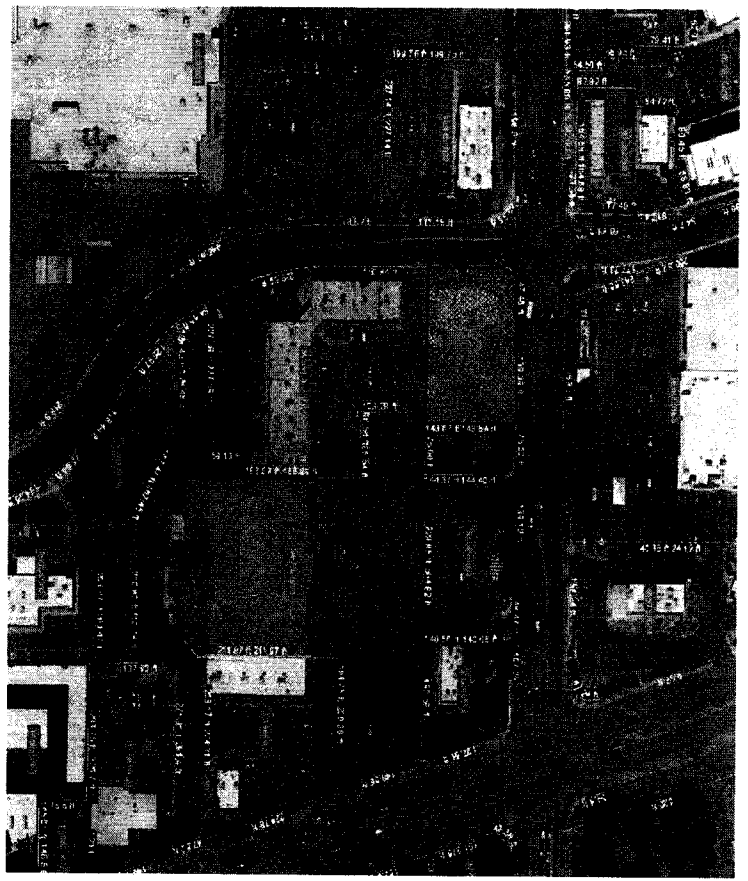
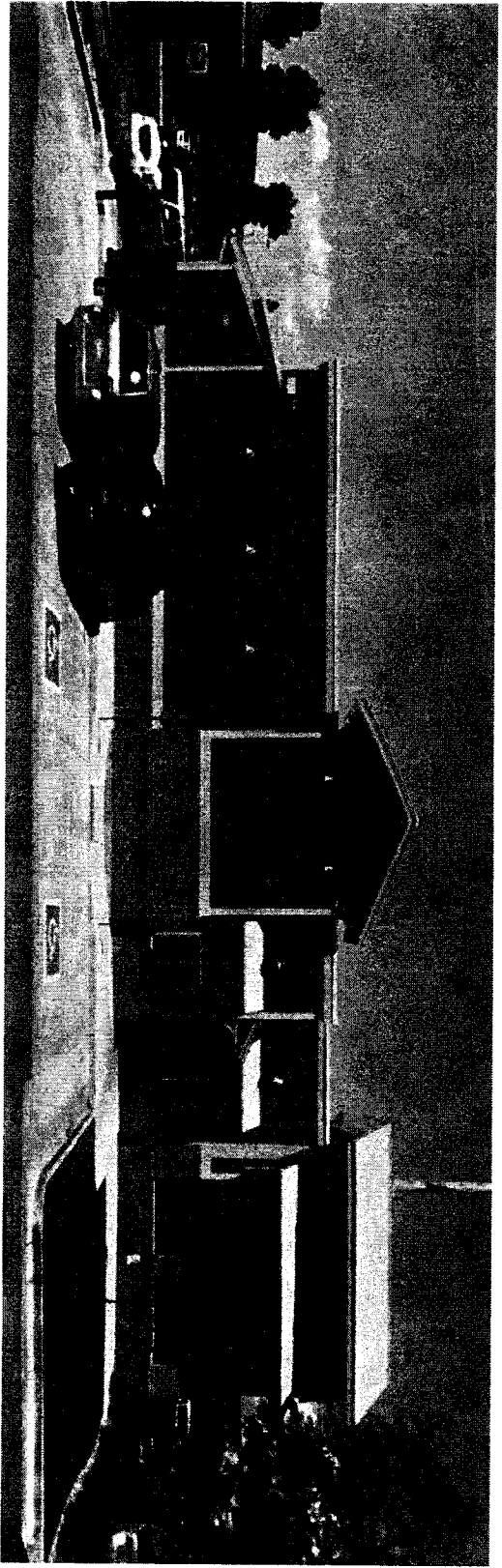
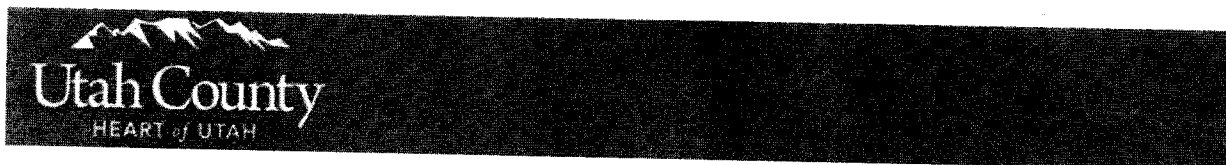


13 Orem Zaxby's
Center Street and Orem Blvd.
Orem

Property Owner	Parcel ID	Acres	Zaxby's	Tenant
BHNC-CS LLC	342050001	0.732	0.732	





ABSTRACT INFORMATION FOR SERIAL # 34:205:0001

[Main Menu](#)

Owner Name: BHNC-CS LLC
 Property Address: 97 W CENTER ST - OREM
 Mailing Address: 4571 S HOLLADAY BLVD - SALT LAKE CITY, UT 84117
 Tax Legal Description: LOT 1, PLAT B, ALBERTSONS CENTER AMD. SUBDV. AREA 0.732 AC.

Newest to Oldest (Reverse Order)

Grantor ..Grantee Comments	Entry No Book Page Kind of Inst	Inst Date Rec Date Rec Time	Consideration Satisfaction Tie Entry No
WRIGHT DEVELOPMENT GROUP INC ..WASHINGTON FEDERAL	<u>4325-2018</u> 0 A D TR	01/11/2018 01/12/2018 02:41 pm	\$780,000 <u>X Entry 99968 Year 2015</u>
WRIGHT DEVELOPMENT GROUP INC (ET AL) ..WASHINGTON FEDERAL	<u>28139-2016</u> 0 SUB AGR	02/23/2015 04/01/2016 02:38 pm	\$0 Error NO TIE NUMBER
WRIGHT DEVELOPMENT GROUP INC ..WASHINGTON FEDERAL	<u>99968-2015</u> 0 D TR	11/02/2015 11/03/2015 04:01 pm	\$3,470,766
WRIGHT DEVELOPMENT GROUP INC ..BHNC-CS, LLC	<u>96294-2015</u> 0 MEM LS	10/21/2015 10/22/2015 02:21 pm	\$0
TERRATRON INC ..SYMETRA LIFE INSURANCE COMPANY (ET AL)	<u>58589-2015</u> 0 SUB AGR	06/26/2015 07/01/2015 10:02 am	\$0 Error NO TIE NUMBER GIVEN
WRIGHT DEVELOPMENT GROUP INC (ET AL) ..SYMETRA LIFE INSURANCE COMPANY (ET AL)	<u>58588-2015</u> 0 SUB AGR	06/26/2015 07/01/2015 10:02 am	\$0 Error NO TIE NUMBER GIVEN
ANDERSON, JOHN R (ET AL) ..BHNC-CS LLC	<u>58576-2015</u> 0 RSUBTEE	07/01/2015 07/01/2015 09:46 am	\$0 <u>R Entry 85910 Year 2011</u>
ANDERSON, IDA LEE TEE (ET AL) ..BHNC-CS LLC	<u>58575-2015</u> 0 RSUBTEE	07/01/2015 07/01/2015 09:46 am	\$0 <u>R Entry 85909 Year 2011</u>
BHNC-CS LLC ..SYMETRA LIFE INSURANCE COMPANY	<u>57507-2015</u> 0 D TR	06/26/2015 06/29/2015 02:06 pm	\$1,250,000
GREEN TECH CONSTRUCTION LLC BY (ET AL) ..WDG OREM LLC (ET AL)	<u>54354-2015</u> 0 R LN	06/22/2015 06/22/2015 09:58 am	\$0 <u>R Entry 3989 Year 2015 Consideration \$63,841.45</u>
MJM 5G LLC ..BHNC-CS LLC (ET AL)	<u>5315-2015</u> 0 AGR	12/04/2014 01/23/2015 01:15 pm	\$0
WRIGHT DEVELOPMENT GROUP INC (ET AL) ..BHNC-CS LLC (ET AL)	<u>5314-2015</u> 0 SUB AGR	12/04/2014 01/23/2015 01:14 pm	\$0 <u>X Entry 85910 Year 2011</u>
WRIGHT DEVELOPMENT GROUP INC (ET AL) ..BHNC-CS LLC (ET AL)	<u>5313-2015</u> 0 SUB AGR	12/04/2014 01/23/2015 01:14 pm	\$0 <u>X Entry 85909 Year 2011</u>
MJM 5G LLC ..ZAXBY'S FRANCHISING INC	<u>5312-2015</u> 0	12/04/2014 01/23/2015	\$0 Error NO TIE NUMBER GIVEN

	AS LS	01:13 pm	
WDG OREM LLC ..GREEN TECH CONSTRUCTIONS LLC	3989-2015 0 N LN	01/20/2015 01/20/2015 12:08 pm	\$63,841 R Entry 54354 Year 2015
UTAH COUNTY ..WHOM OF INTEREST	84542-2014 0 RESOL	10/28/2014 11/24/2014 08:43 am	\$0 0.0
NORTH POINTE SOLID WASTE SERVICE DISTRICT WITHDRAW ..UTAH COUNTY	84541-2014 B PLAT	10/28/2014 11/24/2014 08:35 am	\$0 0.0
STATE OF UTAH ..WHOM OF INTEREST	84540-2014 0 CT	11/19/2014 11/24/2014 08:34 am	\$0 0.0
UTAH COUNTY ..WHOM OF INTEREST	84539-2014 0 N	10/28/2014 11/24/2014 08:34 am	\$0 0.0
U S BANK NATIONAL ASSOCIATION TEE ..DDO-UTAH LLC	50665-2014 0 T FN ST	07/22/2014 02:22 pm	\$0 R Entry 119551 Year 2008
FIRST AMERICAN TITLE INSURANCE COMPANY TEE ..ES-O-EN CORP	45783-2014 0 REC	06/24/2014 07/03/2014 11:46 am	\$0 R Entry 88557 Year 1998
U S BANK NATIONAL ASSOCIATION TEE ..FIRST AMERICAN TITLE INSURANCE COMPANY SUCTEE	45782-2014 0 SUB FEE	06/19/2014 07/03/2014 11:46 am	\$0 X Entry 88557 Year 1998
DDO-UTAH LLC ..U S BANK NATIONAL ASSOCIATION TEE	66314-2013 0 C FN ST	06/21/2013 11:07 am	\$0 X Entry 119551 Year 2008
BHNC-CS LLC ..ANDERSON, JOHN R	85910-2011 0 D TR	11/28/2011 11/30/2011 01:28 pm	\$310,000 R Entry 58576 Year 2015
BHNC-CS LLC ..IDA LEE ANDERSON REVOCABLE TRUST	85909-2011 0 D TR	11/28/2011 11/30/2011 01:28 pm	\$1,000,000 R Entry 58575 Year 2015
TEMPLE SQUARE HOSPITALITY CORPORATION ..BHNC-CS LLC	85908-2011 0 SP WD	11/28/2011 11/30/2011 01:28 pm	\$10
PROPERTY RESERVE INC ..TEMPLE SQUARE HOSPITALITY CORPORATION	74500-2010 0 AS LS	08/30/2010 09/02/2010 01:55 pm	\$0
PROPERTY RESERVE INC ..TEMPLE SQUARE HOSPITALITY CORPORATION	74499-2010 0 SP WD	08/30/2010 09/02/2010 01:55 pm	\$0
TEMPLE SQUARE HOSPITALITY CORPORATION ..PROPERTY RESERVE INC	71112-2010 0 AS LS	08/24/2010 08/24/2010 12:38 pm	\$0 Error NO TIE # GIVEN
TEMPLE SQUARE HOSPITALITY CORPORATION ..PROPERTY RESERVE INC	71096-2010 0 SP WD	08/24/2010 08/24/2010 12:01 pm	\$10
PROPERTY RESERVE INC ..TEMPLE SQUARE HOSPITALITY CORPORATION	45676-2010 0 AS LS	04/20/2007 06/03/2010 10:11 am	\$0 Error NO TIE NUMBER GIVEN
U S BANK NATIONAL ASSOCIATION TEE ..ES-O-EN CORP	119914-2008 0 T FN ST	11/06/2008 04:05 pm	\$0 R Entry 88558 Year 1998
DDO-UTAH LLC BY (ET AL) ..WHOM OF INTEREST	119554-2008 0	10/28/2008 11/05/2008	\$0 X Entry 119550 Year 2008

WHEN RECORDED, MAIL TO:
BHNC-CS, LLC
4571 South Holladay Blvd.
Holladay, UT 84117
Attn: John R. Anderson
NCS-509371

ENT 85908:2011 PG 1 of 4
Jeffery Smith
Utah County Recorder
2011 Nov 30 01:28 PM FEE 20.00 BY EO
RECORDED FOR First American NCS - South Te
ELECTRONICALLY RECORDED

SPECIAL WARRANTY DEED

In consideration of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, TEMPLE SQUARE HOSPITALITY CORPORATION, a Utah corporation (“**Grantor**”), hereby grants and conveys to BHNC-CS, LLC, a Utah limited liability company, whose address is 4571 South Holladay Blvd., Holladay, UT 84117 (“**Grantee**”), all right, title and interest in and to the real property (the “**Property**”) located in Utah County, State of Utah, and described as follows:

See Exhibit A attached hereto and incorporated herein by this reference;

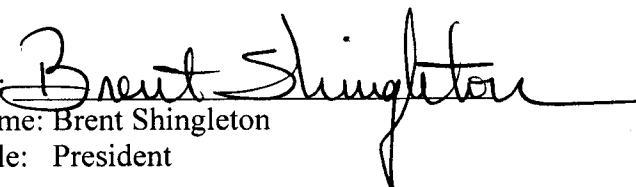
TOGETHER with all easements, rights and hereditaments appurtenant thereto and all improvements located thereon;

SUBJECT TO current taxes and assessments and to the reservations, easements, covenants, conditions, restrictions, and other rights or interests of record or enforceable at law or equity; and

RESERVING specifically unto Grantor all water and water rights, including shares of stock in water companies, minerals, coal, carbons, hydrocarbons, oil, gas, chemical elements and compounds, whether in solid, liquid or gaseous form, and all steam and other forms of thermal energy, on, in, or under the above-described land, provided that Grantor does not reserve the right to use the subject property or extract minerals or other substances from the subject property above a depth of 250 feet, nor does Grantor reserve the right to use the surface of the subject property in connection with the rights reserved herein.

