

WHEN RECORDED MAIL TO:

Elton Companies
3023 East Copper Point Drive, Ste 202
Meridian, Idaho 83642

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Rhonda Francis Summit County Recorder

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By Cottonwood Title Insurance Agency, Inc.

Electronically Recorded

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

In Reference to Tax ID Number(s).:

FT-16-2017

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

THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING (this "Deed of Trust") is made and entered into to be effective the 29 day of April, 2019 by, between, and among John W. Kirkham, whose address is P.O. Box 551, Kamas, Utah 84036 ("Trustor"), Cottonwood Title Insurance Agency, Inc., a Utah corporation, whose address is 1996 East 6400 South, Suite 120, Murray, Utah 84121, Attention: Darla Milovich ("Trustee"), in favor of ELTON PROPERTIES, LLC, an Oregon limited liability company, whose address is c/o Elton Companies, 3023 East Copper Point Drive, Suite 202, Meridian, Idaho 83642 ("Beneficiary").

RECITALS

A. Pursuant to that certain Secured Promissory Note of even date herewith (the "Note"), Beneficiary has loaned to Trustor the principal amount of One Hundred Thousand Dollars (\$100,000), (the "Loan").

AGREEMENT

Upon the terms, covenants and conditions set forth in this Deed of Trust and in consideration of the Loan from Beneficiary to Trustor, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Trustor hereby agrees as follows:

**ARTICLE 1
GRANT AND CONVEYANCE**

1.1 General Grant. Trustor hereby grants, conveys, warrants, and transfers to Trustee in trust, for the benefit of Beneficiary, with power of sale, the following described real property (hereinafter the "Real Property"):

1.1.1 Property. All right, title, interest and estate of Trustor now owned or hereafter acquired in and to that certain real property located Summit County, State of Utah (hereinafter the "Property") as more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

1.1.2 Buildings, Improvements and Interests. All right, title, interest and estate of Trustor now owned or hereafter acquired, in and to: (a) All buildings, improvements, fencing, works, structures, facilities and fixtures, including, but not limited to, all plumbing, heating and electrical systems, sewage systems, all pipes, conduits, wiring, and all interior wall, floor, window and ceiling treatments and coverings including but not limited to any carpeting, tile, paneling, drapery or blinds, and any future additions to, and improvements and betterments now or hereafter constructed upon, and all renewals and replacements of, any of the foregoing, which are now or hereafter shall be constructed or affixed or constructively affixed to the Property, or to any portion of the Property (hereinafter the "Improvements"); and (b) All easements, licenses,

streets, ways, alleys, roads, passages, rights-of-way, development rights, mineral rights, air rights, water, water courses, water rights, and water stock (whether now owned or hereafter acquired by Trustor and whether arising by virtue of land ownership, contract or otherwise), of any kind and nature, relating to or in any way appurtenant or appertaining to the Property or to any portion of the Property.

1.1.3 Tenements, Hereditaments. All right, title, interest, and estate of Trustor in and to all of the tenements, hereditaments, rights, privileges, and appurtenances belonging, relating, or in any way appertaining to any of the Property or the Improvements, or any portion of the Property or the Improvements, or which shall hereafter in any way belong, relate, or in any way appertain thereto, whether now owned or hereafter acquired, and the reversion and reversions, remainder and remainders, and estates, rights, titles, interests, possessions, claims, and demands of every nature whatsoever, at law or in equity, which Trustor may have or may hereafter acquire in and to the Property, the Improvements, or any portion thereof.

1.1.4 Leases, Rents, Sale Proceeds, Etc. All right, title, interest and estate of Trustor in and to all leases and subleases and contracts or agreements for sale of all or any portion of the Property or the Improvements now or hereafter existing or entered into, and all lease agreements, purchase and sale agreements and documents evidencing the same; and all right, title and interest of Trustor thereunder, including without limitation, all rents, subrents, issues, royalties, security deposits, income and profits of and from the Property, the Improvements, or any portion thereof.

1.2 Security Interest. Trustor hereby grants to Beneficiary a security interest in the following described property (hereinafter collectively the "Personalty"), whether now or hereafter existing, and in which Trustor now has or hereafter obtains any right, title, estate or interest:

1.2.1 Tangible Personal Property. All right, title, interest, and estate of Trustor, now owned or hereafter acquired, in and to, and all proceeds from: (a) All goods, specifically including, without limitation, materials, furnishings and supplies delivered to the Property for incorporation or use in any construction, renovation, operation or maintenance of the Property or the Improvements, supplies, furnishings, construction materials, equipment, machinery, appliances, including attached and unattached appliances, and other tangible personal property and fixtures located in or upon the Property or the Improvements and used or useable in connection therewith, or to be used in the construction, reconstruction, remodeling, or repair of any of the Improvements now or hereafter located upon the Property; (b) All architectural, development, construction and construction cost guarantee contracts entered into in connection with the improvement of the Property, all plans and specifications and building permits relating to the construction, development, ownership or maintenance of the Property or the Improvements; and (c) All parts, accessories, and accessions to each and all of the foregoing and all renewals and replacements thereof.

