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Jeffery Smith
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APN: 37-279-0002

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

THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING (this "Deed of Trust") is made as of this 30th day of June, 2015 among the following parties:

NTA 15-17121AB-

TRUSTOR: Lidocaine Properties, LLC
9893 North 6320 West
Highland, UT 84003
Attn: Aaron Jones

TRUSTEE: Chicago Title Insurance Company, a Nebraska corporation
601 Riverside Avenue
Jacksonville, FL 32204

BENEFICIARY: United Farm Family Mutual Insurance Company
225 S. East Street
Indianapolis, IN 46204
Attn: Lee E. Livermore, Director of Investments

REAL ESTATE: Certain real estate located in Utah County, Utah, as more particularly described in Exhibit A attached hereto (along with any schedules thereto) and incorporated herein by reference.

THIS DEED OF TRUST is executed and delivered among Trustor, Beneficiary and Trustee, as follows:

1. **Grant.** For value received, Trustor irrevocably grants, conveys and assigns to Trustee in trust, with power of sale for the benefit of Beneficiary, any and all of Trustor's present and future title, right and interest in and to the Real Estate, together with all tenements, hereditaments, appurtenances, easements, rights-of-way and rights appertaining thereto or used in connection therewith, together with all rights, title and interests of Trustor, now existing or

hereafter arising, in and to:

- (i) All rights, privileges, interests, tenements, hereditaments, easements and appurtenances in any way now or hereafter benefitting, belonging or appertaining to all or any of the Real Estate, including (without limiting the generality of the foregoing) all land lying within any roadway and strips adjoining all or any of the Real Estate, all minerals, oil, gas and other hydrocarbon substances thereon or therein and all air rights and water rights (collectively, the "Easements and Appurtenances");
- (ii) All buildings, structures and other improvements of every kind and description now or hereafter erected, constructed or placed on the Real Estate, together with all fixtures, equipment, machinery, apparatus, furniture, furnishings and other articles of personal property owned by Trustor now or hereafter located in or upon, attached to or regularly used or intended to be regularly used in connection with the Real Estate, and all replacements thereof, including all components thereof, whether real or personal property (collectively, the "Improvements");
- (iii) All extensions, improvements, betterments, substitutes, replacements, renewals, additions and appurtenances of or to the Easements and Appurtenances and of or to the Improvements (collectively, the "Additions");
- (iv) All rents, issues, proceeds, income, profits and security and other tenant deposits of the Real Estate, the Easements and Appurtenances, the Additions and the Improvements, including all leases and subleases of all or any of such property (collectively, the "Rents"); and
- (v) All awards, payments and proceeds of conversion, whether voluntary or involuntary, of any of the Real Estate, Easements and Appurtenances, Improvements, Additions and Rents, including (without limitation) all insurance, condemnation and tort claims, rent claims and other obligations dischargeable in cash or cash equivalent (collectively, the "Proceeds"),

all of which shall be considered mortgaged by this Deed of Trust and shall be hereinafter collectively referred to as the "Property". Notwithstanding anything herein or in any other Loan Document to the contrary, the term "Property" shall not be construed to include any real or personal property other than the Real Estate and any real and/or personal property related to the Real Estate, as more particularly described in this Section.

2. **Obligations Secured.** This Deed of Trust secures: (a) payment of a certain loan (the "Loan") evidenced by a certain Promissory Note in the original principal amount of One Million Twenty-Five Thousand and 00/100 Dollars (\$1,025,000.00) dated as of an even date herewith, executed by Trustor to the order of Beneficiary and having a maturity date of July 1, 2025 (the "Note"); (b) payment of all other sums advanced hereunder to protect the security of this Deed of Trust; (c) performance of all agreements and obligations of Trustor hereunder, and under the Note and any and all other agreements or other documents delivered by Trustor in

connection with the Loan to Beneficiary and all renewals, extensions and replacements thereof (collectively, the "Loan Documents"); and (d) all other or future loans and advances by Beneficiary to Trustor that state they are to be secured hereby, including without limitation the future advances contemplated in Section 14(o) hereof (all of the foregoing collectively referred to herein as "Trustor's Obligations").

3. **Representations and Warranties of Trustor.**

(a) Trustor represents and warrants that (i) Trustor has a valid and indefeasible title in fee simple to the Property and has a good and legal right to mortgage the Property and (ii) the Property is and shall remain free from all liens and encumbrances, except only the lien of current real estate taxes not delinquent, the matters set forth in Exhibit B attached hereto and incorporated herein by reference, and any liens and encumbrances in favor of Beneficiary (the "Permitted Exceptions"), and Trustor will warrant and defend Trustor's rights, title and interests of, in and to the Property against all claims made thereon. This Deed of Trust is free from all homestead, valuation and exemption rights and benefits whatsoever, which Trustor hereby waives.

(b) The financial statements of Trustor and the members of Trustor, heretofore furnished by Trustor to Beneficiary (the "Financial Statements"), correctly and fairly present the financial condition of Trustor and its members as of the date thereof and for the periods shown and covered thereby. Neither the members of Trustor nor Trustor have any material liabilities, direct, contingent or otherwise, not shown on the Financial Statements, and there has been no material adverse change in their assets or condition (financial or otherwise) since the date of the Financial Statements. Trustor and its members agree to promptly inform Beneficiary of any material adverse change in the assets or condition (financial or otherwise) of Trustor or its members since the date of the Financial Statements and to provide unaudited financial statements prepared on an income tax basis and underlying statement of assets and liabilities and actual cash income and expenses for Trustor and its members within one hundred twenty (120) days of the end of each calendar year.

4. **Affirmative Covenants of Trustor.** Until the entire indebtedness secured by this Deed of Trust is fully paid and all of Trustor's Obligations are fully satisfied, Trustor, for itself and its successors and assigns, agrees as follows:

(a) **Payment of Indebtedness.** Trustor shall pay promptly when the same shall become due and payable (i) the accrued interest on and the outstanding principal balance of the Note and (ii) all other of Trustor's Obligations, all without relief from valuation or appraisal laws.

(b) **Damage or Destruction.** If all or a portion of the Property or the Improvements are damaged or destroyed by fire or other casualty, then Trustor shall notify Beneficiary immediately. Trustor hereby authorizes Beneficiary, in conjunction with Trustor, to (i) make proof of loss, (ii) adjust, compromise and settle any claim under insurance policies covering the damage or destruction, (iii) prosecute any action arising from such insurance policies, and (iv) collect and receive insurance proceeds and deduct

from such proceeds all costs incurred by Beneficiary in connection with collecting the proceeds. Beneficiary, at its option, may require Trustor to collect the insurance proceeds at Trustor's cost and expense and/or take any act or prosecute any action necessary or appropriate to collect the insurance proceeds. If no Event of Default (as hereinafter defined or as defined in any other Loan Document) has occurred and if no condition exists which, with the passage of time or the giving of notice, would constitute an Event of Default, then any insurance proceeds collected by Beneficiary or Trustor as a result of the damage to or destruction of the Property or the Improvements (less the costs, if any, incurred by Beneficiary in connection with the collection of the insurance proceeds) shall be used to pay the cost of repairing, rebuilding and restoring the Property and the Improvements. If an Event of Default has occurred or if a condition exists which, with the passage of time or the giving of notice, would constitute an Event of Default, then such insurance proceeds, at the option of Beneficiary, shall be (i) applied in reduction of the indebtedness secured hereby, whether or not then due and payable, or (ii) held by Beneficiary and used to reimburse Trustor for the cost of repairing, rebuilding and restoring the Property and the Improvements. Regardless of the cause of any damage to or destruction of the Property or the Improvements or the availability of insurance proceeds, Trustor shall (i) repair, restore and rebuild the Property and the Improvements which are damaged or destroyed at Trustor's cost and expense, or (ii) pay in full all indebtedness secured hereby and discharge all other Trustor's Obligations. Trustor shall commence the repair, rebuilding and restoration of the Improvements promptly after the occurrence of the damage or destruction, and shall complete such repair, rebuilding and restoration diligently and in accordance with plans and specifications approved in writing by Beneficiary.

(c) Condemnation. Trustor hereby assigns to Beneficiary any award or payment to which Trustor has any claim or right in respect of any condemnation of all or any portion of the Property. The conditions, terms and provisions of subsection 4(b) hereof respecting insurance proceeds from damage or destruction of the Property shall govern and control both (i) the application and use of the proceeds of any such award or payment and (ii) the obligation of Trustor to repair, restore and rebuild the remaining Property or repair, restore and rebuild any portion of the Property damaged as a result of such condemnation. A condemnation shall include any taking by any governmental authority or any conveyance in lieu thereof.

