

Stevart Title # D-12680-A
SBA Loan # GP-491-549-3002-SLC

WHEN RECORDED, MAIL TO:
ZIONS FIRST NATIONAL BANK

Ogden Office

Branch or Department

2302 Washington, Blvd.

Street

Ogden, Utah 84401

City

State

Zip Code

Attorney

Mike Poll

E# 9815'12 BK 1512 PG 769
CAROL DEAN PAGE, DAVIS CNTY RECORDER
1992 JUL 9 3:06 PM FEE 16.50 DEP DJW
REC'D FOR US TITLE OF UTAH

TRUST DEED AND SECURITY AGREEMENT
With Assignment of Rents

E 2-41-2W1

THIS TRUST DEED is made this 9th day of July 19 92 between Freeport Cold Storage, Inc.
as TRUSTOR whose address is 440 South Main Street, Clearfield, Utah 84015 ZIONS FIRST NATIONAL
BANK, a national association, as TRUSTEE whose address is 2302 Washington, Blvd. Ogden, Utah 84401
and ZIONS FIRST NATIONAL BANK, a national association as BENEFICIARY whose address is noted above. (CHECK BOX and FILL IN THE FOLLOWING BLANKS, IF TRUSTOR IS AN
ACCOMMODATION TRUSTOR AND NOT THE MAKER OF THE NOTE, AS HEREINAFTER DEFINED) and,
the maker of the Note as DEBTOR, whose address is _____

WITNESSETH That Trustor CONVEYS AND WARRANTS TO TRUSTEE IN TRUST WITH POWER OF SALE the following described land situated in Davis
County State of Utah

See Attached Schedule "A"

which is commonly known as or has the address of 440 South Main Street Clearfield, Utah 84401
Street City State Zip Code

Together with all of the following property, whether now existing or hereafter arising: all buildings, structures and other improvements of every nature whatsoever now or at any time hereafter constructed or situated on said land and all apparatus, fixtures, and articles of property now or hereafter attached to or necessary for use in connection with the operation or maintenance of any such building, structures or other improvements, including all replacements of any of the foregoing and any and all additions thereto; all rights-of-way, easements, gores of land, and licenses relating or appurtenant to said land; all water rights and stock; all mineral, oil and gas rights and profits; all rents, issues, profits, and income of whatever nature of and from the foregoing; all right, title and interest of Trustor in and to any and all present and future leases of said land or space in any building erected thereon, including the right to receive rent; all tenements, hereditaments, rights, privileges, and appurtenances relating or belonging to the foregoing; all awards made for the taking of eminent domain or by any proceeding or purchase in lieu thereof of the foregoing or any portion thereof; and all proceeds of insurance paid on account of any partial or total destruction of the foregoing. All of the foregoing land and property is hereinafter referred to as the "Property."

This conveyance and warranty by Trustor to Trustee is made for the purpose of securing: (1) the payment and performance of each and every obligation under that certain promissory note (the "Note") dated July 9, 19 92, in the original principal sum of \$ 937,500.00, made by (CHECK APPLICABLE BOX) TRUSTOR DEBTOR, payable to the order of Beneficiary; (2) any extensions, renewals, or modifications of the Note or of the obligations evidenced thereby; (3) the payment and performance of each and every agreement and obligation of Trustor under this Trust Deed and under any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby; (4) the payment of such additional loans or advances as hereafter may be made to Trustor, or Trustor's successors or assigns, when evidenced by an instrument or instruments reciting that they are secured by this Trust Deed; and (5) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms of this Trust Deed, the Note, or any instrument further evidencing or securing any obligation secured hereby, together with interest thereon as herein provided (collectively the "Obligations").

TRUSTOR COVENANTS that Trustor is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property, and that the Property is unencumbered except for encumbrances listed in a schedule of exceptions to coverage in any lender's policy of title insurance or title report on the property accepted by Beneficiary, and will defend the title to the Property against all claims and demands, subject to the encumbrances listed in a schedule of exceptions to coverage in any lender's policy of title insurance or title report on the property accepted by Beneficiary.

