

This Instrument Prepared By
And After Recording Return To:
Douglas Miller
Senior Counsel – Real Estate
RGA Reinsurance Company
c/o RGA Mortgage Loan Servicing
16600 Swingley Ridge Road
Chesterfield, Missouri 63017

APN: 16-06-128-012-0000

**DEED OF TRUST, SECURITY AGREEMENT
AND FIXTURE FILING**

(Utah)

(Loan No. 73101507)

THIS DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING (“**Deed of Trust**”) is made this 7 day of February, 2024, by **BV LOTUS REPUBLIC, LLC**, an Idaho limited liability company, whose address is 2194 Snake River Parkway, Suite 300, Idaho Falls, Idaho 83402 (the “**Trustor**”), to Fidelity National Title Insurance Company, whose address is 170 South Main Street, Suite 135, Salt Lake City, Utah 84101 (the “**Trustee**”), for the benefit of **RGA LIFE AND ANNUITY INSURANCE COMPANY**, a Missouri corporation, whose address is c/o RGA Mortgage Loan Servicing, 16600 Swingley Ridge Road, Chesterfield, Missouri 63017 (the “**Beneficiary**”).

WITNESSETH

WHEREAS, Trustor is indebted to Beneficiary in the original principal amount of Fifteen Million Dollars (\$15,000,000.00), together with interest thereon (the “**Loan**”), which Loan is evidenced by (among other things) that certain Loan Agreement dated as of the date hereof between Trustor and Beneficiary (the “**Loan Agreement**”) and the terms of that certain promissory note dated as of the date hereof payable to the order of Beneficiary (the “**Note**”), and Trustor has agreed to repay the Loan in lawful money of the United States with interest thereon at the rate of six and 50/100 percent (6.50%) per annum according to the terms of the Loan Agreement and the Note, with the balance of the principal sum and interest accrued thereon, maturing on March 1, 2031. Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Loan Agreement.

WHEREAS, Beneficiary, as a condition precedent to the extension of credit and the making of the Loan has required that Trustor provide Beneficiary with security for the repayment of the Loan as well as

for the performance, observance and discharge by Trustor of various terms, covenants, conditions and agreements made by Trustor to, with, in favor of and for the benefit of Beneficiary with respect to the indebtedness evidenced by the Note and as provided in the Loan Agreement and any and all other documents and agreements entered into in connection with and as security for the Note (collectively, the "Loan Documents").

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration in hand paid, the receipt whereof is hereby acknowledged, and the further consideration, uses, purposes and trusts herein set forth and declared, Trustor has granted, bargained sold and conveyed, and by these presents does hereby grant, bargain, sell and convey unto said Trustee, its successors and assigns, for the benefit of Beneficiary, with power of sale, IN TRUST, FOREVER, all of the following described real estate known and numbered as 25 South 300 East, with all buildings and improvements thereon and hereafter placed thereon, situated in the City of Salt Lake City, County of Salt Lake, and State of Utah, and being more particularly described as follows:

SEE EXHIBIT A ATTACHED HERETO
AND INCORPORATED HEREIN BY REFERENCE

Together with all easements, rights of way, gores of real estate, streets ways, alleys, passages, Water Rights (as hereinafter defined), and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances to the above described property belonging, or in anywise appertaining, to Trustor or such real estate and other property, including any after-acquired title, franchises, minerals, licenses or easements, and also together with all right, title and interest of Trustor, from time to time, in and to any and all buildings, and all rents, issues and profits thereof, real estate fixtures, equipment and improvements, thereon or which may hereafter be placed thereon or attached thereto, including, but not limited to, any equity which may be acquired by Trustor in any such fixtures or equipment as a result of the making of installment payments on account of the purchase of the same, and all the interior improvements and fixtures, movable or immovable of every kind and description in and upon said property or which may hereafter be placed in or upon the same or used in connection therewith, all of which property, together with any and all additions thereto and replacements thereof, shall be deemed to be fixtures and an accession to the freehold, and a part of the realty as between the parties hereto and all persons claiming by, through or under them, and shall be deemed a portion of the security for the indebtedness evidenced by the Note and secured by this Deed of Trust and shall hereafter be referred to as the "**Real Estate**," the specific enumerations herein are not to be construed as limiting the general. As used herein, "**Water Rights**" means all sewer rights, waters, water courses, water rights and powers belonging and/or appertaining to the property described in Exhibit A hereto.

AND Trustor does hereby irrevocably grant and convey unto Beneficiary a continuing security interest in all of Trustor's right, title and interest in and to each of the following, whether now owned or in existence or hereafter acquired or arising: (i) machinery, equipment, fixtures, materials, fittings, appliances, furniture and articles of real, personal or mixed property of every kind and nature whatsoever used or usable in the operation of or related to the Real Estate, including, but not limited to, and to the extent not classified as real estate fixtures for purposes of the definition of Real Estate set forth above, all heating, ventilating, air conditioning, plumbing and lighting systems and equipment, ranges, refrigerators, dishwashers, food and beverage appliances, shades, drapes, mirrors, carpeting, linoleum, tables, chairs, beds, dressers, sofas, sprinkling systems, fire prevention and/or fire-extinguishing apparatus, all gas, electrical and communications systems and equipment, and all cleaning, laundry, lawn and other maintenance systems and equipment; (ii) all accounts, contract rights, general intangibles, payment intangibles, causes of action,

including commercial tort claims, instruments, documents, chattel paper, accounts receivables, supporting obligations, deposits, fees, charges and other payments, income, and cash receipts relating to the Real Estate; (iii) all substitutes and replacements for, accessories, accessions, attachments, and other additions to, and all raw materials, supplies, work in process, tools, parts, and equipment of any nature and description used or which might be used in connection with any of the foregoing; (iv) all products and proceeds of any of the foregoing, including, without limitation, all payments under any insurance policies and any indemnity, warranty or guaranty relating to any of the foregoing; (v) any management agreements, and related agreements and documents, and all general intangibles and other rights arising from or in connection with all such agreements (including any rights of first refusal, options to purchase or similar rights, and any right of first refusal arising under applicable bankruptcy law), and all products and proceeds thereof and additions thereto; (vi) all of Trustor's books and records pertaining to the Real Estate and/or any of the foregoing, including computer-readable memory and any computer hardware or software necessary to access and process such memory; and (vii) all other personal property which Trustor may now own or hereinafter acquire, wherever located, used or usable in the operation of or relating to the Real Estate (all of said property being hereafter collectively referred to as the "**Personal Property**"; and all of the Real Estate and all of the Personal Property shall be hereafter referred to collectively as the "**Property**").

TO HAVE AND TO HOLD THE PROPERTY IN TRUST, WITH THE POWER OF SALE AND RIGHT OF ENTRY AND POSSESSION, for the purpose of securing (a) the payment by Trustor of the indebtedness due under the Note and any and all modifications, renewals or extensions thereof and all indebtedness arising under the terms of this Deed of Trust or any of the other Loan Documents, including any and all amounts expended or advanced by Beneficiary to Trustor pursuant to the terms and provisions of the Loan Documents whether made to protect the security given for the repayment of the Note or otherwise (collectively, the "**Indebtedness**"), and (b) the performance of each stipulation, condition, covenant and agreement of Trustor herein contained or as provided in any of the other Loan Documents (collectively, the "**Obligations**").