(d) Priority of Lien. This Deed of Trust shall be maintained as a valid first and prior mortgage lien and security interest on and in the Property, subject only to the Permitted Exceptions.

(e) Taxes and Utilities. Trustor will pay all taxes, assessments and utility charges incurred in connection with the Property and maintain all utility services available for use at the Property. Trustor will not permit to exist any condition, event or fact which could allow or serve as a basis or justification for any such person to avoid such performance.

(f) Insurance. Trustor shall maintain or cause to be maintained hazard,

liability, flood insurance, and other insurance as required by Beneficiary insuring the Property, all in such amounts, under such forms of policies, upon such terms and for such periods of coverage as Beneficiary may reasonably require. All such policies shall jointly insure Trustor and Beneficiary, and shall provide that losses will be payable to Trustor and Beneficiary, as their interests appear, and that Beneficiary shall receive at least thirty (30) days' written notice prior to cancellation or material change in coverage.

(g) Reserve For Taxes and Insurance. Commencing upon the occurrence of an Event of Default, Trustor shall deposit in escrow with Beneficiary on each installment payment due date under the Note, an amount equal to one-twelfth (1/12) of the total amount reasonably estimated by Beneficiary to be required to pay when due all real estate taxes and assessments on the Real Estate and/or the annual insurance premium. Any interest earned on such funds shall be the property of Beneficiary. No trust shall be created by the establishment of such escrow, and such funds may be commingled with other funds of Beneficiary. In the event that funds in the escrow account are insufficient to pay such amounts thirty (30) days in advance of the due date of payment, Trustor shall immediately pay to Beneficiary such deficient amounts. Any notice of assessment or reassessment shall be immediately provided by Trustor to Beneficiary, and the monthly escrow payment will be adjusted accordingly.

5. Negative Covenants of Trustor. Until the entire indebtedness secured by this Deed of Trust is fully paid and all of Trustor's Obligations are fully satisfied, Trustor, for itself and its successors and assigns, agrees as follows:

(a) Encumbrance of the Property. Except for the Permitted Exceptions, Trustor shall not cause, permit or suffer the creation or existence of any lien, encumbrance, cross-collateralization agreement, security interest or other charge upon, against or affecting the Property, any portion thereof or the rents, issues and profits therefrom, whether such lien, encumbrance, cross-collateralization agreement, security interest or other charge is prior to, upon a parity with or junior to this Deed of Trust or the security interest of Beneficiary created pursuant to the security agreement set forth in Section 7 hereof without the prior written consent of Beneficiary.

(b) Deterioration of the Property. Trustor shall not commit, cause, permit or suffer waste or physical deterioration of the Property.

(c) Violation of Laws. Trustor shall not violate or permit violation of any law, code, ordinance, regulation, order or requirement, including those relating to environmental matters, of any city, county, state, federal or other governmental authority concerning the Property.

6. Assignment of Rents and Leases.

(a) Assignment. Trustor hereby transfers and assigns to Beneficiary as further security for the payment of Trustor's Obligations: (i) all present and future leases granted by Trustor covering all or any portion of the Property, (ii) all agreements for use or occupancy of

any portion of the Property, (iii) all present and future ground leases for use or occupancy of any portion of the Property, (iv) any and all guarantees of the performance of any lessee under any lease of all or any portion of the Property, (v) any extensions, amendments, modifications, supplements or replacements to any lease of all or any portion of the Property (including any guaranty or other item included in this definition of "Leases") and any and all further leases and subleases, lettings or agreements of all or any portion of the Property (all of the foregoing, the "Leases"), and (vi) all rents and other sums of money due or becoming due to Trustor under any of the Leases now due or which may hereinafter become due and payable (the "Assignment"). The rights assigned hereunder include but are not limited to all of Trustor's rights (a) to make material modifications of the Leases; (b) to terminate or to accept the surrender thereof; (c) to waive or release the lessees from the observance or performance by the lessees of any material covenant or condition of the Leases; and (d) to give any consent to any assignment of the Leases or any sublease of any part of the Property. As used herein, the term "Rents" shall include all Leases, including guaranties of tenant performance thereof, all insurance proceeds regarding rental loss coverage and business interruption coverage as to the Leases and all judgments or settlements of claims in favor of Trustor and arising out of the Leases in any court proceeding, including any bankruptcy, reorganization, insolvency or debtor proceeding or case or otherwise.

(b) Representations, Warranties and Covenants of Trustor. Trustor represents to and covenants with Beneficiary as follows:

- (i) Trustor has full right and title to assign the Leases and the Rents.
- (ii) No other assignment of any interest in the Leases and Rents has been made by Trustor, and Trustor will not hereafter, without Beneficiary's prior written consent, make any such assignment, whether absolute or as security for any indebtedness.
- (iii) Trustor will not subordinate any Leases or right to receive Rents to any encumbrance or permit or agree to such subordination without Beneficiary's prior written consent.
- (iv) Trustor shall observe and perform all the obligations imposed upon the lessor under the Leases and not do or permit to be done anything to impair the security thereof. Beneficiary shall have the right, but not the obligation, to cure any default by Trustor under any of the terms of the Leases on Trustor's behalf. Any such expenditures made by Beneficiary, with interest thereon at the default rate as set forth in the Note (the "Default Rate"), shall be immediately due and payable and shall become part of the debt evidenced by the Note and secured hereby.
- (v) Trustor has not accepted any advance rental payments under the Leases other than security and other tenant deposits. Trustor will not accept rent under the Leases more than one (1) month in advance of the time when due (except for security deposits in amounts not to exceed one month's rent).

- (vi) Trustor will not cancel, surrender or terminate any Lease; change, alter or modify the same except in the ordinary course of business; consent to the release of any party liable thereunder or to the assignment of the tenant's interest therein; or consent to the subletting under any Lease having an unexpired term of more than one (1) year, whether or not in accordance with its terms, except in the ordinary course of business.
- (vii) Trustor will not permit a transfer of the Real Estate demised thereby or of any interest therein so as to effect in any way a merger of the estates and rights of, or a termination or diminution of the obligations of, any lessee thereunder, except in the ordinary course of business.
- (viii) Trustor will furnish Beneficiary with executed copies of the Leases.
- (ix) All proposed Leases shall be subject to the prior written approval of Beneficiary.
- (x) At Beneficiary's request, Trustor will transfer to Beneficiary subsequent Leases.
- (xi) Trustor will, at Trustor's expense, execute and deliver at the request of Beneficiary all such further assurances and assignments as Beneficiary may from time to time require.

(c) Rights of Beneficiary. Upon or at any time after an Event of Default, Beneficiary, without in any way waiving such Event of Default, may, at its option, without notice and without regard to the adequacy of the security for Trustor's Obligations, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, take possession of the Real Estate and possess, manage, lease and operate them on such terms and for such period of time as Beneficiary may deem proper and either with or without taking possession of the Real Estate in its own name, demand, sue for or otherwise collect and receive all Rents, including those past due and unpaid with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Beneficiary, and to apply Rents to the payment of: (a) all expenses of managing the Real Estate, including, without being limited thereto, the salaries, fees and wages of a managing agent and such other employees as Beneficiary may deem necessary or desirable, and all expenses of operating and maintaining the Real Estate, including, without being limited thereto, all taxes, charges, claims, assessments, water rents, sewer rents and any other liens, and premiums for all insurance which Beneficiary may deem necessary or desirable, and the cost of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the Real Estate; and (b) Trustor's Obligations, together with all costs and attorneys' and paralegals' fees, in such order or priority as to any of the items mentioned in this subsection as Beneficiary in its sole discretion may determine, any statute, law, custom or use to the contrary notwithstanding. The exercise by Beneficiary of the option granted it in this subsection and the collection of Rents and the application thereof as herein provided shall not be considered a waiver of any Event of

Default. Beneficiary may take or release other security for the payment of Trustor's Obligations, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the satisfaction of Trustor's Obligations without prejudice to any of its rights under this Deed of Trust.