NOW THEREFORE, in order to protect the security of this Trust Deed, Trustor agrees as follows:

1. **Maintenance of the Property.** Trustor shall (a) keep the Property in good condition and repair and do all acts reasonably necessary in order so to do; (b) not remove or demolish any building on the Property; (c) complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged, or destroyed on the Property, and pay when due all claims for labor performed and materials furnished therefor; (d) comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting the Property; (e) not commit or permit any waste of the Property; (f) not commit or permit any act upon the Property in violation of law and (g) not destroy, damage or substantially change the Property.
2. **Insurance.** Trustor shall provide and maintain (a) a multi-peril policy of property insurance covering all completed improvements on the Property, providing as a minimum fire and extended coverage (including all perils normally covered by the standard "all risk" endorsement, if such is available), on a full replacement cost basis in an amount not less than 100% of the insurable value of the completed improvements, exclusive of the land, foundations and other items normally excluded from coverage; (b) bodily injury liability insurance with such limits as Beneficiary may reasonably require; (c) if the Property, or any portion thereof, is or at some future time is determined to be located in a special flood hazard area as identified by the Secretary of Housing and Urban Development or the Federal Emergency Management Agency, then Trustor shall obtain and maintain a blanket policy of flood insurance of such type and types and in such amounts as Beneficiary may require on the Property; and (d) such other insurance coverage of such type or types and in such amounts as Beneficiary may require on the Property. Trustor shall promptly pay when due any premiums for such insurance. Such insurance shall be in form and carried with companies approved by Beneficiary and shall contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the terms of such insurance notwithstanding any negligent act of Trustor which might otherwise result in forfeiture of the insurance. The policies shall provide that the insurer will waive all rights of set-off, counterclaim or deduction against Trustor and shall contain a provision that such policies will not be cancelled or materially amended or altered without first affording Beneficiary at least thirty (30) days prior written notice. All such insurance shall contain a standard "mortgage protection clause" and shall name Beneficiary as an additional insured and loss payee. In the event of loss, Trustor shall give immediate notice to Beneficiary who may make proof of loss, and each insurer concerned is hereby authorized and directed to make payment for such loss directly to Beneficiary instead of to Trustor and Beneficiary jointly if Trustor fails to provide satisfactory hazard insurance. Beneficiary may procure (but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof) on Trustor's behalf insurance in favor of Beneficiary alone. Trustor shall provide Bank with updated appraisals on the Property anytime the Bank so requests.
3. **Evidence of Title.** Trustor shall deliver to pay for and maintain with Beneficiary until the Obligations are paid in full such evidence of title to the Property as Beneficiary may require including, without limitation, a policy or policies of title insurance and any extensions or renewals thereof or supplements or endorsements thereto. Trustor shall execute and deliver to Beneficiary such further instruments, including without limitation Uniform Commercial Code Financing Statements and Continuation Statements, and do such further acts as may be necessary or reasonably required by Beneficiary to fully subject the Property to the lien created hereby and to otherwise carry out more effectively the purposes of this Trust Deed.
4. **Defense of Title.** Trustor shall appear in and defend and indemnify Beneficiary against any action or proceeding purporting to affect the security for the Obligations, the title to the Property or the rights or powers of Beneficiary or Trustee, and should Beneficiary or Trustee elect also to appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and reasonable attorney's fees incurred by Beneficiary or Trustee.
5. **Payment of Taxes, Assessments, Etc.** Trustor shall pay at least ten (10) days before delinquency all taxes, assessments, charges, fines and impositions relating to the Property including all assessments upon water company stock, and all rents, assessments and charges for water appurtenant to or used in connection with the Property. Trustor shall also pay when due all encumbrances, charges and liens with interest on the Property or any part thereof which at any time appear to be prior or superior to this Trust Deed except as allowed under the following numbered paragraph and to pay all costs, fees, and expenses of this Trust.
6. **Discharge of Liens.** Trustor shall promptly discharge any lien which has priority over this Trust Deed unless (a) Trustor obtains Beneficiary's written agreement to permit said lien to continue to encumber the Property or (b) Trustor bonds over the obligation secured by the lien in an amount and with a bonding company acceptable to Beneficiary contests the lien diligently and in good faith and defends against enforcement of the lien in legal proceedings which in the Beneficiary's opinion operate to prevent the enforcement of the lien or forfeiture of any part of the Property. If Beneficiary determines that any part of the Property is subject to a lien which may attain priority over this Trust Deed, Beneficiary may give Trustor a notice identifying the lien. Trustor shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of such notice.
7. **Performance in Trustor's Stead.** If Trustor fails to make any scheduled or required payment on the Obligations, do any other act as required by this Trust Deed, or otherwise satisfy the Obligations, then Beneficiary or Trustee (but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof) may do any or all of the following: make or do the same in such manner and to such extent as either may deem necessary to protect the security for the Obligations, Beneficiary or Trustee being authorized to enter upon the Property for such purposes, commence and defend any action or proceeding purporting to affect the security for the Obligations or the rights or powers of Beneficiary or Trustee; pay purchase contest or compromise any encumbrance, charge, or lien which in the judgment of Beneficiary or Trustee appears to be prior or superior to the Trust Deed and which has not been approved in writing by Beneficiary and in exercising any such powers, incur any liability, expend whatever amounts are reasonably necessary therefor, including cost of evidence of title and reasonable attorney's fees.
