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WHEN RECORDED, PLEASE RETURN TO:

David Gee
Parr Waddoups Brown Gee & Loveless
185 South State Street, Suite 1300
Salt Lake City, Utah 84111

DOC # 20080009892

Easements Page 1 of 15
Russell Shirts Washington County Recorder
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By SOUTHERN UTAH TITLE CO



EASEMENT

THIS EASEMENT (this "Easement") is executed as of the 4th day of March, 2008, by AVEDEA, LLC, a Utah limited liability company ("Avedea"), whose address is 170 North 400 East, Suite E, St. George, Utah 84770, DRY DITCH, LLC, a Utah limited liability company ("Dry Ditch"), whose address is 170 North 400 East, Suite E, St. George, Utah 84770, and PEACH FARM PROPERTIES, LLC, a Utah limited liability company ("Peach Farm"; and together with Dry Ditch and Avedea, and their respective successor and assigns, individually and collectively, as the context may require, the "Grantor"), whose address is 170 North 400 East, Suite E, St. George, Utah 84770, and BOYER SANTA CLARA CENTER, LLC, a Utah limited liability company (together with its successors and assigns "Grantee") whose address is 90 South 400 West Suite 200, Salt Lake City, Utah 84101. Grantor and Grantee are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS:

A. WHEREAS, Grantors individually and collectively own certain parcels of real property located in Washington County, Utah, more particularly described on Exhibit A attached hereto (the "Grading Property").

B. WHEREAS, Dry Ditch is the owner of certain real property located in Washington County, Utah, more particularly described on Exhibit B attached hereto (the "Triangle Property"; and together with the Grading Property, collectively, the "Burdened Property").

C. WHEREAS, on or around the date hereof, Grantee purchased certain real property located in Washington County, Utah, from Avedea more particularly described on Exhibit C attached hereto (the "Benefited Property").

D. WHEREAS, in connection with the purchase of the Benefited Property, Grantee has required that each Grantor enter into this Easement for the benefit of the Benefited Property.

E. WHEREAS, each Grantor is under common control with Avedea and will receive a direct and indirect benefit from Grantee's purchase of the Benefited Property from Avedea.

NOW, THEREFORE, FOR THE SUM OF TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the undersigned agree as follows:

AGREEMENT:

1. Grant of Excavation Easements.

(a) Dry Ditch hereby grants, establishes and creates for the benefit of, and as an appurtenance to, the Benefited Property and to Grantee, its employees, agents and contractors (together with Grantee, the "Grantee Parties"), a temporary, appurtenant construction easement over, on and to the Triangle Property for the purpose of entering upon, excavating and removing any and all dirt, soil and rock from the Triangle Property to an elevation not below two feet above the existing elevation of the Red Mountain dirt road at a point of 300 feet north of the intersection with Pioneer Parkway on the entire Triangle Property in connection with the development and landscaping of the Benefited Property (the "Triangle Property Excavation Work"). In connection with performing the Triangle Property Excavation Work, the Grantee Parties are hereby granted the right to enter upon the Triangle Property with any and all excavating equipment as the Grantee Parties may deem necessary or desirable to perform the Triangle Property Excavation Work. In addition, the Grantee Parties may remove or demolish any and all landscaping and structures upon the Triangle Property in connection with such Triangle Property Excavation Work except the armoring and banks of the Tuachan Wash.

(b) In the event the Triangle Property Excavation Work does not provide enough dirt, rock and soil to level and grade the Benefited Property in accordance with Grantee's construction plans, Grantor hereby grants, establishes and creates for the benefit of, and as an appurtenance to, the Benefited Property and to the Grantee Parties a temporary, appurtenant construction easement over and on the Burdened Property for the purpose of entering upon, excavating and removing any and all dirt, soil and rock from the Burdened Property to an elevation not below that set forth in the Grading Plans (defined below) in connection with the development and landscaping of the Benefited Property (the "Adjacent Property Excavation Work"). The Grantee Parties shall be entitled to remove from the Benefited Property an amount of dirt, rock and soil as is required to cause the Benefited Property to be filled and graded at an elevation of that contained in the Grantee's construction plans for the Benefited Property, which plans have been previously delivered to Grantor. Prior to commencing the Adjacent Property Excavation Work, Grantee shall submit to Grantor for Grantor's approval, which approval shall not be unreasonably conditioned, delayed or withheld, a plan for