(d) Indemnification. Beneficiary shall not be liable for any loss sustained by Trustor resulting from Beneficiary's failure to let the Real Estate after an Event of Default or from any other act or omission of Beneficiary in managing the Real Estate after an Event of Default unless such loss is caused by the willful misconduct and bad faith of Beneficiary, nor shall Beneficiary be obligated to perform or discharge nor does Beneficiary hereby undertake to perform or discharge any obligation, duty or liability under any assigned Leases or under or by reason of this Deed of Trust, and Trustor shall indemnify Beneficiary for, and hold Beneficiary harmless from, any and all liability, loss, or damage which may or might be incurred under any assigned Leases or under or by reason of this Deed of Trust, and from any and all claims and demands whatsoever which may be asserted against Beneficiary by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any assigned Leases, except that Trustor shall not be liable for any liability, loss, damage claims, or demands arising out of any act or omission of Beneficiary or its agents occurring after Beneficiary has taken actual possession of the Real Estate. Should Beneficiary incur any such liability under any assigned Leases or under or by reason of this Deed of Trust or in defense of any such claim or demand, the amount thereof, including costs, expenses, and reasonable attorneys' and paralegals' fees, shall be secured hereby and Trustor shall reimburse Beneficiary therefor immediately upon demand, and upon the failure of Trustor so to do, Beneficiary may, at its option, declare the Note immediately due. This Deed of Trust shall not operate to place responsibility for (i) the control, care, management or repair of the Real Estate, or (ii) the carrying out of any of the terms and conditions in any assigned Leases upon Beneficiary, nor shall it operate to make Beneficiary responsible or liable for (a) any waste committed on the Real Estate by any parties occupying or using the Real Estate, (b) any dangerous or defective condition of the Real Estate, or (c) any negligence in the management, upkeep, repair or control of the Real Estate resulting in loss, injury or death to any tenant, occupant, licensee, employee or stranger.

(e) Rent. Trustor hereby authorizes and directs each tenant or occupant of the Real Estate, upon receipt of written notice from Beneficiary to the effect that Beneficiary is then the holder of the Loan Documents and that an Event of Default exists thereunder or under this Deed of Trust, to pay over to Beneficiary all Rents and to continue to do so until otherwise notified by Beneficiary. Trustor will facilitate in all reasonable ways Beneficiary's collection of Rents and upon request will execute a written notice to each tenant or occupant directing payment to Beneficiary. Notwithstanding the foregoing, it is understood and agreed that Beneficiary shall not exercise its rights and powers under this Assignment until after an Event of Default occurs, in each case after the expiration of any applicable grace period, and Trustor shall have a license to collect Rents from the Real Estate in the absence of such an Event of Default and the expiration of any such grace period. Upon payment in full of Trustor's Obligations, this Assignment shall become void, but any person may, and is hereby authorized to, rely on the affidavit, certificate, letter, or statement of any officer, agent, or attorney of Beneficiary showing any part of Trustor's Obligations to remain unpaid.

(f) Assignment of Rents Act. This Deed of Trust is subject to the Utah Uniform Assignment of Rents Act, Utah Code Annotated Sections 57-26-101, et seq. (the "Act"), and in the event of any conflict or inconsistency between the provisions of this Deed of Trust and the provisions of the Act, the provisions of the Act shall control and Beneficiary shall have all rights and remedies available under the Act which rights and remedies shall be cumulative with all rights and remedies hereunder.

7. **Security Agreement; Fixture Filing.**

(a) Security Agreement. This instrument is intended to be a security agreement pursuant to Utah Code Annotated Sections 70A-9a-101, et seq. of the Uniform Commercial Code in effect in the State of Utah (the "UCC") only for any of the items specified above as part of the Property which may be subject to a security interest pursuant to the applicable version of the UCC, and Trustor hereby grants Beneficiary a security interest in such items to secure the payment and performance of Trustor's Obligations. This Deed of Trust covers goods, including without limitation, goods which are to become fixtures relating to the Property and the Real Estate. All terms defined in the UCC and used herein shall have the same definitions herein as specified in the UCC.

(b) Filings. Trustor agrees that this instrument, or a reproduction thereof, may be filed in the real estate records or other appropriate index as a financing statement for any of the items specified above (including fixtures) as part of the Property, and authorizes Beneficiary to make any such filings Beneficiary deems necessary or proper. This Deed of Trust constitutes, in addition to the other purposes and intents herein, a "fixture filing" under the UCC with respect to the fixtures covered by this Deed of Trust, such "fixture filing" being executed by Trustor as "debtor" and Beneficiary as "secured party" for purposes of the UCC. Trustor's execution of this Deed of Trust constitutes an authentication pursuant to the UCC of the security agreement contained herein, thereby authorizing Beneficiary to file and record such financing statements, amendments and other UCC forms as may be necessary or appropriate to establish and maintain the priority of its lien and security interests created under this Deed of Trust. Any reproduction of this instrument or of any other security agreement or financing statement (meeting the requirements of the UCC) will be sufficient as a financing statement. Trustor agrees to execute and deliver to Beneficiary upon request, any financing statements (other than financing statements such as those currently prescribed by the UCC, which are not required to be executed by the debtor or secured party), as well as extensions, renewals and amendments thereof, and reproductions of this instrument in such form as may be required by law or reasonably required by Beneficiary to perfect a security interest with respect to said items. Trustor will pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and will pay all reasonable costs and expenses of any record searches for financing statements Beneficiary may reasonably require.

(c) Other Actions. Further to ensure the attachment, perfection and first priority of, and the ability of Beneficiary to enforce, Beneficiary's security interest in the Property, Trustor agrees, in each case at Trustor's own expense, to take the following actions with respect to the following types of Property:

- (i) Promissory Notes and Tangible Chattel Paper. If Trustor shall at any time hold or acquire any promissory notes or tangible chattel paper (other than personal checks received under the Leases in the ordinary course of business), Trustor shall forthwith endorse, assign and deliver the same to Beneficiary, accompanied by such instruments of transfer or assignment duly executed in blank as Beneficiary may from time to time specify.
- (ii) Deposit Accounts. For each deposit account that Trustor at any time opens or maintains, Trustor shall, at Beneficiary's request and option, pursuant to an agreement in form and substance satisfactory to Beneficiary, either (a) cause the depository bank to agree to comply at any time with instructions from Beneficiary to such depository bank time directing the disposition of funds from time to time credited to such deposit account, without further consent of Trustor, or (b) arrange for Beneficiary to become the customer of the depository bank with respect to the deposit account, with Trustor being permitted only with the consent of Beneficiary, to exercise rights to withdraw funds from such deposit account. Beneficiary agrees with Trustor that Beneficiary shall not give any such instructions or withhold any withdrawal rights from Trustor, unless an Event of Default has occurred and is continuing, or, after giving effect to any withdrawal not otherwise permitted by the Loan Documents, would occur. The provisions of this subsection shall not apply to (i) any deposit account for which Trustor, the depository bank and Beneficiary have entered into a cash property agreement specially negotiated among Trustor, the depository bank and Beneficiary for the specific purpose set forth therein, (ii) deposit accounts for which Beneficiary is the depository and (iii) deposit accounts specially and exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of Trustor's salaried employees.
- (iii) Investment Property. If Trustor shall at any time hold or acquire any certificated securities, Trustor shall forthwith endorse, assign and deliver the same to Beneficiary, accompanied by such instruments of transfer or assignment duly executed in blank as Beneficiary may from time to time specify. If any securities now or hereafter acquired by Trustor are uncertificated and are issued to Trustor or its nominee directly by the issuer thereof, Trustor shall immediately notify Beneficiary thereof and, at Beneficiary's request and option, pursuant to an agreement in form and substance satisfactory to Beneficiary, either (a) cause the issuer to agree to comply with instructions from Beneficiary as to such securities, without further consent of Trustor or such nominee, or (b) arrange for Beneficiary to become the registered owner of the securities. If any securities, whether certificated or uncertificated, or other investment property now or hereafter acquired by Trustor are held by Trustor or its nominee through a securities intermediary or commodity intermediary, Trustor shall

immediately notify Beneficiary thereof and, at Beneficiary's request and option, pursuant to an agreement in form and substance satisfactory to Beneficiary, either (i) cause such securities intermediary or (as the case may be) commodity intermediary to agree to comply with entitlement orders or other instructions from Beneficiary to such securities intermediary as to such securities or other investment property, or (as the case may be) to apply any value distributed on account of any commodity contract as directed by Beneficiary to such commodity intermediary, in each case without further consent of Trustor or such nominee, or (ii) in the case of financial assets or other investment property held through a securities intermediary, arrange for Beneficiary to become the entitlement holder with respect to such investment property, with Trustor being permitted, only with the consent of Beneficiary, to exercise rights to withdraw or otherwise deal with such investment property. Beneficiary agrees with Trustor that Beneficiary shall not give any such entitlement orders or instructions or directions to any such issuer, securities intermediary or commodity intermediary, and shall not withhold its consent to the exercise of any withdrawal or dealing rights by Trustor, unless an Event of Default has occurred and is continuing, or, after giving effect to any such investment and withdrawal rights not otherwise permitted by the Loan Documents, would occur. The provisions of this subsection shall not apply to any financial assets credited to a securities account for which Beneficiary is the securities intermediary.

