

**RECORDING REQUESTED
BY AND WHEN RECORDED
RETURN TO:**

ENT 194814:2021 PG 1 of 19
Andrea Allen
Utah County Recorder
2021 Nov 19 12:28 PM FEE 40.00 BY LT
RECORDED FOR GT Title Services
ELECTRONICALLY RECORDED

Lennar Homes of Utah, Inc.
Attn: VP Land Acquisition
1099 South Jordan Pkwy
South Jordan, UT 84095

Affects all of Tax Parcel Nos: **59-018-0033, 59-045-0086**
Affects portions of Tax Parcel Nos. **59-018-0044, 59-045-0085, 59-045-0031, 59-056-0019**

DEED OF TRUST

**THIS DEED OF TRUST SECURES THE OBLIGATIONS AS
DESCRIBED BELOW, AND THE PAYMENT AND
PERFORMANCE BY TRUSTOR OF OTHER OBLIGATIONS.**

This DEED OF TRUST ("Deed of Trust") is made as of November 18, 2021, by and among: BCP DEVELOPMENT, INC., a UTAH CORPORATION, whose address is 1250 East 200 South, Suite 1D, Lehi Utah 84043, ("Trustor"); GRIFFITHS AND TURNER / GT TITLE SERVICES, INC., A UTAH TITLE INSURANCE AGENCY, whose address is 1250 East 200 South, Suite 1C, Lehi Utah 84043, ("Trustee"); and LENNAR HOMES OF UTAH, INC., a Delaware corporation, whose address is 1099 South Jordan Pkwy, South Jordan, UT 84095 ("Beneficiary"). Trustor, Trustee and Beneficiary are referred to collectively herein as the "Parties."

For good and valuable consideration, including the indebtedness herein recited, the receipt of which is acknowledged, Trustor hereby irrevocably grants, conveys, transfers, warrants, pledges and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit of Beneficiary the following described property (collectively, "Property"):

(a) All of that certain real property located in Eagle Mountain, Utah, and more particularly described on the attached **Exhibit A** ("Real Property");

(b) All present and future tenements, hereditaments, easements, plats, subdivisions, declarations, bylaws, rights, leases, guaranties of leases, subleases, licenses, benefits, privileges, permits, water, water rights, grandfathered water rights, irrigation rights, ditch rights, shares of stock in or evidencing water rights, all other contractual rights to water, rights of way, pipes, ditches, fences and appurtenances belonging or in any way appurtenant to, and all oil, gas and other hydrocarbons and other minerals produced from or underlying, the Real Property or any portion thereof, or any improvements or development thereon, and all reversions, remainders, rents, issues, and profits thereof;

(c) All buildings and improvements now or hereafter erected on the Real Property or any portion thereof, and all goods, equipment, inventory and fixtures now or hereafter attached to or located on or used in connection with the Real Property;

(d) All of the beneficial interest of Trustor in any trust, if title or any interest of Trustor in the Real Property is vested in or held by a trustee;

(e) All present and future licenses, permits, approvals and agreements from or with any governmental or quasi-governmental agency or entity or any other person relevant to the zoning, subdivision, division, development, improvement, use, lease, sale or other disposition of the Real Property or any portion thereof, or any buildings or improvements now or hereafter erected, placed or located on the Real Property or any portion thereof;

(f) All present and future plans, specifications, drawings, analyses, surveys, reports and other design products, relating to all present and future buildings and other improvements (including landscaping) constructed on the Real Property or any portion thereof, and all rights in and to all architectural and engineering contracts, surety bonds, warranties, land use plans, studies, building contracts, soils reports, appraisals, feasibility and market studies, management agreements, operating agreements, franchise agreements, service contracts, development contracts, design contracts, sign design contracts, space planning contracts and any other agreements with respect to planning, designing, developing, or inspecting construction on, the Real Property or any portion thereof and any buildings or improvements thereon, together with any deposit accounts and funds maintained under, pursuant to, or in connection with any such contracts and agreements;

(g) All present and future rights under or with respect to: (i) any declarations of restrictions governing or imposing rights or responsibilities on or with respect to any subdivisions, horizontal property regimes, condominiums, planned area developments, planned unit developments or master plans which are partially or wholly located on or affect the Real Property; (ii) any design review or architectural review committee and any property owners', condominium association, or similar association described in or created by the documents referred to in the foregoing clause (i), together with any voting rights therein; and (iii) any and all other documents and instruments and any amendments relating to the operation, organization, control or development of the Real Property;

(h) All adjacent streets (open or proposed), roads, sidewalks, alleys, public places,

parking areas, and strips and gores of land now or hereafter appurtenant to or used or useful in connection with the Real Property or any portion thereof, or any buildings or other improvements now or hereafter erected, placed or located on the Real Property or any portion thereof;

(j) All rights in and to any present or future contracts, agreements, commitments, options, revenues, deposits (including deposits with any public or private utility with respect to utility services furnished to the Real Property), refunds, credits, retentions, or other rights or considerations that in any way relate to or arise out of any development, use, improvement, sale or disposition of the Real Property or any portion thereof, or any buildings or other improvements or personal property now or hereafter erected, placed or located on the Real Property or any portion thereof, or any business now or hereafter conducted on the Real Property;

(k) All rights in and to all present and future agreements or commitments for the purpose of financing, refinancing, selling or otherwise disposing of any interest in the Real Property or any portion thereof, and any buildings and other improvements now or hereafter located on the Real Property or any portion thereof;

(l) All rights to the use of any trade name, trademark or service mark by which the Real Property or any portion thereof, or any improvements or development thereon, are known;

(m) All rights under any policy or policies of insurance (including premium refunds and credits and insurance proceeds) insuring against damage or loss with respect to any portion of the Property, including all fire, casualty, business interruption, rent loss and flood insurance, whether or not such insurance is required by this Deed of Trust or Beneficiary;

(n) All (i) replacements and substitutions for, (ii) additions to, (iii) proceeds and products of (including all insurance proceeds and condemnation awards (or proceeds of any purchase in lieu thereof) which are or may become payable with respect thereto), and (iv) books, records and files relating to, all or any portion of the items described in the preceding paragraphs.

The foregoing descriptions of items constituting the Property will be construed as cumulative and not limiting, and the term "including", when used in those descriptions, will mean without limitation by reason of enumeration. Unless the context clearly indicates otherwise, the terms "goods," "equipment," "inventory," "accounts," "instruments," "chattel paper," "general intangibles," "proceeds" and "products" will have the meanings provided for those terms in the Utah Uniform Commercial Code as may be amended.