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed this 30th day of November, 2011.

TEMPLE SQUARE HOSPITALITY CORPORATION,
a Utah corporation

By: 
Name: Brent Shingleton
Title: President

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On this 28th day of November, 2011, personally appeared before me Brent Shingleton, known or satisfactorily proved to me to be the President of Temple Square Hospitality Corporation, a Utah corporation, who acknowledged to me that he signed the foregoing instrument as President for said corporation.

Susan Ford

Notary Public for Utah

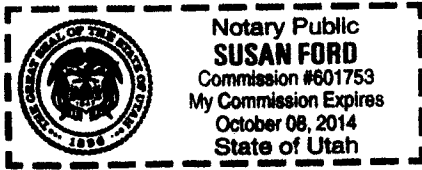


EXHIBIT A

REAL PROPERTY DESCRIPTION

That real property situated in the County of Utah, State of Utah, specifically described as:

PARCEL 1:

Lot 1, Plat "B", ALBERTSONS CENTER SUBDIVISION AMENDED, according to the Official Plat thereof on file and of record in the Office of the Utah County Recorder.

Together with non-exclusive easements for ingress, egress, parking, utility lines, and signs as set forth in Declaration of Covenants, Conditions, Restrictions, and Grant of Easements, recorded November 5, 1981, as Entry No. 31788 in Book 1946 at Page 615 in the Office of the Recorder, Utah County, Utah (as said Declaration may have heretofore been amended or supplemented.)

Ck By JJB 4/19/2007

PARCEL 2:

Lot 2, Plat "B", ALBERTSONS CENTER SUBDIVISION AMENDED, according to the Official Plat thereof on file and of record in the Office of the Utah County Recorder.

Together with non-exclusive easements for ingress, egress, parking, utility lines, and signs as set forth in Declaration of Covenants, Conditions, Restrictions, and Grant of Easements, recorded November 5, 1981, as Entry No. 31788 in Book 1946 at Page 615 in the Office of the Recorder, Utah County, Utah (as said Declaration may have heretofore been amended or supplemented.)

Ck By JJB 4/19/2007

PARCEL 3:

Lot 4, Plat "A", ALBERTSONS CENTER SUBDIVISION, according to the Official Plat thereof on file and of record in the Office of the Utah County Recorder.

Together with non-exclusive easements for ingress, egress, parking, utility lines, and signs as set forth in Declaration of Covenants, Conditions, Restrictions, and Grant of Easements, recorded November 5, 1981, as Entry No. 31788 in Book 1946 at Page 615 in the Office of the Recorder, Utah County, Utah (as said Declaration may have heretofore been amended or supplemented.)

Less and Excepting from Parcel 3 the following described property conveyed to the Utah Department of Transportation for the widening of an existing highway by that Warranty Deed recorded April 11, 1995 as Entry No. 21854 in Book 3654 at Page 584 of Official Records:

Beginning at the Northeast Corner of Lot 4, said corner being the intersection of the Westerly right of way line of said existing highway and the South right of way line of the existing Center Street, which point is approximately 41.8 feet South and 105.6 feet East from the West Quarter Corner of Section 14, Township 6 South, Range 2 East, Salt Lake Base and Meridian, and

running thence South 18°27'21" East 15.0 feet along said Westerly right of way line; thence North 53°52'51" West 24.45 feet to said South right of way line; thence South 89°18'22" East 15.0 feet along said South right of way line to the point of beginning.

Ck By JJB 4/19/2007

PARCEL 4:

Lot 3, Plat "A", ALBERTSONS CENTER SUBDIVISION, according to the Official Plat thereof on file and of record in the Office of the Utah County Recorder.

Together with non-exclusive easements for ingress, egress, parking, utility lines, and signs as set forth in Declaration of Covenants, Conditions, Restrictions, and Grant of Easements, recorded November 5, 1981, as Entry No. 31788 in Book 1946 at Page 615 in the Office of the Recorder, Utah County, Utah (as said Declaration may have heretofore been amended or supplemented.)

Ck By JJB 4/19/2007

NCS-725858AH

Recorded at the Request of
and After Recording Return To:

Symetra Life Insurance Company
Mortgage Loan Department
PO Box 84066
Seattle, WA 98124-8466
Loan No. 4869

ENT 57507:2015 PG 1 of 18
Jeffery Smith
Utah County Recorder
2015 Jun 29 02:06 PM FEE 46.00 BY CLS
RECORDED FOR First American Title Insurance
ELECTRONICALLY RECORDED

Tax Parcel No. 34:205:0001 and 34:089:0009

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

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Security Instrument") is made as of June 23, 2015, by BHNC-CS, LLC, a Utah limited liability company ("Trustor"), whose address is PO Box 17397, Salt Lake City, UT 84117, to FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation ("Trustee"), whose address is 215 South State Street, Ste. 380, Salt Lake City, UT 84111, for the benefit of SYMETRA LIFE INSURANCE COMPANY, an Iowa corporation ("Beneficiary"), whose mailing address is Mortgage Loan Department, PO Box 84066, Seattle, WA 98124-8466.

1. **Granting Clause:** Upon the terms, covenants, and conditions set forth in this Deed of Trust and in consideration of the loan made by Beneficiary to Trustor (the "Loan"), Trustor hereby grants, sells, conveys, and transfers to the Trustee in trust, for the benefit of Beneficiary, WITH POWER OF SALE, all of Trustor's right, title and interest in and to and derived from the property, estates and related rights, whether now owned or hereafter acquired, situated in Utah County, State of Utah, as more specifically described as follows:

SEE ATTACHED EXHIBIT "A" WHICH IS INCORPORATED HEREIN BY THIS
REFERENCE FOR A FULL LEGAL DESCRIPTION OF THE PROPERTY. (the "Land")

together with all now existing or hereafter acquired right, title and interest of Trustor in, to, under all buildings, structures, fixtures, additions, extensions and other improvements now or hereafter erected or placed thereon, and all water, water rights and stock, rights of way, easements, rents, issues, profits, income, tenements, hereditaments, privileges, and appurtenances thereunto belonging now or hereafter used or enjoyed with the Land, or any part thereof, and the reversion and reversions, remainder and remainders thereof, and all other estate, property and rights hereinafter described, including without limitation, (a) all land lying within the bed and/or the right of way of streets, ways, alleys, water courses and roads adjoining the Land, and all access rights and easements pertaining to the Land; (b) all the lands, privileges, water, water rights and stock, air rights, development rights, zoning rights and similar rights, oil and gas rights, royalties, minerals and mineral rights belonging or in any way pertaining to the Land; (c) all fixtures, materials, machinery, fittings and other property now or hereafter attached to or used in the operation of the Land, which shall be deemed part of the real property encumbered hereby and not severable wholly or in part without material injury to the property (including, but not limited to, heating and incinerating apparatus and equipment, boilers, generating equipment, piping and plumbing fixtures, cooling, ventilating, sprinkling and vacuum cleaning systems, fire extinguishing apparatus, carpeting, elevators, escalators, partitions, window shades, blinds, screens, furnishings of public spaces, halls and lobbies, and shrubbery and plants; (d) all existing and future leases, subleases, concessions, licenses, franchises, occupancy agreements or other agreements, written or oral, relating to any use or occupancy of the Property, together with any guaranties of such leases, any security deposits and letters of credit securing performance of such leases, and other security for such leases (all such rights and interests being referred to herein as the "Leases"); (e) all income, profits and revenue from any business conducted on the Property, and all income, proceeds, royalties, rents, issues, revenues and profits from the Leases, including all prepaid rent thereunder, all proceeds derived from the termination or rejection of any Lease in a bankruptcy or other insolvency proceeding, all proceeds from any rights and claims of any kind which Trustor may have against any tenant under the Leases or any occupants of the property, and proceeds payable under any policy of insurance covering loss of rents (all of the above are hereafter collectively referred to as the "Rents"); the term "Rents" shall include minimum rents, additional rents, percentage rents, common area maintenance charges,

lease termination payments, purchase option payments, all proceeds payable as a result of a tenant's exercise of an option to purchase the Property, payments in settlement of litigation or under any Lease or in settlement of any dispute regarding rent payments and all payments in lieu of rents including without limitation liquidated damages or other compensation for a tenant's default; (f) any and all rights of Trustor in any and all accounts, rights to payment, contract rights, chattel paper, documents, instruments, licenses, contracts, agreements and general intangibles relating to any of the Property; (g) goods, appliances, equipment, inventory, furniture, furnishings, building materials and supplies and other properties of whatsoever nature, now or hereafter located in or used or procured for use in connection with the Property; (h) contracts, agreements, permits, plans, specifications, drawings, surveys, engineering reports and other work products relating to the design, construction, supply or installation of the existing or any future improvements or fixtures on the Property, any and all rights of Trustor in, to or under any architect's contracts, engineer's contracts or construction contracts relating to the design or construction of the existing or any future improvements on the Property, and any performance and/or payment bonds issued in connection therewith; (i) all trademarks, trade names, copyrights, computer software and other intellectual property used by Trustor in connection with the Property; (j) all proceeds derived from the sale, conveyance or transfer of the Property or any part thereof, including any deposit received by Trustor in the nature of an option payment or earnest money deposit with respect to any prospective transfer of the Property and all proceeds payable as a result of a tenant's exercise of an option to purchase the Real Property, (k) all compensation, awards, damages, causes of action and proceeds (including condemnation and insurance proceeds and any interest on the foregoing) arising out of or relating to a taking or damaging of the Property by reason of any public or private improvement, condemnation proceeding, fire, earthquake or other casualty, injury or decrease in the value of the Property, any claims, causes of action and rights arising from damage to the Property, including without limitation, claims for construction defects, and any refund due on account of payment of real estate taxes, assessments or other charges; (l) all rights now or hereafter held by Trustor as a declarant under any condominium declaration or any declaration of covenants, conditions and restrictions affecting the Property; (m) all contracts and agreements pertaining to or affecting the Property including management and operating agreements; and (n) all additions, accessions, replacements, products, substitutions, and proceeds of any of the foregoing (all of the foregoing interests and rights together with the land hereinabove described are hereinafter collectively referred to as the "Property").

2. **Security Agreement.** Trustor grants to Beneficiary a security interest in that portion of the Property which is not real property to secure payment and performance of all of the Secured Obligations (defined below). This Security Instrument shall constitute a Security Agreement as that term is used in the Utah Uniform Commercial Code as it may be amended from time to time ("UCC") or other law applicable to the creation of liens or security interests in personal property with respect to any of the Property that is not real property but is described herein, or in any way connected with the use and enjoyment of the Property, and the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be as specified in the UCC or at law. Trustor authorizes Beneficiary to file one or more financing statements under the UCC with Trustor as Debtor and Beneficiary as Secured Party (with their addresses as set forth in the preamble of this Security Instrument) to perfect or give public notice of the security interest granted herein. Trustor and Beneficiary agree that the filing of a financing statement in the records normally having to do with personal property shall not be construed as in anywise derogating from or impairing the lien of this Security Instrument. Trustor will immediately notify Beneficiary in writing of any change in (a) Trustor's name, (b) Trustor's business organization, (c) the jurisdiction under which the Trustor's business organization is formed or organized, or (d) the address of Trustor's chief executive office or principal residence or of any additional places of Trustor's business.

3. **Obligations Secured.** This Security Instrument is given for the purpose of securing the following obligations (the "Secured Obligations"):

(a) the payment of the indebtedness (the "Loan") evidenced by a Real Estate Note of even date hereof in the principal amount of \$1,250,000.00 made by Trustor (the "Note"), payable to the order of Beneficiary at the times, in the manner and with interest as therein set forth, and any extensions, renewals, modifications, restatements or substitutions of the Note.

(b) the performance of each agreement of Trustor herein or in the other Loan Documents (but expressly excluding the Environmental Agreement (defined below) and any guaranty of the Loan);

(c) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms hereof, together with interest as herein provided; and

(d) the payment of such additional loans or advances as hereafter may be made to Trustor, or its successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Security Instrument.

Notwithstanding anything to the contrary in this Security Instrument, this Security Instrument does not, and shall not be deemed to, secure the separate Environmental Agreement and Indemnity of even date herewith given by Trustor and the guarantor(s) of the Loan with respect to the Property (the "Environmental Agreement").

As used in this Security Instrument, the "Loan Documents" shall mean the Note, this Security Instrument, and the other documents and instruments executed by Trustor evidencing or securing the Loan.

TO MAINTAIN AND PROTECT THE SECURITY OF THIS SECURITY INSTRUMENT, TO SECURE THE FULL AND TIMELY PERFORMANCE BY TRUSTOR OF ALL OBLIGATIONS, COVENANTS AND AGREEMENTS OF THIS SECURITY INSTRUMENT AND THE OTHER LOAN DOCUMENTS, TRUSTOR REPRESENTS, WARRANTS AND COVENANTS AS FOLLOWS:

4. **Performance of Obligations.** Trustor shall timely pay all sums when due pursuant to the Note and the Loan Documents without deduction or credit for taxes, insurance and other charges paid by Trustor, and strictly comply with all the terms and conditions of the Loan Documents.

5. **Warranties**

5.1 **Warranty of Title.** Trustor represents and warrants to and covenants with Beneficiary that (a) Trustor has good and marketable title to an indefeasible fee simple estate in the Land and the improvements thereon, and unencumbered title to the Rents and Leases, (b) the Property is free and clear of any liens, encumbrances, easements, assessments, security interests, claims or defects of any kind, nature or description except those recorded easements, recorded declarations, restrictions, reservations and covenants, if any, that are set forth in the schedule of exceptions to coverage approved by Beneficiary in the title insurance policy insuring Beneficiary's interest in the Property, and real property taxes for the current year, a lien not yet payable (the "Permitted Exceptions"), (c) neither the real property taxes nor any Permitted Exceptions are delinquent or in default, (d) Trustor has the right to convey the Property to Trustee for the benefit of Beneficiary, and the right to grant a security interest in the personal property security. Trustor will warrant and defend title to the Property and will defend the validity and priority of the lien of this Security Instrument and the security interest granted herein against any claims or demands, except for the Permitted Exceptions.