8. **Monthly Tax and Insurance Payments.** Upon written notice from Beneficiary, Trustor shall pay to Beneficiary on the first day of each month, until the Note is paid in full, an amount estimated by Beneficiary to be equal to one twelfth of the annual taxes, assessments and other charges against the Property and one twelfth of the estimated annual aggregate insurance premiums in all policies of insurance that Trustor is required to provide hereunder. If at any time or for any reason the funds deposited with Beneficiary are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary shall notify Trustor and Trustor shall immediately deposit an amount equal to such deficiency with Beneficiary. Beneficiary shall not be obligated to pay any interest on any sums held by Beneficiary pending disbursement or application hereunder.
9. **Repayment of Advances.** Trustor shall pay within thirty (30) days after demand all sums properly expended hereunder by Beneficiary or Trustee, with interest from date of expenditure at the rate provided in the Note, and the repayment thereon shall be secured by this Trust Deed.
10. **Due on Transfer.** In the event Trustor shall either sell, convey or alienate the Property, or any part thereof, or any interest therein, without the express written permission of Beneficiary first had and obtained or be divested of title in any manner, whether voluntarily or involuntarily, then the full principal indebtedness of the Note, and the obligations secured by this Trust Deed, irrespective of the maturity date expressed therein, at the option of Beneficiary and without demand or notice, shall immediately become due and payable.
11. **Taking or Damage of the Property.** If the Property or any part thereof is condemned or taken in any manner or damaged by fire, earthquake, or in any other manner, Beneficiary shall be entitled to receive all compensation, awards, and other payments or relief therefor and shall, at its option, have the right to commence, appear in and prosecute in its own name, any action or proceeding, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action, and proceeds, including all insurance proceeds, are hereby assigned to Beneficiary who shall, after deducting therefrom all of Beneficiary's expenses, have the right, exercisable in its sole discretion, to apply the moneys so received to the reduction of the Obligations or to the restoration, repair or rebuilding of the Property. If Trustor abandons the Property, or does not answer within thirty (30) days a notice from Beneficiary that the insurance carrier has offered to settle a claim, then Beneficiary may collect the insurance proceeds, and, at Beneficiary's sole discretion, may use such proceeds to repair or restore the Property or to reduce the Obligations. Trustor agrees to execute such further assignments of any compensation, award, damages, and rights of action and proceeds as Beneficiary or Trustee may require.
12. **Acceptance of Late Payment Not a Waiver.** By accepting any payment on the Obligations after the payment due date, Beneficiary does not waive its right either to require prompt payment when due of all other payments or to declare default for failure to make such payment when due.
13. **Continued Effectiveness During Any Extension.** This Trust Deed shall remain in full force and effect during any postponement or extension of the time of payment of the Obligations or any portion thereof.
14. **Right to Inspect Property.** Beneficiary or its agent may make reasonable entries upon and inspections of the Property. Beneficiary shall give Trustor notice at the time of or prior to any inspection specifying the reasonable cause for the inspection.
15. **Hazardous Materials.** Trustor hereby represents and warrants that no Hazardous Materials, as defined below, are now located on the Property, and neither Trustor nor, to Trustor's knowledge, any other person has ever caused or permitted any Hazardous Materials to be placed, held, located or disposed of on, under or at the Property, or any part thereof. Trustor further represents and warrants that no investigation, administrative order, consent order and agreement, litigation or settlement with respect to Hazardous Materials is proposed, threatened, anticipated or in existence with respect to the Property. Hazardous Materials shall mean (a) "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 9601 et seq.), and regulations promulgated thereunder; (b) "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), as amended from time to time, and regulations promulgated thereunder; (c) asbestos; (d) polychlorinated biphenyls; (e) underground storage tanks, whether empty, filled or partially filled with any substance; (f) any substance the presence of which on the Property is prohibited by any federal, state or local law, ordinance, rule or regulation; and (g) any other substance which by any federal, state or local law, ordinance, rule or regulation requires special handling or notification in its collection, storage, treatment, or disposal. Trustor agrees not to cause or permit any Hazardous Material to be placed, held, located or disposed of on, under or at the Property or any part thereof. Trustor further agrees to give notice to Beneficiary immediately upon Trustor's learning of the presence of any Hazardous Materials on the Property, to promptly comply with any governmental requirements requiring the removal, treatment or disposal of such Hazardous Materials, and to defend, indemnify and hold harmless Beneficiary and Trustee from any and all liabilities, claims, losses or costs (including, without limitation, attorney's fees) which may now or in the future be paid, incurred or suffered by or asserted against Beneficiary or Trustee by any person, entity or governmental agency with respect to the presence on or discharge of Hazardous Materials from the Property. The representations, covenants, warranties and indemnifications contained in this paragraph shall survive the reconveyance of this Trust Deed.
16. **Reconveyance.** At any time and from time to time, if Trustee obtains the written consent of Beneficiary and pays its fees and presents this Trust Deed and the Note and any other instruments evidencing the Obligations for endorsement (or, in case of full reconveyance, for cancellation and retention), Trustee may (without affecting the liability of any person for the payment of the Obligations) do any of the following: (a) consent to the making of any map or plat of the Property; (b) join in granting any easement or creating any restriction on the Property; (c) join in any subordination or other agreement affecting this Trust Deed or the lien or charge thereof; (d) grant any extension, modification, or renewal of the terms of the Note or other instruments governing the Obligations; and (e) reconvey, without warranty, all or any part of the Property. The grantee in any reconveyance may be described as "the person or persons entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustor agrees to pay reasonable Trustee's fees for any of the services mentioned in this paragraph.

