

AFTER RECORDING, RETURN TO:
DeWitt Ross & Stevens S.C.
Paul A. Croake, Esq.
2 East Mifflin Street, Suite 600
Madison, WI 53703
608/283-5623

12375683
9/28/2016 11:07:00 AM \$127.00
Book - 10481 Pg - 2399-2457
Gary W. Ott
Recorder, Salt Lake County, UT
FOUNDERS TITLE
BY: eCASH, DEPUTY - EF 59 P.

Property Tax I.D. Nos. 26-25-126-001; 26-25-126-002

16-011285

DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT

AND

FIXTURE FILING

FROM

**TOWNE STORAGE HERRIMAN, L.C.,
a Utah limited liability company, as Trustor**

TO

FOUNDERS TITLE COMPANY, INC, a Utah corporation, as Trustee

FOR THE BENEFIT

OF

**AMERICAN FAMILY LIFE INSURANCE COMPANY
a Wisconsin insurance corporation, as Beneficiary**

TO

**SECURE A NOTE
MATURING OCTOBER 10, 2026**

IN

**THE MAXIMUM PRINCIPAL AMOUNT OF
\$2,830,000.00**

DATED: SEPTEMBER 28, 2016

TABLE OF CONTENTS

	Page
DEFINITIONS.....	1
ADA Indemnity	1
Additional Interest	1
American Family	1
Appraised Value.....	2
Approved Plans.....	2
Architect.....	2
Assignment	2
Borrower	2
Brokerage Indemnity	2
Code	2
Collateral.....	2
Contractor	2
Coupon Rate.....	2
Deed of Trust	2
Default Rate	3
Disabilities Regulations	3
Environmental Indemnity	3
Environmental Law.....	3
Event of Default.....	3
Financing Statement.....	3
Fraud	3
Guarantors.....	3
Guaranty.....	3
Hazardous Substance:	4
Impositions.....	4
Indebtedness.....	5
Insurance Premiums.....	5
Insurance Proceeds.....	5
Knowledge	5
Late Charge.....	5
Lease	5
Levy	5
Liens.....	5
Loan	5
Loan-Commitment.....	5
Loan Documents	6
Loan Year.....	6
Ownership Interest Impairment	6
Permitted Owners.....	6
Permitted Transfers	6
Premises	6
Recoverable Costs.....	7

Reports	8
Request for Payment	8
Restoration	8
Restoration Funds	9
Tenant	9
Transfer	9
Trustee.....	9
Work	9
 PHRASES; RULES OF CONSTRUCTION	 9
 GRANTING CLAUSE A. REAL PROPERTY	 10
 GRANTING CLAUSE B. BUILDINGS, IMPROVEMENTS, FIXTURES, EQUIPMENT AND PERSONAL PROPERTY	 11
 GRANTING CLAUSE C. RENTS, LEASES AND PROFITS	 11
 GRANTING CLAUSE D. JUDGMENT AND INSURANCE AND CONDEMNATION AWARDS	 12
 GRANTING CLAUSE E. LICENSES, PERMITS, EQUIPMENT LEASES AND SERVICE AGREEMENTS.....	 12
 GRANTING CLAUSE F. PROCEEDS	 12
 ARTICLE 1 GENERAL COVENANTS AND AGREEMENTS	 13
SECTION 1.1 PAYMENT OF INDEBTEDNESS; OBSERVANCE OF COVENANTS	13
SECTION 1.2 CONSTRUCTION, MAINTENANCE & REPAIRS.....	13
SECTION 1.3 PAYMENT OF OPERATING COSTS; PRIOR DEEDS OF TRUST AND LIENS	13
SECTION 1.4 PAYMENT OF IMPOSITIONS.....	14
SECTION 1.5 REPORTS	14
SECTION 1.6 CERTIFICATE OF COMPLIANCE.....	14
SECTION 1.7 CONTEST OF IMPOSITIONS, LIENS AND LEVIES	15
SECTION 1.8 PROTECTION OF SECURITY.....	15
SECTION 1.9 ANNUAL STATEMENTS.....	16
SECTION 1.10 ADDITIONAL ASSURANCES.....	16
SECTION 1.11 PROHIBITION OF OWNERSHIP INTEREST IMPAIRMENT	17
SECTION 1.12 PERMITTED TRANSFERS	17
SECTION 1.13 TAX INCREMENTAL FINANCING.....	17
SECTION 1.14 ADDITIONAL INTEREST.....	18
SECTION 1.15 AMERICAN FAMILY'S APPLICATION OF PAYMENTS	18
SECTION 1.16 ESCROWS.....	18
SECTION 1.17 INDEMNIFIED MATTERS.....	19
 ARTICLE 2 MANAGEMENT, LEASES AND RENTS.....	 19

SECTION 2.1	PROPERTY MANAGEMENT	19
SECTION 2.2	AMERICAN FAMILY'S APPROVAL OF FUTURE LEASES REQUIRED	20
SECTION 2.3	BORROWER TO SUBMIT AND COMPLY WITH LEASES	20
SECTION 2.4	ASSIGNMENT OF LEASES AND RENTS.....	20
SECTION 2.5	AMERICAN FAMILY'S RIGHT TO PERFORM UNDER LEASES	21
SECTION 2.6	ASSIGNMENT OF INDEMNIFICATIONS	22
SECTION 2.7	UNIFORM ASSIGNMENT OF RENTS.....	22
ARTICLE 3 INSURANCE AND CONDEMNATION		22
SECTION 3.1	INSURANCE.....	22
SECTION 3.2	DAMAGE OR DESTRUCTION OF THE PREMISES.....	24
SECTION 3.3	CONDEMNATION.....	24
SECTION 3.4	DISBURSEMENT OF INSURANCE AND CONDEMNATION PROCEEDS	25
SECTION 3.5	FORECLOSURE OR ACQUISITION BY AMERICAN FAMILY...27	27
ARTICLE 4 HAZARDOUS MATERIALS AND COMPLIANCE WITH ENVIRONMENTAL LAWS		27
SECTION 4.1	DEFINITIONS.....	27
SECTION 4.2	REPRESENTATIONS AND COVENANTS BY BORROWER.	28
ARTICLE 5 UNIFORM COMMERCIAL CODE		29
SECTION 5.1	SECURITY AGREEMENT	29
SECTION 5.2	FIXTURE FILING.....	29
SECTION 5.3	REPRESENTATIONS AND AGREEMENTS	30
SECTION 5.4	MAINTENANCE OF PROPERTY	31
ARTICLE 6 EVENTS OF DEFAULT AND REMEDIES		31
SECTION 6.1	EVENTS OF DEFAULT	31
SECTION 6.2	AMERICAN FAMILY'S RIGHT TO ACCELERATE; IMPOSITION OF DEFAULT RATE.....	32
SECTION 6.3	ACCELERATION UPON DEFAULT; ADDITIONAL REMEDIES.....	33
SECTION 6.4	EXERCISE OF POWER OF SALE	34
SECTION 6.5	PERSONAL PROPERTY	35
SECTION 6.6	APPOINTMENT OF RECEIVER.....	35
SECTION 6.7	REMEDIES NOT EXCLUSIVE	35
SECTION 6.8	REINSTATEMENT	36
SECTION 6.9	MARSHALLING OF ASSETS.....	36
SECTION 6.10	CREDIT BIDS	36
SECTION 6.11	RIGHTS UNDER UNIFORM COMMERCIAL CODE.....	36
SECTION 6.12	RIGHT TO DISCONTINUE PROCEEDINGS	36
ARTICLE 7 RIGHTS OF AMERICAN FAMILY		37
SECTION 7.1	RIGHT TO CURE DEFAULT	37

SECTION 7.2	NO CLAIM AGAINST AMERICAN FAMILY	37
SECTION 7.3	INSPECTION	37
SECTION 7.4	RIGHTS CUMULATIVE.....	37
SECTION 7.5	SUBSEQUENT AGREEMENTS.....	38
SECTION 7.6	BUSINESS LOAN REPRESENTATION.....	38
SECTION 7.7	LEGAL LIMITS OF THE INDEBTEDNESS	38
ARTICLE 8 GENERAL REPRESENTATIONS AND WARRANTIES		38
SECTION 8.1	REPRESENTATIONS AND WARRANTIES.....	38
SECTION 8.2	CONTINUING OBLIGATION	40
ARTICLE 9 MISCELLANEOUS		40
SECTION 9.1	ACCEPTANCE OF TRUST; POWERS AND DUTIES OF TRUST	40
SECTION 9.2	COMPENSATION; EXCULPATION; INDEMNIFICATION	42
SECTION 9.3	SUBSTITUTION OF TRUSTEES	43
SECTION 9.4	RECONVEYANCE.....	43
SECTION 9.5	CHOICE OF LAW	43
SECTION 9.6	CHANGES OF OWNERSHIP	43
SECTION 9.7	SUCCESSORS AND ASSIGNS	44
SECTION 9.8	UNENFORCEABILITY OF CERTAIN CLAUSES	44
SECTION 9.9	NOTICES.....	44
SECTION 9.10	AMENDMENT/MODIFICATION	44
SECTION 9.11	SURVIVAL OF REPRESENTATIONS, WARRANTIES AND COVENANTS	44
SECTION 9.12	MINIMUM REQUIREMENT.....	44
SECTION 9.13	TIME OF THE ESSENCE.....	45
SECTION 9.14	COSTS OF ENFORCEMENT	45
SECTION 9.15	DEATH OF A GUARANTOR; SUBSTITUTION OF GUARANTOR	45
SECTION 9.16	RECOURSE.....	45
SECTION 9.17	WAIVER OF TRIAL BY JURY	45
SECTION 9.18	SINGLE PURPOSE ENTITY/SEPARATENESS	46
SECTION 9.19	UTAH STATUTE OF FRAUDS.....	46

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

THIS DEED OF TRUST CONSTITUTES A SECURITY AGREEMENT, AND IS FILED AS A FIXTURE FILING, WITH RESPECT TO ANY PORTION OF THE COLLATERAL (AS DEFINED BELOW) IN WHICH A PERSONAL PROPERTY SECURITY INTEREST OR LIEN MAY BE GRANTED OR CREATED PURSUANT TO THE UTAH UNIFORM COMMERCIAL CODE OR UNDER COMMON LAW, AND AS TO ALL REPLACEMENTS, SUBSTITUTIONS, AND ADDITIONS TO SUCH PROPERTY AND THE PROCEEDS THEREOF. FOR PURPOSES OF THE SECURITY INTEREST OR LIEN CREATED HEREBY, BENEFICIARY IS THE "SECURED PARTY" AND TRUSTOR IS THE "DEBTOR." TRUSTOR IS THE OWNER OF THE COLLATERAL DESCRIBED HEREIN.

This **DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING** ("**Deed of Trust**") made as of this 28th day of September, 2016, by and among **TOWNE STORAGE HERRIMAN, L.C.**, a Utah limited liability company, with a principal office at 1100 East 6600 South, Suite 201, Salt Lake City, UT 84121 (for recording and indexing purposes "**Trustor**"), and **FOUNDERS TITLE COMPANY, INC.**, a Utah corporation, with a principal office at 746 E. Winchester St, Ste 100, Salt Lake City, UT 84107, as **Trustee**, for the benefit of **AMERICAN FAMILY LIFE INSURANCE COMPANY**, an insurance corporation organized and existing under the laws of the State of Wisconsin, whose mailing address is Investment Division, 6000 American Parkway, Madison, WI 53783-0001 (for recording and indexing purposes "**Beneficiary**").

DEFINITIONS

As used in this Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing and the recitals hereto, the following terms and phrases shall have the following meanings. Terms in **boldface** type used in any **Loan Document** which are not defined in such **Loan Document** shall have the meaning ascribed to such term or terms in the text of this **Deed of Trust**.

ADA Indemnity: The **Loan Document** entitled Americans with Disabilities Act of 1990 Indemnity Agreement executed concurrently herewith by **Borrower** and **Guarantors** in favor of **American Family**.

Additional Interest: Interest at the **Default Rate** on any outstanding balance of **Recoverable Costs**.

American Family: American Family Life Insurance Company, an insurance corporation organized and existing under and by virtue of the laws of the State of Wisconsin whose mailing address is Investment Division, 6000 American Parkway, Madison, Wisconsin 53783-0001. **American Family** may be referred to by such terms as "Beneficiary", "Indemnitee" or "Secured

Party" as required by the **Loan Documents**. All such references shall be deemed to refer to and shall be construed as referring only to **American Family**, its successors and assigns.

Appraised Value: The estimated market value of the leased fee interest (subject to **Leases** in place) of the **Premises**, as estimated by an appraiser holding the highest certification for the appraisal of commercial real estate in the state where the **Premises** are situated, designated MAI by the Appraisal Institute, and otherwise reasonably acceptable to **American Family**. The estimated value shall be certified by such appraiser in a complete self-contained appraisal report reasonably acceptable to **American Family**.

Approved Plans: Plans and specifications satisfactory to **American Family** prepared by the **Architect** for the **Restoration**.

Architect: A licensed architect reasonably satisfactory to **American Family** hired to complete **Restoration**.

Assignment: The **Loan Document** entitled Assignment of Leases and Rents being executed concurrently herewith by **Borrower** in favor of **American Family**.

Borrower: Towne Storage Herriman, L.C., a Utah limited liability company. **Borrower** may be referenced to as "**Borrower**", "**Debtor**" or "**Trustor**" as set forth in the **Loan Documents**.

Brokerage Indemnity: The **Loan Document** entitled Brokerage Indemnity Agreement being executed concurrently herewith by **Borrower** and **Guarantors** in favor of **American Family**.

Code: The Uniform Commercial Code as adopted in the State of Utah.

Collateral: The lien and security interests in the property described in Granting Clauses A through F of this **Deed of Trust**, and a security interest within the meaning of the Uniform Commercial Code in favor of **American Family** in **Borrower's** right, title, and interest in and to the buildings, improvements, fixtures, equipment, personal property, rents, **Leases** and profits, and any judgments, condemnation and insurance awards, all as described herein and the property described in the **Deed of Trust**, **Assignment** and **Improvement Escrow**.

Contractor: A building contractor reasonably satisfactory to **American Family** to complete the **Work**.

Coupon Rate: A rate of interest of Three and Ninety-Eight One-Hundredths percent (3.98%) per year.

Deed of Trust: This indenture entitled Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing providing security in the **Collateral** to **American Family** for payment of the **Note** contemplated by the terms, provisions, covenants and conditions hereof, from **Borrower** to **Trustee** for the benefit of **American Family**.

Default Rate: An annual rate equal to the lesser of: (i) the maximum rate permitted by applicable law; or (ii) the greater of five percent (5%) above (a) the **Coupon Rate** or (b) an annual rate equal to 240 basis points greater than the yield on U.S. Treasuries having ten (10) years remaining maturity at the time of the **Event of Default**.

Disabilities Regulations: The act entitled Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101, *et seq.*, all amendments thereto and reauthorizations thereof, and all regulations, orders, rules, policies, and rules of common law promulgated or arising in connection therewith.

Environmental Indemnity: The **Loan Document** entitled Environmental Indemnity Agreement being executed concurrently herewith by **Borrower** and **Guarantors** in favor of **American Family**.

Environmental Law: Any applicable current or future federal, state or local law, statute, regulation, order, rule or policy, or rule of common law, which regulates or affects environmental, health or safety matters, including, without limitation, those relating to: (i) the treatment, storage, disposal, generation and transportation of any **Hazardous Substance**; (ii) air, soil, water, electromagnetic or noise emissions or pollution; (iii) surface or ground water contamination; (iv) spills, discharges, leaks, emissions, escapes, dumping or other releases or threatened releases of any **Hazardous Substance** into the environment, whether or not notification or reporting to any governmental agency was or is required; (v) the protection of wildlife, marine sanctuaries, vegetation or wetlands; (vi) the utilization of building products, construction materials or construction techniques; (vii) the protection of natural resources; (viii) storage tanks, vessels or related equipment; (ix) abandoned or discarded barrels, containers and other closed receptacles; (x) reporting and notification regarding any **Hazardous Substance**; (xi) health or safety of employees and other persons; or (xii) otherwise relating to the manufacture, processing, use, distribution, treatment, storage, disposal, transportation, or handling of any **Hazardous Substance**.

Event of Default: An **Event of Default**, whether referred to in the singular or plural, in any **Loan Document**, shall be the event or any of the events described in Section 6.1 of this **Decd of Trust** or defined elsewhere in the **Loan Documents**.

Financing Statement: UCC Financing Statement together with all exhibits to be filed with the Utah Department of Commerce, Division of Corporations and Commercial Code.

Fraud: Any intentional and knowing material representation or warranty of **Borrower**, any member of **Borrower** or any **Guarantor**, to **American Family**, which is made by such person or entity with actual knowledge of the falseness thereof and with the intention that **American Family** will rely thereon to its detriment and upon which **American Family** did, in fact, rely upon in committing to or making the **Loan**, or on which **American Family** relies in protecting its rights and interests in the **Loan** and **Collateral** after the **Loan** is closed.

Guarantors: Gary R. Free and James L. McQueen.

Guaranty: The **Loan Document** entitled Limited Guaranty being executed concurrently herewith by **Guarantors** in favor of **American Family**.