For purposes of *Utah Code Annotated* Section 57-1-28, Trustor agrees that all advances for taxes, insurance, maintenance and protection, default interest, late charges, swap obligations and similar amounts, if any, owing from time to time under the Note, the Loan Agreement, this Deed of Trust, or any other Loan Document shall constitute a part of the Indebtedness and be entitled to the benefits of Beneficiary's lien upon the Property; and Beneficiary may add all such amounts to the principal balance of the Note, in its sole discretion; and Beneficiary may include such amounts in any credit which Beneficiary may make against its bid at a foreclosure sale of the Property pursuant to this Deed of Trust.

This Deed of Trust shall also constitute a security agreement and fixture filing, as those terms are defined in the Uniform Commercial Code of the State of Utah and of any other state(s) in which the Personal Property and/or Trustor is located (as such Uniform Commercial Code now or hereafter exists, the "**UCC**"), and since some of the property is or is to be become fixtures on the Real Estate, this Deed of Trust shall also be effective as a financing statement (as contemplated by *Utah Code Annotated* Section 70A-9a-502) filed as a fixture filing with respect to all fixtures included in the Property, executed by Trustor (as "**debtor**") in favor of Beneficiary (as "**secured party**"); information relating to the security interest created hereby may be obtained from Beneficiary, the secured party hereunder, at the address of Beneficiary set forth above.

AND WHEREAS TRUSTOR EXPRESSLY COVENANTS AND AGREES WITH BENEFICIARY AS FOLLOWS:

1. Prompt Payment. Trustor shall pay promptly pay when due all and singular the principal and interest, and other sums of money payable by virtue of the Note, the Loan Agreement and the other Loan Documents, on the days respectively that the same severally become due, and shall perform each and every stipulation, agreement, covenant, and condition contained herein or in any of the other Loan Documents.

2. Insurance. Trustor covenants and agrees to keep the buildings and improvements now standing or hereafter erected or otherwise placed in or upon the Real Estate and any and all apparatus, fixtures and appurtenances now or hereafter in or attached to said building(s) or improvements, insured against loss or damage by fire and windstorm, and to carry any other kinds of insurance in such amounts and for such periods as may be required by Beneficiary from time to time in accordance with the terms of the Loan Agreement. If Trustor fails to maintain the insurance coverage as required by the terms of the Loan Agreement or fails to provide evidence of such insurance, Beneficiary may purchase, at Trustor's expense, insurance to protect its interest. This insurance may, but need not, also protect Trustor's interest. Unless Trustor provides Beneficiary with evidence of insurance coverage as required by this Deed of Trust, Beneficiary may purchase, at Trustor's expense, insurance to protect its interest. This insurance may, but need not, also protect Trustor's interest. If the improvements become damaged, the coverage Beneficiary purchases may not pay any claim Trustor makes or any claim made against Trustor. Trustor may later cancel this coverage by providing Beneficiary with evidence that it has obtained property coverage elsewhere. The cost of the insurance purchased by Beneficiary may be added to the Indebtedness and thereafter the Default Rate shall apply to this added amount. The effective date of coverage may be the date any prior coverage lapsed, or the date Trustor failed to provide proof of coverage. The coverage Beneficiary obtains may be considerably more expensive than insurance Trustor might have obtained on its own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law. It is further agreed that upon foreclosure sale the title to all insurance policies held by or for Trustor shall pass to the foreclosure purchaser, and Trustee is empowered in the name of Trustor to execute any instrument, which may be necessary to vest the title to such insurance in such foreclosure purchaser. Trustor hereby assigns to Beneficiary all monies recoverable under each insurance policy required under this Section, and Beneficiary agrees that in the event of loss or damage to the Property or the improvements located thereon, the amount collected under any policy of insurance shall be made available for the restoration or repair of the Property only pursuant to the conditions set forth in the Loan Agreement.

3. Taxes. Trustor shall pay (at least ten (10) days before delinquency) all taxes (both general and special), assessments and governmental charges of any kind levied or assessed or that become a lien against the above described Property, or any part thereof and shall promptly furnish Beneficiary with the receipts or such other evidence of payments as required by Beneficiary under the terms of the Loan Agreement; Trustor shall not allow payment of any taxes, assessments or governmental charges by a third party with subrogation attaching, and not permit the Property, or any part thereof, to be sold or forfeited for any tax, assessment or governmental charge whatsoever. Any irregularity or defects in the levy or assessment of taxes, assessments and governmental charges paid by Beneficiary are hereby expressly waived and receipt by the proper officer shall be conclusive evidence both as to the amount and validity of such payments.

4. Deposits & Reserves.

4.1 If pursuant to the terms of the Loan Agreement Beneficiary requires Trustor to make monthly deposits for the payment of taxes and assessments which may be levied or assessed against the Property and insurance premiums due, and the amount held by Beneficiary for the payment of taxes, assessments and insurance premiums pursuant to this Section exceeds the amount due, such excess shall be held, disbursed or credited as required by and in compliance with the Loan Agreement and applicable law.

4.2 As additional security for the payment of the Indebtedness and the performance by Trustor of the Obligations, Trustor hereby pledges, assigns and grants to Beneficiary a continuing perfected security interest in and to, and a first-priority lien upon, all reserve and escrow funds deposited with Beneficiary (collectively, "reserve funds") and any account in which reserve funds may be held by Beneficiary. Trustor acknowledges and agrees that: (i) all reserve funds will be held by Beneficiary irrevocably to be applied as provided herein and the Loan Agreement and shall not be subject to the direction or control of Trustor; (ii) neither the reserve funds nor any account in which reserve funds are deposited shall constitute a trust fund; (iii) the reserve funds will be held in a non-interest bearing account and may be commingled with other monies held by Beneficiary; and (iv) Beneficiary or its designee shall have the sole right to make withdrawals from any reserve funds account and to disburse reserve funds in accordance with the terms hereof. In addition to the rights and remedies herein set forth, Beneficiary shall have all of the rights and remedies available to a secured party under the UCC, as if such rights and remedies were fully set forth herein.

4.3 Regardless of whether deposits for the payment of taxes and insurance premiums are required by Beneficiary under the terms of the Loan Agreement, the primary liability of Trustor for the payment of taxes, assessments and insurance premiums shall remain in full force and effect, although the provisions of the Loan Agreement shall govern as to deposits and payments from amounts held in escrow by Beneficiary.

5. Warranties of Title. Trustor hereby represents, warrants and covenants to Beneficiary, now and during the term of the Loan, that:

- i. Trustor has good and marketable title to the Real Estate in fee simple absolute, subject only to those exceptions specifically approved by Beneficiary as shown on the mortgagee's policy of title insurance for the Loan (the "Permitted Exceptions").
- ii. This Deed of Trust is, and will remain during the term of the Note, a valid and enforceable first lien and security interest in the Property, subject only to the Permitted Exceptions.
- iii. Trustor, for itself and its successors and assigns, hereby agrees to warrant and forever defend, all and singular, all of the Property and property interests granted and conveyed in trust pursuant to this Deed of Trust, against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

The representations, warranties and covenants above shall survive foreclosure of this Deed of Trust and shall inure to the benefit of and be enforceable by any person who may acquire title to the Property pursuant to any such foreclosure or deed in lieu of foreclosure.

