

Trust Deed Page 1 of 31

Gary Christensen Washington County Recorder
10/25/2022 02:21:02 PM Fee \$100.00 By
COTTONWOOD TITLE INSURANCE AGENCY,
INC.

WHEN RECORDED, MAIL TO:

162668-DMF

Bryan M. Scott
Attorney at Law
Preston & Scott
111 S. Main, Suite 1600
Salt Lake City, UT 84111
Telephone (801) 869-1633
bms@prestonandscott.com

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

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

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

THIS DEED OF TRUST IS ALSO A FIXTURE FILING TO BE RECORDED IN THE REAL ESTATE RECORDS OF WASHINGTON COUNTY, UTAH AND IS TO BE INDEXED NOT ONLY AS A DEED OF TRUST BUT ALSO AS A FIXTURE FILING.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS DEED OF TRUST, THE ABOVE-REFERENCED PROMISSORY NOTE, OR ANY OTHER LOAN DOCUMENT (AS DEFINED BELOW), THIS DEED OF TRUST DOES NOT SECURE THE OBLIGATIONS OF ANY GUARANTOR OF ANY PAYMENT, PERFORMANCE AND/OR OTHER OBLIGATION OF TRUSTOR UNDER SUCH PROMISSORY NOTE OR LOAN DOCUMENTS.

This DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT (this "Deed of Trust") is made as of October 18, 2022, by and among: RENEGADE SVE, L.L.C., , a Utah limited liability company, 13592 Aintree Hill Cove, Draper, UT 84020 ("Trustor"); COTTONWOOD TITLE INSURANCE AGENCY, INC., 7020 South Union Park Avenue, Midvale, UT 84047 ("Trustee"); and MILLER BATES, LLC, , a

Utah limited liability company, 1245 East Brickyard Road, Suite 100, Salt Lake City, UT 84106 ("Beneficiary"). Trustor, Trustee and Beneficiary are referred to collectively herein as the "Parties."

WITNESSETH:

For good and valuable consideration, including the indebtedness herein recited, the receipt of which is hereby 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 and, in addition thereto, hereby grants to Beneficiary a security interest in all of Trustor's present and future right, title and interest in and to all of the following personal property (collectively, the "Property"):

(a) All of that certain real property located in Washington County, Utah, described in Exhibit A hereto (the "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, water shares, water share certificates, 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 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 water service and wastewater agreements relating to the Real Property or any portion thereof, all buildings and other improvements or personal property now or hereafter placed, erected, or located on the Real Property;

(h) 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;

(i) 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 rights in and to any present and future deposit accounts, investment accounts or other accounts maintained with Beneficiary or with another institution into which disbursements of the loan secured hereby have been deposited;

(o) All goods, materials, supplies, fixtures, machinery, furniture and furnishings, appliances, attachments, equipment, inventory, general intangibles, accounts, chattel paper, instruments, notes, drafts, letters of credit, documents and other personal property (to the extent that any of the foregoing constitute personal property under applicable law) that directly or indirectly relate to or are used or intended for use on or in connection with the use, leasing, development, design, financing, construction and/or sale of the Real Property or any portion thereof, or any buildings or improvements located thereon or any easements, appurtenances, hereditaments or privileges appurtenant or incident thereto; and

(p) 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 shall be construed as cumulative and not limiting, and the term "including", when used in those descriptions, shall 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" shall have the meanings provided for those terms in the Uniform Commercial Code of the State of Utah (the "Utah UCC"), as it may be amended.

THIS DEED OF TRUST CONTAINS A POWER OF SALE.

THE REAL PROPERTY HEREBY CONVEYED IS NOT USED PRINCIPALLY FOR PERSONAL CONSUMER OR AGRICULTURAL PURPOSES.

Trustor makes the grant, conveyance, transfer and assignment set forth above for the purpose of securing: (a) payment of the principal amount of \$4,505,978.26, together with interest thereon and all other amounts owed under and according to the terms of that certain Secured Promissory Note of even date herewith (the "Note"), made by Trustor and payable to the order of Beneficiary, together with all extensions, amendments, increases in principal amount, future advances, modifications, renewals or replacements of the Note, and all other amounts owed under the terms of the Note, (b) the payment and performance of each agreement and obligation of Trustor contained herein or of any other party under any document contemplated in or related to the Note in any way, directly or indirectly (including an Environmental Indemnity Agreement of even date herewith), together with the Note and this Deed of Trust, the "Loan Documents"; and (c) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms of this Deed of Trust or the Note or any related document, together with interest thereon as provided herein. This Deed of Trust shall also secure the payment and performance of all other Loan Documents (expressly excluding the Guarantees and the Environmental Indemnity) and of any additional loans that may hereafter be made by Beneficiary to Trustor which are evidenced by a promissory note or notes or other writings stating that they are secured by this Deed of Trust.

Defined terms used, but not defined herein, shall have the meaning given such terms in the Loan Documents.

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

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 the Property and has good and marketable and unencumbered fee title to the Property, and Trustor will forever defend the same against all claims and persons whomsoever, for the benefit of Beneficiary, its successors and assigns, subject only to the matters approved by Beneficiary as acceptable exceptions to title pursuant to written instructions to the Trustee. All of Trustor's present and future right, title and interest in the Property shall 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; Due on Sale/Encumbrance.

(a) Trustor shall 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 shall 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 shall 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 promptly replace carpets and window treatments, and will repaint the Property, when needed. All replacements of items of the Property will be of a value equal to or greater than the value of the item or items replaced. Trustor shall not commit, or permit to occur, any waste upon the Property. Trustor shall keep the Property free of termites, dry rot, fungus and all harmful or destructive insects and shall keep the landscaping of the Property in good condition, watered and free from weeds, and all plants, trees, and shrubs pruned and in good condition. Subject to normal clearing, grading and construction activities, Trustor shall keep the Property free of rubbish and unsightly, unsafe, and unhealthful conditions.

(b) In connection with any construction contemplated by the Loan Documents or permitted or required by this Deed of Trust, Trustor shall 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 will have issued, as and when required, all required permits for the construction of the improvements on the basis of the plans and specifications so approved. To the best of Trustor's knowledge, after due inquiry and investigation, the Property, any improvements thereon and their use fully comply and shall continue to 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. The zoning designation of the Real Property is based on no real property or rights appurtenant thereto, other than the Real Property.

(c) In the event of any loss, damage or destruction to the Property, Trustor shall, to the extent that insurance proceeds are available for rebuilding under Section 3(g) 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 shall 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 shall 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.

