

EXECUTION VERSION

**THIS DOCUMENT WAS PREPARED
BY, AND AFTER RECORDING,
RETURN TO:**

Chapman and Cutler LLP
Philip M. J. Edison, Esq.
320 South Canal Street, Suite 2700
Chicago, Illinois 60606

Utah County:
Salt Lake County

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

by

GRAYBUL DRY CREEK, LLC, a Delaware limited liability company,

to

FIDELITY NATIONAL TITLE AGENCY OF UTAH, LLC

in trust for the benefit of

Heitman CREDIT Acquisition XXXIII, LLC,
a Delaware limited liability company

**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 “*Deed of Trust*”) is effective as of June 13, 2022, from the Trustor, GRAYBUL DRY CREEK, LLC, a Delaware limited liability company, with an address of 200 East Broad Street, Suite 220, Greenville, South Carolina 29601 (herein “*Trustor*” or “*Borrower*”) to FIDELITY NATIONAL TITLE AGENCY OF UTAH, LLC, with an address of 8899 South 700 East, Suite 100, Sandy, Utah 84070 (the “*Trustee*”), for the benefit of HEITMAN CREDIT ACQUISITION XXXIII, LLC, a Delaware limited liability company, with a place of business and address at c/o Heitman Capital Management, 191 North Wacker Drive, Suite 2500, Chicago, Illinois 60606 (herein “*Beneficiary*”).

WHEREAS, pursuant to that certain Loan Agreement dated on or about the date hereof by and between the Trustor, as borrower, and Beneficiary, as lender (the “*Loan Agreement*,” as amended from time to time), Borrower has agreed to borrow from Beneficiary the maximum principal sum of \$75,905,000 (the “*Loan*”); and

WHEREAS, to evidence the Loan, Borrower has executed and delivered to the Beneficiary a Promissory Note in the principal amount of \$75,905,000 (the “*Note*,” as amended from time to time) of even date herewith for said principal sum bearing interest on the balance thereof remaining unpaid at a rate or rates which may vary from time to time as specified in the Note, and payable in the manner specified in said Note, reference to which is hereby made. The Loan Agreement is incorporated by reference herein and made a part hereof. Terms not otherwise defined herein shall have the meaning ascribed to them in the Loan Agreement.

NOW, THEREFORE, as an inducement to Beneficiary to make the Loan to Trustor, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Trustor hereby agrees as follows:

This Deed of Trust is also a Security Agreement and financing statement under the Uniform Commercial Code of the State of Utah (U.C.A. §§ 70A-1-1 et seq., as amended from time to time, the “*Uniform Commercial Code*”) and in compliance therewith the following information is set forth:

The names and addresses of the Trustor and Beneficiary are:

Trustor: Graybul Dry Creek, LLC
 200 East Broad Street, Suite 220
 Greenville, South Carolina 29601
 Attn: Andrew Reiken

With a copy to:

Troutman Pepper, LLP

Attn: Stephanie E. Greer Fulcher, Esq.
301 S. College St.
Charlotte, North Carolina 28202

Beneficiary: Heitman CREDIT Acquisition XXXIII, LLC
c/o Heitman Capital Management
191 North Wacker Drive, Suite 2500
Chicago, Illinois 60606
Attn: Jonathan Lindell

TO SECURE TO Beneficiary the following obligations (the "*Indebtedness*"): (a) the repayment of the indebtedness evidenced by the Note, with interest thereon, prepayment and late charges, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust, and the performance of the covenants and agreements of Trustor herein contained, (b) the repayment of any protective advances, with interest thereon, made to Trustor by Beneficiary pursuant to Section 21 hereof, (c) the full payment of amounts due under and performance and observance of all the provisions, conditions, covenants and agreements contained herein or in the Loan Agreement, or in any of the other Loan Documents; and (d) for any and all costs and expenses herein provided for or which may arise in respect of this Deed of Trust or the indebtedness hereby secured or the property herein described; Trustor does hereby grant, warrant, mortgage, assign, pledge, sell, demise, bargain, convey, transfer, set over and hypothecate unto the Trustee for the benefit of Beneficiary, its successors and assigns, forever, **IN TRUST WITH POWER OF SALE AND RIGHT OF ENTRY AND POSSESSION**, and grants to the Trustee for the benefit of the Beneficiary, its successors and assigns, forever, all and singularly the following described properties, rights, interest and privileges and all of the Trustor's estate, right, title and interest therein, thereto and thereunder, and, as to fixtures and personal property, hereby grants a security interest to Trustee for the benefit of Beneficiary, its successors and assigns, in the following described property (herein referred to collectively as the "*Property*"):

(a) All of the land located in Salt Lake County, State of Utah, and more particularly described on Exhibit A attached hereto and made a part hereof (the "*Premises*"). However, neither the failure to designate an address nor any inaccuracy in the address designated shall affect the validity or priority of the lien of this Deed of Trust on the Premises;

(b) All the improvements now or hereafter erected on the Premises (the "*Improvements*"), and all easements, rights of way, appurtenances, uses, servitudes, licenses, tenements, hereditaments, rents, royalties, mineral, oil and gas rights and profits, waters, water rights, and water stock, and any and all fixtures, goods, chattels, equipment and articles of personal property of every kind and character, including any replacements, additions, substitutions therefore, now or at any time in the future owned by Trustor and affixed to or placed upon or used in connection with the occupancy, enjoyment and operation of the Premises all of which are hereby declared and shall be deemed to be a portion of the security for the Indebtedness herein described and to be subject to the lien of this Deed of Trust, including but not limiting the generality of the foregoing, all

heating, lighting, incinerating, power and total energy equipment, engines, pipes, pumps, tanks, motors, conduits, switchboards, plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigeration, ventilating, and communications apparatus, air cooling and air-conditioning apparatus, elevators, escalators, wall-to-wall carpeting, shades, awnings, screens, storm doors and windows, attached cabinets, partitions, ducts and compressors, and such other goods, chattels, and equipment as are adapted to the complete and comfortable use, enjoyment and occupancy of the Property, excluding any of the aforesaid which is owned by any tenant of any individual space leased to such tenant and which according to the terms of any applicable lease may be removed by such tenants at the expiration or termination of said lease;

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

(d) All existing and future leases, lease guaranties, subleases, subtenancies, licenses, occupancy agreements and concessions ("Leases") relating to the use and enjoyment of all or any part of the Premises and Improvements, and any and all guaranties and other agreements relating to or made in connection with any of such Leases;

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

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

(g) All rights to the payment of money, all accounts (including the Operating Account and the Depository Account), accounts receivable, reserves, deferred payments, refunds, cost savings, payments and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) or deposited by Trustor with third parties (including all utility deposits), contract rights, development and use rights, governmental permits and licenses, applications, architectural and engineering plans,

specifications and drawings, as-built drawings, chattel paper, instruments, documents, notes, drafts and letters of credit, which arise from or relate to construction on the Premises or to any business now or later to be conducted on it, or to the Premises and Improvements generally; and any builder's or manufacturer's warranties with respect thereto;

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

(i) All "*Equipment*" as that term is defined in the Uniform Commercial Code;

(j) All "*Goods*" as that term is defined in the Uniform Commercial Code;

(k) All "*Accounts*" as that term is defined in the Uniform Commercial Code.

(l) All "*Investment Property*" as that term is defined in the Uniform Commercial Code.

(m) All "*Instruments*" as that term is defined in the Uniform Commercial Code.

(n) All "*Chattel Paper*" as that term is defined in the Uniform Commercial Code.

(o) All "*Documents*" as that term is defined in the Uniform Commercial Code.

(p) All "*Letter of Credit Rights*" as that term is defined in the Uniform Commercial Code.

(q) All "*Deposit Accounts*" as that term is defined in the Uniform Commercial Code.

(r) All "*Commercial Tort Claims*" as that term is defined in the Uniform Commercial Code.

(s) All "*General Intangibles*" as that term is defined in the Uniform Commercial Code.

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

(u) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above; and

(v) All leases, rents, royalties, issues, profits, revenue, income, accounts, proceeds and other benefits of the Property, whether now due, past due or to become due, including all prepaid rents, termination fees and security deposits.