6. No Liens. Trustor shall pay, when due, (i) all encumbrances, charges or debts and/or interest thereon, which constitute liens or charges upon the Property or any part thereof; and (ii) all costs, fees and expenses of Trustee, including cost of evidence of title, reasonable attorneys' fees incurred by Beneficiary in enforcing the provisions of this Deed of Trust, Trustee's fees and publication fees in connection with sale, whether completed or not. Trustor shall promptly pay and settle or cause to be removed any claim and shall appear in and defend any action or proceeding affecting the Property covered by this Deed of Trust, the interest of Beneficiary hereunder; and Trustor shall pay all costs and expenses, including cost of evidence of title and attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary and/or Trustee may appear.

7. Due on Sale. Trustor acknowledges that Beneficiary has examined and relied on the creditworthiness and experience of Trustor in owning and operating properties such as the Property in agreeing to make the Loan, and that Beneficiary will continue to rely on Trustor's ownership of the Property

as a means of maintaining the value of the Property as security for repayment of the Indebtedness. Trustor acknowledges that Beneficiary has a valid interest in maintaining the value of the Property so as to ensure that, should Trustor default in the repayment of the Indebtedness, Beneficiary can recover the Indebtedness by a sale of the Property. Except as expressly permitted in the Loan Agreement, (a) upon the direct or indirect voluntary or involuntary sale, exchange, conveyance, encumbrance, transfer, alienation, removal or other disposition of (i) the Property, or any part thereof, or any interest therein, or (ii) all or part of the legal or beneficial ownership interest in Trustor, or (b) if the title to the Property or any part thereof shall become vested in any party other than Trustor in any manner whatsoever, the Note and Indebtedness and Obligations secured by this Deed of Trust, irrespective of the maturity dates expressed therein, at the option of the holder hereof, and without demand or notice, shall immediately become due and payable, and Beneficiary and/or Trustee shall be entitled to any remedies available to them under the Note, this Deed of Trust, or any other document executed in connection with the Note or this Deed of Trust, at law or in equity.

8. **Default; Remedies.** In the event of a Default under this Deed of Trust, or if a Default or Event of Default has occurred or exists under the Loan Agreement or any of the other Loan Documents, which default continues beyond the expiration of any applicable notice and cure period (and which Default may include and/or be the result of a violation or breach of the terms of this Deed of Trust), Beneficiary shall, without notice or demand upon Trustor, and without releasing Trustor from any obligation hereunder, be entitled to pursue all rights and remedies provided herein, in the Loan Agreement or elsewhere in the Loan Documents, or at law or equity and may, at Beneficiary's option:

- (i) Make or do the same in such manner and to such extent as may be deemed necessary by Beneficiary to protect the Property covered by this Deed of Trust and enter upon the Real Estate or any other premises where the Property is located to inspect, repair, protect and care for the Property and advance such sums of money for that purpose as Beneficiary may be deemed necessary or advisable.
- (ii) Commence, appear in or defend any action or proceeding affecting or purporting to affect the Property, or the lien or validity of this Deed of Trust, whether brought by or against Trustor or Beneficiary;
- (iii) Pay, purchase, contest or compromise any claim, debt, lien, charge or encumbrance which adversely affects the Property covered by this Deed of Trust or the lien or validity of this Deed of Trust, the interests of Beneficiary or the rights, powers and duties of Trustee hereunder.
- (iv) Declare the unpaid principal balance of the Note to be immediately due and payable, together with all accrued interest thereon, all costs of collection (including reasonable attorneys' fees and expenses) and all other charges due and payable by Trustor under the Note or any other Loan Document. Except to the extent required by law, no notice of acceleration shall be required in order for Beneficiary to exercise its option to accelerate the Indebtedness in the event of a default.
- (v) To the extent permitted by law, enter upon the Real Estate and take exclusive possession of the Real Estate and of all books, records and accounts, all without notice and without being guilty of trespass, but subject to the rights of tenants in possession under the lease(s) in effect with respect to the Property. If, without Beneficiary's prior written permission, Trustor remains in possession after default, Beneficiary may, without notice to Trustor, invoke any and all legal remedies to dispossess Trustor.

- (vi) Hold, lease, manage, operate or otherwise use or permit the use of the Property in such manner and for such time as, under the circumstances, Beneficiary may deem to be prudent and apply all rents, income and profits thereof in accordance with the provisions of the Assignment of Leases and Rents dated of even date herewith.
- (vii) Pursue the remedies of a secured party under the Uniform Commercial Code of the State(s) in which Personal Property or Trustor is located, as applicable (as such Code now or hereafter exists and regardless of whether the Code has been enacted in the jurisdiction where rights or remedies are asserted), the right to take possession of the Property and enter the premises on which the Personal Property or any part thereof may be situated and remove the same therefrom, the right to resell the Personal Property at any place Beneficiary elects, the right to require Trustor to make the Personal Property available to Beneficiary at a place designated by Beneficiary and reasonably convenient to both parties, and without removal, the right to render the Personal Property unusable and to dispose of the Personal Property on the Real Estate; provided Beneficiary shall send Trustor at least five (5) days' prior written notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or any other intended disposition is to be made, by United States mail, postage prepaid, to the address set forth above, and Beneficiary may bid and purchase Personal Property at public or private sale.
- (viii) Apply to a court of competent jurisdiction for the appointment of a receiver of the Property, *ex parte* without notice to Trustor, whether or not the value of the Property exceeds the indebtedness secured hereby, whether or not waste or deterioration of the Property has occurred, without regard to the solvency or insolvency of Trustor or any Guarantor and whether or not other arguments based on equity would justify the appointment. **Trustor irrevocably, with knowledge and for valuable consideration, consents to the appointment of a receiver, with or without notice, which notice is hereby expressly waived.** In connection with any action brought by Beneficiary for appointment of a receiver as allowed herein, Trustor hereby consents to and confesses to the jurisdiction and venue of any competent court within the State of Utah. Any such receiver shall have all the rights and powers customarily given to receivers in Utah, including the rights and powers granted to Beneficiary by this Deed of Trust, the power to maintain, lease and operate the Property on terms approved by the court, and the power to collect all rents, income and profits generated by the Property and apply them to the indebtedness secured hereby or otherwise as the court may direct. Any money advanced by Beneficiary in connection with any such receivership shall be a demand obligation owing by Trustor to Beneficiary, shall bear interest from the date of such advance at the Default Rate, shall be added to the principal balance of the Note and shall become part of the indebtedness evidenced thereby. Once appointed, a receiver may at Beneficiary's option remain in place until the indebtedness has been paid in full, including the time covered by foreclosure proceedings and the period of redemption, if any.

