

WHEN RECORDED, MAIL TO:

Bennett Tueller Johnson & Deere, LLC
Attn: Monte M. Deere Jr., Esq.
3865 S. Wasatch Blvd.
Suite 300
Salt Lake City, Utah 84109
(801) 272-5600
CTC # 7095

ENT 111731 BK 5246 PG 547
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
1999 Oct 18 10:26 am FEE 25.00 BY SS
RECORDED FOR CENTURY TITLE

TRUST DEED

(With Assignment of Rents)

THIS TRUST DEED, made this 15 day of October, 1999, between **THE RANCHES, L.C.**, a Utah limited liability company, with an address of 9955 N. Cedar Pass Road #B, Eagle Mountain, Utah 84043, as "Trustor", **CENTURY TITLE COMPANY**, Orem, Utah 84058, as "Trustee", and **MOUNTAIN RANCHES TWO LIMITED PARTNERSHIP**, a Nevada limited partnership, with an address of 2810 Charleston Blvd., Suite 62, Las Vegas, Nevada 89102, as "Beneficiary."

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

FOR THE PURPOSE OF SECURING a payment of the indebtedness evidenced by (a) a Secured Promissory Note of even date herewith in the principal amount of \$4,000,000.00 (the "Promissory Note") made by Trustor payable to the order of Mountain Ranches Two Limited Partnership at the time, in the manner, and with interest as therein set forth, and any extensions, renewals, amendments, or modifications thereof, together with interest thereon as therein provided; (b) the performance of Borrower's covenants and agreements under this Trust Deed, the Promissory Note, the Loan Agreement, the Agreement to Assign Water Rights, and the Agreement to Assign Utilities, all of even date herewith.

AND, Trustor hereby warrants, covenants and agrees that Trustor is the lawful owner of the Property, with good and marketable title, free and clear of all encumbrances, liens or charges, excepting only those matters currently of record as set forth in Exhibit "B" attached hereto.

TO PROTECT THE SECURITY OF THIS TRUST DEED, TRUSTOR AGREES:

1. **Preservation of the Property.** To keep the Property in good condition and repair; not to remove or demolish any building thereon, to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting the Property; not to commit or permit waste thereof; not to commit, suffer or permit any act upon the Property in violation of law; to do all other acts which from the character or use of the Property may be reasonably necessary to preserve the Property in good condition and repair. Trustee, upon presentation to it of an affidavit signed by Beneficiary, setting forth facts showing a default by Trustor under this paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon pursuant to the provisions contained herein.

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

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

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

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

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

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

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

IT IS MUTUALLY AGREED THAT:

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

Trustor agrees to execute such further assignments of any compensation, award, damages, and rights of action and proceeds as Beneficiary or Trustee may require.

10. **Transfer of the Property or Beneficial Interest in the Property.** At any time and from time to time upon written request of Beneficiary, payment of its fees and presentation of this Trust Deed and the Promissory Note for endorsement (in case of full reconveyance, for cancellation and retention), without affecting the liability of any person for the payment of the indebtedness secured hereby, Trustee may (a) consent to the making of any map or plat of the Property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Trust Deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of the Property. The Grantee in any reconveyance may be described as "the person or persons entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of truthfulness thereof. Trustor agrees to pay reasonable Trustee's fees for any of the services mentioned in this paragraph.

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

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

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

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

15. **Default.** Time is of the essence hereof. Upon default by Trustor in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of Beneficiary. In the event of such default, Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause the Property to be sold to satisfy the obligations hereof, and Trustee shall file such notice for record in each county wherein the Property or some part or parcel thereof is situated. Beneficiary also shall deposit with Trustee the Promissory Note and all documents evidencing expenditures secured hereby.

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

discretion, may deposit the balance of such proceeds with the County Clerk of the county in which the sale took place.