(e) Without limiting Section 17 of the Note, it shall also be an Event of Default if Trustor or any person or entity owning an interest in Trustor (an "Interest Owner") shall, without the prior written consent of Beneficiary, permit, acquiesce to or allow any of the following to occur: (A) a sale, conveyance, option to sell, assignment, transfer, encumbrance (other than the Permitted Encumbrances), including any mortgage, hypothecation, lien or conveyance of security title, alienation, pledge, forfeiture or other disposition (whether directly

or indirectly, voluntary or involuntary, or by operation of law) of all or any portion of the Property or an interest in the Property or direct or indirect ownership interests in Trustor; (B) the reconstitution or conversion of Trustor and/or any Interest Owner from one entity type to another entity type, including (i) any change in the state of formation or organization or incorporation of Trustor, (ii) any change in the name of Trustor, (iii) the admission of an Interest Owner as, or conversion of an existing Interest Owner into, a holder of any "preferred equity" in Trustor (obligating the Trustor to make payments to such Interest Owner without regard to cash flow of the Property), and (iv) a partial or complete liquidation, dissolution or termination of Trustor; (C) the issuance or other creation of ownership interests in the Trustor and/or any Interest Owner; (D) a merger, consolidation, reorganization or any other business combination with respect to Trustor and/or any Interest Owner; (E) a conversion to or operation of all or any portion of the Property as a cooperative or condominium form of ownership; or (F) a divisive merger or divisional merger or other similar division of Trustor or the sole member of Trustor or their assets and liabilities, including, but not limited to, a divisive merger under Section 18-217 of the Delaware Limited Liability Company Act or under any other similar statutes in any state which allow for a divisive or divisional merger of any entity or its assets and liabilities. For the purpose of this Subsection 2(e), the term "Permitted Encumbrances" means (i) all title exceptions set forth in the lender's policy of title insurance issued by First American Title Insurance Company issued to Beneficiary in connection with the making of the Loan, (ii) the lien and security interests created by the Loan Documents, (iii) the Lease(s), (iv) liens, if any, for taxes or charges imposed by any governmental authority not yet due or delinquent or which are being disputed by Trustor in good faith, and (v) any title matters or exceptions permitted by the Loan Documents or otherwise approved in writing by Beneficiary subsequent to the closing date of the Loan. In no event shall a mechanic's or materialman's lien (or any memorandum thereof) be deemed to be a Permitted Encumbrance.

3. Insurance.

(a) Trustor shall 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, subject to limitations, if any, of applicable law, in no event less than the amount of the total indebtedness secured hereby. At a minimum, such hazard insurance shall be an all-risk policy and shall include an agreed value or agreed amount endorsement suspending the application of any co-insurance clause that might otherwise be applicable.

(b) Hazards insured against shall include flood damage, in an amount equal to the lesser of the amount of the loan secured hereby or the maximum amount available under the Flood Disaster Protection Act of 1973 and regulations issued pursuant thereto, as amended from time to time, in form complying with the "insurance purchase requirement" of said Act, if the Real Property, or any part thereof, lies within a "special flood hazard area" as designated on maps prepared by the Department of Housing and Urban Development or Federal Emergency Management Agency.

(c) Beneficiary may also require business interruption and rental loss insurance in an amount equal to not less than twelve (12) months (or such longer period of time as would be required to rebuild and restore the Property in the event of a total loss) income or rentals, which insurance shall increase in coverage in the event additional portions of the Property are leased.

(d) 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.

(e) 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.

(f) Trustor shall 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 shall 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 shall 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 shall provide certified copies of any and all of the foregoing policies. Acceptance of policies tendered by Trustor shall not preclude Beneficiary from requiring other or additional insurance against the same or other hazards.

(g) 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 shall not be obligated to ensure the proper application of any amount paid over to Trustor. Irrespective of the dollar

amount of the loss or claim, Trustor shall provide Beneficiary with sufficient documentation and information necessary or required by Beneficiary to verify and confirm the exact nature and extent of the damage or destruction to the Property and the amount of funds required to repair or rebuild the Property, together with a budget (which shall be subject to Beneficiary's approval) describing the repair or restoration work to be performed and the costs of labor and material for each stage of repair or restoration work. If insurance proceeds are used for the repair, rebuilding and restoration of the Property, insurance proceeds shall be placed in a segregated account with Beneficiary and used for the repair, rebuilding and restoration of the insured loss, through such procedures and with such safeguards for release of such proceeds and payment of construction and related expenses as Beneficiary customarily imposes for advances of construction loan funds, which may include requirements that: (i) Trustor first expend or deposit into the escrow account any difference between the total cost of repair, rebuilding and restoration and the amount of such proceeds; (ii) Trustor, at its expense, promptly prepare and submit to Beneficiary all plans and specifications necessary for the restoration and repair of the damaged Property, together with evidence acceptable to Beneficiary setting forth the total expenditure needed for the restoration and repair based upon a fixed price contract with a reputable builder; (iii) the plans and specifications and all other aspects of the proposed restoration and repair be subject to Beneficiary's approval in the exercise of its reasonable discretion; (iv) Trustor commence restoration and repair of the damaged Property only after Beneficiary shall have notified Trustor in writing that the use of proceeds for restoration and repair is allowable under this Section 3, that the required safeguards, procedures and assignments described in this Section 3 are in place and that the plans and specifications and all other aspects of the proposed restoration have been approved by Beneficiary, and Trustor shall thereafter proceed diligently with the restoration and repair until completed; (v) disbursements be made from the escrow account for the restoration and repair in accordance with a disbursement schedule; and (vi) all funds held in the escrow account be assigned to Beneficiary as further security for the Obligations. Any insurance proceeds not used for repair or restoration of the Property shall be applied to the last maturing installment of principal due and owing under the Note. The Property as rebuilt or restored shall be of at least equal value and substantially identical character as prior to the damage or destruction.

(h) 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, shall 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 (10) days prior to delinquency, Trustor shall 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 shall have been levied or assessed on the Property and, upon Beneficiary's request, shall 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 shall, 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 shall 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 shall 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 shall 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 shall 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 shall 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. Impounds.