981512 BK 1512 PG 770

17. **Assignment of Leases and Rents.** As additional security, Trustor hereby assigns to Beneficiary, during the continuance of this trust, all leases of and all rents, issues, royalties, and profits on or forming part of the Property and of any personal property located on the Property. Until Trustor defaults in the payment of the Obligations or in the performance of any agreement hereunder, Trustor shall have the right to collect all such rents, issues, royalties, and profits earned prior to default as they become due and payable; however, if Trustor defaults, Trustor's right to collect any such moneys shall cease, the Beneficiary shall have the right, with or without taking possession of the Property, to collect all such rents, royalties, issues, and profits. Failure or discontinuance of Beneficiary at any time or from time to time to collect any such moneys shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power, and authority to collect such moneys. Nothing contained herein, nor the exercise of Beneficiary's right to collect such moneys, shall be or be deemed or construed to be an affirmation by Beneficiary of any tenancy, lease, or option, nor an assumption of liability thereunder nor a subordination of the lien or charge of this Trust Deed to any such tenancy, lease, or option. All future lease agreements entered into by Trustor as landlord, which have a term of one (1) year or more and which pertain to the Property or any portion thereof shall contain a covenant on the part of the tenant thereunder enforceable by Beneficiary, obligating such tenant upon request of Beneficiary to attorn to and become a tenant of Beneficiary or any purchaser from Trustor or through foreclosure of this Trust Deed, for the unexpired term of, and subject to the terms and conditions of such future lease agreements.

18. **Receiver.** Upon any default by Trustor under this Trust Deed, Beneficiary, as a matter of right and without regard to the then value of the Property or the interest of Trustor therein, shall have the right upon notice to Trustor to apply to any court having jurisdiction to appoint a receiver or receivers of the Property and Trustor hereby irrevocably consents to such appointment. Any such receiver or receivers shall have all the usual powers and duties of a receiver and shall continue as such and exercise all such powers until completion of the sale of the Property or the foreclosure proceeding, unless the receivership is sooner terminated.

19. **Possession No Waiver of Default.** The entering upon and taking possession of the Property, the collection of such rents, royalties, issues, and profits, insurance proceeds, or compensation or awards for any taking or damage of the Property and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

20. **No Waiver of Remedies.** The failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right, and the waiver by Beneficiary of any default shall not constitute a waiver of any other or subsequent default.

21. **Default.** Trustor will be in default under this Trust Deed upon the occurrence and continuance of any one of the following:

a) Except as provided otherwise in Paragraph 21 (b), failure by the Trustor to observe and perform any of the terms, covenants, or conditions to be observed or performed by Trustor contained in either this Trust Deed or the Note for a period of fifteen (15) days after written notice, specifying such failure and requesting that it be remedied, given to Trustor by Beneficiary, unless Beneficiary shall agree in writing to an extension of such time prior to its expiration.

b) If Trustor shall fail to make any payment due and payable under the terms of the Note, or this Trust Deed, where such default is not cured within ten (10) days after written notice shall have been given to Trustor by Beneficiary specifying such default and requiring that such default be cured;

c) Any material representation or warranty of the Trustor contained in this Trust Deed, the Note or any other instrument further evidencing or securing the Obligations was untrue when made.