- (iv) Property in Possession of a Bailee. If any goods are at any time in the possession of a bailee, Trustor shall promptly notify Beneficiary thereof and, if requested by Beneficiary, shall promptly obtain an acknowledgment from the bailee, in form and substance satisfactory to Beneficiary, that the bailee holds such Property for the benefit of Beneficiary and shall act upon the instructions of Beneficiary without further consent of Trustor. Beneficiary agrees with Trustor that Beneficiary shall not give any such instructions unless an Event of Default has occurred and is continuing or would occur after taking into account any action by Trustor with respect to the bailee.
- (v) Electronic Chattel Paper and Transferable Records. If Trustor at any time holds or acquires an interest in any electronic chattel paper or any "transferable record," as that term is defined in Section 201 of the Federal Electronic Signatures in Global and National Commerce Act, or in Section 16 of the Uniform Electronic Transactions Act as in effect in any relevant jurisdiction, Trustor shall promptly notify Beneficiary thereof and, at the request of Beneficiary, shall take such action as Beneficiary may reasonably request to vest in Beneficiary control, under Section 70A-9a-105 of the UCC, of such electronic chattel paper or control under Section 201 of the federal Electronic Signatures in Global and National Commerce Act or, as the case may be, Section 16 of the Uniform Electronic

Transactions Act, as so in effect in such Jurisdiction, of such transferable record. Beneficiary agrees with Trustor that Beneficiary will arrange, pursuant to procedures satisfactory to Beneficiary and so long as such procedures will not result in Beneficiary's loss of control, for Trustor to make alterations to the electronic chattel paper or transferable record permitted under Section 70A-9a-105 of the UCC or, as the case may be, Section 201 of the federal Electronic Signatures in Global and National Commerce Act or Section 16 of the Uniform Electronic Transactions Act for a party in control to make without loss of control, unless an Event of Default has occurred and is continuing or would occur after taking into account any action by Trustor with respect to such electronic chattel paper or transferable record.

- (vi) Letter-of-Credit Rights. If Trustor is at any time a beneficiary under a letter of credit now or hereafter issued in favor of Trustor, Trustor shall promptly notify Beneficiary thereof, and at the request and option of Beneficiary, Trustor shall, pursuant to an agreement in form and substance satisfactory to Beneficiary, either (i) arrange for the issuer and any confirmer of such letter of credit to consent to an assignment to Beneficiary of the proceeds of any drawing under the letter of credit or (ii) arrange for Beneficiary to become the transferee beneficiary of the letter of credit, with Beneficiary agreeing, in each case, that the proceeds of any drawing under the letter to credit are to be applied as provided in the Loan Documents.
- (vii) Commercial Tort Claims. If Trustor shall at any time hold or acquire a commercial tort claim, Trustor shall immediately notify Beneficiary in a writing signed by Trustor of the brief details thereof and grant to Beneficiary in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Deed of Trust, with such writing to be in form and substance satisfactory to Beneficiary.
- (viii) Other Actions as to any and all Property. Trustor further agrees to take any other action reasonably requested by Beneficiary to insure the attachment, perfection and first priority of, and the ability of Beneficiary to enforce, Beneficiary's security interest in any and all of the Property including, without limitation, (a) executing, delivering and, where appropriate, filing financing statements and amendments relating thereto under the UCC, to the extent, if any, that Trustor's signature thereon is required therefore, (b) causing Beneficiary's name to be noted as secured party on any certificate of title for a titled good if such notation is a condition to attachment, perfection or priority of, or ability of Beneficiary to enforce, Beneficiary's security interest in such Property, (c) complying with any provision of any statute, regulation or treaty of the United States as to any Property if compliance with such provision is a condition to attachment, perfection or priority of, or ability of Beneficiary to enforce,

Beneficiary's security interest in such Property, (d) obtaining governmental and other third party consents and approvals, including without limitation any consent of any licensor, lessor or other person obligated on Property, (e) obtaining waivers from mortgagees and landlords in form and substance satisfactory to Beneficiary and (f) taking all actions required by any earlier versions of the Uniform Commercial Code or by other law, as applicable in any relevant Uniform Commercial Code jurisdiction, or by other law as applicable in any foreign jurisdiction.

(d) Representations and Warranties Concerning Property. Etc. Trustor further represents and warrants to Beneficiary as follows: (a) Trustor is the owner of or has other rights in or power to transfer the Property as contemplated by this Deed of Trust, free from any adverse lien, security interest or other encumbrance, except for the security interest created by this Deed of Trust and other liens and encumbrances permitted by the Loan Documents, including the Permitted Exceptions, (b) none of the Property constitutes, or is the proceeds of, "farm products" as defined in Section 70A-9a-102(34) of the UCC, (c) none of the account debtors or other persons obligated on any of the Property is a governmental authority subject to the Federal Assignment of Claims Act or like federal, state or local statute or rule in respect of such Property, (d) Trustor holds no commercial tort claim except as described in writing to Beneficiary prior to the date hereof, (e) Trustor has at all times operated its business in compliance with all applicable provisions of the federal Fair Labor Standards Act, as amended, and with all applicable provisions of federal, state and local statutes and ordinances dealing with the control, shipment, storage or disposal of hazardous materials or substances, (f) the tangible property is stored at only those properties identified in this Deed of Trust; and (g) all other information set forth herein pertaining to the Property is accurate and complete.

(e) Beneficiary's Obligations and Duties. Notwithstanding anything herein to the contrary, Trustor shall remain liable under each contract or agreement comprised in the Property to be observed or performed by Trustor thereunder. Beneficiary shall not have any obligation or liability under any such contract or agreement by reason of or arising out of this Deed of Trust or the receipt by Beneficiary of any payment relating to any of the Property, nor shall Beneficiary be obligated in any manner to perform any of the obligations of Trustor under or pursuant to any such contract or agreement, to make inquiry as to the nature or sufficiency of any payment received by Beneficiary in respect of the Property or as to the sufficiency of any performance by any party under any such contract or agreement, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to Beneficiary or to which Beneficiary may be entitled at any time or times. Beneficiary's sole duty with respect to the custody, safe keeping and physical preservation of the Property in its possession, under Section 70A-9a-207 of the UCC or otherwise, shall be to deal with such Property in the same manner as Beneficiary deals with similar property for its own account.

(f) Securities and Deposits. Beneficiary may at any time following and during the continuance of an Event of Default, at its option, transfer to itself or any nominee any securities constituting Property, receive any income thereon and hold such income as additional Property or apply it to Trustor's Obligations. Whether or not any Trustor's Obligations are due,

Beneficiary may, following and during the continuance of Event of Default, demand, sue for, collect, or make any settlement or compromise which it deems desirable with respect to the Property. Regardless of the adequacy of Property or any other security for Trustor's Obligations, any deposits or other sums at any time credited by or due from Beneficiary to Trustor may at any time be applied to or set off against any of Trustor's Obligations then due and owing.

(g) Proceeds of Dispositions; Expenses. Trustor shall pay to Beneficiary on demand any and all expenses, including reasonable attorneys' fees and disbursements, incurred or paid by Beneficiary in protecting, preserving or enforcing Beneficiary's rights under or in respect of any of Trustor's Obligations or any of the Property. After deducting all of said expenses, the residue of any proceeds of collection or sale of Trustor's Obligations or Property shall, to the extent actually received in cash, be applied to the payment of Trustor's Obligations in such order or preference as Beneficiary may determine, proper allowance and provision being made for any Trustor's Obligations not then due. Upon the final payment and satisfaction in full of all of Trustor's Obligations and after making any payments required by Sections 70A-9a-608(1)(a)(iii) or 70A-9a-615(1)(c) of the UCC, any excess shall be returned to Trustor, and Trustor shall remain liable for any deficiency in the payment of Trustor's Obligations.