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

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

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

20. **Partial Reconveyance.** Trustor shall be entitled to partial releases of this Trust Deed from time to time as to portions of the Property. Such partial releases shall be given in accordance with the following terms and conditions:

(a) Trustor shall be entitled to a release of one acre of the Property for each \$18,694.00 payment that reduces the principal due under the Promissory Note;

(b) All parcels of the Property released shall be contiguous;

(c) Trustor shall give to Beneficiary and Trustee not less than 10 calendar days after the closing on the dwelling unit written notice of its intent to obtain a partial release. Each such notice shall specify (i) the legal description of the acreage sought to be released; and (ii) the date upon which the release is to be given.

(d) Each release of developable property, as defined in that certain Master Plan submitted by Borrower to appropriate local authorities, shall be accompanied by a concurrent release of undevelopable or open space property on a ratio of 70% developable property to 30% open space, subject to the above requirement that only one total acre of combined developable and open space property is released per \$18,694 of principal reduction.

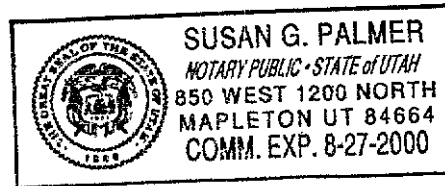
21. **Governing Law.** This Trust Deed shall be construed according to the laws of the State of Utah.

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

THE RANCHES, L.C.

By: 
Scott F. Kirkland, Manager

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)



The foregoing instrument was acknowledged before me this 15 day of October, 1999, by Scott F. Kirkland, who being by me duly sworn did say he is a Manager of THE RANCHES, L.C., and that the foregoing instrument was signed in behalf of said limited liability company pursuant to a resolution of the Members.

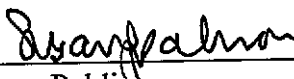

Notary Public

EXHIBIT "A"

PARCEL 1:

Beginning the Northwest corner of Section 30, Township 5 South, Range 1 West, Salt Lake Base and Meridian; thence South $89^{\circ}43'21''$ East 1135.80 feet; thence South $43^{\circ}14'11''$ East 1607.06 feet; thence South $89^{\circ}32'16''$ East 327.98; thence South $54^{\circ}40'07''$ East 546.74 feet; thence South $70^{\circ}49'44''$ East 1173.76 feet; thence along the arc of a 528.00 foot radius curve to the right 325.97 feet (central angle = $35^{\circ}22'22''$), the chord of which bears South $55^{\circ}28'50''$ West 320.82 feet; thence South $73^{\circ}10'01''$ West 1031.81 feet; thence along the arc of a 5103.00 foot radius curve to the right 923.97 feet (central angle = $10^{\circ}22'27''$), the chord of which bears South $78^{\circ}21'15''$ West 922.71 feet; thence South $83^{\circ}32'28''$ West 1080.72 feet; thence along the arc of a 497.00 foot radius curve to the left 184.60 feet (central angle = $21^{\circ}16'52''$), the chord of which bears South $72^{\circ}54'03''$ West 183.54 feet; thence North $27^{\circ}44'23''$ West 136.00 feet; thence North $89^{\circ}31'55''$ West 2059.69 feet; thence North $01^{\circ}38'58''$ East 2604.26 feet; thence South $89^{\circ}15'07''$ East 1333.69 feet to the point of beginning.

PARCEL 2:

Beginning at a point which is South 5.30 feet and East 648.79 feet from the West quarter corner of Section 30, Township 5 South, Range 1 West, Salt Lake Base and Meridian; thence South $35^{\circ}16'23''$ East 206.00 feet; thence along the arc of a 597.00 foot radius curve to the left 196.45 feet (central angle = $18^{\circ}51'15''$), the chord of which bears South $45^{\circ}18'00''$ West 195.57 feet; thence South $35^{\circ}52'22''$ West 1373.17 feet; thence North $38^{\circ}00'30''$ West 1820.42 feet; thence South $89^{\circ}31'55''$ East 1945.75 feet to the point of beginning.

(58:040:0052)