

6479619

RECORDING REQUESTED  
BY AND WHEN RECORDED  
RETURN TO:

Safeguard Services Corp.  
c/o Steve Tyler  
Callister Nebeker & McCullough  
Suite 900 Kennecott Bld.  
Salt Lake City, Utah 84133

6479619  
10/11/96 4:42 PM 31.00  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
FIRST AMERICAN TITLE  
REC BY: B GRAY , DEPUTY - WI

**SPECIAL WARRANTY DEED  
WITH RESTRICTIVE COVENANTS  
(Corporate Grantor - Utah)**

1. **Conveyance.** The Grantor Grand Central, Inc., a Utah corporation, for and in consideration of ten dollars and other valuable consideration in hand paid, does hereby grant, bargain, convey and confirm to SAFEGUARD SERVICES CORPORATION, A UTAH CORPORATION, Grantee, the real estate described on Exhibit A hereto (the "Parcel"). The Grantor for itself and its successor in interest does by these presents expressly limit the covenants of the deed to those herein expressed, and excludes all covenants arising or to arise by statutory or other implication, and does hereby covenant that against all persons whomsoever lawfully claiming or to claim by, through or under said Grantor and not otherwise, Grantor will forever warrant and defend the said described real estate. Grantor is the owner of the real property described on Exhibit "C" hereto, which is located adjacent to the Parcel ("Grantor's Parcel"). The covenants and restrictions set forth herein are for the use and benefit of Grantor as owner of Grantor's Parcel.

2. **Encumbrances.** This conveyance is expressly subject to the matters specified on Exhibit B hereto.

3. **Parking and Separation Wall.** Grantee shall maintain on the Parcel sufficient parking spaces to meet the needs of the employees, customers and invitees of Grantee and its tenants, and to satisfy requirements of the applicable codes. Grantee has no rights to park on Grantor's Parcel. In addition, at the time that Grantee constructs any building on the Property, Grantee shall construct a combination concrete masonry wall and wrought iron fence along the boundary between the Parcel and Grantor's Parcel, which shall be at least three feet above grade. Grantor shall maintain the fence and wall, and shall keep it in a clean and slightly condition. Unless agreed in writing by Grantor, there shall be no openings in the wall, which is intended to be a barrier separating the parcels.

4. **Restriction on Use.**

4.1 **Restrictions on Certain Retail Use.** The Parcel will under no circumstances be leased, subleased, operated or otherwise used for: (i) any jewelry store; (ii) any supermarket (which for purposes of this Deed means any store, department or area within a store, containing at least 5,000

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square feet of gross floor area, including aisle space and storage, primarily devoted to the retail sale of food for off-premises consumption); (iii) any bakery or delicatessen; (iv) the sale of fresh or frozen meat, fish, poultry or produce for off-premises consumption; (v) any convenience store (except that a convenience store being operated in conjunction with a gasoline product service station approved in writing by Grantor and which contains not more than 1,500 square feet of gross floor area for product display, or such greater area as Grantor may approve from time to time, will not be a prohibited use); or (vi) the sale of any pharmaceutical products requiring the services of a registered pharmacist.

**4.2 Prohibition of Certain Other Uses.** The Parcel shall not in any event be leased, subleased, operated or otherwise used for: (i) the display, distribution or sale of any "adult" books, "adult" films, "adult" periodicals or "adult" entertainment; (ii) the establishment or maintenance of a massage parlor, gambling operation, "adult" theater, "adult" bookstore, "sex" shop, "peep show" or bawdy house or brothel, or any use in violation of applicable zoning and other governmental laws and regulations; (iii) any use which emits an unreasonable obnoxious odor, noise or sound which can be heard or smelled at the border of the property or which is a public or private nuisance; (iv) any distilling, refining, smelting, agricultural, animal raising or boarding, or mining operation; (v) any short or long-term residential use; (vi) any primary use as a warehousing, assembling, manufacturing, waste processing or other industrial operation; or (vii) any place for public assembly (such as a church, mortuary or meeting hall).