9. Foreclosure. Without limiting the foregoing, in case of a default in the payment of the Note or any installment thereof, or any part thereof, or in the payment of the interest thereon, according to the tenor and effect of the Note, or in the payment of any prior encumbrance, principal or interest, if any,

or in case default shall be made in or in case of violation or breach of any of the terms, conditions, covenants or agreements contained herein or in any other Loan Document, which continues beyond the applicable notice and cure period, if any, or in the event any warranty or representation herein or in any other Loan Document is false, Beneficiary or the legal holder of the Indebtedness secured hereby may declare a violation of any of the conditions, covenants or agreements herein contained and elect to foreclose through Trustee by delivering to Trustee a written statement of default or breach and causing Trustee to execute and record a notice of default and election to cause Trustor's interest in the Property to be sold in accordance with *Utah Code Annotated Section 57-1-24* or other applicable law. After the lapse of such time as may then be required by *Utah Code Annotated Section 57-1-24* or other applicable law following the recordation of the notice of default, and notice of sale having been given as then required by *Utah Code Annotated Section 57-1-25* and *Section 57-1-26* or other applicable law, Trustee, without demand on Trustor, shall sell the Property on the date and at the time and place designated in the notice of sale, either as a whole or in separate parcels, and in such order as Beneficiary may determine (but subject to Trustor's statutory right under *Utah Code Annotated Section 57-1-27* to direct the order in which the 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 deemed expedient, postpone the sale from time to time until it shall be completed and, in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale; *however*, if the sale is postponed for longer than forty five (45) days beyond the date designated in the notice of sale, then notice of the time, date, and place of sale shall be given in the same manner as the original notice of sale as required by *Utah Code Annotated Section 57-1-27*. Trustee shall execute and deliver to the purchaser a Trustee's Deed, in accordance with *Utah Code Annotated Section 57-1-28*, conveying the Property so sold, but without any covenant of warranty, express or implied. The recitals in Trustee's 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 in the following order: (1) the costs, expenses and fees of taking possession of the Property and upholding, operating, maintaining, using, leasing, repairing and selling (by Trustee) the same prior to title passing from Trustor and of otherwise enforcing Beneficiary's rights and remedies hereunder and under the Loan Documents, including, but not limited to Trustee's fees, legal fees and disbursements, title charges and transfer taxes, and payment of all expenses, liabilities and advances of Trustee; (2) all sums expended by, or payable to, Beneficiary under the terms of the Loan Documents and not yet repaid, together with interest on such sums at the Default Rate; (3) the unpaid principal due under said Note; (4) all past due and accrued interest on the indebtedness evidenced by the Note, including interest at the Default Rate; and (5) the remainder of such proceeds of sale, if any, shall be paid to said Trustor or those entitled to receive said remainder; alternatively, Trustee may, in its sole discretion, deposit the balance of the proceeds with the clerk of the district court in the county in which the sale took place, in accordance with *Utah Code Annotated Section 57-1-29*. Such sale or sales and such deed or deeds so made shall be a perpetual bar, both in law and equity against Trustor, his, her or their heirs or assigns, and all other persons claiming said Real Estate, or any part thereof, by, from, through or under Trustor or any of them. The holder or holders of the Note, including Beneficiary, shall have equal rights to become the purchaser at said sale, being the highest bidder, and in the event of such purchase shall be allowed to, in lieu of paying cash therefor, make settlement for the purchase price by crediting upon the Indebtedness the net sales price after deducting therefrom the expenses from the sale and the costs of the action and any other sums which Beneficiary and/or Trustee are authorized to deduct under this Deed of Trust. Notwithstanding anything to the contrary contained herein, this instrument shall be effective as a mortgage as well as a deed of trust and may be foreclosed in accordance with *Utah Code Annotated Section 57-1-23*, as to any of the Property in any manner permitted by Utah law. Nothing herein pertaining to foreclosure proceedings or specifying particular actions to be taken by Beneficiary or Trustee shall be deemed to contradict or add to the

requirements and procedures of Utah law and any such conflict or inconsistency shall be resolved in favor of Utah law applicable at the time of foreclosure.

If there is a foreclosure sale hereunder and upon expiration of the redemption period, if Trustor or Trustor's representatives, successors or assigns, or any other person claiming any interest in the Property by, through or under Trustor are occupying or using the Property, or any part thereof, each and all shall, at the option of Beneficiary or any purchaser at such sale, immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy at sufferance at a reasonable rental per day based upon the value of the Property occupied or used.

10. Uniform Commercial Code; Fixture Filing. This Deed of Trust constitutes a security agreement and fixture filing within the meaning of the UCC in any state(s) with respect to any part of the Property which might now or hereafter be characterized by law as personal property or fixtures or where Trustor is located, and this Deed of Trust being effective as a financing statement filed as a fixture filing with respect to all fixtures on the Property; and in the event of any default under this Deed of Trust which continues beyond the applicable notice and cure period, if any, Beneficiary shall have all the rights and remedies of a secured party under the UCC as in effect from time to time as well as all other rights and remedies available hereunder or under this Deed of Trust at law or in equity. Trustor shall do any and all acts all in a timely and proper manner, requested by Beneficiary to protect and preserve the security interests granted hereunder including, without limitation, the authentication, execution, communication and delivery of one or more financing statements and continuation statements pursuant to the UCC, in a form satisfactory to Beneficiary, and the payment of the cost of filing said statements in all public offices requested by Beneficiary; and do any and all acts as shall hereafter be reasonably requested by Beneficiary to effectuate the intent hereof and to render all of the Real Estate and Personal Property available for the security and satisfaction of the Indebtedness and to enable Trustee or Beneficiary to sell and/or convey the Property pursuant to the terms hereof. Trustor expressly authorizes Beneficiary to file and/or record one or more financing statements and continuation statements in jurisdictions deemed appropriate by Beneficiary in its reasonable judgment in order to create, perfect and preserve the security interest of Beneficiary in the Personal Property and fixtures. Trustor hereby agrees that such financing statements filed by Beneficiary may describe the Personal Property in any way Trustor may determine appropriate, including, without limitation, as "all assets" of Trustor or words of similar effect. Trustor will from time to time within ten (10) days after request by Beneficiary, execute, acknowledge and deliver any financing statement, continuation statement or other document that Beneficiary might request in order to perfect, protect, preserve, continue, extend or maintain the security interest created by and the priority of this Deed of Trust and will, on demand, pay any expenses incurred by Beneficiary in the preparation, execution and filing of any such documents.

The disposition of any Personal Property by Beneficiary in the pursuit of its remedies under the UCC may be conducted by an employee or agent of Beneficiary and Beneficiary may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to the sale held by Beneficiary, including the sending of notices and the conduct of the sale, but in the name of an on behalf of Beneficiary. Any person, including Beneficiary, shall be eligible to purchase any part or all of the Personal Property at such disposition. Any sale made pursuant to the provisions of this Section shall be deemed to have been conducted in a commercially reasonable manner if held contemporaneously with the sale under power of sale as provided hereunder upon giving the notice with respect to the sale of Personal Property as is required hereunder. It shall not be necessary that Beneficiary take possession of the Personal Property prior to the time that any sale pursuant to the provisions of this Section is conducted and it shall not be necessary that the Personal Property be present at the location of such sale.

