laws, upon application to a court of competent jurisdiction and without bond, shall be entitled as a matter of strict right, without notice and without regard to the sufficiency or value of any security for Loan Obligations or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Mortgaged Property and to collect and apply the Rents. The receiver shall have all the rights and powers permitted under the laws of the State where the Mortgaged Property is situated. Grantor will pay unto Lender upon demand all expenses, including receiver's fees, actual reasonable attorney's fees, costs and agent's compensation, incurred pursuant to the provisions of this Section, and upon any Grantor's failure to pay the same, any such amounts shall be added to Loan Obligations and shall be secured by this Security Instrument. Notwithstanding the appointment of any receiver or other custodian, Lender shall be entitled, as pledgee, to the possession and control of any cash or deposits at the time held by, payable, or deliverable under the terms of this Security Instrument to Lender, and Lender shall have the right to offset the unpaid Loan Obligations against any such cash or deposits in such order as Lender may elect.

(e) Lender's Power of Enforcement. If an Event of Default shall have occurred, Lender may institute an action of mortgage foreclosure or, either with or without entry or taking possession as herein above provided or otherwise, proceed by suit or suits at law in equity or any other appropriate proceeding or remedy (1) to enforce payment of the Note or the performance of any term thereof or any other right, (2) to foreclose this Security Instrument and to sell, as an entirety or in separate lots or parcels, the Mortgaged Property, as provided by applicable law, and (3) to pursue any other remedy available to it, all as Lender shall deem most effectual for such purposes. Lender shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Lender may determine. Grantor authorizes Lender, at Lender's option, to foreclose this Security Instrument subject to the rights of any tenants of the Mortgaged Property; provided, however, that all leases executed subsequent to the recordation of this Security Instrument shall at all times be subject and subordinate to the Security Instrument and to all the terms and conditions of this Security Instrument and to the rights and liens of the holder of this Security Instrument and to all renewals, modifications, consolidations, replacements, and extensions thereof. The failure to make any such tenants parties defendant to any such foreclosure proceedings and to foreclose their rights will not be, nor may be asserted by Grantor to be, a defense to any proceedings instituted by Lender to recover Loan Obligations secured hereby or any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property. Upon any such foreclosure sale, Lender may bid for and purchase the Mortgaged Property and, upon compliance with the terms of sale, may hold, retain, possess and dispose of the Mortgaged

Property in its own absolute right without further accountability. If Lender is limited from declaring an Event of Default pursuant to the terms of the Subordination Agreement, then upon any default, breach or non-performance by Grantor, all notices of default being hereby waived by Grantor, the remedies set forth in this Mortgage shall be automatically available to Lender, notwithstanding Lender's inability to give notice of such Event of Default to Grantor.

(f) Power of Sale. Grantor hereby unconditionally and irrevocably gives, grants, sets over and confirms unto the Trustee the Power of Sale, to the fullest extent such remedy is then available from and after the date hereof under the laws of the State of Utah, which Power of Sale may be unconditionally exercised at any time or times after an Event of Default, and in connection therewith, Grantor hereby (a) consents to any one or more adjournments of the sale date which Trustee may grant, consent to and/or schedule, whether or not Grantor is notified of such adjournment and (b) waives any and all objections Grantor may have to the date of sale, the place of sale, the terms of sale and any other matter selected by Trustee and/or Lender. The sale by Trustee of less than the whole of the Mortgaged Property shall not exhaust the right to sell any remainder of the Mortgaged Property, and Trustee is specifically empowered to make a successive sale or sales until the whole of the Mortgaged Property shall be sold. If the proceeds of the sale of less than the whole of the Mortgaged Property is less than the Obligations secured hereby and payable under the Loan Documents, then this Mortgaged and the lien hereof shall remain in full force and effect as to the unsold portion of the Mortgaged Property just as though no sale had been made. For purposes hereof, "Power of Sale" shall mean the right, power and authority of Trustee and/or Lender to sell or cause the sale of the Mortgaged Property and/or a part or parts thereof, at public sale or auction, after any Event of Default and in accordance with and pursuant to any statute or law of the state or jurisdiction in which the Mortgaged Property is located permitting the sale of property subject to a deed of trust or security agreement in a non-judicial foreclosure sale, as any such statute or law may be in effect on the date hereof, or may be hereinafter enacted and/or modified or amended, or any successor statute or statutes, and/or under and pursuant to any other laws or regulations now in effect and/or hereafter enacted, which provides for and/or enables the property encumbered by a deed of trust to be sold by a trustee and/or beneficiary and/or their respective agents and/or representatives in a public and/or private non-judicial sale.

(g) Judicial Foreclosure. If an Event of Default shall have occurred, Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Mortgaged Property.

(h) Purchase by Lender. Lender shall have the right to become the purchaser at any sale made under or by virtue of this Security Instrument, and Lender purchasing at such sale shall have the right to credit upon the amount of the bid made therefor, to the extent necessary to satisfy such bid, the amount of the Debt owing to Lender. In the event of any such sale, the outstanding principal amount of the Loan and the other Indebtedness, if not previously due, shall be and become immediately due and payable without demand or notice of any kind. IF THE MORTGAGED PROPERTY IS SOLD IN ACCORDANCE WITH THE TERMS OF THIS SECURITY INSTRUMENT FOR AN AMOUNT LESS THAN THE DEBT OF GRANTOR TO LENDER, THE DEFICIENCY SHALL BE DETERMINED BY THE PURCHASE PRICE AT

THE SALE. Grantor waives any and all rights to file or pursue permissive counterclaims in connection with any legal action brought by Lender under this Security Instrument, the Note, or any other Loan Document. To the extent not prohibited by applicable law, Grantor waives all rights, claims, and defenses with respect to the ability of Lender to obtain a deficiency judgment.

