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AND WHEN RECORDED RETURN TO:

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RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2004 Aug 13 1:12 pm FEE 70.00 BY AB
RECORDED FOR FIRST AMERICAN TITLE CO

STEVEN H. SUNSHINE ESQ
BRYAN CAVE LLP
2020 MAIN STREET, SUITE 600
IRVINE, CALIFORNIA 92614

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

Dated As Of: August 5, 2004

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

MADE BY

SANTA FE PALMS, LLC,
a Utah limited liability company
c/o Wadsworth & Sons, LLC, 71 East Wadsworth Park Drive, Draper, Utah 84020
Hereinafter referred to as "**Trustor**"

TO

FIRST AMERICAN TITLE INSURANCE COMPANY
300 East 400 South, Salt Lake City, Utah 84111
Hereinafter referred to as "**Trustee**"

FOR THE BENEFIT OF

COLUMBIAN LIFE INSURANCE COMPANY,
an Illinois corporation
Vestal Parkway East, Binghamton, New York 13902
Hereinafter referred to as "**Beneficiary**"

Note Amount: \$1,360,000.00

Utah, hereinafter referred to as
the "**Governing Jurisdiction**"

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EXHIBITS

Exhibit "A" Legal Description



DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT (INCLUDING FIXTURE FILING)

GRANTING CLAUSE

A. Now, therefore, for and in consideration of the premises and for the purposes herein described, Trustor hereby irrevocably grants, bargains, sells, transfers, and assigns to Trustee, its successors and assigns, in trust, with power of sale and right of entry and possession, all of Trustor's estate, right, title and interest in, to and under and grants to Beneficiary a security interest in any and all of the following described property which is (except where the context otherwise requires) herein collectively called the "**Mortgaged Property**," whether now owned or held or hereafter acquired;

B. That certain real property, more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference, together with all of the easements, rights, privileges, franchises and appurtenances thereunto belonging or in any way appertaining (hereinafter referred to as the "**Premises**"), and all of the estate, right, title, interest, claim and demand whatsoever of Trustor therein or thereto, either at law or in equity, in possession or in expectancy, now or hereafter acquired;

C. All structures, buildings and improvements of every kind and description now or at any time hereafter located on the Premises (hereinafter referred to as the "**Improvements**"), including all equipment, apparatus, machinery, fixtures, fittings and appliances and any additions to, substitutions for, changes in or replacements of the whole or any part thereof, including such of the foregoing as may be used in connection with the generating or distribution of air, water, heat, electricity, light, fuel or refrigeration or for ventilating or sanitary purposes or for the exclusion of vermin or insects, or for the removal of dust, refuse or garbage, now or at any time hereafter affixed to, attached to, placed upon or used in any way in connection with the use, enjoyment, occupancy or operation of the Premises or any portion thereof;

D. Trust's right, title and interest in all articles of personal property and any additions to, substitutions for, changes in or replacements of the whole or any part thereof (hereinafter referred to as the "**Personal Property**"), including without limitation all personal property described in **Exhibit "B"** hereto;

E. All right, title and interest of Trustor in and to all streets, roads and public places, opened or proposed, and all easements and rights of way, public or private, tenements, hereditaments, rights and appurtenances, now or hereafter used in connection with, belonging or appertaining to, the Premises;

F. All of the rents, royalties, issues, profits, revenue, income and other benefits of the Mortgaged Property, or arising from the use or enjoyment of all or any portion thereof or from any lease or agreement pertaining thereto (hereinafter referred to as the "**Rents and Profits**"), and all right, title and interest of Trustor in and to all leases of the Mortgaged Property now or hereafter entered into and all right, title and interest of Trustor thereunder, including, without limitation, cash or securities deposited thereunder to secure performance by the lessees of their obligations thereunder, whether said cash or securities are to be held until the expiration of the terms of said

leases or applied to one or more of the installments of rent coming due immediately prior to the expiration of said terms; subject to, however, the provisions contained in Section 1.9 hereof;

G. All "Proceeds" (as defined below) of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards; and

H. Any and all funds of Trustor on deposit with Beneficiary or any branch of Beneficiary.

SECURITY CLAUSE

For the purpose of securing, in such order of priority as Beneficiary may elect (collectively, "Obligations"):

A. Due, prompt and complete observance, performance and discharge of each and every obligation, covenant and agreement contained in that certain promissory note (hereinafter referred to as the "Note") of even date herewith in the face amount as set forth on page 1 hereof, executed by Trustor to the order of Beneficiary and any and all modifications, extensions or renewals thereof, whether hereafter evidenced by the Note or otherwise;

B. Payment of all other sums, with interest thereon at the rate of interest provided in the Note becoming due or payable under the provisions hereof;

C. Payment of such additional sums and interest thereon which may hereafter be loaned to Trustor, or its successors or assigns, by Beneficiary, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust; and

D. Due, prompt and complete observance, performance and discharge of each and every obligation, covenant and agreement of Trustor contained herein, or in any other instrument heretofore or hereafter executed by Trustor having reference to or arising out of the indebtedness represented by the Note.

Provided, however, the Obligations secured hereby shall not include the payment and performance of the covenants and obligations of Trustor under that certain Environmental Indemnity of even date herewith, which obligations and covenants are not, notwithstanding anything to the contrary contained herein, secured by this Deed of Trust.

1. **COVENANTS OF TRUSTOR.** Trustor covenants, warrants and agrees to and with Beneficiary and Trustee as follows:

1.1 **Loan Payments.** Trustor will pay the principal and interest and all other sums becoming due with respect to the Note at the time and place and in the manner specified in the Note, according to the terms hereof.

1.2 **Warranty of Title.** Trustor has good and marketable title to the Mortgaged Property subject to no lien, charge or encumbrance except such as are listed as exceptions to title in the title policy or policies, if any, insuring the lien of this Deed of Trust issued by a title company or companies acceptable to Beneficiary ("Permitted Exceptions"); Trustor owns or, upon acquisition thereof, will own the Personal Property free and clear of liens and claims; and this Deed of Trust is and will remain a valid and enforceable lien on the Mortgaged Property subject only to the exceptions referred to above. Trustor has full power and lawful authority to grant, assign, transfer and mortgage its interest in the Mortgaged Property in the manner and form hereby done or

intended. Trustor will preserve its interest in and title to the Mortgaged Property and will forever warrant and defend the same to Trustee and will forever warrant and defend the validity and priority of the lien hereof against the claims of all persons and parties whomsoever except with regard to the Permitted Exceptions. Trustor shall promptly and completely observe, perform, and discharge each and every obligation, covenant and agreement affecting the Mortgaged Property whether the same is prior and superior or subject and subordinate hereto including, if the security hereunder is or will be a condominium, community apartment, stock cooperative, or part of a planned development, each and every provision under any Declaration of Covenants, Conditions and Restrictions pertaining to the condominium, community apartment, stock cooperative or planned development project. Trustor is the record owner of the Mortgaged Property and the Personal Property.

1.3 Conveyance of Interest.

1.3.1 Trustor will, at its own cost and without expense to Trustee or Beneficiary, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notice of assignments, transfers and assurance as Trustee or Beneficiary shall from time to time require, for the better assuring, conveying, assigning, transferring and confirming unto Trustee and Beneficiary the property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which Trustor may be or may hereafter become bound to convey or assign to Trustee or Beneficiary, or for carrying out the intention or facilitating the performance of the terms of this Deed of Trust, or for filing, registering or recording this Deed of Trust and, on demand, Trustor will execute and deliver, and hereby authorizes Trustee or Beneficiary to execute in the name of Trustor to the extent Trustor may lawfully do so, one or more financing statements, chattel mortgages or comparable security instruments, to evidence more effectively the lien hereof upon the Personal Property.

1.3.2 Trustor, by its execution and delivery of this Deed of Trust, and thereafter from time to time, hereby agrees and authorizes Beneficiary to cause this Deed of Trust, and any security instrument creating a lien or evidencing the lien hereof upon the Personal Property and each instrument of further assurance, to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, the title of Trustee to, and the security interest of Beneficiary in the Mortgaged Property.

1.3.3 Trustor will pay all filing, registration and recording fees, and all expenses incident to the execution and acknowledgment of this Deed of Trust, any deed of trust supplemental hereto, any security instrument with respect to the Personal Property, and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note, this Deed of Trust, any deed of trust supplemental hereto, any security instrument with respect to the Personal Property or any instrument of further assurance.