11. Cumulative Remedies; Waiver. Every right and remedy provided in this Deed of Trust shall be cumulative of every other right or remedy of Beneficiary, whether herein or by law conferred, and

may be enforced concurrently therewith. No acceptance of the performance of any obligations as to which Trustor shall be in default or waiver of performance of any obligation shall be construed as a waiver of the same or any other default then, theretofore or thereafter existing. Acceptance by Beneficiary of any amount in payment of the Indebtedness after the date when such amount is due, or Beneficiary's failure to exercise of any right given hereunder or under any of the Loan Documents, shall not constitute a waiver of the right either to require prompt payment, when due, of all other sums so secured or to declare default as herein provided for failure so to pay such sums or to perform any of the conditions or covenants set forth in the Loan Documents. No failure by Beneficiary to pursue or exercise any of its rights or remedies, or insist upon strict compliance with any term or provision of the Note, this Deed of Trust or any of the other Loan Documents, and no custom or practice at variance with the terms of the Note, this Deed of Trust or any other any of the other Loan Documents, shall constitute a waiver by Beneficiary of the right to demand strict compliance with the terms and provisions of the Note, this Deed of Trust or of the other Loan Documents. Any consent or approval given by Beneficiary hereunder shall not be deemed to waive or render unnecessary the consent or approval to, or of, any subsequent similar act. If a default occurs and continues beyond any applicable notice and cure period, then such default may not be subsequently cured by Trustor and shall be deemed to exist unless and until waived in writing by Beneficiary.

12. **Environmental Matters.** Trustor represents that it and the holders of easements, leases, licenses, occupancy agreements and any other rights relating to the use of all or any portion of the Property (collectively, "**Persons Responsible**"), are currently in compliance with, and covenants and agrees that it will manage and operate the Property and will cause each Person Responsible to occupy and use its demised portion of the Property in compliance with all applicable Environmental Laws (as defined in the Environmental Indemnity Agreement dated as of the date hereof given by Trustor to Beneficiary) regulating, without limitation, air pollution, soil and water pollution, and the use, generation, storage, treatment and removal, handling or disposal of Hazardous Substances (as defined in the Environmental Indemnity Agreement dated as of the date hereof given by Trustor to Beneficiary) or other materials, including, without limitation, raw materials, products, building components, supplies or wastes. Trustor further covenants and agrees that it shall not install or permit to be installed in the Property asbestos or any substance containing asbestos and deemed hazardous by or in violation of any Environmental Law respecting such material. Trustor shall send to Beneficiary, within five (5) days after receipt or completion thereof, any report, citation, notice or other writing including, without limitation, hazardous waste disposal manifests, by, to or from any governmental or quasi-governmental authority empowered to regulate or oversee any of the activities discussed in this Section, whether demonstrating compliance with applicable law, noticing noncompliance, requesting or requiring notice or action, commencing investigation or requesting Trustor to show cause why action is not required. After reasonable inquiry and investigation, Trustor is not aware of any Hazardous Substances on or in the Property whether contained in tanks or other containers, in structures or equipment, or incorporated in buildings. In the event that, through whatever means, Trustor or a third party discovers Hazardous Substances on the Property, Trustor shall remedy, rectify, rehabilitate, correct and remove from the Property and dispose of any such Hazardous Substances or other materials in a manner consistent with and in compliance with all applicable laws, rules, regulations and ordinances. Trustor shall take any and all action necessary, including but not limited to, bringing legal suit against, those Persons Responsible for the presence of the substance on site, or otherwise obligated by law to bear the cost of such remedy. Beneficiary shall be subrogated to Trustor's rights against any and all Persons Responsible; *provided, however,* Beneficiary shall in no event be obligated to remedy, rectify, rehabilitate, correct or remove and dispose of any Hazardous Substances nor shall Beneficiary be obligated to take any action against Persons Responsible for the foregoing activities. Trustor agrees to indemnify, defend with counsel acceptable to Beneficiary (at Trustor's sole cost), and hold Beneficiary harmless against any claim, response or other costs, damages, liability, loss or demand (including without limitation

reasonable attorney fees and costs incurred by Trustee or Beneficiary) arising out of any claimed violation by Trustor or any Person Responsible for any of the foregoing laws, regulations or ordinances or breach of any of the foregoing representations, covenants or agreements. Trustor grants to Beneficiary and its employees, agents, consultants and contractors, an irrevocable license and authorization to enter upon the Property (upon reasonable prior notice) and inspect the Property, and perform such tests (including without limitation soils and subsurface testing) as Beneficiary in its reasonable discretion deems necessary or desirable for the purpose of determining or verifying the presence or absence of Hazardous Substances on, under or about the Property, and verifying compliance with this Section by Trustor and the tenants and occupants of the Property. Beneficiary agrees not to undertake such inspections and tests unless Beneficiary has a reasonable good faith belief, based upon the receipt of information from an outside source, that Hazardous Substances may be present on, under or about the Property, or that a violation of the Environmental Laws may have occurred. If Beneficiary discovers the presence of any Hazardous Substances not previously disclosed to Beneficiary by Trustor, then Trustor shall pay Beneficiary's actual costs for such inspections and tests, upon demand. Beneficiary shall defend and indemnify Trustor against any losses, costs, expenses or liabilities incurred by Trustor as the result of any intentional act or gross negligence committed by Beneficiary or its authorized agents or employees as a result of any activities of Beneficiary or such employees or agents on or about the Property and pursuant to this license. Trustor specifically agrees that, notwithstanding any provision to the contrary in this Deed of Trust, this indemnification shall survive the reconveyance or release of this Deed of Trust, whether pursuant to payment in full of the Note or judicial or non-judicial foreclosure by Beneficiary under this Deed of Trust and that, if requested by Beneficiary, Trustor at any time shall execute a separate writing setting forth such indemnification. Notwithstanding anything in this Deed of Trust or other Loan Documents to the contrary, any obligation of Trustor to release, defend, indemnify or hold Beneficiary harmless shall not apply to any claims arising out of a breach or default by Beneficiary, the gross negligence or willful misconduct of Beneficiary, or for any claims from Hazardous Substances introduced by Beneficiary or Beneficiary's purchasers, successors or assigns after a foreclosure or a deed in lieu of such foreclosure of the Property. Notwithstanding anything to the contrary set forth herein or any of the Loan Documents, this Deed of Trust shall not secure the following obligations (the "**Unsecured Obligations**"): (i) any obligations evidenced by or arising under the Environmental Indemnity Agreement dated as of the date hereof, and (ii) any other obligations in this Deed of Trust or in any of the other Loan Documents to the extent that such other obligations relate specifically to the presence on the Property of Hazardous Substances and are the same or have the same effect as any of the obligations evidenced by or arising under the Environmental Indemnity Agreement dated as of the date hereof. Any breach or default with respect to the Unsecured Obligations shall constitute an event of default hereunder, notwithstanding the fact that such Unsecured Obligations are not secured by this Deed of Trust.