(h) Ordinary Course Activities. Notwithstanding any provision in this Deed of Trust to the contrary and so long as an Event of Default has not occurred and is ongoing or would result therefrom, Trustor may use and apply any monies received in connection to the ownership and/or operation of the Property in the ordinary course of its business, free and clear of any right, claim, title or interest of Beneficiary whatsoever.

8. Events of Default. The term "Event of Default," as used herein, shall mean the occurrence, from time to time, of any one or more of the following:

(a) Non-payment of Monetary Obligations. If Trustor shall default in the payment when due of principal or interest or any other monetary obligation of Trustor under this Deed of Trust, the Note or any other Loan Document, unless cured within ten (10) days.

(b) Breach of Covenants. If Trustor shall default in the due observance or performance of any covenant, agreement, condition, term or provision of this Deed of Trust and such default shall continue uncured for thirty (30) days after Beneficiary provides Trustor with written notice of such default, provided that no such notice or cure period shall be applicable to any default as to the covenants contained in Sections 4(f), 10 or 14(s) hereof.

(c) Representations and Warranties. Any of the representations, warranties or statements of Trustor set forth in this Deed of Trust or any other Loan Document shall be untrue or incorrect in any material respect.

(d) Default under Other Loan Documents. Default in due performance or observance of any other Trustor's Obligations or covenant, agreement, condition, term or provision of any other Loan Document, it being expressly recognized by Trustor that this

Deed of Trust is security for the performance of each and every such obligation, covenant, agreement, contract, term or provision relating to the Loan.

(e) Default under Leases. Any material default by Trustor under any of the terms of the Leases, unless Trustor is contesting such default in good faith.

(f) Assignment or Encumbrance. Except as permitted under Section 10 hereof, the sale, transfer, assignment, alienation, pledge or encumbrance (including any secondary financing or cross collateralization agreements) affecting the Property made by Trustor, or any assignment of the membership interests of Trustor, without the prior written consent of Beneficiary, which consent may be granted or withheld in Beneficiary's sole and absolute discretion.

(g) Death of a Guarantor. The death of any guarantor of all or any portion of Trustor's Obligations, unless Trustor provides to Beneficiary a replacement guarantor or guarantors who, in Beneficiary's reasonable discretion, are of equal creditworthiness and liquidity and execute a guaranty or guaranties upon the same terms and conditions as the existing guaranty agreement.

9. Remedies on Default. Upon the occurrence of an Event of Default, or at any time thereafter during the continuance of such Event of Default, Beneficiary may exercise any or all of the following remedies:

(h) Acceleration of Indebtedness. Beneficiary shall be entitled to declare (i) the entire unpaid balance of principal and interest of the Note, (ii) the entire unpaid balance of all other of Trustor's Obligations, and (iii) all other amounts due and payable by Trustor pursuant to this Deed of Trust or the other Loan Documents to be immediately due and payable, without prior notice to Trustor, presentation, demand, protest, notice of protest or other notice of dishonor of any kind, all of which are hereby expressly waived.

(i) Sale on Foreclosure. Beneficiary shall be entitled to have this Deed of Trust and all interest or equity of Trustor and of all parties claiming under or through Trustor foreclosed and to have the Property sold according to law. The proceeds of any such sale shall be applied pursuant to Utah Code Annotated Section 57-1-29 as follows: FIRST, to pay all charges, costs and expenses of the sale and to reimburse Beneficiary for all amounts advanced by Beneficiary to pay taxes, insurance premiums, environmental assessments, title insurance and survey costs, brokerage fees, attorneys' and paralegals' fees, and all other costs of operating, maintaining and selling the Property, together with interest thereon at the Default Rate to the date of sale; SECOND, to pay all accrued interest on Trustor's Obligation; THIRD to pay the entire outstanding principal balance of Trustor's Obligations; FOURTH, to pay and obtain releases of all liens and encumbrances against the Property; and LAST, to pay the remainder of the sale proceeds, if any, to Trustor upon the delivery and surrender of the Property to the purchaser or as otherwise required by Utah law (as may be amended from time to time, the "Act").

(j) Appointment of Receiver. Upon the occurrence and continuance of an

Event of Default, Beneficiary, as a matter of right and without notice to Trustor or anyone claiming under Trustor, and without regard to the then value of the Property or the interest of Trustor therein or the adequacy of Beneficiary's security, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Property, and Trustor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided herein and shall continue as such and exercise all such powers until the date of confirmation of sale of the Property unless such receivership is sooner terminated. Such receiver's powers shall include the power to collect the rents, issues and profits of the Property (i) during the pendency of any foreclosure suit, (ii) in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, and (iii) during any further times when Trustor, but for the intervention of such receiver, would be entitled to collect such Rents. Such receiver also shall have all other powers and rights that may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during said period, including, to the extent permitted by law, the right to lease all or any portion of the Property for a term that extends beyond the time of such receiver's possession without obtaining prior court approval of such lease. The court from time to time may authorize the application of the net income received by the receiver in payment of Trustor's Obligations, or by any decree foreclosing this Deed of Trust, or any tax, special assessment or other lien which may be or become superior to the lien.

(k) Remedies under Loan Documents or Applicable Law. Beneficiary shall be entitled to exercise any remedy under any other Loan Document or as may be available under law, in addition to or in lieu of the other remedies set forth in this Section 9.

(l) Purchase by Beneficiary. In the case of any sale of the Property pursuant to any judgment or decree of any court at public auction or otherwise, Beneficiary may become the purchaser, and for the purposes of making settlement for or payment of the purchase price, shall be entitled to deliver over and use the Note and any claims for the debt in order that there may be credited as paid on the purchase price the amount of the debt.

(m) Expenses. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Beneficiary for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publications costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as Beneficiary may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Property. All expenditures and expenses

of the nature mentioned in this subsection and such other expenses and fees as may be incurred in the enforcement of Trustor's Obligations, the protection of the Property and the maintenance of the lien of this Deed of Trust, including the reasonable fees of any attorney employed by Beneficiary in any litigation or proceeding affecting this Deed of Trust, the Note or the Property, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threaten suit or proceeding shall be immediately due and payable by Trustor, with interest thereon until paid at the Default Rate and shall be secured by this Deed of Trust.

(n) Beneficiary's Right of Possession in Case of Default. At any time after an Event of Default has occurred, Trustor shall, upon demand of Beneficiary, surrender to Beneficiary possession of the Property. Beneficiary, in its discretion, may, with process of law, enter upon and take and maintain possession of all or any part of the Property, together with all documents, books, records, papers and accounts relating thereto, and may exclude Trustor and its employees, agents or servants therefrom, and Beneficiary may then hold, operate, manage and control the Property, either personally or by its agents. Beneficiary shall have full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of Rents, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent. Without limiting the generality of the foregoing, Beneficiary shall have full power to:

- (i) cancel or terminate any lease or sublease for any cause or on any ground which would entitle Trustor to cancel the same;
- (ii) elect to disaffirm any lease or sublease which is then subordinate to the lien hereof;
- (iii) extend or modify any then existing leases and to enter into new leases, which extensions, modifications and leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Maturity Date and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Trustor and all persons whose interests in the Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of Trustor's Obligations, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser;
- (iv) make any repairs, renewals, replacements, alterations, additions, betterments and improvements to the Property as Beneficiary deems are necessary;

- (v) insure and reinsure the Property and all risks incidental to Beneficiary's possession, operation and management thereof; and
- (vi) receive all of such Rents.

(o) Application of Income Received by Beneficiary. Beneficiary, in the exercise of the rights and powers hereinabove conferred upon it, shall have full power to use and apply the Rents to the payment of or on account of the following, in such order as Beneficiary may determine:

- (i) to the payment of the operating expenses of the Property, including cost of management and leasing thereof (which shall include compensation to Beneficiary and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;
- (ii) to the payment of taxes and special assessments now due or which may hereafter become due on the Property; and
- (iii) to the payment of any of Trustor's Obligations, including any deficiency which may result from any foreclosure sale.

(p) Protection of Security. Beneficiary may disburse any sums and take any actions that Beneficiary deems to be necessary or appropriate in its sole discretion to protect Beneficiary's interest or the security given or intended to be given hereunder. All such sums disbursed by Beneficiary and all costs and expenses incurred by Beneficiary in connection with protecting Beneficiary's interest or the security given or intended to be given hereunder (including without limitation reasonable attorneys' and paralegals' fees and court costs), together with interest thereon at the Default Rate, shall (i) constitute additional indebtedness secured by this Deed of Trust and (ii) be paid by Trustor to Beneficiary.