5.2 **Warranties Regarding Leases.** Trustor represents and warrants to and covenants with Beneficiary that (a) Trustor has performed all of the material covenants of Trustor as landlord under the Leases; (b) all of the Leases identified by Trustor in any certified rent roll provided by Trustor to Beneficiary identifying Leases in place as of the date hereof (the "Current Leases") are to the best of Trustor's knowledge valid and enforceable according to their terms in all material respects, are in full force and effect and are unmodified except as disclosed in writing to Beneficiary; (c) Trustor has the right to assign its rights under the Rents and Leases to Beneficiary as security for the Secured Obligations; (d) the tenants under the Current Leases are in possession of the premises leased under their respective leases and except as disclosed in writing by Trustor to Beneficiary are paying rent as provided therein; (e) Trustor has made no prior assignment of the Rents or Leases except as security for indebtedness that has been fully repaid as of the date hereof, and (f) Trustor has not collected any of the Rents due and owing under the Leases more than one month in advance of their due date.

6. **Prohibited Liens.** Trustor shall not permit any governmental or statutory liens (including tax and mechanic's and materialmen's liens) to be filed against the Property except for real property taxes and assessments not yet due and liens expressly permitted by the Loan Documents. Trustor shall neither create nor permit any lien, charge or encumbrance upon the Rents, the proceeds thereof, or its interest as lessor under the Leases except pursuant to this Security Instrument. Trustor shall have the right to contest any mechanic's and materialmen's liens on the Property in good faith by appropriate proceedings so long as (a) no Event of Default (as defined hereinafter) has occurred and is continuing; (b) Trustor posts any bond or other security as and when required as a condition of pursuing such contest; (c) Trustor commences such contest prior to such lien becoming delinquent, and continuously pursues same in good faith with due diligence; (d) such bond stays the foreclosure and enforcement of such lien; and (e) Trustor pays any lien within ten (10) days following the resolution of such contest. If Beneficiary is named as a party in any suit to foreclose a lien described herein then Trustor shall pay all costs and fees incurred by Beneficiary in defending such suit.

7. **Payment of Fees, Taxes and Other Liens and Assessments; Contest.** Trustor shall pay all filing, registration and recording fees, and other fees, taxes, duties, imposts, and other charges incident to, arising from, or in connection with the making, disbursement and administration of the Loan and the preparation, execution, delivery or recording of any Loan Document. Trustor shall also pay or cause its tenants to pay the real property taxes and any assessments with respect to the Property prior to

delinquency unless otherwise expressly agreed to in writing by Beneficiary. After timely notice to Beneficiary, Trustor shall have the right to contest any real property tax or special assessment on the Property by appropriate proceedings diligently pursued so long as (a) no Event of Default has occurred; (b) Trustor makes any payment or deposit or posts any bond as and when required as a condition of pursuing such contest; (c) Trustor commences such contest prior to such tax or assessment becoming delinquent, and continuously pursues same in good faith with due diligence; (d) such contest or any bond furnished by Trustor stays the foreclosure and enforcement of any lien securing the payment of any such tax or assessment; and (e) Trustor pays any tax or assessment within ten (10) days following the resolution of such contest. All other encumbrances, charges, fees, and liens affecting the Property, including mortgages and deeds of trust, whether prior to or subordinate to the lien of this Security Instrument, shall be paid when due and shall not be in default beyond any applicable notice and cure period. On request, Trustor shall furnish to Beneficiary receipts or other evidence of payment of these items satisfactory to Beneficiary.

8. **Maintenance; No Waste.** Trustor shall protect and preserve the Property and maintain it in good condition and repair, ordinary wear and tear from proper use alone excepted. Trustor shall not commit or permit any waste of the Property, or suffer or permit any condition to exist which will (i) increase the risk of fire or other hazard to the Property, or (ii) invalidate or allow cancellation of any insurance policy covering the Property. Trustor shall perform all of Trustor's material obligations under any declarations, covenants, bylaws, rules or other documents governing the use, ownership or occupancy of the Property.

9. **Alterations, Removal and Demolition.** Trustor shall not, nor permit tenants or others to, demolish any building on the Property or alter any foundations or exterior walls of such buildings without Beneficiary's prior written consent. Trustor shall not remove any fixture or other item or property which is part of the Property and the removal of which would materially adversely affect the value of the Property, without Beneficiary's prior written consent unless the fixture or item of property is immediately replaced by an article of equal value and utility owned by Trustor free and clear of any lien or security interest, unless such item is no longer reasonably necessary for the efficient use and operation of the Property as currently used.

10. **Completion, Repair and Restoration.** Trustor shall, at its sole cost, promptly complete or repair and restore in good workmanlike manner, lien-free and in compliance with all applicable laws and permits, any building or improvement on the Property which may be constructed or damaged or destroyed. Notwithstanding the foregoing, if the damage or destruction is the result of an insured casualty, if no Event of Default has occurred and is continuing, and if Beneficiary has exercised any option it may have under Section 20 hereof to apply for a purpose other than rebuilding any portion of the insurance proceeds paid by reason of the casualty, then Trustor's obligation to repair or rebuild shall be limited to such repair and rebuilding as may reasonably be accomplished with such insurance proceeds as are made available to Trustor plus the deductible amounts on the applicable insurance policies.

11. **Compliance with Laws.** The Land is zoned for Trustor's proposed use, and is in present compliance with all zoning and subdivision laws, regulations, codes, rules, and ordinances applicable thereto. Trustor shall assure that at all times the Land constitutes one or more legal lots capable of being conveyed without violation of any subdivision laws, ordinances, regulations, codes, rules, or other applicable laws relating to the division or separation of real property. Trustor shall comply with all laws, ordinances, codes, rules, regulations, covenants, conditions, declarations, and restrictions affecting the Property and shall not commit or permit any act upon or concerning the Property in violation of any such laws, ordinances, regulations, covenants, declarations, and restrictions. Without limiting the generality of the foregoing, Trustor represents and covenants that to Trustor's actual knowledge, the Property is in present compliance with, and at all times shall fully comply with, as applicable, the Americans With Disabilities Act of 1990 (42 USC 12101, et seq.), as amended from time to time, and the rules and regulations adopted pursuant thereto.

12. **Impairment of Property; No Condominium.** Trustor shall not, without Beneficiary's prior written consent, change the general nature of the use of the Property, initiate, acquire or permit any change in any public or private restrictions (including a zoning reclassification) limiting the uses which may be made of the Property, or take or permit any action which would impair the value of the Property or Beneficiary's lien or security interest in the Property. In addition, Trustor will not subject the Property or any portion thereof to a condominium regime or structure without the written consent of Beneficiary, which consent may be granted or denied in Beneficiary's sole discretion and, if granted, may be subject to such requirements as Beneficiary may impose including but not limited to Trustor providing Beneficiary with such title insurance endorsements and other documents as Beneficiary may require.

13. **Inspection of Property.** Beneficiary or its authorized representative shall have the right to inspect the Property and its condition and use at all reasonable times after reasonable notice to Trustor, subject to the rights of tenants of the Property.

14. **Trustor's Defense of Property.** Trustor shall appear in and defend (with counsel reasonably satisfactory to Beneficiary) any action or proceeding which may affect the Property or the rights or powers of Beneficiary or Trustee.

15. **Beneficiary's Right to Protect Property.** Beneficiary may (but is not obligated to) commence, appear in, and defend any action or proceeding which may affect the Property or the rights or powers of Beneficiary or Trustee if Trustor fails to undertake such actions after reasonable notice from Beneficiary. Beneficiary may pay, purchase, contest or compromise any encumbrance, charge or lien which in its judgment appears to be prior or superior to the lien of this Security Instrument and Trustor shall promptly reimburse Beneficiary therefor. If Trustor fails to make any payment or do any act required under the Loan Documents, including without limitation, payment of taxes and assessments and maintenance of insurance on the Property, Beneficiary, without any obligation to do so, but without releasing Trustor from any obligations under the Loan Documents, may make the payment or cause the act to be performed in such manner and to such extent as Beneficiary may deem necessary to protect Beneficiary's interest in the Property. Beneficiary is authorized to enter upon the Property for such purposes. In exercising any of these powers Beneficiary may incur such expenses, in its reasonable discretion, it deems necessary, all of which shall be payable by Trustor and be secured by this Security Instrument.

16. **Repayment of Beneficiary's Expenditures.** Trustor shall pay within 10 days after written notice from Beneficiary all sums expended by and all costs and expenses incurred by Beneficiary in taking any actions or exercising any remedies pursuant to the Loan Documents or in responding to any subpoena or other discovery request relating in any way to Beneficiary's status as holder of this Security Instrument or to the process of closing or administering the Loan, including without limitation reasonable attorneys' fees, appraisal and inspection fees, and the costs of title reports. Expenditures and advances by Beneficiary shall bear interest from the date of such advance or expenditure at the rate specified in the Note (which shall be the default rate thereunder if an Event of Default is then pending, shall constitute advances made under this Security Instrument and shall be secured by and have the same priority as the lien of this Security Instrument. If Trustor fails to pay any such expenditures, advances, costs and expenses and interest thereon, Beneficiary may, at its option, without foreclosing the lien of this Security Instrument, commence an independent action against Trustor for the recovery of the expenditures, costs, and advances, and may disburse any undisbursed loan proceeds to pay such costs, advances and expenditures.

17. **Due on Sale or Transfer; Change of Control.**

17.1 **General Rule – Prohibition on Conveyance or Change of Control.** Trustor understands that Beneficiary will have the opportunity to examine, and is entitled to rely upon, the creditworthiness, financial strength, reputation, experience and managerial ability of Trustor (and its owners and managers) with respect to owning, leasing and operating the Property, in approving the Loan to Trustor, and will continue to rely on Trustor (and its owners and managers) as a means of preserving the value of the Property as security for the Loan. If (i) the Property or any part thereof or interest therein is conveyed, transferred, leased (other than a space lease without option to purchase), assigned, or otherwise alienated (each a "Conveyance"), or (ii) there is a Change of Control (defined below) of Trustor without the prior written consent of Beneficiary, then, except as otherwise expressly provided below, and regardless of whether or not an Event of Default shall otherwise have occurred and be continuing, such event shall constitute an Event of Default, and Beneficiary may, at its option, declare the then outstanding principal balance evidenced by the Note plus accrued interest thereon, and any applicable late fee or prepayment fee or premium, immediately due and payable. In the case of a Trustor that is a revocable trust, the revocation of such trust shall be deemed a Change of Control for purposes hereof. Any joint venture agreement, partnership agreement, declaration or revocation of trust, real estate installment sale contract, option agreement or other agreement (other than a space lease without option to purchase) whereby any other person or entity other than Trustor may become entitled, directly or indirectly, to the possession or enjoyment of the Property, or the income or other benefits of the Property, shall, in each case, be deemed to be a Conveyance or Change of Control for the purposes of this paragraph, and shall require prior written consent from Beneficiary. Any request to Beneficiary for approval of a Change of Control shall be accompanied by copies of any proposed transfer instruments and a processing fee to Beneficiary in the amount specified below. If Trustor is a partnership, Trustor will not permit the addition, removal or withdrawal of any general partner without the prior written consent of Beneficiary. The withdrawal or expulsion of any general partner from Trustor partnership shall not in any way affect the liability of the withdrawing or expelled general partner for all obligations of Trustor hereunder or under the Note. If Trustor consists of more than one person or entity who hold title to the Property as tenants in common, no tenancy-in-common agreement or similar agreement governing the rights and obligations of the owners with respect to the Property that may be recorded against the Property as of the date hereof or hereafter, or of which Beneficiary otherwise has knowledge, shall in any way limit or impair Beneficiary's rights under this Deed of Trust, including without limitation Beneficiary's rights upon any transfer of any fee

interest in any portion of the Property. Trustor hereby waives any right of partition with respect to the Property and covenants not to file any action for partition of the Property until all of the Secured Obligations are paid in full.

17.2 **"Change of Control" Defined.** Except as otherwise expressly provided herein, a "Change of Control" for purposes hereof means the transfer over the term of the Loan of more than 49% of the equity interests, directly or indirectly, in Trustor (but excluding any transfers described in Section 17.3 below), or any change in the identity of the general partner(s) of any general or limited partnership that is the Trustor. If Trustor consists of more than one entity, such 49% limitation shall apply to each such entity. If Trustor is a natural person and dies, the transfer of the Property because of such death shall not be deemed a Conveyance for purposes hereof provided that Beneficiary is promptly notified of such death and within ninety (90) days after written request by Beneficiary, one or more other persons or entities having credit standing and financial resources equal to or better than those of the decedent, as determined by Beneficiary in its reasonable discretion, and management abilities satisfactory to Beneficiary shall assume the Loan, by executing and delivering to Beneficiary an assumption agreement satisfactory to Beneficiary, providing Beneficiary with recourse substantially identical to that which Beneficiary had against the decedent and granting Beneficiary liens on any and all interests of the decedent in the Property; provided further that (i) Beneficiary shall be provided, at Trustor's expense, with a title endorsement as required below in connection with an assumption of the Loan, and (ii) Beneficiary shall be paid an administrative fee in the amount of \$3,000. If Trustor is one or more trustees acting on behalf of a trust, a change in the make-up of the trustees of the trust as the result of death or resignation shall not constitute a Conveyance or Change of Control requiring written consent of Beneficiary. However, the transfer of part or all of the interest of the trust in the Property to any third party pursuant to the dispositive provisions of the trust shall be subject to Beneficiary's approval, which shall not be unreasonably withheld provided that Beneficiary is provided with copies of any deed or other conveyance instrument; Beneficiary is provided at Trustor's expense with an endorsement to its title policy insuring that the transfer of title does not affect the validity or priority of the lien of this Mortgage; the transferee of title to the Property executes and delivers to Beneficiary an assumption agreement with respect to the Loan in form and content satisfactory to Beneficiary, and Beneficiary is paid an administrative fee of \$2,500.

17.3 **Transfer of Interest for Estate Planning Purposes.** Natural persons may, for estate planning purposes, transfer their direct or indirect interest in Trustor (other than general partnership interests), notwithstanding that such transfer may be of a Change of Control, if such transfer is to immediate family members or lineal descendants, or to entities controlled by or trusts for the benefit of, immediate family members or lineal descendants of the transferor, provided each of the following conditions have been satisfied: 1) There have been no Events of Default, 2) Beneficiary receives written notice of the transfer along with all appropriate documentation of the transfer satisfactory to Beneficiary within 30 days after the transfer, 3) the liability of Trustor under the Note and of any guarantors under their guaranty of Trustor's obligations shall remain in full force and effect, 4) managerial control over the Property and the Trustor shall remain acceptable to Beneficiary; and 5) Trustor shall pay all of Beneficiary's reasonable out of pocket costs associated with the transfer plus a \$500 administrative fee.