13. Assignment of Leases. Trustor does hereby assign, transfer and set over unto Beneficiary all leases, rents, revenues and income on and from the Property covered by this Deed of Trust. This assignment is intended by Trustor to create, and shall be construed to create, a present and absolute assignment to Beneficiary subject only to the terms and provisions hereof, and not as an assignment as security for the performance of the Indebtedness or any other indebtedness of Trustor. Trustor shall have a revocable license to collect and receive the rents (but not more than one (1) month prior to accrual), income and profits arising under said leases or from the Property and to retain, use and enjoy said rents, income and profits. Such license may be revoked by Beneficiary, without notice to Trustor, upon the occurrence of a default by Trustor in payment of the principal sum, interest and indebtedness secured hereby and by said Note or in the performance of any obligation, covenants or agreement herein or in said Note or other documents executed in connection therewith or in said leases contained on the part of Trustor to be performed, which has continued beyond any applicable notice and cure period. Unless and until the license

is so revoked, Trustor shall hold all rents, income and profits as a trust fund and agrees to apply said rents, income and profits to the payment of principal and interest due under the Note and of taxes, assessments, water rates, sewer rents, lien claims, and to operation and maintenance charges relating to the Property which are due and payable at the time of collection of the rents, income and profits before using the rents, income or profits for any other purpose. Upon default in the payment of any installment of principal or interest of the Note secured hereby or upon default in the performance of any of the conditions, covenants or agreements herein contained, or under any other document executed in connection with the Note or this Deed of Trust, which continues beyond any applicable notice and cure period, Beneficiary, through its employees or agents shall be entitled to immediate possession of said Property and shall have the right to control, manage and operate the same and collect the rents and revenue therefrom and, after the deduction of the expenses incidental thereto, including reasonable attorneys' fee, shall apply the rents and revenue derived from the Property to the payment of any indebtedness then due and secured hereby or incurred hereunder, in such manner as Beneficiary may elect, and after all causes of default shall have been remedied and after making such provisions for the next maturing obligations as Beneficiary shall deem advisable, said Property and any surplus remaining in the hands of Beneficiary shall be turned over to Trustor or to the party entitled thereto. This assignment of leases, rents, revenues and income shall be irrevocable and in addition to other remedies herein provided for in the event of default, but Beneficiary shall be under no liability (except to the extent arising out of Beneficiary's gross negligence or willful misconduct) for failure to take possession of the Property or by reason of its failure or inability to collect any rents, revenues or income herein assigned. This assignment shall apply to all rents, revenues and income hereinafter accruing from present leases and tenants, and from all leases and rentals hereinafter made by the present or any future owners of the Property. The power of entry and the powers incident thereto as in this Section provided for may be exercised as often as occasion therefor shall arise, and their exercise shall not suspend or modify any other right or remedy hereunder. Trustor further agrees that upon or after default under this Deed of Trust or the Note secured hereby, or in any other instrument executed in connection with the Note, which continues beyond any applicable notice and cure period, that Beneficiary may cause this assignment to be enforced, without regard to the adequacy of the security or the solvency of Trustor, by any one or more of the following methods or by any method listed above: (i) the appointment of a receiver, upon ex parte application, if appropriate; (ii) collecting such monies directly from the parties obligated for payment; and/or (iii) injunction. Beneficiary's non-enforcement of this assignment shall not be deemed a waiver of default.

14. Change in Law. If while the Note and this Deed of Trust is owned by a non-resident of the State in which the Property is situated any law is passed by such State imposing upon such non-resident holder any tax upon the Note or Deed of Trust or any liability to pay any part of the tax against the Property, or changing any of the laws for the taxation of mortgagees or debts secured hereby, Beneficiary may (if it so elects) upon ninety (90) days' written notice declare the Indebtedness due and payable.

15. Homestead Exemption. Trustor hereby fully and absolutely waives and releases all rights and claims Trustor may have in or to the Property as a homestead exemption, under and by virtue of any Utah law now existing or which may hereafter be passed in relation thereto. The indebtedness evidenced by the Note is made for business, commercial, investment or other similar purposes and not for personal, consumer, family, household, educational, agricultural or similar uses and the loan proceeds shall not be used for such non-commercial purposes.

16. Exculpatory Provisions. Except with respect to the Carveout Obligations and as expressly provided elsewhere in the Loan Documents, liability otherwise under this Deed of Trust shall be limited to the Property, and Trustor shall not be personally liable, whether by way of election of remedy, deficiency judgment, or otherwise for any monies due hereunder, whether principal, interest, attorneys' fees or other.

Notwithstanding anything herein to the contrary, Beneficiary's exculpation of Trustor from personal liability for the repayment of the Indebtedness shall be void without notice upon the occurrence of any Springing Recourse Event. Nothing in this Section, however, shall be deemed or construed to affect the validity of this Deed of Trust or of any of the other Loan Documents. To the extent any of the Carveout Obligations apply (or, if applicable, this Deed of Trust otherwise specifically contemplates personal liability of Trustor for the repayment of the Indebtedness), Trustor agrees to be personally liable for and pay any deficiency to which Beneficiary may be entitled after applications of the proceeds of any sale, and Beneficiary may commence suit to collect such deficiency in accordance with *Utah Code Annotated Section 57-1-32* or other applicable law. Trustor further waives, to the fullest extent permitted by applicable law, the rights, protections and benefits afforded to Trustor under *Utah Code Annotated Section 78B-5-802*.

17. **Prepayment Charge.** Trustor shall pay any prepayment charge payable pursuant to the terms of the Loan Agreement if all or any part of the Indebtedness is for any reason paid prior to the stated Maturity Date, even if a Default or Event of Default has occurred and Beneficiary has thereafter declared the Indebtedness immediately due and payable and whether or not such payment is made prior to or at any Trustee's sale. To the extent permitted by applicable law, such prepayment charge shall be included in the Indebtedness secured hereby and Trustor hereby authorizes Beneficiary to include such prepayment charge in any bid which Beneficiary submits in connection with Trustee's sale or any other sale in exercise of Beneficiary's remedies under this Deed of Trust or the other Loan Documents.

18. **Water Rights.**

A. Trustor shall diligently comply with all deadlines affecting the Water Rights imposed by law or regulation or any Governmental Authority, including but not limited to the Utah State Engineer or the Utah Division of Water Rights. As used in this Section, the term "**Governmental Authorities**" means the United States of America, the State of Utah, the Utah State Engineer or Utah Division of Water Rights, the County of Salt Lake, and any political subdivision, agency, department, commission, district, board, bureau or instrumentality of any of the foregoing, which now or hereafter has jurisdiction over Trustor or all or any portion of the Real Property.

B. Trustor shall diligently place to a beneficial use all of the water to which it has a right to divert and beneficially use under the Water Rights. To the extent Trustor cannot place any quantity of water under the Water Rights to a beneficial use, Trustor shall promptly file a nonuse application with the Utah Division of Water Rights and diligently defend the nonuse application and the Water Rights against any claim of forfeiture or abandonment.

C. Trustor shall promptly provide the Beneficiary with copies of any document relating to the Water Rights that is filed with the Utah State Engineer or Utah Division of Water Rights.

D. Trustor shall promptly pay any and all fees or assessments relating to the shares of stock in any irrigation company and shall promptly provide the Beneficiary with evidence of each such payment.

E. Trustor and its predecessors in interest have placed to a beneficial use all of the water to which it has a right to divert and beneficially use under the Water Rights sufficient to prevail against any claim of partial or complete forfeiture or abandonment of the Water Rights.