d) If Trustor commences any case proceeding, or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution, or composition of Trustor or Trustor's debts under any law relating to bankruptcy, reorganization, or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for Trustor or for all or any substantial part of Trustor's property; (2) any guarantor of the Note commences any case, proceeding, or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution, or composition of such guarantor or such guarantor's debts under any law relating to bankruptcy, reorganization, or relief of debtors, or seeking appointment of a receiver, trustee, custodian, or other similar official for such guarantor or for any substantial part of such guarantor's property; or (3) any such case, proceeding, or other action is commenced against either Trustor or any guarantor of the Note and such case, proceeding, or other action either results in an order for relief against either Trustor or any guarantor of the Note which is not fully stayed within seven (7) business days after the entry thereof, or remains undismissed for a period forty-five (45) days.

e) Trustor fails to pay Trustor's debts as they become due, admits in writing Trustor's inability to pay Trustor's debts, or makes a general assignment for the benefit of creditors.

f) The occurrence of an event of default under any other document relating to, securing or evidencing the Obligations; or

g) A default by Trustor under the terms of any other promissory note, deed of trust, security agreement, undertaking or arrangement between Trustor and Beneficiary now existing or entered into hereafter.

22. **Notice of Default.** Time is of the essence hereof. Upon default by Trustor in the payment of the Obligations or in the performance of any agreement hereunder, Beneficiary may declare the Obligations immediately due and payable in the event of such default. Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause Property to be sold to satisfy the obligations hereof, and Trustee shall file such notice for record in each county wherein the Property or any part or parcel thereof is situated. Beneficiary also shall deposit with Trustee the Note and all other instruments evidencing the Obligations.

23. **Power of Sale.** After the lapse of such time as may then be required by law following the recording of said notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell the Property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parcels, and in such order as Trustee may determine (but subject to any statutory right of Trustor to direct the order in which the Property, if consisting of several known lots or parcels, shall be sold) at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he deems expedient, postpone the sale from time to time until it shall be completed, and, in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale, provided that if the sale is postponed for longer than seventy-two (72) hours beyond the date designated in the notice of sale, notice thereof shall be given in the same manner as the original notice of sale. Trustee shall execute and deliver to the purchaser its Deed conveying the Property or part thereof so sold, but without any covenant or warranty express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of: (a) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's fees and attorney's fees; (b) the cost of any evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (c) all sums expended under the terms hereof, not then paid, with accrued interest from date of expenditure at the rate designated in the Note; (d) all other Obligations; and the remainder, if any, to (e) the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the County Clerk of the county in which the sale took place.

24. **Surrender of Possession.** Trustor agrees to surrender possession of the Property to the Purchaser at the aforesaid sale, immediately after such sale, in the event such possession has not previously been surrendered by Trustor.

25. **Foreclosure as a Mortgage.** Upon the occurrence of any default hereunder, Beneficiary shall have the option to declare the Obligations immediately due and payable and foreclose this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property and Beneficiary shall be entitled to recover in such proceedings all costs and expenses incident thereto, including a reasonable attorney's fee or such amount as shall be fixed by the court.

26. **Successor Trustees.** Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust Deed. Upon such appointment and without conveyance to the successor Trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary containing reference to this Trust Deed and its place of record, which, when recorded in the office of the County Recorder of the county or counties in which the Property is situated, shall be conclusive proof of proper appointment of the successor Trustee. The foregoing power of substitution and the procedure therefor shall not be exclusive of the power and procedure provided for by law for the substitution of a Trustee or Trustees in the place of the Trustee named herein.

27. **No Remedy Exclusive.** No power or remedy herein conferred is exclusive of or shall prejudice any other power or remedy of Trustee or Beneficiary.

28. **Exercise of Remedies.** The exercise of any power or remedy on one or more occasions shall not exclude the future exercise thereof from time to time upon the conditions prescribed herein or by operation of law.

29. **Heirs, Successors and Assigns.** This Trust Deed shall apply to and bind all parties hereto their heirs, legatees, devisees, administrators, executors, successors and assigns in this Trust Deed whenever the context so requires, the masculine gender includes both the feminine and neuter and the singular number includes the plural.

30. **Obligations Joint and Several.** All obligations of each Trustor (if more than one) under this Trust Deed are joint and several.

31. **Beneficiary Includes Any Note Holder.** As used in this Trust Deed, the term "Beneficiary" shall mean the owner and holder, including any pledgee, of the Note.

32. **Trustee's Acceptance of Trust.** Trustee accepts this Trust when this Trust Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Trust Deed or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party, unless brought by Trustee.

33. **Governing Law.** This Trust Deed shall be governed by and construed in accordance with the laws of the State of Utah.

34. **Request for Notice.** The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at Trustor's address hereinbefore set forth.