(a) At any time requested by Beneficiary, Trustor shall deposit with Beneficiary, in monthly installments, sufficient funds (as determined by Beneficiary) to enable Beneficiary to pay one month before delinquency all taxes, assessments and insurance premiums due with respect to the Property. Each such installment shall be equal to the amount of estimated taxes and assessments, and premiums for such insurance, next due (as estimated by Beneficiary), less all installments already paid therefor, divided by the number of months that will elapse before one month prior to the date when such taxes and assessments or premiums shall become delinquent. If amounts paid to Beneficiary under provisions of this Section 5 are insufficient to discharge the obligation of Trustor for such taxes, assessments or premiums as the same become due, Trustor shall pay to Beneficiary upon demand such additional sums as may be required to fully pay and discharge those items.

(b) To the extent deposits are received by Beneficiary and used to pay taxes, assessments and premiums pursuant to this Section 5, such payments shall satisfy Trustor's obligations to pay such taxes, assessments and premiums pursuant to Sections 3 and 4 above. Any excess funds remaining after payment of all items before delinquency may be remitted to Trustor, or, if an Event of Default then exists, credited on the Obligations.

(c) Nothing in this Section 5 shall release Trustor from, or shift to Beneficiary, the obligation to pay taxes, assessments and insurance premiums as the same become due and payable, or be construed to cause Beneficiary to become a trustee of amounts deposited with Beneficiary; provided, however, Trustor shall not be in default of its obligations under this Deed of Trust to the extent Beneficiary fails to timely release funds from such impounds for the payment of the subject taxes, assessments and insurance premiums and Trustor fails to timely pay the same. Deposits made under this Section 5 may be commingled with

Beneficiary's general corporate funds, and Beneficiary shall hold those deposits without the payment of interest. All amounts paid and deposited hereunder are hereby assigned to Beneficiary as additional security for the Obligations. If any Event of Default occurs, Beneficiary may, at its sole option, apply all or any portion of such deposits to the cure or partial cure of the Event of Default without waiver of or prejudice to the rights of Beneficiary arising by virtue of such Event of Default, or to the payment of principal and interest on the Obligations, in lieu of applying such deposits for any other purposes.

(d) At Beneficiary's request, Trustor shall cause to be furnished to Beneficiary a tax reporting service contract satisfactory in nature and duration, and with a company, satisfactory to Beneficiary, with respect to the Real Property.

6. **Eminent Domain.** Any award or payment of damages or compensation in connection with any private trespass or injury to the Property, exercise of the right of eminent domain or any condemnation proceeding for public use of or injury to the Property or any part thereof, or any right or interest therein, is hereby assigned and payable to Beneficiary, which may apply or release all or any portion of such award, compensation or damages received by it (net of the costs and expenses incurred by Beneficiary in collecting such amounts) in the same manner, upon the same conditions and with the same effect as provided in Section 3(g) above of this Deed of Trust for the disposition of proceeds of fire or other insurance, as if references in Section 3(g) above to insurance proceeds instead referred to condemnation awards (or amounts paid in lieu thereof) and references to damage and casualty loss instead referred to the taking by condemnation or power of eminent domain (or conveyance in lieu thereof); provided that:

(a) any award or compensation attributable to land or to improvements that will not be reconstructed shall be applied to the Obligations; and (b) if any condemnation or taking renders the remaining portions of the Property unsuitable, in the judgment of an independent architect acceptable to Beneficiary and engaged by Trustor, for further development in accordance with the plans and specifications submitted to and approved by Beneficiary as described in Section 3(g) above, the entire award or compensation shall be applied to the Obligations. Beneficiary shall be entitled to join and participate in any eminent domain or condemnation proceedings, including the negotiation and adjudication of any damages, award or settlement, and no stipulation or agreement shall be entered into by Trustor without the prior consent and approval of Beneficiary. Trustor shall pay or reimburse to Beneficiary the legal expenses, appraisal and expert witness fees incurred by Beneficiary and any other direct and out-of-pocket costs incurred by Beneficiary because of such eminent domain and condemnation proceedings. If a cash bond or deposit is to be received by Trustor for the immediate possession of the Property, all sums paid shall be applied by Trustor to the Obligations, unless otherwise agreed by Beneficiary. Notwithstanding any application of sums paid, only Trustor shall be the withdrawing party of sums paid for the purpose of determining any liability for return of any such cash bond or deposit, and Trustor shall promptly satisfy any claim with respect to any such liability and shall save and hold Beneficiary harmless from any claim for return of such cash bond or deposit, including any claim asserted after the release and reconveyance of this Deed of Trust. Any condemnation proceeds not used for repair or restoration of the Property shall be applied to the last maturing installment of principal due and owing under the Note.

7. Assignment of Rents, Profits and Leases.

(a) Trustor represents and warrants to Beneficiary (and to any title insurance company which insures the lien of this Deed of Trust) that, as of the time of recordation of this Deed of Trust, except for the leases described in the subordination, non-disturbance and attornment agreements recorded concurrently herewith or leases otherwise approved by Beneficiary in writing, no recorded or unrecorded lease or rental agreement exists that affects any portion of the Property.

(b) All existing and future rents, revenues, income, receipts, issues and profits of the Property and now or hereafter arising out of any Leases (hereinafter defined) (collectively, "Rents") and the entire right, title and interest of Trustor (including the right to exercise any landlord's liens and any and all other rights and remedies to which Trustor would be entitled under any Lease or by law) in and under all present and future rental agreements, leases, subleases, licenses and all other agreements for the use and occupancy of all or any portion of the Property (including rights in any security deposits and advance rentals held for the benefit of Trustor), together with any extensions, renewals and modifications thereof (collectively, "Leases"), are hereby absolutely assigned and transferred to Beneficiary. Beneficiary is authorized to give notice of this assignment, and Trustor agrees to execute, and to cause its property managers and affiliates to execute, any and all further instruments that Beneficiary may require to perfect this assignment. Any provision hereof notwithstanding, so long as no Event of Default exists, Trustor shall have a license to collect assigned Rents as the same shall fall due. However, upon the occurrence of any Event of Default, all right of Trustor to collect or receive such Rents (including those past due and unpaid) shall terminate, whereupon Beneficiary shall be entitled to demand and receive the payment of such Rents (including those past due and unpaid), and to proceed against any lessee or tenant (or its property) and/or any guarantors of the obligations of any lessee or tenant. In such event, Trustor directs and authorizes the lessees and tenants of the Property and any guarantors to make to Beneficiary all payments required under the applicable Leases; Trustor hereby relieves any and all lessees and tenants from any liability to Trustor that Trustor might otherwise assert by reason of the lessee/tenant's making such payment to Beneficiary. All Rents collected by Beneficiary may be applied for the following purposes in any manner and order that Beneficiary deems advisable:

(i) To the payment of all taxes and assessments levied against the Property if provision for paying those items has not otherwise been made;

(ii) To the payment of construction and development and current operating costs and expenses (including management fees, sales taxes, repairs, maintenance and necessary acquisitions of property and expenditures for capital improvements) arising in connection with the Property;

(iii) To the payment of any amounts due and owing to Beneficiary under the terms of the Obligations;

(iv) To the payment of any lease payments under any ground lease or amounts secured by any other mortgage or deed of trust on the Property approved by Beneficiary; and

(v) Any remainder to Trustor or its designee or other assignee.