(q) Sale of Personal Property. Beneficiary may, without notice to or demand upon Trustor, declare this Deed of Trust to be in default, and Beneficiary shall thereafter have in any jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the UCC or the Uniform Commercial Code of any jurisdiction in which Property is located, including, without limitation, the right to take possession of the Property, and for that purpose Beneficiary may, so far as Trustor can give authority therefore, enter upon any premises on which the Property may be situated and remove the same there from. Beneficiary may in its discretion require Trustor to assemble all or any part of the Property at such location or locations within the jurisdictions of Trustor's principal office(s) or at such other locations as Beneficiary may reasonably designate. Unless the Property is perishable or

threatens to decline speedily in value or is of a type customarily sold on a recognized market, Beneficiary shall give to Trustor at least ten (10) Business Days' prior written notice of the time and place of any public sale of Property or of the time after which any private sale or any other intended disposition is to be made. Trustor hereby acknowledges that ten (10) Business Days' prior written notice of such sale or sales shall be reasonable notice. In addition, to the extent permitted by law, Trustor waives any and all rights that it may have to a judicial hearing in advance of the enforcement of any of Beneficiary's rights hereunder, including, without limitation, its right following an Event of Default to take immediate possession of the Property and to exercise its rights with respect thereto.

(r) Rights Cumulative. Each right, power and remedy herein conferred upon Beneficiary is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing under any of the Loan Documents or at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Beneficiary, and the exercise or the beginning of the exercise of one right, power or remedy shall not be waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of Beneficiary in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

(s) Standards for Exercising Remedies. To the extent that applicable law imposes duties on Beneficiary to exercise remedies in a commercially reasonable manner, Trustor acknowledges and agrees that it is not commercially unreasonable for Beneficiary (a) to fail to incur expenses reasonably deemed significant by Beneficiary to prepare Property for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) to fail to obtain third party consents for access to Property to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Property to be collected or disposed of, (c) to fail to exercise collection remedies against account debtors or other persons obligated on Property or to remove liens or encumbrances on or any adverse claims against Property, (d) to exercise collection remedies against account debtors and other persons obligated on Property directly or through the use of collection agencies and other collection specialists, (e) to advertise dispositions of Property through publications or media of general circulation, whether or not the Property is of a specialized nature, (f) to contact other persons, whether or not in the same business as Trustor, for expressions of interest in acquiring all or any portion of the Property, (g) to hire one or more professional auctioneers to assist in the disposition of Property, whether or not the Property is of a specialized nature, (h) to dispose of Property by utilizing Internet sites that provide for the auction of assets of the types included in the Property or that have the reasonable capability of doing so, or that match buyers and sellers of assets, (i) to dispose of assets in wholesale rather than retail markets, (j) to disclaim disposition warranties, (k) to purchase insurance or credit enhancements to insure Beneficiary against risks of loss, collection or disposition of

Property or to provide to Beneficiary a guaranteed return from the collection or disposition of Property, or (l) to the extent deemed appropriate by Beneficiary, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist Beneficiary in the collection or disposition of any of the Property. Trustor acknowledges that the purpose of this subsection is to provide non-exhaustive indications of what actions or omissions by Beneficiary would not be commercially unreasonable in Beneficiary's exercise of remedies against the Property and that other actions or omissions by Beneficiary shall not be deemed commercially unreasonable solely on account of not being indicated in this subsection. Without limitation upon the foregoing, nothing contained in this subsection shall be construed to grant any rights to Trustor or to impose any duties on Beneficiary that would not have been granted or imposed by this Deed of Trust or by applicable law in the absence of this subsection.

10. **Assumption and Assignment.** Notwithstanding any other provision of any Loan Document, the outstanding principal balance of the Loan and all accrued, unpaid interest thereon shall be due and payable upon the sale, assignment, conveyance, transfer, lien, pledge, mortgage, encumbrance or alienation by Trustor of any part of or interest in the Property, except that:

(a) Trustor shall have a one-time right during the term of the Loan to sell or transfer its entire ownership interest in the Property and assign Trustor's Obligations under the Loan Documents, subject to the following terms and conditions:

- (i) Trustor shall provide at least thirty (30) days prior written notice to Beneficiary of the proposed transfer;
- (ii) Beneficiary shall have approved, in its reasonable discretion, the creditworthiness and management ability of the proposed transferee and the proposed replacement indemnitors or guarantors;
- (iii) Beneficiary shall receive an assumption fee of one and one quarter (1.25%) of the outstanding Trustor's Obligations at the time of such conveyance (the "Assumption Fee") along with payment of all fees and expenses (including reasonable attorneys' fees) incurred by Trustee in connection with such transfer; and
- (iv) There shall be no Event of Default or occurrence which, with the passage of time or the giving of notice, would constitute an Event of Default at the time of the transfer.

Notwithstanding the foregoing, Trustor may transfer its entire ownership interest in the Property and assign Trustor's Obligations under the Loan Documents to (1) an entity owned or controlled by the current members of Trustor or (2) another person or entity for estate planning or tax purposes, including without limitation transfers by will, devise or made to family trusts, *provided* that such Transferee assumes Trustor's Obligations under the Loan Documents and that the conditions set forth in subsection (a)(i)-(iv) of this Section 10 have been satisfied.

In the event that all of the foregoing terms and conditions are met, Beneficiary shall consent to such transfer and to an assumption of Trustor's Obligations under the Loan Documents. The right of assignment is personal to Trustor. Except as otherwise permitted, an assignment of any interest in Trustor shall constitute an assignment within the meaning of this Section. Contemporaneously with the assumption, all Trustor's Obligations will be paid through and including the date of the assumption, and Trustor, guarantors and indemnitors will be released from further liability.

11. **Method of Taxation.** If any law of the State of Utah passed after the date of this Deed of Trust (i) deducts from the value of land for the purposes of taxation any lien thereon and imposes upon Beneficiary a tax in lieu thereof, (ii) provides or changes in any way the laws respecting the taxation of mortgages or the notes or debts secured by mortgages for State or local purposes or (iii) changes the manner of the collection of any such taxes, and the law affects this Deed of Trust, the other Loan Documents or the indebtedness secured hereby, then Beneficiary shall have the right to require payment of the Note and any other of Trustor's Obligations affected thereby on the date thirty (30) days after Beneficiary demands payment, unless Trustor has lawfully paid or satisfied such tax or other financial burden imposed on Beneficiary without violation of usury or other laws. If any stamp tax, recording tax or similar tax or imposition is hereafter claimed by any governmental authority to be due and payable on or in respect of the Loan Documents, then Trustor shall promptly pay and discharge the same on demand. No condition, term or provision of this Section shall require Trustor to pay any income tax or any other tax now imposed on Beneficiary or any income tax hereafter imposed on Beneficiary.

12. **Environmental Indemnity.** Trustor agrees to protect, defend (with counsel reasonably acceptable to Beneficiary and at Trustor's sole cost), indemnify and hold Beneficiary, Trustee and Beneficiary's affiliates, shareholders, directors, officers, employees, and agents free and harmless from and against all losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, costs, judgments, suits, proceedings, damages (including consequential damages), expenses of any kind or nature whatsoever (including attorneys', paralegals' and experts' fees, fees for environmental audits and disbursements and expenses incurred in investigating, defending against or prosecuting any litigation, claim or proceeding) which may at any time be imposed upon, incurred by or asserted or awarded against Beneficiary or Trustee or any of them in connection with or arising from or out of:

(a) Any Hazardous Material, as that term is defined in the Borrower's Certificate executed by Trustor in favor of Beneficiary of even date herewith (the "Borrower's Certificate"), on, in, under or upon all or any portion of the Property, or the groundwater;

(b) Any misrepresentation, inaccuracy or breach of any warranty, covenant or agreement contained or referred to in this Section 12;

(c) Any violation or claim of violation by Trustor of any Environmental Law, as that term is defined in the Borrower's Certificate; or

(d) The imposition of any lien for the recovery of any costs for the cleanup, release or threatened release of Hazardous Material.

