

WHEN RECORDED, MAIL TO:
James C. Ziter, Attorney at law
5420 South Green Street
Murray, Utah 84123

ENT 83210:2007 PG 1 of 10
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2007 Jun 06 12:29 pm FEE 28.00 BY CM
RECORDED FOR JAMES C ZITER

TRUST DEED
With Assignment of Rents

THIS TRUST DEED, made this 23 day of April, 2007, between GAE O. MILLER, TRUSTOR, whose address is 84 West Chase Lane, Centerville, Utah 84014, James C. Ziter as TRUSTEE, whose address is 5420 South Green Street, Murray, Utah 84123, and ALII, LLC whose address is C/O Neil Richardson, 2275 Parleys Terrace, Salt Lake City, Utah 84109, as BENEFICIARY.

WITNESSETH: That Trustor CONVEYS AND WARRANTS TO TRUSTEE IN TRUST, WITH POWER OF SALE, the following described property, situated in Utah County, State of Utah, which is commonly known as Approximately 9950 West Saratoga Road, Saratoga Springs, Utah, 84043.

PARCEL NUMBER 57-037-0003

Commencing 33 feet South of the North Quarter corner of Section 25, Township 5 South, Range 1 West, Salt Lake Base and Meridian; and running thence Southwesterly along a highway curve 340.00 feet, more or less to a point on the boundary line of property owned by Salt Lake City Corporation; said point being 396.00 feet due West and South 27 degrees 15 minutes East 185.00 feet from the before mentioned quarter Section Corner; thence South 27 degrees 15 minutes East along said line 515.00 feet; thence South 85 degrees 29 minutes East 221.80 feet; thence North 82 degrees 15 minutes East 485.00 feet; thence South 60 degrees 30 minutes East 184.74 feet; thence North 639.48 feet; thence South 89 degrees 28 minutes 58 seconds West 787.00 feet to the place of beginning.

Together with all buildings, fixtures and improvements thereon and all water or well rights, rights of way, easements, rents, issues, profits, income, tenements, hereditaments, privileges and appurtenances thereunto belonging, now or hereafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits;

FOR THE PURPOSES OF SECURING (1) payment of the indebtedness evidenced by a Trust Deed Note (the "Note") between Christopher Miller (Maker) and ALII, LLC (Holder/Beneficiary), guaranteed by Trustor of even date herewith, in the principal sum of Three Hundred Thousand Dollars, (\$300,000.00), payable to the order of Beneficiary at the times, in the manner and with interest as therein set forth, and any extensions and/or renewals or modifications thereof; (2) the performance of each agreement of Trustor herein contained or contained in the Note; (3) the payment of such additional loans or advances as hereafter may be

made to Trustor, or its/his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Trust Deed; and (4) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms hereof, together with interest thereon as herein provided.

TO PROTECT THE SECURITY OF THIS TRUST DEED, TRUSTOR AGREES:

1. To keep said property in good condition and repair; not to remove or demolish any building thereon, to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting said property; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general. Trustee, upon presentation to it of an affidavit signed by Beneficiary, setting forth facts showing a default by Trustor under this numbered paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

2. To provide and maintain insurance, of such type or types and amounts as Beneficiary may require, on the improvements now existing or hereafter erected or placed on said property. Such insurance shall be carried in companies approved by Beneficiary with loss payable clauses in favor of and in form acceptable to Beneficiary. In event of loss, Trustor shall give immediate notice to Beneficiary, who may make proof of loss, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Beneficiary instead of to Trustor and Beneficiary jointly, and the insurance proceeds, or any part thereof, may be applied by Beneficiary, at its option, to reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged. All insurance policies shall require thirty (30) days written notice to Beneficiary before cancellation and shall be carried by companies reasonably acceptable to Beneficiary.

3. To deliver to, pay for and maintain with Beneficiary until the indebtedness secured hereby is paid in full, such evidence of title as Beneficiary may require, including abstracts of title or policies of title insurance and any extensions or renewals thereof or supplements thereto.

4. To appear in and defend any action or proceeding purporting to affect the security hereof, the title to said property, or the rights or powers of Beneficiary or Trustee; and should Beneficiary or Trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum incurred by Beneficiary or Trustee.

5. To pay at least ten (10) days before delinquency all taxes and assessments affecting said property, including all assessments upon water company stock and all rents,

assessments and charges for water, appurtenant to or used in connection with said property; to pay, when due, all encumbrances, charges, and liens with interest, on said property or any part thereof, which at any time appear to be prior or superior hereto; to pay all costs, fees, and expenses of this Trust.

6. Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights of powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such powers, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefor, including cost of evidence of title, employ counsel, and pay his/her reasonable fees and costs.