1.2.2 Entitlements, Permits, Names, Rights, Etc. All right, title, interest and estate of Trustor now owned or hereafter acquired in and all of the following insofar as the same pertain to the Property or the Improvements: (a) All contracts, permits, franchises, privileges, grants, consents, licenses, authorizations, and approvals heretofore or hereafter granted by the

United States, by the State of Utah, by Summit County, by the City of Francis, or by any departments or agencies thereof or any other governmental or public bodies, agencies or authorities, to or for the benefit of Trustor and utilized in connection with the Property and the Improvements thereon or to be constructed thereon, to the extent the same are transferable and subject to all terms, covenants and conditions thereof and to applicable law; (b) All names under or by which the Property or any of the Improvements may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof, and all trademarks and goodwill in any way relating to Trustor's ownership and operation of the Property; (c) All contracts and contract rights arising in connection with Trustor's ownership of the Property or the Improvements and all general intangibles, legal or equitable claims, judgments, and awards now or hereafter accruing to the benefit of Trustor by reason of Trustor's ownership or use of the Property and the Improvements, specifically including, without limitation, all architectural, development and construction contracts, and all construction cost guarantee contracts relating to the Property or the Improvements; (d) All shares of stock, partnership interests, or other evidence of ownership of any part of the Property or the Improvements that is owned by Trustor in common with others; and (e) All documents and rights of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Property.

1.2.3 Awards. All right, title, interest and estate of Trustor in and to: (a) All awards made for the taking by eminent domain or by any proceeding or purchase in lieu thereof of the Property or any portion of the Property, the Improvements or any portion of the Improvements, or of any other Improvements now or hereafter situate thereon or any estate or easement in the Property (including any awards for change of grade of streets); (b) The proceeds of insurance paid on account of any partial or total destruction of the Improvements or any portion thereof; and (c) All causes of action and recoveries for any loss or diminution in the value of the Property or the Improvements.

1.3 Security Agreement. This Deed of Trust constitutes a Security Agreement with respect to the Personalty, and Beneficiary shall have all of the rights and remedies of a secured party under the Utah Uniform Commercial Code as well as all other rights and remedies available at law or in equity.

1.4 Trust Estate. The Real Property and the Personalty are sometimes hereinafter collectively referred to as the "Trust Estate".

1.5 Obligations Secured. This Deed of Trust is given for the purpose of securing the following obligations (hereinafter collectively referred to as the "Obligations"):

(a) The payment of the indebtedness evidenced by the Note, in the principal sum of One Hundred Thousand Dollars (\$100,000), made by Trustor and payable to the order of Beneficiary at the times, in the manner and with interest as therein set forth, and in the extensions and/or renewals or modifications thereof;

(b) The payment of such additional loans or advances as hereafter may be made to Trustor or Trustor's successor or assigns, when evidenced by a promissory note or

notes, or the Loan and Security Agreement dated of even date herewith, reciting that they are secured by this Deed of Trust;

(c) The payment of all sums expended or advanced by Beneficiary under or pursuant to the terms hereof, together with interest thereon as herein provided;

(d) The payment and performance of each and every agreement and obligation of Trustor under this Deed of Trust; and

(e) Any extensions, renewals or modifications of any of the obligations of Trustor arising under the Note or under this Deed of Trust, regardless of the extent of or the subject matter of any such extension, renewal or modification.

1.6 Covenants Running With the Land. All Obligations, including but not limited to all Obligations of Trustor under the Note and this Deed of Trust, are intended by Trustor and Beneficiary to be, and shall be construed as, covenants running with the Real Property. As used herein, "Trustor" shall refer to the party named in the first paragraph of this Deed of Trust and to any subsequent owner of all or any portion of the Real Property. All persons or entities who may have or acquire an interest in the Real Property shall be deemed to have notice of, and to be bound by, the terms of this Deed of Trust; provided however, that no such party shall be entitled to any rights hereunder without the prior written consent of Beneficiary.