17.4. **Death of Guarantor or General Partner.** The death of (i) a natural person who is a guarantor of the Loan whether or not such person owns any interest in Trustor, or (ii) a general partner of a partnership that is the Trustor, shall constitute an Event of Default under the Loan, unless in the case of (i), the obligations of such decedent are assumed in writing by a replacement guarantor satisfactory to Beneficiary no later than the earlier of (a) the date on which the first distribution of the decedent's assets has been made from such person's estate or trust to any devisee, heir or beneficiary, or (b) ninety (90) days after such guarantor's death, or in the case of (ii), Beneficiary must be satisfied with any replacement general partner, in terms of such general partner's management experience and creditworthiness, or Beneficiary must otherwise be provided with a new guaranty from a satisfactory guarantor in substitution for the obligations of the deceased general partner. Beneficiary will not unreasonably withhold its consent to a replacement guarantor or replacement general partner whose creditworthiness, liquidity and financial strength satisfy Beneficiary's then-applicable underwriting standards. In addition, Beneficiary will not unreasonably withhold its consent to an additional extension of 90 days to the 90 day period referenced above for the delivery of a satisfactory replacement guaranty upon the death of a guarantor. Any change in the day-to-day management of the Property or of Trustor resulting from a death as described herein shall be subject to Beneficiary's approval. Trustor shall pay all of Beneficiary's reasonable out of pocket costs associated with the foregoing transaction plus an administrative fee of \$1,000.

17.5. **Other Transfers of Interest on Death.** The transfer, on the death of a natural person, of an interest in Trustor, whether or not such transfer would otherwise be a Change of Control, where such person is not the Trustor or a Guarantor or a general partner of Trustor, shall not constitute a Change of Control or require the notification to or consent of Beneficiary, or payment of any fee.

17.6 **No Discharge of Obligated Parties.** No Conveyance or Change of Control or other transfer of any interest in the Property shall operate to discharge or diminish in any way the liability of Trustor or any guarantor with respect to the Loan Documents except as otherwise expressly provided herein.

17.7. **Assumption of Loan.** Notwithstanding the foregoing provisions of this Section 17, and provided no Event of Default has occurred, Trustor shall have a one-time only right upon prior written notice to Beneficiary and payment of all Beneficiary's expenses plus an assumption fee equal to one percent (1%) of the original principal amount of the Note to convey the entire interest in the Property held by all persons comprising Trustor to a transferee whose creditworthiness, financial strength, reputation, experience and property management ability with respect to the ownership, operation and leasing of properties similar to the Property (together with that of any new proposed guarantors of the Loan) satisfy Beneficiary's then-applicable underwriting standards, which approval shall not be unreasonably withheld or delayed. If Beneficiary withholds its approval because of the proposed transferee's or proposed new guarantors' lack of creditworthiness, reputation, experience, property management ability or financial strength or other reasonable basis which leads Beneficiary to reasonably believe the Loan or the security would be impaired, Beneficiary shall not be deemed to have unreasonably withheld its approval. Any transferee must fully assume Trustor's obligations under the Note, the Loan Documents and the Environmental Agreement, and Trustor and any guarantors of the Loan shall remain fully bound after the transfer; provided that upon Beneficiary's approval of a conveyance of the Property to a transferee unaffiliated with Trustor, Beneficiary's acceptance of any required replacement guaranty(ies) and the assumption of the Loan as provided herein, Trustor and any guarantors shall be released from liability for repayment of the Loan. Trustor shall pay for an endorsement to Beneficiary's title policy insuring that this Security Instrument remains a first and prior lien on the Property and shall pay all expenses and fees, including outside counsel legal fees, incurred in connection with the transfer and assumption. Any approval given by Beneficiary shall not constitute approval of any other or future Conveyance or Change of Control. If ownership of the Property or any part thereof or interest therein becomes vested in a person or an entity other than Trustor, whether or not Beneficiary has given written approval, Beneficiary may deal with such successor or successors in interest with reference to this Security Instrument and the Loan, in the same manner as with Trustor, without in any way diminishing or discharging Trustor's obligations. In addition to the loan assumption fee payable upon an approved conveyance of the Property and assumption of the Loan, Trustor shall pay to Beneficiary a processing fee in the amount of \$3,500.00 in consideration of, and as a precondition to, the review by Beneficiary of the proposed conveyance and assumption. Such sum is payable regardless of whether Beneficiary ultimately approves the proposed transfer and is in addition to any loan assumption fee payable upon the closing of an assumption transaction. As a condition of approval of any request for a loan assumption, Trustor shall provide evidence satisfactory to Beneficiary that any tenant with a right of first refusal to acquire the Property has waived such right with respect to the proposed transfer.

18. **No Other Encumbrances; Due on Encumbrance.** At no time while the Loan remains unpaid shall Trustor create, assume, or suffer to exist on the Property, or any part thereof, any mortgage, trust deed or other security instrument in favor of any person other than Beneficiary (an "Encumbrance") without first obtaining the prior written consent of Beneficiary. Trustor agrees that should the Property or any part thereof at any time be or become subject to the lien of any other mortgage or Security Instrument or subject to any other voluntary encumbrance, pledge, or security interest (except with the prior written consent of Beneficiary), the whole of the principal and interest secured hereby and any applicable delinquency charge or prepayment fee shall, at the option of Beneficiary, become immediately due and payable. Whether or not the consent of Beneficiary has been obtained, Trustor, for itself and for all future owners of the Property, agrees that this Security Instrument and the other Loan Documents may be modified, varied, extended, renewed, or reinstated at any time by agreement between the holder of this Security Instrument and Trustor, or the then owner of the Property, without notice to, or the consent of, any subordinate mortgagee or lienor, and any such modification, variance, extension, renewal, or reinstatement shall be binding upon such subordinate mortgagee, Beneficiary or lienor with the same force and effect as if such subordinate mortgagee, Beneficiary or lienor had consented thereto.

19. **Insurance.** Without limiting the generality of any other provision contained in this Security Instrument, Trustor shall procure and continuously maintain while the Loan remains unpaid and this Security Instrument remains in effect "all risk" property insurance covering all improvements on the Property providing 100% replacement cost coverage on an agreed amount basis to remove any co-insurance provision, insuring against loss by fire, smoke, explosion, riot, lightning, hail, wind, windstorm, vandalism and other risks covered by the broadest form of extended coverage available from time to time, loss of rents (or business income, if owner occupied) coverage in amounts sufficient to compensate Trustor for all rents or income from the Property during a period of not less than one year, and earthquake coverage to the extent required by Beneficiary in the exercise of its business judgment in light of commercial real estate practices by institutional lenders lending against real property in the general vicinity where the Property is located at the time the insurance is issued, and coverage for such other perils and risks as may be reasonably required by Beneficiary from time to time. If the Property are ever designated as having special flood hazards or any other designation which would make the Property subject to the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, or the National Flood Insurance Reform Act of 1994, as each may be amended, modified, supplemented, or replaced from time to time, or any similar law, Trustor agrees to do everything reasonably necessary to comply with the

requirements of said law and related regulations in order that flood insurance will be available to Trustor, and to obtain and maintain for the benefit of Beneficiary such an insurance policy with limits and deductibles satisfactory to Beneficiary. Trustor shall also procure and maintain Occurrence Form commercial general liability insurance against claims for bodily injury, death or property damage occurring in, upon or about, or resulting from, the Property or Trustor's use and occupancy of the Property with limits in such amounts as are acceptable to Beneficiary, but in no event less than \$1,000,000 combined single limit per occurrence for loans up to \$5,000,000, or \$2,000,000 for loans of \$5,000,000 or more, provided that for hotels and senior living facilities, the combined single limit per occurrence shall be not less than \$5,000,000 regardless of loan size; and \$2,000,000 general aggregate (or \$5,000,000 general aggregate for hotels or senior living facilities), naming Beneficiary as an additional insured on a primary/non-contributory basis (with endorsement CG2018 or equivalent). All insurance shall be with companies licensed to do business and admitted in Utah satisfactory to Beneficiary having an A.M. Best rating of A- or better with limits acceptable to Beneficiary, and a Beneficiary's Loss Payable endorsement (form CP1218 or equivalent) in favor of and in form satisfactory to Beneficiary and deductibles not to exceed \$25,000 for loans up to \$5,000,000 or \$100,000 for loans in excess of \$5,000,000. Each policy must provide no less than thirty (30) days prior written notice to Beneficiary of any cancellation, non-renewal or material change (or ten (10) days in the case of a cancellation for nonpayment of premiums). No approval by Beneficiary of the amount, type or form of any insurance shall be construed as a representation or warranty by Beneficiary of its sufficiency for Trustor's purposes. Trustor shall pay all premiums for the insurance coverage required hereunder in a timely manner. At least thirty (30) days prior to the expiration of the term of any insurance policy, Trustor shall furnish Beneficiary with written evidence of renewal or issuance of a satisfactory replacement policy. If requested, Trustor shall deliver copies of all policies to Beneficiary. In the event of foreclosure of this Security Instrument all interest of Trustor in any insurance policies pertaining to the Property and in any claims against the policies and in any proceeds due under the policies shall pass to Beneficiary. If Trustor fails to maintain insurance in accordance with this Security Instrument, Beneficiary may, but need not, obtain insurance to protect Beneficiary's interest in the Property ("**Force Placed Insurance**"). For instance, and without limiting Beneficiary's rights hereunder and under the other Loan Documents, Beneficiary may obtain Force Placed Insurance if: (a) Trustor fails to deliver to Beneficiary, prior to the expiration of any such required insurance coverage, evidence satisfactory to Beneficiary that Trustor has renewed or replaced such coverage; (b) the amount of insurance is reduced below Beneficiary's requirements; (c) the deductible is increased above Beneficiary's requirements; or (d) the insurer providing the insurance does not meet Beneficiary's insurance company rating requirements.

20. Insurance Proceeds. All insurance proceeds (including but not limited to proceeds of policies of insurance that Beneficiary does not require Trustor to carry) with respect to the Property are hereby assigned to Beneficiary (all such assigned items constituting part of the "Property" for purposes hereof) as additional security for the Loan. Trustor shall give immediate notice to Beneficiary of any loss or damage to the Property due to casualty in excess of \$25,000 (a "Material Loss"). Provided no Event of Default has occurred and is continuing, Trustor shall have the right to settle and receive the proceeds payable with respect to a loss or damage except for a Material Loss, and shall with reasonable promptness apply any funds so received to the repair and reconstruction of the damage. All proceeds payable with respect to a Material Loss shall be paid to Beneficiary and applied to repair or restore the Property, provided no Event of Default has occurred and is continuing; such repair or restoration is economically feasible; the security of this Security Instrument is not impaired; and at least one year remains on the unexpired term of the Note. If the foregoing conditions are not satisfied, Beneficiary shall, at its option, after deducting its expenses including reasonable attorneys' fees, (a) apply all or part of the proceeds against the sums owed under the Loan Documents including the Note whether or not (i) the sums are actually then due or (ii) Beneficiary's security is impaired, and without affecting the due dates or amount of payments thereafter due under the Note, or (b) release all or any part of the proceeds to Trustor, or (c) permit all or any part of the proceeds to be used for repair and restoration of the Property on such conditions as Beneficiary may impose including evidence of sufficient funds to complete the work, approval of the plans and specifications and periodic disbursement of the proceeds (and of any additional funds Beneficiary requires Trustor to deposit with Beneficiary for disbursement to pay the costs of the repair and restoration) during the course of repair and restoration. Beneficiary's security will be deemed to be impaired if Trustor fails to comply with such conditions in any material respect. Trustor agrees to pay Beneficiary's costs and reasonable attorneys' fees incurred in connection with the collection and administration of any insurance proceeds as provided herein. Except when an Event of Default is then pending, any application of the insurance proceeds against the Secured Obligations shall be without imposition of any prepayment fee. No application of insurance proceeds against the Secured Obligations will result in any adjustment in the amount or due dates of installments due under the Note, absent express agreement of Beneficiary to the contrary. No application of insurance proceeds shall be deemed to cure or waive any Event of Default or notice of default hereunder or invalidate any action taken pursuant to any such notice.

21. Condemnation Proceeds. All awards, payments, damages (whether direct, consequential or otherwise), claims and proceeds thereof in connection with any condemnation or eminent domain proceeding affecting the Property, or for

conveyance in lieu of condemnation (collectively, a "Condemnation Proceeding"), are hereby assigned to Beneficiary (all such assigned items constituting part of the "Property" for purposes hereof) as additional security for the Loan. Trustor shall give immediate notice to Beneficiary of any Condemnation Proceeding, and Trustor will appear in and prosecute any such proceeding unless otherwise directed by Beneficiary in writing. If an Event of Default has occurred and is continuing at the time of commencement of the Condemnation Proceeding, then Trustor hereby irrevocably empowers Beneficiary, in the name of Trustor, as Trustor's true and lawful attorney in fact, to commence, appear in, defend, prosecute, adjust, compromise and settle all claims with respect to such Proceeding; provided, however, Beneficiary shall not be responsible for any failure to undertake any or all of such actions regardless of the cause of the failure. In addition, whether or not an Event of Default has occurred and is continuing, Beneficiary may, at its option, appear in and participate in any Condemnation Proceeding in Beneficiary's own name, through counsel of its choice. Trustor shall deliver to Beneficiary at Trustor's expense such documentation and information regarding the Condemnation Proceeding, its impact on the Property and Trustor's position with respect thereto as Beneficiary may reasonably request from time to time, including without limitation survey maps showing the portions of the Property affected by the Condemnation Proceeding, in order to enable Beneficiary to exercise its rights hereunder in connection with such Condemnation Proceeding.