1.4 Insurance Obligations. Trustor will keep the Mortgaged Property insured against loss or damage by fire with extended coverage and against any other risks or hazards which, in the opinion of Beneficiary, should be insured against in an amount equal to the greater of (a) the original unpaid balance of principal due on the Note or (b) the full insurable value thereof on a one hundred percent (100%) replacement cost basis, with a company or companies and in such form and with such endorsements as may be approved or required by Beneficiary. Loss under said insurance shall be payable to Beneficiary and shall be applied in the same manner as provided in Section 1.5 hereof, and said insurance policies shall be endorsed with (a) a standard non-contributory mortgagee clause and (b) a "replacement cost endorsement" acceptable to Beneficiary, and may only be canceled or modified upon not less than thirty (30) days' prior written notice to Beneficiary. Trustor will also

carry public liability insurance in amount not less than \$1,000,000.00, in such form and with such companies as Beneficiary may from time to time require, with Beneficiary included thereon as a named insured under a standard mortgagee endorsement of the character above described. Trustor shall also carry flood insurance, business interruption insurance or loss of rents insurance and such other insurance as Beneficiary may reasonably require. The policy or policies evidencing all insurance referred to in this paragraph or certificates of such insurance satisfactory to Beneficiary, together with receipts for the payment of premiums thereon, shall be delivered to Beneficiary within thirty (30) days of payment and shall be held by beneficiary. Beneficiary shall not by the fact of approving, disapproving, accepting, preventing, obtaining or failing to obtain any insurance, incur any liability for the form or legal sufficiency of insurance contracts, solvency of insurance companies, or payment of lawsuits, and Trustor hereby expressly assumes full responsibility therefor and liability, if any, thereunder. As set forth in the Note, Trustor shall deposit with Lender with each monthly installment payment under the Note an amount equal to one-twelfth (1/12th) of the total sum of the insurance premiums and property taxes to be paid by Trustor hereunder. Trustor shall not be permitted to self-insure for any coverage required in this Agreement or in any of the other loan documents.

1.5 Casualty Provisions. Trustor, upon obtaining knowledge of the institution of any proceedings for the condemnation of the Premises and Improvements or any portion thereof or knowledge of any casualty damage to the Mortgaged Property or damage of any other kind, will immediately notify Beneficiary. Beneficiary may participate in any proceedings and join Trustor in adjusting any loss covered by insurance. Subject to the provisions of Section 6 below, all compensation, awards, proceeds, damages, claims, rights of action and payments to which Trustor may become entitled shall be paid over to Beneficiary. Beneficiary shall have the sole and absolute discretion, notwithstanding the fact that the security given hereby may not be impaired by a partial condemnation, to apply any part or all of the amount collected in connection with any condemnation proceeding: (a) upon any indebtedness secured hereby and in such order as Beneficiary may determine, or (b) without reducing the indebtedness secured hereby, to the reimbursement of Beneficiary for expenses incurred by it in the restoration of the Mortgaged Property. Such application shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. Beneficiary shall be under no obligation to question the amount of any compensation, awards, proceeds, damages, claims, rights of action or payments, and may accept the same in the amount in which the same shall be paid.

1.6 Payment of Taxes.

1.6.1 Trustor, from time to time when the same shall become due, will pay and discharge all taxes of every kind and nature, including real and personal property taxes and income, franchise, withholding, profits and gross receipts taxes, all general and special assessments, including assessments on appurtenant water stock, levies, permits, inspection and license fees, all water and sewer rents and charges, and all other public charges whether of a like or different nature, imposed upon or assessed against Trustor or the Mortgaged Property or any part thereof or upon the revenues, rents, issues, income and profits of the Mortgaged Property, or arising in respect of the occupancy, use or possession thereof. Trustor will, within thirty (30) days of payment, deliver to Beneficiary receipts evidencing the payment of all such taxes, assessments, levies, fees, rents and other public charges imposed upon or assessed against Trustor or the Mortgaged Property or the revenues, rents, issues, income or profits thereof.

1.6.2 Trustor shall deposit at the time of each payment of an installment of interest or principal under the Note an additional amount sufficient to discharge the obligations under Section 1.6.1 hereof when they become due. The determination of the amounts so payable and of the fractional parts thereof to be deposited with Beneficiary, so that the aggregate of such deposits shall be sufficient for this purpose, shall be made by Beneficiary in its sole discretion. Said amounts

shall be held by Beneficiary without interest and applied to the payment of the obligations in respect of which said amounts were deposited in such order or priority as Beneficiary shall determine, on or before the respective dates on which the same or any of them would become delinquent. If one (1) month prior to the due date of any of the aforementioned obligations the amount then on deposit therefor shall be insufficient for the payment of such obligation in full, Trustor within ten (10) days after demand shall deposit the amount of the deficiency with Beneficiary. Nothing herein contained shall be deemed to affect any right or remedy of Beneficiary under any other provision of this Deed of Trust or under any statute or rule of law to pay any such amount and to add the amount so paid together with interest at the Default Rate to the indebtedness hereby secured.

1.6.3 Trustor will pay, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others which, if unpaid, might result in or permit the creation of a lien on the Mortgaged Property or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom, and in general will do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the sole cost of Trustor, without expense to Trustee or Beneficiary.

1.7 **Extent of Lien.** All right, title and interest of Trustor in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to the Mortgaged Property, hereafter acquired by, or released to, Trustor or constructed, assembled or placed by Trustor on the Premises, and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case, without any further deed of trust, conveyance, assignment or other act by Trustor, shall become subject to the lien of this Deed of Trust as fully and completely, and with the same effect, as though now owned by Trustor and specifically described in the granting clause hereof, but at any and all times Trustor will execute and deliver to Trustee any and all such further assurances, deeds of trust, conveyances or assignments thereof as Trustee or Beneficiary may reasonably require for the purpose of expressly and specifically subjecting the same to the lien of this Deed of Trust.

1.8 **Security Agreement.** This Deed of Trust shall be self-operative and constitute a Security Agreement with respect to the Personal Property; provided, however, Trustor hereby agrees to execute and deliver on demand and hereby irrevocably constitutes and appoints Beneficiary the attorney-in-fact of Trustor, to execute, deliver and, if appropriate, to file with the appropriate filing officer or office such security agreements, financing statements or other instruments as Beneficiary may request or require in order to impose or perfect the lien or security interest hereof more specifically thereon.

1.9 **Assignment of Rents.**

1.9.1 The Rents and Profits are hereby absolutely and unconditionally assigned, transferred, conveyed and set over to Beneficiary to be applied by Beneficiary in payment of the principal and interest and all other sums payable on the Note, and of all other sums payable under this Deed of Trust. Prior to the happening of any "Event of Default" as set forth in Section 2 hereof, Trustor shall collect and receive all Rents and Profits as trustee for the benefit of Beneficiary and shall apply the amount so collected first to the payment of the principal and interest and all other sums due and payable on the Note and to the payment of all other sums payable under this Deed of Trust. Thereafter, so long as no Event of Default has occurred, the balance shall be distributed to the account of Trustor. Nothing contained in this Section 1.9.1 or elsewhere in this Deed of Trust shall be construed to make Beneficiary a mortgagee in possession unless and until Beneficiary actually takes possession of the Mortgaged Property either in person or through an agent or receiver.

1.9.2 Trustor will not:

- (a) execute an assignment of any of its right, title or interest in the Rents and Profits, or
- (b) except where the lessee is in default thereunder, terminate or consent to the cancellation or surrender of any lease of the Mortgaged Property or of any part thereof, now existing or hereafter to be made, having an unexpired term of two (2) years or more, or
- (c) modify any lease of the Mortgaged Property or any part thereof so as to shorten the unexpired term thereof or so as to decrease the amount of the rent payable thereunder, or
- (d) accept prepayments of any installments of rent to become due under any of said leases in excess of one (1) month's rental or prepayments in the nature of security for the performance of the lessee's obligations thereunder in excess of an amount equal to one (1) month's rental, or
- (e) in any other manner impair the value of the Mortgaged Property or the security of this Deed of Trust.

1.9.3 Trustor will not execute any lease of all or a substantial portion of the Mortgaged Property:

- (a) except and unless the form of lease has been approved in advance by Beneficiary and
- (b) (b) except for actual occupancy by the lessee thereunder, and will at all times promptly and faithfully perform, or cause to be performed, all of the covenants, conditions and agreements contained in all leases of the Mortgaged Property now or hereafter existing, on the part of the lessor thereunder to be kept and performed.

Trustor shall provide Beneficiary with a lease subordination, attornment and non-disturbance agreement and estoppel letter, both in form and content acceptable to Lender, for each lease executed for any portion of the Mortgaged Property.

1.9.4 Trustor shall furnish to Beneficiary, within thirty (30) days after a request by Beneficiary to do so, a written statement certified by Trustor as being true and correct, containing the names of all lessees of the Mortgaged Property, the terms of their respective leases, the spaces occupied and the rentals payable thereunder and a copy of each such lease.

1.10 Leases for the Property. To the extent not provided by applicable law, each lease of the Mortgaged Property or any part thereof shall provide that, in the event of the enforcement by Trustee or Beneficiary of the remedies provided for by law or by this Deed of Trust, the lessee thereunder will, if requested by Beneficiary or by any person succeeding to the interest of Trustor as the result of said enforcement, automatically become the lessee of any such successor in interest, without any change in the terms or other provisions of the respective lease; provided, however, that said successor in interest shall not be bound by:

1.10.1 any payment of rent or additional rent for more than one (1) month in advance, except prepayments in the nature of security for the performance by said lessee of its obligations under said lease not in excess of an amount equal to one (1) month's rental, or

1.10.2 any amendment or modification in the lease made without the consent of Beneficiary or any successor in interest.