(c) Receipt by Beneficiary of Rents shall not constitute a waiver of any other right that Beneficiary may have under this Deed of Trust or the laws of Utah, nor shall the receipt and application thereof cure any Event of Default or affect any foreclosure proceeding or any sale authorized by this Deed of Trust or the laws of Utah.

(d) Except as expressly permitted by the Loan Documents or this Deed of Trust, Trustor shall not, without Beneficiary's prior written consent: (i) assign any of the Rents; (ii) collect any unreasonably large security deposits or any rent for more than one month in advance; (iii) change the general nature of the occupancy; (iv) initiate or acquiesce in any zoning reclassification; (v) terminate or accept a surrender of any Lease (except in the ordinary course of business in the exercise of Trustor's sound business judgment); (vi) amend or modify any Lease to reduce (or effectively reduce by means of rent concessions, rent-free occupancy periods or the granting of tenant improvement allowances) the rent, or to grant any options to purchase or renew or any rights of first refusal; (vii) subordinate, or permit the subordination of, any Lease to the lien of a mortgage or deed of trust that is junior to this Deed of Trust; or (viii) take, fail to take or suffer any action that would impair the security for the Obligations or Beneficiary's interest in the Property or the Rents. Any action taken in violation of the foregoing sentence shall be null and void. Trustor shall fully and timely perform all of the obligations of the landlord under all Leases of any portion of the Property and shall enforce, short of termination, the performance by all lessees and tenants of all of their obligations under the Leases.

(e) Beneficiary shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Trustor under any Lease, and Trustor hereby agrees to indemnify and hold Beneficiary harmless from any and all liability arising from any of the Leases or from the assignment contained in this Section 7. This Section 7 shall not obligate Beneficiary to manage, care for or repair the Property or make Beneficiary liable for any loss or damage to any tenant, invitee, employee, licensee or any other person resulting from the failure to properly manage, care for or repair the Property.

(f) If Beneficiary exercises its rights to possess and exclude Trustor from the Property pursuant to Section 18 of this Deed of Trust, Beneficiary shall have full power and authority to employ such measures as it may deem necessary or advisable, in its sole discretion, to enforce the payment or security of the Rents, including actions for the recovery of rent, actions in forcible detainer and in distress for rent, and with full power: (i) to cancel or terminate any Lease for any reason that would entitle Trustor to cancel or terminate the same; (ii) to disaffirm any Lease which is subordinate to the lien of this Deed of Trust (except such Leases that are subordinate pursuant to a subordination, non-disturbance and attornment agreement); (iii) to extend or modify any then existing Lease and to enter into new Leases, which extensions, modifications and new Leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Note and beyond the date of issuance of a deed(s) to a purchaser(s) at a judicial or nonjudicial foreclosure sale, Trustor agreeing that any such Leases, and the options or other such provisions contained therein, shall be binding upon Trustor and all persons whose interests in the Property are subject to the lien of this Deed of Trust and upon the purchaser(s) at any foreclosure sale, notwithstanding any redemption, discharge or satisfaction of the Obligations or any judgment in foreclosure rendered thereon, or

issuance of any certificate of sale or deed to any purchaser(s); (iv) to undertake and complete all repairs, decorating, renewals, replacements, alterations, additions and improvements to the Property as Beneficiary may deem necessary or advisable; (v) to insure the Property and all risks incidental to Beneficiary's possession, operation and management thereof; and (vi) to receive all of the Rents.

(g) Without limitation of the absolute nature of the assignment of the Rents, Beneficiary and Trustor agree that (i) this Deed of Trust shall constitute a "security agreement" for purposes of 11 U.S.C. Section 552(b), (ii) the security interest created by this Deed of Trust extends to property of Trustor acquired before the commencement of a case in bankruptcy and to all amounts paid as Rents (including, without limitation, any Extraordinary Rental Payments), and (iii) such security interest shall extend to all Rents (including, without limitation, any Extraordinary Rental Payments) acquired by the estate after the commencement of any case in bankruptcy. Without limitation of the absolute nature of the assignment of the Rents, to the extent Trustor (or Trustor's bankruptcy estate) shall be deemed to hold any interest in the Rents (including, without limitation, any Extraordinary Rental Payments) after the commencement of a voluntary or involuntary bankruptcy case, Trustor hereby acknowledges and agrees that such Rents (including, without limitation, any Extraordinary Rental Payments) are and shall be deemed to be "cash collateral" under Section 363 of the Bankruptcy Code. During the pendency of such bankruptcy case, Trustor may not use the cash collateral without the consent of Beneficiary and/or an order of any bankruptcy court pursuant to 11 U.S.C. 363(c)(2), and Trustor hereby waives any right it may have to assert that such Rents (including, without limitation, any Extraordinary Rental Payments) do not constitute cash collateral. No consent by Beneficiary to the use of cash collateral by Trustor shall be deemed to constitute Beneficiary's approval, as the case may be, of the purpose for which such cash collateral was expended.

(h) Trustor acknowledges and agrees that, upon recordation of this Deed of Trust, Beneficiaries' interest in the Rents shall be deemed to be fully perfected, and enforced as to Trustor and all third parties, including, without limitation, any subsequently appointed trustee in any case under the Bankruptcy Code, without the necessity of (a) commencing a foreclosure action with respect to this Deed of Trust, (b) furnishing notice to Trustor or tenants under the Leases, (c) making formal demand for the Rents, (d) taking possession of the premises as a lender-in-possession, (e) obtaining the appointment of a receiver of the Rents and profits of such premises, (f) sequestering or impounding the Rents, or (g) taking any other affirmative action.