Trustor makes the grant, conveyance, transfer and assignment set forth above for the purpose of securing: (a) the payment and performance of each agreement and obligation of Trustor contained herein and of Trustor and any other related party under or related to, directly or indirectly, that certain Agreement for Sale and Purchase (Unimproved Land – Single Closing – Zoned - No Infrastructure), by and between Trustor and Beneficiary with an Effective Date of October 6, 2021, as amended (the "Loan Document"); and (b) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms of this Deed of Trust, together with interest thereon as provided herein. This Deed of Trust will also secure the payment and performance of any additional loans that may hereafter be made by Beneficiary to Trustor which are evidenced by a promissory note or notes or any other obligations or writings stating that they are secured by this Deed of Trust.

All of the foregoing payments, obligations and performances secured by this Deed of Trust are sometimes referred to herein as the "Obligations." Unless otherwise defined herein, capitalized

terms used in this Deed of Trust have the meanings given in the Loan Document.

TRUSTOR, TO PROTECT THE PROPERTY AND SECURITY GIVEN BY THIS DEED OF TRUST, HEREBY WARRANTS, COVENANTS AND AGREES AS FOLLOWS:

1. Warranty of Title. Trustor warrants that it is the sole owner of good and marketable unencumbered fee title to the Property, and Trustor will forever defend the same against all claims and persons whomsoever, unto Beneficiary, its successors and assigns, subject only to the matters approved by Beneficiary as acceptable exceptions to title pursuant to written instructions to the title insurance company insuring the lien of this Deed of Trust. All of Trustor's present and future right, title and interest in the Property will be subject to the lien and other terms and provisions of this Deed of Trust regardless of the time that any such right, title and interest is created, obtained by or conveyed, transferred or assigned to Trustor.

2. Obligation to Maintain Property; Repairs; Inspection by Beneficiary.

(a) Trustor will care for and keep and maintain the Property in good order, condition and repair, and will at all times make such repairs, maintenance, renewals, and replacements as will be necessary to maintain the Property and abutting grounds, sidewalks, roads, parking and landscape areas in good condition and repair, all to the same extent as a prudent owner would make. Trustor will not substantially alter the Property, except as may be contemplated by the Loan Documents and except for normal clearing, grading and construction activities, and as may be required by applicable laws (including the Americans With Disabilities Act (42 U.S.C. §§ 12101-12213 and 47 U.S.C. §§ 225 and 611)), ordinances, orders, decrees, rules, regulations or requirements of any governmental authority, including applicable subdivision laws, regulations and ordinances, and any requirements, terms or conditions contained in any restrictions, restrictive covenants, easements, licenses or leases, building codes, flood protection laws and ordinances, zoning ordinances or stipulations, subdivision plats, master plans, development plans, or other instruments or documents now or in the future affecting any portion of the Real Property or any improvements thereon (collectively, "Legal Requirements"). Trustor will not commit, or permit to occur, any waste upon the Property. Subject to normal clearing, grading and construction activities, Trustor will keep the Property free of rubbish and unsightly, unsafe and unhealthful conditions.

(b) Trustor will comply in all material respects with all Legal Requirements now or in the future affecting the Property. To Trustor's knowledge, the building plans and specifications for the improvements on the Property comply with all zoning and building laws, ordinances, codes, rules and regulations and other laws and regulations applicable thereto and such plans and specifications and improvements have been, or will be, approved by all appropriate authorities. No notice of any violations of ordinances, codes, rules, regulations, orders, restrictive covenants or statutes applicable to the Property has been received, nor have any governmental authorities or insurance underwriters required any changes to any plans and specifications as submitted to Beneficiary. All appropriate governmental authorities have been or will be issued, as and when required, and all required permits for the construction of the improvements on the basis of the plans and specifications have been or will be approved. The Property, any improvements thereon and their use fully comply and will continue to fully comply with environmental, air quality, zoning, planning, building and other governmental laws, ordinances, rules, regulations and requirements and Trustor has received no notice to the contrary. Without Beneficiary's prior written consent, Trustor will not (i) initiate any zoning reclassification of the Property, (ii) seek any variance under existing zoning ordinances applicable to the Property, (iii) use or permit the use of the Property in a manner than would result in such use becoming a nonconforming use under applicable zoning ordinances or other

applicable laws, rules or regulations, or (iv) impose any restrictive covenants upon the Property. As of the date hereof, no action or proceeding is pending before any court, quasi-judicial body or administrative agency relating thereto.

(c) In the event of any loss, damage or destruction to the Property, Trustor will, to the extent that insurance proceeds are available for rebuilding under Section 3 below, or if an applicable Lease (defined below) requires rebuilding in the absence of available insurance proceeds, promptly and in a good and workmanlike manner repair, rebuild and restore such loss, damage or destruction to its original condition, pay when due all costs incurred, and keep the Property free from all claims, charges, claims of liens, or encumbrances for work performed or materials furnished, whether superior or subordinate to the lien of this Deed of Trust. Trustor may contest in good faith the validity or amount of any claim, charge, lien or encumbrance by appropriate proceedings provided by law, including payment of the claim, charge, lien or encumbrance under protest, if required, provided that: (i) Trustor promptly pays any sums found to be due upon a final determination of the contested claim, charge, lien or encumbrance; and (ii) prior to any such contest, Trustor will furnish Beneficiary a cash deposit, bond or other security, in amount and form satisfactory to Beneficiary, to protect Beneficiary against the sale or forfeiture of, or creation of a lien against, the Property.

(d) Beneficiary will have the right at its sole risk to enter upon the Property at any ~~and~~ all reasonable times and to inspect the same to ascertain whether Trustor is in compliance with the terms and provisions of this Deed of Trust.

3. Insurance.

(a) Trustor will keep the Property insured to 100% of its full insurable replacement cost value (including the cost of debris removal) against loss by fire and such other hazards, casualties, and contingencies as are customarily insured against by persons owning similar properties in the locality of the Property or customarily required by prudent institutional lenders making loans secured by such properties for such periods, covering against such additional risks and in such amounts as Beneficiary requires in the Loan Documents or may otherwise require from time to time but in no event less than the amount of the total indebtedness secured hereby. At a minimum, such hazard insurance will be an all risk policy and will include an agreed value or agreed amount endorsement suspending the application of any co-insurance clause that might otherwise be applicable.

(b) Trustor agrees to provide comprehensive general liability coverage (including blanket contractual liability coverage insuring indemnity liability) in a combined single limit amount acceptable to Beneficiary, insuring against loss arising from or caused directly or indirectly by the condition, use or ownership of the Property and the abutting streets, sidewalks and passageways, in amounts and with deductibles acceptable to Beneficiary.

(c) During the course of any construction or repair of improvements on the Property, Trustor agrees to provide (i) general comprehensive liability and workers' compensation insurance for all employees of Trustor and any contractor engaged on or about the Property, (ii) professional liability coverage for errors and omissions of architects and engineers, and (iii) builder's all-risk insurance covering Trustor and any contractor against all risks of physical loss, including collapse and transit coverage, during construction of the improvements, with deductibles in amounts satisfactory to Beneficiary, covering the total value of work performed and equipment, supplies and materials furnished.