Hazardous Substance:

(i) Any pollutant, contaminant, pesticide, hazardous or extremely hazardous waste, or other hazardous or toxic substance, chemical, waste or material within the meaning of any Environmental Law, including, without limitation: (A) any "hazardous substance" as defined by, or identified in or pursuant to, The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et seq.*, and all amendments thereto and reauthorizations thereof; (B) any "hazardous waste" as defined by, or identified in or pursuant to, The Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, *et seq.*, and all amendments thereto and reauthorizations thereof; (C) any "hazardous material" identified in or pursuant to The Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, *et seq.*, and all amendments thereto and reauthorizations thereof; (D) any chemical substance or mixture regulated under The Toxic Substance Control Act, 15 U.S.C. Section 2601, *et seq.*, and all amendments thereto and reauthorizations thereof; (E) any "toxic pollutant" under The Federal Water Pollution Control Act, 33 U.S.C. Section 1251, *et seq.*, and all amendments thereto and reauthorizations thereof; or (F) any "hazardous air pollutant" under The Clean Air Act, 42 U.S.C. Section 7401, *et seq.*, and all amendments thereto and reauthorizations thereof;

(ii) petroleum, crude oil or any fraction thereof;

(iii) natural gas, natural gas liquids, liquified natural gas (all the foregoing collectively called "Natural Gas Products"), synthetic gas or mixtures of Natural Gas Products and synthetic gas;

(iv) any radioactive material, including any source, special nuclear or byproduct material, however produced, as defined in The Atomic Energy Act, 42 U.S.C. Section 2011, *et seq.*, and amendments thereto and reauthorizations thereof;

(v) asbestos-containing materials in any form or condition;

(vi) chemicals now subject to, or which become subject to, the OSHA Hazard Communication Standard, 29 C.F.R. Section 1910.1200, *et seq.*;

(vii) any hazardous biological agent or contaminant;

(viii) polychlorinated biphenyls ("PCBs"); or

(ix) any paint or other surface coatings that contain lead.

Notwithstanding anything to the contrary contained herein, the term **Hazardous Substance** will not include any such substance or material which is (i) commonly used or found on similar projects, and (ii) used, stored, and disposed of in accordance with all applicable **Environmental Laws**.

Impositions: All sums in the form of accrued taxes, assessments, water charges, sewer charges, energy utility charges and other fees and charges of every kind and nature whatsoever, together with any related penalties or interest charges resulting from a failure to timely pay such

sums, assessed or charged against or constituting a **Lien** upon the **Premises** or any interest therein or the **Indebtedness**.

Indebtedness: Collectively (1) the principal sum of Two Million Eight Hundred Thirty Thousand and No/100 Dollars (\$2,830,000.00) evidenced by the **Note**, the terms and conditions of which are incorporated in this **Deed of Trust** by reference, together with any modifications, extensions or renewals thereof, and any future advances made thereunder, and all interest due thereon (including interest at the **Default Rate**, if any); (2) prepayment premiums associated with prepayment, if any; (3) all **Late Charges**, if any; (4) all **Recoverable Costs**, if any; and (5) all **Additional Interest**, if any.

Insurance Premiums: All amounts required to be periodically paid by **Borrower** to insurance companies reasonably satisfactory to **American Family**, for all insurance coverages required by the **Loan Documents**.

Insurance Proceeds: All proceeds of any insurance which **Borrower** may be entitled to receive for loss or damage to the **Premises**, other than insurance proceeds from insurance covering risk of loss from loss of rents and/or business interruption.

Knowledge: Current, actual knowledge of a particular fact or other matter, without independent investigation.

Late Charge: A late payment charge which results from the late payment (after any applicable grace period) of any monthly installment payment or other regularly scheduled payments, including escrow deposits required by the **Deed of Trust** or other **Loan Documents**, for **Impositions** and/or **Insurance Premiums**, or a late charge which results from **Borrower's** failure to punctually provide a **Report** to **American Family** as required under the **Loan Documents**.

Lease: Any lease, sublease, license, concession or similar agreement, or any renewal of any such agreement, whether written or oral, granting a possessory interest in the **Premises** to any party other than **Borrower**, together with any amendments or addenda to such agreement and any guaranties of such agreement by a guarantor or guarantors of any **Tenants**.

Levy: Any levy, execution or attachment of any nature.

Liens: Tax, construction, mechanics', materialmen's and other non-possessory **Liens** of any nature.

Loan: The loan by **American Family** to **Borrower** in the original principal amount of Two Million Eight Hundred Thirty Thousand and No/100 Dollars (\$2,830,000.00) as evidenced by the **Note** of even date with this **Deed of Trust**.

Loan Commitment: The Mortgage Loan Application and Agreement issued by **Borrower** on July 20, 2016, and accepted by **American Family** on August 15, 2016, incorporating various terms, provisions, conditions and requirements to be performed by or on behalf of **Borrower** as a condition precedent to **American Family** advancing proceeds pursuant to such letter and the **Loan Documents**.

Loan Documents: The **Note**, the **Deed of Trust**, the **Guaranty**, the **Assignment**, the **ADA Indemnity**, the **Brokerage Indemnity**, the **Environmental Indemnity**, and the **Financing Statement**.

Loan Year: Except for the first **Loan Year**, a period consisting of twelve (12) consecutive months. The first **Loan Year** shall commence as of the **Effective Date** and shall end on October 9, 2017. Each subsequent **Loan Year** shall end on October 9th of each year thereafter.

Note: The **Loan Document** entitled Promissory Note being executed by **Borrower** concurrently herewith evidencing the **Loan by American Family to Borrower**, in the principal sum of Two Million Eight Hundred Thirty Thousand and No/100 Dollars (\$2,830,000.00) of even date with this **Deed of Trust** having a maturity date of October 10, 2026.

Ownership Interest Impairment: Except for a **Permitted Transfer**, any **Transfer** of any or all legal, economic or beneficial interests in the **Premises** or in a **Permitted Owner**. The effective date of an **Ownership Interest Impairment** shall be the date the **Ownership Interest Impairment** occurred.

Permitted Owners: **Borrower** and **Guarantors** or any entity controlled, directly or indirectly, by **Borrower**, **Guarantors**, any spouse or descendant of a **Guarantor**, and/or a spouse of a descendant of a **Guarantor**.

Permitted Transfers: Any of the following **Transfers** while no **Event of Default** exists:

(a) **Transfer** of a leasehold interest in the **Premises** by means of a **Lease** satisfying the terms and conditions of the **Deed of Trust**; or

(b) **Transfer** of an interest in the **Premises** or a transfer of an interest in **Borrower** between or among **Permitted Owners**, or to an entity controlled by the **Permitted Owners**; or

(c) **Transfer** of interests in the **Premises** or a **Permitted Owner** by devise or descent upon the death of a **Permitted Owner** or a member, partner or shareholder of a **Permitted Owner**; or

(d) **Transfer** of an interest in the **Premises** or a **Permitted Owner** to a child or spouse of a **Permitted Owner**; or

(e) Other **Transfer** to which **American Family** may, in its sole and absolute, good faith discretion, consent in writing.

Premises: Certain real property lying and being in Salt Lake County, State of Utah, described in Exhibit A to this **Deed of Trust**, together with all estates and rights in and to the real property and all **Borrower's** rights in and to the lands lying in streets, alleys and roadways adjoining the real property, all buildings, structures, improvements and all **Borrower's** rights in all fixtures, all **Borrower's** rights in all annexations, access rights, joint wall agreements,

easements, rights of way or use, servitudes, licenses, tenements, hereditaments, appurtenances and personal property now or hereafter belonging or pertaining to that real property. The **Premises** currently consist of approximately 4.34 acres of land improved with 429 self-storage units and site improvements including but not limited to a leasing office, 59 parking spaces for RVs, lighting and landscaping. The street address of the **Premises** is 5303 West 11800 South, Herriman, UT 84096.

Recoverable Costs: All out-of-pocket, third-party sums reasonably advanced or costs reasonably incurred by **American Family** in protecting the **Lien** of this **Deed of Trust** or its rights or interests under any **Loan Document**, and any and all reasonable out-of-pocket, third-party costs and expenses incurred in connection with making, performing, or collecting the **Indebtedness** or exercising any of **American Family's** rights under the **Loan Documents**, including, but not limited to, all sums advanced or costs, liabilities or payables incurred in connection with, or pursuant to:

(a) filing and recording fees for **Financing Statements**, continuation statements or other **Loan Documents** and any expense involving modification thereto; and

(b) repair, remodeling or reconstruction of the **Premises** occasioned by casualty loss and which are not reimbursable by insurance; and

(c) administration of funds for **Restoration** or other repair of the **Premises**;
and

(d) **Impositions** or **Insurance Premiums** on the **Premises**; and

(e) accrued **Impositions**, whether or not yet payable; and

(f) payment of all dues and charges levied or assessed at any time payable to an owners' association or similar organization; and

(g) all damages, liabilities, costs, fees, commissions and expenses referred to in and indemnified by any indemnification agreements which are part of the **Loan Documents** or **Leases**; and

(h) satisfaction of **Liens** not approved in writing by **American Family**, whether or not prior to the **Deed of Trust**; and

(i) legal expenses, reasonable attorneys' and paralegals' fees, and costs, including any post-judgment legal fees and expenses; and

(j) surveys, architectural or engineering reports; **Disabilities Regulations** compliance evaluations; appraisals; environmental tests, reports and analyses; title reports; and

(k) reasonable maintenance expenses; and

(l) replacement cost, including installation expense, of any fixtures, equipment or personal property encumbered by the **Loan Documents** which are removed from

the **Premises** and not replaced by like items of equal or greater value, except as permitted in the **Loan Documents**; and

(m) protection of **American Family's** rights and interest in the **Premises**; or in the cure of any default or delinquency by **Borrower** under the **Loan Documents** or any **Leases**; or satisfaction of any of **Borrower's** obligations under the **Loan Documents** or any **Leases**, including return of security deposits to **Tenants** unless previously delivered by **Borrower** to **American Family**; and

(n) foreclosure or bankruptcy proceedings pertaining to **Borrower** or the **Premises**, or any liquidation of the **Premises**, or a judgment of foreclosure or deficiency judgment, or collection of any such judgment, or any other judicial or administrative proceeding or exercise of power of sale whether incurred prior to or after any such proceedings; and

(o) all taxes and fees required to be paid to any government authority for the transfer of title or recording of documents.

Excluded from the foregoing are the expenses of **American Family's** loan department and personnel, except for their travel expenses incurred in the reasonable exercise of remedies under the **Loan Documents**.

Reports: Any document, agreement or item of information, verification or evidence specifically required of **Borrower** or **Guarantors** under any **Loan Document** or which **American Family** reasonably requests of **Borrower** or **Guarantors** from time to time to protect **American Family's** interest in the **Indebtedness** and any **Collateral**. Such items may include, but shall not be limited to, all required insurance policies, all renewals, amendments and endorsements of such policies, insurance recommendations and adjusters' reports, official receipts and statements for payments of **Impositions**, financial statements, operating statements, income tax returns, sales reports, rent rolls, title reports, surveys, site plans, building plans and specifications, if in **Borrower's** possession or control, and, if hereafter reasonably required by **American Family** in connection with any **Restoration** or modification of the **Loan Documents**, legal opinions, engineering and/or architectural reports, environmental audits or assessments, appraisals, market studies and certifications.

Request for Payment: **Borrower's** written request for payment accompanied by a certificate by an **Architect** in form, scope and substance reasonably satisfactory to **American Family** which states all **Work** completed to that date has been done in compliance with the **Approved Plans**, that the amount requested has been paid or is then due and payable and is properly a part of the cost of **Restoration**, and that when added to all sums, if any, previously paid out by **American Family**, the requested amount does not exceed the value of **Work** done to the date of the certificate.

Restoration: The complete repair, restoration and rebuilding of any portion of the **Premises** that has been damaged or destroyed, in full compliance with all applicable legal requirements, including but not limited to all applicable **Disabilities Regulations**, to substantially the same conditions and character that existed just prior to any damage or destruction to the **Premises**.

Restoration Funds: The **Insurance Proceeds** or condemnation award if sufficient to cover the cost of the **Restoration**, **American Family's** reasonable expenses for collecting and disbursing the **Restoration Funds**, plus an additional five percent (5%) of the anticipated cost of the **Restoration** to provide for unanticipated contingencies, or if not sufficient, the **Insurance Proceeds** or condemnation award and a deposit by **Borrower** with **American Family** in the amount of such deficiency.

Tenant: Any tenant, subtenant, licensee or concessionaire, or other person or entity granted a possessory interest in the **Premises** by a **Lease**.

Transfer: Any sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, merger, consolidation, grant of option or lease, or any other transfer, dilution, diminution or disposition of a legal or beneficial interest, whether effected: directly or indirectly; voluntarily or involuntarily; by a mortgage or other agreement subordinate to the **Deed of Trust**; by operation of law or otherwise; by means of a single transaction or a series of transactions; by means of an installment sales agreement; by merger or consolidation of existing interests; by creation or issuance of new interests; by change, removal, resignation or addition of any stockholder of a corporation, partner of a partnership or member of a limited liability company; or in any other manner.

Trustee: Founders Title Company, Inc., a Utah corporation, whose mailing address is 746 E. Winchester St, Ste 100, Salt Lake City, UT 84107.

Work: All work necessary to complete the **Restoration** in accordance with **Approved Plans**.

PHRASES; RULES OF CONSTRUCTION

The following provisions shall be applied wherever appropriate herein:

"herein," "hereby," "hereunder," "hereof" and other equivalent words when used in any **Loan Document** shall refer to the **Loan Document** in its entirety and not solely to the particular portion of the **Loan Document** in which any such word appears or is used.

The definitions set forth in each **Loan Document** shall be deemed applicable whether the words defined are used in the singular or the plural.

Wherever used in the **Loan Documents** any nouns or pronouns shall be deemed to include both the singular and plural and to cover all genders or entities, as the case may be.

The captions and headings of various sections of this **Deed of Trust** and the other **Loan Documents** are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions thereof.

The terms "Section" and "Subsection" when used in any **Loan Document** with identifying numbers and/or letters shall, unless otherwise specified, refer to the

respective sections and subsections within that **Loan Document** which are labeled with such numbers and/or letters. The phrases "this Section" and "this Subsection," when used in any **Loan Document** without identifying numbers and/or letters, shall refer to the respective sections or subsections within that **Loan Document** wherein such phrases appear.

Unless otherwise provided, any determination or **Reports** which require the application of accounting concepts or principles shall be provided in accordance with generally accepted accounting principles, or other reasonable methods of accounting consistently applied and which presents a fair and accurate depiction of the subject matter.

Whenever any **Loan Document** grants any right of decision to **American Family**, whether by stating that any particular item, decision or course of action "may" be requested, required, determined, approved, accepted, consented to or elected by **American Family**, or that **American Family** "may" undertake any particular course of action; or by indicating that any particular item, decision or course of action shall require the consent of **American Family** or be acceptable or satisfactory to **American Family**, or shall be accepted, approved or determined by **American Family**; or that any choice shall belong to **American Family** or any issue or choice shall be decided or determined by **American Family**; or by granting any right, election or option to **American Family**; and whenever any of the **Loan Documents** in any other way grants, whether explicitly or implicitly, any other right of decision to **American Family**; then, unless specifically indicated otherwise, all such decisions, consents or approvals by **American Family** shall be subject to a reasonableness standard; with **American Family** agreeing not to unreasonably withhold, condition, or delay the subject approval or matter.

WITNESSETH:

FOR GOOD AND VALUABLE CONSIDERATION, including the **Indebtedness** herein recited and the **Deed of Trust** herein created, the receipt of which is hereby acknowledged, **Borrower** hereby irrevocably grants, transfers, conveys and assigns to **Trustee**, IN TRUST, WITH POWER OF SALE, for the benefit and security of **American Family**, under and subject to the terms and conditions hereinafter set forth, all of **Borrower's** right, title and interest, whether fee, leasehold or otherwise, in and to the following described properties as security for the **Loan**:

GRANTING CLAUSE A.

REAL PROPERTY

All right, title, and interest of **Borrower** in all tracts or parcels of real property lying and being in the County of Salt Lake, State of Utah, as more fully described in Exhibit A attached hereto and made a part hereof, together with all estates and rights in and to the real property,

water, mineral or oil rights and in and to the lands lying in streets, alleys and roadways or gores of land adjoining the real property and all structures, annexations, access rights, easements, rights of way or use, servitudes, tenements, hereditaments and appurtenances now or hereafter belonging or pertaining to the real property and all proceeds and products derived therefrom whether now owned or hereafter acquired; and

GRANTING CLAUSE B.

BUILDINGS, IMPROVEMENTS, FIXTURES, EQUIPMENT AND PERSONAL PROPERTY

All buildings, equipment, fixtures, improvements, building supplies and materials and personal property now or hereafter attached to, located in, placed in or necessary to the use, operation, maintenance, or security of the **Premises**, including, but without being limited to, all machinery, appliances, fixtures, equipment, furniture or articles used to supply and regulate heating, gas, electricity, air conditioning, water, light, waste disposal, power, refrigeration, ventilation, fire and sprinkler protection, as well as freezers, elevators, escalators, hoists and assists, and the like, and all signage, shelving, racking, furnishings, supplies, draperies, maintenance and repair equipment, floor coverings, carpeting, ceiling tiles, screens, storm windows, blinds, awnings, shrubbery and plants, as well as renewals, replacements for, software used in the **Premises**, proceeds, additions, accessories, increases, parts, fittings, insurance payments, awards and substitutes thereof, together with all interest of **Borrower** in any such items hereafter acquired. All personal property referred to herein, including any personal property provided by **Borrower** as a condition of any **Lease**, shall be deemed fixtures and accessory to the freehold and a part of the realty and not severable in whole or in part without material injury to the **Premises**, excluding therefrom any chattels, inventory, equipment and removable personal property stored by any **Tenant**; and

GRANTING CLAUSE C.