8. Grant of Security Interest. This Deed of Trust constitutes and shall be deemed to be a "security agreement" for all purposes of the Utah UCC. With respect to personal property comprising the Property ("Personal Property"), whether now owned or existing or hereafter acquired or arising, wherever located and whether in Trustor's possession and control or in the possession and control of a third party, Beneficiary is hereby granted a security interest in such Personal Property and shall be entitled to all the rights and remedies of a "secured party" under the Utah UCC. The Personal Property for this purpose includes all shares of stock ("Water Shares") in any water company that will provide water rights to the Property, whether such Water Shares are owned by Trustor as of the date hereof or are acquired in the future. The Deed of Trust creates a valid first position security interest in favor of Beneficiary in the Water Shares. If Trustor purchases Water Shares in the future, Borrower will acquire certificates that evidence ownership of the Water Shares, Borrower will endorse all such original certificates in blank in

favor of Beneficiary, and Borrower will deliver all such original certificates to Beneficiary to allow Beneficiary to perfect its security interest in the Water Shares. Beneficiary will also be entitled to file UCC-1 financing statements covering the Water Shares, and to give notice of Beneficiary's security interest in the Water Shares to the issuer of the Water Shares and any other party, and to take any other steps or actions that are necessary or proper to perfect and maintain Beneficiary's security interests in the Water Shares and/or in any other Property.

9. **Representations, Warranties and Covenants of Trustor.** Trustor hereby represents, warrants and covenants (which representations, warranties and covenants shall survive creation of any indebtedness of Trustor to Beneficiary and any extension of credit thereunder) as follows:

(a) The Property is not and will not be used or bought for personal, family or household purposes.

(b) The tangible portion of the Personal Property will be kept on or at the Real Property or any improvements and Trustor will not, without the prior written consent of Beneficiary, remove the Personal Property or any portion thereof therefrom except such portions or items of Personal Property which are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Trustor with similar items of greater value.

(c) Trustor hereby authorizes Beneficiary to prepare and file one or more financing statements and fixture filings pursuant to Utah UCC in form satisfactory to Beneficiary, and Trustor agrees to pay the cost of recording and filing the same in all public offices wherever recording or filing is deemed by Beneficiary to be necessary or desirable.

(d) Trustor's principal place of business is in the State of Utah at 13592 Aintree Hill Cove, Draper, UT 84020. Trustor does not do business under any trade name except as previously disclosed in writing to Beneficiary. Trustor will immediately notify Beneficiary in writing of any change in its place of business or the adoption or change of any trade name or fictitious business name, and hereby authorizes the filing of additional financing statements necessary to reflect any such adoption or change.

(e) Trustor shall immediately notify Beneficiary of any claim against the Personal Property adverse to the interest of Beneficiary therein.

(f) The grant of a security interest to Beneficiary by this Deed of Trust shall not be construed to derogate from or impair the lien or provisions of, or the rights of Beneficiary under, this Deed of Trust with respect to any property described herein which is real property, or which the parties have agreed to treat as real property, including power of sale rights.

10. **Remedies Upon an Event of Default.**

(a) In addition to the remedies provided herein, upon the occurrence of an Event of Default hereunder, Beneficiary shall have all of the rights and remedies of a secured party under the Utah Uniform Commercial Code, and Beneficiary may, at its option, do any one or more of the following:

(i) Either personally, or by means of a court appointed receiver, take possession of all or any of the Personal Property and exclude therefrom Trustor and all others claiming under Trustor, and thereafter hold, store, use, operate, manage, maintain, and control, make repairs, replacements, alterations, additions, and improvements to, and exercise all rights and powers of Trustor with respect to the Personal Property or any part thereof. In the event Beneficiary demands, or attempts to take possession of the Personal Property in the exercise of any rights under this Deed of Trust, Trustor agrees to promptly turn over and deliver possession thereof to Beneficiary;

(ii) Without notice to or demand upon Trustor, make such payments and do such acts as Beneficiary may deem necessary to protect its security interest in the Personal Property (including, without limitation, paying, purchasing, contesting or compromising any lien or encumbrance, whether superior or inferior to such security interest) and in exercising any such powers or authority to pay all expenses (including, without limitation, litigation costs and reasonable attorney's fees) incurred in connection therewith;

(iii) Require Trustor from time to time to assemble the Personal Property, or any portion thereof, at a place designated by Beneficiary and reasonably convenient to both parties, and deliver promptly such Personal Property to Beneficiary, or an agent or representative designated by Beneficiary. Beneficiary, and its agents and representatives, shall have the right to enter upon any or all of Trustor's Property to exercise Beneficiary's rights hereunder;

(iv) Realize upon the Personal Property or any part thereof as herein provided or in any manner permitted by law and exercise any and all of the other rights and remedies conferred upon Beneficiary by this Deed of Trust, any other Loan Document, or by law, either concurrently or in such order as Beneficiary may determine.

(v) Sell or cause to be sold in such order as Beneficiary may determine, as a whole or in such parcels as Beneficiary may determine, the Personal Property and the remainder of the Property;

(vi) Sell, lease, or otherwise dispose of the Personal Property at public sale, upon terms and in such manner as Beneficiary may determine. Beneficiary may be a purchaser at any sale; and

(vii) Exercise any other remedies of a secured party under the Utah Uniform Commercial Code, the other Loan Documents, or any other applicable law.

(b) Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Beneficiary shall give Trustor at least ten (10) days' prior written notice of the time and place of any public sale of the Personal Property or other intended disposition thereof to be made. Such notice may be mailed to Trustor at the address set forth in Section 36.

(c) The proceeds of any sale shall be applied as follows:

(i) To the repayment of the reasonable costs and expenses of taking, holding, and preparing for the sale and the selling of the Personal Property (including, without limitation, costs of litigation and attorneys' fees) and the discharge of all impositions, liens and encumbrances, and claims thereof, if any, on the Personal Property prior to the security interest granted herein (except any impositions or liens and encumbrances subject to which such sale shall have been made);

(ii) To the payment of the Obligations in such order as Beneficiary shall determine; and

(iii) The surplus, if any, shall be paid to Trustor or to whomsoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

(d) Beneficiary shall have the right to enforce one or more remedies hereunder, successively or concurrently, and such action shall not operate to prevent Beneficiary from pursuing any further remedy that it may have. Any repossession or retaking or sale of the Personal Property pursuant to the terms hereof shall not operate to release Trustor until full payment of any deficiency has been made in cash.

11. Uniform Commercial Code Filings.

(a) The filing of one or more UCC financing statements in the records relating to personal property shall in no way derogate or impair Beneficiary's priority or rights on default to exercise either its rights and remedies as a beneficiary of this Deed of Trust or as a secured party with respect to personal property under the Utah UCC in connection with the items of the Property covered by the Utah UCC. This Deed of Trust is intended to and shall create a security interest in favor of Beneficiary in those items of the Property which are covered by the Utah UCC, including without limitation Article 8 thereof, even if such items are to be considered fixtures to the fullest extent permitted by law.