Each lease shall also provide that, upon request by said successor in interest, the lessee shall execute and deliver an instrument or instruments confirming its attornment.

1.11 **No Secondary Financing.** Without the prior written consent of Beneficiary being first had and obtained, Trustor will not execute or deliver any pledge, security agreement, mortgage or deed of trust covering all or any portion of the Mortgaged Property ("**Subordinate Mortgage**"). If Beneficiary consents to the foregoing or in the event the foregoing prohibition is determined by a court of competent jurisdiction to be unenforceable under the provisions of any applicable law, Trustor will not execute or deliver any Subordinate Mortgage unless there shall have been delivered to Beneficiary not less than ten (10) days prior to the date thereof a copy thereof which shall contain express covenants to the effect that:

1.11.1 the Subordinate Mortgage is in all respects subject and subordinate to this Deed of Trust;

1.11.2 if any action or proceeding shall be brought to foreclose the Subordinate Mortgage (regardless of whether the same is a judicial proceeding or pursuant to a power of sale contained therein), no tenant of any portion of the Mortgaged Property will be named as a party defendant, nor will any action be taken with respect to the Mortgaged Property which would terminate any occupancy or tenancy of the Mortgaged Property, or any portion thereof, without the consent of Beneficiary;

1.11.3 the Rents and Profits, if collected through a receiver or by the holder of the Subordinate Mortgage, shall be applied first to the obligations secured by this Deed of Trust, including principal and interest due and owing on or to become due and owing on the Note, and then to the payment of maintenance expenses, operating charges, taxes, assessments and disbursements incurred in connection with the ownership, operation and maintenance of the Mortgaged Property; and

1.11.4 if any action or proceeding shall be brought to foreclose the Subordinate Mortgage, prompt notice of the commencement thereof will be given to Beneficiary.

1.12 **No Senior Financing.** If with the written consent of Beneficiary this Deed of Trust is a second or more inferior deed of trust on the Mortgaged Property, Trustor shall faithfully and fully observe and perform each and every term, covenant and condition of any superior deed of trust or deeds of trust ("**Superior Deed of Trust**") and never permit the same to go into default. A default or delinquency under any Superior Deed of Trust shall automatically and immediately constitute a default under this Deed of Trust. Beneficiary is hereby expressly authorized to advance at its option all sums necessary to keep any Superior Deed of Trust in good standing, and all sums so advanced, together with interest thereon at the rate set forth in the Note, shall be repayable to Beneficiary as in the case of other advances made by Beneficiary hereunder. Trustor agrees that Trustor shall not make any agreement with the holder of any Superior Deed of Trust which shall in any way modify, change, alter or extend any of the terms or conditions of such Superior Deed of Trust, nor shall Trustor request or accept any future advances under such Superior Deed of Trust, without the express written consent of Beneficiary.

1.13 **Waste Prohibited.** Trustor will not commit any waste on the Premises or make any change in the use of the Mortgaged Property which will in any way increase any ordinary fire or other hazard arising out of construction of the Improvements or operation of the Mortgaged Property, nor will Trustor make any application to any federal, state or local governmental authority

("Governmental Authority") for a change in zoning or a change in any other law, ordinance, statute, rule, order, decree, directive or regulation ("Laws") affecting the Mortgaged Property nor will Trustor consent to any such change without the written consent of Beneficiary. Trustor will at all times comply with all Laws of any Governmental Authority having or exercising jurisdiction over construction of the Improvements or otherwise affecting the Mortgaged Property or any portion thereof and maintain and keep the Improvements in good operating order and condition and will promptly make, from time to time, all repairs, renewals, replacements, additions and improvements in connection therewith which are needful or desirable to that end. The Improvements shall not be removed, demolished or substantially altered, nor shall any of the Personal Property be removed, without the prior written consent of Beneficiary, except where appropriate replacements free of superior title, liens and claims are immediately made having a value at least equal to the value of the Personal Property so removed.

1.14 Maintain Existence. Trustor will, so long as it is the owner of the Mortgaged Property, do all things necessary to preserve and keep in full force and effect its existence, franchise, rights and privileges as a business or limited liability company under the Laws of the state of its organization, and will comply with all Laws of any Governmental Authority or court applicable to Trustor or the Mortgaged Property or any part thereof.

1.15 Books and Records.

1.15.1 Trustor will keep adequate records and books of account of the income and expenses from the Mortgaged Property in accordance with consistently applied principles. Within ninety (90) days after the close of each fiscal year Trustor will deliver to Beneficiary a statement of profit and loss and a current rent roll for the Mortgaged Property. Trustor will permit Trustee and Beneficiary, or their agents, accountants and attorneys, to visit and inspect the Mortgaged Property and examine Trustor's records and books of account and to discuss Trustor's affairs, finances and accounts with the officers, agents or principals of Trustor at such reasonable times as may be requested by Trustee or Beneficiary.

1.15.2 Trustor will deliver to Beneficiary with reasonable promptness, but in any event within ninety (90) days after the close of their respective fiscal years balance sheets and statements of profit and loss. Throughout the term of this Deed of Trust, Trustor will deliver to Beneficiary with reasonable promptness such other information with respect to Trustor as Beneficiary may reasonably request from time to time. All financial statements of Trustor shall be accompanied by the certificate of a principal financial or accounting officer of Trustor, dated within five (5) days of the delivery of such statements to Beneficiary, stating that such officer knows of no default hereunder, nor of any event which after notice or lapse of time, or both, would constitute a default hereunder, which has occurred and is continuing, or, if any such default has occurred and is continuing, specifying the nature and period of existence thereof and what action Trustor has taken or proposes to take with respect thereto, and except as otherwise specified, stating that Trustor has fulfilled all its obligations under this Deed of Trust which are required to be fulfilled on or prior to the date of such certificate.

1.15.3 Trustor, within three (3) days upon request in person or within five (5) days upon request by mail, will furnish a written statement duly acknowledged of the amount due on the Note, whether for principal or interest, and whether any offsets or defenses exist against the indebtedness secured hereby.

1.16 Payment of Trustee's Costs. Trustor shall pay all costs, fees and expenses of Trustee, its agents and counsel in connection with the performance of its duties hereunder and Trustor shall pay all taxes (except federal and state income taxes) and any other governmental

charges or impositions imposed by any Governmental Authority on Trustee or Beneficiary by reason of their interests in the Note of this Deed of Trust.

1.17 Subrogation. Beneficiary shall be subrogated, notwithstanding their release of record, to any mechanic's or vendor's lien or liens, superior titles, mortgages, deeds of trust, liens, encumbrances, rights, equities and charges of all kinds heretofore or hereafter existing on the Mortgaged Property to the extent that the same are paid or discharged from the proceeds of the loan evidenced by the Note.

1.18 Delivery of Replacement Note. Trustor will, if the Note is mutilated, destroyed, lost or stolen, deliver to Beneficiary, in substitution therefor, a new promissory note containing the same terms and conditions as the Note with a notation thereon of the unpaid principal and accrued but unpaid interest. Trustor shall be furnished with satisfactory evidence of the mutilation, destruction, loss or theft of the Note, and also such security or indemnity as may be reasonably requested by Trustor; provided, however, that if the original beneficiary named herein is the then beneficiary under this Deed of Trust, an unqualified indemnity from the original beneficiary named herein shall be deemed to be satisfactory security or indemnification.

1.19 No Waiver by Beneficiary. Without affecting the liability of Trustor or of any other person who is or shall become bound by the terms of this Deed of Trust or who is or shall become liable for the performance of any obligation secured hereby, Beneficiary may, in such manner, upon such terms and at such times as it deems best and without notice or demand, release any party now or hereafter liable for the performance of any such obligation, extend the time for such performance, accept additional security therefor, and alter, substitute or release any property securing such performance. No exercise or nonexercise by Beneficiary of any of its rights under this Deed of Trust, no dealing by Beneficiary with any person, firm or corporation and no change, impairment, loss or suspension of any right or remedy of Beneficiary shall in any way affect any of the obligations of Trustor hereunder or any security furnished by Trustor, or give Trustor any recourse against Beneficiary.

1.20 Perform Loan Obligations. Trustor promises and agrees to perform all of the obligations in and under that certain Loan Agreement of even date herewith ("Loan Agreement") between Trustor and Beneficiary and any other documents given now or hereafter as security for said Note which are secured by this Deed of Trust.

2. EVENTS OF DEFAULT. The following shall constitute events of default ("Events of Default") hereunder:

2.1 Failure To Pay. The failure to make any payment of interest on the Note, or to make any payment of an installment of principal, when and as the same shall become due and payable, or the failure to make any other payments required under the Note, when and as the same shall become due and payable, whether at maturity or by acceleration or as part of any prepayment or otherwise, in each case, as is provided in the Note and in this Deed of Trust or the failure to make the payment of any insurance premium or tax required by Sections 1.4 and 1.6.1 to be paid, or the failure to make the deposits required by Section 1.6.2 or a default by Trustor in the due, prompt and complete observance and performance of any obligation, covenant or agreement contained in Section 6, if there be an Section 6, and continuation of any such foregoing default for a period of ten (10) days.