TO HAVE AND TO HOLD, the aforegranted Property, unto the said Trustee, its successors and assigns FOREVER.

Trustor covenants with Beneficiary that Trustor is the lawful owner in fee simple of the above described Property hereby conveyed and has the right to transfer, grant and convey the Property, that the Property is free and clear of all defects, liens and encumbrances except those items set forth on Exhibit B attached hereto (the "*Permitted Encumbrances*"), and that Trustor will warrant and defend the title to the Property unto the Beneficiary against all claims and demands whatsoever except for Permitted Encumbrances.

The Trustor covenants, agrees and stipulates to and with the Beneficiary as follows:

SECTION 1. PAYMENT OF PRINCIPAL AND INTEREST.

Trustor shall promptly pay when due the principal of and interest on the Indebtedness at a rate or rates which may vary from time to time as specified in the Note, prepayment and late charges as provided in the Note, and the principal of and interest on any advances including Protective Advances, and any other fees or amounts due under the Loan Documents.

SECTION 2. TAXES AND INSURANCE.

Trustor will pay or cause to be paid all real estate taxes and assessments on the Property and all insurance premiums for hazard and liability insurance covering the Property as the same shall become due as required by the Loan Agreement. Upon the occurrence and during the continuance of an Event of Default under this Deed of Trust or any of the Loan Documents, Beneficiary shall have the right (but not the obligation) to place and maintain insurance required to be placed and maintained by Trustor pursuant to the Loan Agreement and treat the amounts expended therefor as additional disbursements of Loan Proceeds (even if the total amount of disbursements would exceed the face amount of the Note). In the event of a default in the payment of such taxes or insurance when due then Beneficiary shall be permitted to (but shall not be required to), subject to the terms of the Loan Agreement, pay the taxes and/or insurance to

protect the Property and charge the same to the Trustor as additional Indebtedness secured by this Deed of Trust.

SECTION 3. APPLICATION OF PAYMENTS.

Prior to an Event of Default, unless applicable law provides otherwise, all payments received by Beneficiary under the Note and Sections 1 and 2 hereof shall be applied by Beneficiary first in payment of amounts payable to Beneficiary by Trustor under Section 2 hereof, then to interest payable on the Note and on Protective Advances, if any, and then to the principal of the Note and to the principal of Protective Advances, if any; provided, however, that Beneficiary may elect to apply such payments in any other order it deems appropriate and in accordance with applicable law.

SECTION 4. LIENS.

Trustor shall not, without Beneficiary's prior written approval, directly or indirectly create or permit or suffer to be created or to remain, and will, discharge to Beneficiary's satisfaction, or promptly cause to be discharged to Beneficiary's satisfaction, any lien, encumbrance or charge (subject to the terms of the Loan Agreement) or pledge of, or conditional sale, or other title encumbrance with respect to the Property or any part thereof, other than Permitted Encumbrances.

SECTION 5. INSURANCE.

Trustor shall keep the Property insured in accordance with the requirements set forth in Section 5.4(a) of the Loan Agreement.

Beneficiary is authorized and empowered to collect any proceeds from any insurance policy or policies resulting from any loss to the Property, and, subject to Section 8 of the Loan Agreement, at its option, to apply the proceeds as a credit on any portion of the Indebtedness, or to apply the proceeds to the restoration or repair of the Property so damaged.

Any such application of proceeds to principal shall not extend or postpone the due date of the installments referred to in Sections 1 and 2 hereof or change the amount of such installments.

If under Section 18 hereof the Property is acquired by Beneficiary, all right, title and interest of Trustor in and to any insurance policies and in and to the proceeds thereof (to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition) resulting from damage to the Property prior to the sale or acquisition shall pass to Beneficiary.

Trustor is hereby notified that unless Trustor provides Beneficiary with evidence of the insurance coverage at the time required by this Agreement, Beneficiary may purchase the required insurance at Trustor's expense to protect Beneficiary's interest in the Property. This insurance may, but need not, protect Trustor's interests. The coverage that Beneficiary purchases may not pay any claim that Trustor makes or any claim that is made against Trustor in

connection with the Property. Trustor may later cancel any insurance purchased by Beneficiary, but only after providing Beneficiary with evidence that Trustor has obtained insurance as required by this Deed of Trust. If Beneficiary purchases insurance for the Property, Trustor will be responsible for the costs of that insurance, including interest at the Default Interest Rate (as defined in the Note) and any other charges Beneficiary may impose in connection with the placement of the insurance until the effective date of the cancellation or the expiration of the insurance. The costs of the insurance shall be added to Trustor's total outstanding balance or obligation and shall constitute additional Indebtedness. The costs of the insurance may be more than the cost of insurance Trustor may be able to obtain on its own.

SECTION 6. COMPLIANCE WITH LEASES; PRESERVATION AND MAINTENANCE OF PROPERTY.

Trustor will, at its own cost and expense, perform, comply in all material respects with and discharge all of the obligations of Trustor under the Leases and use commercially reasonable efforts to enforce or secure the performance of each obligation and undertaking of the tenant under any Leases and will appear in and defend, at its own cost and expense, any action or proceeding arising out of or in any manner connected with Trustor's interest in the Leases. Trustor will not modify, extend, renew, terminate, accept a surrender of, or in any way alter the terms of any of the Leases, except in the ordinary course of Trustor's business in a reasonable and prudent manner, nor borrow against, pledge or assign any rents due under the Leases nor consent to a subordination or assignment of the interest of a tenant thereunder to any party other than Beneficiary, nor accept rents thereunder for more than one (1) month in advance or, except in the ordinary course of Trustor's business in a reasonable and prudent manner, reduce the amount of rent and other payments thereunder, nor, except in the ordinary course of Trustor's business in a reasonable and prudent manner, waive, excuse, condone or in any manner release or discharge any tenant from any obligations, covenants, conditions and agreements to be performed nor enter into any additional Leases of all or any part of the Premises without the prior written consent of Beneficiary.

Trustor shall keep the Property in good repair and shall not knowingly permit or commit physical waste, impairment, or deterioration of the Property. Trustor shall comply in all material respects with the provisions of any Lease covering the Property. Furthermore, Trustor shall restore or repair promptly and in good and workmanlike manner, free of mechanics, materialman's, laborer's and like liens and claims therefor, all or any part of the Property to the substantial equivalent of its original condition, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of restoration or repair, subject to the terms of the Loan Agreement.

SECTION 7. PROTECTION OF BENEFICIARY'S SECURITY.

If Trustor fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which adversely affects Beneficiary's interest in the Property, as determined by Beneficiary in its sole discretion, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Beneficiary at Beneficiary's option, upon notice to Trustor, may make such appearances, disburse such sums and take such action as is necessary to protect

Beneficiary's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs. Any amounts disbursed by Beneficiary pursuant to this Section 7, with interest thereon, shall become additional Indebtedness of Trustor secured by this Deed of Trust. Unless Trustor and Beneficiary agree in writing to other terms of payment, such amount shall be immediately due and payable upon notice from Beneficiary to Trustor requesting payment thereof, and shall bear interest from the date of disbursement at the rate applicable in the Note. Nothing contained in this Section 7 shall require Beneficiary to incur any expense or do any act hereunder.

SECTION 8. INSPECTION.

Beneficiary, for the protection of its interest in the Property, subject to the terms of the Loan Agreement, may make or cause to be made reasonable entries upon and inspections of the Property.

SECTION 9. CONDEMNATION.

The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Beneficiary, subject to and in accordance with the terms of the Loan Agreement.

In the event of a taking of the Property, either partial or total, the proceeds shall be applied in the manner set forth in Section 8.2 of the Loan Agreement.

SECTION 10. TRUSTOR NOT RELEASED.

Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Beneficiary to any successor in interest of Trustor shall not operate to release, in any manner, the liability of the original Trustor and Trustor's successors in interest. Beneficiary shall not be required to commence proceedings against such successor or to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Trustor and Trustor's successors in interest.

SECTION 11. FORBEARANCE BY BENEFICIARY NOT A WAIVER.