(b) Beneficiary shall also be entitled to proceed as to both the Real Property and all personal or mixed Property and all fixtures in accordance with Beneficiary's rights and remedies with respect to the Real Property.

(c) This Deed of Trust constitutes a security agreement and a financing statement (fixture filing), and it is hereby agreed (because any portion of the Property may constitute fixtures) that this Deed of Trust is to be filed in the office where a mortgage on the Real Property would be recorded, which is the office of the recorder of the county in which the Real Property is located. Trustor is the record owner of the Real Property.

(d) Trustor represents and warrants to Beneficiary that no effective financing statements are or will be on file in the Utah Secretary of State, in the office of any secretary of state, county recorder or other public office in favor of a secured party other than Beneficiary naming Trustor as debtor and describing any of the Property as collateral, and there shall be no other financing statements filed without the prior written consent of Beneficiary.

(e) Trustor represents and warrants to Beneficiary that the address for Trustor appearing in the introductory paragraph hereto is the chief executive office of Trustor and, unless

Trustor provides thirty (30) days' prior written notice to Beneficiary, Trustor shall continue to be so located so long as any portion of the Obligations remains unpaid or unperformed.

(f) Trustor irrevocably authorizes Beneficiary to prepare and file, in accordance with the Utah UCC, financing statements, or such other documents as may be required from time to time to create, maintain, and perfect the liens and security interests granted herein. Trustor covenants and agrees that it will not make any change to its legal name, which legal name as shown in the introductory paragraph hereto is true and correct, its state of formation, organization or registration, or the location of its chief executive office or principal place of business, or its organizational structure or governing documents, without the prior written consent of Beneficiary. Trustor further irrevocably authorizes Beneficiary at any time and from time to time to file in any filing office in any Uniform Commercial Code jurisdiction any initial financing statements and amendments thereto that (A) indicate the Collateral (1) as all assets of Trustor or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the Uniform Commercial Code or such jurisdiction, or (2) as being of an equal or lesser scope or with greater detail, and (B) contain any other information required by Part 5 of Article 9 of the Uniform Commercial Code for the sufficiency or filing office acceptance of any financing statement or amendment. Trustor agrees to furnish any such information to Beneficiary promptly upon request. Trustor also ratifies its authorization for Beneficiary to have filed in any Uniform Commercial Code jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

12. 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 shall 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, shall be added to the Obligations, shall be a lien on the Property and shall 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.

13. 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 shall hereafter become appurtenant to any part of the Property, they shall become subject to the lien of this Deed of Trust.

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

15. Estoppel Certificate/Record Inspection.

(a) Trustor, within ten (10) 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.

16. Substitute Performance. Should Trustor fail 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 (5) 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 shall 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, shall be added to the Obligations, shall be payable by Trustor on demand, and shall bear interest at the then effective default rate from the date of advance until paid.

17. 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 Event of Default, and at any time thereafter while such Event of Default 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.

18. Beneficiary's Right to Possession. Following the occurrence of an Event of Default, then Beneficiary shall, at its option, be entitled to the immediate possession of the Property, with the right to manage the same as a mortgagee in possession, to operate any business thereon at the expense of and for the account of Trustor, and to collect and apply the Rents as provided herein. Trustor and all persons claiming under Trustor shall, upon demand,

immediately deliver possession of the Property to Beneficiary or its assigns. Beneficiary shall 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 18 shall 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.

19. **Appointment of a Receiver.** Following the occurrence of an Event of Default, a receiver may be appointed, with or without notice (except for such notice as is required by law or applicable court), whereupon the receiver shall immediately be entitled to possession of all of the Property. Beneficiary's right to a receiver shall be absolute and unconditional. The receiver may be appointed without regard to the adequacy of any security for the Obligations and Trustor shall immediately surrender possession of the Property to the receiver upon his appointment. The receiver shall have the right to take possession of the Property, to collect the Rents therefrom, 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. Rents shall be applied to the costs and expenses of the receiver and the receivership, including costs of construction, and the balance shall be applied in the manner described herein. The receiver shall 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, shall be added to the Obligations. The receiver may expend such borrowed money for the purposes described in this Section 19 during any redemption period and, upon any redemption, any unexpended amounts of such borrowed money shall 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, shall be added to the Obligations, bear interest at the default rate and be secured by this Deed of Trust.

20. **Additional Remedies of Beneficiary; No Waiver.** In addition to any remedies provided herein for breach or default hereof, Beneficiary shall have all other remedies allowed or provided for under or described in the Loan Documents, including the Note 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 shall not prejudice its rights in the event of any other or subsequent default or breach. Beneficiary's delay in exercising any rights shall 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 shall not waive the agreement contained herein that time is of the essence hereof, nor shall 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.

21. **Sale by Trustee Pursuant to Power of Sale; Non-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, shall 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 shall be completed and, in every such case, notice of such continuance shall 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 shall apply the proceeds of the sale as follows:

(i) **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.

(ii) **Second:** To payment of the obligations secured by this Deed of Trust.

(iii) **Third:** The balance, if any, to the person or persons legally entitled to the remaining proceeds.

(b) Upon any sale made under or by virtue of this Section 21, 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 shall bid for and acquire the Property, in accordance with Utah law. In the event of a successful credit bid, Beneficiary shall 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, shall be entitled to hold, lease, rent, operate, manage, and sell the same in any manner provided by applicable laws.

(c) In the event of any amendment to the provisions of Utah law referenced in this Deed of Trust, this Deed of Trust shall, 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.

22. **Deficiency.** If the event of a judicial foreclosure, 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.

23. **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.

24. **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 shall 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.

25. **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.

26. **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 shall pay Beneficiary's reasonable attorneys' fees and costs incurred in enforcing its rights under the Note, 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 shall 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 shall be payable on demand, added to the Obligations and secured by this Deed of Trust, shall be included in any judgment or arbitration award obtained by Beneficiary, and shall be paid to Beneficiary as part of any reinstatement tendered hereunder. If Trustor fails to vacate the Property following foreclosure or sale, Trustor shall be a tenant at sufferance and subject to an action for forcible entry and detainer, wherein Beneficiary shall 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 shall also be guaranteed by any guaranty(s) now or hereafter relating to the Obligations.