(d) Trustor will deliver to Beneficiary whenever requested certificate(s) of

insurance in form and substance acceptable to Beneficiary or as required by the Loan Documents with respect to the foregoing policies stating without limitation (i) that Beneficiary is the sole party named as mortgagee under a standard mortgagee endorsement with such endorsement referenced in and attached to the certificate, (ii) that Beneficiary has been named through endorsement as an additional insured under all liability policies with a copy of that endorsement referenced in and attached to the certificate (including coverage for Beneficiary's sole negligence and for completed operations and stating that Beneficiary's status as an additional insured will be primary and non-contributory), (iii) that Trustor has been permitted by endorsement to enter into a waiver of subrogation with a copy of that endorsement referenced in and attached to the certificate, and (iv) that the insurer has agreed by endorsement to send to Beneficiary thirty (30) days' notice of cancellation for any reason, with a copy of that endorsement referenced in and attached to the certificate. All policies will be issued by companies approved by Beneficiary and having an A-IX or better rating from Alfred M. Best Company, Inc.; all policies and renewals thereof are hereby assigned to Beneficiary. Upon request of Beneficiary, Trustor will provide certified copies of any and all of the foregoing policies. Acceptance of policies tendered by Trustor will not preclude Beneficiary from requiring other or additional insurance against the same or other hazards.

(e) Trustor will give immediate written notice to Beneficiary of any loss or claim, and Beneficiary may make proof of loss if not made promptly by Trustor. Each insurance company is hereby authorized and directed to make payment for such loss directly to Beneficiary instead of to Trustor. Insurance proceeds or any part thereof may be applied by Beneficiary, at its option, either to the reduction or payment of the Obligations or to the repair, rebuilding and restoration of the Property lost, damaged or destroyed, but Beneficiary will not be obligated to ensure the proper application of any amount paid over to Trustor. Any insurance proceeds not used for repair or restoration of the Property will be applied to the last maturing installment of principal due and owing under the Loan Document. The Property as rebuilt or restored will be of at least equal value and substantially identical character as prior to the damage or destruction.

(f) Upon (i) Beneficiary's receipt of a trustee's deed or sheriff's deed to any portion of the Real Property, (ii) the taking by Beneficiary (or a receiver) of possession of the Property, or (iii) a conveyance in lieu of foreclosure if permitted by Beneficiary, all right, title and interest of Trustor in and to any property damage and casualty insurance policies then in force, including any right to unearned premiums, will inure to the benefit of and pass to Beneficiary (or the receiver, as appropriate) and, upon sale, to the purchaser of the Property. Trustor hereby irrevocably appoints Beneficiary and its successors and assigns as its duly constituted attorneys-in-fact, with full power of substitution, to transfer and assign such policies upon the occurrence of any of such events.

4. Payment of Taxes, Assessments and Other Liens or Charges. At least ten days prior to delinquency, Trustor will pay or cause to be paid to the proper officials or persons all taxes and assessments, general or special, of every nature and description (including assessments, dues, use fees and charges for water) that will have been levied or assessed on the Property and, upon Beneficiary's request, will deliver to Beneficiary receipts evidencing such payments. If the Real Property or any lot or parcel thereof is part of a larger tax or assessment parcel, Trustor will, as soon after recordation of this Deed of Trust as is reasonably possible, cause the tax or assessment parcel to be split or amended so that its boundaries correspond to the boundaries of the Real Property and its lots or parcels. Trustor may contest in good faith the validity or amount of any tax, assessment or governmental charge by appropriate proceedings provided by law, including payment of the tax, assessment or charge under protest, if required, provided that: (a) Trustor promptly pays any sums found to be due upon a final determination of the contested tax, assessment or governmental charge; and (b) prior to any such contest, Trustor will furnish Beneficiary a cash deposit, bond or other security, in amount and form satisfactory to Beneficiary, to protect Beneficiary against the sale or forfeiture of, or creation of a lien

against, the Property. Trustor will not consent to, or vote in favor of, the inclusion of any portion of the Real Property in a special improvement, assessment, community facilities or similar district without Beneficiary's prior written consent. Trustor will provide Beneficiary with prompt notice of any notification that Trustor may receive from any governmental authority or other person of any intent or proposal to form such a district that may include any portion of the Real Property, and Beneficiary will have the right to object to the same, and to otherwise appear and participate in hearings and other proceedings, in its own name or in Trustor's name. Trustor will pay or cause to be paid when due all charges for water, water delivery, gas, electric power and light, telephone, cable, satellite, sewer, waste removal, bills for repairs, and all other claims, encumbrances and expenses incident to the ownership and occupancy of the Property.

5. Eminent Domain. If the Property or any part thereof is taken or damaged by reason of any public improvement or condemnation proceeding, Beneficiary will be entitled to all compensation, awards, and other payments or relief therefor, and will 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, are hereby assigned to Beneficiary, who shall, 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.

6. Actions or Proceedings Affecting Property: Duty to Appear. Trustor agrees to appear in and prosecute or defend any action or proceeding that may affect the priority of this Deed of Trust or the security, rights or powers of Beneficiary hereunder or that seeks to impose liability on Trustee or Beneficiary because of any act or omission of Trustor, and Trustor will pay all costs and expenses (including the cost of searching title) and attorneys' fees incurred in such action or proceeding. Beneficiary may appear in and defend any action or proceeding purporting to affect the security or priority hereof or the rights or powers of Beneficiary. Beneficiary may, if Beneficiary reasonably determines that Trustor is failing or will fail to do so, pay, purchase, contest or compromise any adverse claim, encumbrance, charge or lien which, in the judgment of Beneficiary, appears to be prior or superior to the lien of this Deed of Trust. All amounts paid, suffered or incurred by Beneficiary in exercising the authority granted in this Deed of Trust, including reasonable attorneys' fees, will be added to the Obligations, will be a lien on the Property and will be due and payable by Trustor to Beneficiary on demand, together with interest from the date of advance until paid at the then effective default rate.

7. Additional Documents. Trustor agrees to execute and deliver to Beneficiary, upon demand, any additional agreements, instruments or documents that Beneficiary deems reasonably necessary to secure to Beneficiary any right or interest granted or intended to be granted to Beneficiary under this Deed of Trust. In the event any rights, easements or other hereditaments will hereafter become appurtenant to any part of the Property, they will become subject to the lien of this Deed of Trust.