(i) Application of Proceeds of Sale. In the event of a foreclosure or other sale of all or any portion of the Mortgaged Property, the proceeds of any sale shall be applied as determined by Lender unless otherwise required by applicable law.

(j) Grantor as Tenant Holding Over. In the event of any such foreclosure sale, Grantor (if Grantor shall remain in possession) shall be deemed a tenant holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or be summarily dispossessed according to provisions of law applicable thereto.

(k) Waiver of Appraisement, Valuation, Etc. Grantor agrees, to the full extent permitted by law, that in case of an Event of Default on the part of Grantor hereunder, neither Grantor nor anyone claiming through or under Grantor will assert, claim or seek to take advantage of any appraisement, redemption, valuation, stay, homestead, extension, exemption or laws now or hereafter in force, in order to prevent or hinder the enforcement of foreclosure of this Security Instrument, or the absolute sale of the Mortgaged Property, or the delivery of possession thereof immediately after such sale to the purchaser at such sale.

(l) Discontinuance of Proceedings. In case Lender shall have proceeded to enforce any right, power or remedy under this Security Instrument by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Lender, then in every such case, Grantor and Lender shall be restored to its former positions and rights hereunder, and all rights, powers and remedies of Lender shall continue as if no such proceedings had occurred.

(m) Waiver.

i. No delay or omission by Lender or by any holder of the Note to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein, and every right, power and remedy given by this Security Instrument to Lender may be exercised from time to time and as often as may be deemed expedient by Lender. No consent or waiver expressed or implied by Lender to or of any breach or default by Grantor in the performance of the obligations of Grantor hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of the same or any other obligations of Grantor hereunder. Failure on the part of Lender to complain of any act or failure to act or failure to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Lender of its rights hereunder or impair any rights, powers or remedies of Lender hereunder.

ii. No act or omission by Lender or the failure to perfect any lien or security interest created hereby shall release, discharge, modify, change or otherwise affect the

original liability under the Note, this Security Instrument, other Loan Documents or any other obligation of Grantor or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor, nor preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then existing or of any subsequent default, nor alter the lien of this Security Instrument, except as expressly provided in an instrument or instruments executed by Lender. Without limiting the generality of the foregoing, Lender may (A) grant forbearance or an extension of time for the payment of all or any portion of Loan Obligations; (B) take other or additional security for the payment of any of Loan Obligations; (C) waive or fail to exercise any right granted herein, in the Note or in other Loan Documents; (D) release any part of the Mortgaged Property from the security interest or lien of this Security Instrument or otherwise change any of the terms, covenants, conditions or agreements of the Note, this Security Instrument or other Loan Documents; (E) consent to the filing of any map, plat or replat affecting the Land; (F) consent to the granting of any easement or other right affecting the Mortgaged Property; (G) make or consent to any agreement subordinating the security title or lien hereof, or (H) take or omit to take any action whatsoever with respect to the Note, this Security Instrument, the other Loan Documents, the Mortgaged Property or any document or instrument evidencing, securing or in any way related to this Security Instrument, all without releasing, discharging, modifying, changing or affecting any such liability, or precluding Lender from exercising any such right, power or privilege with respect to the lien of this Security Instrument. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, Lender, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with respect to the Mortgaged Property or Loan Obligations, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings of Grantor, any guarantor of Loan Obligations or others.

iii. Grantor waives and relinquishes any and all rights it may have, whether at law or equity, to require Lender to proceed to enforce or exercise any rights, powers and remedies it may have under the Loan Documents in any particular manner, in any particular order, or in any particular state or other jurisdiction. Grantor expressly waives and relinquishes any and all rights and remedies that Grantor may have or be able to assert by reason of the laws of the Property Jurisdiction pertaining to the rights and remedies of sureties.

iv. Grantor hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Security Instrument or to any action brought to enforce any Loan Document. Notwithstanding the existence of any other security interests in the Mortgaged Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Mortgaged Property shall be subjected to the remedies provided in this Security Instrument and/or any other Loan Document or by applicable law. Lender shall have the right to determine the order in which any or all portions of the Loan Obligations are satisfied from the proceeds realized upon the exercise of such remedies. Grantor, for itself and all who may claim by, through, or under it, and any party who now or in the future acquires a security interest in the Mortgaged Property and who has actual or constructive notice of this Security

Instrument waives any and all right to require the marshaling of assets or to require that any of the Mortgaged Property be sold in the inverse order of alienation or that any of the Mortgaged Property be sold in parcels (at the same time or different times) in connection with the exercise of any of the remedies provided in this Security Instrument or any other Loan Document, or afforded by applicable law.

v. Grantor hereby covenants and agrees that it will not at any time apply for, insist upon, plead, avail itself, or in any manner claim or take any advantage of, any appraisement, stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter enacted or in force in order to prevent or hinder the enforcement or foreclosure of this Security Instrument. Without limiting the foregoing:

(a) Grantor for itself and all Persons who may claim by, through, or under Grantor, hereby expressly waives any so-called "Moratorium Law" and any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Security Instrument, it being the intent hereof that any and all such "Moratorium Laws" and all rights of reinstatement and redemption of Grantor and of all other Persons claiming by, through, or under Grantor are and shall be deemed to be hereby waived to the fullest extent permitted by applicable law;

(b) Grantor shall not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power remedy herein or otherwise granted or delegated to Lender but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted; and

(c) If Grantor is a trust, Grantor represents that the provisions of this Section were made at the express direction of Grantor's beneficiaries and the persons having the power of direction over Grantor, and are made on behalf of the trust estate of Grantor and all beneficiaries of Grantor, as well as all other persons mentioned above.