The foregoing representations, warranties, covenants, agreements and indemnification shall survive repayment of the Note or any transfer of the Property by foreclosure or by a deed in lieu of foreclosure. Trustor, its successors and assigns, hereby waive, release and agree not to make any claim or bring any cost recovery action against Beneficiary or Trustee under CERCLA or any state equivalent, or any similar law now existing or hereafter enacted, except for matters resulting solely from the acts of Beneficiary or Trustee. It is expressly understood and agreed that to the extent that Beneficiary or Trustee is strictly liable under any such law, regulation, ordinance or requirement, Trustor's obligation to Beneficiary or Trustee under the foregoing indemnity shall likewise be without regard to fault on the part of Trustor with respect to the violation or condition which results in liability to Beneficiary or Trustee.

13. **Limitation of Liability.** Except for those matters set forth below, the liability of Trustor for the repayment of the indebtedness evidenced by the Note and the performance of obligations under this Deed of Trust and the other Loan Documents shall be limited to the security given by Trustor for the Note and Trustor's Obligations under the Loan Documents. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, and notwithstanding any delay by Beneficiary in exercising any right, power or remedy in connection with any Event of Default, Trustor and Aaron Jones, Ammon Jones and Jeff Mathews (collectively, the "Carve-Out Guarantor") shall be personally liable beyond their interest in the security granted to Beneficiary, to the extent of (a) any funds received by Trustor or Carve-Out Guarantor as security deposits under any Leases; (b) following an Event of Default, any rent received by Trustor or Carve-Out Guarantor from Leases; (c) any rent with respect to the Property prepaid in excess of one (1) month; (d) all condemnation awards and payments in lieu thereof and all insurance proceeds received by Trustor or Carve-Out Guarantor; (e) the cost to repair the Property as a result of a casualty; (f) any liability, damage, cost or expense incurred by Beneficiary as a result of any fraud or misrepresentation or bad faith by Trustor or Carve-Out Guarantor; (g) any liability, damage, cost or expense incurred by Beneficiary with respect to the Property in connection with any hazardous substance, solid waste or any other substance or material regulated by any federal, state or local law, statute, regulation, ordinance, code or order relating to environmental quality; (h) any sums advanced by Beneficiary for the protection, repair or maintenance of the Property, including, without limitation, any fees and expenses of Beneficiary payable by Trustor or Carve-Out Guarantor under any Loan Document; (i) any unpaid real estate taxes or assessments on the Property which Trustor or Carve-Out Guarantor has failed to pay when due; (j) any liability, damage, cost or expense incurred by Beneficiary as a result of cancellation of insurance; (k) commission of waste; (l) any liability, damage, cost or expense incurred by Beneficiary as a result of the failure to provide Beneficiary with subordination, non-disturbance and attornment agreements in form satisfactory to Beneficiary from tenants and subtenants of the Property that execute Leases on or after the date hereof, including without limitation, new leases, amendments, assignments and subleases; (m) any liability, damage, cost or expense incurred by Beneficiary as a result of any amendments of any Lease without Beneficiary's prior consent; (n) seizure or forfeiture of all or any portion of the Property or Beneficiary's interest therein pursuant to federal, state or local law without Beneficiary's written consent; and (o) all costs of collection, including attorneys' fees,

incurred by Beneficiary in connection with any of the items identified in this Section. Nothing contained herein shall limit or affect Beneficiary's rights under any indemnity agreement or any guaranty or other collateral which may now or hereafter be given in connection with the Loan:

Notwithstanding the foregoing provisions, the agreement of Beneficiary not to pursue recourse liability as set forth above SHALL BECOME NULL AND VOID and shall be of no further force and effect in the event of:

- (1) a violation of the restrictions on transfer set forth in this Deed of Trust; or
- (2) if the Property or any part thereof shall become an asset in a voluntary bankruptcy or insolvency proceeding.

14. **Miscellaneous Provisions.**

(a) **Failure of Sale.** If the Property is advertised for sale by Beneficiary or Trustee, as provided in this Deed of Trust, and not sold, then Trustor shall pay the proper and reasonable costs incurred by Beneficiary in connection with the proposed sale, and such amounts shall constitute additional indebtedness secured by this Deed of Trust and shall bear interest at the Default Rate.

(b) **Separate Sales.** Any real estate or any interest or estate therein sold pursuant to any writ of execution issued on a judgment obtained by virtue of the Loan Documents, or pursuant to any other judicial proceedings under this Deed of Trust, may be sold in one parcel, as an entirety, or in several parcels, and in such manner or order as Beneficiary may elect, in its reasonable discretion.

(c) **Waiver.** To the full extent that is lawful, Trustor hereby waives and releases and agrees that it will not insist upon, plead or in any way take advantage of (i) any benefit that might accrue to Trustor by virtue of any present or future law exempting all or any portion of the Property or the proceeds thereof from any sale, attachment, or levy or sale on execution, (ii) any present or future law providing for any appraisal, valuation, stay of execution, redemption, moratorium or extension of time for payment, and (iii) any right to a marshalling of assets. Without limiting the generality of the foregoing, Trustor hereby expressly waives any and all rights of redemption from sale on behalf of Trustor and all persons whom it may legally bind who hereafter acquire any interest in the Property.

(d) **Consent to Jurisdiction.** Trustor irrevocably (i) agrees that Beneficiary may (and Trustor shall) bring any suit, action or other legal proceedings arising out of this Deed of Trust, Trustor's Obligations or any other transactions or matters contemplated hereby in the state courts located in the county in which the Real Estate is located or the federal courts whose venue includes the county in which the Real Estate is located; (ii) consents to the jurisdiction of each such court in any such suit, action or proceeding; and (iii) waives its right to trial by jury.

(e) **Choice of Law.** Except where preempted by the laws and regulations of the United States, the parties intend for this Deed of Trust to be interpreted, construed and governed

by the substantive laws of the laws of the state in which the Real Estate is located.

(f) Notices. All notices and demands under any Loan Document shall be in writing and shall be deemed to be delivered only when (i) actually received or (ii) deposited in the United States mail (certified or registered mail, postage prepaid, return receipt requested) and addressed to Trustor or Beneficiary as follows:

Trustor: Lidocaine Properties, LLC
 9893 North 6320 West
 Highland, UT 84003
 Attn: _____

Beneficiary: United Farm Family Mutual Insurance Company
 225 S. East Street
 Indianapolis, Indiana 46202
 Attn: Director, Investments

or to any other address Beneficiary or Trustor may designate from time to time by written notice.

(g) Modification of Deed of Trust. A modification, amendment or waiver of any provision of this Deed of Trust or any other of the Loan Documents shall be effective only if the modification, amendment or waiver is set forth in a written instrument executed by the party against whom enforcement is sought and, with respect to this Deed of Trust, recorded with the Office of the Recorder of Utah County, Utah, and any such waiver shall be effective only for the specific purpose and in the specific instance for which Beneficiary and Trustor granted the waiver.

(h) No Waiver; Remedies Cumulative. Neither failure nor delay on the part of Beneficiary in exercising any right, power or privilege under this Deed of Trust or any of the other Loan Documents shall operate as a waiver of such right, power or privilege, and no single or partial exercise by Beneficiary of any such right, power or privilege shall preclude any further exercise thereof or the exercise of any other right, power or privilege. No notice to or demand on Trustor shall (i) entitle Trustor to any notices or demands in any circumstances, or (ii) constitute a waiver of Beneficiary's rights or powers to take any action in any circumstances without notice or demand. No remedy conferred in this Deed of Trust or in any of the other Loan Documents upon Beneficiary is intended to be exclusive of any other remedy and each shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise.

(i) Successors and Assigns. All the terms and provisions of this Deed of Trust shall be binding upon and inure to the benefit of Beneficiary and Trustor and their respective heirs, successors, assigns and legal representatives. Whenever this Deed of Trust refers to Beneficiary or Trustor, such reference shall be deemed to include their respective heirs, successors, assigns and legal representatives. The term "Beneficiary" will mean the owner and holder of the Note whether or not named as Beneficiary herein. The term "Trustor" will mean all persons named as

Trustor herein, whether one or more, and Trustor's obligations will be joint and several. "Trustee" will include all successor trustees. The term "person" includes natural persons, corporations, partnerships, limited liability companies, trusts, estates or any other entity. All grammatical usage will be deemed to refer to the masculine, feminine, neuter, singular or plural as the context and actual identity of any person(s) may require.