All awards payable pursuant to the Condemnation Proceeding shall be paid to Beneficiary for application as provided herein. If Trustor receives any such awards directly from a condemning authority, Trustor shall deliver the same to Beneficiary forthwith and, until such delivery, shall hold the same in trust for Beneficiary pending disposition as provided herein. Beneficiary shall, after deducting its expenses including reasonable attorneys' fees incurred in such proceedings and otherwise in the collection of the proceeds, make such net proceeds (the "Net Claims Proceeds") available to Trustor (subject to the terms of the following paragraph) to repair and reconstruct the Property, provided all of the following conditions (the "Proceeds Release Conditions") are satisfied: (i) no Event of Default has occurred and is continuing; (ii) Trustor establishes to Beneficiary's satisfaction that the Property can be restored to a value, usefulness and physical condition in all material respects comparable to its condition immediately prior to the taking; (iii) Beneficiary shall have determined that the Net Claims Proceeds are sufficient to pay the total cost of repair or reconstruction (the "Repair Costs"), or Trustor shall have deposited with Beneficiary sufficient additional funds from separate resources to meet any shortfall between the Net Claims Proceeds and the reasonably estimated Repair Costs (the "Trustor Deposit"); (iv) Beneficiary shall have approved the plans and specifications, permits, construction contract, construction budget and schedule, and the selection of the architect, engineer and contractor for the repair and reconstruction work, with such approval not to be unreasonably withheld; and (v) Beneficiary shall otherwise be fully satisfied that the security of this Security Instrument and Trustor's ability to perform its obligations hereunder and under the other Loan Documents is not impaired by reason of the taking. Trustor shall perform any required repairs in compliance with Section 10 of this Security Instrument. If any of the Proceeds Release Conditions are not satisfied within a reasonable time (as reasonably determined by Beneficiary), then Beneficiary may apply the Net Claims Proceeds to the Secured Obligations in such order as Beneficiary may determine, whether then due and payable or not. Except when an Event of Default is then pending, any such application of the Net Claims Proceeds against the Secured Obligations shall be without imposition of any prepayment fee. No application of Net Claims Proceeds against the Secured Obligations will result in any adjustment in the amount or due dates of installments due under the Note, absent express agreement of Beneficiary to the contrary. No application of Proceeds shall be deemed to cure or waive any Event of Default or notice of default hereunder or invalidate any action taken pursuant to any such notice.

If the Proceeds Release Conditions are satisfied but the total amount of the Net Claims Proceeds exceeds \$25,000, then Beneficiary may, at its option, hold or cause an independent third party escrow holder to hold such proceeds (together with any required Trustor Deposit) in an account for disbursement to Trustor to pay the Repair Costs (with any third party escrow fees being borne by Trustor) according to such reasonable disbursement procedures as Beneficiary may impose to assure that all repair and reconstruction work will be completed lien free, with reasonable diligence, in accordance with all applicable laws and permits and in conformity with any plans, specifications and contracts approved by Beneficiary. If the actual Repair Costs are less than the Net Claims Proceeds, then upon completion of all required repair and reconstruction of the Property, and provided that no Event of Default has occurred and is continuing and that the value of the Property has not been materially impaired by reason of the taking, then any such surplus proceeds shall be released to Trustor. Otherwise, such surplus proceeds may be applied by Beneficiary for application against the outstanding balance of the Secured Obligations.

In addition, if the Proceeds Release conditions are satisfied but Beneficiary reasonably determines that work to be carried on in rights of way or other properties adjacent to the Property as part of the public project that is the basis of the Condemnation Proceeding may reasonably be expected to temporarily disrupt the business operations on the Property and

accordingly impair the ability of the Property to generate the income necessary to pay the interest and principal as it comes due under the Note, and to pay all required expenses of operating and maintaining the Property as required hereunder and under the other Loan Documents, Beneficiary may hold or cause an independent third party escrow holder to hold the Net Claims Proceeds or such portion thereof as Beneficiary reasonably determines to be necessary as additional security for the Secured Obligations, and/or as a fund for the payment of debt service on the Loan, with provisions for the release of such funds at a reasonable time when the Property's ability to generate the income is no longer impaired.

Trustor agrees to pay all Beneficiary's costs and reasonable attorneys' fees incurred in connection with any actions taken by Beneficiary pursuant to this Section.

22. Leases.

22.1 Performance, Preservation and Enforcement of Leases. Trustor shall fully comply with all of the terms, conditions and provisions of the Leases so that no breach shall occur on the part of Trustor, and shall do all that is necessary to preserve all the Leases in force. Trustor shall give prompt written notice to Beneficiary of the receipt by Trustor of any written notice from any tenant or subtenant under a Lease claiming any default by Trustor under a Leases. Trustor shall enforce in a commercially reasonable manner the performance in all material respects of each and every obligation to be performed by any tenant under its Leases, and shall notify Beneficiary of the occurrence of any default under a Lease which, if not cured, could permit the tenant to terminate the Lease or abate the payment of Rent. Trustor shall neither create nor permit any lien, charge or encumbrance upon the Rents, the proceeds thereof or its interest as lessor of the Leases except the lien of this Security Instrument. Trustor shall notify Beneficiary in writing prior to becoming the beneficiary under any letter of credit supporting any of the Leases, and shall take all actions, and execute all documents, necessary or appropriate to give Beneficiary control (as defined in the UCC) of such letter of credit and all letter of credit rights thereunder and, if required by Beneficiary, to make Beneficiary the transferee beneficiary of such letter of credit. Trustor shall maintain all security deposits collected from tenants with respect to their Leases in accordance with all applicable legal requirements. Except for the lien of real property taxes and assessments, Trustor shall not permit any lien to be created against the Property which may be or may become prior to any Lease.

22.2 Proceeds of Lease Default. If an Event of Default has occurred and is continuing, then any proceeds or damages resulting from a tenant's default under any Lease, and any lease termination fees payable by a tenant to Trustor under any Lease (collectively, "Lease Proceeds") shall be payable to Beneficiary for application against the principal balance of the Secured Obligations, notwithstanding that such sums may not then be due and payable. In the absence of an Event of Default, any Lease Proceeds that are derived from a Material Lease (defined below) shall be held by Beneficiary as a reserve to be released to pay Trustor's expenses in repairing any damage to the subject leased premises, and re-tenanting the premises, including without limitation leasing commissions and tenant improvement expenses. The specific terms of such reserve will be as provided in a detailed reserve agreement to be executed by Trustor and Beneficiary. If any Lease Proceeds are derived from a Lease that is not a Material Lease, then provided no Event of Default has occurred and is continuing such proceeds or fees may be released to Trustor.

22.3 Prior Approval for Trustor Actions under Leases. Without the prior written consent of the Beneficiary, Trustor will not:

- (a) receive or collect any Rents from any present or future tenant of the Property for a period of more than one (1) month in advance of the date on which such payment is due, or pledge, transfer, mortgage, or otherwise encumber or assign future payments of Rents to anyone other than Beneficiary;
- (b) enter into a new lease that covers fifty percent (50%) or more of the net rentable area of the Property;
- (c) with respect to any Material Lease (defined below), waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge any tenant under any such Lease or a guarantor under a lease guaranty, of and from any obligations, covenants, conditions and agreements by tenant to be kept, observed and performed, including the obligation to pay the Rents in the manner and at the place and time specified therein;
- (d) with respect to any Material Lease, consent to any surrender of any such Lease or the exercise of any right of recapture provided in any such Lease,
- (e) except in accordance with the terms of the Lease providing for termination or other remedies in the event of default by a tenant, cancel or terminate any Material Lease, or commence an action of ejectment or any summary proceedings for dispossession of the tenant under any Material Lease, or permit any of the aforementioned; or
- (f) with respect to any Material Lease, amend the Lease for a shorter term or lesser Rents, reschedule the payment of Rents, change any renewal option, change the allowable uses of the leased premises, change the assignment and

subletting provisions, or release any tenant from any obligation to insure, maintain or repair the Property or from any other financial obligation of the tenant under such Lease.

For purposes hereof, a "Material Lease" is a lease with a total term including renewal options (or in the case of leases in place as of the date hereof, a total remaining term including renewal options) of five years or more, or that covers twenty percent (20%) or more of the net rentable area of the Premises.

22.4 Copies of Leases. Until all of the Secured Obligations shall have been paid in full, Trustor shall deliver to Beneficiary, upon request, executed copies of (i) any renewals or amendments of existing Leases and (ii) all future Leases upon all or any part of the Property, and (iii) any transfers and assignments of such Leases or subleases of space under any Lease.

22.5 Indemnification. Trustor shall indemnify, defend and hold Beneficiary harmless from any and all liability, loss, injury, damage or expense which Beneficiary may incur under or by reason or in defense of any and all losses, damages, claims, expenses, causes of action and demands whatsoever which may be asserted against Beneficiary arising out of the Leases (a "Lease Claim"), including, but not limited to, any claims by any tenants of credit for rental for any period under any Leases more than one (1) month in advance of the due date thereof paid to and received by Trustor, but not delivered to Beneficiary and any Lease Claim arising from any other actions by Trustor that require the consent of Beneficiary under Section 22.3 hereof where such action was undertaken without such consent.

23. Assignment of Leases and Rents; Trustor's Revocable License to Collect. Trustor hereby absolutely and irrevocably assigns to Beneficiary all of Trustor's interest in the Rents and Leases. So long as no Event of Default has occurred, Trustor shall have a revocable license granted by Beneficiary to collect (but not prior to accrual) the Rents as they become due. Trustor shall use the Rents to pay normal operating expenses for the Property and sums due and payments required under the Loan Documents before using the Rents for any other purposes. Trustor covenants that it will make no subsequent assignment of the Rents (or any portion thereof) without the prior written consent of Beneficiary. Trustor's license to collect the Rents shall not constitute Beneficiary's consent to the use of cash collateral in any bankruptcy proceeding.

24. Beneficiary's Right to Collect Rents. If an Event of Default occurs, Beneficiary or its agents, or a court appointed receiver, without further notice to Trustor, may collect the Rents without further notice to Trustor. In doing so, Beneficiary may (a) evict tenants for nonpayment of rent, (b) terminate in any lawful manner any tenancy or occupancy, (c) lease the Property in the name of the then owner on such terms as it may deem best and (d) institute proceedings against any tenant for past due rent. In addition, upon an Event of Default, Beneficiary may require Trustor to transfer all security deposits under the Leases with Beneficiary. The Rents received shall be applied to payment of the costs and expenses of collecting the Rents, including a reasonable fee to Beneficiary, a receiver or an agent, operating expenses for the Property (including the funding of reasonable reserves for capital replacements) and any sums due or payments required under the Loan Documents, in such amounts as Beneficiary may determine. Any excess Rents shall be paid to Trustor, however, Beneficiary may withhold from any excess a reasonable amount to pay sums anticipated to become due which exceed the anticipated future Rents. Beneficiary's failure to collect or discontinuing collection at any time shall not in any manner affect the subsequent enforcement by Beneficiary of its rights to collect the Rents. The collection or application of the Rents shall not cure or waive any Event of Default. Beneficiary or a receiver shall have no obligation to perform any of Trustor's obligations under the Leases, nor to assume any responsibility for any security or other deposits delivered to Trustor by any tenant and not delivered to Beneficiary. In exercising its rights under this section Beneficiary shall be liable only for the proper application of and accounting for the Rents actually collected by Beneficiary or its agents. Any Rents paid to Beneficiary or a receiver shall be credited against the amount due from the tenant under the Lease. In the event any tenant under the Lease becomes the subject of any proceeding under the Bankruptcy Code or any other federal, state or local statute which provides for the possible termination or rejection of the leases assigned hereby, Trustor covenants and agrees that in the event any of the Leases are so rejected, no damages settlement shall be made without the prior written consent of Beneficiary; any check in payment of damages for rejection or termination of any such Lease will be made payable to both the Trustor and Beneficiary; and Trustor hereby assigns any such payment to Beneficiary and further covenants and agrees that upon request of Beneficiary, it will duly endorse to the order of Beneficiary any such check, the proceeds of which will be applied to the Loan in such manner as Beneficiary may elect. The application of such proceeds against the balance owed under the Loan Documents shall be without imposition of any prepayment fee provided no Event of Default is pending at the time of such application. Notwithstanding any other provision set forth herein, in the Note, or in any other document executed or delivered in connection with the Loan, Trustor's and Beneficiary's rights and remedies with respect to the Rents and Leases are subject to and governed by the Utah Uniform Assignment of Rents Act set forth in Utah Code Annotated Sections 57-26-101 et seq. now in effect, as amended from time to time.

25. **Trustor Existence.** If Trustor is a trust, corporation, partnership, limited liability company or other entity, Beneficiary is making the Loan in reliance on Trustor's continued existence, ownership and control in its present form. Trustor will not alter its name, jurisdiction of organization, or type of legal entity without the prior written consent of Beneficiary, which shall not be unreasonably withheld, conditioned or delayed, and will do all things necessary to preserve and maintain said existence and to ensure its continuous right to carry on its business. Trustor shall do all things reasonably necessary to preserve its existence in force and to preserve all franchises, rights and privileges granted by the laws under which it is organized.

26. **Fixture Filing.** To the extent permitted by applicable law, this Security Instrument shall also serve as a financing statement filed for record in the real estate records as a fixture financing statement pursuant to the UCC covering any Property which is now or may hereafter become fixtures with respect to the Property. For the purpose of this fixture filing, Trustor shall be the "Debtor" and Beneficiary shall be the "Secured Party" and the addresses of Trustor and Beneficiary are as set forth in the preamble of this Security Instrument, and the collateral shall be any fixtures on the Property. Trustor is the record owner of the Land.

27. **Default; Remedies.** TIME IS OF THE ESSENCE HEREOF. Any of the following events shall constitute an "Event of Default:"

(a) Trustor fails to pay all indebtedness evidenced by the Note on the maturity date thereof as specified in the Note, or fails to pay any monthly installment of principal or interest on the Note within ten (10) days after the date the same is due and payable, or

(b) Trustor fails to pay when due any taxes or assessments on the Property, or

(c) any representation or warranty made by Trustor or any guarantor of the Note was materially false or misleading at the time it was made, or Trustor or any guarantor fails to disclose any material fact known to Trustor or such guarantor relating to Trustor, such guarantor or the Loan, or

(d) Trustor fails to provide or continuously maintain the insurance required by this Security Instrument, or

(e) Trustor fails to perform or observe any other obligation of Trustor to Beneficiary within the applicable notice and cure period set forth herein or in another Loan Document, or

(f)(i) Trustor files or acquiesces to the filing of an assignment for the benefit of creditors, a receivership, a petition in bankruptcy or any similar proceeding, or (ii) any assignment for the benefit of creditors, receivership, a petition in bankruptcy or similar proceeding is filed against Trustor and any of the above described in this clause (f)(ii) is not dismissed within sixty (60) days,

(g) (i) any guarantor of the Loan revokes, or attempts to revoke, its guaranty, or (ii) such a guarantor files or acquiesces to the filing of an assignment for the benefit of creditors, a receivership, a petition in bankruptcy or any similar proceeding, or (iii) any assignment for the benefit of creditors, receivership, a petition in bankruptcy or similar proceeding is filed against such Guarantor and any of the above described in this clause (g)(iii) is not dismissed within sixty (60) days or

(h) a Conveyance or Encumbrance has occurred without the prior written consent of Beneficiary, or

(i) a Change of Control has occurred with respect to Trustor or any guarantor without the prior written consent of Beneficiary, or

(j) the death of a general partner of Trustor or a guarantor except as otherwise provided in Section 17 hereof; or

(k) Trustor fails to perform or observe any other covenant or agreement of Trustor contained in this Security Instrument or in the other Loan Documents and not specifically described in this section, and such failure continues for more than thirty (30) days after receipt of written notice from Beneficiary specifying such default; provided, if such default is curable but not reasonably curable within thirty days, then Trustor shall have such additional time, not to exceed ninety (90) days in the aggregate from the date of Beneficiary's notice, in which to effect such cure, provided Trustor commences the cure within the initial thirty-day period and diligently prosecutes such cure to completion.