1.7 Financing Statement and Fixture Filing. This Deed of Trust is intended to be a financing statement complying with the formal requisites therefore as set forth in the Utah Uniform Commercial Code. For that purpose, the name and address of the debtor is the name and address of Trustor set forth on page 1 of this Deed of Trust and the name and address of the secured party is the name and address of the Beneficiary as set forth on page 1 of this Deed of Trust. This financing statement covers those types of items specified above as part of the Trust Estate which, under applicable law, may be subject to a security interest pursuant to the Utah Uniform Commercial Code, and in which Trustor has granted to Beneficiary a security interest under Section 1.2 of this Deed of Trust, including the proceeds and products from any and all such Property. This financing statement also covers goods which are or may become fixtures on the Real Property and is to be recorded in the real estate records of the county recorder in each county in which a portion of the Real Property is located. Trustor is the record owner of the Real Property.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES

2.1 Property. Trustor represents and warrants to Beneficiary as follows:

(a) Trustor is the owner of title in and to the Property and the Improvements;

(b) Trustor shall defend title to the Property and the Improvements against all claims and demands whatsoever; and

(c) The lien created by this Deed of Trust upon the Property and the Improvements is a valid lien, free and clear of all other liens, encumbrances, and exceptions, except for the lien for current real property taxes and assessments, and those of record.

2.2 Personalty. Trustor represents and warrants to Beneficiary as follows:

(a) Trustor is the owner, or upon acquisition thereof, will be the owner of the Personalty listed or referred to in the granting clauses of this Deed of Trust;

(b) The Personalty is, or upon acquisition thereof by Trustor, will be free and clear of all liens, claims, encumbrances, restrictions, charges, and security interests in favor of any third party, except those of record; and

(c) Trustor shall defend the Personalty and take such other action as is necessary to remove any lien, claim, encumbrance, restrictions, charge or security interest in or to the Personalty before any party has rights to exercise any remedies against the Personalty.

ARTICLE 3 MAINTENANCE OF TRUST ESTATE

Trustor shall (a) maintain the Trust Estate at all times in good condition and repair; (b) not commit any waste of the Trust Estate; (c) complete promptly and in good and workmanlike manner any building, fixture, or improvement on the Property, or any portion of the Property, which may for any reason be constructed; (d) except to the extent that insurance proceeds are applied by Beneficiary to the satisfaction of the Obligations in accordance with the provisions of Article 4, restore promptly and in good and workmanlike manner any of the Improvements or any portion thereof, which may for any reason be damaged or destroyed; (e) comply at all times with all laws, ordinances, regulations, covenants and restrictions in any manner affecting the Trust Estate; and (f) do all acts which by reason of the character or use of the Trust Estate may be reasonably necessary to maintain and care for the same, the specific enumeration herein not excluding the general.

ARTICLE 4 INSURANCE

4.1 Insurance. Trustor shall obtain and at all times maintain and promptly pay when due all premiums for the insurance as shall be reasonably required by Beneficiary.

4.2 Occurrence and Notice of Casualty. In the event of loss or damage to the Trust Estate, or any portion of the Trust Estate, Trustor shall immediately give notice thereof to Beneficiary. So long as no Event of Default has occurred and is continuing, the proceeds of any casualty insurance to be paid on account of loss or damage to the Trust Estate shall be disbursed directly to Trustor, for application by Trustor solely to the repair or replacement of the property damaged or destroyed. If an Event of Default has occurred and is continuing, then, until the Obligations have been repaid in full, Beneficiary may, at its option, require that such insurance proceeds be paid to Beneficiary to be applied to the payment of the indebtedness secured by this Deed of Trust, unless otherwise agreed in writing by Beneficiary. Except to the extent that insurance proceeds are received by Beneficiary and applied to the indebtedness secured by this

Deed of Trust, nothing herein contained shall be deemed to excuse Trustor from repairing or maintaining the Trust Estate as provided in Article 3 of this Deed of Trust or restoring all damage or destruction to the Trust Estate, regardless of whether or not there are insurance proceeds available or whether any such proceeds are sufficient in amount. The application or release by Beneficiary of any insurance proceeds shall not cure or waive any default or notice of default under this Deed of Trust or invalidate any act done pursuant to such notice.

ARTICLE 5 INDEMNIFICATION AND OFF-SET

5.1 Indemnification. Trustor hereby agrees to indemnify and hold Beneficiary harmless in accordance with the following:

5.1.1 General Indemnification. Trustor shall indemnify and hold Beneficiary harmless from any and all losses, damages, claims, causes of action, suits, debts, obligations, or liabilities which arise from or are related to, the use or occupation of the Trust Estate after the date hereof, or any part thereof, or the Property.

