



ENT 106599:2019 PG 1 of 7  
JEFFERY SMITH  
UTAH COUNTY RECORDER  
2019 Oct 17 10:36 am FEE 40.00 BY MG  
RECORDED FOR (ZEPPE'S), JAMES M BARTLEY

**WHEN RECORDED, MAIL TO:**

**James E. Charnholm  
3823 Brockbank Drive  
Salt Lake City, UT 84124**

**TRUST DEED**

THIS TRUST DEED, made this 17th day of October 2019, between, **JAMES M. BARTLEY** and **DENISE LOUISE JONES** of 98 North 1800 East, Mapleton, UT 84664 as "Trustors" and **J. THOMAS BOWEN**, 6890 S. 2300 E. #711417, Salt Lake City, UT 84171, as "Trustee," and **JAMES CHARNHOLM** and **KAREN CHARNHOLM** of 3823 E. Brockbank Dr. Salt Lake City, UT 84124, as "Beneficiaries."

WITNESSETH: That Trustors CONVEYS AND WARRANTS TO TRUSTEE IN TRUST, WITH POWER OF SALE, that certain real property situated in Utah County, State of Utah, and more fully described on **EXHIBIT A** attached hereto (hereinafter referred to as the "Property"), together with all buildings, fixtures and improvements thereon and all water rights, rights of way, easements, rents, issues, profits, income, tenements, hereditaments, privileges and appurtenances thereunto belonging, now or hereafter used or enjoyed with the Property, or any part thereof, SUBJECT, HOWEVER, to the right, power and authority hereinafter given to and conferred upon Beneficiaries to collect and apply such rents, issues, and profits;

FOR THE PURPOSE OF SECURING payment of the indebtedness evidenced by (a) a Secured Promissory Note dated OCTOBER 17, 2019, in the principal amount of FIVE HUNDRED-THOUSAND DOLLARS (\$500,000.00) (referred to hereinafter as the "Promissory Note"), payable to the order of Beneficiaries at the time, in the manner as therein set forth, and any extensions, renewals, amendments or modifications thereof, together with interest and late fees thereon as therein provided (except as limited herein) and (b) the performance of Trustors' covenants and agreements under this Trust Deed and the Promissory Note and any and all other documents now or hereafter required by Beneficiaries and executed by Trustors or any other person or party in connection with the loan evidenced by the Promissory Note (all such documents are sometimes referred to herein collectively as the "Loan Documents").

AND, Trustors hereby warrant, covenant and agree that the Property is free and clear of encumbrances, liens, or charges, excepting only those matters currently of record.

TO PROTECT THE SECURITY OF THIS TRUST DEED, TRUSTORS AGREE:

1. **Preservation of the Property.** To keep the Property in good condition and repair; not to remove or demolish any building thereon, to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting the Property; not to commit or permit waste thereof; not to commit, suffer or permit any act upon the Property in violation of law; to do all other acts which from the character or use of the Property may be reasonably necessary to preserve the Property in good condition and repair. Trustee, upon presentation to it

of an affidavit signed by Beneficiaries, setting forth facts showing a default by Trustors under this paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon pursuant to the provisions contained herein.

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

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

4. **Defense of Actions Affecting the Property.** To appear in and defend any action or proceeding purporting to affect the security hereof, the title to the Property, or the rights or powers of Beneficiaries or Trustee; and should Beneficiaries or Trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and attorney fees in a reasonable sum incurred by Beneficiaries or Trustee.

5. **Taxes and Assessments.** To pay at least ten (10) days before delinquency all taxes and assessments affecting the Property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used about the Property; to pay, when due, all encumbrances, charges, and liens with interest on the Property or any part thereof, which at any time appear to be prior or superior hereto; to pay all costs, fees, and expenses of this Trust Deed.

6. **Hazardous Substances.** Not to cause, permit, allow or suffer the presence, use, generation, manufacture, release, discharge, storage or disposal of any hazardous or toxic materials, substances or wastes as designated or regulated by applicable federal, state or local environmental laws (collectively, "Hazardous Materials") on, under, in or about the Property, or the transportation of any Hazardous Materials to or from the Property. Trustors shall immediately notify Beneficiaries in writing of: (a) any enforcement, cleanup, removal or other governmental or regulatory action instituted, completed or threatened in connection with any Hazardous Materials; (b) any claim made or threatened by any third party against Trustee or the Property relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials; and (c) Trustee's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause all or any portion of

the Property to be subject to any restrictions on the ownership, occupancy, transferability or use.

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

8. **Payments of Expenses.** To pay immediately and without demand all sums expended hereunder by Beneficiaries or Trustee, with interest from date of expenditure at the rate of ten percent (18%) per annum until paid, and the repayment thereof shall be secured hereby.