Upon an Event of Default, the whole sum of the indebtedness, at the option of the Beneficiary or the holder of the indebtedness, shall become immediately due and payable and Beneficiary may exercise its rights and remedies under the Loan Documents and applicable law. Beneficiary may cause Trustee to execute a written notice of default and of election to cause said Property to be sold to satisfy the indebtedness and obligations hereof, and Trustee shall file such notice of record in each county wherein said Property or some part or parcel thereof is situated. Beneficiary shall deposit with Trustee the Note and all other documents evidencing expenditures secured hereby. After lapse of such time as may then be required by law following the recordation 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 said 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 it may determine (but subject to any statutory right of Trustor to direct the order in which such Property, if consisting of several 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, if the sale is

postponed for longer than seventy-two (72) hours beyond the day 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 said Property so sold, but without any covenant or warranty, expressed or implied. The recitals in this 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 the payment of (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and attorneys fees; (2) cost of any evidence of title procured in connection with such sale and revenue stamps on the Trustee's Deed; (3) all sums expended under the terms hereof, not then repaid, with accrued interest thereon at the default rate specified in the Note from the date of the expenditure; (4) all sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or to 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. 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. Upon the occurrence of any default, the Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclose this Deed of Trust 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 attorneys fee in such amount as may be fixed by the court. Beneficiary's exercise of any of its rights and remedies shall not constitute a waiver or cure of a default. Beneficiary's failure to enforce any default shall not constitute a waiver of the default or of any subsequent default. In the event the Loan Documents are referred to an attorney for enforcement of Beneficiary's rights or remedies, whether or not suit is filed or any proceedings are commenced, Trustor shall pay all Beneficiary's costs and expenses including Trustee's and attorneys' fees (including attorneys' fees for (i) any appeal, (ii) relief from stay motions, cash collateral disputes, assumption/rejection motions and disputes regarding proposed disclosure statements and plans in any bankruptcy proceeding or (iii) for any other judicial or nonjudicial proceeding or arbitration), appraisal and inspection fees and cost of a title report.

28. **Cumulative Remedies.** All of Beneficiary's and Trustee's rights and remedies specified in the Loan Documents are cumulative, not mutually exclusive and not in substitution for any rights or remedies available at law, in equity or provided by statute. In order to obtain performance of Trustor's obligations under the Loan Documents, without waiving its rights in the Property, Beneficiary may proceed against Trustor or may proceed against any other security for or guaranty of the Note, in such order and manner as Beneficiary may elect. The commencement of proceedings to enforce a particular remedy shall not preclude the discontinuance of the proceedings and/or the commencement of proceedings to enforce a different remedy. Notwithstanding any other provision set forth herein, Beneficiary's rights and remedies upon the occurrence of an Event of Default shall be governed by Utah Code Annotated Sections 57-1-101 et seq. and Section 78B-6-901, as the same may be amended from time to time, and the related interpretive case law.

29. **Sale of Property after Default.** Following an Event of Default, the Property may be sold separately or as a whole, at the option of Beneficiary. In the event of a Trustee's sale of all the Property, Beneficiary hereby assigns its security interest in any personal property to the Trustee. Beneficiary may also realize on the personal property security in accordance with the remedies available under the UCC or at law. In the event of a foreclosure sale or the enforcement by Beneficiary of any other rights and remedies hereunder, Trustor and the holders of any subordinate liens or security interest waive any equitable, statutory or other right they may have to require marshaling of assets or foreclosure in the inverse order of alienation or to require Beneficiary to pursue its remedies against any other assets.

30. **Appointment of Receiver.** Following an Event of Default, Beneficiary shall be entitled, without notice, without bond, and without regard to the adequacy of the security, to the appointment of a receiver for the Property to take possession of and operate the Property and collect the rents, profits, issues and revenues thereof. The receiver shall have, in addition to all the rights and powers customarily given to and exercised by a receiver, all the rights and powers granted to Beneficiary by the Loan Documents.

31. **Foreclosure of Tenant's Rights; Subordination.** Beneficiary shall have the right, at its option, to foreclose this Security Instrument, subject to the rights of any tenants on the Property. Beneficiary's failure to foreclose against any tenant shall not be asserted as a claim against Beneficiary or as a defense against any claim by Beneficiary in any action or proceeding. Beneficiary at any time may subordinate this Security Instrument to any or all of the Leases except that Beneficiary may retain its priority claim to any condemnation or insurance proceeds.

32. **Reconveyance After Payment.** Upon written request of Beneficiary stating that all of the Secured Obligations have been paid, Trustee shall reconvey, without warranty, the Property then subject to the lien of this Security Instrument. The recitals in any reconveyance of any matters of fact shall be conclusive proof of the truthfulness thereof. The grantee in the

reconveyance may be described as "the person or person legally entitled thereto." Trustor shall pay any Trustee's fees and charges for preparation and recording of the reconveyance.

33. **Release of Parties or Collateral.** Without affecting the obligations of any party under the Loan Documents (including any guarantor, surety or endorser of Trustor's obligations) or any subsequent purchaser of the Property, and without affecting the lien of this Security Instrument and Beneficiary's security interest in the Property, Beneficiary may, without notice (a) release Trustor and any other party now or hereafter liable for the payment or performance of any obligations under the Loan Documents, including guarantors of the Loan, (b) release all or any part of the Property, (c) subordinate the lien of this Security Instrument or Beneficiary's security interest in the Property, (d) take or release any other security or guaranty, (e) grant an extension of time or accelerate the time for performance of the obligations owed under the Loan Documents, (f) modify, waive, forbear, delay or fail to enforce any obligations owed under the Loan Documents, (g) sell or otherwise realize on any other security or guaranty prior to, contemporaneously with or subsequent to a sale of all or any part of the Property, (h) make advances pursuant to the Loan Documents including advances in excess of the Note amount, (i) consent to the making of any map or plat of the Property, and (j) join in the grant of any easement on the Property. Any subordinate lienholder shall be subject to all such releases, extensions, advances or modifications without notice to or consent from the subordinate lienholder. Trustor shall pay any reasonable Trustee's or attorneys' fees, title insurance premiums or recording fees in connection with any of the foregoing.

34. **Nonwaiver of Terms and Conditions.** TIME IS OF THE ESSENCE with respect to Trustor's performance of its obligations due under the Loan Documents. Beneficiary's failure to require prompt enforcement of any required obligations shall not constitute a waiver of the obligations due or any subsequent required performance of the obligation. No term or condition of the Loan Documents may be waived, modified or amended except by a written agreement signed by Trustor and Beneficiary. Any waiver of any term or condition of the Loan Documents shall apply only to the time and occasion specified in the waiver and shall not constitute a waiver of the term or condition at any subsequent time or occasion.

35. **Business Use.** Trustor represents and warrants to Beneficiary that the Property is used solely for business or commercial purposes and that the Property is not used for Trustor's residence or for agricultural purposes.

36. **Joint and Several Liability.** If there is more than one Trustor of this Security Instrument, their obligations shall be joint and several.

37. **Operating and Financial Statements.** Trustor will deliver to Beneficiary upon Beneficiary's request, operating statements and occupancy reports (including a rent roll) for the Property in a form and for periods satisfactory to Beneficiary certified as correct by Trustor. Trustor shall permit Beneficiary to examine all books and records in the possession, custody or control of Trustor pertaining to the Property and deliver to Beneficiary upon request all financial statements, credit reports and other documents in the possession, custody or control of Trustor relating to the financial condition of any tenant of the Property, Trustor, any general partner of Trustor, and any guarantor of the Loan, including rental, income and expense statements pertaining to the Property and tax returns. Notwithstanding the foregoing, as long as no Event of Default has occurred, Beneficiary shall not request copies of or access to such statements, books and records more often than once for each of Trustor's fiscal years.

38. **Maximum Interest Rate.** No person shall be obligated to pay the amount of any interest to the extent it is in excess of the maximum amount of interest permitted by applicable law. The Loan Documents are expressly limited so that in no contingency or event whatsoever shall the amount paid, or agreed to be paid, to Beneficiary for the use, forbearance or detention of the money loaned under the Note or otherwise, or for the performance or payment of any of the Secured Obligations, exceed the maximum amount permitted under applicable law. Trustor and Beneficiary intend to comply strictly with the applicable usury laws of the State of Utah. If Beneficiary or any other holder of this Security Instrument shall ever receive as interest on the Loan an amount which exceeds the maximum amount of interest permitted by applicable law, such excess amount shall be applied to reduction of the principal amount owing on the Loan so as to fully and strictly comply with such law. Without limiting the foregoing, all calculations of interest shall be made, to the extent permitted by law, by amortizing, prorating, allocating and spreading all interest in equal parts over the full stated term of the Note.

39. **Evasion of the Prepayment Fee or Premium.** If an Event of Default occurs, any tender of payment sufficient to satisfy the Secured Obligations made at any time after acceleration of the indebtedness hereby secured and prior to foreclosure sale shall constitute an evasion of the prepayment terms contained in the Note, if any, and shall be deemed a voluntary prepayment and subject to payment of any applicable prepayment fee. Accordingly, to the extent permitted by law, such payment shall include any additional fee or premium required by the prepayment privilege in the Note.

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

41. **Substitution of Trustee.** Beneficiary may at any time discharge the Trustee and appoint a successor Trustee who shall have all of the powers, duties, authority and title of the original Trustee. Appointment of a successor Trustee shall become effective upon filing for record in the office of the County Recorder of each county in which said Property is situated a Substitution of Trustee. Each such substitution shall be executed and acknowledged, and notice thereof shall be given and proof thereof made, in the manner provided by law.

42. **Reserves.** Upon (i) occurrence of an Event of Default, and (ii) written notice to Trustor from Beneficiary, Trustor shall thereafter pay to Beneficiary, together with and in addition to the monthly payments of principal and interest payable on the Note, on the date set forth in the Note for the making of monthly payments, until the Note is fully paid, a sum, as estimated by Beneficiary, equal to the taxes and special assessments next due on the Property, plus the premiums that will next become due and payable on insurance policies required by this Security Instrument, divided by the number of months to elapse before the premiums, taxes and special assessments are due, such sums to be held by Beneficiary to pay said premiums, taxes and special assessments. Such payments ("Reserves") are to be held without allowance of interest to Trustor (except as required by applicable law) and need not be kept separate and apart from other funds of Beneficiary. Such Reserves shall be applied by Beneficiary to real estate taxes, special assessments and insurance premiums on the Property as the same become due and payable. Collection of the reserves are solely for the added protection of Beneficiary and entails no responsibility on the part of Beneficiary beyond allowance of due credit for sums actually received by Beneficiary and the payment by Beneficiary of such taxes, special assessments and insurance premiums to the extent of the Reserves when statements therefor are actually presented to Beneficiary by Trustor. If the total of the Reserves shall exceed the amount of payments actually applied by Beneficiary, such excess may be credited by Beneficiary on subsequent payments to be made by Trustor, or at the option of Beneficiary, refunded to Trustor.

44. **Property Management.** Trustor agrees that Beneficiary shall have, and reserves the right to install, professional management of the Property at any time following the occurrence of an Event of Default. Such professional management shall be at the sole discretion of Beneficiary and nothing herein shall obligate Beneficiary to exercise its right to install professional management. The cost of such management shall be borne by Trustor, shall be secured by this Security Instrument and shall be treated as an additional advance under the Loan Documents.

45. **USA Patriot Act Notification and Covenant:** Beneficiary hereby notifies Trustor that, pursuant to the requirements of Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318 (the "Act"), Beneficiary is required to obtain, verify and record information that identifies Trustor, which information includes the name and address of Trustor and other information that will allow Beneficiary to identify Trustor in accordance with the Act. Neither Trustor nor any other party liable for the obligations under the Loan as a guarantor or general partner will, directly or indirectly, use the proceeds of the Loan, or lend, contribute or otherwise make available such proceeds to any subsidiary, affiliate, joint venture partner or other person or entity, to fund any activities or business of or with any person or entity, or in any country or territory, that, at the time of such funding, is the subject of any sanctions administered by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), or in any other manner that would result in a violation of OFAC sanctions by any person or entity, including any person or entity participating in any capacity in the Loan.

46. **Trustor Not a Foreign Person.** Trustor is not a "foreign person" as that term is defined by Section 1445(f) (3) of the U.S. Internal Revenue Code of 1986, as amended.

47. **Representations of Trustor.** Trustor represents and warrants to Beneficiary that Trustor (a) is (1) an individual of legal age and capacity, or (2) a corporation, general partnership, limited partnership, limited liability company, trust or other legal entity, duly organized, validly existing and in good standing under the laws of its creation, and is authorized to do business in each other jurisdiction wherein its ownership of property or conduct of business legally requires such authorization; (b) has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated; and (c) has the power and authority to execute, deliver and perform, and by all necessary action has authorized the execution, delivery and performance of, all of its obligations under this Security Instrument and the other Loan Documents.

48. **Waiver of Right of Offset.** No portion of the Secured Obligations shall be offset or compensated by any claim, cause of action, counterclaim, or cross-claim, whether liquidated or unliquidated, that Trustor may have against Beneficiary.

49. **Notices.** Except for any notice required by law to be given in another manner, any notice to Trustor or Beneficiary hereunder shall be in writing and shall be given (1) by a nationally-recognized overnight courier service (such as FedEx) or (2) by certified mail, return receipt requested, addressed to Trustor or Beneficiary at such addressee's stated herein or at such other address as such party may designate in writing by notice to the other as provided herein. Any such notice shall be effective (1) on receipt, when delivered by courier service, or (2) on the third business day after deposit in the United States mail, postage prepaid with return receipt requested, when delivered by United States mail as provided herein. Any party may change its address for notice purposes by giving a notice as provided herein. Rejection or other refusal to accept, or inability to deliver because of changed address of which no notice has been given will constitute receipt of the notice for purposes hereof.

50. **Reasonableness of Fees and Costs.** Wherever reference is made in this instrument to the payment or reimbursement by Trustor of any fees or costs incurred by Beneficiary in the administration of the Loan or the enforcement of the obligations of Trustor hereunder or under the other Loan Documents, such reference shall be deemed to refer to actual and reasonable out of pocket fees or costs

51. **Successors and Assigns.** This Security Instrument applies to, inures to the benefit of, and binds the parties and their respective heirs, representatives, successors and assigns.