7. To pay immediately and without demand all sums expended hereunder by Beneficiary or Trustee, with interest from date of expenditure at the alternate rate of 7.35% per annum until paid, and the repayment thereof shall be secured hereby.

IT IS MUTUALLY AGREED THAT:

8. Should said property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary, who may, after deducting therefrom all its expenses, including attorney's fees, apply the same on any indebtedness secured hereby. Trustor agrees to execute such further assignments of any compensation, award, damages, and rights of action and proceeds as Beneficiary or Trustee may require.

9. At any time and from time to time upon written request of Beneficiary, payment of its fees and presentation of this Trust Deed and the note for endorsement (in case of full reconveyance, for cancellation and retention), without affecting the liability of any person for the payment of the indebtedness secured hereby, Trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Trust Deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of said property. The grantee in any reconveyance may be described as "the person or persons entitled thereto", and the recitals

therein of any matters or facts shall be conclusive proof of truthfulness thereof. Trustor agrees to pay reasonable Trustee's fees for any of the services mentioned in this paragraph.

10. As additional security, Trustor hereby assigns Beneficiary, during the continuance of these trusts, all rents, issues, royalties, and profits of the property affected by this Trust Deed and of any personal property located thereon and any and all water shares, water rights, well rights or other water interests whether culinary or irrigation possessed by Trustor. Until Trustor shall default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Trustor shall have the right to collect all such rents, issues, royalties and profits earned prior to default as they become due and payable. If Trustor shall default as aforesaid, Trustor's right to collect any of such moneys shall cease and Beneficiary shall have the right, with or without taking possession of the property affected hereby, to collect all rents, royalties, issues, and profits. Failure or discontinuance of Beneficiary at any time or from time to time to collect any such moneys shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power, and authority to collect the same. Nothing contained herein, nor the exercise of the right by Beneficiary to collect, shall be, or be construed to be, an affirmation by Beneficiary of any tenancy, lease or option, nor an assumption of liability under, nor a subordination of the lien or charge of this Trust Deed to any such tenancy, lease or option.

11. Upon any default by Trustor hereunder, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court (Trustor hereby consenting to the appointment of Beneficiary as such receiver), and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue for or otherwise collect said rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, in such order as Beneficiary may determine.

12. The entering upon and taking possession of said property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of said property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

13. The failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate, as a waiver of such right and the waiver by Beneficiary of any default shall not constitute a waiver of any other or subsequent default.

14. Time is of the essence hereof. Upon default by Trustor in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of Beneficiary. In the event of such default, Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause said property to be sold to satisfy the obligations hereof, and Trustee shall

file such notice for record in each county wherein said property or some part or parcel thereof is situated. Beneficiary also shall deposit with Trustee, the note and all documents evidencing expenditures secured hereby.

15. Notwithstanding any other provision of the Note or this Trust Deed, the occurrence of any one or more of the following shall constitute an event of default by Trustor under this Trust Deed and Note:

a. Trustor, as Note Holder, shall fail to pay any installment of base interest or principal on the Note when due; or

b. Trustor shall fail to perform or observe any other material term, covenant or agreement of any of the loan documents on its part to be performed or observed [other than the failure to make a payment described in subparagraph (a) and any such failure shall remain unremedied for ten days after written notice of such failure has been given to Trustor by Beneficiary, or if such failure is not the type which can be remedied within such ten day period, Trustor, after the expiration of such period without cure, shall fail to use its best efforts to effect a remedy and cure; or

c. The occurrence of any breach or default by Trustor under any covenant, condition, restriction or provision contained in the Note, Trust Deed, or under any covenant, condition or restriction which is or may be prior to the Trust Deed, including the Declaration, and any such breach or default shall remain unremedied after expiration of the applicable cure period stated in the particular document; or

d. Any representation or warranty in any loan document or in any certificate, agreement, instrument or other document made or delivered pursuant to or in connection with any loan document provides to have been materially incorrect when made in any respect that is, in the sole discretion of Beneficiary, materially adverse to the interest of Beneficiary under the loan document; or

e. Any loan document at any time after its execution and delivery and for any reason ceases to be in full force and effect or is declared to be null and void by a court of competent jurisdiction, or the validity or enforceability thereof is contested in a judicial proceeding by Trustor, or Trustor denies that it has any or further liability or obligations under any loan document unless all obligations of Trustor under the loan documents have been fully paid and performed; or

f. Any lien or security interest created by any loan document, at any time after the execution and delivery thereof and for any reason, ceases or fails to constitute a valid, perfected and subsisting first lien or security interest in and to the property; or