RENTS, LEASES AND PROFITS

All rents, issues, income, revenue, receipts, fees, and profits now due or which may hereafter become due under or by virtue of, and together with all right, title and interest of **Borrower** in and to, any and all **Leases**, together with all security therefor and all monies payable thereunder, including, without limitation, **Tenant** security deposits, and all books and records which contain information pertaining to payments made thereunder and security therefor, subject, however, to the conditional permission herein given to **Borrower** to collect the rents, income and other normal income benefits arising under any agreements. **American Family** shall have the right, at any time and from time to time, to notify any **Tenant** of the rights of **American Family** hereunder.

Together with all right, title and interest of **Borrower** in and to any and all transferable contracts for sale and purchase of all or any part of the property described in Granting Clauses A, B, C and E hereof, and any down payments, earnest money deposits or other sums paid or deposited in connection therewith; and

GRANTING CLAUSE D.

JUDGMENT AND INSURANCE AND CONDEMNATION AWARDS

All right, title, and interest of **Borrower** in all awards or compensation made by any governmental or other lawful authorities for the taking or damaging by eminent domain of the whole or any part of the **Premises**, including any awards for a temporary taking, change of grade of streets or taking of access, together with any insurance awards payable due to casualty to any portion of the **Premises**; all rights and interests of **Borrower** against others, including adjoining property owners, arising out of damage to the **Premises** including damage due to environmental injury or release of **Hazardous Substances**; and

GRANTING CLAUSE E.

LICENSES, PERMITS, EQUIPMENT LEASES AND SERVICE AGREEMENTS

All right, title and interest of **Borrower** in and to any transferable licenses, permits, regulatory approvals, government authorizations, service contracts or agreements, and any and all other intangibles and all proceeds therefrom, arising from, issued in connection with or in any way related to the use, occupancy, operation, maintenance or security of the **Premises**, together with all replacements, additions, substitutions and renewals thereof, which may be assigned pursuant to agreement or law; and

GRANTING CLAUSE F.

PROCEEDS

All sales, refinancing or other proceeds, including deposits and down payments, derived from or relating to the property described in Granting Clauses A through E above.

TO HAVE AND TO HOLD THE SAME together with possession and the right of possession unto **American Family**, its successors or assigns, forever, in trust, upon the terms, provisions and conditions herein set forth.

PROVIDED NEVERTHELESS, that if **Borrower**, its successors or assigns, shall pay to **American Family**, its successors or assigns, the entire **Indebtedness** secured hereby, then this **Deed of Trust** shall become null and void and shall be released or reconveyed by **American Family** at **Borrower's** expense.

Borrower for itself and its successors and assigns, covenants with **Trustee** and **American Family** (and their respective successors and assigns), that **Borrower**, to **Borrower's Knowledge**, is vested with fee ownership of the **Premises** and has good right to encumber the same; that the **Premises** are free from all encumbrances except as may be stated in Exhibit B hereof and the **Leases** (collectively, the "**Permitted Exceptions**"), that **Trustee, American Family**, its successors and assigns, shall quietly enjoy and possess the **Premises** subject to the

Permitted Exceptions and that **Borrower** will warrant and defend its interest to the same against all lawful claims not specifically excepted in this **Deed of Trust**.

**BORROWER
FURTHER COVENANTS AND AGREES AS FOLLOWS:**

ARTICLE 1

GENERAL COVENANTS AND AGREEMENTS

SECTION 1.1 PAYMENT OF INDEBTEDNESS; OBSERVANCE OF COVENANTS. **Borrower** shall duly and punctually pay each and every installment of principal and interest on the **Note** and all other **Indebtedness**, as and when the same shall become due, and shall duly and punctually perform and observe all of the covenants, agreements and provisions contained in the **Loan Documents**.

SECTION 1.2 CONSTRUCTION, MAINTENANCE & REPAIRS. **Borrower** represents that, to **Borrower's Knowledge**, the **Premises** have been built in accordance with all applicable codes, laws and regulations, including **Disabilities Regulations** then in effect.

Borrower shall keep and maintain the **Premises** in good repair and operating condition free from any waste or misuse, and shall comply with all applicable requirements of law, municipal ordinances and regulations, restrictions and covenants affecting the **Premises** and their use and, subject to Section 3.4 respecting the application of **Insurance Proceeds**, shall promptly repair or restore any buildings, improvements or structures now or hereafter on the **Premises** which may become damaged or destroyed to as near as possible to their condition prior to any such damage or destruction. **Borrower** agrees that the **Premises** shall be maintained in compliance with, and any repairs, alterations, additions or replacements thereto or thereof shall be performed in compliance with, all applicable **Disabilities Regulations**. **Borrower** further agrees that without the prior written consent of **American Family**, which consent shall not be unreasonably withheld, delayed, or conditioned, **Borrower** shall not expand any improvements on the **Premises**, erect any new improvements or make any alterations in any improvements which will materially alter the basic structure, materially affect the market value in an adverse manner or materially change the existing architectural character of the **Premises**. "Materially" shall mean any alteration or change, or cumulative alterations or changes, excluding non-structural tenant improvements and/or cosmetic changes such as relocation or removal of demising walls, over the term of the **Loan**, which costs Fifty Thousand and No/100 Dollars (\$50,000.00) or more or which adversely affect the market value of the **Premises** by more than Fifty Thousand and No/100 Dollars (\$50,000.00). **Borrower** shall not, without the prior written consent of **American Family**, which consent may not be unreasonably withheld by **American Family**, acquiesce in any rezoning classification, modification or restriction affecting the **Premises**, nor shall **Borrower** abandon the **Premises**.

SECTION 1.3 PAYMENT OF OPERATING COSTS; PRIOR DEEDS OF TRUST AND LIENS. To the extent available from the income from the **Premises**, **Borrower** agrees that it will pay all operating costs and expenses of the **Premises**; keep the **Premises** free

from **Liens**; keep the **Premises** free from any **Levy** and will pay when due all indebtedness which may be secured by a deed of trust, **Lien** or charge on or against the **Premises** and upon request will exhibit to **American Family** reasonably satisfactory evidence of such payment and discharge.

SECTION 1.4 PAYMENT OF IMPOSITIONS. During the term of the **Loan**, **Borrower** shall pay all **Impositions** when due and before imposition of any penalty or interest thereon. **Borrower** shall annually certify that all **Impositions** have been timely paid for the preceding twelve (12) months. In the event a payment of an **Imposition** becomes delinquent, **Borrower** shall in writing, report the due date and amount of such delinquency to **American Family** within fifteen (15) days of the date of such delinquency. In the event of a court decree or any enactment after the date hereof by any legislative authority of any law imposing upon a holder of a deed of trust payment of the whole or any part of any **Impositions** herein required to be paid by **Borrower**, or changing in any way the laws relating to the taxation of deeds of trust or debts secured by deed of trust or a beneficiary's interest in premises, subject to a deed of trust so as to impose such **Imposition** upon **American Family** or on the interest of **American Family** in the **Premises**, then in any such event, **Borrower** shall bear and pay the full amount of such **Imposition**, provided that if for any reason payment by **Borrower** of any such **Imposition** would be unlawful, or if the payment thereof would constitute usury or render the **Indebtedness** wholly or partially usurious, **American Family**, at its option, may pay that amount or that portion of such **Imposition** which renders the **Indebtedness** unlawful or usurious, in which event **Borrower** shall concurrently therewith pay the remaining lawful and non-usurious portion or balance of said **Imposition**.

SECTION 1.5 REPORTS. **Borrower** and **Guarantors** shall provide to **American Family** at **Borrower's** sole expense during the term of the **Loan**, such **Reports** as may be specifically prescribed by the **Loan Documents** or reasonably requested from time to time of any such party in writing by **American Family**. Whenever **American Family** reasonably submits a written request to any such party for a **Report**, such **Report** shall become due thirty (30) days after the effective date of **American Family's** request, unless it is not reasonable to produce the requested report within 30 days, or within such other period as such party may request of **American Family** in writing within fifteen (15) days of such effective date, and to which period **American Family** may reasonably consent in writing, such consent not to be unreasonably withheld. If such party fails to provide a **Report** requested in writing by the due date for that **Report** and such failure continues for ten (10) days after delivery by **American Family** of a second written request therefore, indicating in such second request that the subject **Report** is overdue, **Borrower** shall pay a **Late Charge** equal to One Thousand and No/100 Dollars (\$1,000.00) for each such instance. Any such **Late Charge** shall become due if, and on the date when, such ten (10) day period following the second notice from **American Family** expires. All such **Late Charges** shall be cumulative and recurring. If at maturity of the **Loan** all such **Late Charges** have not been paid by **Borrower** to **American Family**, **American Family** may lawfully withhold any document evidencing satisfaction and payment of the **Loan** until such time as all such **Late Charges** have been paid.

SECTION 1.6 CERTIFICATE OF COMPLIANCE. **Borrower** shall annually, during the term of the **Loan**, provide to **American Family** a sworn Certificate of Compliance in

the form of Exhibit D, certifying and representing to **American Family** that to **Borrower's Knowledge**, **Borrower** is in compliance with all provisions of the **Loan Documents**.

SECTION 1.7 CONTEST OF IMPOSITIONS, LIENS AND LEVIES. **Borrower** shall not be required to pay, discharge or remove any **Imposition, Lien, or Levy** so long as **Borrower** shall in good faith contest the same or the validity thereof by appropriate legal proceedings or otherwise, provided that **Borrower** shall, at least thirty (30) days prior to the date, in the reasonable opinion of **American Family**, the **Premises** shall be in jeopardy or in danger of being wholly or partially forfeited or foreclosed, have given such reasonable security as may be requested by **American Family** to ensure such payments and prevent any sale or forfeiture of the **Premises** by reason of such nonpayment. In no event shall the security given by **Borrower** be less than one hundred percent (100%) of the amount of such **Imposition, Lien or Levy**. The security may be in the form of a statutorily-prescribed bond, in cash, or its equivalent or such other form as may be acceptable to **American Family**. Any such contest shall be prosecuted with due diligence, and **Borrower** shall promptly after final determination thereof pay the amount of any such **Imposition, Lien or Levy** so determined, together with any interest and penalties payable in connection therewith, or instruct **American Family** to pay such amount out of the security for such **Imposition, Lien or Levy** then being held by **American Family**. Upon evidence satisfactory to **American Family** of final payment of any such **Imposition, Lien or Levy** contested by **Borrower**, **American Family** shall within a reasonable time period return the balance of the security, if any, to **Borrower**. Notwithstanding the provisions of this Section, **Borrower** shall, and if **Borrower** shall fail so to do, **American Family** may, but shall not be required to, pay such **Imposition, Lien or Levy** notwithstanding such contest if in the reasonable opinion of **American Family** the **Premises** shall be in jeopardy or in danger of being wholly or partially forfeited or foreclosed. Any such payments by **American Family** shall be deemed **Recoverable Costs**.

SECTION 1.8 PROTECTION OF SECURITY. **Borrower** agrees to promptly notify **American Family** of any suit, action or proceeding that's reasonably likely to materially affect the value of the **Premises**. In such event, **American Family** may elect to appear in or through its counsel and defend any such action or proceeding. So long as **Borrower** proceeds, in the reasonable judgment of **American Family**, to defend any such suit, action or proceeding in good faith and is making reasonable effort to resolve such suit, action or proceeding, **Borrower** shall have the authority, but only with the prior written concurrence of **American Family** (which concurrence shall not be unreasonably withheld), to determine when and under what circumstances and terms of settlement, such suit, action or proceeding may be resolved. If **American Family**, in the exercise of its business judgment, reasonably believes **Borrower** is not proceeding with due dispatch and in good faith to defend or resolve such suit, action or proceeding, **American Family** may elect, through its counsel, to appear in and defend any suit, action or proceeding. **Borrower** agrees to indemnify and reimburse **American Family** from any and all loss, damage, expense or cost arising out of or incurred in connection with any such suit, action or proceeding, including costs of evidence of title and reasonable attorneys' and paralegals' fees and costs, unless due to the negligence or intentional misconduct of **American Family**, or its attorneys. Any such losses, damages, expenses or costs shall be deemed **Recoverable Costs**.

SECTION 1.9 ANNUAL STATEMENTS. Annually during the term of the **Loan**, **Borrower** shall submit to **American Family** the following **Reports** in form and detail reasonably satisfactory to **American Family** by the date specified:

(a) April 30 – A sworn Certificate of Compliance that **Borrower** is in compliance with all provisions of the **Loan Documents**; and

(b) May 15 - A certified annual operating statement of the **Premises** for the preceding calendar year, in form and detail satisfactory to **American Family**, indicating all income and expenses, including expenses for leasing commissions, and all tenant improvements and other capital improvements, if any; and

(c) June 30 – Certified financial statements of **Borrower** dated no earlier than the end of the preceding calendar year, including, a balance sheet, income statement, cash flow statement, and all explanatory notes; and

(d) January 31 & July 31 – A certified occupancy statement of the **Premises** dated no earlier than the last day of the preceding calendar year (due January 31) and June 30 of the current year (due July 31), including such information on vacancies, **Leases**, **Lease** income and rent collection as **American Family** may reasonably require; and

(e) Upon written request by **American Family** –Personal financial statements of each **Guarantor** certified by each such **Guarantor** dated no earlier than the end of the preceding calendar year; and,

(f) Upon written request by **American Family** – Complete copies of **Borrower's** and each **Guarantor's** executed and filed Federal income tax return for the preceding year and, alternatively for any such taxpayer which petitions for an extension to file a Federal income tax return pursuant to Internal Revenue Code Section 6081, a copy of each such petition or request and a copy of each tax return when filed.

Borrower covenants that it shall keep true and accurate records of its business operations and the operation of the **Premises**. Upon an **Event of Default**, **American Family** may cause an audit to be made of the respective books and records of **Borrower** at the sole cost and expense of **Borrower**. In the event of an uncured **Event of Default**, **American Family** also shall have the right to examine at any time during regular business hours, at their place of safekeeping, all books, accounts and records relating to the operation of the **Premises**, to make copies or abstracts therefrom and to discuss the affairs, finances or accounts with the officers or employees of **Borrower** and its accountants.

SECTION 1.10 ADDITIONAL ASSURANCES. **Borrower** agrees to execute and deliver, upon the reasonable request of **American Family**, such further instruments, and do such further acts, as may be reasonably necessary or proper to carry out more effectively the purposes of the **Loan Documents**. **Borrower** agrees to pay all reasonable expenses incurred in the making of the **Loan**, including but not limited to, reasonable attorneys' and paralegals' fees and costs, recording fees, filing fees, or other charges arising out of or incident to the filing or recording of the **Deed of Trust**, any of the other **Loan Documents**, and any eventual

satisfactions thereof, or the delivery and recording of such further assurances and instruments as may be required pursuant to the terms of this Section.

SECTION 1.11 PROHIBITION OF OWNERSHIP INTEREST IMPAIRMENT.

Borrower acknowledges that in making the **Loan**, **American Family** is relying to a material extent on the business expertise and net worth of **Permitted Owners** and on the continuing interest that each **Permitted Owner** has, directly or indirectly, in the **Premises**. **Borrower** shall not, and shall not permit its members or principals to, without the prior written consent of **American Family**, which shall not be unreasonably withheld, conditioned or delayed, cause or permit any **Ownership Interest Impairment** during the term of this **Loan**. The occurrence of any **Ownership Interest Impairment** shall constitute an **Event of Default** and shall give **American Family** the right to declare all **Indebtedness** immediately due and payable without further notice. Prepayment due to the occurrence of an **Ownership Interest Impairment** shall be subject to a prepayment premium as provided in the **Note**.

SECTION 1.12 PERMITTED TRANSFERS. With respect to **Permitted Transfers**, **Borrower** shall submit to **American Family** (a) a complete description of each proposed **Transfer** with all accompanying documentation not less than twenty (20) business days before the proposed effective date of such **Transfer** (except that for any **Permitted Transfer** resulting upon the death of a **Permitted Owner** or a member, partner or shareholder of a **Permitted Owner**, such request shall be made within ninety (90) days after such death); and (b) upon **American Family's** request, a deposit in an amount **American Family** may reasonably request to pay for **American Family's** reasonable out-of-pocket expenses, including reasonable fees for outside legal counsel, to determine whether the proposed **Transfer** is a **Permitted Transfer** not requiring **American Family's** prior written consent, or if requiring such consent whether such **Transfer** is acceptable to **American Family**, and for preparation of any documentation **American Family** may reasonably require in connection with such **Transfer**. **American Family** may require, for any such **Permitted Transfers** to a person or entity other than a **Permitted Owner**, that such transferee expressly assume the obligations under the **Loan Documents** of the transferor to the extent of the transferred interest.

SECTION 1.13 TAX INCREMENTAL FINANCING. **Borrower** represents that the **Premises** are not currently included in a Tax Incremental Financing ("TIF") program or other similar public finance program, and agrees and covenants not to voluntarily include, nor permit inclusion of, the **Premises** in any such program. If the **Premises** becomes classified, without the prior consent or permission of **American Family**, as property located within a TIF district or equivalent district associated with a similar public finance program, **Borrower** shall not, without the prior written consent of **American Family**, avail itself of or otherwise participate in any public financing which becomes available as a result of inclusion of the **Premises** within such district, nor voluntarily subject itself or the **Premises** to any assessment or valuation requirements, real estate tax guarantees or other restrictions or agreements associated with such district or financing. Without **American Family's** prior written consent, **Borrower's** voluntary inclusion, or acquiescence to the inclusion, of the **Premises** in a TIF program or similar public finance program, or voluntary participation in any public financing associated with any such program, or voluntary subjugation of itself or the **Premises** to any requirements, guaranties or other restrictions or agreements associated with any such program, shall constitute an **Event of Default** and shall give **American Family** the right to declare all **Indebtedness** immediately due

and payable without further notice. Any prepayment which derives from such **Event of Default** shall be subject to a prepayment premium as provided in the **Note**.