52. **Controlling Document.** In the event of a conflict or inconsistency between the terms and conditions of this Security Instrument and the terms and conditions of any other of the Loan Documents, the terms and conditions of this Security Instrument shall prevail.

53. **Invalidity of Terms and Conditions.** If any term or condition of this Security Instrument is found to be invalid, the invalidity shall not affect any other term or condition of this Security Instrument and this Security Instrument shall be construed as if not containing the invalid term or condition.

54. **Rules of Construction.** This Security Instrument shall be construed so that whenever applicable, the use of the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be applicable to all genders and shall include corporations, partnerships, limited liability companies, trusts, limited partnerships and other entities.

55. **Section Headings.** The heading to the various sections have been inserted for convenience of reference only and shall not be used to construe this Security Instrument.

56. **Applicable Law.** This Security Instrument shall be construed, interpreted, enforced and governed by and in accordance with the laws of the State of Utah without giving effect to the conflict of laws principles thereof), including the laws governing the creation, perfection, enforceability and priority of the liens and security interests created by this Security Instrument and the procedures for foreclosure and for enforcement of the rights and remedies of Beneficiary under this Security Instrument. In the event that any provision of this Security Instrument shall be inconsistent with any provision of the laws of Utah, the laws of Utah shall govern over the provisions of this Security Instrument, but shall not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with Utah law.

57. **Indemnification.** Trustor shall indemnify, defend and hold harmless Mortgagee from all losses, damages and expenses, including reasonable attorney's fees, incurred in connection with any suit or proceeding in or to which Mortgagee may be made a party for the purpose of protecting the lien of this Mortgage.

58. **Request For Notice.** Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to it at the address hereinabove set forth, unless and until Trustor provides a different address in writing to Beneficiary.

59. WAIVER OF JURY TRIAL. EACH OF TRUSTOR AND BENEFICIARY (FOR ITSELF AND ITS SUCCESSORS, ASSIGNS AND PARTICIPANTS) WAIVES ITS RIGHT TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON, ARISING OUT OF OR RELATED TO THIS SECURITY INSTRUMENT, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS PROVIDED FOR HEREIN OR THEREIN, IN ANY LEGAL ACTION OR PROCEEDING OF ANY TYPE BROUGHT BY ANY PARTY TO ANY OF THE FOREGOING AGAINST ANY OTHER SUCH PARTY, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT SITTING WITHOUT A JURY.

TRUSTOR:

BHNC-CS, LLC, a Utah limited liability company

By: [Signature]
John R. Anderson, Manager

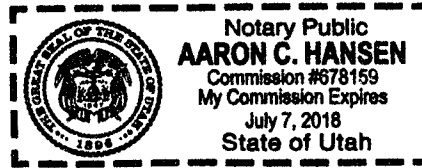
By: [Signature]
Matthew P. Steiner, Manager

(signatures must be acknowledged)

STATE OF UTAH)
COUNTY OF Salt Lake) ss.

The foregoing Security Instrument was acknowledged before me this 26th day of June, 2015, by JOHN R. ANDERSON, as Manager of BHNC-CS, LLC, a Utah limited liability company.

[Signature]
NOTARY PUBLIC
residing at SLC, UT
My commission expires: 7/7/18



STATE OF UTAH)
COUNTY OF Salt Lake) ss.

The foregoing Security Instrument was acknowledged before me this 26th day of June, 2015, by MATTHEW P. STEINER, as Manager of BHNC-CS, LLC, a Utah limited liability company.

[Signature]
NOTARY PUBLIC
residing at SLC, UT
My commission expires: 7/7/18

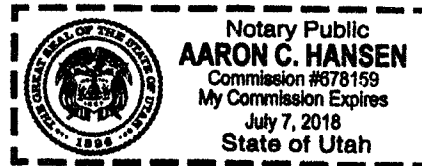


EXHIBIT A

(Legal Description of Real Property)

The land referred to in this Commitment is located in Utah County, UT and is described as:

PARCEL 1:

LOT 1, PLAT "B", ALBERTSONS CENTER SUBDIVISION AMENDED, ACCORDING TO THE OFFICIAL PLAT ENTRY NO. 58784 IN BOOK 34 OF PLATS AT PAGE 205 THEREOF ON FILE AND OF RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

PARCEL 2:

A NON-EXCLUSIVE EASEMENTS AS APPURTENANT TO PARCEL 1 FOR INGRESS, EGRESS, PARKING, UTILITY LINES, AND SIGNS AS SET FORTH IN DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND GRANT OF EASEMENTS, RECORDED NOVEMBER 05, 1981, AS ENTRY NO. 31788 IN BOOK 1946 AT PAGE 615 IN THE OFFICE OF THE RECORDER, UTAH COUNTY, UTAH (AS SAID DECLARATION MAY HAVE HERETOFORE BEEN AMENDED OR SUPPLEMENTED.)

PARCEL 3:

LOT 4, PLAT "A", ALBERTSONS CENTER SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT ENTRY NO. 5138 IN BOOK 34 OF PLATS AT PAGE 89 THEREOF ON FILE AND OF RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

LESS AND EXCEPTING FROM PARCEL 3, THE FOLLOWING DESCRIBED PROPERTY CONVEYED TO THE UTAH DEPARTMENT OF TRANSPORTATION FOR THE WIDENING OF AN EXISTING HIGHWAY BY THAT WARRANTY DEED RECORDED APRIL 11, 1995 AS ENTRY NO. 21854 IN BOOK 3654 AT PAGE 584 OF OFFICIAL RECORDS.

BEGINNING AT THE NORTHEAST CORNER OF LOT 4, SAID CORNER BEING THE INTERSECTION OF THE WESTERLY RIGHT OF WAY LINE OF SAID EXISTING HIGHWAY AND THE SOUTH RIGHT OF WAY LINE OF THE EXISTING CENTER STREET, WHICH POINT IS APPROXIMATELY 41.8 FEET SOUTH AND 105.6 FEET EAST FROM THE WEST QUARTER CORNER OF SECTION 14, TOWNSHIP 6 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 18°27'21" EAST 15.0 FEET ALONG SAID WESTERLY RIGHT OF WAY LINE; THENCE NORTH 53°52'51" WEST 24.45 FEET TO SAID SOUTH RIGHT OF WAY LINE; THENCE SOUTH 89°18'22" EAST 15.0 FEET ALONG SAID SOUTH RIGHT OF WAY LINE TO THE POINT OF BEGINNING.

PARCEL 4:

A NON-EXCLUSIVE EASEMENTS AS APPURTENANT TO PARCEL 3, FOR INGRESS, EGRESS, PARKING, UTILITY LINES, AND SIGNS AS SET FORTH IN DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND GRANT OF EASEMENTS, RECORDED NOVEMBER 05, 1981, AS ENTRY NO. 31788 IN BOOK 1946 AT PAGE 615 IN THE OFFICE OF THE RECORDER, UTAH COUNTY, UTAH (AS SAID DECLARATION MAY HAVE HERETOFORE BEEN AMENDED OR SUPPLEMENTED.)

Said property is also known by the street address of:

Parcel 1: 97 West Center Street

Parcel 3: 11 West Center Street Orem, UT 84057

Tax Parcel No. 34:205:0001 (Parcel 1) and 34:089:0009 (Parcel 3)

When recorded, mail to:

Brian D. Cunningham, Esq.
SNELL & WILMER L.L.P.
Gateway Tower West
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101

Tax Parcel No. 34-205-0001

01459-16062

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

THIS DEED OF TRUST SECURES A PROMISSORY NOTE, THE INTEREST RATE UNDER WHICH MAY VARY FROM TIME TO TIME ACCORDING TO CHANGES IN THE PRIME RATE ANNOUNCED BY BENEFICIARY OR ACCORDING TO CHANGES IN THE LONDON INTERBANK OFFERED RATE, IN ACCORDANCE WITH THE TERM LOAN AGREEMENT BETWEEN TRUSTOR AND BENEFICIARY.

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

This LEASEHOLD DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (as it may be amended and modified from time to time, the "*Deed of Trust*") is made as of October 30, 2015, by and among **WRIGHT DEVELOPMENT GROUP, INC.**, a Utah corporation ("*Trustor*"), whose mailing address is 1178 Legacy Crossing Blvd., Suite 100, Centerville, Utah 84014, **STEWART TITLE INSURANCE AGENCY OF UTAH**, a Utah corporation ("*Trustee*"), whose mailing address is 1518 Woodland Park Dr. #600 Layton, Utah 84041, and **WASHINGTON FEDERAL** ("*Beneficiary*"), whose mailing address is 1207 East Draper Parkway Draper, UT 84020.

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, all of Trustor's right, title and interest, whether fee, leasehold or otherwise, in and to that certain real property located in the County of Utah, State of Utah, more particularly described in Exhibit A to this Deed of Trust (the "*Property*") pursuant to that certain Ground Lease by which Trustor is ground lessee and BHNC-CS LLC, a Utah limited liability company, is ground lessor of the property ("*Ground Lessor*"). As used herein, "Ground Lease" means that certain Ground Lease, dated June 20, 2014 by and between BHNC-CS LLC, a Utah limited liability company as landlord, and Wright Development Group, Inc., as tenant, as modified, amended, and assigned;

TOGETHER WITH all right, title, or interest of Trustor in all rents, subrents, issues, profits, damages, royalties, income and other benefits now or hereafter derived from the Property and the Improvements (collectively, the "*Rents*"), subject to the terms and provisions of **Article 2** of this Deed of Trust with respect to all leases and subleases of the Property or Improvements now or hereafter existing or entered into, or portions thereof, granted by Trustor, and further subject to the right, power and authority hereinafter given to Trustor to collect and apply such Rents;

TOGETHER WITH all leasehold estate, right, title, or interest of Trustor in any and all buildings and other improvements now or hereafter erected on the Property including, without limitation, fixtures, attachments, appliances, equipment, machinery, and other personal property attached to such buildings and other improvements (collectively, the "*Improvements*"), all of which shall be deemed and construed to be a part of the real property;

TOGETHER WITH all right, title or interest of Trustor in all rents, subrents, issues, profits, damages, royalties, income and other benefits now or hereafter derived from the Property and the Improvements (collectively, the "*Rents*"), subject to the terms and provisions of **Article 2** of this Deed of Trust with respect to all leases and subleases of the Property or Improvements now or hereafter existing or entered into, or portions thereof, granted by Trustor, and further subject to the right, power and authority hereinafter given to Trustor to collect and apply such Rents;

TOGETHER WITH all leasehold estate, right, title and interest of Trustor in and to all leases, or subleases covering the Property or the Improvements or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Trustor thereunder, including, without limitation, all rights of Trustor against guarantors thereof, all cash or security deposits, advance rentals, and deposits or payments of similar nature (collectively, the "*Leases*");

TOGETHER WITH all interests, estates or other claims, both in law and in equity, which Trustor now has or may hereafter acquire in the Property or the Improvements;

TOGETHER WITH all interests, estates or other claims, both in law and in equity, which Trustor now has or may hereafter acquire in any and all agreements, documents, or instruments now or hereafter executed in connection with the creation and governance of the Association, as such agreements, documents, and instruments may be amended, modified, extended, renewed, or supplemented from time to time;

TOGETHER WITH all right, title or interest of Trustor in all easements, rights-of-way and other rights now owned or hereafter acquired by Trustor used in connection with the Property or the Improvements, or as a means of access thereto (including, without limitation, all rights pursuant to any trackage agreement and all rights to the nonexclusive use of common drive entries, and all tenements, hereditaments and appurtenances thereof and thereto) and all water and water rights and shares of stock evidencing the same;

TOGETHER WITH all right, title or interest of Trustor now owned or hereafter acquired by Trustor in and to any greater estate in the Property or the Improvements;

TOGETHER WITH all right, title, or interest of Trustor now owned or hereafter acquired by Trustor in all licenses, permits, approvals, or other authorizations (federal, state, and local) used or useful in connection with or in any way relating to the Property or Improvements, including any building permits relating to the development of the Property and Improvements;

TOGETHER WITH all right, title, and interest of Trustor in (i) all other personal property now or hereafter owned by Trustor that is now or hereafter located on or used in connection with the Property or the Improvements, including, without limitation, the property and interests in property described on Exhibit B attached hereto, (ii) all other rights and interests of Trustor now or hereafter held in personal property that is now or hereafter located on or used in connection with the Property or the Improvements, including, without

limiting the foregoing, all of Trustor's present and future "Accounts", "Cash Proceeds", "Chattel Paper", "Collateral", "Deposit Accounts", "Electronic Chattel Paper", "Equipment", "Fixtures", "General Intangibles", "Goods", "Instruments", "Inventory", "Investment Property", "Letter-of-credit Rights", "Noncash Proceeds", and "Tangible Chattel Paper", (as such terms are defined in the *Utah Uniform Commercial Code*, U.C.A. §§ 70A-1-1 *et seq.*), (iii) all personal property and rights and interests in personal property of similar type or kind hereafter acquired by Trustor, (iv) all of Trustor's right, title and interest in and to all deposit accounts maintained with Beneficiary or any affiliate of Beneficiary and (v) all appurtenances and additions thereto and substitutions or replacements thereof (such personal property, together with proceeds (as hereinafter provided), are referred to herein collectively as the "*Personal Property*");

TOGETHER WITH all right, title, and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Property, and any and all sidewalks, alleys, and strips and gores of land adjacent to or used in connection with the Property;

TOGETHER WITH all right, title or interest of Trustor in all of the estate, interest, right, title, other claim, or demand, both in law and in equity (including, without limitation, claims or demands with respect to the proceeds of insurance, indemnities, performance or redemption bonds, judgments, awards of damages, and settlements with respect thereto) that Trustor now has or may hereafter acquire in the Property, the Improvements, the Personal Property, or any other part of the Trust Estate (as defined below), and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Trust Estate (including, without limitation, any awards resulting from a change of grade of streets and awards for severance damages); and

TOGETHER WITH all right, title or interest of Trustor in all accessions to, substitutions for, and replacements, products, and proceeds of any of the foregoing, including, without limitation, the conversion, voluntary or involuntary, into cash or liquidated claims, of any of the foregoing.

The entire estate, property, right, title, and interest hereby conveyed to Trustee may hereafter be collectively referred to as the "*Trust Estate*."

TO HAVE AND TO HOLD the Trust Estate unto the Trustee and Trustee's successors, substitutes and assigns, IN TRUST, however, upon the terms, provisions, and conditions herein set forth.