performing the Adjacent Property Excavation Work, which plan shall set forth the elevation to which the Adjacent Property Excavation Work (the "Grading Plans"). Within five (5) days of Grantor's receipt of the Grading Plans, Grantor shall either approve or disapprove of the Grading Plans. In the event Grantor does not disapprove of the Grading Plans within such five (5) day period, Grantor shall be deemed to have approved of the Grading Plans. In the event Grantor disapproves of the Grading Plans, Grantor shall give written notice of such disapproval to Grantee in writing within such five (5) day period, which notice shall include a reasonably detailed explanation of what changes, if made, would cause Grantor to give its approval to the Grading Plans. Grantee shall then seek to revise the Grading Plans and resubmit the same to Grantor for Grantor's approval in accordance with the procedure set forth above. In the event the Parties cannot, after good faith efforts, agree on the Grading Plans, the matter shall be submitted to shall be settled by dispute arbitration pursuant to Utah Code Annotated Section 78-31a-1 (or any successor statute). In connection with performing the Adjacent Property Excavation Work, the Grantee Parties are hereby granted the right to enter upon the Burdened Property with any and all excavating equipment as the Grantee Parties may deem necessary or desirable to perform such Adjacent Property Excavation Work. In addition, the Grantee Parties may remove or demolish any and all landscaping and structures upon the Burdened Property in connection with such Adjacent Property Excavation Work. In the event Grantee performs any Adjacent Property Excavation Work, upon completion of the Adjacent Property Excavation Work, Grantee shall level and grade the Burdened Property in accordance with the Grading Plans.

(c) Grantor hereby grants, establishes and creates for the benefit of, and as an appurtenance to, the Benefited Property and to the Grantee Parties a temporary, appurtenant construction easement over the Burdened Property for the purpose of (i) construction staging, parking, loading and off-loading equipment and material over and across the Burdened Property during the construction of the improvements on the Benefited Property, and (ii) a non-exclusive right of continuous pedestrian, passenger and construction equipment, heavy haul and vehicular, and emergency ingress, egress and access to the Benefited Property over the Burdened Property.

(d) In accordance with construction plans previously approved by Grantor and Grantee, Grantee has agreed to line the wash running along the north side of the Benefited Property and portions of the Burdened Property as depicted on Exhibit E attached hereto (the "Wash") with lava rock and blue clay (the "Wash Work") and further that said Wash shall be outside the 100 year flood plan for the Benefited Property. In connection with the foregoing, Grantor hereby grants, establishes and creates for the benefit of, and as an appurtenance to, the Benefited Property and to the Grantee Parties a temporary, appurtenant construction easement over the Burdened Property for the purpose of performing the Wash Work.

2. Reimbursement of Costs of Excavation Work. In the event Grantee performs any Adjacent Property Excavation Work and/or the Wash Work, Grantor hereby jointly and severally agrees to pay to Grantee an amount equal to the additional costs and expenses incurred by Grantee in connection with performing the Wash Work and the Adjacent Property Excavation Work (the

“Excavation Work Reimbursement”). From time to time, Grantee may submit an invoice to Grantor at the address set forth above or at such other address specified in writing by Grantor, which shows the total amount of costs and expenses incurred by Grantee in connection with Grantee’s performance of the Adjacent Property Excavation Work and the Wash Work (each a “Reimbursement Statement”). Within thirty (30) days following Grantee’s delivery of a Reimbursement Statement, Grantor shall pay to Grantee the Excavation Work Reimbursement as shown in the applicable Reimbursement Statement. In the event Grantor fails to pay the Excavation Work Reimbursement in full within such thirty (30) day period, the unpaid amount of such Excavation Work Reimbursement shall begin accruing default interest at a rate equal to eighteen percent (18%) per annum.