SECTION 1.14 ADDITIONAL INTEREST. Any and all sums in the form of **Recoverable Costs** which may become due to **American Family** from **Borrower** under any **Loan Document** shall bear interest at the **Coupon Rate** from the date such sums are due until the date such sums are received by **American Family** except any such sums not paid within 30 days of their due date shall bear interest at the **Default Rate** until paid.

SECTION 1.15 AMERICAN FAMILY'S APPLICATION OF PAYMENTS. If no **Event of Default** is then outstanding and uncured, then all monthly **Loan** payments received by **American Family** from **Borrower** during the term of this **Loan** shall be applied first to interest and then to principal in accordance with the Amortization Schedule attached to the **Note**. However, during the existence of an uncured **Event of Default**, any payments by **Borrower** may be applied by **American Family** to **Recoverable Costs**, **Late Charges**, prepayment premiums, **Additional Interest**, if any, or to interest payable by **Borrower** on the outstanding principal balance of the **Loan**, or to the principal balance of the **Loan**, in such order as **American Family** may, in its sole discretion, determine, notwithstanding the application of monthly payments shown by the Amortization Schedule attached to the **Note**. Any regularly scheduled payment of interest, if not paid within thirty (30) days of when due, shall become so much additional principal and bear interest from the date due until paid at the **Default Rate**.

SECTION 1.16 ESCROWS. In the event of any **Event of Default** in the payment of any **Impositions**, which is not cured during any applicable notice or grace period, **Borrower** shall, upon **American Family's** written request, deposit an initial amount equal to **American Family's** reasonable estimate of all **Impositions** and insurance premiums due or accrued against the **Premises** as of the date of such request, whether or not then payable, and shall monthly thereafter, on the day of each month when monthly payments of principal and interest are due, deposit such monthly amounts as **American Family** may reasonably estimate are required to fully fund all future **Impositions** and insurance premiums on an accrual, rather than cash installment, basis. In the event that any time after commencement of such monthly deposits the total amount of deposits shall not be sufficient to pay all **Impositions** and insurance premiums then due, or shall be less than the amount estimated by **American Family**, **Borrower** shall, upon the request of **American Family**, promptly pay to **American Family** any amount necessary to make up such deficiency. **Borrower** shall provide **American Family** with tax invoices, insurance premium notices, and other related documents at least ten (10) regular business days prior to their due date. **American Family** shall pay all such monthly **Impositions** and insurance premiums on behalf of **Borrower** from the money so deposited by **Borrower** prior to delinquency. Any excess of any such deposits shall be applied against subsequent payments to be made for such items. If an uncured **Event of Default** occurs under the terms of any **Loan Document**, which is not cured during any applicable notice or grace period, **American Family** may, at its option, without being required to do so, apply any such deposits on hand to the **Indebtedness** in such order and manner as **American Family** may elect. When the **Indebtedness** has been fully paid, any remaining deposits shall be returned to **Borrower** as its interest may appear. All such deposits shall be pledged as additional security for the **Indebtedness** and shall be held for the purposes herein provided either at a federally insured financial institution acceptable to **American Family** or alternatively, at **American Family's**

option, by **American Family**. If such deposits are held by **American Family**, they may be commingled with other funds of **American Family**, shall be held without any allowance for interest thereon, and shall not be subject to the management or control of **Borrower**.

SECTION 1.17 INDEMNIFIED MATTERS. **Borrower** is aware that **American Family** is relying on the warranties and representations contained in the **Loan Documents** in making the **Loan** secured by the **Deed of Trust**. **Borrower** agrees to indemnify, defend and hold **American Family** harmless against any actual loss, liabilities, costs or fees, including without limitation reasonable attorneys' and paralegals' fees and costs, **American Family** suffers at any time, whether during the term of the **Loan** or at any time thereafter, as a result of any material inaccuracy in any statements certified in the **Loan Documents**, provided that **Borrower** or any **Guarantor** had actual knowledge thereof at the time such certification. The obligations of **Borrower** and **Guarantors** under all indemnifications contained in the **Loan Documents** shall be the direct obligations of each such party, and shall survive satisfaction of the **Loan**; but such obligations are not part of the **Indebtedness**. Any breach of any indemnification contained in the **Loan Documents** shall constitute an **Event of Default**.

ARTICLE 2

MANAGEMENT, LEASES AND RENTS

SECTION 2.1 PROPERTY MANAGEMENT. During the term of the **Loan**, Towne Storage Management Company shall manage the **Premises** unless replaced with property management approved in advance in writing by **American Family** such approval not to be unreasonably withheld or delayed. Management of the **Premises** shall at all times be satisfactory to **American Family** and **American Family** shall have the right to require correction of any and all management deficiencies. If practically feasible, at least sixty (60) days preceding any proposed change management or in any management agreement affecting the **Premises**, **Borrower** shall notify **American Family** of the proposed change in writing. **American Family** shall and does retain the right to consent to any material change in management or any management agreement by **Borrower** during the term of the **Loan**, which consent shall not unreasonably be withheld or delayed. If **Borrower** proceeds with a material change in management or of any management agreement without the prior written consent of **American Family**, such action by **Borrower** shall likewise constitute an **Event of Default**. Upon or at any time following any **Event of Default**, **American Family** shall have the right to replace the management of the **Premises** by selecting and engaging a new property manager for the **Premises**, and **Borrower** shall pay any compensation of such management which cannot be timely paid from cash generated by operations of the **Premises**. The property management agreement shall require **Borrower** and/or the property manager, upon an **Event of Default**, to send to **American Family** certified monthly operating statements, rent rolls, evidence of real estate tax payments, evidence of insurance payments, and such other related documents as **American Family** may require. For the purposes of this Section, the management of the **Premises** shall be deemed to include all leasing and construction management efforts respecting the **Premises**. In the event a third party manages the **Premises**, **Borrower** shall require such manager to enter into an Assignment and Subordination of Property Management Agreement in form reasonably satisfactory to **American Family**.

SECTION 2.2 AMERICAN FAMILY'S APPROVAL OF FUTURE LEASES REQUIRED. Any **Lease** entered into during the term of the **Loan** shall be in the form provided to **American Family** and shall reasonably reflect the terms and conditions then prevailing in the **Premises'** market.

SECTION 2.3 BORROWER TO SUBMIT AND COMPLY WITH LEASES. **Borrower** shall at its own cost and expense, perform, comply with and discharge all obligations of **Borrower** under all **Leases**, use its best efforts to enforce or secure the performance of each obligation and undertaking of the respective **Tenants**, and appear in and defend, at its own expense, any action or proceeding arising out of or in any manner connected with **Borrower's** interest in any **Lease**.

SECTION 2.4 ASSIGNMENT OF LEASES AND RENTS. **Borrower** hereby sells, assigns and transfers unto **American Family** all of the **Leases**, and all of the rents and profits now due and which may hereafter become due under or by virtue of any **Lease**, whether written or oral, and any other agreements for the use or occupancy of the **Premises**, it being the intention of this **Deed of Trust** to establish an absolute transfer and present assignment of all such **Leases** and agreements and all of the rents and profits from the **Premises** unto **American Family**, provided that **Borrower** shall have the right to collect, but not more than ten (10) days prior to accrual, all of the rents and to retain, use and enjoy the same unless and until an uncured **Event of Default** shall occur under any **Loan Document** during the term of the loan or any extension thereof; provided, however, upon a cure of such **Event of Default**, such rights to collect rents shall reinstate automatically. **Borrower** irrevocably appoints **American Family** as **Borrower's** true and lawful attorney in **Borrower's** name and stead, which appointment is coupled with an interest, to collect all of said rents and profits after an **Event of Default**.

During the continuance of any uncured **Event of Default**, and after any applicable notice and grace period, whether before or after the institution of legal proceedings to foreclose the **Lien** hereof or before or after sale thereunder or during any period of redemption, **American Family**, without being required to establish waste, adequacy of the security or solvency of **Borrower**, may, at its option during the term of the loan or any extension thereof, without notice other than as required by law: (a) in person or by agent, with or without taking possession of or entering the **Premises**, with or without bringing any action or proceeding, enter upon, take possession of, manage and operate said **Premises**, or any part thereof; (b) cancel, enforce or modify any **Lease** subject to the terms thereof, and fix or modify rents, and do any acts which **American Family** deems proper to protect the security hereof, with or without taking possession of the **Premises**; or (c) apply for the appointment of a receiver in accordance with applicable law, to which receivership **Borrower** hereby irrevocably and unequivocally consents, and which receivership shall collect the rents and profits and all other income of any kind, manage the **Premises** so to prevent waste, execute any **Lease** within or beyond the period of receivership, and perform the terms of this **Deed of Trust** and apply the rents and profits as hereinafter provided.

The entering upon and taking possession of the **Premises**, the appointment of a receiver, the collection of such rents and profits and the application thereof as aforesaid, shall not cure or waive any **Event of Default** under this **Deed of Trust** nor in any way operate to prevent **American Family** from pursuing any other remedy which it may now or hereafter have

under the terms of any **Loan Document** nor shall it in any way be deemed to constitute **American Family** a mortgagee-in-possession. The rights hereunder shall in no way be dependent upon and shall apply without regard to whether the **Premises** are adequate to discharge the **Indebtedness**. The rights contained herein are in addition to and shall be cumulative with the rights given in the **Assignment** and, to the extent inconsistent with the terms of this Section 2.4, the terms of the **Assignment** shall control. The assignment pursuant to this Article shall automatically terminate upon a reconveyance of this **Deed of Trust**.

Borrower indemnifies and holds **American Family** harmless from any and all expenses, liability, loss or damage which it might incur under said **Leases**, or under or by reason of this assignment, except this indemnity shall not apply to any liability to the extent caused by the negligence or willful misconduct of **American Family**. **American Family** may apply any of said rents and profits received to the costs and expenses of collection, including reasonable attorneys' and paralegals' fees and costs, to the payment of **Impositions, Insurance Premiums** and expenditures for upkeep, operation and evaluation of the **Premises**, to the performance of **Borrower's** obligations under any **Lease**, to the performance of any of **Borrower's** covenants under the **Loan Documents**, and to any **Indebtedness** all in such order as **American Family** may determine provided, however, **American Family** shall apply such rents to amounts that have accrued and are payable prior to applying any such rents to obligations which have not yet accrued and become payable.

Borrower represents and agrees that: (i) no rent will be paid by any person in possession of any portion of the **Premises** for more than one (1) month in advance without **American Family's** consent, except that, without **American Family's** consent, **Borrower** shall have the right to have up to fifteen percent (15%) of the **Tenants** pay their rent up to one year in advance; and (ii) that the payment of rents for any portion of the **Premises** will not be waived, released, reduced, discounted, or otherwise discharged or compromised by **Borrower** other than in the ordinary course of business. Following an uncured **Event of Default**, **Borrower** shall not exercise any right of offset against any person in possession of any portion of the **Premises**. **Borrower** further agrees that **Borrower** will not execute or agree to any subsequent assignment of any rents or profits from the **Premises** during the term of the loan or any extension thereof, without the prior written consent of **American Family**, such consent not to be unreasonably withheld.

SECTION 2.5 AMERICAN FAMILY'S RIGHT TO PERFORM UNDER LEASES. During the continuance of an uncured **Event of Default**, or if **Borrower** fails to perform, comply with or discharge any of its obligations under any **Lease** after any applicable notice or grace period, or if **American Family** becomes aware of, or is notified by any **Tenant**, of any failure on the part of **Borrower** to so perform, comply with or discharge its obligations under a **Lease**, then **American Family**, without further demand upon **Borrower**, and without waiving or releasing **Borrower** from any obligation under any **Loan Document**, may, but shall not be obligated to, remedy such failure. **Borrower** agrees to repay upon request all costs incurred by **American Family** in remedying any such failure, which sums shall be deemed **Recoverable Costs**.

SECTION 2.6 ASSIGNMENT OF INDEMNIFICATIONS. Borrower does hereby collaterally assign to **American Family** any indemnification agreement(s) pertaining to, and which benefit, the **Premises**.

SECTION 2.7 UNIFORM ASSIGNMENT OF RENTS. This Article 2 is subject to the Utah Uniform Assignment of Rents Act, *Utah Code Annotated* § 57-26-101 et seq. (the "*Act*"), and in the event of any conflict or inconsistency between the provisions of this Article 2 and the provisions of the Act, the provisions of the Act shall control.

ARTICLE 3

INSURANCE AND CONDEMNATION

SECTION 3.1 INSURANCE. Borrower, at its sole cost and expense, shall obtain and keep in full force and continued, uninterrupted effect during the term of the **Loan** the following insurance, with an insurer reasonably satisfactory to **American Family**:

(a) Comprehensive "all risks" insurance on the improvements and personal property owned by **Borrower** on the **Premises** (1) in an amount equal to one hundred per cent (100%) of the "Full Replacement Cost" which shall mean the actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation; and (2) containing an Agreed Amount Endorsement, an Inflation Guard Endorsement, a Replacement Cost Endorsement and a waiver of subrogation endorsement with respect to such improvements and personal property owned by **Borrower** at the **Premises**;

(b) "Ordinance or Law Coverage" if any of the improvements to or use of the **Premises** shall at any time constitute a legal non-conforming structure or use, and compensating for loss of value to the improvements on the **Premises** resulting from operation of law and the resulting cost of demolition and the increased cost of construction in amounts as required by **American Family**;

(c) Equipment breakdown coverage, formerly known as comprehensive boiler and machinery insurance, in amounts as shall be reasonably required by **American Family** on terms consistent with the commercial property insurance policy required by Section 3.1(a) above;

(d) Whenever, if ever, the **Premises** is designated as lying in a Federally designated "special flood hazard area", flood hazard insurance in an amount equal to either (1) the full replacement cost of the improvements on the **Premises**, or (2) the outstanding principal balance of the **Note**; or (3) such lesser amount as **American Family** may reasonably require;

(e) Loss of Rents/Business Interruption Insurance covering risk of loss due to the occurrence of any hazards insured against under the policies required in Sections 3.1(a) thru (d) in an amount equal to not less than all expenditures of the **Premises** accruing during a period equal to the greater of twelve (12) months or such other time period as may reasonably be anticipated for restoration of the **Premises**, including, but not limited to, all debt service payments, **Impositions**, insurance premiums and other operating expenses of the **Premises**;

(f) Commercial General Liability Insurance covering the legal liability of **Borrower** against claims for bodily injury, death or property damage occurring on, in or about the **Premises** in an amount not less than Two Million and NO/100 Dollars (\$2,000,000) combined single limit insurance;

(g) Builder's Risk Insurance and Worker's Compensation Insurance during the making of any alterations or improvements to the **Premises**;

(h) Such other forms of insurance as **American Family** may reasonably require or as may be required by law.

~~**Borrower** shall provide **American Family** with copies of all required insurance policies.~~

The insurance required under this Section 3.7 may provide for a deductible per loss of an amount not in excess of Ten Thousand and No/100 Dollars (\$10,000.00). All insurance policies required hereby shall be written on forms and with insurance companies reasonably satisfactory to **American Family** [but in no event rated less than "A-:1X" (or the equivalent) by A.B. Best Company] shall name as the insured parties **Borrower** and **American Family** as their interests may appear and shall contain no exclusions which are unacceptable to **American Family**. Such insurance documentation shall include an absolute and unconditional agreement by the insurer(s) to provide thirty (30) days prior written notice to Director, Private Markets, American Family Life Insurance Company, 6000 American Parkway, Madison WI 53783, of any cancellation, termination or amendment of any such policy. All such property and liability insurance policies shall be in amounts sufficient to prevent **Borrower** from becoming a co-insurer of any loss thereunder and shall bear a satisfactory Standard Mortgagee or loss payee clause in favor of **American Family**, ISAOA/ATIMA, with proceeds under any such policies made payable to **American Family**. **American Family** makes no representations that the insurance requirements hereof are adequate protection for a prudent mortgagor

Borrower shall provide **American Family** with such engineering data as **American Family** may reasonably require regarding the risk of earthquake or sinkhole damage to the **Premises**. If **American Family** reasonably determines, based on adequate engineering reports, that there is a material earthquake or sinkhole risk, or if insurance against earthquake or sinkhole risk is or becomes required by law, **Borrower** will provide earthquake or sinkhole insurance in amounts and in form and substance reasonably satisfactory to **American Family**.

During the term of the **Loan**, **Borrower** shall provide **American Family** with ACORD 28 Evidence of Property Insurance forms and such further evidence as **American Family** may reasonably require of continuous, uninterrupted insurance coverage of the **Premises**.

In the event any required insurance coverage shall be amended by **Borrower**, **Borrower** shall, within ten (10) days of such authorized amendment deliver, or cause to be delivered, to **American Family** a certified copy of the original of such amended policy. Such amendment shall be subject to the prior written consent of **American Family**, which consent shall not be unreasonably withheld nor delayed. **Borrower** shall provide **American Family** with

copies of all inspection reports and insurance recommendations received by **Borrower** from any insurer, and such inspection reports and insurance recommendations shall be deemed **Reports**.

SECTION 3.2 DAMAGE OR DESTRUCTION OF THE PREMISES.