27. **Effect of Foreclosure on Existing Leases.** Upon any sale of the Property under this Deed of Trust, any Lease that is subordinate to the lien of this Deed of Trust shall remain in effect, the purchaser thereby being subrogated to Trustor's interest therein unless the purchaser elects to treat any such Lease as terminated by virtue of the sale under the prior lien and charge of this Deed of Trust, unless a separate non-disturbance agreement, in the form of Beneficiary's standard Subordination, Non-Disturbance and Attornment Agreement or similar agreement approved as to form and substance by Beneficiary in its sole and absolute discretion, executed by Beneficiary precludes such termination.

28. **Reconveyance of Property.** Upon (a) written request of Beneficiary stating that the entire Obligations have been paid, (b) surrender of this Deed of Trust and the Note to Trustee for cancellation and retention, and (c) payment of Trustee's fees, if any, Trustee shall reconvey the Property without warranty. The recitals in such reconveyance of any matters or facts shall be

conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

29. Partial Reconveyance by Trustee; Dedication of Easements.

(a) At any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note, 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 may reconvey any part of the Property, 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, or join in any extension agreement or agreement subordinating the lien or charge hereof.

(b) So long as no Event of Default 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 not unreasonably withhold its consent to, approval of or joinder (on a quitclaim basis only, without creating potential liability for Beneficiary) in any customary and standard 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. To the extent any such easements or dedications are granted or made without receipt by Trustor of consideration therefor, Beneficiary shall 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

30. Acceptance of Trust; Trustee Resignation; Notification of Sale. Trustee accepts the trust created hereby, which shall 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 shall be a party, unless brought by Trustee.

31. 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, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the predecessor Trustee, succeed to all its title.

32. Additional Security. The taking or acceptance of this Deed of Trust by Beneficiary shall 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 shall 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.

33. **Construction of Agreement; Definitions.** This Deed of Trust shall 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 shall 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 shall 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" shall 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" shall mean the holder at any time, including pledgees, of the Note or other writings secured hereby, whether or not named as Beneficiary herein; and (e) "Trustor" shall 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 shall be joint and several (however, the foregoing shall 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 shall have the meaning specified in the Loan Documents unless otherwise stated, including without limitation the definition of Event of Default.

34. **Time of the Essence; Successors and Assigns.** Time is of the essence hereof. 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.

35. **Governing Law.** This Deed of Trust is delivered in, relates to real property located in, and shall 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.

36. **Notices.** Except as provided above 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 shall be given as provided in the Loan Documents.

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

38. **Severability; Enforceability.**

(a) Each covenant, provision and condition of this Deed of Trust shall 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 shall not affect the remainder hereof which shall 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 shall 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 shall 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, shall 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.

39. Subrogation. Beneficiary shall 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.

40. 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 shall be deemed to include this reference and incorporation.

41. 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, shall be for the purpose of security only and shall 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 shall 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.

42. No Offset. All sums comprising the Obligations payable by Trustor shall be paid without notice, demand, offset, deduction, counterclaim, defense, abatement, suspension, diminution, or reduction. Trustor's obligation to do so shall 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 shall be deemed an acceptance on

account only and shall not in any way constitute an accord and satisfaction or a waiver or impair Beneficiary's ability to treat a Default or an Event of Default as continuing to exist.

43. **No Merger.** If the interests of Beneficiary and Trustor under this Deed of Trust shall at any time become vested in Beneficiary, by reason of foreclosure or otherwise, the lien of this Deed of Trust shall not be destroyed or terminated by application of the doctrine of merger and, in such event, Beneficiary shall 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.

44. **Multiple Advances.** The proceeds of the obligation secured by this Deed of Trust may be advanced in multiple installments at different times after the recordation of this Deed of Trust. Each advance made after the initial advance shall be deemed to be "obligatory" in nature (subject to conditions precedent for advances) and shall be secured in the same lien priority position as the initial advance. If for any reason a court of competent jurisdiction should determine the foregoing sentence to be unenforceable, then all amounts advanced by Beneficiary as of the time that a third party acquires or provides notice of (whichever action such court may require) an interest in the property encumbered by this Deed of Trust shall continue to be secured in a first priority lien position (subject only to the existing lien of Beneficiary), and amounts advanced by Beneficiary after the acquisition or giving notice of (as applicable) the intervening interest (except for amounts determined by the court to be senior to the intervening interest, even though advanced by Beneficiary after the recordation or giving notice of the intervening interest) shall be secured in a position junior to the intervening interest. The foregoing sentence shall not be construed to permit any person or entity to acquire an intervening interest without Beneficiary's consent, to acknowledge that any or all of the secured obligation will be subordinate to intervening interests, or to excuse any party that may obtain an intervening interest from complying with the requirements of applicable law for giving actual notice to Beneficiary or for taking other necessary measures to establish its lien priority over subsequently advanced amounts, and the holder of any intervening interest will be charged with notice of the provisions of this paragraph to the fullest extent allowed by law. Rather, the intent of this paragraph is to ensure that in no circumstance will the provisions of this Deed of Trust securing other and subsequent advances in the same lien priority as the initial advance hereunder impair or adversely affect the priority that Beneficiary would have had absent those provisions.

45. **Unlawful Use, Controlled Substances and Prohibited Activities.**

(a) Trustor shall 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, 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") shall expressly prohibit the lessee from engaging or permitting others to engage in any Prohibited Activities. Trustor shall 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 shall, in compliance with applicable law, terminate the applicable lease and take all actions permitted by law to discontinue such activities. Trustor shall keep Beneficiary fully advised of its actions and plans to comply with this Section and to prevent Prohibited Activities.

(b) This Section is a material consideration and inducement upon which Beneficiary relies in extending credit and other financial accommodations to Trustor. Failure by Trustor to comply with this Section or any other section hereof shall constitute a material non-curable Event of Default. Notwithstanding anything in this Deed of Trust, the Note, or the other Loan Documents regarding rights to cure Events of Default, if any, Beneficiary is entitled upon breach to immediately exercise any and all remedies under this Deed of Trust, the Note the other Loan Documents, and available law and equity. In addition and not by way of limitation, Trustor shall 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 any of the Property is taken free of or subject to Beneficiary's lien or security interest.

46. 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 shall 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 shall 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.

47. Reliance. Each party (a) certifies that no one has represented to such party that the other party would not seek to enforce jury and class action waivers in the event of suit, and (b) acknowledges that it and the other parties have been induced to enter into this Agreement by, among other things, the mutual waivers, agreements, and certifications in these jury trial waiver, class action waiver and arbitration provisions.

48. Special Local Provisions.

(a) Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Section and the terms and conditions of the remainder of this Deed of Trust, the terms and conditions of this Section shall control and be binding.