5.1.2 Mechanics Liens. If Beneficiary is held liable or could be held liable for, or is subject to any losses, damages, costs, charges or expenses, directly or indirectly on account of any claims for work, labor, or material furnished in connection with or arising from the construction of any building, fixture and improvements located on the Property, occurring after the date hereof, then Trustor shall indemnify, defend and hold Beneficiary harmless from all liability or expense arising there from including reasonable attorneys' fees and costs.

5.2 Obligations Unconditional. The Obligations and the liabilities of Trustor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (a) any damage to or destruction of, or any condemnation or similar taking of the Trust Estate or any part thereof; (b) any destruction or prevention of or interference with any use of the Trust Estate or any part thereof; (c) any title defect or encumbrance or any eviction from the Trust Estate or any part thereof by title paramount or otherwise; (d) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary, or by any court, in any such proceeding; (e) any claim which Trustor has or might have against Beneficiary; (f) any default or failure on the part of Beneficiary to perform or comply with any of the terms, covenants or conditions of this Deed of Trust, or of any other agreement with Trustor; or (g) any other occurrence whatsoever, whether similar or dissimilar to the foregoing.

ARTICLE 6 TAXES AND IMPOSITIONS

6.1 Payment of Taxes and Impositions. Trustor shall pay, prior to delinquency, all real property taxes and assessments, general and special, and all other taxes, assessments and other governmental, municipal, or other charges or impositions of any kind or nature whatsoever (including without limitation, charges and assessments on water or water stocks used on or with the Property and levies or charges resulting from covenants, conditions and restrictions affecting

the Trust Estate) which are assessed or imposed upon the Trust Estate, or become due and payable, and which create, may create, or appear to create, a lien upon the Trust Estate or any portion of the Trust Estate, or upon any equipment or other facility used in the construction, operation or maintenance of the Trust Estate (all of which taxes, assessments and other governmental charges of like nature are hereinafter referred to as "Impositions").

6.2 Evidence of Payment. Upon request of Beneficiary, Trustor shall furnish Beneficiary, within thirty (30) days after the date upon which such Imposition is due and payable by Trustor, official receipts of the appropriate taxing authority, or other proof satisfactory to Beneficiary, evidencing the payments thereof.

6.3 Tax on Deed of Trust. If at any time after the date hereof there shall be assessed or imposed (a) a tax or assessment on the Trust Estate in lieu of or in addition to the Impositions payable by Trustor, or (b) a license fee, tax or assessment imposed on Beneficiary and measured by or based in whole or in part upon the amount of the outstanding Obligations or upon payments on the Obligations, then all such taxes, assessments and fees shall be deemed to be included within the term "Impositions" as defined in Section 6.1, and Trustor shall pay and discharge the same as herein provided with respect to the payment of Impositions. Trustor shall have no obligation to pay any franchise, income, excess profits or similar tax levied on Beneficiary or on the Obligations secured hereby.

ARTICLE 7 ADDITIONAL COVENANTS

7.1 Restrictions on Sales or Further Encumbrances. Trustor shall not sell, transfer, convey or encumber the Trust Estate or any interest therein, or permit any liens or encumbrances to be filed on the Trust Estate by any person or third party, until the full payment of all Obligations, without the prior written consent of Beneficiary, which consent Beneficiary may withhold in Beneficiary's sole discretion. Any sale, transfer, conveyance or encumbrance, of the Trust Estate or any interest therein prior to the full payment of all Obligations, without the express written consent of Beneficiary shall constitute a default by Trustor under this Deed of Trust, and at Beneficiary's option, Beneficiary may thereupon declare the entire balance of the Obligations immediately due and payable. All proceeds from the sale of any or all of the Property, regardless of the time of such sale, shall be applied in accordance with the terms and conditions of the Note and this Deed of Trust.

7.2 Compliance with Laws. Trustor shall comply with all laws, ordinances, regulations, easement agreements, covenants, conditions, and restrictions (including laws relating to hazardous wastes and/or protection of the environment) affecting the Trust Estate. Trustor shall not cause, permit nor suffer any violation of any of the foregoing and shall pay all response costs, fees, or charges of any kind in connection therewith and defend, indemnify, and hold harmless Beneficiary with respect thereto, including reasonable attorneys' fees and costs.

7.3 Defense of Title. Trustor has and shall preserve good and marketable title to the Trust Estate free of all liens, claims, charges, security interests, encumbrances, easements or restrictions. Trustor shall promptly discharge any lien which has, or may have, priority over or equality with the lien created by this Deed of Trust. Trustor shall appear in and defend any

action or proceeding purporting to affect the security hereof, the Trust Estate, or the rights or powers of Beneficiary or Trustee. Should Beneficiary elect to appear in or defend any such action or proceeding, Trustor shall pay all costs and expenses, including costs of evidence of title and reasonable attorneys' fees and costs, incurred by Beneficiary or Trustee.