Borrower shall give **American Family** prompt notice of any damage to or destruction of the **Premises**, and in case of loss covered by policies of insurance, **American Family** is authorized, at its option, to settle and adjust any claim arising out of such policies (provided, however, no such settlement, adjustment, or compromise which results in less than full repayment of the **Indebtedness** and full reimbursement of damages shall be entered into without **Borrower's** reasonable approval) and collect and receipt for the **Insurance Proceeds** payable therefrom, provided that **Borrower** may itself adjust and collect for any losses arising out of a single occurrence aggregating not in excess of Fifty Thousand and No/100 Dollars (\$50,000.00) without the prior written consent of **American Family**. In the event **Borrower** receives **Insurance Proceeds** from any claims resulting from losses arising out of a single occurrence aggregating in excess of Fifty Thousand and No/100 Dollars (\$50,000.00), **Borrower** shall, immediately upon receipt, forward all such **Insurance Proceeds** to **American Family**. Any **Recoverable Cost** incurred by **American Family** in the adjustment, collection and application of **Insurance Proceeds** shall be reimbursed to **American Family** first out of such **Insurance Proceeds**. Any **Insurance Proceeds** remaining after the reimbursement to **American Family** shall be applied by **American Family** to **Restoration**, or if there is then existing an uncured **Event of Default**, applied to the reduction of the **Indebtedness**, in such amounts and in such order as **American Family** may determine; provided, however, that if all the terms and conditions detailed in Section 3.4 are met and maintained throughout the period of **Restoration**, then such remaining proceeds shall be used for **Restoration** to the extent of the actual cost of **Restoration**. No prepayment premium will be charged for any application of **Insurance Proceeds** to the **Indebtedness** or for any prepayment of the balance of the **Loan** if **American Family** elects to apply **Insurance Proceeds** to the reduction of the **Indebtedness**.

SECTION 3.3 CONDEMNATION.

Borrower shall provide **American Family** prompt notice of any action, actual or threatened, in condemnation or eminent domain against the **Premises**. **American Family** shall have the right to intervene in any such action. **Borrower** shall not enter into any agreement with a condemning authority permitting or consenting to the taking of the **Premises**, or any part thereof, unless **American Family's** prior written consent is first obtained, which consent shall be neither unreasonably withheld nor delayed. **Borrower** shall request the condemning authority to direct the proceeds of any condemnation award directly to **American Family**, or if the condemning authority will not so direct such proceeds, **Borrower** shall, immediately upon receipt of such proceeds, forward all such proceeds to **American Family**. Any **Recoverable Cost** incurred by **American Family** by reason of intervening in any action, or in the collection or application of such proceeds, shall be reimbursed to **American Family** first out of such proceeds. Any condemnation proceeds remaining after the reimbursement to **American Family** shall be applied by **American Family** to **Restoration**, or in the event of an **Event of Default**, applied to the reduction of the **Indebtedness**, in such amounts and in such order as **American Family** may determine; provided, however, that if all the terms and conditions detailed in Section 3.4 are met and maintained throughout the period of **Restoration**, then such remaining proceeds shall be used for **Restoration** to the extent of the actual cost of **Restoration**. No prepayment premium will be charged for any application of proceeds from a condemnation award to the **Indebtedness** and in

such case, **Borrower** shall have the right to thereafter prepay any remaining balance of the **Indebtedness** without paying the prepayment premium.

SECTION 3.4 DISBURSEMENT OF INSURANCE AND CONDEMNATION PROCEEDS. Any proceeds from a condemnation award or **Insurance Proceeds** during the term of the **Loan** not applied to the **Indebtedness** or to reimbursement of **American Family** pursuant to Section 3.2 or Section 3.3, shall be deemed **Restoration Funds** to be used for **Restoration** under the terms and conditions set forth below:

(a) Reasonably satisfactory evidence shall be submitted to **American Family** showing that: (i) **Restoration** is feasible; (ii) the **Premises** can continue to be operated by **Borrower** for the same use and such use will continue to conform to applicable zoning regulations, (iii) the cost of **Restoration** will be completely funded from **Restoration Funds** (including any deposit by **Borrower** included therein); (iv) the **Appraised Value** of the **Premises** after **Restoration** shall be equal to or greater than the **Appraised Value** of the **Premises** as of the date of the appraisal contemplated in the **Loan Commitment**; and, (v) to **Borrower's Knowledge** no **Hazardous Materials** in violation of **Environmental Laws** respecting the **Premises** would exist after **Restoration**; and

(b) Adequate provision is made to have such **Restoration Funds** disbursed in accordance with this Section; and

(c) No uncured **Event of Default** exists under the terms of any of the **Loan Documents**.

If **American Family** reasonably determines that a proposed **Restoration** fails to meet any of the terms and conditions in these immediately preceding Sections 3.4(a) through 3.4(c), then **American Family** shall have the option to apply the entire proceeds of the condemnation award or **Insurance Proceeds** in reduction of the **Indebtedness**. If the proposed **Restoration** meets each of the conditions detailed in Section 3.4(a) through (c) above, then **American Family** shall allow the entire **Insurance Proceeds** or condemnation awards, less any expense reasonably incurred by **American Family** in the adjustment, collection, and application of such proceeds, to be used for **Restoration**.

If the **Restoration Funds** are to be used for **Restoration** then, prior to the commencement of any portion of the **Work** other than temporary work needed to protect the damaged property, **Borrower** shall deliver to **American Family**:

(a) plans and specifications for the **Work** which (i) have been approved by all governmental authorities whose approval is required, (ii) bear the signed approval of the **Architect**, and (iii) are accompanied by the **Contractor's** or the **Architect's** signed good faith estimate of the total estimated cost of the **Restoration**;

(b) copies of all permits and approvals required by law in connection with the commencement and conduct of the **Restoration**; and

(c) a contract for a fixed sum or guaranteed maximum price executed by **Borrower** and the **Contractor** for performance of the **Work**, in form, scope and substance (including the customary retention) reasonably satisfactory to **American Family**.

After commencing the **Work**, **Borrower** shall perform or cause **Contractor** to perform the **Work** diligently and in good faith in accordance with the **Approved Plans**. **American Family** shall disburse the **Restoration Funds** in increments to **Borrower** or to parties to whom payments for **Work** are then due, as **American Family** shall elect from time to time as the **Work** progresses, to pay for the costs of the **Restoration**. Such disbursements shall be subject to the following conditions, any of which **American Family** may waive:

(a) **Architect** shall monitor and report to **American Family** on the progress of the **Work**; and

(b) **American Family** shall make such payments only upon not less than ten (10) days prior written notice from **Borrower** to **American Family**, which notice shall include **Borrower's** delivery to **American Family** of (i) a **Request for Payment**, (ii) evidence reasonably satisfactory to **American Family** that there are no mechanic's or similar **Liens** for labor or material supplied in connection with the **Work** to date, or that any such **Liens** have been adequately provided for, to **American Family's** reasonable satisfaction; and (iii) evidence satisfactory to **American Family** that the balance of **Restoration Funds** remaining after making the payments will be sufficient to pay for the **Restoration** not then completed (giving in such reasonable detail as **American Family** may require an estimate of the cost of such completion). Each **Request for Payment** shall be accompanied by waivers of **Liens** reasonably satisfactory to **American Family** covering that part of the **Work** previously paid for, if any, and by a search prepared by a title company or by other evidence satisfactory to **American Family** that no mechanic's **Liens** or other **Liens** or instruments for the retention of title in respect of any part of the **Work** have been filed against the **Premises** and not discharged of record and that no encumbrance exists on, or affects, the **Premises** other than **Permitted Exceptions**, if any, described on Exhibit B attached hereto;

(c) Any **Request for Payment** after the **Restoration** has been completed shall be accompanied by a copy of any certificate or certificates required by law to render occupancy of the **Premises** legal.

If any **Restoration Funds** remain after completion of **Restoration** and payment of all related costs, then a portion of such remaining **Restoration Funds**, up to the total amount of **Borrower's** own funds, if any, deposited with condemnation proceeds or **Insurance Proceed** as additional **Restoration Funds**, shall be returned to **Borrower**. Any **Restoration Funds** then remaining, after such return of funds to **Borrower**, shall be applied by **American Family** to the **Indebtedness** in such amounts and in such order as **American Family** may determine. Any return of **Restoration Funds** to **Borrower** shall be conditioned upon **American Family's** prior receipt of the Certificate of Occupancy for the **Premises**, if applicable, and other reasonable and customary evidence requested by **American Family** that **Restoration** has been completed in accordance with the **Approved Plans**, that the costs thereof are paid in full, and that no **Liens** for labor or material supplied in connection with **Restoration** are outstanding against the

Premises, and provided that no uncured **Event of Default** is then in existence under any of the **Loan Documents**.

If within one hundred eighty (180) days after the occurrence of any damage or destruction of the **Premises** requiring **Restoration**, **Borrower** fails to request that the **Insurance Proceeds** be disbursed as above permitted or to submit plans and specifications to **American Family** for approval, or fails to deposit with **American Family** the additional amount necessary to accomplish **Restoration** as provided in this Section; or, if after such plans and specifications are approved by all such government authorities and by **American Family**, **Borrower** fails to commence promptly or diligently to continue to completion of **Restoration**; or, if **Borrower** becomes delinquent in payment to mechanics, materialmen or others for the costs incurred in connection with **Restoration** (subject to **Borrower's** right to dispute any such claim pursuant to this **Deed of Trust**); then in addition to all of the rights herein set forth, and after ten (10) business days written notice of the nonfulfillment of one or more of the foregoing conditions, and **Borrower's** failure to remedy such non-fulfillment after a reasonable period to cure, **American Family** may apply the remaining **Restoration Funds** then or thereafter held by **American Family** to reduce the unpaid **Indebtedness** in such order as **American Family** may determine, and at **American Family's** option **American Family** may also declare the entire **Indebtedness** immediately due and payable. Also, notwithstanding anything to the contrary herein, **American Family** shall have the right at any time to apply all or any part of any **Restoration Funds** to the curing of any **Event of Default** under the **Loan Documents**. In the event that any **Restoration Funds** remain after payment in full of all **Indebtedness**, then such remaining **Restoration Funds** shall be paid to **Borrower**. No prepayment premium will be charged for any application of **Restoration Funds** to the **Indebtedness** and following the application of **Restoration Funds** to reduce (but not fully repay) the **Indebtedness**, **Borrower** shall have the right to prepay the balance of the **Indebtedness**, without prepayment premium.

SECTION 3.5 FORECLOSURE OR ACQUISITION BY AMERICAN FAMILY. In the event of a foreclosure of the **Deed of Trust** or any acquisition of the **Premises** by **American Family**, all insurance policies and any **Insurance Proceeds** payable therefrom, whether payable before or after a foreclosure sale, or during the period of redemption, if any, shall become the absolute property of **American Family** to be utilized as determined by **American Family**. In the event of foreclosure or a failure by **Borrower** at any time during the term of the **Loan** to obtain and keep any required insurance, **Borrower** empowers **American Family** to effect insurance upon the **Premises** at **Borrower's** expense and for the benefit of **American Family** in the amounts and types in Section 3.1 for a period of time covering the time lapse of insurance including lapse during redemption from foreclosure sale, and if necessary, to cancel any or all existing insurance policies.

ARTICLE 4

HAZARDOUS MATERIALS AND COMPLIANCE WITH ENVIRONMENTAL LAWS

SECTION 4.1 DEFINITIONS. Unless otherwise indicated herein, any terms used in this Article 4 which are defined in state or federal statutes and/or regulations

promulgated in relation thereto shall have the meaning subscribed to such terms in said statutes and regulations.

SECTION 4.2 REPRESENTATIONS AND COVENANTS BY BORROWER.

(a) **Borrower** represents, warrants and covenants that:

(i) To **Borrower's Knowledge**, the **Premises** have never been used by **Borrower** while owned by **Borrower** to generate, manufacture, refine, transport, treat, store, handle or dispose of any **Hazardous Substance**, and **Borrower** will not use the **Premises**, or permit any occupant of the **Premises** to use the **Premises**, for such purposes, except for **Borrower's** and **Tenants'** storage, use, generation and disposal of such **Hazardous Substances** in strict compliance with all applicable law and regulations in the ordinary course of their respective businesses; and

(ii) To **Borrower's Knowledge**, the **Premises** do not presently contain any asbestos, except as outlined in previous environmental reports provided to **American Family**, polychlorinated biphenyls (PCBs), any paint or other surface coatings that contain lead, or other **Hazardous Substances**, or any underground or aboveground storage tank; and

(iii) To **Borrower's Knowledge**, the **Premises** at all times during **Borrower's** ownership thereof, have been and currently are in compliance with all **Environmental Laws**, and **Borrower** has been in compliance with, all governmental permits and licenses required with respect to the **Premises** and **Borrower's** current and prospective activities at the **Premises**, and the **Premises** shall be maintained in compliance with all **Environmental Laws**; and

(iv) **Borrower** has never received a summons, citation, directive, notice of violation, letter or other communication, written, from any Federal, state or local governmental agency, or from any other third party, concerning any current or potential environmental contamination or degradation of or at the **Premises**, or which names or designates **Borrower** as a potentially responsible party in any remedial and/or cleanup action respecting either the **Premises** or any offsite facility to which any **Hazardous Substance** used, generated, sold, handled, stored, reclaimed, recycled or present at or upon the **Premises** has been transported or sent for treatment or disposal; and

(v) **Borrower** shall not cause, or knowingly permit to exist, any release, spill, leak, pumping, emitting, pouring, emptying or dumping of any **Hazardous Substance** into the environment in violation of **Environmental Laws** at, upon, or affecting the **Premises**. **Borrower** agrees not to allow the installation of any type of storage tank containing any **Hazardous Substance** on, above or below the **Premises**; and

(vi) As soon as possible, and in any event within ten (10) days after receipt by **Borrower**, **Borrower** shall give written notice to **American Family**, along with a copy, of any notice or claim to the effect that **Borrower** is or may be liable to any person as a result of the release or threatened release by **Borrower** or any other person of any **Hazardous Substance** into the environment and/or any notice alleging any violation of any **Environmental Law** with respect to the **Premises** and shall keep the **Premises** free of any encumbrance arising

from any **Lien**, judgment, cost, demand or liability imposed pursuant to any **Environmental Law**; and

(vii) In the event of the release, discharge, spill or leakage of any **Hazardous Substance** at, upon or affecting the **Premises**, or in the event of the discovery of any past release, discharge, spill or leakage of any **Hazardous Substance** at, upon or affecting the **Premises**, to the extent required by any **Environmental Laws** or as may be necessary to protect persons or property from imminent danger, **Borrower** shall promptly remediate and/or clean up such release, discharge, spill or leakage to the extent required by, and in conformance with, any applicable **Environmental Laws**.

(b) Should any representation or warranty of **Borrower** to **American Family** prove to be false, or should **Borrower** fail to comply with any of the affirmative covenants contained in this Section, such falsehood or failures shall constitute an **Event of Default** and shall entitle **American Family** to exercise all remedies available to it under this **Deed of Trust** and the **Loan Documents**, provided such failures are not promptly cured by **Borrower**.

(c) **Borrower** shall provide such information and certifications (based on **Borrower's Knowledge**) as **American Family** may reasonably request from time to time to ensure **Borrower's** compliance with this Section. **American Family**, its agents and consultants, shall have the right, but not the obligation, to: (i) enter upon the **Premises** at any reasonable time; (ii) take samples; (iii) review **Borrower's** and, to the extent of **Borrower's** rights under related **Leases**, if any, any **Tenant's** records and documents; (iv) interview **Borrower's** and, to the extent of **Borrower's** rights under related **Leases**, if any, any **Tenant's** personnel and agents; and/or (v) conduct such activities as **American Family** reasonably deems appropriate to ensure **Borrower's** and any **Tenant's** compliance with the terms of this Section. **Borrower** shall cooperate fully with **American Family**, its agents and consultants, in the furtherance of **American Family's** rights provided by this Section. Unless **American Family** has a good faith belief that **Borrower** is not in compliance with this Section, the costs incurred by **American Family** hereunder will be borne solely by **American Family** and will not constitute **Recoverable Costs**.

ARTICLE 5

UNIFORM COMMERCIAL CODE

SECTION 5.1 SECURITY AGREEMENT. This **Deed of Trust** shall constitute a security agreement as defined in the **Code**. **Borrower** grants to **American Family** a security interest within the meaning of the **Code** in favor of **American Family** in the **Collateral**.

SECTION 5.2 FIXTURE FILING. As to those items of **Collateral** described in this **Deed of Trust** that are, or are to become, fixtures related to the real estate subject to this **Deed of Trust** hereby, it is intended as to those items that **THIS DEED OF TRUST SHALL BE EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING** from the date of its filing in the real estate records of the County of Salt Lake, in the State of Utah. The name of the record owner of the **Premises** is **Borrower**. Information concerning the security interest created by this instrument may be obtained from **American Family**, as secured

party, at its address as set forth in page one of this **Deed of Trust**. This document covers goods which are or are to become fixtures. **Borrower's** organizational identification number is 8941313-0160.

SECTION 5.3 REPRESENTATIONS AND AGREEMENTS. **Borrower** represents to **Borrower's Knowledge** and agrees as follows:

(a) the **Collateral** is subject to no **Liens**, charges, security interests or encumbrances other than the **Lien** hereof;

(b) the **Collateral** is to be used by **Borrower** solely for business purposes, being installed upon the **Premises** for **Borrower's** own use or as equipment and furnishings leased or furnished by **Borrower**, as landlord, to any **Tenant** of the **Premises**;

(c) the **Collateral** will be kept at the **Premises** and will not be removed therefrom without the prior written consent of **American Family**;

(d) the only persons or entities having any interest in the **Collateral** (other than the possessory rights of **Tenants**) are **Borrower** and **American Family**.