2.2 Failure To Perform Obligations. A default by Trustor in the due, prompt and complete observance and performance of any obligation, covenant and agreement contained in Sections 1.2, 1.3, 1.4, 1.5 or 1.6.3 and the continuation of the default for a period of thirty (30) days after written notice thereof from Beneficiary to Trustor.

2.3 Failure To Perform Additional Obligations. A default by Trustor in the due, prompt and complete observance and performance of any obligation, covenant and agreement contained in the Note or in the Deed of Trust but not specified in Sections 2.1 or 2.2, and the continuation of the default for a period of thirty (30) days after written notice thereof from Beneficiary to Trustor.

2.4 Appointment of Receiver. The appointment pursuant to an order of a court of competent jurisdiction of a trustee, receiver or liquidator of Trustor or of the Mortgaged Property or any part thereof, and which trustee, receiver or liquidator is not removed within thirty (30) days after the appointment.

2.5 Bankruptcy. The filing by Trustor of a petition in bankruptcy or a petition for an arrangement or a reorganization pursuant to the Federal Bankruptcy Act or any similar law, federal or state, or the adjudication of Trustor as a bankrupt or as insolvent by a decree of a court of competent jurisdiction, or the making of an assignment for the benefit of creditors, or the admission by Trustor in writing of its inability to pay its debts generally as they become due, or the giving of consent by Trustor to the appointment of a receiver or receivers of all or any part of its property.

2.6 Involuntary Bankruptcy Petition. The filing by any of the creditors of Trustor of a petition in bankruptcy against Trustor or a petition for reorganization of Trustor pursuant to the Federal Bankruptcy Act or any similar law, federal or state, and the same is not discharged within one hundred twenty (120) days after the date of filing thereof.

2.7 Trust Provisions. If Trustor is a trust or trustee of a trust, the occurrence of any of the events enumerated in Sections 2.4 through 2.6 with regard to such trustee or any owner, or member or general partner of any owner or member, of more than ten percent (10%) of the beneficial interests of such trust.

2.8 Tax Obligations. The imposition of a tax, other than a state or federal income tax, on or payable by Trustee or Beneficiary by reason of their ownership of the Note or this Deed of Trust, and Trustor has not paid said tax, or it would be illegal for Trustor to pay said tax, or if the payment of said tax by Trustor would result in the violation of the usury laws of the Governing Jurisdiction.

2.9 Breach of Due-On-Sale. A default by Trustor in the observance of its obligations under Section 4 not to sell, convey, transfer, dispose of or further encumber the Mortgaged Property, or any part thereof, or any interest therein, either voluntarily, involuntarily, or otherwise, or agree so to do, without the prior written consent of Beneficiary.

2.10 No Change in Entity. A default by Trustor under Section 6.7 of the Note.

2.11 Environmental Requirements. Any violation of federal, state or municipal laws, ordinances or regulations concerning the use and/or storage of toxic waste and/or toxic substances on or beneath the Property.

2.12 Breach of Environmental Indemnity. Any default or the breach of any provision of that certain Environmental Indemnity dated of even date herewith, executed by Trustor in favor of Beneficiary, which is, by this reference, secured hereby to the extent provided therein.

2.13 Other Loan Defaults. A default by Trustor in the due, prompt and complete observance and performance of any obligation, covenant and agreement contained in any of the "Loan Documents" (as defined in the Note). Notwithstanding the foregoing, with respect to non-

monetary obligations, Beneficiary shall provide Trustor with notice and a thirty (30) day opportunity to cure.

2.14 Property Condition. Trustor fails to maintain the Property in good, marketable condition and repair free from any damage, waste or defect that would materially and adversely affect the value of the Property as security for the Loan and/or the intended use of the Property after thirty (30) days notice and opportunity to cure.

3. REMEDIES. Upon the occurrence of any Event of Default, Trustee and Beneficiary shall have the following rights and remedies:

3.1 Acceleration. Beneficiary may declare the entire principal of the Note then outstanding (if not then due and payable), and accrued but unpaid interest thereon, to be due and payable immediately, and, notwithstanding the stated maturity in the Note or any other term or provision of the Note or this Deed of Trust to the contrary, the outstanding principal amount of the Note and the accrued but unpaid interest thereon shall become and be immediately due and payable.

3.2 Additional Remedies. Irrespective of whether Beneficiary exercises the option provided in Section 3.1 above, Beneficiary in person or by agent may, without any obligation so to do and without notice or demand upon Trustor and without releasing Trustor from any obligation hereunder:

3.2.1 make any payment or do any act which Trustor has failed to make or do;

3.2.2 enter upon, take possession of, manage and operate the Mortgaged Property or any part thereof;

3.2.3 make or enforce, or, if the same be subject to modification or cancellation, modify or cancel any leases of the Mortgaged Property or any part thereof upon such terms or conditions as Beneficiary deems proper;

3.2.4 obtain and evict tenants, and fix or modify rents, make repairs and alterations and do any acts which Beneficiary deems proper to protect the security hereof; and

3.2.5 with or without taking possession, in its own name or in the name of Trustor, sue for or otherwise collect and receive rents, royalties, issues, profits, revenue, income and other benefits, 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 Beneficiary may determine.

Upon request of Beneficiary, Trustor shall assemble and make available to beneficiary at the Premises any of the Mortgaged Property which has been removed therefrom. The entering upon and taking possession of the Mortgaged Property, the collection of any rents, royalties, issues, profits, revenue, income or other benefits and the application thereof as aforesaid shall not cure or waive any default theretofore or thereafter occurring or affect any notice of default hereunder or invalidate any act done pursuant to any such notice; and, notwithstanding continuance in possession of the Mortgaged Property, or any part thereof, by Beneficiary. Beneficiary shall be entitled to exercise every right provided for in this Deed of Trust or by law upon or after the occurrence of a default, including the right to exercise the power of sale and the right to appoint a receiver or direct the Trustee regarding the collection, receipt and application of rents, royalties, issues, profits, revenue, income or other benefits. Any of the actions referred to in this Section 3.2 may be taken by Beneficiary, either in person or by agent, with or without bringing any action or proceeding, or by receiver appointed by a court, and any such action may also be taken irrespective of whether any

notice of default or election to sell has been given hereunder and without regard to the adequacy of the security of or the indebtedness hereby secured. Further, Beneficiary, at the expense of Trustor, either by purchase, repair or construction, may from time to time maintain and restore the Mortgaged Property or any part thereof and complete construction of the Improvements uncompleted as of the date thereof and in the course of such completion may make such changes in the contemplated Improvements as Beneficiary may deem desirable and may insure the same.

3.3 Collect Rents. Beneficiary shall be entitled, to the full extent provided by law, to the appointment by a court having jurisdiction of a receiver to take possession of and protect the Mortgaged Property or any part thereof, and operate the same and collect the Rents and Profits.

3.4 Foreclosure. Beneficiary may bring an action in any court of competent jurisdiction to foreclose this Deed of Trust or to enforce any of the covenants and agreements hereof.

3.5 Sale of Property. To the extent permitted under applicable law, Beneficiary may elect to cause the Mortgaged Property or any part thereof to be sold as follows:

3.5.1 Beneficiary may proceed as if all of the Mortgaged Property were real property in accordance with subparagraph 3.5.4 below, or Beneficiary may elect to treat any of the Mortgaged Property which consists of a right in action or which is property that can be severed from the Premises or the Improvements without causing structural damage thereto as if the same were personal property, and dispose of the same in accordance with subparagraph 3.5.3 below, separate and apart from the sale of real property, the remainder of the Mortgaged Property being treated as real property.

3.5.2 Beneficiary may cause any such sale or other disposition to be conducted immediately following the expiration of any grace period herein provided (or immediately upon the expiration of any redemption or reinstatement period required by law) or Beneficiary may delay any such sale or other disposition for such period of time as Beneficiary deems to be in its best interest. Should Beneficiary desire that more than one (1) such sale or other disposition be conducted, Beneficiary may, at its option, cause the same to be conducted simultaneously, or successively, on the same day, or at such different days or times and in such order as Beneficiary may deem to be in its best interests.

3.5.3 Should Beneficiary elect to cause any of the Mortgaged Property to be disposed of as personal property as permitted by subparagraph 3.5.1 above, it may dispose of any part thereof in any manner now or hereafter permitted by the Uniform Commercial Code of the Governing Jurisdiction or in accordance with any other remedy provided by law to the full extent permitted under applicable law. Any such disposition may be conducted by an employee or agent of Beneficiary or Trustee. Both Trustor and Beneficiary shall be eligible to purchase any part or all of such property at any such disposition. Any such disposition may be either public or private as Beneficiary may elect, subject to the provisions of the Uniform Commercial Code of the Governing Jurisdiction. Beneficiary shall have all of the rights and remedies of a Secured Party under the Uniform Commercial Code of the Governing Jurisdiction. Expenses of retaking, holding, preparing for sale, selling or the like shall include Beneficiary's reasonable attorneys' fees and legal expenses, and upon such default, Trustor, upon demand of Beneficiary, shall assemble such personal property and make it available to Beneficiary at the Premises, a place which is hereby deemed reasonably convenient to Beneficiary and Trustor. Beneficiary shall give Trustor at least five (5) days' prior written notice of the time and place of any public sale or other disposition of such property or of the time at or after which any private sale or any other intended disposition is to be made, and if such notice is sent to Trustor, in the manner provided for the mailing of notices herein, it shall constitute reasonable notice to Trustor.