**5. Acceptance of Restrictions.** Any lease or occupancy agreement subsequently entered into with respect to the Parcel will require that the tenant's use (and any changes to the original use by the tenant) must comply with applicable laws and recorded restrictions affecting the property (including this Deed). In acquiring the Parcel, Grantee shall automatically be deemed to acknowledge that the restrictions set forth in this Deed are an essential part of the particular transaction covering the Parcel and, further, that the restrictions set forth in this Deed are fair and reasonable to assure the orderly and beneficial development of the Development and the Parcel, but not to control competition (recognizing that the relevant competitive market consists not of the Development but of the commercial retail market in Salt Lake City, Utah).

**6. Maintenance of Parcel.**

**6.1 Maintenance Prior to Development.** Prior to development of the Parcel, Grantee will maintain the Parcel free of rubbish and debris and in a sightly condition, with weeds mowed on a regular basis.

**6.2 Maintenance of Exterior.** After development, Grantee shall maintain (or cause to be maintained) the exterior of any building and the parking lot, landscaping and other exterior portions of the Parcel, in a quality and condition comparable to that of first class retail developments of comparable size and nature located in the same geographic area as the Development.

**7. Defaults.**

**7.1 Defaults.** Grantee shall be deemed to be default of this Deed upon the expiration of thirty (30) days from receipt of written notice from Grantor specifying the particulars in which such person has failed to perform such person's obligations under this Deed unless such person has, prior to the expiration of the cure period, cured the matters specified in the notice of default. However, such person shall not be deemed to be in default if such failure (except a failure to pay money) cannot

reasonably be cured within the thirty-day cure period, and such person is using good faith, diligent efforts to cure the matters specified in the notice of default.

**7.2 Injunctive Relief.** In the event of a violation or threatened violation by any person of the restrictions contained in this Deed, Grantor shall, in addition to any other remedy available at law or in equity, have the right to enjoin such violation or threatened violation in a court of competent jurisdiction, it being acknowledged that monetary damages will be an insufficient remedy for such a violation.

**8. Restrictions Perpetual; Amendment.** The restrictions in this Deed shall be perpetual and shall run with the land and shall be binding on and shall inure to the benefit of the parties hereto, their heirs, successors or assigns as owners of the Parcel and Grantor's Parcel, respectively. The restrictions may only be amended in writing signed by Grantor and Grantee and recorded in the deed records of the county in which the Parcel is located. The restrictions may be enforced by Grantor and by Grantor's successors and assigns as owner of Grantor's Parcel.

**9. General Provisions.**

**9.1 Protection of Rights of Mortgagees.** No breach of the provisions in this Deed shall defeat or render invalid the lien of any mortgage(s) or deed(s) of trust now or hereafter executed which affect Grantee's interests in the Parcel; provided, however, that upon any sale under foreclosure of any mortgage(s) or under the provisions of any deed(s) of trust, any purchaser at such sale, and its successors and assigns, shall hold any and all property interest so purchased subject to all of the provisions of this Deed.

**9.2 Waiver.** No provision of this Deed shall be deemed to have been waived unless such waiver is in writing signed by the waiving party. Failure at any time to require performance of any provision of this Deed shall not limit Grantee's right to enforce the provision. Any waiver of any breach of any provision shall not be a waiver of any succeeding breach or a waiver of any provision of this Deed.

**9.3 Attorneys' Fees.** In the event suit or action is instituted to interpret or enforce the terms of this Deed, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as costs of litigation (including discovery costs), and as attorneys' fees in preparation for and at trial, on appeal of such suit or action and on any petition for review, in addition to all other sums provided by law.

**9.4 Notices.** Notices given under this Deed shall be in writing and delivered by certified or registered U.S. mail, postage paid with return receipt requested; by United States express mail or other established express delivery service (such as Federal Express), postage or delivery charge prepaid; by facsimile or other telecommunication device capable of transmitting or creating a written record; or personally. Each Grantee shall give notice to each other Grantee of its address for notice by

written notice to the other Grantees. Unless Grantor designates another address for notice by notice given pursuant to this Section, notices to Grantor should be sent to the following address:

Grand Central, Inc.  
3800 S.E. 22nd Avenue  
P.O. Box 42121  
Portland, Oregon 97242-0121  
Attn: Vice President, Corporate Facilities  
Facsimile No.: (503) 797-3539

Unless Grantee designates another address for notice by notice given pursuant to this Section, notices to Grantee should be sent to the following address:

SAFEGUARD SERVICES CORPORATION  
54 West 700 South, Suite 200  
Salt Lake City, Utah 84101  
Attn: Brad Eichers, COO  
Facsimile No.: 801-355-3739

In the absence of such notice of Grantee's address for notice purposes, any notice under this Deed may be given to the address to which property tax statements are delivered by the taxing authority.