8. Sale, Lease or Conveyance by Trustor.

(a) Except as expressly permitted or contemplated by the Loan Documents or this Deed of Trust, Trustor will not sell, convey or further encumber (including granting any easements (except for public utility or other easements needed to service the improvements being constructed on the Real Property) or other interests affecting title to the Property) or pledge or hypothecate or in any manner dispose of any of its interest in all or any portion of the Property, voluntarily, involuntarily or by operation of law, without the prior written consent of Beneficiary, which Beneficiary may

withhold in its sole and exclusive discretion. Beneficiary may require as a condition of its consent a change in the terms and conditions of repayment of the Obligations, including payment of a fee, an increase in interest rate payable and/or a reduction in the time remaining prior to the maturity date. For the purposes of this Section, a change in the control or management of Trustor, transfer or encumbrance of 20% of the voting stock of a corporation which is a Trustor, transfer or encumbrance of 20% of the ownership or voting interests in a partnership, joint venture or limited liability company which is a Trustor, or the death or dissolution of the Trustor or any transfer or assignment of all or substantially all of the assets of a Trustor or any general partner or member of Trustor will be deemed a transfer of the Property which gives the Beneficiary the right to exercise the remedies set forth herein. The foregoing notwithstanding, Trustor may convey portions of the Property to its affiliated entity that will be constructing houses thereon, provided that such conveyance is explicitly made subject to this Deed of Trust and will not in any way affect the Obligations, and such transferee acknowledges and agrees in writing that it takes such property subject to this Deed of Trust. Trustor shall provide all proposed conveyancing documents to Beneficiary for prior written approval, which approval shall not unreasonably be withheld or delayed.

(b) Trustor will give Beneficiary 15 days' prior written notice of any proposed transaction which requires Beneficiary's consent, and Trustor will furnish to Beneficiary such information as Beneficiary may reasonably require. Beneficiary may require, as a condition of its consent to any transfer or conveyance of the Property or any portion thereof, that: (i) any person succeeding to an ownership interest in the Property or any portion thereof assume personal liability for the payment and performance of the Obligations; (ii) Trustor confirm its continuing obligation and liability for the payment and performance of the Obligations; (iii) Trustor will have obtained and provided to Beneficiary evidence of the consent of all guarantors to the transfer and their acknowledgment that the transfer will not in any manner impair the validity or effectiveness of their respective guaranties; (iv) Trustor provide to Beneficiary such documentation, title insurance endorsements, opinions of counsel and other items as Beneficiary may determine are reasonably required or prudent to assure that Beneficiary's rights under Beneficiary's loan documents are maintained in full force and effect and are not impaired; (v) Trustor execute such financing statements and other documents as Beneficiary may require in its conservative discretion in order to continue the perfected status of its security interests with respect to the Property; (vi) Trustor or the transferee reimburse Beneficiary for its reasonable legal expenses in connection with the consideration and documentation of the transfer and assumption; and (vii) no Default by Trustor will then exist. Consent to any one transaction will not release Trustor from personal liability for the Obligations or be deemed to constitute consent to any other transaction, and will in no way obligate Beneficiary to subordinate the lien of this Deed of Trust to any interest created by such sale, transfer, lease, assignment, conveyance, encumbrance or other disposition.

(c) If the ownership of the Property or any portion thereof becomes vested in any person other than Trustor, Beneficiary may deal with such successor(s) in interest with reference to the Obligations and this Deed of Trust in the same manner as with Trustor, without in any way vitiating or discharging Trustor's liability hereunder or for payment of the Obligations. However, the foregoing sentence will in no way constitute or imply Beneficiary's consent to any transfer of the ownership of the Property or any portion thereof.

9. Changes or Modification of Applicable Tax Laws. In the event of the imposition after the date of this Deed of Trust of any law of the United States of America, the State of Utah, or any other domestic or foreign governmental authority claiming to have jurisdiction, deducting from the value of real property for the purposes of taxation or assessment any lien thereon or changing in any way the taxation of mortgages, deeds of trust or of debts secured by mortgages or deeds of trust or the manner of the collection of any such taxes, and imposing a tax or assessment, either directly or indirectly on this Deed of Trust or the Loan Document, the sums evidenced or secured thereby or the

interest payable thereon, Trustor will pay the entire tax or assessment in addition to all other payments required hereunder and will pay any such tax or assessment thereafter levied or assessed against the Real Property. The provisions of this Section 14 will not apply to changes in federal and state income tax laws.

10. Estoppel Certificate/Record Inspection.

(a) Trustor, within ten business days after written request by Beneficiary, will furnish to Beneficiary a written statement, duly acknowledged, of the amount of the Obligations and whether any offsets or defenses exist against the Obligations and such other matters as Beneficiary may reasonably request.

(b) Trustor will permit Beneficiary or its representatives from time to time to examine within the county in which the Real Property is located all books and records and agreements of Trustor pertaining to any portion of the Property.

11. Substitute Performance. If Trustor fails to pay or perform any portion of the Obligations, then Beneficiary, without obligation to do so and without releasing Trustor from any portion of the Obligations, upon five days' prior written notice (or such shorter period as is reasonably practicable under the circumstances) to Trustor, may pay or perform the same in such manner and to such extent as Beneficiary, in its sole good faith discretion, may deem necessary to protect the security hereof. Beneficiary will be authorized to enter upon the Property for such purposes. All expenses or charges that Beneficiary may incur in connection with the care or preservation of the Property or any part thereof at any time, or the payment of any taxes, assessments, insurance premiums, or encumbrances levied upon or attaching to the Property or any portion thereof or interest therein, or any cost of redemption thereon, or any sums of money, charges, expenses or fees which Beneficiary may pay pursuant to any provision hereof or of the Loan Documents, will be added to the Obligations, will be payable by Trustor on demand, and will bear interest at the then effective default rate from the date of advance until paid.

12. Events of Default: Acceleration: Remedies. Subject only to the applicable notice and cure provisions set forth in the Loan Documents, upon the occurrence of any Default by Trustor, and at any time thereafter while such Default by Trustor is continuing, Beneficiary may declare the Obligations to be immediately due and payable pursuant to the Loan Documents, and Beneficiary may exercise any one or more of the rights and remedies described herein and in the other Loan Documents.

13. Beneficiary's Right to Possession. Following the occurrence of a Default by Trustor, then Beneficiary will, at its option, be entitled to the immediate possession of the Property, with the right to manage the same as a mortgagee in possession, and to operate any business thereon at the expense of and for the account of Trustor. Trustor and all persons claiming under Trustor will, upon demand, immediately deliver possession of the Property to Beneficiary or its assigns. Beneficiary will not be liable to Trustor for any obligation or charge in dealing with the Property as a mortgagee in possession (other than for loss caused by Beneficiary's gross negligence or willful misconduct or that of Beneficiary's employees, agents and representatives). Nothing in this Section will impose upon Beneficiary: (a) any duty, obligation or responsibility for the control, care, management or repair of the Property, or for complying with or enforcing any of the terms and conditions of any lease agreement; or (b) any responsibility or liability for any waste committed on the Property by the tenants or by any other persons, for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss, injury or

death to any tenant, licensee, employee or other person.