(1) Lender shall have the right to foreclose subject to the rights of any tenant or tenants of the Mortgaged Property having an interest in the Mortgaged Property prior to that of Lender. The failure to join any such tenant or tenants of the Mortgaged Property as party defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by Grantor as a defense in any civil action instituted to collect the Loan Obligations, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Mortgaged Property, any statute or rule of law at any time existing to the contrary notwithstanding.

vi. Grantor makes these arrangements, waivers and relinquishments knowingly and as a material inducement to Lender in making the Loan, after consulting with and considering the advice of independent legal counsel selected by Grantor.

(n) Uniform Commercial Code. Lender may exercise any or all of its rights and remedies under the UCC or other applicable law as well as all other rights and remedies

possessed by Lender, all of which shall be cumulative. Lender is hereby authorized and empowered, unless prohibited by applicable law, to enter onto the Property and the Facility or other place where the Personalty may be located without legal process, and to take possession of the Personalty without notice or demand, which hereby are waived to the maximum extent permitted by the laws of the State of Utah. Upon demand by Lender, Grantor shall make the Personalty available to Lender at a place reasonably convenient to Lender. Lender may proceed under the UCC as to all or any part of the Personalty, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the UCC. Any notification required by the UCC shall be deemed reasonably and properly given if sent in accordance with the Notice provisions of this Security Instrument at least ten (10) days before any sale or other disposition of the Personalty. Lender may choose to dispose of some or all of the property, in any combination consisting of both Personalty and Land and Improvements (the "Real Property"), in one or more public or private sales to be held in accordance with the law and procedures applicable to real property, as permitted by Article 9 of the UCC. Grantor agrees that such a sale of Personalty together with Real Property constitutes a commercially reasonable sale of the Personalty.

(o) Suits to Protect the Mortgaged Property. Lender shall have power to institute and maintain such suits and proceedings as it may deem expedient (1) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or constitute an Event of Default under this Security Instrument; (2) to preserve or protect its interest in the Mortgaged Property and in the Rents arising therefrom; and (3) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would materially impair the security hereunder or be prejudicial to the interest of Lender.

(p) Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Grantor, its creditors or its properties, Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Lender allowed in such proceedings for the entire amount due and payable by Grantor under this Security Instrument at the date of the institution of such proceedings and for any additional amount which may become due and payable by Grantor hereunder after such date.

(q) Judicial Action. Lender shall have the right from time to time to sue Grantor for any sums (whether interest, damages for failure to pay principal or any installments thereof, taxes, or any other sums required to be paid under the terms of this Security Instrument, as the same become due), without regard to whether or not any of the other Loan Obligations shall be due, and without prejudice to the right of Lender thereafter to enforce any appropriate remedy against Grantor, including an action of foreclosure or an action for specific performance, for an Event of Default existing at the time such earlier action was commenced.

(r) Laws Repealed. If any law referred to in this Security Instrument and now in force, of which Grantor or Grantor's successors and assigns and such other persons claiming any interest in the Mortgaged Property might take advantage despite this Security Instrument shall

hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section 16.

17. **REMEDIES CUMULATIVE.** Each right and remedy provided in this Security Instrument is distinct from all other rights or remedies under this Security Instrument or any other Loan Document or afforded by applicable law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order. In the event a foreclosure hereunder shall be commenced, Lender may at any time before the sale of the Mortgaged Property abandon the sale, and may then institute suit for the collection of all or any of the Debt, and for the foreclosure of this Security Instrument. Election by Lender to pursue any remedy will not bar any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Security Instrument, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise the remedies provided for herein. Nothing under this Security Instrument or otherwise shall be construed so as to limit or restrict the rights and remedies available to Lender during an Event of Default, or in any way to limit or restrict the rights and ability of Lender to proceed directly against Grantor and/or against any other co-maker, guarantor, surety or endorser of the Debt, and/or to proceed against any other collateral directly or indirectly securing the Debt.

18. **FORBEARANCE.**

(a) Lender may agree with Grantor, from time to time, at Lender's option and without giving notice to, or obtaining the consent of, or having any effect upon the obligations of any Note Guarantor or other third party obligor, extend the time for payment of all or any part of Loan Obligations, reduce the payments due under this Security Instrument, the Note, or any other Loan Document, release anyone liable for the payment of any amounts under this Security Instrument, the Note, or any other Loan Document, accept a renewal of the Note, modify the terms and time of payment of Loan Obligations, join in any extension or subordination agreement, release any Mortgaged Property, take or release other or additional security, modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable under the Note, or otherwise modify this Security Instrument, the Note, or any other Loan Document.

(b) Any forbearance by Lender in exercising any right or remedy under the Note, this Security Instrument, or any other Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of all or any part of Loan Obligations after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender's right to require prompt payment when due of all other payments on account of Loan Obligations or to exercise any remedies for any failure to make prompt payment. Enforcement by Lender of any security for Loan Obligations shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right available to Lender. Lender's receipt of any insurance and/or condemnation proceeds shall not operate to cure or waive any Event of Default.