(b) State-Specific Provisions.

(i) This Deed of Trust does not secure any of the obligations of the Guarantors under the Guarantees, nor any of Trustor's or Guarantors' obligations under the separate Environmental Indemnity executed by Trustor in favor of Beneficiary or any other obligations in this Deed of Trust or in any of the other Loan Documents to the extent that such other obligations relate specifically to the presence on the Property of Hazardous Substances and are the same or have the same effect as any of the obligations evidenced by or arising under the Environmental Indemnity.

(ii) It is the intention of Beneficiary and Trustor that the assignment effectuated hereby with respect to the Rents and other amounts due under the Leases shall be a direct, absolute and currently effective assignment and is intended to be specific, perfected and choate assignment upon recording and is effective whether or not a default occurs hereunder or under the Loan Documents. In the event that a court of competent jurisdiction determines that, notwithstanding such expressed intent of the parties, Beneficiary's interest in the Rents or other amounts payable under the Leases constitutes a lien on or security interest in or pledge thereof, it is agreed and understood that the forwarding of a Notice to Trustor after the occurrence of an Event of Default, advising Trustor of the revocation of Trustor's license to collect such Rents shall be sufficient action by Beneficiary to **(i)** perfect such lien on or security interest in or pledge of the Rents, **(ii)** take possession thereof, and **(iii)** entitle Beneficiary to immediate and direct payment of the Rents for application as provided in the Loan Documents, all without the necessity of any further action by Beneficiary, including, without limitation, any action to obtain possession of the Property, or any portion thereof. Notwithstanding the direct and absolute assignment of the Rents, there shall be no partial reduction of any portion of the indebtedness secured by this Deed of Trust except with respect to Rents actually received by Beneficiary and applied by Beneficiary toward payment of such indebtedness.

(c) Beneficiary will be subrogated for further security to the lien of and to all rights of any beneficiary, mortgagee or lienholder under any encumbrance, whether or not released of record, paid out of the proceeds of the loan secured by this Deed of Trust or advanced pursuant to the terms hereof and any of the other Loan Documents.

(d) If this Deed of Trust is foreclosed judicially and the Property is sold at a foreclosure sale, the purchaser may during any redemption period allowed, make such repairs or alterations on the Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the Default Rate shall be added to and become a part of the amount required to be paid for redemption from such sale.

(e) Beneficiary shall have the right at its option to foreclose this Deed of Trust subject to the rights of any tenant or tenants of the Property.

(f) To the extent that any statute requires that the "fair market value" or "fair value" of the Property be determined as of the foreclosure date in order to enforce a deficiency against Trustor or any other party liable for repayment of the indebtedness secured hereby, the

term "fair market value" or "fair value" shall include those matters required by law and the additional factors set forth below:

(i) The Property shall be valued "as is" and "with all faults" and there shall be no assumption of restoration or refurbishment of improvements, if any, after the date of the foreclosure.

(ii) An offset to the fair market value or fair value of the Property, as determined hereunder, shall be made by deducting from such value the reasonable estimated closing costs related to the sale of the Property, including but not limited to brokerage commissions, title policy expenses, tax pro-rations, escrow fees, and other common charges that are incurred by the seller of real property.

(iii) Trustor shall pay the costs of any appraisals and other expenses incurred in connection with any such determination of fair market value or fair value.

(g) WAIVER OF RIGHT TO LITIGATE A JURY TRIAL: BY ACCEPTING THIS LOAN, BORROWER SHALL BE DEEMED TO HAVE AGREED TO HAVE ANY DISPUTE DECIDED BY NEUTRAL ARBITRATION IN ACCORDANCE WITH THE PROVISION HEREOF. LENDER AND BORROWER ARE GIVING UP ANY RIGHTS THEY MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT WITH A JURY TRIAL. IF LENDER OR BORROWER REFUSES TO SUBMIT TO ARBITRATION, SAID PARTY MAY BE COMPELLED TO ARBITRATION UNDER THE AUTHORITY OF THE UTAH CODE OF CIVIL PROCEDURE.

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

RENEGADE SVE, L.L.C., a Utah limited liability company

Date: 10-19-22

By: [Signature]
Name: David Jon Brown
Its: Manager/Member

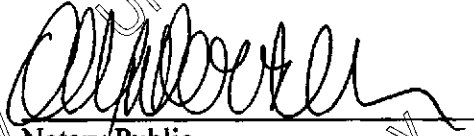
RENEGADE SVE, L.L.C., a Utah limited liability company

Date: 10-19-22

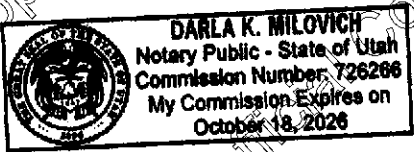
By: [Signature]
Name: Justin Kohner Brown
Its: Manager/Member

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

The foregoing instrument was acknowledged before me on the 19 day of October 2022, by David Jon Brown and Justin Kohner Brown, the Managers and Members of RENEGADE SVE, L.L.C., a Utah limited liability company.



Notary Public



File No. 162668-DMF.

**EXHIBIT A
PROPERTY DESCRIPTION**

Lots 1, 2, 4, 5, 10, 14 through 22, inclusive, 24 through 27, inclusive, 32 through 45, inclusive, and 48 through 55, inclusive, SUNSET VIEW ESTATES, according to the official plat thereof as recorded in the office of the Washington County Recorder, State of Utah on October 6, 2017 as Entry No. 20170040550.

Tax Id No.: LV-SUNS-1, LV-SUNS-2, LV-SUNS-4, LV-SUNS-5, LV-SUNS-10, LV-SUNS-14, LV-SUNS-15, LV-SUNS-16, LV-SUNS-17, LV-SUNS-18, LV-SUNS-19, LV-SUNS-20, LV-SUNS-21, LV-SUNS-22, LV-SUNS-24, LV-SUNS-25, LV-SUNS-26, LV-SUNS-27, LV-SUNS-32, LV-SUNS-33, LV-SUNS-34, LV-SUNS-35, LV-SUNS-36, LV-SUNS-37, LV-SUNS-38, LV-SUNS-39, LV-SUNS-40, LV-SUNS-41, LV-SUNS-42, LV-SUNS-43, LV-SUNS-44, LV-SUNS-45, LV-SUNS-48, LV-SUNS-49, LV-SUNS-50, LV-SUNS-51, LV-SUNS-52, LV-SUNS-53, LV-SUNS-54 and LV-SUNS-55