14. Appointment of a Receiver. Following the occurrence of a Default by Trustor, a receiver may be appointed, with or without notice (except for such notice as is required by law or applicable court), whereupon the receiver will immediately be entitled to possession of all of the Property. Beneficiary's right to a receiver will be absolute and unconditional. The receiver may be appointed without regard to the adequacy of any security for the Obligations and Trustor will immediately surrender possession of the Property to the receiver upon his appointment. The receiver will have the right to take possession of the Property, to complete the construction of any structures or improvements in progress thereon, to rent the Property or any part thereof, to operate any business thereon, and to exercise such other rights as may be granted by the court pending such proceedings, and up to the time of redemption or issuance of a trustee's or sheriff's deed. The receiver will have the power to borrow money from any person, including Beneficiary, for expenses of operating, preserving, maintaining and caring for the Property, and completing the construction in progress of any improvements or structures upon the Property, and all such borrowed sums, together with interest thereon, whether expended or not, will be added to the Obligations. The receiver may expend such borrowed money for the purposes described in this Section during any redemption period and, upon any redemption, any unexpended amounts of such borrowed money will be credited on the redemption price of the Property. In addition, any costs incurred, or advances made, by Beneficiary in connection with the implementation or operation of the receivership, will be added to the Obligations, bear interest at the default rate and be secured by this Deed of Trust.

15. Additional Remedies of Beneficiary: No Waiver. In addition to any remedies provided herein for breach or default hereof, Beneficiary will have all other remedies allowed or provided for under or described in the Loan Documents and all other writings executed or delivered in connection with the Obligations, or available under applicable law. Any one or more rights and remedies available to Beneficiary may, at its option, be sought and exercised concurrently or consecutively, and in inconsistent proceedings, whether legal or equitable. Beneficiary's failure to exercise any of its rights upon any default or breach will not prejudice its rights in the event of any other or subsequent default or breach. Beneficiary's delay in exercising any rights will not preclude it from exercising the same at any time during the continuance of such default or breach. By accepting any performance or payment of any portion of the Obligations after its due date, Beneficiary will not waive the agreement contained herein that time is of the essence hereof, nor will Beneficiary waive its rights to require prompt performance or payment when due of the remainder of the Obligations or to consider failure to so perform or pay a default hereunder.

16. Sale by Trustee Pursuant to Power of Sale: Judicial Foreclosure. After the lapse of such time as may then be required by Utah law, 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 law or other applicable law, Trustee, without demand on Trustor, will sell the Property on the date and at the time and place designated in the notice of sale, in such order as Beneficiary may determine at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale or on such other terms as are set forth in the notice of sale. The person conducting the sale may, for any cause deemed expedient, continue the sale from time to time until it will be completed and, in every such case, notice of such continuance will be given by oral announcement of the time and place of such continuance, or by posting or providing a notice of the continuance at the time and place designated for the sale in accordance with Utah law. Any person, including Beneficiary, may bid at the sale. Trustee will 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 Trustee's and attorneys' fees actually incurred not to exceed the amount which

may be provided for in this Deed of Trust.

Second: To payment of the obligations secured by this Deed of Trust.

Third: The balance, if any, to the person or persons legally entitled to the proceeds.

(a) Upon any sale made under or by virtue of this Section, 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 will bid for and acquire the Property, in accordance with Utah law. In the event of a successful credit bid, Beneficiary will make settlement for the purchase price by crediting upon the Obligations of Trustor secured by this Deed of Trust such credit bid amount. Beneficiary, upon so acquiring the Property or any part thereof, will be entitled to hold, lease, rent, operate, manage, and sell the same in any manner provided by applicable laws.

(b) In the event of any amendment to the provisions of Utah law referenced in this Deed of Trust, this Deed of Trust will, at the election of Beneficiary, be deemed amended to be consistent with such amendments or Beneficiary may elect not to give effect to such deemed amendments hereto if permitted by applicable law.

17. Deficiency. Trustor agrees to pay any deficiency to which Beneficiary may be entitled after applications of the proceeds of any sale and for which any beneficiary may commence suit to collect such deficiency.

18. 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.

19. No Merger. In the event of a foreclosure of this Deed of Trust or any other mortgage or deed of trust securing the Obligations, the Obligations then due Beneficiary will not be merged into any decree of foreclosure entered by the court, and Beneficiary may concurrently or subsequently seek to foreclose one or more mortgages or deeds of trust which also secure said Obligations.

20. Request for Notice. Beneficiary hereby requests a copy of any notice of default and that any notice of sale hereunder be mailed to it at the address set forth on the first page of this Deed of Trust.

21. Attorneys' Fees and Expenses; Failure of Trustor to Vacate. If any sale, proceeding, lawsuit or arbitration is commenced, or any attorney is retained to collect any amounts secured hereby or to enforce any rights granted Beneficiary hereunder (regardless of whether an action is actually commenced), Trustor will pay Beneficiary's reasonable attorneys' fees and costs incurred in enforcing its rights under the Loan Document, this Deed of Trust, the Loan Documents and Beneficiary's other loan documents, any guaranty now or hereafter relating to the Obligations and any other agreements which evidence, secure or guarantee all or any portion of the Obligations, and Trustee's reasonable attorneys' fees, Trustee's fees and its costs and expenses in connection with any sale proceedings or lawsuit. In addition, Trustor will pay a reasonable fee for title searches, foreclosure reports, trustee's sale guaranties, litigation guaranties, publication costs, environmental assessments or appraisal reports made or obtained either (i) in preparation for and in the conduct of any such proceedings or suit, or (ii) to evidence to potential bidders at any judicial or nonjudicial sale pursuant to this Deed of Trust the true condition of title to or the value of the Property or any portion thereof. All of the foregoing fees and expenses will be payable on demand, added to the Obligations and secured by this Deed of Trust, will be included in any judgment or arbitration award obtained by Beneficiary and will be paid to Beneficiary as part of any reinstatement tendered hereunder. If Trustor fails to vacate the Property following foreclosure or sale,

Trustor will be a tenant at sufferance and subject to an action for forcible entry and detainer, wherein Beneficiary will be entitled to collect from Trustor, in addition to all other amounts due hereunder, a reasonable rental for the Property during the period of such holding over at sufferance. The foregoing amounts will also be guaranteed by any guarantee(s) now or hereafter relating to the Obligations.