19. **ACTIONS BY LENDER.** From time to time, without affecting the personal liability of any Person for payment of any indebtedness or performance of any obligations secured hereby, Lender, without liability therefor and without notice, may: (a) release all or any part of the Mortgaged Property from this Security Instrument; (b) consent to the making of any map or plat thereof; and (c) join in any grant of easement thereon, any declaration of covenants and restrictions, or any extension agreement or any agreement subordinating the lien or charge of this Security Instrument.

20. **LOAN CHARGES.** If any applicable law limiting the amount of interest or other charges permitted to be collected from Grantor is interpreted so that any charge provided for in any Loan Document, whether considered separately or together with other charges levied in connection with any other Loan Document, violates that law, and Grantor is entitled to the benefit of that law, that charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Lender in excess of the permitted amounts shall be applied by Lender to reduce the principal of Loan Obligations. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Grantor has been violated, all Debt which constitutes interest, as well as all other charges levied in connection with Loan Obligations which constitute interest, shall be deemed to be allocated and spread over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of the Note.

21. **WAIVER OF STATUTE OF LIMITATIONS.** Grantor hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Security Instrument or to any action brought to enforce any Loan Document.

22. **WAIVER OF MARSHALING.** Notwithstanding the existence of any other security interests in the Mortgaged Property (or in any other property held by Lender as security for all or any part of Loan Obligations) held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Mortgaged Property shall be subjected to the remedies provided in this Security Instrument, the Note, any other Loan Document or applicable law. Subject to the terms of this Security Instrument and the other Loan Documents, Lender shall have the right to determine the order in which any or all portions of Loan Obligations are satisfied from the proceeds realized upon the exercise of such remedies. Grantor and any party who now or in the future acquires a security interest in the Mortgaged Property (or in any other property held by Lender as security for all or any part of Loan Obligations) and who has actual or constructive notice of this Security Instrument waives any and all right to require the marshaling of assets or to require that any of the Mortgaged Property be sold in the inverse order of alienation or that any of the Mortgaged Property (or any other property held by Lender as security for all or any part of Loan Obligations) be sold in parcels or as an entirety in connection with the exercise of any of the remedies permitted by applicable law or provided in this Security Instrument.

23. **FURTHER ASSURANCES.** Grantor shall execute, acknowledge, and deliver, at its sole cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates,

financing statements, transfers and assurances as Lender may require from time to time in order to better assure, grant, and convey to Lender the rights intended to be granted, now or in the future, to Lender under this Security Instrument and the Loan Documents.

24. **ESTOPPEL CERTIFICATE.** Within ten (10) days after a request from Lender, Grantor shall deliver to Lender a written statement, signed and acknowledged by Grantor, certifying to Lender or any person designated by Lender, as of the date of such statement: (a) that the Loan Documents are unmodified and in full force and effect (or, if there have been modification, that the Loan Documents are in full force and effect as modified and setting forth such modifications); (b) the unpaid principal balance of the Note; (c) the date to which interest under the Note has been paid; (d) that Grantor is not in default in paying Loan Obligations or in performing or observing any of the covenants or agreements contained in this Security Instrument or any of the other Loan Documents (or, if the Grantor is in default, describing such default in reasonable detail); (e) whether or not there are then existing any setoff or defenses known to Grantor against the enforcement of any right or remedy of Lender under the Loan Documents; and (f) any additional facts reasonably requested by Lender.

25. **GOVERNING LAW; CONSENT TO JURISDICTION AND VENUE.**

(a) This Security Instrument, and any Loan Document which does not itself expressly identify the law that is to apply to it, shall be governed by the laws of the jurisdiction in which the Mortgaged Property is located (the "Property Jurisdiction").

(b) Grantor and Lender consent to the exclusive jurisdiction of any and all state and federal courts with jurisdiction in the Property Jurisdiction over Grantor and Grantor's assets. Grantor agrees, to the extent permitted by law, that its assets shall be used first to satisfy all claims of creditors organized or domiciled in the United States and that no assets of Grantor in the United States shall be considered part of any foreign bankruptcy estate.

(c) Grantor and Lender agree that any controversy arising under or in relation to the Note, this Security Instrument, or any other Loan Document shall be litigated exclusively in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to the Note, any security for Loan Obligations, or any other Loan Document. Grantor irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

26. **NOTICE.** Any notice or other communication required or permitted to be given by this Security Instrument or the other Loan Documents or by applicable law shall be in writing and shall be deemed received: (a) on the date delivered, if sent by hand delivery (to the person or department if one is specified below) with receipt acknowledged by the recipient thereof; (b) three (3) business days following the date deposited in U.S. mail, postage prepaid, certified or registered, with return receipt requested; or (c) one (1) business day following the date deposited with Federal Express or other national overnight carrier, and in each case addressed as follows:

If to Grantor: Monument Real Estate Bountiful, LLC
31752 S. Coast Highway, Suite 300
Laguna Beach, California 92651
Attention Spencer Samuelian

with a copy to: Sherry Meyerhoff Hanson Crance LLP
520 Newport Center Drive, Suite 1400
Newport Beach, California 92660
Attention: Andrew P. Hanson

If to Lender: Life Care Centers of American, Inc.
3570 Keith St, NW
Cleveland, TN 37312
Attn: Steve Ziegler
E-mail: Steve.Ziegler@lcca.com

with a copy to: Baker Donelson Bearman Caldwell & Berkowitz, P.C.
633 Chestnut St, Suite 1900
Chattanooga, TN 37450
Attn: Richard D. Faulkner, Jr., Esq.
E-mail: rfaulkner@bakerdonelson.com

Any party may change its or its attorney address to another single address by notice given as herein provided, except any change of address notice must be actually received in order to be effective.