19. **Modifications.** It is agreed that: (i) if any modifications, extensions or renewals be made of the time or manner of payment of all or any part of the Indebtedness secured by this Deed of Trust; (ii) if any person liable for the payment of any of the Indebtedness secured hereby be released; (iii) if consent be given to the making of any map or plat of the Real Estate; (iv) if Beneficiary joins in any easement or restrictions be granted or created thereon; (v) if any subordination or other agreement affecting

this Deed of Trust be joined in by Beneficiary; or (vi) if any part of the Property be released from the lien hereof or the security interest granted hereunder be terminated and released; then in any such case it shall not alter or affect the lien or security interest created by this Deed of Trust whether in favor of any junior encumbrancer, or purchaser, or any person acquiring an interest in the Property or any part thereof or otherwise; it being the intention of the parties hereto to preserve this lien on the Property and all improvements that may be placed thereon hereafter, prior to any liens that may be placed thereon or fixed, given or imposed by law thereon, after the execution of this Deed of Trust and prior to the rights of any subsequent lienor, mortgagee, beneficiary or purchaser of all or any part of the Property, notwithstanding any such modifications, extensions, renewals, actions, events or releases.

20. Forebearance. Beneficiary's forbearance in pursuing or exercising one or more of its remedies shall not be deemed or construed to constitute a waiver of any default or any remedy, and no waiver by Beneficiary of any default, right or remedy on one occasion shall be construed as a waiver of that right or remedy on any subsequent occasion or as a waiver of any right or remedy thereafter existing. Beneficiary shall have the right at all times to enforce the provisions of the Note, this Deed of Trust or any of the other Loan Documents in strict accordance with the terms thereof. No failure by Beneficiary to pursue or exercise any of its rights or remedies, or insist upon strict compliance with any term or provision of the Note, this Deed of Trust or any of the other Loan Documents, and no custom or practice at variance with the terms of the Note, this Deed of Trust or any other any of the other Loan Documents, shall constitute a waiver by Beneficiary of the right to demand strict compliance with the terms and provisions of the Note, this Deed of Trust or of the other Loan Documents. Any consent or approval given by Beneficiary hereunder shall not be deemed to waive or render unnecessary the consent or approval to, or of, any subsequent similar act. If a default occurs and continues beyond any applicable notice and cure period, then such default may not be subsequently cured by Trustor and shall be deemed to exist unless and until waived in writing by Beneficiary.

21. Future Advances. The Indebtedness secured by this Deed of Trust is intended to include certain advances made by Beneficiary in the future whether such advances are obligatory or to be made at the option of Beneficiary. Such advances include any additional disbursements to Trustor and any obligations under agreements which specifically provide that such obligations are secured by this Deed of Trust. In addition, the indebtedness secured hereby shall include any amounts advanced to pay taxes, liens or other impositions of any kind or nature, to cure Trustor's defaults under the Loan Documents, or to pay the costs of collection and receivership. Accordingly, all such advances and obligations shall be equally secured with, and shall have the same priority as, the indebtedness evidenced by the Note, and shall be subject to all of the terms and provisions of this Deed of Trust. Without limiting the foregoing, Trustor shall repay, within ten (10) days after Beneficiary's demand therefor, all sums advanced or expended by Beneficiary under the provisions of this Deed of Trust, with interest thereon from the date of advancement until repaid at the Default Rate of interest then applicable under the Note secured hereby, all of which sums shall be secured hereunder and shall be payable forthwith.

22. Merger. There shall be no merger of this Deed of Trust or any other instrument securing the Note with the fee estate of the Property by reason of the fact that the same party holds or acquires, directly or indirectly, the Note secured hereby, this Deed of Trust or any other instrument securing the Note and is simultaneously the owner of the fee estate of the Real Estate or thereafter acquires the fee estate of the Real Estate, or by reason of the fact that the same party may hold or acquire, directly or indirectly, the fee estate of the Property and at the same time be the owner and holder of the Note, this Deed of Trust or any other instruments securing the Note or thereafter acquire the Note, this Deed of Trust or any other instrument securing the Note. Without limiting the foregoing provisions, there shall be no merger of any lease or leasehold estate with the fee estate in the Property unless and until all persons then having an

interest in such fee estate and all persons, including Beneficiary, then having an interest in any lease or leasehold estate or any improvements located on the Property, shall join in a written instrument effecting such merger and shall duly record the same.

23. Satisfaction and Release. This Deed of Trust is made upon the conditions that if: (i) all of the Indebtedness secured hereby and obligations of Trustor hereunder, including all future advances and other future indebtedness, obligations and liabilities included therein, are paid and performed in full; (ii) Trustor reimburses Beneficiary for any amounts Beneficiary shall have paid in respect of liens, impositions, prior mortgages, insurance premiums, repairing or maintaining the Property, performing Trustor's obligations with respect to environmental matters, and for any other advancements hereunder, and interest thereon; (iii) Trustor fulfills all of Trustor's other obligations contained in the Loan Documents; (iv) Beneficiary has no obligation to extend any further credit to or for the account of Trustor; and (v) no contingent liability of Trustor secured by this Deed of Trust then exists, this conveyance shall be null and void upon the filing by Beneficiary of a written instrument of termination or release. The recitals in such reconveyance or release of any matters or facts, shall be conclusive proof of the truthfulness thereof. Beneficiary in such reconveyance may be described as "the person or persons legally entitled thereto." If a release deed, reconveyance or termination statement is required, Trustor shall pay the expense thereof. In addition, 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 (3) months of the recordation of a notice of default in accordance with *Utah Code Annotated Section 57-1-31(1)*, such party shall pay to Beneficiary the reasonable cancellation fee contemplated by *Utah Code Annotated Section 57-1-31(2)*, as delivered by Beneficiary, in accordance with its then current policies and procedures, whereupon Trustee shall record a notice of cancellation of the pending sale.

24. Notice. All notices required hereunder shall be in writing and shall be given in the manner set forth in the Loan Agreement. Beneficiary hereby requests, pursuant to *Utah Code Annotated Section 57-1-26(3)*, a copy of any notice of default and that any notice of sale be mailed to it at the address set forth in the opening paragraph of this Deed of Trust and a copy of such notice sent as provided in this Section.

25. Inconsistencies. In case of any conflict between the terms of this instrument and the terms of the Loan Agreement and any of the other Loan Documents, the terms of the Loan Agreement shall prevail; *however*, this Deed of Trust shall not secure any Loan Document or any particular person's liabilities or obligations under any Loan Document to the extent that this Deed of Trust expressly states that it or such particular person's liabilities or obligations are unsecured by this Deed of Trust.

26. Miscellaneous.

- (i) Time is of the essence as to each and every obligation and/or payment hereunder.
- (ii) This Deed of Trust shall be governed and construed in accordance with the laws of the State of where the Property is located.
- (iii) If Trustor is comprised of more than one person or entity, then all such persons or entities shall be jointly and severally liable for all obligations arising under the Note, this Deed of Trust and any of the other Loan Documents.
- (iv) Whenever the context hereof requires, reference herein made to the singular number shall be understood as including the plural, and likewise the plural shall be understood as denoting the singular; words denoting gender shall be construed to include the masculine, feminine and neuter, when such construction is appropriate; and specific enumeration shall not exclude the general but

shall be considered as cumulative. Wherever the term "Beneficiary" is used herein it shall include the legal holder or holders of the Note or the Indebtedness.