IT IS MUTUALLY AGREED THAT:

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

10. **Consents; Subordination; Reconveyance.** At any time and from time to time Upon written request of Beneficiaries, payment of its fees and presentation of this Trust Deed and the Promissory Note for endorsement (in case of full reconveyance, for cancellation and retention), without affecting the liability of any person for the payment of the indebtedness secured hereby, Trustee may (a) consent to the making of any map or plat of the Property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Trust Deed or the line or charge thereof; (d) reconvey, without warranty, all or any part of the Property. The grantee in any reconveyance may be described as

“the person or persons entitled thereto,” and the recital therein of any matters or facts shall be conclusive proof of truthfulness thereof. Trustors agrees to pay reasonable Trustee’s fees for any of the services mentioned in this paragraph.

11. **Assignment of Rents.** As additional security, Trustors hereby assigns Beneficiaries, during the continuance of these trusts, all rents, issues, royalties, and profits of the Property affected by this Trust Deed and of any personal property located thereon. Until Trustors shall default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Trustors shall have the right to collect all such rents, issues, royalties, and profits earned prior to default as they become due and payable. If Trustors shall default as aforesaid, Trustors’ right to collect any of such monies shall cease and Beneficiaries shall have the right, with or without taking possession of the Property affected hereby, to collect all rents, royalties, issues, and profits. Failure or discontinuance of Beneficiaries at any time or from time to time to collect any such monies shall not in any manner affect the subsequent enforcement by Beneficiaries of the right, power, and authority to collect the same. Nothing contained herein, nor the exercise of the right by Beneficiaries to collect, shall be, or be construed to be, an affirmation by Beneficiaries of any tenancy, lease or option, nor an assumption of liability hereunder, nor a subordination of the lien or charge of this Trust Deed to any such tenancy, lease or option. Trustors agrees that it will not collect rent on the Property more than one month in advance or lease the Property other than upon commercially reasonable terms.

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

13. **Forbearance by Beneficiaries Not a Waiver.** The entering upon and taking possession of the Property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of the Property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

14. **Possession or Collection of Rents Not a Waiver.** The failure on the part of Beneficiaries to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Beneficiaries of any default shall not constitute a waiver of any other or subsequent default.

15. **Default.** Time is of the essence hereof. Upon default by Trustors in the payment of any indebtedness secured hereby or in the performance of any obligation of Trustors

under any of the Loan Documents, all sums secured hereby shall immediately become due and payable at the option of Beneficiaries. In the event of such default, Beneficiaries may execute or cause Trustee to execute a written notice of default and of election to cause the Property to be sold to satisfy the obligations hereof, and Trustee shall file such notice for record in each county wherein the Property or some part or parcel thereof is situated. Beneficiaries also shall deposit with Trustee the Promissory Note and all documents evidencing expenditures secured hereby.

16. **Sale of Property Upon Default.** After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustors, shall sell the Property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Trustors to direct the order in which such Property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause deemed expedient, postpone the sale from time to time until it shall be completed and, in every case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale; provided, if the sale is postponed for longer than one day beyond the day designated in the notice of sale, notice thereof shall be given in the same manner as the original notice of sale. Trustee shall execute and deliver to the purchaser its Deed conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiaries, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of Trustee's and attorney fees; (2) cost of any evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at eighteen percent (18%) per annum from date of expenditure; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or Trustee, in its discretion, may deposit the balance of such proceeds with the County Clerk of the county in which the sale took place.

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



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

by law.

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

20. **Governing Law.** This Trust Deed shall be construed per the laws of the State of Utah.

21. **Notice of Default.** The undersigned Trustors requests that a copy of any notice of default and of any notice of sale hereunder be mailed to them at the address hereinbefore set forth.

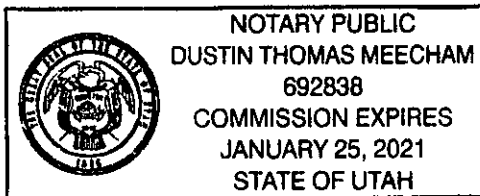
  
 JAMES M. BARTLEY  
  
 DENISE LOUISE JONES

STATE OF UTAH            )  
   : ss.  
 COUNTY OF UTAH        )

The foregoing Trust Deed was acknowledged before me this 16 day of October 2019 by JAMES M. BARTLEY and DENISE LOUIS JONES, who being duly sworn by me did say that they executed the same.



Notary Public Signature



**EXHIBIT A**

**LOT 1, Stonehenge of Springville Amended #5, Springville, Utah, County of Utah, according to the official plat thereof of on file in the office of the County Recorder, Utah County, Utah.**

**Property Address: 829 West 400 South Springville, UT 84663  
Parcel No. 66:698:0001**

**LOT 2, Stonehenge of Springville Amended #5, Springville, Utah, County of Utah, according to the official plat thereof on file in the office of the County Recorder, Utah County, Utah.**

**Property Address: 828 West 850 South, Springville, UT 84663  
Parcel No. 66:698:0002**