27. **SINGLE PURPOSE ENTITY.** Until Loan Obligations are paid in full, Grantor shall maintain its status as a Single Purpose Entity and comply with all those covenants with respect to its status as a Single Purpose Entity.

28. **JOINT AND SEVERAL LIABILITY.** If more than one Person signs this Security Instrument as Grantor, the obligations of such Persons shall be joint and several.

29. **RELATIONSHIP OF PARTIES; NO THIRD PARTY BENEFICIARY.** The relationship between Lender and Grantor shall be solely that of creditor and debtor, respectively, and nothing contained in this Security Instrument shall create any other relationship between Lender and Grantor. Other than Lender, no other creditor of any party to this Security Instrument and no other person shall be a third party beneficiary of this Security Instrument or any other Loan Document.

30. **SEVERABILITY; AMENDMENTS.** The invalidity or unenforceability of any provision of this Security Instrument shall not affect the validity or enforceability of any other

provision, and all other provisions shall remain in full force and effect. This Security Instrument contains the entire agreement among the parties as to the rights granted and the obligations assumed in this Security Instrument. Subject to the provisions of Section 16 herein, this Security Instrument may not be amended or modified except by a writing signed by the party against whom enforcement is sought.

31. **MISCELLANEOUS PROVISIONS.** The captions and headings of the sections of this Security Instrument are for convenience only and shall be disregarded in construing this Security Instrument. Any reference in this Security Instrument to an "Exhibit" or a "Section" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit attached to this Security Instrument or to a section of this Security Instrument. All Exhibits attached to or referred to in this Security Instrument are incorporated by reference into this Security Instrument. Any reference in this Security Instrument to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time. Use of the singular in this Security Instrument includes the plural and use of the plural includes the singular. As used in this Security Instrument, the term "including" means "including, but not limited to."

32. **WAIVER OF TRIAL BY JURY. EACH OF GRANTOR AND LENDER (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL, AND THIS WAIVER IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A JURY TRIAL WOULD OTHERWISE EXIST. GRANTOR AND LENDER ARE AUTHORIZED TO SUBMIT THIS SECURITY INSTRUMENT TO ANY COURT HAVING JURISDICTION OVER THE SUBJECT MATTER AND THE PARTIES TO ANY LOAN DOCUMENT, SO AS TO SERVE AS CONCLUSIVE EVIDENCE OF GRANTOR'S AND LENDER'S WAIVER OF THE RIGHT TO JURY TRIAL. FURTHER, EACH OF GRANTOR AND LENDER CERTIFIES THAT NONE OF GRANTOR'S OR LENDER'S REPRESENTATIVES OR AGENTS HAVE REPRESENTED, EXPRESSLY OR OTHERWISE, THAT ENFORCEMENT OF THIS WAIVER WILL NOT BE SOUGHT.**

33. **WAIVER OF AUTOMATIC STAY. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, GRANTOR HEREBY AGREES THAT, IN CONSIDERATION OF LENDER'S AGREEMENT TO MAKE THE LOAN AND IN RECOGNITION THAT THE FOLLOWING COVENANT IS A MATERIAL INDUCEMENT FOR LENDER TO MAKE THE LOAN, IN THE EVENT THAT GRANTOR SHALL (I) FILE WITH ANY BANKRUPTCY COURT OF COMPETENT JURISDICTION OR BE THE SUBJECT OF ANY PETITION UNDER ANY SECTION OR CHAPTER OF TITLE 11 OF THE UNITED STATES CODE, AS AMENDED ("BANKRUPTCY CODE"), OR SIMILAR LAW OR STATUTE; (II) BE THE SUBJECT**

OF ANY ORDER FOR RELIEF ISSUED UNDER THE BANKRUPTCY CODE OR SIMILAR LAW OR STATUTE; (III) FILE OR BE THE SUBJECT OF ANY PETITION SEEKING ANY REORGANIZATION, ARRANGEMENT, COMPOSITION, READJUSTMENT, LIQUIDATION, DISSOLUTION, OR SIMILAR RELIEF UNDER ANY PRESENT OR FUTURE FEDERAL OR STATE ACT OR LAW RELATING TO BANKRUPTCY, INSOLVENCY, OR OTHER RELIEF FOR DEBTORS; (IV) HAVE SOUGHT OR CONSENTED TO OR ACQUIESCED IN THE APPOINTMENT OF ANY TRUSTEE, RECEIVER, CONSERVATOR, OR LIQUIDATOR; OR (V) BE THE SUBJECT OF AN ORDER, JUDGMENT OR DECREE ENTERED BY ANY COURT OF COMPETENT JURISDICTION APPROVING A PETITION FILED AGAINST GRANTOR FOR ANY REORGANIZATION, ARRANGEMENT, COMPOSITION, READJUSTMENT, LIQUIDATION, DISSOLUTION, OR SIMILAR RELIEF UNDER ANY PRESENT OR FUTURE FEDERAL OR STATE ACT OR LAW RELATING TO BANKRUPTCY, INSOLVENCY OR RELIEF FOR DEBTORS, THEN, SUBJECT TO COURT APPROVAL, LENDER SHALL THEREUPON BE ENTITLED AND GRANTOR HEREBY IRREVOCABLY CONSENTS TO, AND WILL NOT CONTEST, AND AGREES TO STIPULATE TO RELIEF FROM ANY AUTOMATIC STAY OR OTHER INJUNCTION IMPOSED BY SECTION 362 OF THE BANKRUPTCY CODE, OR SIMILAR LAW OR STATUTE (INCLUDING, WITHOUT LIMITATION, RELIEF FROM ANY EXCLUSIVE PERIOD SET FORTH IN SECTION 1121 OF THE BANKRUPTCY CODE) OR OTHERWISE, ON OR AGAINST THE EXERCISE OF THE RIGHTS AND REMEDIES OTHERWISE AVAILABLE TO LENDER AS PROVIDED IN THE LOAN DOCUMENTS, AND AS OTHERWISE PROVIDED BY LAW, AND GRANTOR HEREBY IRREVOCABLY WAIVES ITS RIGHTS TO OBJECT TO SUCH RELIEF.