(j) Trustee. Trustee accepts this Deed of Trust when this Deed of Trust is made a public record as provided by law. Trustee may, but is not obligated to, notify any party hereto of any pending sale under any other encumbrance or of any action or proceeding in which Trustor, Beneficiary or Trustee is named a party, unless brought by Trustee. Beneficiary may appoint a successor Trustee in the manner prescribed by law. Trustor and Beneficiary authorize Trustee, in the event any demand or notice is made or tendered to it concerning this Deed of Trust or the Property, to hold any money and documents. A successor Trustee will, without conveyance from the predecessor Trustee, succeed to all its predecessor's title, estate, rights, powers and duties. Trustee may resign, in the manner permitted by law, at any time and, having so resigned, will be relieved of all further liability and responsibility to Trustor, Beneficiary or otherwise hereunder. Trustee will not be liable for any action taken in its discretion and in good faith or upon advice of counsel or upon any information supplied or direction given by Beneficiary.

(k) Reconveyance. Upon payment and performance of Trustor's Obligations, Beneficiary will request Trustee to reconvey the Property and will deliver a written declaration of payment or satisfaction of the Note and Trustor's Obligations hereby to Trustee. Trustee will reconvey the Property without warranty to the person or persons legally entitled thereto. Such person or persons will pay all costs of recordation and any release fees of Trustee. Beneficiary itself may also execute and deliver to Trustor a comparable release or satisfaction of this Deed of Trust.

(l) Survival. All covenants, agreements, representations, and warranties made in this Deed of Trust shall (i) survive the delivery of the Loan Documents to Beneficiary, and (ii) continue in full force and effect until the indebtedness secured by this Deed of Trust is fully paid and all of Trustor's Obligations are fully satisfied.

(m) Severability. In the event that one or more of the conditions, terms or provisions of this Deed of Trust or any of the other Loan Documents is determined to be invalid, illegal or unenforceable in any respect, then the validity, legality or enforceability of the remaining conditions, terms and provisions of this Deed of Trust and the other Loan Documents shall not be affected or impaired thereby.

(n) Section Headings/Construction. The section headings used in this Deed of Trust are for convenience only and shall not be construed to modify, enlarge or limit the substance of the conditions, terms and provisions of this Deed of Trust. Each covenant and agreement made in this Deed of Trust shall be construed as being independent of each other covenant and agreement set forth herein, and compliance with any one covenant or agreement shall not be deemed to excuse compliance with any or all other covenants and agreements.

(o) Future Advances. This Deed of Trust secures future obligations and

advancements up to a maximum amount of Two Million Fifty Thousand and 00/100 Dollars (\$2,050,000.00) and all future modifications, extensions and renewals of any indebtedness or obligations secured by this Deed of Trust.

(p) Beneficiary not Joint Venturer or Partner. Trustor and Beneficiary acknowledge and agree that in no event shall Beneficiary be deemed to be a partner or joint venturer with Trustor. Without limitation of the foregoing, Beneficiary shall not be deemed to be such a partner or joint venturer on account of its becoming a Beneficiary in possession or exercising any rights pursuant to this Deed of Trust or pursuant to any other instrument or document evidencing or securing any of Trustor's Obligations secured hereby, or otherwise.

(q) Care by Beneficiary. Beneficiary shall be deemed to have exercised reasonable care in the custody and preservation of any of the Property in its possession if it takes such action for that purpose as Trustor requests in writing, but failure of Beneficiary to comply with any such request shall not be deemed to be (or to be evidence of) a failure to exercise reasonable care, and no failure of Beneficiary to preserve or protect any rights with respect to such Property against prior parties, or to do any act with respect to the preservation of such Property not so requested by Trustor, shall be deemed a failure to exercise reasonable care in the custody or preservation of such Property.

(r) Indemnity. Trustor shall indemnify, defend and hold harmless Beneficiary from and against, and, upon demand, reimburse Beneficiary for, all claims, demands, liabilities, losses, damages, judgments, penalties, costs and expenses, including, without limitation, attorneys' and paralegals' fees and disbursements, which may be imposed upon, asserted against or incurred or paid by Beneficiary by reason of, on account of or in connection with any bodily injury or death or property damage occurring in, upon or in the vicinity of the Property through any cause whatsoever, or asserted against Beneficiary on account of any act performed or omitted to be performed under the Loan Documents or on account of any transaction arising out of or in any way connected with the Property or the Loan Documents, except as a result of the willful misconduct or gross negligence of Beneficiary.

(s) Legal Existence. Trustor agrees that so long as any of its obligations hereunder, or under any of the Loan Documents, remain unsatisfied, it will not dissolve or liquidate (in whole or in part) its existence, that it will maintain its existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into a corporation, limited liability company, partnership, or other entity, without the prior express written consent of Beneficiary.

(t) Subrogation. To the extent that Beneficiary, on or after the date hereof, pays any sum due under any provision of law or any instrument or document creating any lien prior or superior to the lien of this Deed of Trust, or Trustor or any other person pays any such sum with the proceeds of any loan under Trustor's Obligations, Beneficiary shall have and be entitled to a lien on the Property equal in priority to the lien discharged, and Beneficiary shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence and benefit Beneficiary in securing Trustor's Obligations. Beneficiary shall be subrogated, notwithstanding their release of record, to any lien under any

mortgage or deed of trust, superior titles, vendors' liens, mechanics' liens, and any other liens, charges, encumbrances, rights and equities on the Property, to the extent that any obligation under any thereof is paid or discharged with proceeds of disbursements or advances under the Note or of other Trustor's Obligations secured hereby.

(u) Commitment Letter. The terms and conditions of the Commitment Letter between Trustor and Beneficiary, dated April 23, 2015 and signed by Trustor on April 29, 2015, are incorporated herein by reference, provided that, in the event of any inconsistency, the terms of this Deed of Trust shall control.

(v) Integration. PURSUANT TO UTAH CODE ANNOTATED SECTION 25-5-4, TRUSTOR IS NOTIFIED THAT THIS DEED OF TRUST, THE NOTE AND OTHER LOAN DOCUMENTS GOVERNING, EVIDENCING AND SECURING THE INDEBTEDNESS SECURED HEREBY REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Trustor, for itself and its successors and assigns, has executed this Deed of Trust, Security Agreement, Assignment of Rents and Leases and Fixture Filing, on the date indicated above.

“TRUSTOR”

LIDOCAINE PROPERTIES, LLC,
a Utah limited liability company

By: *Arin H Jones*
Arin H Jones, Manager

STATE OF *Utah*
COUNTY OF *Salt Lake* ^{SS}

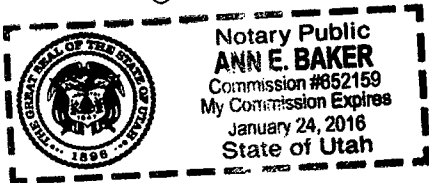
Before me, a Notary Public in and for said County and State, personally appeared *Arin H. Jones* the *Manager* of Lidocaine Properties, LLC, who, being first duly sworn, acknowledged the execution of the above and foregoing instrument for and on behalf of such entity.

Witness my hand and Notarial Seal this *29th* day of June, 2015.

My Commission Expires: *1-24-16*

Resident of *Salt Lake* County

Ann E. Baker Notary Public
(Printed) *Ann E. Baker*



This instrument prepared by: Keith A. Bice, Bingham Greenebaum Doll LLP, 2700 Market Tower, 10 West Market Street, Indianapolis, IN 46204, (317) 635-8900, with advice and counsel of Stanford P. Fitts, STRONG & HANNI, 3 Triad Center, Suite 500, Salt Lake City, Utah 84180.

EXHIBIT A

LEGAL DESCRIPTION OF THE REAL ESTATE

Lot 2, DANA POINT SUBDIVISION – PLAT “A”, according to the official plat thereof on file and of record in the Office of the Utah County Recorder.

EXHIBIT B

PERMITTED EXCEPTIONS

1. Real estate taxes and assessments which are a lien, but which are not yet billed, or are billed but are not yet due and payable as of the date of closing and any assessments not shown on the public record.
2. Easements, covenants, restrictions, agreements and/or reservations of record.
3. Any laws, regulations or ordinances (including, but not limited to, zoning, building and environmental matters) as to the use, occupancy, subdivision or improvement of the Property adopted or imposed by any governmental agency, which are now or hereafter in effect relating to the Property.
4. Any other matters set forth in the Commitment No. 15-1712 AB issued by Chicago Title Insurance Company, dated April 26, 2015, as amended as of the date hereof.
5. Any encumbrance created in favor of Beneficiary pursuant to the Loan Documents.