3.5.4 Should Beneficiary elect to sell the Mortgaged Property or any part thereof which is real property or which Beneficiary has elected to treat as real property, upon such election, Beneficiary or Trustee shall give notice of default and election to sell as may then be required by law. Thereafter, upon the expiration of such time and the giving of such notice of sale as may then be required by law, and without the necessity of any demand on Trustor, Trustee, at the time and place specified in the notice of sale, shall sell the Mortgaged Property, or any portion thereof specified by Beneficiary, at public auction to the highest bidder for cash in lawful money of the United States, subject, however, to the provisions of Section 3.7. Trustee may, and upon request of Beneficiary shall, from time to time postpone the sale by public announcement thereof at the time and place noticed therefor. If the Mortgaged Property consists of several lots or parcels, Beneficiary may direct that the same be sold as a unit or be sold separately and, if to be sold separately, Beneficiary may designate the order in which such lots or parcels shall be offered for sale or sold. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. Upon any sale, Trustee shall execute and deliver to the purchaser or purchasers a deed or deeds conveying the property so sold, but without any covenant or warranty whatsoever, express or implied, whereupon such purchaser or purchasers shall be let into immediate possession.

3.5.5 In the event of a sale or other disposition of the Mortgaged Property, or any part thereof, and the execution of a deed or other conveyance pursuant thereto, the recitals therein of facts, such as default, the giving of notice of default and notice of sale, demand that such sale should be made, postponement of sale, terms of sale, sale, purchase, payment of purchase money and other facts affecting the regularity or validity of such sale or disposition, shall be conclusive proof of the truth of such facts and any such deed or conveyance shall be conclusive against all persons as to such facts recited therein.

3.5.6 The acknowledgment of the receipt of the purchase money, contained in any deed or conveyance executed as aforesaid, shall be sufficient discharge to the grantee of all obligations to see to the proper application of the consideration therefor as hereinafter provided. The purchaser at any trustee's or foreclosure sale hereunder may disaffirm any easement granted or rental or lease contract made in violation of any provision of the Deed of Trust and may take immediate possession of the Mortgaged Property free from, and despite the terms of, such grant of easement and rental or lease contract.

3.5.7 Upon the completion of any sale or sale made by Trustee or Beneficiary, as the case may be, under or by virtue of this Section 3, Trustee or any officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. Trustee is hereby irrevocably appointed the true and lawful attorney-in-fact of Trustor in its name and stead to make all necessary conveyances, assignments, transfers and deliveries of the Mortgaged Property or any part thereof and the rights so sold and for that purpose Trustee may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, Trustor hereby ratifying and confirming all that its said attorney or any substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, Trustor, if so requested by Trustee or Beneficiary, shall ratify and confirm any such sale or sales by executing and delivering to Trustee or to such purchaser or purchasers all such instruments as may be advisable in the judgment of Trustee or Beneficiary, for the purpose as may be designated in such request. Any such sale or sale made under or by virtue of this Article 3, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all of the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Trustor in and to the properties and rights so sold, and shall be a perpetual bar, both at law and in equity, against Trustor and any and all persons claiming or who may claim the same, or any part thereof, from, through or under Trustor.

3.5.8 Trustor hereby expressly waives any right which it may have to direct the order in which any of the Mortgaged Property shall be sold in the event of any sale or sales pursuant hereto.

3.6 **Application of Proceeds.** The purchase money, proceeds or avails of any sale made under or by virtue of this Section 3, together with all other sums which may then be held by Trustee or Beneficiary under this Deed of Trust, whether under the provisions of this Section 3, or otherwise, shall be applied as follows:

3.6.1 **First,** to the payment of the costs and expenses of the sale, including reasonable compensation to Trustee or Beneficiary, their agents and counsel, and of any judicial proceedings wherein the same may be made and to the payment of all expenses, liabilities and advances made or incurred by Trustee under this Deed of Trust, together with interest at the rate set forth in the Note on all advances made by Beneficiary or Trustee and all taxes or assessments, except for any taxes, assessments or other charges subject to which the Mortgaged Property shall have been sold, and further including all costs of publishing, recording, mailing and posting notice, the cost of any search and/or other evidence of title procured in connection therewith and the cost of any revenue stamps on any deed of conveyance.

3.6.2 **Second,** to the payment of any and all sums expended under the terms hereof, not then repaid, with accrued interest at the rate set forth in the Note and all other sums required to be paid by Trustor pursuant to any provisions of this Deed of Trust or of the Note, including all expenses, liabilities and advances made or incurred by Beneficiary under this Deed of Trust or in connection with the enforcement hereof, together with interest at the rate set forth in the Note on all advances.

3.6.3 **Third,** to the payment of the principal and interest then due, owing and unpaid upon the Note, with interest on the unpaid principal at the rate set forth in the Note from the due date of any such payment of principal until the same is paid.

3.6.4 **Fourth,** the remainder, if any, to the person or persons legally entitled thereto.

3.7 **Sale Procedure.** Upon any sale or sales made under or by virtue of this Section 3, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Beneficiary may bid for and acquire the Mortgaged Property or any part thereof and, in lieu of paying cash therefor, may make settlement for the purchase price by crediting upon the indebtedness or other sums secured by this Deed of Trust the net sales price after deducting therefrom the expenses of sale and the costs of judicial proceedings, if any, and any other sums which Trustee or Beneficiary is authorized to deduct under this Deed of Trust, and, in such event, this Deed of Trust, the Note and documents evidencing expenditures secured hereby shall be presented to the person or persons conducting the sale in order that the amount so used or applied may be credited upon said indebtedness as having been paid.

3.8 **Payment of All Sums Owing.**

3.8.1 To the extent permitted by applicable law, upon the occurrence of any Event of Default and upon written demand by Beneficiary, Trustor will pay to Beneficiary the entire principal of the Note then outstanding, and all accrued but unpaid interest thereon, and, after the happening of said Event of Default, will also pay to Beneficiary interest at the rate set forth in the Note on the then unpaid principal of the Note, and the sums required to be paid by Trustor pursuant to any provision of this Deed of Trust, and in addition thereto such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to Trustee

and Beneficiary hereunder. In the event Trustor shall fail forthwith to pay such amounts upon such demand, Beneficiary shall be entitled and empowered to institute such action or proceedings at law or in equity as may be advised by its counsel for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment of final decree against Trustor and collect, out of property of Trustor wherever situated, as well as out of the Mortgaged Property, in any manner provided by law, moneys adjudged or decreed to be payable.

3.8.2 Beneficiary shall be entitled to recover judgment as aforesaid either before or after or during the pendency of any proceedings for the enforcement of the provisions of this Deed of Trust, and the right of Beneficiary to recover such judgment shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of this Deed of Trust, or the foreclosure of the lien hereof; and in the event of a sale of the Mortgaged Property, and of the application of the proceeds of sale, as in this Deed of Trust provided, to the payment of the debt hereby secured, Beneficiary shall be entitled to enforce payment of, and to receive all amounts then remaining due and unpaid upon, the Note, and to enforce payment of all other charges, payments and costs due under this Deed of Trust, and shall be entitled to recover judgment for any portion of the debt remaining unpaid, with interest. In case of proceedings against Trustor in insolvency or bankruptcy or any proceedings for the reorganization of Trustor or involving the liquidation of its assets, Beneficiary shall be entitled to prove the whole amount of principal and interest due upon the Note to the full amount thereof, and all other payments, charges and costs due under this Deed of Trust, without deducting therefrom any proceeds obtained from the sale of the whole or any part of the Mortgaged Property; provided, however, that in no case shall Beneficiary receive a greater amount than such principal and interest and such other payments, charges and costs from the aggregate amount of the proceeds of the sale of the Mortgaged Property and the distribution from the estate of Trustor.

3.8.3 Except as otherwise provided by applicable law, no recovery of any judgment by Beneficiary and no levy of an execution under any judgment upon the Mortgaged Property or upon any other property of Trustor shall affect, in any manner or to any extent, the lien of this Deed of Trust upon the Mortgaged Property or any part thereof, or any liens, rights, powers or remedies of Trustee or Beneficiary hereunder, but such liens, rights, powers and remedies of Trustees and Beneficiary shall continue unimpaired as before.

3.8.4 Any moneys thus collected by Beneficiary under this Section 3.8 shall be applied by Beneficiary in accordance with the provisions of Section 3.6.