34. **SUCCESSORS AND ASSIGNS BOUND.** This Security Instrument shall bind, and the rights granted by this Security Instrument shall inure to, the respective successors and assigns of Lender and Grantor.

35. **DEED OF TRUST PROVISIONS.**

(a) Concerning the Trustee. Trustee shall be under no duty to take any action hereunder except as expressly required hereunder or by law, or to perform any act which would involve Trustee in any expense or liability or to institute or defend any suit in respect hereof, unless properly indemnified to Trustee's reasonable satisfaction. Trustee, by acceptance of this Security Instrument, covenants to perform and fulfill the trusts herein created, being liable, however, only for gross negligence or willful misconduct, and hereby waives any statutory fee and agrees to accept reasonable compensation, in lieu thereof, for any services rendered by Trustee in accordance with the terms hereof. Trustee may resign at any time upon giving thirty (30) days' notice to Grantor and to Lender. Lender may remove Trustee at any time or from time to time and select a successor trustee. In the event of the death, removal, resignation, refusal to act, or inability to act of Trustee, or in its sole discretion for any reason whatsoever Lender may, without notice and without specifying any reason therefor and without applying to any court, select and appoint

a successor trustee, by an instrument recorded wherever this Security Instrument is recorded and all powers, rights, duties and authority of Trustee, as aforesaid, shall thereupon become vested in such successor. Such substitute trustee shall not be required to give bond for the faithful performance of the duties of Trustee hereunder unless required by Lender. The procedure provided for in this Section for substitution of Trustee shall be in addition to and not in exclusion of any other provisions for substitution, by law or otherwise.

(b) Trustee's Fees. Grantor shall pay all reasonable costs, fees and expenses incurred by Trustee and Trustee's agents and counsel in connection with the performance by Trustee of Trustee's duties hereunder and all such costs, fees and expenses shall be secured by this Security Instrument.

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

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

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

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

(f) Substitution of Trustee; Succession Instruments. Lender may, from time to time, by a written instrument executed and acknowledged by Lender and recorded in the County in which the Mortgaged Property is located and by otherwise complying with the laws of the Property Jurisdiction, substitute a successor or successors to the Trustee named herein or acting hereunder. Without conveyance of the Mortgaged Property, a successor Trustee shall succeed to all the title, powers and duties conferred upon the Trustee herein and by applicable law. Any substitute trustee appointed pursuant to any of the provisions hereof shall, without any further act, deed, or conveyance, become vested with all the estates, properties, rights, powers, and trusts of its or his/her predecessor in the rights hereunder with like effect as if originally named as Trustee herein; but nevertheless, upon the written request of Lender or of the substitute trustee, the Trustee ceasing to act shall execute and deliver any instrument transferring to such substitute trustee, upon the trusts herein expressed, all the estates, properties, rights, powers, and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such Trustee to the substitute trustee so appointed in the Trustee's place

36. **PATRIOT ACT COMPLIANCE.**

(a) Grantor will use its good faith and commercially reasonable efforts to comply with the Patriot Act (as defined below) and all applicable requirements of governmental authorities having jurisdiction of the Grantor and the Mortgaged Property, including those relating to money laundering and terrorism. Lender shall have the right to audit the Grantor's compliance with the Patriot Act and all applicable requirements of governmental authorities having jurisdiction of the Grantor and the Mortgaged Property, including those relating to money laundering and terrorism. In the event that the Grantor fails to comply with the Patriot Act or any such requirements of governmental authorities, then Lender may, at its option, cause the Grantor to comply therewith and any and all reasonable costs and expenses incurred by Lender in connection therewith shall be secured by this Security Instrument, the Guaranty Agreement and the other Loan Documents and shall be immediately due and payable. For purposes hereof, the term "Patriot Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, as the same may be amended from time to time, and corresponding provisions of future laws.