Any forbearance by Beneficiary in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy hereunder. The procurement of insurance or the payment of taxes or other liens or charges by Beneficiary shall not be a waiver of Beneficiary's right to accelerate the maturity of the Indebtedness secured by this Deed of Trust.

SECTION 12. REMEDIES CUMULATIVE.

All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or the Loan Documents or afforded by law or equity, and may be exercised concurrently, independently or successively.

SECTION 13. SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; CAPTIONS.

The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Beneficiary and Trustor, subject to the provisions of Section 18 hereof. All covenants and agreements of Trustor contained in this Deed of Trust shall be joint and several. The captions and headings of the Sections of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

SECTION 14. COMPLIANCE WITH LAWS.

Trustor hereby covenants and agrees to comply with, and to cause all occupants of all or any portion of the Property to comply with, all applicable zoning, building, use and environmental restrictions, all permits, approvals, licenses and other governmental impositions (collectively "*Permits*"), and all laws, rules, statutes, ordinances, regulations, codes, orders and requirements, including, without limitation, environmental matters and notices of violation of all governmental authorities having jurisdiction over the Property or the maintenance, use and operation thereof, and all restrictions and requirements of record (collectively, "*Laws*"). Trustor will deliver to Beneficiary within five (5) Business Days after Beneficiary's request therefore any additional Permits or renewals, issued and approved or disapproved with respect to the Property. Trustor hereby indemnifies and agrees to defend and hold harmless Beneficiary from and against any and all claims, demands, loss, cost, damage, liability or expense incurred or suffered by Beneficiary arising from any failure of the Property to comply with all Laws, or from any failure of Trustor to obtain, maintain or renew, or to have obtained, maintained or renewed, any Permit required with respect to the Property. To Trustor's knowledge, Trustor hereby warrants and represents that, on the date hereof, the Property complies with all Laws.

SECTION 15. NOTICE.

Except for any notice required under applicable law to be given in another manner, any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be given in the manner prescribed in the Loan Agreement to the addresses set forth below.

Trustor: Graybul Dry Creek, LLC
 200 East Broad Street, Suite 220
 Greenville, South Carolina 29601
 Attn: Andrew Reiken

With a copy to:

Troutman Pepper, LLP
Attn: Stephanie E. Greer Fulcher, Esq.
301 S. College St.
Charlotte, North Carolina 28202

Beneficiary: Heitman CREDIT Acquisition XXXIII, LLC
c/o Heitman Capital Management
191 North Wacker Drive, Suite 2500
Chicago, Illinois 60606
Attn: Jonathan Lindell

With a copy to:

Chapman and Cutler LLP
320 South Canal Street, Suite 2700
Chicago, Illinois 60606
Attn: Philip M. J. Edison

SECTION 16. GOVERNING LAW; SEVERABILITY.

This Deed of Trust shall be governed by the law of the jurisdiction in which the Property is located, except to the extent pre-empted by Federal laws, without reference to the choice of law or conflicts of law principles of that State. In the event that any provision or clause of this Deed of Trust conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust, which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust are declared to be severable.

SECTION 17. TRANSFER OF THE PROPERTY; ASSUMPTION.

Until such time as the Indebtedness is paid in full, no portion of the Property, nor any direct or indirect interest in Trustor shall be sold, assigned, transferred, leased, conveyed, contracted to be sold, mortgaged or in any way encumbered or disposed of directly or indirectly, without the prior written consent of Beneficiary in each such event (except as permitted in the Loan Agreement). Beneficiary shall be under no obligation to consent to such transfer or conveyances. If Beneficiary agrees to such transfer or conveyance, to the extent permitted by applicable law, Beneficiary may charge a reasonable fee as a condition to Beneficiary's consent to such transfer or conveyance. However, no payment of or tender of any consideration to Beneficiary in connection with any proposed transfer or conveyance shall obligate Beneficiary to consent to such transfer or conveyance except as set forth in the Loan Agreement. Beneficiary may also require the transferee to sign an assumption agreement that is acceptable to Beneficiary and that obligates the transferee to keep all the promises and agreements made in the Note, in this Deed of Trust or any other Loan Documents. Trustor will continue to be obligated under the Note and this Deed of Trust unless Beneficiary releases Trustor in writing in Beneficiary's sole and absolute discretion. Any sale, assignment, transfer, lease, conveyance or mortgage of the Property that requires Beneficiary's consent without Beneficiary's consent shall be null and void.

SECTION 18. EVENT OF DEFAULT; ACCELERATION.

The occurrence of any one or more of the following shall constitute an "Event of Default" as said term is used herein:

- (a) Trustor shall fail to comply with any of the provisions, conditions, or covenants contained in this Deed of Trust (within any grace period described herein); or
- (b) An Event of Default occurs under the Loan Agreement or any other Loan Document.

Section 18.1. Remedies. (a) Upon the occurrence of any Event of Default, Trustor agrees that Beneficiary, or if required by law, Trustee, may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Trustor and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Beneficiary may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Beneficiary or Trustee:

- (i) declare the entire unpaid principal balance of the Note together with all other Indebtedness to be immediately due and payable, which unpaid sums shall bear interest at the Default Interest Rate from the due date until paid; and/or
- (ii) *Foreclosure.* Beneficiary may, or if required by law, Trustee may, proceed to protect and enforce the rights of Beneficiary and/or Trustee hereunder (i) by any action at law, suit in equity or other appropriate proceedings, whether for the specific performance of any agreement contained herein, or for an injunction against the violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or by law, or (ii) by the foreclosure of this Deed of Trust. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the decree of sale, all expenditures and expenses authorized by Utah law and, to the extent permitted by Utah law, all other expenditures and expenses which may be paid or incurred by or on behalf of Beneficiary and/or Trustee for reasonable attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, and costs (which may be reasonably estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title as Beneficiary may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Property. All expenditures and expenses of the nature mentioned in this Section, and such other expenses and fees as may be incurred in the protection of the Property and rents and income therefrom and the maintenance of the lien of this Deed of Trust, including the reasonable fees of any attorney employed by Beneficiary in any litigation or proceedings affecting this Deed of Trust, the Note or the Property, including bankruptcy proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be so

much additional Indebtedness and shall be immediately due and payable by Trustor, with interest thereon at the Default Interest Rate until paid; and/or

(iii) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Trustor therein and rights of redemption thereof, pursuant to, judicial decree or otherwise, at one or more sales, as an entirety or in one or more parcels; and/or

(iv) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note or in the other Loan Documents; and/or

(v) subject to the limitations of applicable Utah law, recover judgment on the Note either before, during or after any proceedings for the enforcement of this Deed of Trust or the other Loan Documents; and/or

(vi) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Indebtedness and without regard for the solvency of Trustor, any principal or any guarantor or of any other person, firm or other entity liable for the payment of the Indebtedness in accordance with and in the manner prescribed by applicable law in the state where the Property is located and in accordance with the terms hereof; and/or

(vii) subject to the limitations of applicable Utah law, enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Trustor and its agents and servants therefrom without liability for trespass, damages or otherwise and exclude Trustor and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Trustor agrees to surrender possession of the Property and of such books, records and accounts to Beneficiary upon demand, and thereupon Beneficiary may exercise all rights and powers of Trustor with respect to the Property including, without limitation:

(1) the right to use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; and/or

(2) the right to make or complete any construction, alterations, additions, renewals, replacements and improvements to or on the Property as Beneficiary deems advisable; and/or

(3) the right to make, cancel, enforce or modify leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents (defined below) of the Property and every part thereof; and/or

(4) elect to disaffirm any lease or sublease of all or any part of the Property made subsequent to this Deed of Trust without Beneficiary's consent.