(e) no financing statement covering any such **Collateral** or any proceeds thereof is on file in any public office except pursuant hereto and except for financing statements for prior loans being refinanced by this **Loan**, which financing statements are being released in connection with the closing of this **Loan**;

(f) the remedies of **American Family** hereunder are cumulative and separate, and the exercise of any one or more of the remedies provided for herein or under the **Code** shall not be construed as a waiver of any one or more of the remedies provided for herein or under the **Code** and shall not be construed as a waiver of any other rights of **American Family** including having such **Collateral** deemed part of the realty upon any foreclosure thereof;

(g) if notice to any party of the intended disposition of the **Collateral** is required by law in a particular instance, such notice shall be deemed commercially reasonable if given at least ten (10) days prior to such intended disposition;

(h) notice may be given by advertisement in a newspaper accepted for legal publications either separately or as part of a notice given to foreclose or exercise a power of sale over the real property or may be given by private notice if such parties are known to **American Family**;

(i) if items of **Collateral**, other than real estate, exist, **Borrower** will, from time to time, provide **American Family** upon reasonable request with an itemization of all such **Collateral**;

(j) the filing of a **Financing Statement** pursuant to the **Code** shall never impair the stated intention of this **Deed of Trust** that all **Collateral**, as well as all awards, insurance payments, rents and **Leases** are, and at all times and for all purposes and in all proceedings both legal or equitable shall be regarded as, part of the real property subject to the

Deed of Trust hereunder irrespective of whether such items are physically attached to the real property or any such items are referred to or reflected in a **Financing Statement**;

(k) **Borrower** authorizes **American Family** to file **Financing Statements** and amendments thereto that may from time to time be reasonably required by **American Family** to establish, perfect and continue the priority of **American Family's** security interest in the **Collateral** and shall pay all expenses incurred by **American Family** in connection with the renewal or extensions of any **Financing Statements** executed in connection with the **Collateral**; and **Borrower** shall give thirty (30) days' prior written notice of any proposed change in **Borrower's** name, address, identity, or state under whose law it is organized.

~~SECTION 5.4 MAINTENANCE OF PROPERTY.~~ Subject to the provisions of this Section 5.4, in any instance where **Borrower** in its reasonable business judgment determines that any item subject to a security interest under this **Deed of Trust** has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary for operation of the **Premises**, **Borrower** may, at its expense, remove and dispose of such item and substitute and install other items not necessarily having the same function, provided that such removal and substitution shall not impair the operating utility and unity of the **Premises**. All substituted items shall become a part of the **Premises** and subject to the Lien of this **Deed of Trust**. Any amounts received by or allowed to **Borrower** upon the sale or other disposition of the removed items of property shall be applied first against the cost of acquisition and installation of the substituted items. Any residual proceeds remaining after acquisition and installation shall, if in excess of \$10,000, be applied to the **Indebtedness**. Nothing herein contained shall be construed to prevent any **Tenant** from removing from the **Premises** any property of such **Tenant**, including trade fixtures, furniture and equipment installed by the **Tenant** and removable by the **Tenant** under the terms of its Lease, on the condition, however, that all damages to the **Premises** resulting from or caused by the removal thereof be repaired at the sole cost of **Borrower** if such **Tenant** shall fail to so repair.

ARTICLE 6

EVENTS OF DEFAULT AND REMEDIES

SECTION 6.1 EVENTS OF DEFAULT. The occurrence of any of the following shall be deemed an **Event of Default** under this **Deed of Trust**:

(a) **Borrower** or any co-maker, **Guarantor** or surety shall fail to pay any principal or interest due under any of the **Loan Documents** when and as the same becomes due, whether at the stated maturity or at a date fixed for any installment payment or any accelerated payment or otherwise, and such failure shall continue for five (5) days following the receipt by **Borrower** of written notice specifying such failure; or,

(b) **Borrower** or any **Guarantor** shall fail to timely make any escrow deposits required under the **Loan Documents** or other required deposits with **American Family** or to pay when due any other **Indebtedness**; or

(c) **Borrower** or any co-maker, **Guarantor** or surety of the **Indebtedness** shall make an assignment for the benefit of its creditors, or shall admit in writing its inability to

pay its debts as they become due, or shall file a petition in bankruptcy, or shall be adjudicated bankrupt or insolvent, or shall file a petition seeking any reorganization, dissolution, liquidation, arrangement, composition, readjustment or similar relief under any present or future bankruptcy or insolvency statute, law or regulation or shall file an answer admitting to or not contesting the material allegations of a petition filed against it in such proceedings, or shall not within sixty (60) days after the filing of such petition have the same dismissed or vacated, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of a material part of its properties, or shall not within sixty (60) days after the appointment, without its consent or acquiescence, of a trustee, receiver or liquidator of any material part of its properties have such appointment vacated; or,

(d) **Borrower** shall fail to cure any default or defaults with respect to any other loan obligation to **American Family**; or

(e) any event of **Fraud**; or,

(f) the **Premises** shall be transferred in any manner other than that allowed under the **Loan Documents**; or,

(g) **Borrower** shall fail to maintain continuous insurance coverage on the **Premises** in such forms and amounts as may be required from time to time under the **Loan Documents**; or,

(h) **Borrower** shall be terminated, dissolved, liquidated or wound up; or

(i) **Borrower** shall fail to comply with or perform any other term, condition or covenant of the **Loan Documents**, and such failure shall continue for thirty (30) days following the date of receipt by **Borrower** of written notice specifying such failure, provided however that where the cure of such failure cannot be reasonably completed within such thirty (30) days but is being diligently pursued to **American Family's** reasonable satisfaction, **Borrower** shall have such additional time to cure such failure as may be necessary, but not more than ninety (90) days from the date of the first written notice to **Borrower**.

SECTION 6.2 AMERICAN FAMILY'S RIGHT TO ACCELERATE; IMPOSITION OF DEFAULT RATE. Upon the occurrence of an **Event of Default**, the entire **Indebtedness** shall, without further notice, become immediately due and payable at the option of **American Family**. Upon the earlier of: (a) the date on which the **Indebtedness** is accelerated by **American Family**, or (b) if no cure period is provided in the **Loan Documents** for such **Event of Default**, the date such **Event of Default** occurs; or (c) if a cure period for such **Event of Default** is provided in the **Loan Documents** and such **Event of Default** is not cured after provision of notice and the applicable opportunity to cure, the date of receipt of such notice, the interest rate payable under the **Loan Documents** shall thereafter increase and shall be payable on the whole of the unpaid principal balance, until paid in full or cure of such **Event of Default**, at the **Default Rate**. Any interest calculated at the **Default Rate** shall be due and payable immediately without further notice or demand. The interest component of any regularly scheduled payment of principal and interest not paid when due in accordance with the Amortization Schedule shall be deemed so much additional principal and shall bear interest from

that date which is thirty (30) days following the due date at the **Default Rate**. Such increase in the interest rate shall be applicable whether or not **American Family** has exercised its option to accelerate the maturity of the **Note** and declare the entire **Indebtedness** to be due and payable. The **Default Rate** shall continue until **Borrower** has cured all defaults as permitted herein or **Borrower** has paid all **Indebtedness** in full, whichever shall occur first. Notwithstanding the foregoing, if the **Event of Default** (other than a payment default) giving rise to the application hereof is not curable by **Borrower**, and **American Family** is not proceeding to foreclose under this **Deed of Trust**, then such **Default Rate** shall only apply for six (6) months. This provision shall not be deemed to excuse a default and shall not be deemed a waiver of any other rights **American Family** may have, including the right to declare the entire **Indebtedness** immediately due and payable. Any contrary provision herein notwithstanding, upon an **Event of Default** described in Section 6.1(c), then the entire **Indebtedness** shall, without further notice, become immediately due and payable at the option of **American Family**.

SECTION 6.3 ACCELERATION UPON DEFAULT; ADDITIONAL REMEDIES. Upon the occurrence of an **Event of Default**, **Beneficiary** may, at its option, declare all or any part of the **Indebtedness** immediately due and payable without any presentment, demand, protest or notice of any kind. To the extent allowed by law, **Beneficiary** may, in addition to the exercise of any or all of the remedies specified in Section 5.3 or Section 2.4:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the **Premises**, or any part thereof, in its own name or in the name of **Trustee**, and do any acts that it deems necessary or desirable to preserve the value, marketability or rentability of the **Premises**, or any part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the **Premises**, sue for or otherwise collect the Rents, or any part thereof, including, without limitation, those past due and unpaid, and apply the same, less costs and expenses of operation and collection (including, without limitation, attorneys' fees) to the **Indebtedness**, all in such order as **Beneficiary** may determine. The entering upon and taking possession of the **Premises**, the collection of such Rents and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of all or any portion of the **Premises** or the collection, receipt and application of Rents, **Trustee** or **Beneficiary** shall be entitled to exercise every right provided for in any of the **Loan Documents** or by law during the continuance of any **Event of Default**, including, without limitation, the right to exercise the power of sale contained herein;

(b) Commence an action to foreclose the lien of this **Deed of Trust** as a mortgage in accordance with **Beneficiary's** rights under *Utah Code Annotated* § 57-1-23, or other applicable law, appoint a receiver as more particularly described in Section 6.6, or specifically enforce any of the covenants hereof;

(c) Exercise the power of sale herein contained and deliver to **Trustee** a written statement of default or breach and cause **Trustee** to execute and record a notice of

default and election to cause **Trustor's** interest in the **Premises** to be sold in accordance with *Utah Code Annotated* § 57-1-24 or other applicable law; or

(d) Exercise all other rights and remedies provided herein, in any **Loan Document** or other document or agreement now or hereafter securing or guarantying all or any portion of the **Indebtedness**, or by law.

SECTION 6.4 EXERCISE OF POWER OF SALE. After the lapse of such time as may then be required by *Utah Code Annotated* § 57-1-24 or other applicable law following the recordation of the notice of default, and notice of default and notice of sale having been given as then required by *Utah Code Annotated* § 57-1-25 and § 57-1-26 or other applicable law, **Trustee**, without demand on **Trustor**, shall sell the **Premises** on the date and at the time and place designated in the notice of sale, either as a whole or in separate parcels, and in such order as **Beneficiary** may determine (but subject to **Trustor's** statutory right under *Utah Code Annotated* § 57-1-27 to direct the order in which the property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause deemed expedient, postpone the sale from time to time until it shall be completed and, in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale; *provided*, if the sale is postponed for longer than forty-five (45) days beyond the date designated in the notice of sale, notice of the time, date, and place of sale shall be given in the same manner as the original notice of sale as required by *Utah Code Annotated* § 57-1-27. **Trustee** shall execute and deliver to the purchaser a **Trustee's Deed**, in accordance with *Utah Code Annotated* § 57-1-28, conveying the **Premises** so sold, but without any covenant of warranty, express or implied. The recitals in the **Trustee's Deed** of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including **Beneficiary**, may bid at the sale. **Trustee** shall apply the proceeds of the sale as follows:

FIRST: To the costs and expenses of exercising the power of sale and of the sale, including the payment of the trustee's and attorney's fees actually incurred not to exceed the amount which may be provided for in the trust deed.

SECOND: To payment of the obligations secured by the **Deed of Trust**.

THIRD: The balance, if any, to the person or person's legally entitled to the proceeds, or the **Trustee**, in the **Trustee's** discretion, may deposit the balance of the proceeds with the clerk of the district court of the county in which the sale took place, in accordance with *Utah Code Annotated* § 57-1-29.

Upon any sale made under or by virtue of this Section 6.4, 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, the **Beneficiary** may bid for and acquire the **Premises**, whether by payment of cash or by credit bid in accordance with *Utah Code Annotated Code* § 57-1-28(1)(b). In the event of a successful credit bid, **Beneficiary** shall make settlement for the purchase price by crediting upon the **Indebtedness** of **Trustor** secured by this **Deed of Trust** such credit bid amount. **Beneficiary**, upon so acquiring the **Premises** or any part thereof, shall

be entitled to hold, lease, rent, operate, manage, and sell the same in any manner provided by applicable laws.

For purposes of *Utah Code Annotated* § 57-1-28, **Trustor** agrees that all **Additional Interest, Late Charges**, any prepayment premium, and **Recoverable Costs**, if any, owing from time to time under the **Note** shall constitute a part of and be entitled to the benefits of **Beneficiary's Deed of Trust** lien upon the **Premises**, and (ii) **Beneficiary** may add all **Additional Interest, Late Charges**, any prepayment premium, and **Recoverable Costs** owing from time to time under the **Note** to the principal balance of the **Note**, and in either case **Beneficiary** may include the amount of all such charges in any credit bid **Beneficiary** may make at a foreclosure sale of the **Premises** pursuant to this **Deed of Trust**.

SECTION 6.5 PERSONAL PROPERTY. It is the express understanding and intent of the parties that as to any personal property interests subject to Article 9a of the Utah Uniform Commercial Code, **Beneficiary**, upon an **Event of Default**, may proceed under the Utah Uniform Commercial Code or may proceed as to both real and personal property interests in accordance with the provisions of this **Deed of Trust** and its rights and remedies in respect of real property, and treat both real and personal property interests as one parcel or package of security as permitted by *Utah Code Annotated* § 70A-9a-601 or other applicable law, and further may sell any shares of corporate stock evidencing water rights in accordance with *Utah Code Annotated* § 57-1-30 or other applicable law.

SECTION 6.6 APPOINTMENT OF RECEIVER. During the continuance of an uncured **Event of Default**, **Beneficiary**, as a matter of right and without notice to **Trustor** or any one claiming under **Trustor**, and without regard to the then value of the **Premises** or the interest of **Trustor** therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the **Premises**, and **Trustor** hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases, and all the powers and duties of **Beneficiary** in case of entry as provided herein, and shall continue as such and exercise all such powers until the later of the date of confirmation of sale of the **Premises** or the date of expiration of any redemption period, unless such receivership is sooner terminated.

SECTION 6.7 REMEDIES NOT EXCLUSIVE. Subject to the express provisions of this **Deed of Trust**, **Trustee** and **Beneficiary**, and each of them, shall be entitled to enforce payment and performance of any and all of the **Indebtedness** and to exercise all rights and powers under the **Loan Documents** and under the law now or hereafter in effect, notwithstanding some or all of the **Indebtedness** may now or hereafter be otherwise secured or guaranteed. Neither the acceptance of this **Deed of Trust** nor its enforcement, whether by court action or pursuant to the power of sale or other rights herein contained, shall prejudice or in any manner affect **Trustee's** or **Beneficiary's** right to realize upon or enforce any other security or guaranty now or hereafter held by **Trustee** or **Beneficiary**, it being agreed that **Trustee** and **Beneficiary**, and each of them, shall be entitled to enforce this **Deed of Trust** and any other security or any **Guaranty** now or hereafter held by **Beneficiary** or **Trustee** in such order and manner as they or either of them may in their absolute discretion determine. 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 or permitted, but each shall be cumulative and shall be in

addition to every other remedy given hereunder, or now or hereafter existing under the law. Every power or remedy given by any of the **Loan Documents** or by law to **Trustee** or **Beneficiary** (except as expressly provided herein to the contrary) or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by **Trustee** or **Beneficiary** and, to the extent permitted by law, either of them may pursue inconsistent remedies.

SECTION 6.8 REINSTATEMENT. If **Trustor**, **Trustor's** successor interest or any other person having a subordinate lien or encumbrance of record on the **Premises**, reinstates this **Deed of Trust** and the **Loan** within three (3) months of the recordation of a notice of default in accordance with *Utah Code Annotated* § 57-1-31(1), such party shall pay to **Beneficiary** the reasonable cancellation fee contemplated by *Utah Code Annotated* § 57-1-31(2), as calculated by **Beneficiary**, in accordance with its then current policies and procedures, whereupon **Trustee** shall record a notice of cancellation of the pending sale.

SECTION 6.9 MARSHALLING OF ASSETS. **Trustor**, on its own behalf and on behalf of its successors and assigns, hereby expressly waives all rights to require a marshalling of assets by **Trustee** or **Beneficiary**, or to require, unless mandated by law, **Trustee** or **Beneficiary**, upon a foreclosure, to first resort to the sale of any portion of the **Premises** which might have been retained by **Trustor** before foreclosing upon and selling any other portion as may be conveyed by **Trustor** subject to this **Deed of Trust**.

SECTION 6.10 CREDIT BIDS. **Borrower** agrees that (i) all unpaid **Late Charges**, **Recoverable Costs** and **Additional Interest** shall constitute a part of and be entitled to the benefits of **American Family's Deed of Trust** lien upon the **Premises**, and (ii) **American Family** may add all unpaid **Late Charges**, **Recoverable Costs** and **Additional Interest** to the principal balance of the **Note**, and in either case **American Family** may include the amount of all unpaid **Late Charges**, **Recoverable Costs** and **Additional Interest** in any credit bid **American Family** may make at a foreclosure sale of the **Premises** pursuant to the **Deed of Trust**. Further, **American Family** shall have the right to credit bid and purchase at any UCC, bankruptcy, Sheriff's or other sale or auction, including any sale under Section 363 of Title 11 *United States Code* and any successor or replacement statute (the US Bankruptcy Code).

SECTION 6.11 RIGHTS UNDER UNIFORM COMMERCIAL CODE. In addition to the rights available to a trustee of a trust deed on real property, **American Family** shall also have all the rights, remedies and recourse available to a secured party under the **Code** including the right to proceed under the provisions of the **Code** governing default as to any **Collateral**, **American Family** shall have no liability for funds not actually received by **American Family**.

SECTION 6.12 RIGHT TO DISCONTINUE PROCEEDINGS. In the event **American Family** shall have proceeded to invoke any right, remedy or recourse permitted under this **Deed of Trust** or any other **Loan Document** and shall thereafter elect to discontinue or abandon the same for any reason, **American Family** shall have the unqualified right to do so and in such event **Borrower** and **American Family** shall be restored to their former positions with respect to the **Indebtedness**. This **Deed of Trust**, the other **Loan Documents**, the **Premises** and

all rights, remedies and recourse of **American Family** shall continue as if the same had not been invoked.