(b) Neither the Grantor nor any partner, member, shareholder or other constituent (each a "Constituent of Grantor") or a partner, member or shareholder of a Constituent of Grantor nor any owner of a direct or indirect interest in the Grantor (i) is listed on any Government Lists (as defined below), (ii) is a person who has been determined by competent authority to be subject to the prohibitions contained in Presidential Executive Order No. 13224 (Sept. 23, 2001) or any other similar prohibitions contained in the rules and regulations of OFAC (as defined below) or in any enabling legislation or other Presidential Executive Orders in respect thereof, (iii) has been previously indicted for or convicted of any felony involving a crime or

crimes of moral turpitude or for any Patriot Act Offense (as defined below), or (iv) is not currently under investigation by any governmental authority for alleged criminal activity. For purposes hereof, the term "Patriot Act Offense" means any violation of the criminal laws of the United States of America or of any of the several states, or that would be a criminal violation if committed within the jurisdiction of the United States of America or any of the several states, relating to terrorism or the laundering of monetary instruments, including any offense under (i) the criminal laws against terrorism; (ii) the criminal laws against money laundering, (iii) the Bank Secrecy Act, as amended, (iv) the Money Laundering Control Act of 1986, as amended, or the (v) Patriot Act. "Patriot Act Offense" also includes the crimes of conspiracy to commit, or aiding and abetting another to commit, a Patriot Act Offense. For purposes hereof, the term "Government Lists" means (i) the Specially Designated Nationals and Blocked Persons Lists maintained by Office of Foreign Assets Control ("OFAC"), (ii) any other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC that Lenders notified Grantor in writing is now included in "Governmental Lists", or (iii) any similar lists maintained by the United States Department of State, the United States Department of Commerce or any other government authority or pursuant to any Executive Order of the President of the United States of America that Lender notified Grantor in writing is now included in "Governmental Lists".

37. UTAH STATE SPECIFIC PROVISIONS.

(a) In the event of any inconsistency or disagreement between the terms and provisions set forth in this Section and the other terms and provisions of this Security Instrument, the terms and provisions of this Article shall govern, control and supersede such other terms and provisions to the extent of such inconsistency or disagreement.

(b) Waiver. With respect to the Property (which Property is located in the State of Utah), notwithstanding anything contained herein to the contrary, Trustor waives, to the fullest extent permitted by applicable law, any rights or benefits it may have by reason of the defense of the statute of limitations in any action hereunder or for the collection of any indebtedness or the performance of any obligation secured hereby and any defense based on Utah's so called one-action rule, Utah Code Annotated § 78B-6-901 (formerly codified at Utah Code Annotated § 78-37-1). Notwithstanding anything to the contrary, Trustor knowingly waives, to the fullest extent permitted by applicable law, the rights, protections and benefits afforded to Trustor under Utah Code Annotated § 57-1-32 and any successor or replacement statute or any similar laws or benefits.

(c) No Other Agreements. PURSUANT TO UTAH CODE ANNOTATED SECTION 25-5-4, TRUSTOR IS NOTIFIED THAT THIS DEED OF TRUST, THE NOTE AND OTHER LOAN DOCUMENTS GOVERNING, EVIDENCING AND SECURING THE INDEBTEDNESS SECURED HEREBY REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

(d) Waiver of Trial by Jury. If Lender invokes the power of sale, then the following procedures and those outlined in Sections 57-1-19 through 57-1-36, Utah Code Ann., as hereinafter supplemented and amended, shall apply in place of any inconsistent procedures

specified herein: Lender shall execute or cause Trustee to execute a written notice of the occurrence of an Event of Default and of Lender's election to cause the Mortgaged Property to be sold and shall cause such notice to be recorded in each county in which the Mortgaged Property or some part thereof is located. Trustee shall give notice of an Event of Default and notice of sale and shall sell the Mortgaged Property according to applicable law. Trustee may sell the Mortgaged Property at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine, all in accordance with applicable law. Trustee may postpone sale of all or any parcel of the property by public announcement at the time and place of any previously scheduled sale to the extent permitted by law. Lender or Lender's designee may purchase the Mortgaged Property at any sale. Grantor agrees to surrender possession of the Mortgaged Property to the purchaser immediately after such sale. Trustee shall deliver to the purchaser a Trustee's deed conveying the Mortgaged Property so sold without any covenant or warranty, express or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (i) to all costs and expenses of the sale, including, but not limited to, Trustee's and attorneys' fees and costs of title evidence; (ii) to all sums secured by this Deed of Trust in such order as Lender in Lender's sole discretion, directs; and (iii) the excess, if any, to the person or persons legally entitled thereto, or the Trustee, in his discretion, may deposit the balance of such proceeds with the county clerk of the county in which the sale took place.

(e) Notices. Grantor requests that copies of any notice of default and notice of sale hereunder be sent to Grantor at Grantor's address stated in Section 26.

(f) Appointment of Receiver. Grantor specifically agrees that if an Event of Default shall have occurred and be continuing, Lender, upon application to a court of competent jurisdiction, as a matter of strict right without notice and without regard to occupancy or value of any security for the debt secured hereby or the solvency of any party bound for its payment, without any showing of fraud or mismanagement on the part of Grantor, and without the necessity of filing any judicial or other proceeding other than the proceeding for appointment of a receiver, shall be entitled to the appointment of a receiver to take possession of, and to operate the Mortgaged Property and to collect and apply the proceeds of the assignment of production contained herein and all other rents, issues, profits and revenues of the Mortgaged Property. The receiver shall have all of the rights, powers and protections granted to the receiver or Lender herein, or otherwise permitted under the laws of the State of Utah. Grantor will pay to the receiver or Lender upon demand all reasonable expenses, including receiver's fees, attorneys' fees, costs and agent's compensation, incurred pursuant to the provisions of this Section 36(e), and all such expenses shall be secured by this Security Instrument.

(g) One Action Rule and Deficiency Statute. Grantor knowingly waives, to the fullest extent permitted by applicable law, the rights, protections and benefits afforded to Grantor under Utah Code Annotated §§78-37-1 and 57-1-32 and any successor or replacement statute or any similar laws or benefits.