**9.5 Effect of Invalidation.** If any provision of this Deed is held to be invalid or unenforceable for any reason, such provision shall be ineffective to the extent of such invalidity or unenforceability, but the validity of the remaining provisions of this Deed shall not be affected thereby. Furthermore, in lieu of each such invalid or unenforceable provision, there shall be added automatically as a part of this Deed a provision as similar in terms to such invalid or unenforceable provision as may be possible and be valid and enforceable.

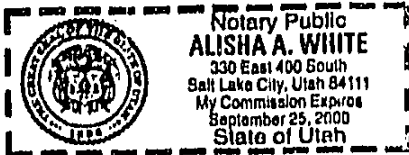
**9.6 Exercise of Approval Rights; Limitation of Claims.** Grantor shall exercise its approval rights under this Deed in good faith based on Grantor's business judgment and actual



STATE OF Utah )  
COUNTY OF Salt Lake )

On this 11<sup>th</sup> day of October, 1996, before me, the undersigned, a Notary Public in and for the State of Utah, duly commissioned and sworn, personally appeared Bradley J. Eichers, to me known to be the person who signed as Secretary of Safeguard Services Corp., the \_\_\_\_\_ corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned; and on oath stated that he or she was duly elected, qualified and acting as said officer of the corporation and was authorized to execute said instrument on behalf of the corporation, that the seal affixed, if any, is the corporate seal of the corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



Alisha A. White  
NOTARY PUBLIC in and for the State of Utah  
residing at Salt Lake City  
My Appointment Expires: 9/25/00

**EXHIBIT A TO DEED**

Legal Description of Parcel

PARCEL 3

BEGINNING AT A POINT ON THE SOUTH LINE OF 3500 SOUTH STREET, SAID POINT BEING SOUTH 89° 56' 54" WEST ALONG THE SECTION LINE 1137.38 FEET AND SOUTH 00° 02' 11" EAST 40.00 FEET FROM THE NORTHEAST CORNER OF SECTION 31, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE SOUTH 00° 02' 13" EAST 178.00 FEET; THENCE NORTH 89° 56' 54" EAST 101.07 FEET; THENCE SOUTH 00° 03' 17" EAST 316.07 FEET; THENCE SOUTH 89° 56' 54" WEST 29.00 FEET; THENCE SOUTH 00° 03' 17" EAST 310.00 FEET; THENCE NORTH 89° 56' 54" EAST 20.50 FEET; THENCE SOUTH 00° 03' 17" EAST 145.54 FEET; THENCE SOUTH 89° 58' 10" WEST 254.08 FEET TO A POINT ON THE EAST RIGHT OF WAY ( AS CONSTRUCTED ) OF 4200 WEST STREET; THENCE NORTH 00° 03' 17" WEST, ALONG SAID EAST LINE 771.52 FEET; THENCE NORTH 89° 56' 54" EAST 118.87 FEET; THENCE NORTH 00° 02' 13" WEST 178.00 FEET TO A POINT ON THE SOUTH LINE OF 3500 SOUTH STREET; THENCE NORTH 89° 56' 54" EAST ALONG SAID SOUTH LINE 42.65 FEET TO THE POINT OF BEGINNING.

CONTAINS: 4.59 ACRES

## EXHIBIT B TO DEED

### Encumbrances

1. The right, privilege, and authority to construct, reconstruct, operate, maintain and repair its lines of Telephone and Telegraph including underground conduit, poles, anchors, cables, wires and fixtures upon, under, over and across the following:

A five foot easement, the South line of which is as follows:

Commencing 60 rods South from the Northeast corner of Section 31, Township 1 South, Range 1 West, Salt Lake Base and Meridian, thence West 80 rods.