(viii) require Trustor to pay monthly in advance to Beneficiary, or any receiver appointed to collect the Rents (defined below), the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Trustor; and/or

(ix) subject to the limitations of applicable Utah law, require Trustor to vacate and surrender possession of the Property to Beneficiary or to such receiver and, in default thereof, Trustor may be evicted by summary proceedings or otherwise; and/or

(x) apply the receipts from the Property, and/or any unearned insurance premiums paid to Beneficiary upon the surrender of any insurance policies maintained pursuant to the Loan Agreement (it being agreed that Beneficiary shall have the right to surrender such insurance policies upon the occurrence of an Event of Default), to the payment of the Indebtedness, in such order, priority and proportions as Beneficiary shall deem appropriate in its sole discretion; and/or

(xi) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing:

(1) the right to take possession of the personal property pledged hereunder (the "*Collateral*") or any part thereof, and to take such other measures as Beneficiary may deem necessary for the care, protection and preservation of the Collateral, and

(2) request Trustor at its expense to assemble the Collateral and make it available to Beneficiary at a convenient place acceptable to Beneficiary. Any notice of sale, disposition or other intended action by Beneficiary with respect to the Collateral sent to Trustor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Trustor.

(b) upon any foreclosure or other sale of the Property pursuant to the terms hereof, Beneficiary may, or if required by law, Trustee may, bid for and purchase the Property and shall be entitled to apply all or any part of the Indebtedness (subject to the limitations of applicable Utah law) as a credit against the purchase price.

(c) without limiting any other provisions of this Deed of Trust, Beneficiary, or if required by law, Trustee, shall have the right to conduct any such sale on the Property, and subject to the limitations of applicable Utah law, Beneficiary shall have such right of possession of the Property as shall be necessary or convenient for such purpose or any other purpose under this Section 18.1. Beneficiary may, or if required by law, Trustee may, sell the Property without giving any warranties relating to title, possession, quiet enjoyment, merchantability, fitness or the like as to the Property and may specifically disclaim any warranties, which shall not be considered to adversely affect the commercial reasonableness of any sale of the Property. Beneficiary has no obligation to clean up or otherwise prepare the Property for sale.

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

Section 18.2. Waiver of Right to Redeem - Waiver of Appraisement, Valuation, Etc. Trustor shall not and will not apply for or avail itself of any appraisement, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust, but hereby waives the benefit of such Moratorium Laws. Trustor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Property marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety. In the event of any sale made under or by virtue of this instrument, subject to the limitations of applicable Utah law, the whole of the Property may be sold in one parcel as an entirety or in separate lots or parcels at the same or different times, all as the Beneficiary may determine in its sole discretion. Beneficiary shall have the right to become the purchaser at any sale made under or by virtue of this instrument and Beneficiary so purchasing at any such sale shall have the right to be credited (subject to the limitations of applicable Utah law) upon the amount of the bid made therefor by Beneficiary with the amount payable to Beneficiary out of the net proceeds of such sale. 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. Trustor acknowledges that the Property does not constitute agricultural real estate. To the fullest extent permitted by law, Trustor, on behalf of Trustor, and each and every person acquiring any interest in, or title to the Property described herein subsequent to the date of this Deed of Trust, and on behalf of all other persons to the extent permitted by applicable law, hereby voluntarily and knowingly waives (i) any and all rights of redemption pursuant to Utah law, and (ii) any and all rights of reinstatement.

Section 18.3. Application of Proceeds. The proceeds and avails of any disposition of the Property, or any part thereof, or any other sums collected by Beneficiary pursuant to the Note, this Deed of Trust or the other Loan Documents, shall, subject to the limitations of applicable Utah law, be applied as follows:

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

Section 18.4. Right to Cure Defaults. (a) Upon the occurrence of any Event of Default, Beneficiary may, but without any obligation to do so and without notice to or demand on Trustor and without releasing Trustor from any obligation hereunder or curing or being deemed to have cured any default hereunder, make or do the same in such manner and to such extent as Beneficiary may deem necessary to protect the security hereof. Beneficiary is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Deed of Trust or collect the Indebtedness (subject to the limitations of applicable Utah law), and the cost and expense thereof (including actual reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 18.4, shall constitute a portion of the Indebtedness and shall be due and payable to Beneficiary upon demand. All such costs and expenses incurred by Beneficiary in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Interest Rate, for the period after notice from Beneficiary that such cost or expense was incurred to the date of payment to Beneficiary. All such costs and expenses incurred by Beneficiary together with interest thereon calculated at the Default Interest Rate shall be deemed to constitute a portion of the Indebtedness and be secured by this Deed of Trust and the other Loan Documents and shall be immediately due and payable upon demand by Beneficiary therefore.

(b) Notwithstanding anything to the contrary contained herein, Beneficiary shall have no obligation to accept performance or attempted cure with respect to a default after an Event of Default has occurred with respect to such default.

Section 18.5. Receiver. Upon the occurrence of an Event of Default, Beneficiary shall be entitled as a matter of right without notice and without regard to the solvency or insolvency of Trustor, or the existence of waste of the Property or adequacy of the security of the Property, and without giving bond to apply for the appointment of a receiver in accordance with the statutes and law made and provided for who shall collect the Rents, and all other income of any kind; manage the Property so to prevent waste; execute Leases within or beyond the period of receivership, pay all expenses for normal maintenance of the Property and perform the terms of this Deed of Trust and apply the Rents, issues, income and profits to the costs and expenses of the receivership, including actual attorneys' fees, to the repayment of the Indebtedness and to the operation, maintenance and upkeep and repair of the Property, including payment of taxes on the Property and payments of premiums of insurance on the Property and any other rights permitted by law. Trustor does hereby irrevocably consent to such appointment. The receiver may, to the extent permitted under applicable law, without notice, enter upon and take possession of the Property, or any part thereof, by force, summary proceedings, ejectment or otherwise, and remove Trustor or any other person or entity and any personal property therefrom, and may hold, operate and manage the same, receive all rents, earnings, incomes, issues and proceeds and do the things the receiver finds necessary to preserve and protect the Property, whether during pendency of foreclosure, during a redemption period, if any, or otherwise.

Section 18.6. Rights Under Uniform Commercial Code. In addition to the rights available to a mortgagee of real property, Beneficiary shall also have all the rights, remedies and recourse available to a secured party under the Uniform Commercial Code including the right to proceed under the provisions of the Uniform Commercial Code governing default as to any Collateral as

defined in this Deed of Trust which may be included on the Property or which may be deemed nonrealty in a foreclosure of this Deed of Trust or to proceed as to such Collateral in accordance with the procedures and remedies available pursuant to a foreclosure of real estate.

Section 18.7. Trustor Not Released. No delay or omission by Beneficiary in the exercise of any rights or remedies arising under this Deed of Trust, the Note or any other Loan Document at any time following the happening of an Event of Default shall constitute a waiver of the right of Beneficiary to exercise such rights and remedies at a later time by reason of such Event of Default or by reason of any subsequently occurring Event of Default.

SECTION 19. COSTS AND EXPENSES OF FORECLOSURE.

In any suit to foreclose the lien hereof there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Beneficiary for appraiser's fees, outlays for documentary and expert evidence, stenographic charges, publication costs and costs (which may be estimated as to items to be expended after the entry of the decree) of procuring all such abstracts of title, title searches and examination, guarantee policies, and similar data and assurances with respect to title as Beneficiary may deem to be reasonably necessary either to prosecute any foreclosure action or to evidence to the bidder at any sale pursuant thereto the true condition of the title to or the value of the Property, and reasonable attorneys' fees, all of which expenditures shall become so much additional Indebtedness which Trustor agrees to pay and all of such expenditures shall be immediately due and payable with interest thereon from the date of expenditure until paid at the Default Interest Rate.

SECTION 20. ASSIGNMENT OF LEASES AND RENTS; SECURITY AGREEMENT.

As additional security for the Indebtedness, Trustor hereby irrevocably, presently and unconditionally collaterally assigns to Beneficiary and grants Beneficiary a security interest in and to, all lease, rents, royalties, issues, profits, revenue, income, accounts, proceeds and other benefits of the Property, whether now due, past due or to become due, including all prepaid rents, termination fees and security deposits , including but not limited to "Rents" as defined in the Utah Uniform Assignment of Rents Act, Utah Code Annotated § 57-26-101 et seq. (the "Rents Act"), (some or all collectively, as the context may require, "Rents"). This is an absolute assignment, not an assignment for security only.

Beneficiary hereby confers upon Trustor the right ("Collection Right") to collect and retain the Rents as they become due and payable, so long as no Event of Default, as defined in Section 18, has occurred and is continuing. If an Event of Default occurs this Collection Right shall automatically terminate without notice to or demand upon Trustor, and without regard to the adequacy of Beneficiary's security under this Deed of Trust.