22. Full Reconveyance of Property. Upon (a) written request of Beneficiary stating that the entire Obligations have been paid or, when such obligations involve performance rather than the payment of monies, materially performed, (b) surrender of this Deed of Trust to Trustee for cancellation and retention, and (c) payment of Trustee's fees, if any, Trustee will reconvey the Property without warranty. The recitals in such reconveyance of any matters or facts will be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

23. Partial Reconveyance of Property: Dedication of Easements.

(a) At any time or from time to time but only as to portions of the Property for which the Partial Release Conditions have been materially satisfied (unless Beneficiary has waived in writing the requirement for the Partial Release Conditions to be satisfied as to portion of the Property in question), without liability therefor and without notice, upon written request of Beneficiary or Trustor (each a "Written Request"), without affecting the personal liability of any person for payment or performance of any portion of the Obligations or the lien or priority of this Deed of Trust, Trustee shall, within fourteen (14) calendar days after receipt of such Written Request (i) reconvey and release this Deed of Trust and the lien and encumbrance created hereby for the portion of the Property specified in such Written Request, (ii) consent to any rezoning or the making of any map or plat thereof, join in granting any easement or dedication thereon or in creating any covenants, conditions or restrictions affecting the use or occupancy of the Property, and/or (iii) join in any extension agreement or agreement subordinating the lien or charge hereof. Each Written Request shall contain a description of that portion of the Property to be released and reconveyed, and, if the Written Request is requesting that a portion of the Property be released from the lien and encumbrance of this Deed of Trust, a statement that the Partial Release Conditions (defined below) have been satisfied as to the portion of the Property specified in such Written Request or that the Partial Release Conditions (defined below) will be satisfied as to the portion of the Property specified in such Written Request contemporaneous with the recording of the release and reconveyance requested by such Written Request. For purposes of this Deed of Trust, the term "Partial Release Conditions" shall mean: (A) the City (as defined in the Loan Document) has entered into a Development Agreement (as defined in the Loan Document) for the Property, (B) the portion of the Property described in the Written Request has been, or will be contemporaneous with the recording of the release and reconveyance requested in the Written Request, legally subdivided so it can be legally conveyed as one or more separate parcels, or can be adequately described by a metes and bounds description, and (C) the then current fair market value of the portion of the Property remaining subject to this Deed of Trust after the release and reconveyance requested by the Written Request has been recorded shall equal or exceed the amount of the Deposit (as defined in the Loan Document) which has not yet (as of the time of the Written Request in question) been credited towards the Purchase Price (as defined in the Loan Document) pursuant to the terms of the Loan Document. Notwithstanding anything to the contrary set forth herein, Trustor shall be entitled to submit a Written Request for up to fifty percent (50%) of the Property, being the portion of the Property that is not being sold to Beneficiary pursuant to the Loan Document, once the City has executed a Development Agreement for the Property and Trustee shall record a release and reconveyance for the portion of the Property described in such Written Notice within fourteen (14) calendar days after receipt of such Written Request.

(b) So long as no Default by Trustor then exists, and Trustor obtains any required

written joinders or consents from any other parties who have interests in any relevant portions of the Real Property, Beneficiary shall promptly grant its consent to, approval of or joinder (on a quitclaim basis only, without creating potential liability for Beneficiary) in any customary and standard preliminary and/or final plat maps, roadway or utility easements or similar dedications that are reasonably necessary to complete the improvements, or to otherwise properly develop the Real Property, or to satisfy any customary and standard Legal Requirements.

(c) Beneficiary will provide appropriate partial releases from the lien of this Deed of Trust without charge to Trustor except for the reimbursement of any Beneficiary costs and expenses in connection therewith.

24. Acceptance of Trust: Trustee Resignation: Notification of Sale. Trustee accepts the trust created hereby, which will be irrevocable by Trustor, when this Deed of Trust, executed and acknowledged, is recorded as provided by law. Trustee may resign at any time by giving notice thereof to Beneficiary as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee will be a party, unless brought by Trustee.

25. Successor Trustee. Beneficiary may, from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, in the manner provided by law. Such writing, upon recordation, will be conclusive proof of proper substitution of such successor Trustee or Trustees, who will, without conveyance from the predecessor Trustee, succeed to all its title.

26. Additional Security. The taking or acceptance of this Deed of Trust by Beneficiary will in no event be considered to constitute a waiver of, or in any way affect or impair, any other security that Beneficiary may have, acquire simultaneously herewith, or hereafter acquire for the Obligations, nor will the taking at any time by Beneficiary of any such additional security be construed to constitute a waiver of, or in any way affect or impair, the security of this Deed of Trust. Beneficiary may resort to its several securities for the payment of the Obligations in such order and manner as it may deem appropriate.

27. Construction of Agreement: Definitions. This Deed of Trust will apply to the parties according to the context hereof, without regard to the number or gender of words or expressions used herein. The captions of paragraphs in this Deed of Trust are for convenience and reference only, and in no way define or limit the scope or intent of this Deed of Trust or the provisions of such paragraphs. This Deed of Trust will be construed as a whole, in accordance with the fair meaning of its language, and, as each party has been represented by legal counsel of its choice or deliberately chosen not to be so represented, in the negotiation of this Deed of Trust, neither this Deed of Trust nor any provision thereof will be construed for or against either party by reason of the identity of the party drafting the same. As used in this Deed of Trust, the term(s): (a) "include" or "including" will mean without limitation by reason of enumeration; (b) "herein," "hereunder," "hereof," "hereinafter" or similar terms refer to this Deed of Trust as a whole rather than to any particular paragraph; (c) "person" includes a corporation, trust, partnership, limited liability company, association, governmental authority or other entity, as well as a natural person; (d) "Beneficiary" will mean the holder at any time, including pledgees, of the Loan Document or other writings secured hereby, whether or not named as Beneficiary herein; and (e) "Trustor" will include all persons or entities named in this Deed of Trust as Trustors, severally and collectively, and any subsequent owner of all or any portion of the Property, and their liability under this Deed of Trust will be joint and several (however, the foregoing will in no way constitute or imply Beneficiary's consent to any transfer of the ownership of the Property or any

portion thereof). Capitalized terms used herein will have the meaning specified in the Loan Documents unless otherwise stated, including without limitation the definition of Default.

28. Time of the Essence: Successors and Assigns. Time is of the essence hereof. Without limitation by the restrictions on transfer described in Section 8 above, this Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, personal representatives, legatees, devisees, successors and assigns.

29. Governing Law. This Deed of Trust is delivered in, relates to real property located in, and will be governed by and construed in its enforcement according to the substantive laws and judicial decisions of the State of Utah and applicable federal laws, rules and regulations.

30. Notices. Except as provided in Section 22 above hereof with respect to Trustee's exercise of the power of sale contained herein or as otherwise required by law, all notices required or permitted to be given hereunder will be given as provided in the Loan Documents.

31. Amendment. This Deed of Trust may not be amended or changed except by a written agreement signed by Trustor and Beneficiary.

32. Severability; Enforceability.

(a) Each covenant, provision and condition of this Deed of Trust will be interpreted so as to be valid and effective under applicable law. If any such covenant, provision or condition is held to be void or invalid, the same will not affect the remainder hereof, which will be valid and effective as though the void or invalid covenant, provision or condition had not been contained herein.

(b) Should this Deed of Trust be or ever become ineffective as a deed of trust, then it will be construed and enforceable as a mortgage (with Trustor as the mortgagor and Beneficiary as the mortgagee).