35. **Accommodation Trustor.** If the box appearing at the left is checked, then notwithstanding any provision of this Trust Deed to the contrary: (a) Trustor is an accommodation trustor; (b) Trustor shall have no personal obligation to repay the Note; and (c) Debtor and Trustor shall be jointly and severally obligated to perform each of the obligations of Trustor under this Trust Deed.

36. **Construction Mortgage.** If the box appearing at the left is checked, this Trust Deed constitutes a "construction mortgage" within the meaning of Section 70A-9-313(1)(c), Utah Code Annotated, as amended. Trustor agrees (a) to commence construction promptly and to pursue the same with reasonable diligence to completion in accordance with the construction budget and plans and specifications delivered to and approved in writing by Beneficiary; (b) to allow Beneficiary or its agent to inspect the Property at all times during construction and to pay any cost reasonably incurred by Beneficiary in connection with said inspections; (c) to satisfy such loan disbursement procedures and requirements as Beneficiary shall otherwise require, including, without limitation, furnishing to Beneficiary such lien waivers and receipts from all those furnishing materials or performing labor in constructing the improvements on the Property; and (d) to provide such additional information and satisfy such other requirements as Beneficiary may from time to time require in connection with financing the construction of the improvements to be constructed on the Property.

981512 BK 1512 PG 771

SIGNATURE(S) OF TRUSTOR

SIGNATURE(S) OF DEBTOR

Use only if Trustor is an accommodation Trustor and not the maker of the Note.

Freeport Cold Storage, Inc.

Herschell H. Smith
Title President

Title President

TV

Title

individually

TV

Title

TV

Title

individually

INDIVIDUAL ACKNOWLEDGMENT(S)

STATE OF UTAH

COUNTY OF

On the _____ day of _____ 19____ personally appeared before me _____ the signers of the above instrument and they acknowledged to me that he/she/they executed the same

NOTARY PUBLIC

Residing At _____

My Commission Expires _____

CORPORATE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF MONTEREY

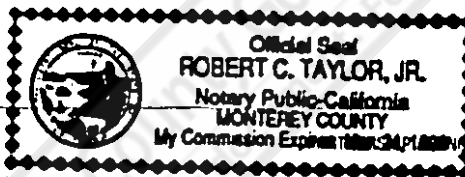
On the 9 day of JULY 19 92 personally appeared before me HERSCHELL H. SMITH who being by me duly sworn did say that he/she is the PRESIDENT of FREEPORT COLD STORAGE INC the corporation that executed the above and foregoing instrument and that said instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and said HERSCHELL H. SMITH acknowledged to me that said corporation executed the same.

NOTARY PUBLIC

Residing At _____

My Commission Expires _____

3-24-92



ACKNOWLEDGMENT

STATE OF UTAH

COUNTY OF

On the _____ day of _____ 19____ personally appeared before me _____ who being by me duly sworn did say that he/she is a general partner of _____ the partnership that executed the above and foregoing instrument and that said instrument was signed in behalf of said partnership by authority and said _____ acknowledged to me that said partnership executed the same

NOTARY PUBLIC

Residing At _____

My Commission Expires _____

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EXHIBIT A

E: 981512 BK 1512 PG 773

PARCEL I: 12-022-0022

BEGINNING AT A POINT 931.66 FEET SOUTH 633 FEET WEST AND 106 FEET NORTH FROM THE EAST QUARTER CORNER OF SECTION 2; TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE MERIDIAN; THENCE WEST 613.44 FEET MORE OR LESS, TO THE EAST LINE OF DENVER & RIO GRANDE WESTERN RAILROAD RIGHT OF WAY; THENCE SOUTH 35D EAST 603.44 FEET ALONG SAID RIGHT OF WAY TO SOUTH LINE OF NORTHEAST QUARTER OF SOUTHEAST QUARTER OF SAID SECTION 2; THENCE EAST 263 FEET MORE OR LESS TO A POINT SOUTH 0D13'08" WEST OF BEGINNING, THENCE NORTH 0D13'08" EAST 486.22 FEET MORE OR LESS TO POINT OF BEGINNING.

PARCEL II: 12-022-0023

BEGINNING ON THE EAST LINE OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE MERIDIAN, IN THE CITY OF CLEARFIELD, AT A POINT 931.66 FEET, SOUTH 0D13'08" WEST FROM THE EAST QUARTER CORNER OF SAID SECTION 2; THENCE NORTH 89D46'52" WEST 200.00 FEET; THENCE NORTH 0D13'08" EAST 66.00 FEET; THENCE NORTH 89D46'52" WEST 200.00 FEET; THENCE NORTH 0D13'08" EAST 40.00 FEET; THENCE NORTH 89D46'52" WEST 33.00 FEET TO A POINT ON THE WEST LINE OF THE FROZEN FOODS WAREHOUSE BUILDING PROJECTED; THENCE SOUTH 0D13'08" WEST 486.22 FEET ALONG SAID WEST LINE AND WEST LINE PROJECTED TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 2; THENCE SOUTH 89D55'25" EAST 433.00 FEET ALONG SAID SOUTH LINE TO THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH 0D13'08" EAST 379.15 FEET TO THE PLACE OF COMMENCEMENT.