ARTICLE 7

RIGHTS OF AMERICAN FAMILY

SECTION 7.1 RIGHT TO CURE DEFAULT. If **Borrower** shall fail to comply with any of the covenants or obligations under any of the **Loan Documents**, **American Family** may, but shall not be obligated to, without further demand upon **Borrower** and without waiving or releasing **Borrower** from any obligation incorporated in any of the **Loan Documents**, remedy such failure. **Borrower** agrees to repay upon request all reasonable sums incurred by **American Family** in remedying any such failure, which sums shall be deemed **Recoverable Costs**. No such advance shall be deemed to relieve **Borrower** from any failure hereunder.

SECTION 7.2 NO CLAIM AGAINST AMERICAN FAMILY. Nothing contained in any of the **Loan Documents** shall constitute any consent or request by **American Family**, express or implied, for the performance of any labor or services or for the furnishing of any materials or other property with respect to the **Premises** or any part thereof, nor as giving **Borrower** or any party in interest with **Borrower** any right, power or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would create any personal liability against **American Family** with respect thereto or which would permit the making of any claim that any **Lien** based on the performance of such labor or services or the furnishing of any such materials or other property is prior to the **Lien** of this **Deed of Trust**.

SECTION 7.3 INSPECTION. Subject to the rights of **Tenants** in possession, **Borrower** shall permit **American Family's** authorized representatives upon reasonable advance notice to enter the **Premises** at reasonable times during normal business hours upon reasonable advance written notice for the purpose of inspecting the same. **American Family**, however, shall have no duty to make such inspections and shall not incur any liability or obligation for making or not making any such inspections.

SECTION 7.4 RIGHTS CUMULATIVE. Except as specifically limited under the terms of any of the **Loan Documents**, each right, power or remedy conferred in any of the **Loan Documents** upon **American Family** is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to **American Family**, at law or in equity, or under the **Code**, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by **American Family** but subject to any applicable one action rule as to real property and shall not be deemed a waiver of the right to exercise, concurrently or at any time thereafter any other right, power or remedy. No delay or omission by **American Family** in the exercise of any right, power or remedy arising hereunder or arising otherwise shall impair any such right, power or remedy or the right of **American Family** to resort thereto at a later date or be construed to be a waiver of an **Event of Default** under any of the **Loan Documents**.

SECTION 7.5 SUBSEQUENT AGREEMENTS. Any agreement hereafter made by **Borrower** and **American Family** pursuant to this **Deed of Trust** shall be superior to the rights of the holder of any intervening **Lien** or encumbrance.

SECTION 7.6 BUSINESS LOAN REPRESENTATION. **Borrower** represents and warrants to **American Family** that the **Loan** evidenced by the **Note** is a business loan transacted solely for the purpose of carrying on the business of **Borrower**.

SECTION 7.7 LEGAL LIMITS OF THE INDEBTEDNESS. All agreements between **Borrower** and **American Family** are expressly limited so that in no contingency or event whatsoever, whether by reason of acceleration of maturity of the **Indebtedness** or otherwise, shall the amount paid or agreed to be paid to **American Family** for the use, forbearance, loaning or retention of the **Indebtedness** exceed the maximum permissible under applicable law. If, from any circumstances whatsoever, fulfillment of any provisions of any of the **Loan Documents** shall involve transcending the limit of validity prescribed by law, then the obligation to be fulfilled shall automatically be reduced to the limit of such validity. If, from any circumstances, **American Family** should ever receive as interest an amount which would exceed the highest lawful interest rate, such amount which would be in excess of such highest lawful interest rate (including all prior interest payments in excess of such highest lawful interest rate) shall be applied to reduction of the principal balance evidenced hereby and not to the payment of interest. This provision shall control every other provision of all agreements between **American Family** and **Borrower** and shall also be binding upon and available to any subsequent assignee of this **Deed of Trust**.

ARTICLE 8

GENERAL REPRESENTATIONS AND WARRANTIES

SECTION 8.1 REPRESENTATIONS AND WARRANTIES. As a material inducement to **American Family's** extension of credit to **Borrower** in connection with the **Loan**, **Borrower** represents and warrants to **American Family**, its successors and assigns, that, as of the date hereof:

(a) **Borrower** is a Utah limited liability company duly organized and validly existing under the laws of Utah, that **Borrower** has all requisite power and authority to own, lease and operate the **Premises**, to execute and deliver the **Loan Documents**, and to perform all covenants and obligations as contemplated under the **Loan Documents**; and that **Borrower** is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it.

(b) To **Borrower's Knowledge**, neither the borrowing of the monies, nor the execution and delivery of the **Loan Documents**, nor the performance of the covenants and obligations provided for therein on the part of **Borrower** or **Guarantors**, will contravene, violate or constitute a default under the Operating Agreement of **Borrower** or any agreement with any creditors of **Borrower** or **Guarantors**, or any law, ordinance, governmental regulation, agreement or indenture to which **Borrower** or any **Guarantor** is a party or by which **Borrower**, **Guarantors'** or **Borrower's** properties are bound.

(c) To **Borrower's Knowledge**, there are no: (i) bankruptcy proceedings involving **Borrower** or any **Guarantor**, and none is contemplated; (ii) dissolution proceedings involving **Borrower** or any **Guarantor**, and none is contemplated; (iii) unsatisfied judgments of record against **Borrower** or any **Guarantor**; or (iv) tax **Liens** filed against **Borrower** or any **Guarantor**.

(d) The **Loan Documents** have been duly executed and delivered by **Borrower** and **Guarantors** and constitute the legal, valid and binding obligations of **Borrower** and **Guarantors**, enforceable in accordance with their terms, except as enforcement of remedies may be limited by principles of equity and by bankruptcy, insolvency or similar laws affecting generally the exercise and enforcement of creditor's rights and remedies.

(e) There are no judgments, suits, actions or proceedings at law or in equity or by or before any government agency now pending, or, to **Borrower's Knowledge**, threatened against **Borrower** or, except as disclosed in writing to **American Family**, against any **Guarantor** or, to **Borrower's Knowledge**, threatened or pending against the **Premises**, nor to **Borrower's Knowledge**, has any judgment, decree or order been issued against **Borrower**, or any **Guarantor**, nor to **Borrower's Knowledge** has any judgment, decree or order been issued against the **Premises**, which would have a material adverse effect on the **Premises** or the financial condition of **Borrower** or **Guarantors**.

(f) To **Borrower's Knowledge**, no consent or approval of any regulatory authority having jurisdiction over **Borrower** or **Guarantors** is necessary or required by law as a prerequisite to the execution, delivery and performance of the terms of the **Loan Documents**.

(g) Neither **Borrower** nor **Guarantors** are, as of the date hereof, in default in the payment or performance of any of **Borrower's** or **Guarantors'** obligations to any creditor.

(h) To **Borrower's Knowledge**, the **Premises** have been built in accordance with all applicable codes, laws and regulations.

(i) Except as disclosed to **American Family** in writing, to **Borrower's Knowledge**, no labor or materials were furnished to the **Premises** that have not been paid for in full.

(j) **Borrower** has no notice, information or **Knowledge** of any change contemplated in any applicable law, ordinance, regulation, or restriction, or any judicial, administrative, governmental or quasi-governmental action, or any action by adjacent land owners, or any natural or artificial condition existing upon the **Premises**, which would limit, restrict, or prevent the contemplated or intended use and purpose of the **Premises**.

(k) To **Borrower's Knowledge**, there is no pending condemnation or similar proceeding affecting the **Premises**, or any portion thereof, nor is any such action being presently contemplated.

(l) To **Borrower's Knowledge**, no part of the **Premises** is being used for agricultural purposes or for a personal residence.

(m) To **Borrower's Knowledge**, the **Premises** are undamaged by fire, windstorm, or other casualty.

(n) To **Borrower's Knowledge**, the **Premises** comply with all applicable zoning ordinances, energy and **Environmental Laws, Disabilities Regulations**, building and use restrictions and codes, and any requirements with respect to licenses, permits and agreements necessary for the lawful use and operation of the **Premises**.

(o) To **Borrower's Knowledge**, the heating, electrical, plumbing, sanitary and storm sewer systems and other building equipment, fixtures and fittings in the existing improvements on the **Premises** are in good condition and working order, are adequate in quantity and quality for normal use, and are fit for the purposes intended and the use contemplated.

(p) The **Premises** are included in one or more tax parcels which pertain exclusively to the **Premises** and do not include any other property which is not subject to the **Deed of Trust**.

(q) The **Premises** are improved with self-storage buildings and site improvements and all required related parking and has frontage on, and direct access for ingress and egress to public streets.

(r) To **Borrower's Knowledge**, **Borrower** has good and clear record and indefeasible title in fee to the **Premises** subject to no **Liens**, encumbrances or restrictions other than **Permitted Exceptions** stated in Exhibit B hereof .

SECTION 8.2 CONTINUING OBLIGATION. **Borrower** further warrants and represents that, to **Borrower's Knowledge**, all statements made hereunder are true and correct in all material respects and that all financial statements, data and other information provided to **American Family** by **Borrower** relating to this transaction do not contain any false or misleading statements with respect to any material facts, or omit any material facts necessary in order to make any statements contained therein not false or misleading in any material respect, and since such statements, data or information were provided there has been no material change thereto or to the condition of **Borrower** or the **Premises**. Should **Borrower** subsequently obtain actual **Borrower's Knowledge** that any statement or representation was or is untrue, **Borrower** shall immediately notify **American Family** as to the untrue nature of said representation and take appropriate action as may be necessary to cause such representation to become true.

ARTICLE 9

MISCELLANEOUS

SECTION 9.1 ACCEPTANCE OF TRUST; POWERS AND DUTIES OF TRUST. **Trustee** accepts this trust when this **Deed of Trust** is recorded. Except as may be required by applicable law, **Trustee** or **American Family** may from time to time apply to any court of competent jurisdiction for aid and direction in the execution of the trust hereunder and the enforcement of the rights and remedies available hereunder, and may obtain orders or decrees

directing or confirming or approving acts in the execution of said trust and the enforcement of said remedies.

Trustee shall not be required to take any action toward the execution and enforcement of the trust hereby created or to institute, appear in, or defend any action, suit, or other proceeding in connection therewith where, in his opinion, such action would be likely to involve him in expense or liability, unless requested so to do by a written instrument signed by **American Family** and, if **Trustee** so requests, unless **Trustee** is tendered security and indemnity satisfactory to **Trustee** against any and all cost, expense, and liability arising therefrom. **Trustee** shall not be responsible for the execution, acknowledgment, or validity of the **Loan Documents**, or for the proper authorization thereof, or for the sufficiency of the lien and security interest purported to be created hereby, and **Trustee** makes no representation in respect thereof or in respect of the rights, remedies, and recourses of **American Family**.

With the approval of **American Family**, **Trustee** shall have the right to take any and all of the following actions: (i) to select, employ, and advise with counsel (who may be, but need not be, counsel for **American Family**) upon any matters arising hereunder, including the preparation, execution, and interpretation of the **Loan Documents**, and shall be fully protected in relying as to legal matters on the advice of counsel, (ii) to execute any of the trusts and powers hereof and to perform any duty hereunder either directly or through his agents or attorneys, (iii) to select and employ, in and about the execution of his duties hereunder, suitable accountants, engineers and other experts, agents and attorneys-in-fact, either corporate or individual, not regularly in the employ of **Trustee**, and **Trustee** shall not be answerable for any act, default, negligence, or misconduct of any such accountant, engineer or other expert, agent or attorney-in-fact, if selected with reasonable care, or for any error of judgment or act done by **Trustee** in good faith, or be otherwise responsible or accountable under any circumstances whatsoever, except for **Trustee's** negligence or bad faith, and (iv) any and all other lawful action as **American Family** may, pursuant to the provisions of this **Deed of Trust**, instruct **Trustee** to take to protect or enforce **American Family's** rights hereunder. **Trustee** shall not be personally liable in case of entry by **Trustee**, or anyone entering by virtue of the powers herein granted to **Trustee**, upon the **Premises** for debts contracted for or liability or damages incurred in the management or operation of the **Premises**. **Trustee** shall have the right to rely on any instrument, document, or signature authorizing or supporting any action taken or proposed to be taken by **Trustee** hereunder, believed by **Trustee** in good faith to be genuine. **Trustee** shall be entitled to reimbursement for expenses incurred by **Trustee** in the performance of **Trustee's** duties hereunder and to reasonable compensation for such of **Trustee's** services hereunder as shall be rendered. **BORROWER WILL, FROM TIME TO TIME, PAY THE COMPENSATION DUE TO TRUSTEE HEREUNDER AND REIMBURSE TRUSTEE FOR, AND INDEMNIFY AND HOLD HARMLESS TRUSTEE AGAINST, ANY AND ALL LIABILITY AND EXPENSES WHICH MAY BE INCURRED BY TRUSTEE IN THE PERFORMANCE OF TRUSTEE'S DUTIES EXCEPT IF INCURRED DUE TO TRUSTEE'S NEGLIGENCE OR WILLFUL MISCONDUCT.**

All moneys received by **Trustee** shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by applicable law) and **Trustee** shall be under no liability for interest on any moneys received by **Trustee** hereunder.

Should any deed, conveyance, or instrument of any nature be required from **Borrower** by any **Trustee** or substitute **Trustee** to more fully and certainly vest in and confirm to the **Trustee** or substitute **Trustee** such estates, rights, powers, and duties, then, upon request by the **Trustee** or substitute **Trustee**, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged, and delivered and shall be caused to be recorded and/or filed by **Borrower**.

By accepting or approving anything required to be observed, performed, or fulfilled or to be given to **Trustee** pursuant to the **Loan Documents**, including without limitation, any deed, conveyance, instrument, officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, **Trustee** shall not be deemed to have warranted, consented to, or affirmed the sufficiency, legality, effectiveness, or legal effect of the same, or of any term, provision, or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or affirmation with respect thereto by **Trustee**.

SECTION 9.2 COMPENSATION; EXCULPATION; INDEMNIFICATION.

(a) **Borrower** shall pay **Trustee's** fees and reimburse **Trustee** for expenses in the administration of this trust, including attorneys' fees. To the extent permitted by law, **Borrower** shall pay to **American Family** reasonable compensation for services rendered concerning this **Deed of Trust**, including without limit any statement of amounts owing under any **Indebtedness**. **American Family** shall not directly or indirectly be liable to **Borrower** or any other person as a consequence of (i) the exercise of the rights, remedies or powers granted to **American Family** in this **Deed of Trust**; (ii) the failure or refusal of **American Family** to perform or discharge any obligation or liability of **Borrower** under any agreement related to the **Premises** or **Collateral** or under this **Deed of Trust**; or (iii) any loss sustained by **Borrower** or any third party resulting from **American Family's** failure (whether by malfeasance, nonfeasance or refusal to act) to lease the **Premises** after an uncured **Event of Default** (hereinafter defined) or from any other act or omission (regardless of whether same constitutes negligence) of **American Family** in managing the **Premises** after an uncured **Event of Default** unless the loss is caused by the negligence or willful misconduct of **American Family** and no such liability shall be asserted against or imposed upon **American Family**, and all such liability is hereby expressly waived and released by **Borrower**.

(b) **BORROWER** INDEMNIFIES TRUSTEE AGAINST, AND HOLDS TRUSTEE HARMLESS FROM, ALL LOSSES, DAMAGES, LIABILITIES, CLAIMS, CAUSES OF ACTION, JUDGMENTS, COURT COSTS, ATTORNEYS' FEES AND OTHER LEGAL EXPENSES, COST OF EVIDENCE OF TITLE, COST OF EVIDENCE OF VALUE, AND OTHER EXPENSES WHICH IT MAY SUFFER OR INCUR: (i) BY REASON OF THIS **DEED OF TRUST**; (ii) BY REASON OF THE EXECUTION OF THIS **DEED OF TRUST** OR IN PERFORMANCE OF ANY ACT REQUIRED OR PERMITTED HEREUNDER OR BY LAW; (iii) AS A RESULT OF ANY FAILURE OF **BORROWER** TO PERFORM **BORROWER'S** OBLIGATIONS; OR (iv) BY REASON OF ANY ALLEGED OBLIGATION OR UNDERTAKING ON **AMERICAN FAMILY'S** PART TO PERFORM OR DISCHARGE ANY OF THE REPRESENTATIONS, WARRANTIES, CONDITIONS, COVENANTS OR OTHER OBLIGATIONS CONTAINED IN ANY OTHER DOCUMENT RELATED TO THE

PREMISES. HOWEVER, **BORROWER** WILL NOT BE OBLIGATED TO INDEMNIFY, DEFEND AND HOLD **AMERICAN FAMILY** OR **TRUSTEE** HARMLESS FROM ANY CLAIMS TO THE EXTENT THEY ARISE OUT OF THE NEGLIGENCE OR WILLFUL MISCONDUCT OF **AMERICAN FAMILY** OR **TRUSTEE** OR THEIR AGENTS, EMPLOYEES OR CONTRACTORS. THE ABOVE OBLIGATION OF **BORROWER** TO INDEMNIFY AND HOLD HARMLESS **TRUSTEE** SHALL SURVIVE THE RELEASE AND CANCELLATION OF THE SECURED OBLIGATIONS AND THE RELEASE AND RECONVEYANCE OR PARTIAL RELEASE AND RECONVEYANCE OF THIS **DEED OF TRUST**.