3.9 Legal Process. Upon the commencement of any action, suit or other legal proceedings by Beneficiary to obtain judgment for the principal of, or interest on, the Note and other sums required to be paid by Trustor pursuant to any provision of this Deed of Trust, or of any other nature in aid of the enforcement of the Note or of this Deed of Trust, Trustor, to the fullest extent permitted by law, will and does hereby (a) waive the issuance and service of process and enter its voluntary appearance in such action, suit or proceedings, and (b) if required by Beneficiary, consent to the appointment of a receiver or receivers of the Premises and of all the Rents and Profits. After the happening of any Event of Default, or upon the commencement of any proceedings to foreclose this Deed of Trust or to enforce the specific performance hereof or in aid thereof or upon the commencement of any other judicial proceedings to enforce any right of Trustee or Beneficiary, Trustee or Beneficiary shall be entitled forthwith, as a matter of right, if either shall so elect, without the giving of notice to any other party and without regard to the adequacy of the security of the Mortgaged Property, either before or after declaring the unpaid principal of the Note to be due and payable, to the appointment of such a receiver or receivers.

3.10 Possession of Property. Notwithstanding the appointment of any receiver, liquidator or trustee of Trustor, or of any of its property, or of the Mortgaged Property or any part thereof, Trustee and Beneficiary shall be entitled to retain possession and control of all property now or hereafter held under this Deed of Trust, including, but not limited to, the Rents and Profits.

3.11 No Exclusivity of Remedies. Except as provided by applicable law, no remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of Trustee or Beneficiary in exercising any right or power accruing upon any Event of Default shall impair any right or power or shall be construed to be a waiver of any Event of Default or any acquiescence therein; and every power and remedy given by this Deed of Trust to Trustee or Beneficiary may be exercised from time to time as often as may be deemed expedient by Trustee or Beneficiary. If there exists additional security for the performance of the obligations secured hereby, the holder of the Note, at its sole option, and without limiting or affecting any of the rights or remedies hereunder, may exercise any of the rights and remedies to which it may be entitled hereunder concurrently with whatever rights it may have in connection with such other security or in such order as it may determine. Nothing in this Deed of Trust or in the Note shall affect the obligation of Trustor to pay the principal of, and interest on, the Note in the manner and at the time and place therein respectively expressed.

3.12 Right to Enforcement. To the fullest extent permitted by applicable law, Trustor will not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage or any stay or extension or moratorium law or law pertaining to the marshaling of assets, the administration of estates of decedents, any exemption from execution or sale of the Mortgaged Property or any part thereof, including exemption of homestead, wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Deed of Trust, nor claim, take or insist upon any benefit or advantage or any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Property, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision herein, or pursuant to the decree, judgment or order of any court of competent jurisdiction. Trustor, for itself and all who claim under it, hereby waives, to the extent that it lawfully may, all right to have the Mortgaged Property marshaled upon any sale or foreclosure hereunder.

3.13 Deliver Property. Upon the occurrence of any Event of Default and pending the exercise by Trustee or Beneficiary or their agents or attorneys of their right to exclude Trustor from all or any part of the Mortgaged Property, Trustor agrees to vacate and surrender possession of the Mortgaged Property to Trustee or Beneficiary, as the case may be, or to a receiver, if any, and in default thereof may be evicted by any summary action or proceeding for the recovery of possession of leased premises for nonpayment of rent, however designated.

3.14 Successor Owner. In the event ownership of the Mortgaged Property or any portion thereof becomes vested in a person other than the Trustor herein named, Beneficiary may, without notice to the Trustor named herein, whether or not Beneficiary has given written consent to such change in ownership, deal with such successor or successors in interest with reference to this Deed of Trust and the indebtedness secured hereby, and in the same manner as with the Trustor herein named, without in any way vitiating or discharging Trustor's liability hereunder or for the indebtedness hereby secured.

3.15 Tenancy After Foreclosure. In the event that there be a foreclosure, whether judicially or non-judicially hereunder and if at the time of such sale Trustor, or its heir, executor, administrator or assign, be occupying the Premises and Improvements or any part thereof so sold, each and all shall immediately become the tenant of the purchaser at such sale, which tenancy shall

be a tenancy from day to day, terminable at the will of either tenant or landlord, at a reasonable rental per day based upon the value of the Premises and Improvements, such rental to be due daily to the purchaser. An action of unlawful detainer shall lie if the tenant holds over after a demand in writing for possession of said Premises and Improvements; and this agreement and the Trustee's deed shall constitute a lease and agreement under which any such tenant's possession arose and continued.

4. DISPOSAL OF PREMISES.

4.1 Due-On-Sale Provisions. Except as specifically permitted herein or in Sections 6.7.1–6.7.2 of the Note, if Trustor shall further encumber, sell, transfer or otherwise dispose of the Premises, or any part thereof, without the prior consent in writing by Beneficiary, Beneficiary may, at its election, declare the entire indebtedness hereby secured to be immediately due and payable, without notice to Trustor (which notice Trustor hereby expressly waives), and upon such declaration the entire indebtedness hereby secured shall be immediately due and payable.

5. CONCERNING TRUSTEE.

5.1 Trustee's Obligations. Trustee, by its acceptance hereof, covenants faithfully to perform and fulfill the trusts herein created, being liable, however, only for willful negligence or misconduct, and hereby waives any statutory fee and agrees to accept reasonable compensation, in lieu thereof, for any services rendered by it in accordance with the terms hereof.

5.2 Resignation. Trustee may resign at any time upon giving thirty (30) days' notice in writing to Trustor and to Beneficiary.

5.3 Successor Trustee. In the event of Trustee's death, removal, resignation, refusal to act, or inability to act or, in the sole discretion of Beneficiary for any reason whatsoever, Beneficiary may, at any time or from time to time without notice and without specifying any reason therefor and without applying to any court, select and appoint a successor trustee, and all powers, rights, duties and authority of Trustee, as aforesaid, shall thereupon become vested in such successor without conveyance from the predecessor trustee. Such substitute trustee shall not be required to give bond for the faithful performance of its duties unless required by Beneficiary. Such substitute trustee shall be appointed by written instrument duly recorded in the county where the Premises are located, which appointment may be executed by any authorized agent of Beneficiary and if Beneficiary is a business trust or corporation and such appointment be executed on its behalf by any officer of such business trust or corporation, such appointment shall be conclusively presumed to have been executed with authority and shall be valid and sufficient without proof of any action by the Board of Trustees or Board of Directors or any superior officer of the business trust or corporation. Trustor hereby ratifies and confirms any and all acts which the hereinnamed Trustee, or its successor or successors in this trust, shall do lawfully by virtue hereof. Trustor hereby agrees, on behalf of itself and of its heirs, executors, administrators and assigns, that the recitals contained in any deed or deeds executed in due form by Trustee or any substitute trustee, acting under the provisions of this Deed of Trust, shall be prima facie evidence of the facts recited, and that it shall not be necessary to prove in any court, otherwise than by such recitals, the existence of the facts essential to authorize the execution and delivery of such deed or deeds and the passing of title hereby.

5.4 Trustee's Rights. At any time and from time to time, without liability therefor and without notice, upon written request of Beneficiary, Trustee shall (a) consent in writing to the making of any map or plat of the Mortgaged Property, (b) join in granting any easement thereon, (c) join in any extension agreement or any agreement subordinating the lien or charge hereof, or (d) upon presentation of this Deed of Trust and the Note or notes secured hereby for endorsement,

and without affecting the personal liability of any person for the payment of the indebtedness secured hereby or the effect of this Deed of Trust upon the remainder of the Mortgaged Property, reconvey any part of the Mortgaged Property.

5.5 Reconveyance. Upon written request of Beneficiary stating that all sums secured hereby have been paid and upon surrender to Trustee of this Deed of Trust and the Note or notes secured hereby for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the Deed of Trust on the Property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truth thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled hereto."

6. ASSIGNMENT OF PROCEEDS.

6.1 Definition of Proceeds. For purposes of this Deed of Trust and for the purposes of the security interests created hereunder, "Proceeds" shall mean all insurance proceeds on the Mortgaged Property, all proceeds of a sale of all or any portion of the Mortgaged Property, and all causes of action, claims, compensation, awards and recoveries for any damage, condemnation or taking of all or any part of the Property or for any damage or injury to it or for any loss or diminution in value of the Property, are hereby assigned to and shall be paid to Beneficiary. At Beneficiary's option, Beneficiary may appear in and prosecute (either in its own name or in the name of Trustor) or participate in any suits or proceedings relating to any such proceeds, causes of actions, claims, compensation, awards or recoveries and may adjust, compromise or settle any claim in connection therewith.

6.2 Application of Proceeds. Subject to the provisions of Sections 6.4 and 6.5 below and to the extent permitted under applicable law and subject to the provisions of Section 6.3 below, Beneficiary shall apply any Proceeds received by it as follows: first, to the payment of all of Beneficiary's reasonable costs and expenses (including but not limited to legal fees and disbursements) incurred in obtaining those sums; and, then, in Beneficiary's sole discretion and without regard to the adequacy of its security, to the payment of the indebtedness and obligations secured by this Deed of Trust. Any application of such funds to the indebtedness secured hereby shall not be construed to cure or waive any Event of Default or invalidate any acts of Beneficiary arising out of such Event of Default.