g. Trustor, or any Guarantor of Trustor, is the subject of an order for relief by

the bankruptcy court or is unable, or admits in writing its inability, to pay its debts as they mature, or makes an assignment for the benefit of creditors, or is subject to the following:

i. the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, or similar officer for it or for all or any part of its property, with or without its consent, as the case may be, and the appointment continues undischarged or unstayed for seventy-five (75) calendar days; or

ii. any bankruptcy, insolvency, reorganization, arrangement, readjustment or debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation, or similar proceedings relating to it or all or any part of its property under the laws of any jurisdiction, with or without its consent, as the case may be, which continues undismissed or unstayed for seventy-five (75) calendar days; or

iii. any judgment, writ, attachment, execution, or similar process issued or levied against all or any part of its property, which is not released, vacated, or fully bonded within seventy-five (75) calendar days after its issuance or levy; or

h. Beneficiary fails to have a legal, valid binding and enforceable first lien on the property.

i. Beneficiary otherwise reasonably deems itself to be insecure and Trustor fails to remedy or otherwise satisfy Beneficiary within fifteen (15) days of notice of the grounds therefor.

16. If all or any part of the property secured by this Trust Deed or any interest therein in sold or transferred by Trustor without Beneficiary's prior written consent Beneficiary may, at Beneficiary's option, declare all the sums secured by this Trust Deed to be immediately due and payable.

17. After the lapse of such time as may then be required by law following the recordation of said notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (But subject to any statutory right to Trustor to direct the order in which such property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he deems expedient, postpone the sale from time to time until it shall be completed and, in every case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale; provided, if the sale is postponed for longer than one day beyond the day designated in the notice of sale, notice thereof shall be given in the same manner as the original notice of sale. Trustee shall execute and deliver to the purchaser its Deed conveying said property so sold, but

without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (1) the costs and fees; (2) cost of any evidence of title procured in connection with such sale and revenue stamps on Trustee's and attorney's; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at 7.35% per annum from date of expenditure; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the County Clerk of the county in which the sale took place.

18. Upon the occurrence of any default hereunder, Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclose this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property and Beneficiary shall be entitled to recover in such proceeding all costs and expenses incident thereto, including a reasonable attorney's fee in such amount as shall be fixed by the court.

19. Notwithstanding anything to the contrary in the Note or this Trust Deed, Trustor and Beneficiary agree as follows:

a. In the event that Trustor shall default in or fail to perform any of its obligations under the loan documents, Beneficiary shall have the right, but not the duty, without limitation upon any of Beneficiary's rights pursuant thereto, to perform the same, and Trustor agrees to pay to Beneficiary, on demand, all costs and expenses incurred by Beneficiary in connection therewith, including, without limitation, reasonable attorney's fees and costs, together with interest at the alternate rate from the date of expenditure to the date of payment.

b. Beneficiary shall have the right to commence, appear in and defend any action or proceeding purporting to affect the rights or duties of the parties hereunder or the payment of any funds, and in connection therewith, Beneficiary may pay necessary expenses, employ counsel, and pay reasonable attorney's fees and costs. Trustor agrees to pay to Beneficiary, on demand, all costs and expenses incurred by Beneficiary in connection therewith, including, without limitation, reasonable attorney's fees, together with interest at the alternate rate from the date of expenditure to the date of payment.

c. Trustor acknowledges and agrees that:

i. The relationship of Trustor and Beneficiary under the loan documents is, and shall at all times remain, solely that of debtor and creditor, and Beneficiary neither undertakes nor assumes any responsibility or duty to Trustor or to any other person with respect to the property or any part thereof or the loan, except as expressly provided in the loan documents. Notwithstanding any other provision of the loan documents:

(1) Beneficiary is not, and shall not be construed as a partner,

joint venture, alter ego, manager, controlling person, or other business associate or participant of any kind of Trustor, and Beneficiary does not intent to ever assume such status;

(2) Beneficiary shall in no event be liable for any debts, expenses or losses incurred or sustained by Trustor;

(3) Beneficiary shall not be deemed responsible for or a participant in any acts, omissions, or decisions of Trustor; and

ii. Beneficiary shall not, directly or indirectly, be liable or responsible for any loss, claim, cause of action, liability, indebtedness, damage or injury of any kind or character to any person or property arising from any activity or use of the property or any part thereof, including without limitation, any losses, claim, cause of action, liability, indebtedness, damage or injury caused by, or arising from (1) any defect in the improvements, including, without limitation, any building, structure, grading, fill, landscaping, or any other improvements thereof or in any on-site or off-site improvement or other facility therein or thereon; (2) any act or omission of Trustor, or any of Trustor's agents, employees, independent contractors, licensees or invitees; (3) any accident in or upon the property or any part thereof or any fire, flood, or other casualty or hazard thereon; (4) the failure of Trustor, any of Trustor's licensees, employees, invitees, agents, independent contractors, or other representatives to maintain the property or any part thereof in a safe condition; and (5) any nuisance made or suffered on any part of the property.