The parties intend for this Deed of Trust to create a lien on the Property, and a collateral assignment of and security interest in and to the Rents, all in favor of Beneficiary. The parties acknowledge that some of the Property and some or all of the Rents may be determined under applicable law to be personal property or fixtures. To the extent that any Property or Rents may

be or be determined to be personal property, Trustor as debtor hereby grants Beneficiary as secured party a security interest in all such Property and Rents, to secure payment and performance of the Indebtedness. This Deed of Trust constitutes a security agreement under the Uniform Commercial Code covering all such Property and Rents.

This Section 20 is subject to the Rents Act, and in the event of any conflict or inconsistency between the provisions of this Assignment and the provisions of the Rents Act, the provisions of the Rents Act shall control and Agent shall have all rights and remedies available under the Rents Act which rights and remedies shall be cumulative with all rights and remedies hereunder.

SECTION 21. PROTECTIVE ADVANCES.

Protective Advances relate, for the purposes of lien priority, to the date of this Deed of Trust and include advances, disbursements and expenditures made by Beneficiary for the following purposes, whether before and during a foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, shall, in addition to those otherwise authorized by this Deed of Trust, constitute "*Protective Advances*":

- (i) all advances by Beneficiary in accordance with the terms of this Deed of Trust to: (A) preserve or maintain, repair, restore or rebuild the improvements upon the Property; (B) preserve the lien of this Deed of Trust or the priority thereof; or (C) enforce this Deed of Trust;
- (ii) payments by Beneficiary of: (A) when due, installments of principal, interest or other obligations in accordance with the terms of any prior lien or encumbrance; (B) when due, installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the mortgaged real estate or any part thereof; (C) other obligations authorized by this Deed of Trust; or (D) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title to the Property;
- (iii) advances by Beneficiary in settlement or compromise of any claims asserted by claimants under any prior liens;
- (iv) reasonable attorneys' fees and other out-of-pocket costs incurred: (A) in connection with the foreclosure of this Deed of Trust and in connection with any action, suit or proceeding brought by or against the Beneficiary for the enforcement of this Deed of Trust or arising from the interest of the Beneficiary hereunder or under any of the other Loan Documents; or (B) in the preparation for the commencement or defense of any such foreclosure or other action;
- (v) Beneficiary's fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing;

(vi) advances of any amount required to make up a deficiency in deposits for installments of taxes and assessments and insurance premiums as may be authorized by this Deed of Trust;

(vii) expenses deductible from proceeds of sale; and

(viii) expenses incurred and expenditures made by Beneficiary for any one or more of the following: (A) premiums for casualty and liability insurance paid by Beneficiary whether or not Beneficiary or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or mortgagee takes possession of the mortgaged real estate; (B) repair or restoration of damage or destruction in excess of available Proceeds or condemnation awards; (C) payments required or deemed by Beneficiary to be for the benefit of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; (D) shared or common expense assessments payable to any association or corporation in which the owner of the mortgaged real estate is a member in any way affecting the Property; or (E) pursuant to any lease or other agreement for occupancy of the mortgaged real estate.

(a) All Protective Advances shall be so much additional Indebtedness, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the Default Interest Rate.

(b) This Deed of Trust shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Deed of Trust is recorded.

(c) All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of Utah law, apply to and be included in the:

(i) determination of the amount of Indebtedness at any time;

(ii) indebtedness found due and owing to the Beneficiary in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(iii) determination of amounts deductible from sale proceeds;

(iv) application of income in the hands of any receiver or mortgagee in possession; and

(v) computation of any deficiency judgment.

(d) This Deed of Trust is given to secure not only existing Indebtedness, but also future Indebtedness incurred by the Trustor pursuant to or as provided in the Loan Agreement and the other Loan Documents, whether such indebtedness is obligatory or to be made at the option of the Beneficiary, or otherwise, to the same extent as if such future Indebtedness were made on the date of execution of this Deed of Trust, although there may be no future Indebtedness made at the time of execution hereof, and although there may be no Indebtedness outstanding at the time any borrowing is made by the Trustor.

SECTION 22. BUSINESS LOAN.

(a) The Trustor declares, represents, certifies and agrees that the proceeds of the Note will be used solely for business purposes and that the loan is exempt from interest limitations and is an exempted transaction under the Truth in Lending Act, 15 U.S.C. Section 1601 et seq.

(b) All rights, remedies and powers provided by this Deed of Trust may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law, and all the provisions of this Deed of Trust are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Deed of Trust invalid.

SECTION 23. RELEASE.

Upon (a) payment of the Indebtedness, and the performance of all the terms, conditions and covenants contained in the Note and herein, or (b) satisfaction of the release provisions relating to the Property as set forth in the Loan Agreement, including Section 1.4 therein, which section shall be incorporated into this Deed of Trust by reference as if set forth at length herein, this Deed of Trust shall be released and reconveyed by Trustee in accordance with applicable law. Trustor shall pay all costs of recordation of any cancellation or satisfaction hereof.

SECTION 24. WAIVER OF TRIAL BY JURY.

TRUSTOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION ARISING IN ANY WAY IN CONNECTION WITH THIS DEED OF TRUST, THE NOTE, OR ANY OF THE OTHER LOAN DOCUMENTS, THE LOAN OR ANY OTHER STATEMENTS OR ACTIONS OF TRUSTOR OR BENEFICIARY. TRUSTOR ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS DEED OF TRUST AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS DISCUSSED THIS WAIVER WITH SUCH LEGAL COUNSEL. TRUSTOR FURTHER ACKNOWLEDGES THAT (I) IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER, (II) THIS WAIVER IS A MATERIAL INDUCEMENT FOR BENEFICIARY TO MAKE THE LOAN, ENTER INTO THIS DEED OF TRUST AND EACH OF THE OTHER LOAN DOCUMENTS TO WHICH IT IS A PARTY, AND (III) THIS WAIVER SHALL BE EFFECTIVE AS TO EACH OF SUCH OTHER LOAN DOCUMENTS AS IF FULLY INCORPORATED THEREIN.

SECTION 25. ADDITIONAL WAIVERS.

TRUSTOR EXPRESSLY AND UNCONDITIONALLY WAIVES, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING BROUGHT BY BENEFICIARY ON THIS DEED OF TRUST, ANY AND EVERY RIGHT IT MAY HAVE TO (A) INTERPOSE ANY COUNTERCLAIM THEREIN UNLESS UNDER THE APPLICABLE RULES OF COURT SUCH COUNTERCLAIM MUST BE ASSERTED IN SUCH PROCEEDING, OR (B) HAVE THE SAME CONSOLIDATED WITH ANY OTHER OR SEPARATE SUIT, ACTION OR PROCEEDING UNLESS UNDER THE APPLICABLE RULES OF COURT SUCH SUIT, ACTION OR PROCEEDING MUST BE CONSOLIDATED WITH THE PROCEEDING BROUGHT BY BENEFICIARY.

SECTION 26. COMPLIANCE WITH LOAN AGREEMENT.

Trustor will abide by and comply with and be governed and restricted by all of the terms, covenants, provisions, restrictions and agreements contained in the Loan Agreement, and in each and every supplement thereto or amendment thereof which may at any time or from time to time be executed and delivered by the parties thereto or their successors and assigns.

SECTION 27. INCONSISTENCIES.

In the event of any inconsistency between this Deed of Trust and the Loan Agreement, the terms hereof shall be controlling as necessary to create, preserve and/or maintain a valid deed of trust lien and security interest upon the Property, otherwise the provisions of the Loan Agreement shall be controlling.

SECTION 28. UCC FINANCING STATEMENTS.

Trustor hereby authorizes Beneficiary to file UCC financing statements to perfect Beneficiary's security interest in any part of the Property. In addition, Trustor agrees to sign any and all other documents that Beneficiary deems necessary in its sole discretion to perfect, protect, and continue Beneficiary's lien and security interest on the Property.

SECTION 29. REIMBURSEMENT, EXCULPATION, INDEMNIFICATION.