7.4 Repayment of Advances. Trustor shall immediately repay to Beneficiary sums, which at any time may be paid or advanced by Beneficiary for the payment of insurance premiums, taxes, assessments, other governmental, municipal, or other charges or impositions, title searches, title reports or abstracts, and any other advances made by Beneficiary which are reasonably necessary to maintain this Deed of Trust as a valid lien and encumbrance upon the Trust Estate, to preserve and protect Beneficiary's interest in this Deed of Trust, or to preserve, repair, or maintain the Trust Estate, together with interest thereon from the date of any such advance by Beneficiary until paid in full by Trustor at the default rate of interest specified in the Note. All such advances shall be wholly optional on the part of Beneficiary, and Trustor's obligation to repay the same to Beneficiary shall be secured by the lien of this Deed of Trust.

7.5 No Removal of Fixtures. Trustor shall not, during the existence of this Deed of Trust and without the written consent of Beneficiary, remove from the Property or the Improvements, any fixture, structure, or other improvement at any time affixed or constructively affixed to the Property or the Improvements or any portion thereof, or any Personalty, except in the ordinary course of Trustor's business or except in the sale, disposition and/or replacement of items which are obsolete or otherwise in need of replacement.

7.6 Further Assurance. Trustor shall execute and deliver to Beneficiary such further instruments, and do such further acts as may be necessary or as may be reasonably required by Beneficiary to carry out more effectively the purposes of this Deed of Trust and to subject to the lien and security interest created or intended to be created hereby any property, rights, or interests covered or intended to be covered by this Deed of Trust. Trustor authorizes Beneficiary to execute and/or file, without Trustor's signature, such Uniform Commercial Code Financing Statements, Amendments and Continuation Statements as Beneficiary may deem necessary in order to perfect, or continue the perfection, of the security interests created by this Deed of Trust.

ARTICLE 8 EVENTS OF DEFAULT AND REMEDIES

8.1 Events of Default. "Event of Default" as used herein means any event of default of Trustor arising under the Note or this Deed of Trust, including the failure of the Trustor to pay or perform any of the Obligations as and when due.

8.2 Acceleration; Notice. Time is of the essence hereof. Upon the occurrence of any Event of Default, at Beneficiary's option and in addition to any other remedy Beneficiary may have under this Deed of Trust, Beneficiary may declare all sums secured hereby immediately due and payable and elect to have the Trust Estate sold in the manner provided herein.

8.3 Partial Foreclosure without Acceleration. Should Beneficiary have not elected to accelerate the Obligations secured hereby, Beneficiary may nevertheless proceed with foreclosure and the satisfaction of the portion of the Obligations in default, either through the

courts or by directing the Trustee to proceed as if under a full foreclosure, conducting a sale as herein provided, but without declaring the entire amount of the Obligations secured by this Deed of Trust due, and provided that if a sale is made because of such default, such sale may be made subject to the unmatured part of the Obligations secured hereby. Such sale, if so made, shall not in any manner affect the unmatured part of the Obligations secured by this Deed of Trust, but as to such unmatured part, this Deed of Trust shall remain in full force as though no such sale had been made. Several sales may be made without exhausting the right-of-sale with respect to any unmatured part of the Obligations secured, it being the purpose and intent hereof to provide for foreclosure and sale of such portion of the Trust Estate as may be necessary to satisfy any matured portion of said secured Obligations without impairing the continuing lien of the Deed of Trust or exhausting the power of foreclosure with respect to the remaining portions of the Trust Estate.

8.4 Exercise of Power of Sale. In the event Beneficiary elects to sell the Trust Estate by the power of sale herein, Beneficiary may cause Trustee to execute a written notice of default and of election to cause the Trust Estate to be sold to satisfy the Obligations, and Trustee shall file such notice for record in the office of the County Recorder of the County wherein the Trust Estate is located. After the lapse of such time as may then be required by law following the recordation of the 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 Trust Estate (or so much thereof as may be reasonably necessary to satisfy the portion of the Obligations then due), 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 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 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. Trustee shall execute and deliver to the purchaser a Trustee's Deed conveying the Property 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 to payment of (a) 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 and costs; (b) cost of any evidence of title procured in connection with such sale; (c) all sums expended under the terms hereof in conjunction with any default provision hereunder, not then repaid; (d) all sums secured by this Deed of Trust and then due; and (e) the remainder, if any, to the person or persons legally entitled thereto, or Trustee, in Trustee's discretion, may deposit the balance of such proceeds with the Clerk of the District Court of the County wherein the Property is located.