d. Trustor agrees to protect, defend, indemnify, save and hold harmless the Trustee and each of the entities constituting Beneficiary and their respective general partners, present and future affiliates, trustees, consultants, agents, and employees from any and all losses, damages, including foreseeable and unforeseeable consequential damages (whether general, punitive, or otherwise), liabilities, claims, defects in title, causes of action, judgments, liens, penalties, fines, court costs and legal or other expenses, including reasonable attorney's fees with an attorney of Beneficiary or Trustee's choosing, which Beneficiary or Trustee or the property may suffer or incur as a direct or indirect consequence of (1) Beneficiary's exercise or failure to exercise any rights, remedies or powers in connection with this Trust Deed or any of the loan documents, but excluding charges and assessments by governmental agencies imposed upon Beneficiary in the normal course of Beneficiary's business; (2) Trustor's ownership of the property; (3) the occurrence of an event of default and/or Trustor's failure to perform any of Trustor's obligations as and when required by this Trust Deed or any of the other loan documents, including, without limitation, any failure, at any time of any representation or warranty of Trustor to be true and correct and any failure by Trustor to satisfy any condition; (4) all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage, disposal, release or threatened release of hazardous wastes or substances by Trustor, any operator of the property, any subcontractor, materialman, or any other person whomsoever, including without limitation, the cost of any required or necessary repair, cleanup or detoxification and the preparation of any closure or other required plans, whenever such action

is or may be required or necessary (for purposes of this Agreement, the terms “disposal”, “release”, “threatened release”, “hazardous substances”, and “hazardous waste” shall have the meanings assigned thereto by the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9601 *et seq.*, as amended and in the regulations adopted and publications promulgated pursuant to such law, including without limitation, the Superfund Amendment and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986), and all other federal, state, or local laws, statutes, or ordinances related thereto); or (5) any accident, injury, death or damage to any person or property occurring in, on or about the property. Trustor’s obligation under this Section shall not be affected by the absence or unavailability of insurance covering the particular matter or by the failure or refusal of any insurance carrier to perform any obligation on its part under any such policy of insurance. If any claim, action or proceeding is made or brought against Beneficiary and/or Trustee which is subject to Trustor’s obligations under this Section, Trustor shall resist or defend the same, if necessary, in the name of Beneficiary and/or Trustee, by attorneys for Trustor’s insurance carrier (if the same is covered by insurance) and reasonably approved by Beneficiary and/or Trustee. Trustor’s obligations under this paragraph shall survive the release and cancellation or any other satisfaction of the Note and the release and reconveyance of the Trust Deed.

20. Beneficiary may appoint a successor trustee at any time by filing for record in the office of the County Recorder of each county in which said property or some part thereof is situated, a substitution of trustee. From the time the substitution is filed for record, the new trustee shall succeed to all the powers, duties, authority and title of the trustee named herein or of any successor trustee. Each such substitution shall be executed and acknowledged, and notice thereof shall be given and proof thereof made, in the manner provided by law.

21. This Trust Deed shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. All obligations of Trustor hereunder are joint and several. The term “Beneficiary” shall mean the owner and holder, including any pledgee, of the note secured hereby. In this Trust Deed, whenever the context requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

22. Trustee accepts this Trust when this Trust Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Trust Deed or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party, unless brought by the Trustee.

23. This Trust Deed shall be construed according to the laws of the State of Utah.

24. The undersigned Trustor and the Beneficiary request that a copy of any notice of default and of any notice of sale hereunder be mailed to him/her at the address hereinbefore set forth.

25. The contemplated purpose of this Trust Deed is to secure the Beneficiary lien in second position on the title of the encumbered property, inferior to no more than \$100,000.00 in superior financial encumbrances. Trustor personally warrants and guarantees the position of this Trust Deed lien and will execute and will cause to be executed all future documents which are further required to effect the contemplated purposes hereunder.

TRUSTOR:

Gae O. Miller
GAE O. MILLER

ACKNOWLEDGEMENT

STATE OF UTAH)
 : ss.
COUNTY OF _____)

On the 23rd day of April, 2008, personally appeared before me Gae O. Miller, the signer of the above instrument, who duly acknowledged to me that she executed the herein document for the purposes stated.

Jeanette W. Cox
NOTARY PUBLIC
Residing at: Salt Lake City

My Commission Expires: 8/31/2008