(a) Trustor agrees to pay fees for any services that Beneficiary may render in connection with this Deed of Trust, including providing a statement of the Indebtedness or providing the release of this Deed of Trust. Trustor further agrees to pay or reimburse Beneficiary for all costs, expenses and other advances which may be incurred or made by Beneficiary in any efforts to enforce any terms of this Deed of Trust, the Loan Agreement or any of the other Loan Documents, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Deed of Trust, the Loan Agreement or any of the other Loan Documents, including reasonable attorneys' fees and other legal costs, costs of any foreclosure sale and any cost of evidence of title. Subject to the limitations of applicable Utah law, in any suit to foreclose the lien hereof or enforce any other remedy of Beneficiary under this Deed of Trust or the Loan Agreement or any of the other Loan Documents, there shall be allowed and included as additional indebtedness in the decree for sale or other judgment or

decree all expenditures and expenses which may be paid or incurred by or on behalf of Beneficiary for reasonable attorneys' costs and fees (including the costs and fees of paralegals), survey charges, appraiser's fees, inspecting engineer's and/or architect's fees, fees for environmental studies and assessments and all additional expenses incurred by Beneficiary with respect to environmental matters. All expenditures and expenses of this Section 29(a), and such expenses and fees as may be incurred in the protection of the Property and maintenance of the lien of this Deed of Trust, shall be immediately due and payable by Trustor, with interest thereon at the Default Interest Rate and shall be secured by this Deed of Trust.

(b) Beneficiary shall not be directly or indirectly liable to Trustor or any other person as a consequence of any of the following:

- (i) Beneficiary's exercise of or failure to exercise any rights, remedies or powers granted to Beneficiary in this Deed of Trust;
- (ii) Beneficiary's failure or refusal to perform or discharge any obligation of Trustor under this Deed of Trust; or
- (iii) Any loss sustained by Trustor resulting from Beneficiary's failure to lease the Property, or from any other act or omission of Beneficiary in managing the Property, after an Event of Default, unless the loss is caused by the willful misconduct of Beneficiary.

Trustor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Beneficiary.

(c) Trustor agrees to indemnify Beneficiary against and hold it harmless from all losses, damages, liabilities, claims, causes of action, judgments, court costs, reasonable attorneys' fees and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses which Beneficiary may suffer or incur:

- (i) In performing any act required or permitted by this Deed of Trust or any of the other Loan Documents or by law; or
- (ii) Because of any failure of Trustor to perform any of its obligations.

This agreement by Trustor to indemnify Beneficiary shall survive the release and cancellation of any or all of the Indebtedness and the full or partial release of this Deed of Trust.

(d) Trustor will pay all expenses relating to the Loan Documents, including but not limited to: (i) the cost of reproducing the Loan Documents; (ii) the reasonable fees and disbursements of Chapman and Cutler LLP, special counsel for the Beneficiary; (iii) the Beneficiary's reasonable out-of-pocket expenses; (iv) all recording and filing fees and stamp taxes in connection with the recordation or filing of the items referred to in Section 2.1 of the Loan Agreement; (v) all stamp tax due in respect of the Indebtedness; (vi) the reasonable fees and disbursements of the Title Agent referred to in Section 2.1 of the Loan Agreement in

connection with the issuance of the ALTA Policy and the reasonable fees and disbursements of the civil engineer or surveyor which conducted the survey of the Property referred to in Section 2.1 of the Loan Agreement in connection with the preparation of such survey; (vii) the reasonable fees and disbursements of (a) the Person that prepared the Phase I Environmental Report referred to in Section 2.1 of the Loan Agreement and (b) the Person that prepared the appraisal of the Property referred to in Section 2.1 of the Loan Agreement; and (viii) all reasonable expenses relating to any amendments, waivers or consents pursuant to the provisions of any of the Loan Documents, including without limitation, any amendments, waivers or consents resulting from any work-out, restructuring or similar proceedings relating to the performance by the Borrower of its obligations under any of the Loan Documents. The obligations of the Borrower under this Section 29(d) shall survive the payment or prepayment of the Note and the termination of any of the Loan Documents.

SECTION 30. FIXTURE FILING.

Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, described or referred to in this Deed of Trust. This Deed of Trust shall constitute a financing statement pursuant to *Utah Code* § 70a-9-502(b), and shall be filed as a fixture filing in the Official Records of the County Register of the County in which the Property is located and covers goods which are or are to become fixtures on the Property. For purposes of this fixture filing, "Debtor" is Trustor and the "Secured Party" is Beneficiary. Trustor is the record owner of the Land.

SECTION 31. MISCELLANEOUS.

(a) *Time is of the Essence.* Time is of the essence of this Deed of Trust.

(b) *Captions and Pronouns.* The captions and headings of the various Sections of this Deed of Trust are for convenience only, and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall be freely interchangeable.

(c) *Maximum Indebtedness.* Notwithstanding anything contained herein to the contrary, in no event shall the Indebtedness secured by this Deed of Trust exceed an amount equal to \$75,905,000 plus unpaid interest, fees, costs, expenses, Protective Advances and any other amount payable by Trustor to Beneficiary pursuant to the Loan Documents; *provided, however,* in no event shall the Beneficiary be obligated to advance funds in excess of the face amount of the Note.

(d) *The Trustor Not a Joint Venturer or Partner.* The Trustor and the Beneficiary acknowledge and agree that in no event shall the Beneficiary be deemed to be a partner or joint venturer with the Trustor. Without limitation of the foregoing, the Beneficiary shall not be deemed to be such a partner or joint venturer on account of its becoming a mortgagee in possession or exercising any rights pursuant to this Deed of Trust or pursuant to any other instrument or document evidencing or securing any of the Indebtedness, or otherwise.

(e) *Replacement of the Note.* Upon notice to the Trustor of the loss, theft, destruction or mutilation of the Note, the Trustor will execute and deliver, in lieu thereof, a replacement note, identical in form and substance to the Note and dated as of the date of the Note and upon such execution and delivery all references in any of the Loan Documents to the Note shall be deemed to refer to such replacement note.

(f) *Waiver of Consequential Damages.* The Trustor covenants and agrees that in no event shall the Beneficiary be liable for consequential damages, whatever the nature of a failure by the Beneficiary to perform its obligation(s), if any, under the Loan Documents, and the Trustor hereby expressly waives all claims that it now or may hereafter have against the Beneficiary for such consequential damages.

(g) *After Acquired Property.* The lien hereof will automatically attach, without further act, to all after-acquired Property attached to and/or used in connection with or in the operation of the Property or any part thereof.

(h) *Severability.* If any provision hereof should be held unenforceable or void, then such provision shall be deemed separable from the remaining provisions and shall in no way affect the validity of this Deed of Trust except that if such provision relates to the payment of any monetary sum, then the Beneficiary may, at its option declare the Indebtedness immediately due and payable.

(i) *Interpretation of Agreement.* Should any provision of this Deed of Trust require interpretation or construction in any judicial, administrative, or other proceeding or circumstance, it is agreed that the parties hereto intend that the court, administrative body, or other entity interpreting or construing the same shall not apply a presumption that the provisions hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of both parties hereto have fully participated in the preparation of all provisions of this Deed of Trust, including, without limitation, all Exhibits attached to this Deed of Trust.

(j) *Joint and Several Obligations; Counterparts.* If this Deed of Trust is executed by more than one Trustor, (i) the obligations and liabilities of Trustor under this Deed of Trust shall be joint and several and shall be binding upon and enforceable against each Trustor and their respective successors and assigns, and (ii) this Deed of Trust may be executed in counterparts, and all said counterparts when taken together shall constitute one and the same Deed of Trust.

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

(l) *Mortgagee-in-Possession.* Nothing herein contained shall be construed as constituting the Beneficiary a mortgagee-in-possession in the absence of the actual taking of possession of the Property by the Beneficiary pursuant to this Deed of Trust.

(m) *No Merger.* The parties hereto intend that the Deed of Trust and the lien hereof shall not merge in fee simple title to the Property, and if the Beneficiary acquires any additional or other interest in or to the Property or the ownership thereof, then, unless a contrary intent is manifested by the Beneficiary as evidenced by an express statement to that effect in an appropriate document duly recorded, this Deed of Trust and the lien hereof shall not merge in the fee simple title and this Deed of Trust may be foreclosed as if owned by a stranger to the fee simple title.