SUBJECT TO AN EASEMENT OVER THE EAST 33.00 FEET THEREOF FOR MAIN STREET, AND THE EXISTING UTILITY EASEMENTS LOCATED THEREIN.

TOGETHER WITH A FOOTING EASEMENT OVER THE FOLLOWING DESCRIBED TRACT OF LAND: COMMENCING AT A POINT 1310.81 FEET SOUTH 0D13'08" WEST 433.00 FEET; NORTH 89D55'25" WEST AND 52.62 FEET; NORTH 0D13'08" EAST FROM THE EAST QUARTER CORNER OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 0D13'08" EAST 318.3 FEET TO A POINT 9.6 FEET RADIALLY DISTANT SOUTHERLY FROM THE CENTERLINE OF A RAILROAD SPUR; THENCE NORTH 89D46'52" WEST 2.00 FEET; THENCE SOUTH 0D13'08" WEST 318.30 FEET; THENCE SOUTH 89D46'52" EAST 2.00 FEET TO THE PLACE OF COMMENCEMENT.

SUBJECT TO EASEMENTS OVER THE FOLLOWING TWO TRACTS OF LAND:

COMMENCING ON THE EAST LINE OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, AT A POINT 931.66 FEET SOUTH 0D13'08" WEST FROM THE EAST QUARTER CORNER OF SAID SECTION, AND RUNNING THENCE NORTH 89D46'52" WEST 200.00 FEET; THENCE NORTH 0D13'08" EAST 66.00 FEET; THENCE NORTH 89D46'52" WEST 233.00 FEET; THENCE SOUTH 0D13'08" WEST 25.00 FEET; THENCE SOUTH 89D46'52" EAST 208.00 FEET; THENCE SOUTH 0D13'08" WEST 66.00 FEET; THENCE SOUTH 89D46'52" EAST 225.00 FEET TO SAID EAST LINE; THENCE NORTH 0D13'08" EAST 25.00 FEET ALONG SAID EAST LINE TO THE PLACE OF COMMENCEMENT.

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, WHICH POINT IS 1310.81 FEET SOUTH 0D13'08" WEST FROM THE EAST QUARTER CORNER OF SAID SECTION 2 AND RUNNING THENCE NORTH 89D55'25" WEST 433.00 FEET; THENCE NORTH 0D13'08" EAST 25.00 FEET; THENCE SOUTH 89D55'25" EAST 433.00 FEET TO THE EAST LINE OF SECTION 2;

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EXHIBIT A (Continued)

THENCE SOUTH 0D13'08" WEST 25.00 FEET ALONG SAID EAST LINE TO THE PLACE OF COMMENCEMENT.

E# 981512 BK 1512 PG 774

SUBJECT, ALSO, TO A RAILROAD RIGHT OF WAY FOR A SPUR TRACT, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS: COMMENCING AT A POINT WHICH IS 825.66 FEET SOUTH AND 646.00 FEET, MORE OR LESS, WEST FROM THE EAST QUARTER CORNER OF SAID SECTION 2, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTHEASTERLY ALONG A CURVE TO THE LEFT WITH A RADIUS OF 464.20 FEET, FOR A DISTANCE OF 240.00 FEET TO A POINT WHERE THE ABOVE DESCRIBED RIGHT OF WAY CHANGES IN WIDTH FROM 32.00 FEET TO 17.00 FEET; THENCE CONTINUING EASTERLY ALONG SAID CURVE TO THE LEFT FOR A DISTANCE OF 88.00 FEET; THENCE EAST FOR A DISTANCE OF 71.00 FEET TO THE END OF SAID SPUR TRACT.