(h) Integration. PURSUANT TO UTAH CODE ANNOTATED SECTION 25-5-4, GRANTOR IS NOTIFIED THAT THIS SECURITY INSTRUMENT AND OTHER DOCUMENTS GOVERNING, EVIDENCING AND SECURING THE LOAN OBLIGATIONS SECURED HEREBY REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

(i) Financing Statements. Lender is hereby authorized to execute and file on behalf of Grantor, without the signature of Grantor, any financing statement deemed necessary or appropriate by Lender in order to further evidence, perfect or continue the security interest granted herein, or in any other Loan Document.


REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURE ON NEXT PAGE

IN WITNESS WHEREOF, Grantor has caused this Security Instrument to be executed
under seal as of the day and year first written above.

GRANTOR:

MONUMENT REAL ESTATE BOUNTIFUL, LLC,
a Utah limited liability company

By: 
Name: Brett Robertson
Title: VP

Brett Robertson, Vice President

NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF UTAH
COUNTY OF SALT LAKE

Nicolas Collins

On January 31, 2024, before me, ^{NE} Brett Robertson Notary Public,
(here insert name and title of the officer)

Personally appeared Brett Robertson who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

(Seal)

Signature: [Signature]

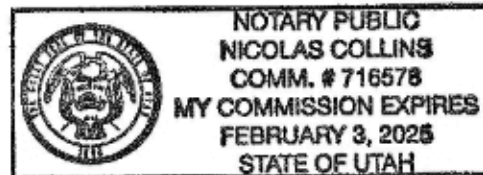


EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

BEGINNING AT A POINT ON THE EAST LINE OF 500 WEST STREET AND THE NORTH LINE OF 2600 SOUTH STREET WHICH POINT IS NORTH 0°05' WEST 33.00 FEET ALONG THE CENTER LINE OF 500 WEST STREET AND SOUTH 89°55'10" EAST 33.0 FEET FROM THE DAVIS COUNTY MONUMENT MARKING THE CENTERLINE INTERSECTION OF 500 WEST STREET AND 2600 SOUTH STREET, WHICH POINT IS ALSO DESCRIBED AS SOUTH 63°57'30" WEST 239.87 FEET AND NORTH 0°05'30" WEST 1989.40 FEET AND NORTH 0°05" WEST 33.0 FEET AND SOUTH 89°55'10" EAST 33.0 FEET

FROM THE SOUTHWEST CORNER OF SECTION 31, TOWNSHIP 2 NORTH, RANGE 1 EAST, SALT LAKE MERIDIAN, IN THE CITY OF BOUNTIFUL AND RUNNING THENCE SOUTH 89°55'10" EAST 434.76 FEET ALONG THE NORTH LINE OF 2600 SOUTH STREET; THENCE NORTH 0°43'10" WEST 512.10 FEET TO THE SOUTH LINE OF VALERIE SUBDIVISION AT A POINT 272.80 FEET EAST OF THE SECTION LINE; THENCE SOUTH 89°34'51" WEST 429.08 FEET ALONG THE SOUTH LINE OF THE SUBDIVISION AND THE SOUTH LINE EXTENDED TO THE EAST LINE OF 500 WEST STREET; THENCE SOUTH 0°05' EAST 508.31 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

PERMITTED EXCEPTIONS

1. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
2. General real estate taxes and assessments for the year 2024 and subsequent years, a lien not yet due and payable.
3. Any charge upon the Land by reason of its inclusion in South Davis Water Improvement District, South Davis Sewer Improvement District and Bountiful City.
4. A Perpetual Public utility easement disclosed in that Dedication Plat Recorded June 26, 1985, as Entry No. 705616, in Book 1040 at Page 916 of Official records.
5. An easement over, across or through the Land for gas transmission and incidental purposes, as granted to Mountain Fuel Supply Company, a Corporation of the State of Utah by Instrument recorded December 18, 1986 as Entry No. 765160 in Book 1131 at Page 728 of Official Records.
6. A Notice of Creation from the South Davis Metro Fire Service Area, dated December 8, 2015 recorded December 23, 2015 as Entry No. 2911949 in Book 6419 at Page 53 of Official Records.
7. Any facts, rights, interests or claims that may exist or arise by reason of the following matters disclosed by an ALTA/NSPS survey made by David D. Peterson on behalf of NV5 Transaction Services on January 3, 2024, designated Job No. 202304644-001:
 - A. Existing chain link fence line extends +/- 3.5 feet easterly beyond the easterly boundary of the subject property, as shown hereon. Ownership of said fence line is unknown.
 - B. Existing 4' sidewalk extends northerly +/- 0.3' beyond the southerly boundary line of the subject property, as shown hereon.
 - C. A +/- 9.7' gap is between the subject property and the parcel to the east, as shown hereon.
8. Any claim to (a) ownership of or rights to minerals and similar substances, including but not limited to ores, metals, coal, lignite, oil, gas, uranium, clay, rock, sand, and gravel located in, on, or under the Land or produced from the Land, whether such ownership or rights arise by lease, grant, exception, conveyance, reservation, or otherwise; and (b) any rights, privileges, immunities, rights of way, and easements associated therewith or appurtenant thereto, whether or not the interests or rights excepted in (a) or (b) appear in the Public Records or are shown in Schedule B.
9. Water rights, claims or title to water, whether or not shown by the Public Records.
10. Any liens, security interests and other encumbrances of Grantor in favor of Senior Lender securing the Senior Loan and all Indebtedness of Grantor to Senior Lender under the Loan Agreement and other Loan Documents (as such capitalized terms are defined in the Subordination Agreement).