(n) *Complete Agreement.* This Deed of Trust, the Note and the other Loan Documents constitute the complete agreement between the parties with respect to the subject matter hereof and the Loan Documents may not be modified, altered or amended except by an agreement in writing signed by both the Trustor and the Beneficiary.

(o) *Jurisdiction and Venue.* TRUSTOR AND BENEFICIARY HEREBY AGREE THAT ALL ACTIONS OR PROCEEDINGS INITIATED AND ARISING OUT OF THIS DEED OF TRUST SHALL BE LITIGATED AT BENEFICIARY'S DISCRETION IN THE CIRCUIT COURT OF SALT LAKE COUNTY, UTAH, OR THE UNITED STATES DISTRICT COURT OF UTAH. TRUSTOR AND BENEFICIARY HEREBY EXPRESSLY SUBMIT AND CONSENT IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR PROCEEDING COMMENCED IN ANY OF SUCH COURTS, AND HEREBY WAIVE PERSONAL SERVICE OF THE SUMMONS AND COMPLAINT, OR OTHER PROCESS OR PAPERS ISSUED THEREIN, AND AGREE THAT SERVICE OF SUCH SUMMONS AND COMPLAINT OR OTHER PROCESS OR PAPERS MAY BE MADE BY REGISTERED OR CERTIFIED MAIL ADDRESSED AT THE ADDRESS TO WHICH NOTICES ARE TO BE SENT PURSUANT TO THIS MORTGAGE. TRUSTOR WAIVES ANY CLAIM THAT THE CIRCUIT COURT OF SALT LAKE COUNTY, UTAH OR THE UNITED STATES DISTRICT COURT OF UTAH IS AN INCONVENIENT FORUM OR AN IMPROPER FORUM BASED ON LACK OF VENUE. SHOULD TRUSTOR, AFTER BEING SO SERVED, FAIL TO APPEAR OR ANSWER TO ANY SUMMONS, COMPLAINT, PROCESS OR PAPERS SO SERVED WITHIN THE NUMBER OF DAYS PRESCRIBED BY LAW AFTER THE MAILING THEREOF, TRUSTOR SHALL BE DEEMED IN DEFAULT AND AN ORDER AND/OR JUDGMENT MAY BE ENTERED BY BENEFICIARY AGAINST TRUSTOR AS DEMANDED OR PRAYED FOR IN SUCH SUMMONS, COMPLAINT, PROCESS OR PAPERS. THE EXCLUSIVE CHOICE OF FORUM SET FORTH IN THIS SECTION SHALL NOT BE DEEMED TO PRECLUDE THE ENFORCEMENT BY BENEFICIARY OF ANY JUDGMENT OBTAINED IN ANY OTHER FORUM OR THE TAKING BY BENEFICIARY OF ANY ACTION TO ENFORCE THE SAME IN ANY OTHER APPROPRIATE JURISDICTION, AND TRUSTOR HEREBY WAIVES THE RIGHT, IF ANY, TO COLLATERALLY ATTACK ANY SUCH JUDGMENT OR ACTION.

SECTION 32. TRUSTEE PROVISIONS.

(a) *Acceptance by Trustee.* Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Unless required by applicable Utah law, Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceedings in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

(b) *Rights and Duties.* It shall be no part of the duty of Trustee to see to any recording, filing or registration of this Deed of Trust or any other instrument in addition or supplemental hereto, or to give any notice thereof, or to see to the payment of or be under any duty in respect of any tax or assessment or other governmental charge which may be levied or assessed on the Property, or any part thereof, or against Trustee, or to see to the performance or observance by Trustor of any of the covenants and agreements contained herein. Trustee shall not be responsible for the execution, acknowledgment or validity of this Deed of Trust or of any instrument in addition or supplemental hereto or for the sufficiency of the security purported to be created hereby, and makes no representation in respect thereof or in respect of the rights of Beneficiary. Trustee shall have the right to advice of counsel upon any matters arising hereunder and shall be fully protected in relying as to legal matters on the advice of counsel. Trustee shall not incur any personal liability hereunder except for its own gross negligence or willful misconduct and Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by Trustee hereunder and believed by Trustee in good faith to be genuine.

(c) *Subrogation to Existing Liens; Vendor's Lien.* To the extent that proceeds of the Note are used to pay Indebtedness secured by any outstanding lien, security interest, charge or prior encumbrance against the Property, such proceeds have been advanced by Beneficiary at Trustee's request, and Beneficiary shall be subrogated to any and all rights, security interests and liens owned by any owner or holder of such outstanding liens, security interests, charges or encumbrances, however remote, irrespective of whether said liens, security interests, charges or encumbrances are released, and all of the same are recognized as valid and subsisting and are renewed and continued and merged herein to secure the Indebtedness, but the terms and provisions of this Deed of Trust shall govern and control the manner and terms of enforcement of the liens, security interests, charges and encumbrances to which Beneficiary is subrogated hereunder. It is expressly understood that, in consideration of the payment of such indebtedness by Beneficiary, Trustor hereby waives and releases all demands and causes of action for offsets and payments in connection with the said indebtedness. Subject to applicable Utah law, if all or any portion of the proceeds of the Loan evidenced by the Note or of any other secured indebtedness has been advanced for the purpose of paying the purchase price for all or a part of the Property, no vendor's lien is waived; and Beneficiary shall have, and is hereby granted, a vendor's lien on the Property as cumulative additional security for the secured indebtedness. To the extent permitted by applicable law, Beneficiary may foreclose under this Deed of Trust or under the vendor's lien without waiving the other or may foreclose under both.

(d) *Substitute Trustee.* Trustee may resign by an instrument in writing addressed to Beneficiary, or Trustee may be removed at any time with or without cause by an instrument in writing executed by Beneficiary. In case of the death, resignation, removal or disqualification of Trustee, or if for any reason Beneficiary shall deem it desirable to appoint a substitute or successor trustee to act instead of the herein named trustee or any substitute or successor trustee, then Beneficiary shall have the right and is hereby authorized and empowered to appoint a successor trustee, or a substitute trustee, without other formality than appointment and designation in writing executed by Beneficiary, and recorded as required by applicable law, and the authority hereby conferred shall extend to the appointment of other successor and substitute trustees successively until the Indebtedness secured hereby has been paid in full, or until the

Property is fully and finally sold hereunder. In the event that the Indebtedness is owned by more than one person or entity, the holder or holders of not less than a majority in amount of such indebtedness shall have the right and authority to make or otherwise provide for the appointment of a successor or substitute trustee as provided for in the preceding sentence or to remove Trustee as provided in the first sentence of this Section 32(d). Such appointment and designation by Beneficiary, or by the holder or holders of not less than a majority of the Indebtedness secured hereby, shall be full evidence of the right and authority to make the same and of all facts therein recited. If Beneficiary is a corporation or association or trust and such appointment is executed in its behalf by an officer or trustee of such corporation or association or trust, such appointment shall be conclusively presumed to be executed with authority and shall be valid and sufficient without proof of any action by the board of directors or any superior officer of the corporation or association or trust. Upon the making and recording of any such appointment and designation, all of the estate and title of Trustee in the Property shall vest in the named successor or substitute trustee, and it shall thereupon succeed to and shall hold, possess and execute, all of the rights, powers, privileges, immunities and duties herein conferred upon Trustee; but, nevertheless, upon the written request of Beneficiary or of the successor or substitute trustee, the trustee ceasing to act shall execute and deliver an instrument transferring to such successor or substitute trustee all of the estate and title in the Property of the trustee so ceasing to act, together with all the rights, powers, privileges, immunities and duties herein conferred upon the Trustee, and shall duly assign, transfer and deliver any of the properties and moneys held by said trustee hereunder to said successor or substitute trustee. All references herein to "Trustee" shall be deemed to refer to Trustee (including any successor substitute appointed and designated as herein provided) from time to time acting hereunder.