ALSO PARCEL II (12-022-0023)

BEGINNING ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER AT A POINT 1310.81 FEET, SOUTH 0D13'08" WEST AND 433.0 FEET NORTH 89D55'25" WEST FROM THE EAST QUARTER CORNER OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE MERIDIAN, IN THE CITY OF CLEARFIELD, AND RUNNING THENCE NORTH 89D55'25" WEST 200.00 FEET; THENCE NORTH 0D13'08" EAST 486.72 FEET; THENCE SOUTH 89D46'52" EAST 200.00 FEET; THENCE SOUTH 0D13'08" WEST 486.22 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH A FOOTING EASEMENT OVER THE FOLLOWING DESCRIBED PROPERTY: BEGINNING AT A POINT 1310.81 FEET SOUTH 0D13'08" WEST AND 633.0 FEET NORTH 89D55'25" WEST AND 52.12 FEET NORTH 0D13'08" EAST FROM THE EAST QUARTER CORNER OF SAID SECTION 2; THENCE NORTH 0D13'08" EAST 404.0 FEET; THENCE NORTH 89D46'52" WEST 2.0 FEET; THENCE SOUTH 0D13'08" WEST 404.0 FEET; THENCE SOUTH 89D46'52" EAST 2.0 FEET TO THE POINT OF BEGINNING.

SUBJECT TO A FOOTING EASEMENT OVER THE FOLLOWING DESCRIBED TRACT OF LAND: COMMENCING AT A POINT 1310.81 FEET SOUTH 0D13'08" WEST AND 433.00 FEET NORTH 89D55'25" WEST AND 52.62 FEET NORTH 0D13'08" EAST FROM THE EAST QUARTER CORNER OF SAID SECTION 2 AND RUNNING THENCE NORTH 0D13'08" EAST 318.3 FEET TO A POINT 9.6 FEET RADIALLY DISTANT SOUTHERLY FROM THE CENTERLINE OF A RAILROAD SPUR; THENCE NORTH 89D46'52" WEST 2.00 FEET; THENCE SOUTH 0D13'08" WEST 318.30 FEET; THENCE SOUTH 89D46'52" EAST 2.00 FEET TO THE PLACE OF COMMENCEMENT.

TOGETHER WITH AND SUBJECT TO EASEMENTS OVER THE FOLLOWING TWO TRACTS OF LAND:

COMMENCING ON THE EAST LINE OF SAID SECTION 2 AT A POINT 931.66 FEET SOUTH 0D13'08" WEST FROM THE EAST QUARTER CORNER OF SAID SECTION 2 AND RUNNING THENCE NORTH 89D46'52" WEST 200.0 FEET; THENCE NORTH 0D13'08" EAST 66.0 FEET; THENCE NORTH 89D46'52" WEST 233.0 FEET; THENCE WESTERLY 56.31 FEET ALONG THE ARC OF A 87.50 FOOT RADIUS CURVE TO THE RIGHT TO A POINT OF TANGENCY WITH A 112.50 FOOT RADIUS CURVE TO THE LEFT (TANGENT TO SAID 87.50 FOOT RADIUS CURVE AT ITS POINT OF BEGINNING BEARS NORTH 89D46'52" WEST); THENCE NORTHWESTERLY AND WESTERLY 72.39 FEET ALONG THE ARC OF SAID 112.50 FOOT RADIUS CURVE; THENCE NORTH 89D46'52" WEST 80.0 FEET TO A POINT ON THE WEST LINE OF THE FROZEN FOODS WAREHOUSE BUILDING NO. 2 PROJECTED; THENCE SOUTH 0D13'08" WEST 25.0 FEET; THENCE SOUTH 89D46'52" EAST 80.0 FEET TO A POINT OF TANGENCY WITH A 87.50 FOOT RADIUS CURVE TO THE RIGHT; THENCE EASTERLY AND SOUTHEASTERLY 56.31 FEET ALONG

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EXHIBIT A (Continued)

THE ARC OF SAID CURVE TO A POINT OF TANGENCY WITH A 112.50 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHEASTERLY AND EASTERLY 72.39 FEET ALONG THE ARC OF SAID CURVE; THENCE SOUTH 89D46'52" EAST 208.0 FEET; THENCE SOUTH 0D13'08" WEST 66.0 FEET; THENCE SOUTH 89D46'52" EAST 225.0 FEET TO SAID EAST LINE; THENCE NORTH 0D13'08" EAST 25.0 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING.

E: 981512 BK 1512 PG 775

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 2, WHICH POINT IS 1310.81 FEET SOUTH 0D13'08" WEST FROM THE EAST QUARTER CORNER OF SAID SECTION 2 AND RUNNING THENCE NORTH 89D55'25" WEST 633.0 FEET; THENCE NORTH 0D13'08" EAST 25.0 FEET; THENCE SOUTH 89D55'25" EAST 633.0 FEET TO THE EAST LINE OF SAID SECTION 2; THENCE SOUTH 0D13'08" WEST 25.0 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING.

SITUATE IN DAVIS COUNTY, STATE OF UTAH.

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