(c) **Borrower** shall pay all amounts and indebtedness arising under this Section 9.2 immediately upon demand by **Trustee** or **American Family** together with interest thereon from the date the indebtedness arises at the rate of interest then applicable to the principal balance of the **Note** as specified therein

SECTION 9.3 SUBSTITUTION OF TRUSTEES. From time to time, by a writing, signed and acknowledged by **American Family** and recorded in the Office of the Recorder of the County in which the **Premises** are situated, **American Family** may appoint another trustee to act in the place and stead of **Trustee** or any successor. Such writing shall set forth any information required by law. The recordation of such instrument of substitution shall discharge **Trustee** herein named and shall appoint the new trustee as the trustee hereunder with the same effect as if originally named **Trustee** herein. A writing recorded pursuant to the provisions of this Section 9.3 shall be conclusive proof of the proper substitution of such new **Trustee**.

SECTION 9.4 RECONVEYANCE. Upon **American Family's** written request, and upon surrender to **Trustee** for cancellation of this **Deed of Trust** or a certified copy thereof and any note, instrument, or instruments setting forth all obligations secured hereby, **Trustee** shall reconvey, without warranty, the **Premises** or that portion thereof then held hereunder. To the extent permitted by law, the reconveyance may describe the grantee as "the person or persons legally entitled thereto" and the recitals of any matters or facts in any reconveyance executed hereunder shall be conclusive proof of the truthfulness thereof. Neither **American Family** nor **Trustee** shall have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance. When the **Premises** has been fully reconveyed, the last such reconveyance shall operate as a reassignment of all future rents, issues and profits of the **Premises** to the person or persons legally entitled thereto.

SECTION 9.5 CHOICE OF LAW. This **Deed of Trust** is made under the laws of the State of Utah and is intended to be governed by the internal laws of the State of Utah.

SECTION 9.6 CHANGES OF OWNERSHIP. In the event ownership of the **Premises** becomes vested in a person, persons or entity other than **Borrower**, except with the prior written consent of **American Family**, **American Family** may continue to deal with **Borrower** without any obligation to deal with such successor or successors in interest with reference to this **Deed of Trust** the other **Loan Documents** and the **Indebtedness** until notified of such vesting. Upon such notification, **American Family** may thereafter deal with such

successor in place of **Borrower** without any obligation to thereafter deal with **Borrower** and without waiving any liability of **Borrower** under any of the **Loan Documents**.

SECTION 9.7 SUCCESSORS AND ASSIGNS. This **Deed of Trust** and each and every covenant, agreement and other provision hereof shall be binding upon **Borrower**, including the successors and assigns, whether authorized or unauthorized, of **Borrower**, including without limitation each and every record owner of the **Premises** or any other person having an interest therein. This **Deed of Trust** and all covenants and agreements of **Borrower** shall run with the land and shall inure to the benefit of **American Family**, its successors and assigns.

~~**SECTION 9.8 UNENFORCEABILITY OF CERTAIN CLAUSES.**~~ The unenforceability or invalidity of any provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

SECTION 9.9 NOTICES. Other than for notices from the **Trustee** required by statute to be given in some other form or manner, any notice, demand or request hereunder shall be given in writing by any of the following means: (a) personal service; or (b) registered or certified mail, return receipt requested, or (c) electronic communication, whether by email or facsimile, provided receipt is confirmed; or (d) overnight courier. Any notice, demand or request sent pursuant to either subsection (a) or (c) above, shall be deemed received upon such personal service or upon dispatch by electronic means. Any notice, demand or request sent pursuant to subsection (d), above, shall be deemed received on the business day immediately following deposit with the overnight courier, and, if sent pursuant to subsection (b), above, shall be deemed received forty-eight (48) hours following deposit in the mail. Any such notice shall be sent to the respective party's address as set forth on Page 1 of this **Deed of Trust**, Exhibit C to this **Deed of Trust** or to such other address as such party may, by notice in writing given in compliance with this Section 9.9, designate as its address. Any signed document transmitted as a PDF file via email shall be treated in all manners and respects as an original document and the signature of any party upon a document transmitted as a PDF file shall be considered an original signature; any document transmitted as a PDF file in accordance with this paragraph shall have the binding legal effect of an original document.

SECTION 9.10 AMENDMENT/MODIFICATION. Any amendments to, waivers of or modifications of any provisions of this **Deed of Trust** or any of the other **Loan Documents** must be made in writing. No oral waiver, amendment, or modification may be implied.

SECTION 9.11 SURVIVAL OF REPRESENTATIONS, WARRANTIES AND COVENANTS. All representations covenants and warranties contained herein or in any other **Loan Document**, instrument and agreement executed by **Borrower** in connection herewith shall survive the delivery of the **Note**, this **Deed of Trust** and all other **Loan Documents**, instruments and agreements executed in connection herewith and the provisions hereof shall continue to inure to the benefit of **American Family**, its successors and assigns.

SECTION 9.12 MINIMUM REQUIREMENT. **Borrower** recognizes that the requirements imposed upon **Borrower** hereunder, including, without limitation, insurance requirements, are minimum requirements as determined by **American Family** and do not

constitute a representation that the requirements are complete or adequate. **Borrower** understands that it is **Borrower's** duty and responsibility to act prudently and responsibly at all times for **Borrower's** protection and for the protection of the **Premises**.

SECTION 9.13 TIME OF THE ESSENCE. TIME IS OF THE ESSENCE WITH RESPECT TO THE TERMS, PROVISIONS AND CONDITIONS HEREOF.

SECTION 9.14 COSTS OF ENFORCEMENT. Within ten (10) days of receipt of written demand, **Borrower** agrees to pay **American Family's** reasonable attorneys' and paralegals' fees and costs, including all reasonable fees and costs incurred in litigation, mediation, arbitration, bankruptcy and administrative proceedings, and appeals therefrom, and all court costs, collection costs and other **Recoverable Costs**, incurred by **American Family** in the exercise of any right or remedy available to it under this **Deed of Trust**, whether or not suit is commenced. Further, if **American Family** is, by reason of being the holder of this **Deed of Trust**, made a party defendant in any litigation concerning this **Deed of Trust** or the **Premises** or any part thereof or therein, or the construction, maintenance, operation, security or the occupancy or use thereof by **Borrower**, then **Borrower** shall indemnify, defend and hold **American Family** harmless from and against all liability (unless such liability directly results from the willful misconduct or negligence of **American Family**, its agents, contractors, and/or employees) and reasonable cost by reason of said litigation, including reasonable attorneys' and paralegals' fees and costs, and including all reasonable fees, costs and expenses incurred in mediation, arbitration, bankruptcy and administrative proceedings, and appeals therefrom and all court costs and other **Recoverable Costs** incurred by **American Family** in any such litigation or other proceedings, whether or not any such litigation or other proceedings is prosecuted to judgment or other determination. Excluded from the foregoing are the expenses of **American Family's** loan department and personnel, except for their travel expenses reasonably incurred in connection with the protection of **American Family's** rights hereunder.

SECTION 9.15 DEATH OF A GUARANTOR; SUBSTITUTION OF GUARANTOR. **Borrower** agrees to promptly (and, in any event not more than thirty (30) days after the date of death) notify **American Family** in writing of the death of any **Guarantor**. Upon the death of such **Guarantor**, **American Family** will require that a substitute guarantor: (a) promptly provide **American Family** a current financial statement evidencing a net worth and liquidity reasonably acceptable to **American Family**; and (b) shall have executed a limited guaranty in form and content similar to the **Guaranty** prior to the earlier to occur of (1) the date which is 90 days after the date of the death of such **Guarantor** or (2) the date immediately prior to the date of any distribution of assets from such **Guarantor's** estate to any devisee, heir, or other beneficiary. The failure of **Borrower** to timely notify **American Family** of the death of a **Guarantor** or the failure of an acceptable substitute guarantor to timely execute such limited guaranty shall constitute, at **American Family's** option, an **Event of Default**.

SECTION 9.16 RECOURSE. **Borrower** shall have no liability for the **Indebtedness** and for the performance of other agreements, covenants and obligations contained herein except to extent set forth in the **Note**.

SECTION 9.17 WAIVER OF TRIAL BY JURY. BORROWER AND AMERICAN FAMILY EACH (A) COVENANTS AND AGREES NOT TO ELECT A

TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS DEED OF TRUST OR THE RELATIONSHIP BETWEEN THE PARTIES AS BORROWER AND AMERICAN FAMILY THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.


SECTION 9.18 SINGLE PURPOSE ENTITY/SEPARATENESS. Notwithstanding any of the terms of this **Deed of Trust**, for so long as the **Loan with American Family** to the **Borrower** remains outstanding, the **Borrower** shall not engage in any business or activity other than the ownership, operation, leasing, management and financing of the **Premises**, and activities incidental thereto.

SECTION 9.19 UTAH STATUTE OF FRAUDS. BORROWER IS HEREBY NOTIFIED THAT THE WRITTEN LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[CONTINUED]

IN WITNESS WHEREOF, the undersigned has set his hand hereto, as the duly authorized Manager of **Borrower** as the authorized and voluntary act and deed of said limited liability company as of the day and year above written.

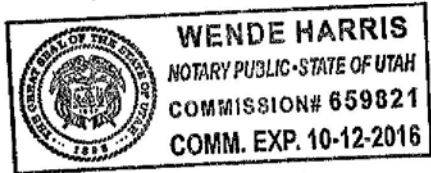
TOWNE STORAGE HERRIMAN, L.C.,
a Utah limited liability company


By: 

Gary R. Free, Manager

State of Utah)
 :SS
County of Salt Lake)

This instrument was acknowledged before me on September 23rd, 2016, by Gary R. Free, as the Manager of Towne Storage Herriman, L.C.





Notary Public - State of Utah

[SIGNATURE PAGE TO DEED OF TRUST]

EXHIBIT A

LEGAL DESCRIPTION

The Land referred to herein below is situated in the County of Salt Lake, State of Utah, and is described as follows:

Parcel 1:

~~Lot 1 Anthem Storage Subdivision, according to the official plat thereof, on file and recorded July 25, 2014 as Entry No. 11886533 in Book 2014P of Plats at Page 191, Official Records.~~

The following is shown for information purposes only: Tax ID No. 26-25-126-001

Parcel 2:

Beginning at a point being South 89°53'31" East 1,559.23 feet along the Section Line and South 73.52 feet from the Northwest Corner of Section 25, Township 3 South, Range 2 West, Salt Lake Base and Meridian; and running thence South 38°15'49" East 403.85 feet; thence South 67°17'30" West 30.10 feet; thence North 38°15'49" West 417.94 feet; thence North 89°08'03" East 36.50 feet to the point of beginning.

The following is shown for information purposes only: Tax ID No. 26-25-126-002

EXHIBIT B

PERMITTED EXCEPTIONS

Those title matters shown on Schedule B – Part I of the Loan Title Insurance Policy issued by Commonwealth Land Title Insurance Company to **American Family** with respect to the **Premises** as of the date hereof.

EXHIBIT C

ROUTINE REPORTS

Loan # 580

Borrower: Towne Storage Herriman, L.C.

Dated: September 28, 2016

Report Required

Date Required

Operating Statement of Premises. A certified annual operating statement of the **Premises** for the preceding calendar year, in form and detail satisfactory to **American Family**, indicating all income and expenses, including expenses for leasing commissions, and all tenant improvements and other capital improvements, if any.

By May 15th of each year for the preceding calendar year.

Financial Statements of Borrower. Certified financial statements of **Borrower** dated no earlier than the end of the preceding calendar year, including, a balance sheet, income statement, cash flow statement, and all explanatory notes.

By June 30th of each year for the preceding calendar year.

Certified Occupancy Statement. A certified occupancy statement of the **Premises** dated no earlier than the last day of the preceding calendar year (due January 31) and June 30 of the current year (due July 31), including such information on vacancies, **Leases**, **Lease** income and rent collection as **American Family** may reasonably require.

By January 31st and July 31st of each year.

Financial Statements of Guarantors. Certified personal financial statements of **Guarantors** dated no earlier than the end of the preceding calendar year.

Upon written request by **American Family**.

Income Tax Return of Borrower and Guarantors. Complete copies of **Borrower's** and each **Guarantor's** executed and filed Federal income tax return for the preceding year and, alternatively for any such taxpayer which petitions for an extension to file a Federal income tax return pursuant to Internal Revenue Code Section 6081, a copy of each such petition or request and a copy of each tax return when filed.

Upon written request by **American Family**.

Property Tax Receipts. An official receipt verifying payment of all property taxes due on the **Premises**; or, if tax payments are delinquent, a copy of the most recent statement from the taxing agency which indicates the amount and due date of delinquent payments and any penalties or interest.

Not later than fifteen (15) days after such payments would become delinquent if not paid.

Property and Liability Insurance Policies. A certificate or declaration evidencing any policy renewal, together with evidence of all installments of payments of **Insurance Premiums** have been paid as of the date of the Report. For property insurance, Accord 28 is required and for liability insurance accord 25 is required.

Ten (10) days prior to expiration or amendment of coverage under an existing policy.

Certificate of Compliance. A Certificate of Compliance in the form of Exhibit D.

By April 30th of each year dated not earlier than the preceding April 1st of each year

Contact Information for Reports

Borrower

Name: Towne Storage Herriman, L.C.
Address: 1100 East 6600 South, Suite 201, Salt Lake City, UT 84121
E-Mail: garyf@freeandassociates.com
Phone Number: (801) 262-3388

Guarantors

Name: Gary R. Free
Address: 1100 East 6600 South, Suite 201, Salt Lake City, UT 84121
E-Mail: garyf@freeandassociates.com
Phone Number: (801) 262-3388

Name: James L. McQueen
Address: 4014 Nike Drive, West Jordan, UT 84088
E-Mail: mcqueen@xmission.com
Phone Number: (801) 282-3331

American Family

Name: Mortgage Servicing Department
Address: 6000 American Parkway, MS Q210, Madison, WI 53783
E-Mail: MortgageService@amfam.com
Phone Number: 608-242-4100 Ext. 31478

EXHIBIT D

CERTIFICATE OF COMPLIANCE

Loan # 580

Borrower: Towne Storage Herriman, L.C.

Dated: _____

The undersigned **Borrower** represents and certifies that, to **Borrower's Knowledge** at all times prior to the date of this Certificate of Compliance, **Borrower** has observed and timely performed each and every term, provision, covenant and condition of the **Loan Documents** and, as of the date of this Certificate of Compliance, to **Borrower's Knowledge**, **Borrower** is in full and complete compliance with all material terms, provisions covenants and conditions of the **Loan Documents** and of all **Leases** respecting the **Premises**.

To **Borrower's Knowledge**, **Borrower** represents and certifies that all **Leases** respecting the **Premises**, if any, are in full force and effect.

The undersigned also specifically warrants, represents and certifies, to **Borrower's Knowledge** after reasonable investigation, that **Borrower** has timely provided, as of the date or dates required by the **Loan Documents**, all **Reports** and other items required to be provided by **Borrower** to **American Family** including, but not limited to:

- (a) all routine **Reports** referred to in Exhibit C to the **Deed of Trust**;
- (b) upon the reasonable written request of **American Family**, an itemization of all **Collateral** as required by the **Loan Documents**;
- (c) upon the request of **American Family**, copies of **Leases** or financial statements of any **Tenants** of the **Premises** required by **Lease** to be provided to **Borrower** if required by the **Loan Documents**.

The undersigned also specifically represents, warrants, and certifies to **Borrower's Knowledge** that **Borrower** (a) has timely paid and discharged all **Impositions**, and all operating costs and expenses associated with the **Premises** as required by the **Deed of Trust**; (b) has kept and maintained the **Premises** in good repair and operating condition and in compliance with applicable laws, ordinances, regulations, restrictions and covenants affecting the **Premises** as required by the **Deed of Trust**; (c) has not caused or permitted to occur any material alterations to the **Premises** without the requisite consent of **American Family**, first having been obtained, except as permitted by Section 1.2 of the **Deed of Trust**; (d) has not caused or permitted the storage or release of any **Hazardous Substances** on the **Premises** (unless permitted by the **Loan Documents**); (e) is not in default of any **Lease** and has not received rent for more than one month in advance pursuant to any **Lease**; (f) each policy of insurance required to be maintained pursuant to Section 3.1 of the **Deed of Trust** is in full force and effect as of the date hereof and no lapse in coverage thereunder occurred during the preceding year; and (g) **Borrower** has

provided **American Family** with copies of all insurance policies now in force and all riders or modifications to each such policy.

The undersigned further represents that, to **Borrower's Knowledge**, the warranties, certifications and representations herein made on behalf of **Borrower** to **American Family** are true and correct in all material respects and are in no manner misleading.

The undersigned understands and acknowledges that **American Family** will act, or refrain from acting, as the case may be, based upon the warranties, representations and certifications which appear in this Certificate of Compliance. In the event any warranty, representation or certification herein proves to be misleading or incorrect in any material respect, and **Borrower** fails to correct same within a reasonable period following notice, such warranty, representation or certification shall constitute an **Event of Default** as defined and provided for in Article Six of the **Deed of Trust** entitled "Events of Default and Remedies."

This Certificate of Compliance is executed by the undersigned for and on behalf of **Borrower** by virtue of the authority vested in him as Manager of **Borrower**, as the voluntary act and deed of said limited liability company.

Dated this ____ day of _____.

TOWNE STORAGE HERRIMAN, L.C.
a Utah limited liability company

By: _____
Gary R. Free, Manager

State of Utah)
 :SS
County of _____)

This instrument was acknowledged before me on September ____, 2016, by Gary R. Free, as the Manager of Towne Storage Herriman, L.C.

Notary Public – State of Utah