(e) *No Liability of Trustee.* TRUSTEE SHALL NOT BE LIABLE FOR ANY ERROR OF JUDGMENT OR ACT DONE BY TRUSTEE IN GOOD FAITH, OR BE OTHERWISE RESPONSIBLE OR ACCOUNTABLE UNDER ANY CIRCUMSTANCES WHATSOEVER (INCLUDING TRUSTEE'S NEGLIGENCE), EXCEPT FOR TRUSTEE'S GROSS NEGLIGENCE OR MISCONDUCT. Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by it hereunder, believed by it in good faith to be genuine. 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 law), and Trustee shall be under no liability for interest on any moneys received by it hereunder. Trustee hereby ratifies and confirms any and all acts which the herein-named Trustee or its successor or successors, substitute or substitutes, in this trustee, shall do lawfully by virtue hereof.

SECTION 33. STATE SPECIFIC PROVISIONS.

Exhibit C attached hereto contains state specific provisions and is hereby made a part of this Deed of Trust. To the extent of any conflict between the terms and provisions of Exhibit C and the terms and provisions of this Deed of Trust, the terms and provisions of Exhibit C shall govern and control the rights and obligations of the parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK—
SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

TRUSTOR:

GRAYBUL DRY CREEK, LLC, a Delaware limited liability company

By: GrayBul Dry Creek, LP, a Delaware limited partnership, its sole member

By: GrayBul Dry Creek GP, LLC, a Delaware limited liability company, its general partner

By: Graycliff Capital Partners, LLC, a Delaware limited liability company, its manager

By: Paul M. Aiesi
Name: Paul M. Aiesi
Title: Manager

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 South Carolina
County of Greenville)

On May 18, 2022, before me, Julie H. Strausbaugh a notary public, personally appeared Paul M. Aiesi, 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 South Carolina that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Julie H. Strausbaugh
My Commission Expires:
August 22, 2024

(Seal)

[Signature Page to Deed of Trust]

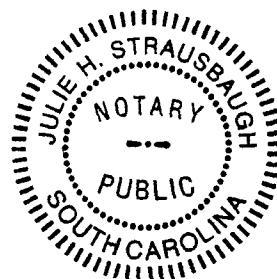


EXHIBIT "A"
LEGAL DESCRIPTION

Parcel 1:

Lot 1, Dry Creek Ridge, according to the official plat thereof, filed in Book "2013P" of Plats, at Page 194 of the Official Records of the Salt Lake County Recorder.

Parcel 2:

Lot 2, Dry Creek Ridge, according to the official plat thereof, filed in Book "2013P" of Plats, at Page 194 of the Official Records of the Salt Lake County Recorder.

Parcel 3:

Together with a non-exclusive easement for access for ingress and egress only as granted in that certain Access Easement Agreement, recorded April 22, 2016, as Entry No. 12264478, in Book 10423, at page 4831, of official records. Said easement is subject to the terms and conditions of said Access Easement Agreement.

EXHIBIT "B"
PERMITTED ENCUMBRANCES

TITLE EXCEPTIONS

1. The lien of all general real and personal property taxes for the year 2022 and thereafter, not yet due or payable.

(Tax District No. ABI)

Tax Parcel No. 28-07-376-007, (Parcel 1)

Tax Parcel No. 28-07-377-004, (Parcel 2)

2. The Land lies within the boundaries of Sandy City and South Valley Sewer District, and is subject to any and all charges and assessments after the date hereof.
3. Water rights, claims or title to water, whether or not the matters are shown by the Public Records.
4. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records.
5. Notice of Adoption of the Sandy TOD Community Development Project Area Plan, recorded March 14, 2014, as Entry No. 11818434, in Book 10217, at Page 1904 of the Official Records.
6. Easements, restrictions, recitals, notes, and other matters shown and set forth on the recorded plat of said subdivision.
7. Any existing utility easements which may be located on that portion of the Land described in the Ordinance recorded June 19, 1978, as Entry No. 3125056, in Book 4692, at Page 248 of the Official Records, and in the Ordinance recorded September 6, 1978, as Entry No. 3164418, in Book 4735, at Page 500 of the Official Records.
8. A right of way for Dry Creek, and any facilities appurtenant thereto, including but not limited to, water pipelines and ditches, as the same may be found to intersect the herein described Land, together with any rights or asserted rights in and to said Dry Creek or pertaining to the use and maintenance of said Dry Creek.
9. Easement and rights incidental thereto, as granted in a document:

Granted to: South Valley Sewer District

Purpose: to construct, maintain, operate, repair, inspect, protect, install, remove and replace sewer pipelines, valves, valve boxes and other sewer transmission and distribution structures and facilities.

Recording Date: August 27, 2013

Recording No: 11713350, Book 10172, Page 5948.

10. Easement and rights incidental thereto, as granted in a document:

Granted to: Pacificorp

Purpose: removing any and all overhead electric power distribution and communication lines and accessories and appurtenance and the installation, construction, reconstruction, operation, maintenance, repair, replacement, and removal of underground electric power distribution and communication lines and all reasonably necessary accessories and appurtenances thereto

Recording Date: September 12, 2013

Recording No: 11722907, Book 10176, Page 8345.

11. Easement and rights incidental thereto, as granted in a document:

Granted to: Deseret Memorial, Inc.

Purpose: Use, operation, inspection, repair, maintenance, removal and replacement of an Irrigation

Recording Date: February 27, 2018

Recording No: 2724084, Book 10650, Page 7262.

12. Any rights, easements, interests, claims or adverse circumstances which may exist or arise by reason of the following matters shown on and disclosed by that certain ALTA/NSPS Land Title Survey, dated April 21, 2022, prepared by Ensign Engineering, as Project No. 8007C, certified by Patrick M. Harris, License No.286882:

- a. Encroachment of 4 buildings on to Flood Zone
- b. Multiple encroachments of stairs onto roadway rights of way.
- c. Encroachment of parking improvements off Dry Creek Ridge Lane onto property on Southeast.
- d. Sidewalk, curb & Gutter locations running on and off property.

13. Terms, conditions and easements contained in that certain Access Easement Agreement recorded April 22, 2016, as Entry No. 12264478, in Book 10423, at Page 4831 of the Official Records.

An Assignment of Access Easement Agreement recorded February 21, 2018, as Entry No. 12719973, in Book 10648, at Page 7788 of the Official Records.

EXHIBIT "C"
State Specific Provisions

1. *Remedies.*

- a. Beneficiary shall have all rights and remedies as provided in *Utah Code* Title 57 or other provisions of *Utah Code*.
- b. In the event of any amendment to the provisions of *Utah Code* Title 57 or other provisions of *Utah Code* referenced in this Deed of Trust, this Deed of Trust shall, at the sole election of Beneficiary, be deemed amended to be consistent with such amendments or Beneficiary may elect not to give effect to such deemed amendments hereto if permitted by applicable law; provided, that any election of Beneficiary pursuant to this paragraph shall not expand the scope of Beneficiary's rights in the Property.
- c. Trustor agrees to pay any deficiency arising from any cause, to which Beneficiary may be entitled after applications of the proceeds of any trustee's sale, and Beneficiary may commence suit to collect such deficiency in accordance with *Utah Code* § 57-1-32 or other applicable law.

2. *Other Rights.* If Trustor, Trustor's successor in interest or any other person having a subordinate lien or encumbrance of record on the Property, reinstates this Deed of Trust and the Loan within three months of the recordation of a notice of default in accordance with *Utah Code* § 57-1-31(1), such party shall pay to Beneficiary the reasonable cancellation fee contemplated by *Utah Code* § 57-1-31(2), as determined by Beneficiary, in accordance with its then current policies and procedures.
3. *Mechanic's Liens.* Trustor shall timely comply with all requirements of *Utah Code* § 38-1a-101 *et seq.* with regard to filings and notices. Trustor shall provide to Beneficiary copies of all notices related to mechanics or materialmen liens filed by any party with respect to the Property.
4. **UTAH STATUTE OF FRAUDS – NOTICE TO TRUSTOR.** PURSUANT TO UTAH CODE. ANN. § 25-5-4, TRUSTOR IS HEREBY NOTIFIED THAT THE WRITTEN LOAN DOCUMENTS AND OTHER RELATED DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.