(v) The covenants, conditions and agreements herein contained shall bind, and the benefits and advantages hereof shall inure to, the respective heirs, executors, administrators, successors and assigns of the parties hereto.

(vi) Except as specifically set forth in the Loan Agreement, Trustor has no right to assign any of its rights or obligations hereunder or under any of the other Loan Documents without the prior written consent of Beneficiary.

(vii) The unenforceability or invalidity of any one or more provisions, clauses, sentences and/or paragraphs of this Deed of Trust shall not render any other provisions, clauses, sentences and/or paragraphs herein contained unenforceable or invalid.

(viii) Every covenant and agreement herein of Trustor shall run with the land, is a condition upon which the Loan secured was made and is of the essence of this Deed of Trust, and breach of any thereof shall be deemed a material breach going to the substance hereof.

(ix) Notwithstanding any provision herein, or in the Note secured hereby, or in any other instrument now or hereafter securing said Note, the total liability of Trustor for payments in the nature of interest shall not exceed the limits permitted by the law of the State where the Property is located.

(x) The headings of the paragraphs hereof are for convenience only and shall not limit or affect any of the terms of this Deed of Trust.

27. Waiver of Jury Trial. TRUSTOR BY ITS EXECUTION HEREOF AND BENEFICIARY BY ITS ACCEPTANCE HEREOF HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN EVIDENCED BY THE NOTE, THE LOAN AGREEMENT, THIS DEED OF TRUST OR ANY OTHER LOAN DOCUMENT OR ANY ACTS OR OMISSIONS OF TRUSTEE, BENEFICIARY OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS IN CONNECTION THEREWITH.

28. PURSUANT TO *UTAH CODE ANNOTATED SECTION 25-5-4*, TRUSTOR IS NOTIFIED THAT THIS DEED OF TRUST, THE LOAN AGREEMENT, THE NOTE AND OTHER LOAN DOCUMENTS GOVERNING, EVIDENCING AND SECURING THE INDEBTEDNESS SECURED HEREBY REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

29. THE COVENANTS, CONDITIONS AND AGREEMENTS HEREIN CONTAINED shall bind, and the benefits and advantages hereof shall inure to, the respective heirs, executors, administrators, successors and assigns of the parties hereto. Wherever used herein, the singular number shall include the plural and conversely, and the use of any gender shall be applicable to all genders. Wherever the term "Beneficiary" is used herein it shall include the legal holder or holders of said Note or the indebtedness secured hereby.

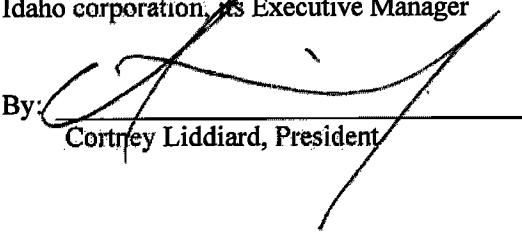
[SEE NEXT PAGE FOR SIGNATURE(S)]

IN WITNESS WHEREOF, Trustor has signed, sealed and delivered this Deed of Trust the day and year first above written.

TRUSTOR:

BV LOTUS REPUBLIC, LLC,
an Idaho limited liability company

By: BV Management Services, Inc., an
Idaho corporation, its Executive Manager

By: 
Cortney Liddiard, President

STATE OF IDAHO)
COUNTY OF BONNEVILLE) ss.

On this 5th of February, 2024, before me Brandi Love, a Notary Public in and for said County personally appeared Cortney Liddiard, known to me to be the person whose name is subscribed to the foregoing instrument, and who acknowledged the same to be the act of said BV Lotus Republic, LLC, and that he executed the same for the purposes and consideration therein expressed.

WITNESS my hand and official seal.

Brandi Love
Notary Public in and for such County and State



Brandi Love
Printed Name of Notary Public

My Notary Commission Expires: 4-12-2026

(Notarial Seal)

Loan No. 73101507
Signature Page - Deed of Trust, Security Agreement and Fixture Filing

EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

THE LAND DESCRIBED BELOW IS SITUATED IN SALT LAKE CITY, IN THE COUNTY OF SALT LAKE, STATE OF UTAH, AND IS DESCRIBED AS FOLLOWS:

Lying within Lot 5 and Lot 6, Block 63, Plat "B", Salt Lake City Survey, Salt Lake County, situate in Section 6, Township 1 South, Range 1 East, Salt Lake Base and Meridian, and described as follows:

Commencing at the Southwest corner of Lot 5, Block 63, Plat B, Salt Lake City Survey, thence North 126.00 feet; thence East 177.5 feet; thence South 126.00 feet; thence West 177.5 feet to the place of commencement.

Together with the following described parcel of land:

Commencing at a found 2.5" Salt Lake City Survey monument at the intersection of 100 South Street and 300 East Street, thence along the monument line of 300 East Street North 00°02'38" West 393.84 feet; thence departing said monument line North 89°58'35" East 246.22 feet to the Southwest corner of a parcel of land as defined in that certain Special Warranty Deed, recorded April 19, 2013, Entry 11622105, Book 10129, Page 2627, on file at the Salt Lake County, Utah Recorder's Office, said point also being on the Southerly line of Lot 6, Block 63, Plat "B", Salt Lake City Survey, and the Point of Beginning.

Thence along the Westerly line of said parcel North 00°02'22" West 17.00 feet; thence departing said Westerly line North 89°58'35" East 20.00 feet; thence South 00°02'22" East 17.00 feet to a point on the Southerly line of said parcel, said point also being on the Southerly line of Lot 6, Block 63, Plat "B", Salt Lake City Survey; thence along said coincident Southerly lines South 89°58'35" West 20.00 feet to the Point of Beginning.

Overall combined description being more particularly described as follows:

Commencing at a found 2.5" Salt Lake City Survey monument at the intersection of 100 South Street and 300 East Street, thence along the monument line of 300 East Street North 00°02'38" West 393.84 feet; thence departing said monument line North 89°58'35" East 68.66 feet to the Easterly right-of-way line of 300 East Street, said point also being the Southwest corner of Lot 5, Block 63, Plat "B", Salt Lake City Survey, said point also being the Point of Beginning.

Thence along said Easterly right-of-way line North 00°02'16" West 126.03 feet (record North 126.00 feet); thence departing said Easterly right-of-way line North 89°58'35" East 177.56 feet (record East 177.5 feet) to a point on the Westerly line of a parcel of land as defined in that certain Special Warranty Deed, recorded April 19, 2013, Entry 11622105, Book 10129, Page 2627, on file at the Salt Lake County, Utah Recorder's Office, thence along said Westerly line South 00°02'22" East 109.03 feet; thence departing said Westerly line North 89°58'35" East 20.00 feet; thence South 00°02'22" East 17.00 feet to a point on the Southerly line of said parcel, said point also being on the Southerly line of Lot 6, Block 63, Plat "B", Salt Lake City Survey; thence along said Southerly line to and along the Southerly line of said Lot 5 South 89°58'35" West 197.56 feet to the Point of Beginning.

Parcel Number(s): 16-06-128-012-0000