3. Assessment Lien.

(a) In the event any Excavation Work Reimbursement or other sum of money payable by any Grantor to Grantee pursuant to any provision of this Easement is not paid within thirty (30) days following Grantor’s receipt of a Reimbursement Statement, then Grantee shall have the right to record against the Burdened Property, in the office of the County Recorder of Washington County, Utah, a notice stating that said Excavation Work Reimbursement or other sum has not been paid and that the applicable grace period for such payment has expired (a “Notice of Assessment Lien”) which Notice of Assessment Lien shall set forth the then delinquent amount owed by Grantor (including default interest). Upon recordation of such Notice of Assessment Lien, the then delinquent amount owing by Grantor, together with interest thereon, shall constitute a lien (an “Assessment Lien”) upon the Burdened Property. In the event the amount secured by such Assessment Lien (including all default interest accruing thereon) is not paid in full within thirty (30) days after such Notice of Assessment Lien has been recorded, Grantee may enforce payment of the Excavation Work Reimbursement or other amount due, along with attorney’s fees incurred by Grantee in exercising its rights hereunder, or enforce the Assessment Lien against the Burdened Property and interest of Grantor by taking any or all of the following actions, concurrently or separately (and, by exercising any of the remedies set forth below, Grantee shall not prejudice or waive its right to exercise any other remedy or additional remedies as may be available under this Easement or under applicable law):

(i) Bringing an action at law against Grantor;

(ii) Foreclosing the Assessment Lien against the Burdened Property in accordance with the then prevailing applicable law relating to the foreclosure of mortgages (including the right to recover any deficiency); or

(iii) Pursuing any other remedy at law or in equity.

(b) The Excavation Work Reimbursement and other amounts due pursuant to any provision of this Easement by Grantor, together with interest, costs and attorneys’ fees, shall be the personal obligation of each Grantor, jointly and severally, but such personal obligation

of Grantor shall not be deemed to discharge or limit the charge on the land of any Assessment Lien encumbering the Burdened Property, regardless of a subsequent conveyance of the Burdened Property. In the event Grantor conveys the Burdened Property, Grantor shall not escape liability for payment of any amount due hereunder which fell due while Grantor was the owner of the Burdened Property. In the event a Notice of Assessment Lien has been recorded against the Burdened Property and the Burdened Property is sold, conveyed or otherwise transferred, in whole or in part, by Grantor, the Burdened Property shall remain subject and subordinate to the Assessment Lien created by reason of the delinquency described in the Notice of Assessment Lien.

(c) Each Assessment Lien shall be superior to any and all other charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon any portion of the Burdened Property; provided, however, that such Assessment Lien shall be subject and subordinate to all liens recorded prior to the recordation of a Notice of Assessment Liens.

(d) In the event Grantor shall be delinquent in paying any amounts due hereunder and, as a result thereof, a Notice of Assessment Lien shall be recorded as provided herein, Grantee may record subsequent Notices of Assessment Lien as to any amounts owing by Grantor after the recordation of the first such Notice of Assessment Lien, and the priority of the Assessment Lien as to any such amounts thereafter becoming delinquent shall be fixed as of the date of recordation of the first such Notice of Assessment Lien. Grantee may prosecute a single Assessment Lien foreclosure action as to amounts delinquent at the time a Notice of Assessment Lien is recorded and as to amounts thereafter becoming delinquent, up to and including the time a final judgment is rendered in such action.

(e) Upon the curing of any default for which a Notice of Assessment Lien was recorded, Grantee shall record an appropriate release of any Notice of Assessment Lien upon payment by Grantor of a reasonable fee to cover the costs of preparing and recording such release, together with the payment of such other costs, including, without limitation, legal fees and court costs, interest or fees, as such person shall have incurred.

4. Grant of Support Easement. In order to accommodate the construction, reconstruction or repair of any building or other improvement which may be constructed or reconstructed immediately adjacent to the common boundary lines of the Benefited Property, Grantor hereby grants, establishes and creates for the benefit of, and as an appurtenance to, the Benefited Property and for the benefit of Grantee, a perpetual non-exclusive easements for lateral and subjacent support for improvements constructed on or near such common boundary lines, together with the right and easement to install, maintain, repair, and replace footings and underground supports for such improvements in space not theretofore occupied by any then existing structure, provided that such footings shall in no event extend more than ten (10) feet onto the Burdened Property from the applicable common boundary line. If a common footing or support is used by both Grantor and Grantee, each shall assume and pay their reasonable share of the cost and expense of the initial construction and, so long as both Grantor and Grantee are each benefiting therefrom, any subsequent maintenance, repair, and replacement thereof. Neither Grantor not Grantee shall modify any such

common footing or support without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed.