8.5 Surrender of Possession. Trustor shall surrender possession of the Trust Estate to the purchaser immediately after the sale of the Trust Estate as provided in Section 8.4 above, in the event such possession has not previously been surrendered by Trustor.

8.6 UCC Remedies. Notwithstanding anything to the contrary in Sections 8.3 and 8.4, Beneficiary, with regard to all fixtures, chattels, equipment, inventory, and personal

property, conveyed to Trustee under the Granting Clauses of this Deed of Trust, shall, upon the occurrence of any Event of Default, have the right to exercise, from time to time, any and all rights and remedies available to Beneficiary, as a secured party under the Uniform Commercial Code of Utah, and any and all rights and remedies available to Beneficiary under any other applicable law. Upon written demand from Beneficiary, Trustor shall, at Trustor's expense, assemble such fixtures, chattels, equipment, inventory, and tangible personal property and make them available to Beneficiary at a reasonably convenient place designated by Beneficiary.

8.7 Foreclosure as a Mortgage. If an Event of Default occurs hereunder, Beneficiary shall have the option to foreclose this Deed of Trust in the manner provided by law for the foreclosure of mortgages on real property, and Beneficiary shall be entitled to recover in such proceedings all costs and expenses incident thereto, including reasonable attorneys' fees and costs in such amounts as shall be fixed by the court.

8.8 Receiver. Trustor specifically agrees that if an Event of Default shall have occurred and be continuing, Beneficiary, upon application to a court of competent jurisdiction, as a matter of strict right without notice and without regard to the occupancy or value of the Trust Estate or the solvency of any party bound for payment of the Obligations secured hereby, without any showing of fraud or mismanagement on the part of the Trustor, and without the necessity of filing any judicial or other proceeding other than the proceeding for appointment of a receiver, shall be entitled to the appointment of a receiver to take possession of and to operate the Trust Estate and to collect and apply the income from the Trust Estate. Upon request of the Beneficiary, the court making such appointment may confer upon the receiver any of the rights or powers granted to the Beneficiary in this Deed of Trust. The Beneficiary, in its discretion but without any obligation to do so, may make such advances to the receiver as the Beneficiary may deem necessary or appropriate for the proper administration of the receivership, and all such advances, together with interest thereon from the date of any such advance until paid in full at the default rate of interest specified in the Note, shall be payable by Trustor to Beneficiary upon written demand by Beneficiary and shall be secured by this Deed of Trust.

8.9 Period of Redemption. Beneficiary shall be entitled to possession of the Trust Estate during any applicable statutory period of redemption.

8.10 No Remedy Exclusive. All agreements, warranties, guaranties, indemnities and other undertakings of Trustor under this Deed of Trust are cumulative and not in derogation of each other. The rights and remedies of Beneficiary are cumulative, may be exercised at any time and from time to time, concurrently or in any order, and are not exclusive of any other rights or remedies available by agreement, by law, at equity or otherwise. All such rights and remedies shall continue in full force and effect until full payment of all Obligations. No waiver or course of dealing shall be established by the failure or delay of Beneficiary to require strict performance by Trustor with any terms of this Deed of Trust, or to exercise any rights or remedies with respect to collateral or otherwise.

8.11 Suretyship Waivers by Trustor. Trustor waives demand, notice, protest, notice of acceptance of this Deed of Trust, notice of loans made, credit extended, collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. With respect to both the Obligations and the Trust Estate, Trustor assents to any

extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of or failure to perfect any security interest in any collateral or any other security for the Obligations, to the addition or release of any party or person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as Beneficiary may deem advisable. Beneficiary shall have no duty as to the collection or protection of the Trust Estate or any income thereon or any other security for the Obligations, nor as to the preservation of rights against prior parties, nor as to the preservation of any rights pertaining thereto. Trustor further waives any and all other suretyship defenses. Trustor agrees that this Deed of Trust may be enforced by Beneficiary without the necessity at any time of resorting to or exhausting any other security or collateral given in connection herewith through foreclosure or sale proceedings, as the case may be. Trustor further agrees that nothing contained herein or otherwise shall prevent Beneficiary from pursuing concurrently or successively all rights and remedies available to it at law and/or in equity or under the Note or this Deed of Trust, and until all of the Obligations have been fully satisfied or discharged, the exercise of any of its rights or the completion of any of its remedies shall not constitute a discharge of the Trustor's obligations hereunder, it being the purpose and intent of Trustor that the obligations of Trustor hereunder shall be absolute, independent and unconditional under any and all circumstances whatsoever.