6.3 Restoration of Property. Subject to the provisions of Sections 6.4 and 6.5 below, if any part of the Mortgaged Property is damaged or destroyed by any means, including, without limitation, by flood, earthquake, wind or fire, Trustor shall promptly restore the Mortgaged Property to its prior undamaged condition, in accordance with the following:

6.3.1 Plan of Restoration. Trustor shall present within sixty (60) days of such damage or destruction to Beneficiary a plan for restoration which includes, among other things, plans and specifications prepared by an architect satisfactory to Beneficiary, cost estimates and time schedules which in Beneficiary's sole discretion are satisfactory;

6.3.2 Construction Contract. Trustor shall enter into, with Beneficiary's prior written consent, which consent shall not be unreasonably withheld, a contract with contractor(s) providing for complete restoration in accordance with such restoration plan previously approved by Beneficiary within three (3) months of such damage or destruction; and

6.3.3 Application of Insurance Proceeds. Subject to the provisions of Sections 6.4 and 6.5 below, the insurance proceeds available by reason of such damage or destruction that are received by Beneficiary pursuant to this Deed of Trust (less Beneficiary's costs and expenses incurred in obtaining such funds) plus additional sums provided to Beneficiary by Trustor for

restoration purposes shall be at least equal to the anticipated costs of completing such construction, which anticipated costs shall include, but not be limited to, appropriate interest reserves and contingency funds reasonably required by Beneficiary.

6.3.4 Conditions to Disbursement of Proceeds. Subject to the provisions of Sections 6.4 and 6.5 below, when Trustor has complied with all of the preceding portions of this Section 6.3, Beneficiary may condition disbursement of the sums specified in Section 6.3 above to Trustor on terms and conditions such as those governing disbursements of loan funds in construction loans made by Beneficiary for similar properties.

6.4 Release of Insurance Proceeds. Notwithstanding any other provision of this Deed of Trust, in the event of loss, damage by any casualty in an amount of fifty percent (50%) of the loan amount or less, Beneficiary will agree to release the insurance proceeds of the restoration subject to the following conditions:

6.4.1 Trustor is not in default under this Deed of Trust or any of the other loan documents;

6.4.2 Trustor proceeds and pursues diligently and expeditiously the repair or restoration of the damaged portion of the Mortgaged Property;

6.4.3 Beneficiary has received evidence of rent loss insurance satisfactory in form and amount to Beneficiary at the time of the closing of the loan and at the time of the loss;

6.4.4 Beneficiary approves of the plans and specifications for the restoration or repair work and evidence satisfactory to Beneficiary that at least eighty percent (80%) of the improvements will be leased and occupied under leases approved in writing by Beneficiary after restoration and repair;

6.4.5 Sufficient funds shall be on deposit with Beneficiary at all times to complete the restoration or repair work, as certified by an inspecting architect approved by Beneficiary in its discretion;

6.4.6 Trustor provides completion and performance bonds and builder's all-risk insurance satisfactory to Beneficiary in its discretion;

6.4.7 Any insurer does not assert any defense against Trustor or any tenant pursuant to any insurance policy covering the Mortgaged Property;

6.4.8 Beneficiary shall have the option of applying any surplus proceeds remaining after restoration or repair to the indebtedness secured by this Deed of Trust;

6.4.9 The insurance funds will be disbursed in not more than five (5) increments of not less than \$50,000.00 each, except for the last disbursement;

6.4.10 Prior to any disbursement, Trustor's inspecting architect/engineer or Beneficiary's correspondent will certify the completion of the work in accordance with the approved plans and specifications and that there are sufficient funds on deposit with Beneficiary to complete the work;

6.4.11 Such other conditions as are customarily required by a local construction lender, or otherwise reasonable; and

6.4.12 Evidence satisfactory to Beneficiary that parking ingress/egress shall at all times meet local codes and tenant requirements and the Mortgaged Property at all times shall meet all zoning requirements.

6.5 **Excessive Damage.** Notwithstanding any other provision of this Deed of Trust, in the event of loss, damage by any casualty in an amount greater than fifty percent (50%) of the loan amount, Beneficiary may elect at its sole discretion to apply any proceeds to either the indebtedness or repair.

7. MISCELLANEOUS.

7.1 **Severability.** In the event any one of more of the provisions contained in this Deed of Trust or in the Note shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Deed of Trust, but this Deed of Trust shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

7.2 **Servicing Fee.** Trustor agrees to pay Beneficiary or its authorized loan servicing agent for each and any loan statement furnished at Trustor's request for the sum of \$250.00.

7.3 **No Usury.** All agreements between Trustor and Beneficiary are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the principal amount of the Note, acceleration of maturity of the unpaid principal balance thereof, or otherwise, or advancement of any sums under the provisions of this Deed of Trust, shall the amount paid or agreed to be paid to the holder of the Note for the use, forbearance or detention of the money to be advanced thereunder or hereunder exceed the highest lawful rate permissible. If, from any circumstances whatsoever, fulfillment of any provision of this Deed of Trust of the Note or any other agreement referred to herein, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law which a court of competent jurisdiction may deem applicable thereto or hereto, then, ipso facto, the obligations to be fulfilled shall be reduced to the limit of such validity, and if from any circumstance the holder of the Note or Beneficiary shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due hereunder and not to the payment of interest or, if such excessive interest exceeds the unpaid principal balance due hereunder, the excess shall be refunded to Trustor or its successive or assigns. This Section 7.3 shall control every other provision of all agreements between Trustor and Beneficiary.

7.4 **Notices.** All written notices expressly provided hereunder to be given by Beneficiary to Trustor and all notices and demands of any kind or nature whatsoever which Trustor may be required or may desire to give to or serve on Beneficiary shall be in writing and shall be served by registered or certified mail. Any such notice or demand shall be served by reputable overnight courier or registered or certified mail deposited in the United States mail, with postage thereon fully prepaid and addressed to the party so to be served at its address above stated or at such other address of which it shall have notified, in writing, the person charged with giving such notice. Service of any such notice or demand so made shall be deemed complete on the day of actual delivery as shown by the addressee's registry or certification receipt or upon the expiration of the third (3rd) day after the date of mailing, whichever is earlier in time.

7.5 **Notice of Default.** Trustor hereby requests that a copy of any Notice of Default and Notice of Sale as may be required by law be mailed to it at its address set forth on the cover page hereof.

7.6 **Consent Limited.** The granting of consent by Beneficiary to any transaction as required by the terms hereunder shall not be deemed a waiver of the right to require consent to future or successive transactions.

7.7 **Successors and Assigns.** All of the grants, obligations, covenants, agreements, terms, provisions and conditions herein shall run with the land and shall apply to, bind and inure to the benefit of the successors and assigns of Trustor and the successors in trust of Trustee, and the endorsees, transferees, successors and assigns of Beneficiary. In the event Trustor is composed of more than one party, the obligations, covenants, agreements, and warranties contained herein as well as the obligations arising therefrom are and shall be joint and several as to each such party.

7.8 **Counterparts.** This Deed of Trust may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same deed.

7.9 **Governing Law; Consent to Jurisdiction.** Trustor agrees as provided below, the Loan Documents shall be governed by, and shall be construed and enforced in accordance with, the internal laws of the State of Utah (without regard to conflicts of laws principles) as to interpretation, enforcement, validity, construction, effect and in all other respects.

7.10 **Exculpation Provisions.** This Deed of Trust, and all obligations arising hereunder, shall be subject to the exculpation provisions set forth in Section 19 of the Note.


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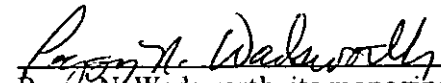
The undersigned has executed this Deed of Trust, Assignment of Leases and Rents and Security Agreement (Including Fixture Filing) the day and year first hereinabove written.

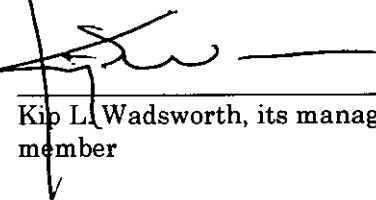
BORROWER

SANTA FE PALMS, LLC, a Utah limited liability company

By: Wadsworth & Sons, LLC, a Utah limited liability company, its sole member

By: 
Ralph L. Wadsworth, its managing member

By: 
Peggy N. Wadsworth, its managing member

By: 
Kip L. Wadsworth, its managing member

STATE OF UTAH)

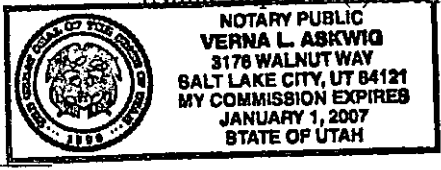
COUNTY OF SALT LAKE)

On AUGUST 5, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared RALPH L WADSWORTH

personally known to me — OR — 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.

WITNESS my hand and official seal.