5. Wash Representations. Grantor represents to Grantee that all work previous done by Grantor with respect to the wash has been done in accordance with all applicable laws, rules, regulations and ordinances.

6. General Provisions. This Easement shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the State of Utah. This Easement shall inure to the benefit of, and be binding on, Grantor and Grantee and their respective heirs, personal representatives, successors and assigns. Each easement, covenant and right created by this Easement is appurtenant to the Benefited Property and may not be transferred, assigned or encumbered except as an appurtenance to the Benefited Property. Whenever possible, each provision of this Easement shall be interpreted in such manner as to be valid under applicable law; but, if any provision of this Easement shall be invalid or prohibited under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision or the remaining provisions of this Easement. In the event that at any either Grantor or Grantee institutes any action or proceeding against the other relating to the provisions of this Easement or any default hereunder, then the unsuccessful Party in such action or proceeding agrees to reimburse the successful Party for the reasonable expenses of such action including reasonable attorneys' fees, incurred therein by the successful Party.


7. Term of Easement. The easements outlined in Section 1 shall expire upon completion of the construction contemplated herein but in no event will the easement outlined in Section 1 extend past December 1, 2009, and in accordance with paragraph 1(b) the parties agree to coordinate construction as required.

[Signatures appear on the next page.]

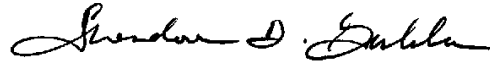
Grantor has executed this Easement to be effective as of the date first set forth above.

GRANTOR:

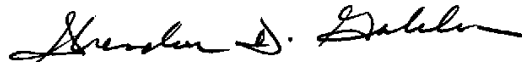
AVEDEA, LLC, a Utah limited liability company

By: 
Name: Shandon D. Gubler
Title: Manager

DRY DITCH, LLC, a Utah limited liability company

By: 
Name: Shandon D. Gubler
Title: Manager

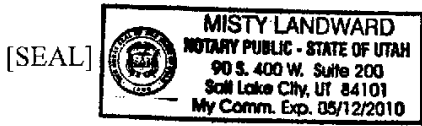
PEACH FARM PROPERTIES, LLC, a Utah limited liability company

By: 
Name: Shandon D. Gubler
Title: Manager

ACKNOWLEDGMENTS

STATE OF UTAH)
 : ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 4 day of March, 2008, by Shandon D Gubler, the Manager of Avedea, LLC, a Utah limited liability company, on behalf of said company.



Misty Landward
NOTARY PUBLIC
Residing in Salt Lake

My Commission Expires:

May 12, 2010

STATE OF UTAH)
 : ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 4 day of March, 2008, by Shandon D Gubler, the Manager of Dry Ditch, LLC, a Utah limited liability company, on behalf of said company.



Misty Landward
NOTARY PUBLIC
Residing in Salt Lake

My Commission Expires:

May 12, 2010

STATE OF UTAH)
 : ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 4 day of March, 2008, by Shandon D Guider, the Manager of Peach Farm Properties, LLC, a Utah limited liability company, on behalf of said company.

[SEAL]



Misty Landward
NOTARY PUBLIC
Residing in Salt Lake

My Commission Expires:

May 12, 2010

Exhibit A

[Legal Description of Grading Property]

Certain real property located in Washington County, Utah, more particularly described as follows:

A part of Lots 1, 2, 3, and 8, Block 28, of the St. George and Santa Clara Bench Irrigation Company Survey within the Northwest Quarter of Section 9, Township 42 South, Range 16 West, Salt Lake Base and Meridian, U.S. Survey in Washington County, Utah:

Beginning at a point on the East Line of Rachel Drive as it exists at 30.00 foot half-width located 858.22 feet North 0°37'37" East along the Section Line and 30.00 feet South 89°22'23" East from the West Quarter corner of said Section 9; and running thence North 0°37'37" East 147.06 feet along said East Line to the North Line of the South Half of said Lot 3; thence South 88°59'13" East 1284.36 feet along the North Line of said South Half of Lot 3 and the North Line of the South Half of Lot 8 to the West Line of Red Mountain Road as it exists at 24.75 foot half-width; thence South 0°28'08" West 970.10 feet along said West Line of Red Mountain Road to the North Line of Pioneer Parkway as it exists at 40.00 foot half-width; thence North 88°47'13" West 1,084.40 feet along said North Line of Pioneer Parkway; thence North 0°37'37" East 202.70 feet; thence North 88°47'28" West 202.68 feet to the East line of Rachel Drive as it exists at 30.00 foot half-width; thence North 00°37'37" East 615.84 feet along said East Line to the point of beginning.