As granted to the Mountain States Telephone and Telegraph Company by Easement dated June 27, 1966 and recorded October 6, 1966 as Entry No. 2174019 in Book 2499 at page 35 and by Easement dated June 21, 1966 and recorded October 6, 1966 as Entry No. 2174034 in Book 2499 at page 50 and by Easement dated June 21, 1966 and recorded October 6, 1966 as Entry No. 2174035 in Book 2499 at page 51 of Official Records.

2. A Right of Way and Easement 16 feet wide, the center line of which is described as follows:

Beginning 756 feet South from the Northwest corner of the Northeast quarter of the Northeast quarter of Section 31, Township 1 South, Range 1 West, Salt Lake Base and Meridian, and running thence East 330 feet over said property, for gas distribution facilities, as created in favor of Mountain Fuel Supply Company, by instrument recorded January 17, 1972 as Entry No. 2432253 in Book 3034 at page 117 of Official Records.

3. A Pole Line Easement for electrical distribution facilities as granted to Utah Power and Light Company by Easement recorded June 26, 1972 as Entry No. 2465649 in Book 3094 at page 192 of Official Records, over and across the following:

Beginning at the North boundary line of the Grantor's land at a point 41 feet South and 920 feet West more or less from the Northeast corner of Section 31, Township 1 South, Range 1 West, Salt Lake Meridian, thence South 86°55' West 75 feet, more or less; thence South 89°58' West 320 feet, more or less, to the West boundary line of said land and being in the Northeast quarter of said Section 31.



**EXHIBIT C TO DEED**

Legal Description of Grantor's Property

**PARCEL 1:**

BEGINNING at a point on the South right of way line of 3500 South Street, said point being South 89°56'54" West along the section line 515.00 feet and South 0°01'50" East 40.00 feet from the Northeast corner of Section 31, Township 1 South, Range 1 West, Salt Lake Base and Meridian and running thence South 0°01'50" East 295.00 feet; thence North 89°56'54" East 475.00 feet to the West right of way line of 4000 West Street; thence South 0°01'50" East along said West line 94.00 feet; thence South 89°56'54" West 290.00 feet; thence South 0°01'50" East 132.00 feet; thence South 89°56'54" West 40.00 feet; thence South 0°01'50" East 233.60 feet; thence North 89°56'54" East 330.00 feet to the West right of way line of 4000 West Street; thence South 0°01'50" East along said West line 195.39 feet to the Northeast corner of the Woodcove No. 1 Subdivision; thence South 89°58'10" West along the North lines of the Woodcove No. 1 & No. 2 Subdivisions, 878.85 feet; thence North 0°01'50" West 200.75 feet; thence South 89°58'10" West 93.63 feet; thence North 0°00'06" East and along the West side of a brick building 258.20 feet; thence South 89°56'54" West 24.68 feet; thence North 0°01'50" West 312.68 feet; thence North 89°56'54" East 13.65 feet; thence North 0°02'11" West 178.00 feet to the South right of way line of 3500 South State Street; thence North 89°56'54" East along said South line 508.35 feet to the point of BEGINNING.

EXCEPTING THEREFROM that portion deeded to HV10MD, L.C., by Special Warranty Deed, described as follows:

Beginning at a point on the South line of 3500 South Street, said point being South 89°56'54" West along the section line 672.25 feet and South 00°03'06" East 40.00 feet from the Northeast corner of Section 31, Township 1 South, Range 1 West, Salt Lake Base and Meridian and running thence South 00°03'06" East 215.00 feet; thence South 89°56'54" West 170.00 feet; thence North 00°03'06" West 215.00 feet to the South line of said 3500 South Street; thence North 89°56'54" East along said South line 170.00 feet to the point of beginning.

TOGETHER WITH the appurtenant undivided interest in the "Common Areas" and "Access Easements", as defined and described in the Declaration of Covenants, Conditions, Restrictions and Easements, dated March 28, 1995 and recorded April 4, 1995 as Entry No. 6053818 in Book 7127 at page 1680 of Official Records.

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