(c) If the lien of this Deed of Trust is invalid or unenforceable (either as a deed of trust or as a mortgage) as to any part of the Obligations, or if the lien is invalid or unenforceable as to any portion of the Property, the unsecured or partially secured portion of the Obligations will be completely paid prior to the payment of the remaining secured or partially secured portion of the Obligations. All payments made on the Obligations, whether voluntary or pursuant to foreclosure or some other enforcement action or procedure taken hereunder, will be considered to have been first applied to the full payment of that portion of the Obligations which is not secured or fully secured by the lien of this Deed of Trust.

33. Subrogation. Beneficiary will be subrogated to the rights and lien, whether or not released of record, of the owner or holder of each and every encumbrance or lien paid from the proceeds of the loan or advances secured hereby, and such loan or advances have been or will be advanced, if at all, at Trustor's request.

34. Incorporation of Exhibits. Any exhibit attached hereto is hereby incorporated herein and made a part hereof for all purposes, and references in this Deed of Trust to such exhibits will be deemed to include this reference and incorporation.

35. Declarations and Associations. The assignment herein by Trustor to Beneficiary of the rights of Trustor with respect to any declaration of covenants, conditions and restrictions, any design

review or architectural control committee and any owners' or similar association, together with any voting rights therein, will be for the purpose of security only and will not impose any duty or obligation on Beneficiary with respect to any such matters unless expressly assumed by Beneficiary in a writing which is recorded. Trustor will not give any consent, approval or permission under the terms of any declaration of covenants, conditions and restrictions without the prior written consent of Beneficiary.

36. No Offset. All sums comprising the Obligations payable by Trustor will be paid without notice, demand, offset, deduction, counterclaim, defense, abatement, suspension, diminution or reduction. Trustor's obligation to do so will not be released, discharged or otherwise diminished by reason of: (a) any damage to or destruction of, or any condemnation or similar taking of, the Property or any portion thereof; (b) any restriction or prevention of, or interference with, the use of the Property or any portion thereof; (c) any title defect or encumbrance, or any eviction from the Property or any portion thereof by the holder of superior title or otherwise; (d) any bankruptcy, insolvency, reorganization, composition, dissolution, liquidation or similar proceeding relating to Trustor or Beneficiary, or any action taken with respect to this Deed of Trust by any trustee or receiver of Trustor or Beneficiary, or by any court, in any such proceeding; (e) any claim that Trustor may now or in the future have against Beneficiary; (f) any default or failure on the part of Beneficiary to perform or comply with any of the terms of this Deed of Trust or any other loan document with Trustor; or (g) any other similar or dissimilar occurrence. Beneficiary's acceptance of any payment in an amount less than the amount then due and owing under the Loan Documents will be deemed an acceptance on account only, and will not in any way constitute an accord and satisfaction or a waiver, or impair Beneficiary's ability to treat a Default or a Default by Trustor as continuing to exist.

37. No Merger. If the interests of Beneficiary and Trustor under this Deed of Trust will at any time become vested in Beneficiary, by reason of foreclosure or otherwise, the lien of this Deed of Trust will not be destroyed or terminated by application of the doctrine of merger and, in such event, Beneficiary will continue to have and enjoy all of the rights and privileges of Beneficiary as to the separate estates, unless otherwise consented to in writing by Beneficiary.

38. Unlawful Use, Controlled Substances and Prohibited Activities.

(a) Trustor will not use, occupy, or permit the use or occupancy of the Property by Trustor or any lessee, tenant, licensee, permittee, agent, or any other person in any manner that would be a violation of any applicable federal, state or local law or regulation, including in violation of any "Environmental Law" (defined below), and regardless of whether such use or occupancy is lawful under any conflicting law, including without limitation any law relating to the use, sale, possession, cultivation, manufacture, distribution or marketing of any controlled substances or other contraband (whether for commercial, medical, or personal purposes), or any law relating to the medicinal or recreational use or distribution of marijuana (collectively, "Prohibited Activities"). Any lease, license, sublease or other agreement for use, occupancy or possession of the Property (collectively for purposes of this Section a "lease") with any third person ("lessee") will expressly prohibit the lessee from engaging or permitting others to engage in any Prohibited Activities. Trustor will upon demand provide Beneficiary with a written statement setting forth its compliance with this Section and stating whether any Prohibited Activities are or may be occurring in, on or around the Property. If Trustor becomes aware that any lessee is likely engaged in any Prohibited Activities, Trustor will, in compliance with applicable law, terminate the applicable lease and take all actions permitted by law to discontinue such activities. Trustor will keep Beneficiary fully advised of its actions and plans to comply with this Section and to prevent Prohibited Activities.

(b) For purposes of this Deed of Trust, "Environmental Law" refers to statutes, rules

and regulations, and amendments thereto, effective on or before the date hereof, including, but not limited to, the following laws, and the rules and regulations promulgated thereunder: (A) The Clean Water Act; (B) The Toxic Substances Control Act; (C) The Comprehensive Environmental Response, Compensation and Liability Act of 1980; (D) The Hazardous Materials Transportation Act; (E) The Solid Waste Disposal Act; (F) The Clean Air Act; (G) The Safe Drinking Water Act; (H) The Resource Conservation and Recovery Act; (I) Noise control and other nuisance acts; (J) Federal Water Pollution Control Act; and (K) All state and local statutes, rules, regulations or ordinances which may deal with any activities or matters which are the subject of the foregoing federal acts or environmental protection or matters pertaining to health, safety and welfare.

(c) Trustor has no knowledge of any activity now or formerly conducted on or about the Property or any substance in, upon or emanating (or which emanated) from the Property in violation of any Environmental Law. Trustor represents and warrants to the best of Trustor's knowledge, after due inquiry and investigation, the Property has never been used, nor is it presently used, to generate, manufacture, refine, transport, treat, store, handle or dispose of, nor does the Property contain any, hazardous or toxic substances or wastes, as defined in any applicable Environmental Law, or any other chemical, material, or substance (including, without limitation, asbestos, urea formaldehyde or dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million) exposure to which is prohibited, limited or regulated by any federal, state, county or local authority or which even if not so regulated, may or could pose a hazard to the health and safety of the public or subject the owner of the Property to liability.