Contains 1,203,232 sq. ft. or 27.622 acres

Less and excepting the following:

A part of Lots 1, 2, and 3, Block 28, of the St. George and Santa Clara Bench Irrigation Company Survey within the Northwest Quarter of Section 9, Township 42 South, Range 16 West, Salt Lake Base and Meridian, U.S. Survey in Washington County, Utah:

Beginning at a point on the East Line of Rachel Drive as it exists at 30.00 foot half-width located 858.22 feet North 0°37'37" East along the Section Line and 30.00 feet South 89°22'23" East from the West Quarter corner of said Section 9; and running thence South 89°22'23" East 504.53 feet; thence South 28°38'27" East 146.96 feet; thence South 16°36'53" East 238.27 feet; thence South 0°37'37" West 469.39 feet to the North Line of Pioneer Parkway as it exists at 40.00 foot half-width; thence North 88°47'13" West 444.36 feet along said North line; thence North 0°37'37" East 202.70 feet; thence North 88°47'28" West 202.68 feet to the East line of Rachel Drive as it exists at 30.00 foot half-width; thence North 00°37'37" East 615.84 feet along said East Line to the point of beginning.

Contains 468,955 sq. ft. or 10.766 acres; Net Area Contains 734,277 sq. ft. or 16.856 acres

Tax Parcel Id : SC-6-2-9-4301, SC-6-2-9-4302, SC-6-2-9-4303, SC-6-2-9-4304, SC-6-2-9-4305, SC-6-2-9-4310, SC-6-2-6-4311, and SC-6-2-9-4313.

Exhibit B

[Legal Description of Triangle Property]

That portions of the West 1/2 of the Southeast 1/4 of the Northwest 1/4 of Section 9, Township 42 South, Range 16 West, Salt Lake Base and Meridian, that lies South of the current Tuscahn Wash, East of Red Mountain Drive, and North of Pioneer Parkway.

SC-6-2-9-1100 and SC-6-2-9-1

Exhibit C

[Legal Description of Benefited Property]

A part of Lots 1, 2, and 3, Block 28, of the St. George and Santa Clara Bench Irrigation Company Survey within the Northwest Quarter of Section 9, Township 42 South, Range 16 West, Salt Lake Base & Meridian, U.S. Survey in Washington County, Utah:

Beginning at a point on the East Line of Rachel Drive as it exists at 30.00 foot half-width located 858.22 feet North $0^{\circ}37'37''$ East along the Section Line and 30.00 feet South $89^{\circ}22'23''$ East from the West Quarter corner of said Section 9; and running thence South $89^{\circ}22'23''$ East 504.53 feet; thence South $28^{\circ}38'27''$ East 146.96 feet; thence South $16^{\circ}36'53''$ East 238.27 feet; thence South $0^{\circ}37'37''$ West 469.39 feet to the North Line of Pioneer Parkway as it exists at 40.00 foot half-width; thence North $88^{\circ}47'13''$ West 444.36 feet along said North line; thence North $0^{\circ}37'37''$ East 202.70 feet; thence North $88^{\circ}47'28''$ West 202.68 feet to the East line of Rachel Drive as it exists at 30.00 foot half-width; thence North $00^{\circ}37'37''$ East 615.84 feet along said East Line to the point of beginning.

**Contains 468,955 sq. ft.
or 10.766 acres**

Tax Parcel Id SC-6-2-9-4302, SC-6-2-9-4303, SC-6-2-6-4304, SC-6-2-9-4305, SC-6-2-9-4306, SC-6-2-9-4307, SC-6-2-9-4308-B, SC-6-2-9-4310, and SC-6-2-9-4311.

Exhibit D

[Depiction of Wash]

Exhibit E
Depiction of Wash