[Handwritten Signature]
SIGNATURE OF NOTARY



CAPACITY CLAIMED BY SIGNER:

- INDIVIDUAL(S)
- CORPORATE OFFICER(S)
- _____
- Title(s)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- SUBSCRIBING WITNESS
- GUARDIAN/CONSERVATOR
- OTHER: MANAGING MEMBER

SIGNER IS REPRESENTING:

(Name of person(s) or entity(ies))

STATE OF UTAH)

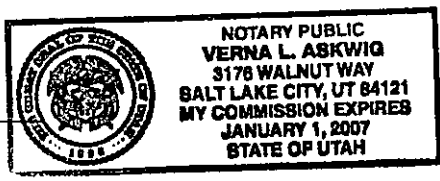
COUNTY OF SALT LAKE)

On AUGUST 5, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared PEGGY N. WADSWORTH

personally known to me — OR — 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.

WITNESS my hand and official seal.

[Handwritten Signature]
SIGNATURE OF NOTARY



CAPACITY CLAIMED BY SIGNER:

- INDIVIDUAL(S)
- CORPORATE OFFICER(S)
- _____
- Title(s)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- SUBSCRIBING WITNESS
- GUARDIAN/CONSERVATOR
- OTHER: MANAGING MEMBER

SIGNER IS REPRESENTING:

(Name of person(s) or entity(ies))

STATE OF UTAH)

COUNTY OF SALT LAKE)

On AUGUST 5, 2004, before me,
the undersigned, a Notary Public in and for
said State, personally appeared _____

KIP WADSWORTH
personally known to me — OR — 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.

CAPACITY CLAIMED BY SIGNER:

- INDIVIDUAL(S)
- CORPORATE OFFICER(S)
- _____
- Title(s)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- SUBSCRIBING WITNESS
- GUARDIAN/CONSERVATOR
- OTHER: MANAGING MEMBER

SIGNER IS REPRESENTING:

(Name of person(s) or entity(ies))

WITNESS my hand and official seal.

Verna L. Askwig
SIGNATURE OF NOTARY

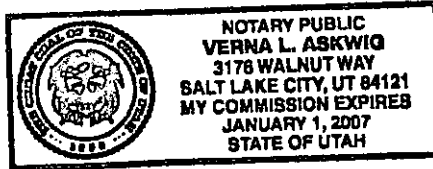


EXHIBIT "A"
LEGAL DESCRIPTION

All of that certain land located in Utah County, Utah and is described as:

PARCEL 1:

LOT 1, PLAT "A", ALBERTSON'S CENTER NO. 2, AMERICAN FORK, UTAH, ACCORDING TO THE OFFICIAL PLAT THEREOF, ON FILE AND OF RECORD IN THE OFFICE OF THE UTAH COUNTY RECORDER.

PARCEL 1A:

THOSE RIGHTS APPURTENANT TO PARCEL 1 AS SET FORTH IN THAT CERTAIN DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENTS DATED NOVEMBER 16, 1993 AND RECORDED MAY 20, 1994 AS ENTRY NO. 42740 IN BOOK 3449 AT PAGE 351 OF OFFICIAL RECORDS, AS THE SAME MAY HAVE HERETOFORE BEEN AMENDED AND/OR SUPPLEMENTED.

APN No. 34-201-0001

EXHIBIT "B"
DESCRIPTION OF PERSONAL PROPERTY FOR FIXTURE FILING

1. **REAL PROPERTY RIGHTS, APPURTENANCES AND IMPROVEMENTS.** All present and future structures, buildings, improvements and fixtures of any kind on the real property described in the attached **Exhibit "A"** ("**Real Property**"), which is incorporated herein by this reference, as well as:

(a) all appurtenances of the Real Property and all rights in and to any streets, roads or public places, easements or rights of way, relating to the Real Property, and all minerals, oil, gas and other hydrocarbon substances on or under the surface of the Real Property, as well as all development rights, permits, licenses, air rights, water and water rights relating to the Real Property, and all existing and future goods and tangible personal property located on the Real Property or wherever located and used or useable in connection with the use, operation or occupancy of the Real Property or in construction of any improvements thereon, including, but not limited to, apparatus, equipment and appliances used to supply air cooling, air conditioning, heat, gas, water, light, power, refrigeration, ventilation, laundry, drying, dishwashing, garbage disposal, waste removal, recreation or other services on the Real Property; and

(b) all elevators, escalators, and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, partitions, ducts, compressors, plumbing, ovens, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, pools and spas and pool and spa operation and maintenance equipment and apparatus; and

(c) all trees and plants located on the Real Property, and all renewals or replacements thereof or articles in substitution thereof; it being intended and agreed that all such items will be conclusively considered to be part of the Real Property, whether or not attached or affixed to the Real Property ("**Improvements**").

2. **COLLATERAL.** All right, title and interest in and to the following described property and any and all products and proceeds thereof, now owned or hereafter acquired (sometimes all of such being collectively referred to herein as the "**Collateral**"):

(a) **General Intangibles.** All general intangibles relating to design, development, operation, management and use of the Real Property and construction of the Improvements, including, but not limited to:

(i) all names under which or by which the Real Property or the Improvements may at any time be operated or known, all rights to carry on business under any such names or any variants thereof, and all goodwill in any way relating to the Real Property;

(ii) all permits, licenses, authorizations, variances, land use entitlements, approvals and consents issued or obtained in connection with the construction, maintenance or operation of the Improvements;

(iii) all permits, licenses, approvals, consents, authorizations, franchises and agreements issued or obtained in connection with the use, occupancy or operation of the Real Property;

(iv) all rights as a declarant (or its equivalent) under any covenants, conditions and restrictions or other matters of record affecting the Real Property;

- (v) all materials prepared for filing or filed with any governmental agency;
- (vi) all rights under any contract in connection with the development, design, use, operation, management and construction of the Real Property and/or the Improvements; and
- (vii) all books and records prepared and kept in connection with the acquisition, construction, operation and occupancy of the Real Property and the Improvements;
- (b) **Contracts.** All construction, service, management, engineering, consulting, leasing, architectural, design, landscape and other similar contracts of any nature, as such may be modified, amended or supplemented from time to time, concerning the design, construction, management, operation, occupancy, use, and/or disposition of any portion of or all of the Real Property;
- (c) **Plans and Reports.** All architectural, design and engineering drawings, plans, specifications, working drawings, shop drawings, general conditions, addenda, soil tests and reports, feasibility studies, appraisals, engineering reports, environmental reports and similar materials relating to any portion of or all of the Real Property and/or the Improvements and all modifications, supplements and amendments thereto;
- (d) **Sureties.** All payment and performance bonds or guarantees, and any and all modifications and extensions thereof relating to the Real Property and/or the Improvements;
- (e) **Payments.** All reserves, deferred payments, deposits, refunds, cost savings, letters of credit and payments of any kind relating to the construction, design, development, operation, occupancy, use and disposition of all or any portion of the Real Property and/or the Improvements, including, without limitation, any property tax rebates now owing or hereafter payable;
- (f) **Loan Proceeds.** All proceeds of the loan secured hereby;
- (g) **Claims.** All proceeds and any claims arising on account of any damage to or taking of the Real Property and/or the Improvements or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Real Property and/or the Improvements;
- (h) **Insurance.** All policies of, and proceeds resulting from, insurance relating to the Real Property, Improvements or any of the Collateral, and any and all riders, amendments, renewals, supplements or extensions thereof, and all proceeds thereof;
- (i) **Deposits.** All deposits made with or other security given to utility companies with respect to the Real Property and/or the Improvements, and all advance payments of insurance premiums made with respect thereto and claims or demands relating to insurance and all deposit accounts wherever located;
- (j) **Stock.** All shares of stock or other evidence of ownership of any part of the Real Property that are owned in common with others, including all water stock relating to the Real Property, if any, and all documents or rights of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Real Property and/or the Improvements;
- (k) **Sale Contracts.** All sales contracts, escrow agreements and broker's agreements concerning the sale of any or all of the Real Property and/or the Improvements, and all amendments thereto; and

(1) **Income.** All income, rents, revenues, issues, deposits, receipts, profits and proceeds, and accounts receivable generated from the use and operation, of the Real Property, the Improvements and the Collateral to which Trustor may be entitled, whether now due, past due or to become due including, without limiting the above items, all "**Goods**", "**Accounts**", "**Documents**", "**Instruments**", "**Money**", "**Chattel Paper**" and "**General Intangibles**", as those terms are defined in the Utah Commercial Codes from time to time in effect.

ATTENTION: COUNTY CLERK/RECORDER — THIS INSTRUMENT COVERS GOODS THAT ARE OR ARE TO BECOME FIXTURES ON THE REAL PROPERTY DESCRIBED HEREIN AND IS TO BE FILED FOR RECORD IN THE RECORDS WHERE DEEDS OF TRUST AND MORTGAGES ON REAL ESTATE ARE RECORDED.

ADDITIONALLY, THIS INSTRUMENT SHOULD BE APPROPRIATELY INDEXED, NOT ONLY AS A DEED OF TRUST OR MORTGAGE, BUT ALSO AS A FINANCING STATEMENT COVERING GOODS THAT ARE OR ARE TO BECOME FIXTURES ON THE REAL PROPERTY DESCRIBED HEREIN. THE MAILING ADDRESSES OF THE TRUSTOR (DEBTOR) AND BENEFICIARY (SECURED PARTY) ARE SET FORTH IN THIS INSTRUMENT.