(d) Trustor will promptly notify Beneficiary if Trustor becomes aware of any activity conducted on or about the Property, or of any substance in, upon or emanating from the Property in violation of any Environmental Law, in which event Trustor will cause such activity to cease and will remove all such substances from the Property and/or cure such violations promptly after Trustor becomes aware of the same, at Trustor's expense. In the event Trustor fails to do so, Beneficiary may take such actions as may be necessary to cure such violations, and any cost incurred in connection therewith will be paid by Trustor on demand, and if not so paid, will be added to the outstanding principal balance owed under the Loan Document (even if such addition results in the outstanding principal balance being in excess of the face amount of the Loan Document), will bear interest thereafter until actually paid by Trustor at the Default Rate, and will be secured hereby and by all of the other Loan Documents. Trustor hereby grants to Beneficiary and its agents and employees access to the Property and a license to remove any items deemed by Beneficiary to be in violation of any applicable Environmental Law. In the event Beneficiary has reasonable cause to believe there has been a breach of any of the covenants in this Section, upon Beneficiary's request, Trustor will provide, at Trustor's sole expense, an inspection or audit of the Property prepared by a licensed hydrogeologist or licensed environmental engineer approved by Beneficiary indicating the presence or absence of any violations of Environmental Law. If Trustor fails to provide such inspection or audit within thirty days after such request, Beneficiary may order the same, and Trustor hereby grants to Beneficiary and its employees and agents access to the Property and a license to undertake such inspection or audit. The cost of such inspection or audit will be paid by Trustor on demand and, if not so paid, will be added to the outstanding principal balance owed under the Loan Document (even if such addition results in the outstanding principal balance being in excess of the face amount of the Loan Document), will bear interest thereafter until actually paid by Trustor at the Default Rate, and will be secured hereby and by all of the other Loan Documents. Trustor hereby indemnifies Beneficiary to the extent described in and subject to the provisions of this Section.

(e) Trustor will indemnify, defend and hold Beneficiary harmless from and against any loss, claim, damage, liability, fine, penalty, cost or expense (including attorneys' fees and expenses) arising from, out of or related to any Prohibited Activities at or on the Property, Prohibited Activities by Trustor or any lessee of the Property, or Trustor's breach, violation, or failure to enforce or comply with any of the covenants set forth in this Section. This indemnity includes, without limitation any claim by any governmental entity or agency, any lessee, or any third person, including

any governmental action for seizure or forfeiture of any of the Property (with or without compensation to Beneficiary, and whether or not any of the Property is taken free of or subject to Beneficiary's lien or security interest.

39. Jury Trial Waiver: Class Action Waiver. As permitted by applicable law, each party waives their respective rights to a trial before a jury in connection with any Dispute (as hereinafter defined), and Disputes will be resolved by a judge sitting without a jury. If a court determines that this provision is not enforceable for any reason and at any time prior to trial of the Dispute, but not later than 30 days after entry of the order determining this provision is unenforceable, any party will be entitled to move the court for an order compelling arbitration and staying or dismissing such ~~litigation~~ pending arbitration ("Arbitration Order"). If permitted by applicable law, each party also waives the right to litigate in court or an arbitration proceeding any Dispute as a class action, either as a member of a class or as a representative, or to act as a private attorney general.

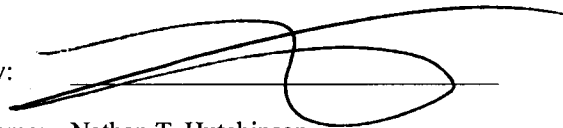
40. Final Expression. This Deed of Trust is the final expression of the agreement between the parties and may not be contradicted by evidence of any alleged oral agreement.

IN WITNESS WHEREOF, the undersigned has executed this Deed of Trust on the date set forth below, to be effective as of the date first set forth above.

TRUSTOR:

BCP DEVELOPMENT, INC., a UTAH Corporation

By: _____

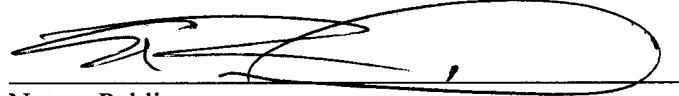


Name: Nathan T. Hutchinson
Title: President

STATE OF UTAH)

COUNTY OF UTAH)

This instrument was acknowledged before me on this 19th day of November, 2021 by Nathan T. Hutchinson, as President of BCP Development, Inc., a UTAH Corporation, on behalf of said company.



Notary Public

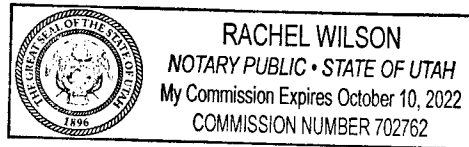


EXHIBIT A

Information for Reference Purposes:

Includes all of Tax Parcel Nos: **59-018-0033, 59-045-0086**

Includes portions of Tax Parcel Nos. **59-018-0044, 59-045-0085, 59-045-0031, 59-056-0019**

**EXHIBIT "A"
Legal Description**

A portion of Sections 18 and 19, Township 6 South, Range 1 West, Salt Lake Base & Meridian, and Sections 13 and 24, Township 6 South, Range 1 West, Salt Lake Base & Meridian, being described by survey as follows:

Beginning at the South Quarter Corner of Section 18, Township 6 South, Range 1 West, Salt Lake Base & Meridian; thence N89°54'05"W along the Section Line 225.58 feet; thence S3°11'37"W 1462.55 feet; thence N89°09'35"W 5017.32 feet to the west line of that real property described in Deed Entry No. 45368:2000 (said west line also being the east line of Pony Express Parkway); thence N0°27'08"E along the east line of Pony Express Parkway 4143.61 feet to the westerly extension of the south line of **EAGLE POINT SUBDIVISION PLATS "B", "C" & "D"**; thence S89°13'23"E along the westerly extension and the south line of the above referenced subdivisions 4994.27 feet to the east line of that real property described in Deed Entry No. 92249:2019; thence S3°15'22"W along said real property 6.22 feet to the north line of that real property described in Deed Entry No. 92396:2019; thence along said real property the following six (6) courses: S89°13'24"E 138.49 feet; thence S3°03'40"W 419.66 feet; thence S87°43'38"E 1163.84 feet to the west side of a county road; thence along said county road the following two (2) courses: S2°08'08"W 1130.21 feet; thence S3°07'51"W 1089.37 feet to the south line of Section 18; thence N89°56'00"W along the Section Line 879.69 feet to the point of beginning.

LESS AND EXCEPTING THEREFROM the following:

Beginning at a point North 840.51 feet and West 253.90 feet from the South quarter corner of Section 18, Township 6 South, Range 1 West, (Based on the Utah State Plane Coordinate System); thence North 25.00 feet; thence West 50.00 feet; thence South 50.00 feet; thence East 50.00 feet; thence North 25.00 feet to the point of beginning.
(Parcel No. 59:018:0009)

Beginning at a point North 1316.37 feet and East 719.67 feet from the South quarter corner of Section 18, Township 6 South, Range 1 West, (Based on the Utah State Plane Coordinate System); thence North 25.00 feet; thence East 50.00 feet; thence South 50.00 feet; thence West 50.00 feet; thence North 25.00 feet to the point of beginning.
(Parcel No. 59:018:0011)

Beginning at a point located North 89°54'05" West 303.90 feet along the section line and North 754.02 feet from the South quarter corner of Section 18, Township 6 South, Range 1 West, Salt Lake Base and Meridian; thence North 50.00 feet; thence East 50.00 feet; thence South 50.00 feet; thence West 50.00 feet to the point of beginning.
(Parcel No. 59:018:0045)

Contains: ±542.50 Acres