8.12 Marshaling. The Beneficiary shall not be required to marshal any present or future collateral security (including but not limited to this Deed of Trust and the Trust Estate) for, or other assurances of payment of, the Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may, Trustor hereby agrees that it will not invoke any law relating to the marshaling of collateral which might cause delay in or impede the enforcement of Beneficiary's rights under this Deed of Trust or under any other instrument creating or evidencing any of the Obligations or under which any of the Obligations is outstanding or by which any of the Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, Trustor hereby irrevocably waives the benefits of all such laws.

ARTICLE 9 GENERAL PROVISIONS

9.1 Notices. All notices and other communications by or to a party hereto shall be in writing and shall be given to Trustor at the below listed address and to any other person at the below listed address, or at such other address as a party may hereafter specify by notice in accordance with this Section 9.1.

If to Trustor:	John W. Kirkham P.O. Box 551 Kamas, Utah 84036
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If to Beneficiary: Elton Properties, LLC
c/o Elton Companies
3023 East Copper Point Drive, Suite 202
Meridian, Idaho 83642

If to Trustee: Cottonwood Title Insurance Agency, Inc.
Attention: Darla Milovich
1996 East 6400 South, Suite 120,
Murray, Utah 84121

9.2 Each communication shall be effective only (a) if given by facsimile transmission, when transmitted to the applicable facsimile number, if confirmation of receipt is received, provided that no notice shall be given to Beneficiary by facsimile; (b) if given by mail, three business days after deposit in the U.S. mail, with first-class postage pre-paid, addressed to the applicable address; or (c) if given by personal delivery, when duly delivered to the notice address with receipt acknowledged. Any written communication that is not sent in conformity with the foregoing provisions shall nevertheless be effective on the date actually received by the noticed party.

9.3 Severability. Wherever possible, each provision of this Deed of Trust shall be interpreted in such manner as to be valid under applicable law. If any provision is found to be invalid under applicable law, it shall be ineffective only to the extent of such invalidity and the remaining provisions of this Deed of Trust shall remain in full force and effect.

9.4 Amendments, Changes, and Modifications. This Deed of Trust may not be amended, changed, modified, altered, or terminated except by a writing signed by Trustor and Beneficiary or, where appropriate, by Trustee.

9.5 Governing Law. THIS DEED OF TRUST, UNLESS OTHERWISE SPECIFIED, SHALL BE GOVERNED BY THE LAWS OF THE STATE OF UTAH, WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAW PRINCIPLES.

9.6 Forum. TRUSTOR HEREBY CONSENTS TO THE NON-EXCLUSIVE JURISDICTION OF ANY FEDERAL OR STATE COURT SITTING IN OR WITH JURISDICTION OVER FRANCIS CITY, UTAH, IN ANY PROCEEDING OR DISPUTE RELATING IN ANY WAY TO THIS DEED OF TRUST, AND AGREES THAT ANY SUCH PROCEEDING SHALL BE BROUGHT BY IT SOLELY IN ANY SUCH COURT. TRUSTOR IRREVOCABLY WAIVES ALL CLAIMS, OBJECTIONS AND DEFENSES THAT IT MAY HAVE REGARDING SUCH COURT'S PERSONAL OR SUBJECT MATTER JURISDICTION, VENUE OR INCONVENIENT FORUM. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 9.1. Nothing herein shall limit the right of Beneficiary to bring proceedings against Trustor in any other court, nor limit the right of any party to serve process in any other manner permitted by applicable law. Nothing in this Deed of Trust shall be deemed to preclude enforcement by Beneficiary of any judgment or order obtained in any forum or jurisdiction.

9.7 Interpretation. The terms “herein,” “hereof,” “hereunder” and other words of similar import refer to this Note as a whole and not to any particular section, paragraph or subdivision. Any pronoun used shall be deemed to cover all genders. The terms “including” and “include” shall mean “including, without limitation” and, for purposes of this Deed of Trust, the parties agree that the rule of *ejusdem generis* shall not be applicable to limit any provision. Section titles appear as a matter of convenience only and shall not affect the interpretation of this Deed of Trust.

9.8 Binding Effect. This Deed of Trust shall be binding upon and inure to the benefit of Trustor, Beneficiary, and their respective successors and assigns, except that Trustor shall not have the right to assign its rights or delegate its obligations under this Deed of Trust.

9.9 Waivers. Beneficiary’s failure at any time or times hereafter to require strict performance by Trustor of any of undertakings, agreements, or covenants contained in the Note or this Deed of Trust shall not waive, affect, or diminish any right of Beneficiary hereunder to demand strict compliance and performance therewith. No modification of this Deed of Trust, including any extension or amendment of this Deed of Trust or any waiver of an Event of Default, shall be effective without the prior written agreement of Beneficiary and Trustor. Any waiver or consent granted by Beneficiary shall be effective only if in writing, and only for the matter specified.

9.10 Successor Trustee. Beneficiary may appoint a successor trustee at any time by filing for record in the office of the County Recorder of Summit County, State of Utah, 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 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.

9.11 Definitions. The term “Beneficiary” shall mean the owner and holder, including any pledgee, of the Obligations.

9.12 Acceptance of Trust. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party, unless brought by Trustee.

9.13 Request for Notice. Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at the address for Trustor specified in Section 9.1.

9.14 Attorneys’ Fees. If Beneficiary commences an action against Trustor to enforce any of the terms, covenants or conditions of this Deed of Trust or because of the breach by Trustor of any of the terms, covenants, or conditions, or for the recovery of any sum secured hereby, Trustor shall pay to Beneficiary reasonable attorneys’ fees and costs actually incurred by Beneficiary. The right to such attorneys’ fees and costs shall be deemed to have accrued on the commencement of such action, and shall be enforceable whether or not such action is prosecuted to judgment. If Trustor breaches any term, covenant or condition of this Deed of Trust,

Beneficiary may employ an attorney or attorneys to protect Beneficiary's rights hereunder and in the event of such employment following any breach of Trustor, Trustor shall pay Beneficiary reasonable attorneys' fees and costs actually incurred by Beneficiary, whether or not action is actually commenced against Trustor by reason of such material breach. Trustor agrees to reimburse Beneficiary for any reasonable attorneys' fees and costs actually incurred by Beneficiary with respect to any bankruptcy or insolvency proceeding, or other action involving Trustor or any guarantor as a debtor.

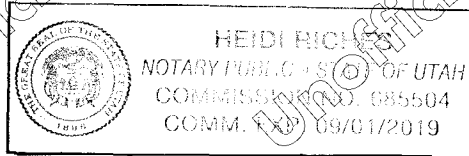
IN WITNESS WHEREOF, Trustor has caused this Deed of Trust to have been duly executed as of the date and year first above written.

By: John W. Kirkham
John W. Kirkham

STATE OF UTAH)
COUNTY OF Summit) ss.

On this 29 day of April, in the year 2019, before me, Heidi Ricketts a Notary Public, personally appeared John W. Kirkham, proved on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged to me that he executed the same.

Witness my hand and official seal.



Heidi Ricketts
NOTARY PUBLIC
Residing at:
80 N Main Kamas UT 84036
Commission Expires: 9-01-2019

EXHIBIT "A"
TO
DEED OF TRUST, SECURITY AGREEMENT AND
ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING

Property Description

That certain real property situated Summit County, State of Utah, more particularly described as follows:

Beginning at a point on the East right-of-way line of Highway 32, said point being North 00°17'23" East 1355.53 feet and South 90°00'00" East 53.17 feet from the monument marking the Southwest corner of Section 28, Township 2 South, Range 6 East, Salt Lake Base and Meridian and running thence along the South line of Uintah Shadows Subdivision Plat A, North 89°09'47" East 142.48 feet; thence North 89°52'39" East 469.91 feet; thence North 00°30'07" East 2.91 feet; thence South 89°59'44" East 943.08 feet; thence South 00°00'00" West 1052.90 feet; thence South 89°58'00" West 1345.14 feet; thence North 00°43'11" West 258.99 feet; thence North 88°42'00" West 211.10 feet to the East right-of-way of Highway 32; thence North 00°17'23" East 784.01 feet along said highway to the point of beginning.

LESS AND EXCEPTING the following: Beginning at a point on the East right-of-way of Highway 32, said point being North 00°17'23" East 1355.53 feet and South 90°00'00" East from the monument marking the Southwest corner of Section 28, Township 2 South, Range 6 East, Salt Lake Base and Meridian, Summit County, Utah and running thence North 89°09'47" East 142.48 feet along the boundary of Uintah Shadows Subdivision; thence North 89°52'39" East 205.39 feet; thence South 00°10'29" East 111.33 feet; thence South 89°54'25" West 348.75 feet to the East right-of-way line of said highway; thence North 00°17'23" East 109.38 feet along said highway to the point of beginning. ALSO LESS AND EXCEPTING from the property first described above that portion of land conveyed to Wild Willow Limited Company by that certain Quit Claim Deed recorded November 16, 1993 as Entry No. 391456 in Book 766 at Page 26, Summit County Recorder, and more particularly described as follows: Beginning at a point 2100.78 feet South and 874.5 feet East of the Northwest corner of the Southwest quarter of Section 28, Township 2 South, Range 6 East, Salt Lake Base and Meridian and running thence East 165 feet; thence South 132 feet; thence West 165 feet; thence North 132 feet to the place of beginning.