FOR THE PURPOSE OF SECURING (in such order of priority as Beneficiary may elect) the following (the "*Obligations*"):

(a) Payment of indebtedness of Trustor (i) in the total principal amount of THREE MILLION FOUR HUNDRED SEVENTY THOUSAND SEVEN HUNDRED SIXTY-SIX AND NO/100 DOLLARS (\$3,470,766.00) (the "*Loan*"), with interest thereon, evidenced by that certain Secured Promissory Note of even date herewith evidencing the Loan (as it may be amended, modified, extended, and renewed from time to time, the "*Note*"), executed by Trustor, pursuant to that certain Term Loan Agreement between Trustor and Beneficiary of even date herewith (as it may be amended, modified, extended, and renewed from time to time, the "*Loan Agreement*") pursuant to which Beneficiary may make advances of Loan proceeds from time to time subject to the conditions and limitations therein. The Loan Agreement contains a provision providing for a variable rate of interest;

(b) payment of all sums advanced by Beneficiary to protect the Trust Estate, with interest thereon equal to the default interest rate set forth in the Note and/or the Loan Agreement (which rate of interest is hereinafter referred to as the "*Agreed Rate*");

(c) any and all obligations contingent or otherwise, whether now existing or hereafter arising, of Trustor to Beneficiary arising under in connection with Swap Agreements (as defined in the Loan Agreement);

(d) payment of all other sums, with interest thereon, that may hereafter be loaned to Trustor, or its successors or assigns, by Beneficiary, or its successors or assigns when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust;

(e) performance of every obligation of Trustor contained in the Loan Agreement and other Loan Documents (as defined below);

(f) performance of every obligation of Trustor contained in any agreement, document, or instrument now or hereafter executed by Trustor reciting that the obligations thereunder are secured by this Deed of Trust;

(g) for the benefit of Beneficiary, compliance with and performance of each and every provision of any declaration of covenants, conditions and restrictions, any maintenance, easement and party wall agreement, or any other agreement, document, or instrument by which the Trust Estate is bound or may be affected; and

(h) all modifications, extensions and renewals of any of the obligations secured hereby, however evidenced, including, without limitation: (i) modifications of the required principal payment dates or interest payment dates or both, as the case may be, deferring or accelerating payment dates wholly or partly; or (ii) modifications extensions or renewals at a different rate of interest whether or not, in the case of a note, the modification, extension or renewal is evidenced by a new or additional promissory note.

For purposes of Utah Code Annotated Section 57-1-28, Trustor agrees that all default interest, late charges, any prepayment premiums, swap breakage fees, and similar amounts, if any, owing from time to time under the Note, Deed of Trust, and other documents evidencing or executed in connection with the debt set forth in the Note shall constitute a part of and be entitled to the benefits of Beneficiary's Deed of Trust lien upon the Property and Beneficiary may add all such amounts to the principal balance to the principal balance of the Note, in its sole discretion, and Beneficiary may include such amounts in any credit which Beneficiary may make against its bid at a foreclosure sale of the Property pursuant to this Deed of Trust.

This Deed of Trust, the Note, the Loan Agreement, and any other deeds of trust, mortgages, agreements, guaranties or other instruments given to evidence or further secure the payment and performance of any or all of the Obligations, as the foregoing may be amended, modified, extended, or renewed from time to time may hereinafter be collectively referred to as the "*Loan Documents*." Any references herein to the *Utah Code Annotated*, shall be deemed to be a reference to the current version of such statutes together with any successor or replacement statute or law therefor.

TRUSTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

ARTICLE 1

COVENANTS AND AGREEMENTS OF TRUSTOR

1.1 Payment and Performance of Secured Obligations. Trustor shall pay when due and/or perform each of the Obligations.

1.2 Maintenance, Repair, Alterations. Trustor shall keep the Trust Estate in good condition and repair, ordinary wear and tear excepted. Trustor shall not substantially remove, demolish, or substantially alter any of the Improvements, except with the prior written consent of Beneficiary. Trustor shall complete promptly and in a good and workmanlike manner any Improvement that may be now or hereafter constructed on the Property and promptly restore in like manner any Improvements that may be damaged or destroyed from any cause whatsoever and pay when due all claims for labor performed and materials furnished therefor.

Trustor shall comply with all Requirements (as defined below) and shall not suffer to occur or exist any violation of any Requirement. Trustor shall not commit or permit any waste or deterioration of the Trust Estate, and, to the extent allowed by law, shall keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair, ordinary wear and tear excepted. Trustor shall perform its obligations under each Lease. "Requirement" and "Requirements" mean, respectively, each and all obligations and requirements now or hereafter in effect by which Trustor or the Trust Estate are bound or which are otherwise applicable to the Trust Estate, construction of any Improvements on the Trust Estate, or operation, occupancy or use of the Trust Estate (including, without limitation (a) such obligations and requirements imposed by common law or any law, statute, ordinance, regulation, or rule (federal, state, or local), and (b) such obligations and requirements of, in, or in respect of (i) any consent, authorization, license, permit, or approval relating to the Trust Estate, (ii) any condition, covenant, restriction, easement, or right-of-way reservation applicable to the Trust Estate, (iii) any Lien or Encumbrance, (iv) any other agreement, document, or instrument to which Trustor is a party or by which Trustor or the Trust Estate is bound or affected, and (v) any order, writ, judgment, injunction, decree, determination, or award of any arbitrator, other private adjudicator, court, government, or governmental authority (federal, state, or local) to which Trustor is a party or by which Trustor or the Trust Estate is bound or affected).

1.3 Required Insurance. Trustor shall at all times provide, maintain and keep in force or cause to be provided, maintained and kept in force with respect to the Trust Estate, at no expense to Trustee or Beneficiary, policies of insurance in forms and amounts and issued by companies reasonably satisfactory to Beneficiary covering such casualties, risks, perils, liabilities and other hazards as is required under the Loan Agreement.

1.4 Delivery of Policies, Payment of Premiums.

(a) At Beneficiary's option all policies of insurance shall either have attached thereto a lender's loss payable endorsement for the benefit of Beneficiary in form reasonably satisfactory to Beneficiary or shall name Beneficiary as an additional insured. Trustor shall furnish Beneficiary with certificates of insurance for each required policy setting forth the coverage, the limits of liability, the name of the carrier, the policy number and the period of coverage. If Beneficiary consents, Trustor may provide any of the required insurance through blanket policies carried by Trustor and covering more than one location, or by policies procured by a tenant or other party holding under Trustor; provided, however, all such policies shall meet the requirements referred to in **Section 1.3**. At least thirty (30) days prior to the expiration of each required policy, Trustor shall deliver to Beneficiary evidence reasonably satisfactory to Beneficiary of the payment of premium and the renewal or replacement of such policy continuing insurance in form as required by this Deed of Trust. All such policies shall contain a provision that, notwithstanding any contrary agreement between Trustor and insurance company, such policies will not be canceled, allowed to lapse without renewal, surrendered or materially amended, which term shall include any reduction in the scope or limits of coverage, without at least thirty (30) days' prior written notice to Beneficiary.

(b) If Trustor fails to obtain, maintain, or deliver to Beneficiary the policies of insurance with respect to the Trust Estate required by this Deed of Trust, Beneficiary may, at Beneficiary's election, but without any obligation so to do, procure such insurance or single-interest insurance for such risks covering Beneficiary's interest, and Trustor will pay all premiums thereon promptly upon demand by Beneficiary, and until such payment is made by Trustor, the amount of all such premiums shall bear interest at the Agreed Rate. Upon the occurrence and during the continuation of an Event of Default and request by Beneficiary, Trustor shall deposit with Beneficiary in monthly installments, an amount equal to one-twelfth (1/12) of the estimated aggregate annual insurance premiums on all policies of insurance required by this Deed of Trust (funds deposited for this purpose are referred to as "Insurance Impounds"). In such event Trustor further agrees to cause all bills, statements, or other documents relating to the foregoing insurance premiums to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements, or other documents evidencing that a premium for a required

policy is then payable, and provided there are sufficient Insurance Impounds, Beneficiary shall timely pay such amounts as may be due thereunder out of the Insurance Impounds. If at any time and for any reason the Insurance Impounds are or will be insufficient to pay such amounts as may be then or subsequently due, Beneficiary shall notify Trustor and Trustor shall immediately deposit an amount equal to such deficiency with Beneficiary. Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a trustee of Insurance Impounds or to be obligated to pay any amounts in excess of the amount of the Insurance Impounds, nor shall anything contained herein modify the obligation of Trustor set forth in **Section 1.3** to obtain and maintain insurance. Beneficiary may commingle Insurance Impounds with its own funds, and Trustor shall not be entitled to interest thereon. Beneficiary may reserve for future payments of premiums such portion of Insurance Impounds as Beneficiary in its absolute and sole discretion deems proper. If Trustor fails to deposit with Beneficiary sums sufficient to pay fully such premiums at least thirty (30) days before delinquency thereof, Beneficiary may, at Beneficiary's election, but without any obligation so to do, advance any amounts required to make up the deficiency, which advances, if any, shall be secured hereby and shall be repayable to Beneficiary upon demand with interest from the date advanced at the Agreed Rate, or at the option of Beneficiary the latter may, without making any advance whatever, apply any Insurance Impounds to payment of the Obligations in such order as Beneficiary may determine, notwithstanding that such Obligations may not yet be due. Upon the occurrence of an Event of Default, Beneficiary may, at any time, at Beneficiary's option, apply any Insurance Impounds or Impositions Impounds under this **Section 1.4** or **Section 1.8**, any funds paid as Rents, and any other funds of Trustor held by Beneficiary to payment of any of the Obligations, in such manner and order as Beneficiary may elect, notwithstanding that such Obligations may not yet be due.

1.5 Casualties; Insurance Proceeds.

(a) Trustor shall give prompt written notice thereof to Beneficiary after the happening of any casualty to or in connection with the Trust Estate, or any part thereof, whether or not covered by insurance. All proceeds of insurance shall be payable to Beneficiary, and Trustor hereby authorizes and directs any affected insurance company to make payment of such proceeds directly to Beneficiary. If Trustor receives any proceeds of insurance resulting from such casualty, Trustor shall promptly pay over such proceeds to Beneficiary. All proceeds of insurance will be applied by Beneficiary to payment of the Obligations in such order as Beneficiary shall determine.

(b) Trustor shall not be excused from repairing or maintaining the Trust Estate as provided in **Section 1.2** hereof and as required by the CC&R's (as defined in the Loan Agreement) or restoring all damage or destruction to the Trust Estate, regardless of whether or not there are insurance proceeds available to Trustor or whether any such proceeds are sufficient in amount, and the application or release by Beneficiary of any insurance proceeds shall not cure or waive any default or notice of default under this Deed of Trust, or invalidate any act done pursuant to such default or notice of default.

1.6 Assignment of Policies Upon Foreclosure. In the event of foreclosure of this Deed of Trust as a mortgage, a sale under the power of sale, or any other transfer of title or assignment of the Trust Estate in extinguishment, in whole or in part, of the Obligations, all right, title and interest of Trustor in and to all policies of insurance required by **Section 1.3** shall inure to the benefit of and pass to the successor in interest to Trustor or the purchaser or grantee of the Trust Estate, to the extent such policies are assignable pursuant to the terms thereof.

1.7 Indemnification; Subrogation; Waiver of Offset.

(a) If Beneficiary is made a party to any litigation concerning the Note, this Deed of Trust, any of the Loan Documents, the Trust Estate or any part thereof or interest therein, or the occupancy of the Trust Estate by Trustor, then Trustor shall indemnify, defend and hold Beneficiary

harmless for, from and against all liability by reason of said litigation, including reasonable attorneys' fees and expenses incurred by Beneficiary as a result of any such litigation, whether or not any such litigation is prosecuted to judgment. Beneficiary may employ an attorney or attorneys to protect its rights hereunder, and in the event of such employment following any breach by Trustor, Trustor shall pay Beneficiary reasonable attorneys' fees and expenses incurred by Beneficiary, whether or not an action is actually commenced against Trustor by reason of its breach.

(b) Trustor waives any and all right to claim or recover against Beneficiary, its successors and assigns, their directors, officers, employees, agents and representatives, for loss of or damage to Trustor, the Trust Estate, Trustor's property or the property of others under Trustor's control from any cause insured against or required to be insured against by this Deed of Trust.

(c) All sums payable by Trustor pursuant to this Deed of Trust shall be paid without notice (except for such notice as may be expressly required hereunder or under the other Loan Documents), demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Trustor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Trust Estate or any part thereof, so long as such damage or destruction is not caused by Beneficiary; (ii) any restriction or prevention of or interference by any Person (as defined below), other than Beneficiary, with any use of the Trust Estate or any part thereof; (iii) any title defect or encumbrance or any eviction from the Property or the Improvements or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary, or by any court, in any such proceeding; (v) any claim that Trustor has or might have against Beneficiary; (vi) any default or failure on the part of Beneficiary to perform or comply with any of the terms of the Loan Documents or of any other agreement with Trustor; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing; in each case, whether or not Trustor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, Trustor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Trustor. "Person" means any natural person, any unincorporated association, any corporation, any partnership, any joint venture, limited liability company, limited liability partnership, any trust, any other legal entity, or any governmental authority (federal, state, local or foreign).

1.8 Impositions.

(a) Trustor shall pay, or cause to be paid, prior to delinquency, all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, (including, without limitation, non-governmental levies or assessments such as maintenance charges, levies, or charges resulting from covenants, conditions and restrictions affecting the Trust Estate) that are assessed or imposed upon the Trust Estate or become due and payable and that create, may create, or appear to create a lien upon the Trust Estate (the above are sometimes referred to herein individually as an "Imposition" and collectively as "Impositions"), provided, however, that if by law any Imposition is payable, or may at the option of the taxpayer be paid, in installments, Trustor may pay the same or cause it to be paid, together with any accrued interest on the unpaid balance of such Imposition, in installments as the same becomes due and before any fine, penalty, interest, or cost may be added thereto for the nonpayment of any such installment and interest.

(b) If at any time after the date hereof there shall be assessed or imposed a fee, tax, or assessment on Beneficiary which is measured by or based in whole or in part upon this Deed of Trust or the outstanding amount of the Obligations, then all such taxes, assessments or fees shall be deemed

to be included within the term "Impositions" as defined in **Section 1.8(a)** and Trustor shall pay and discharge the same as herein provided with respect to the payment of Impositions. If Trustor fails to pay such Impositions prior to delinquency, Beneficiary may, at its option, declare all or part of the Obligations, immediately due and payable and pay such Impositions. If Trustor is prohibited by law from paying such Impositions, Beneficiary may, at its option, declare all or part of the Obligations due and payable on a date which is not less than six (6) months from the date such prohibition is imposed on Trustor.

(c) Subject to the provisions of **Section 1.8(d)** and upon request by Beneficiary, Trustor shall deliver to Beneficiary within thirty (30) days after the date upon which any Imposition is due and payable by Trustor official receipts of the appropriate taxing authority, or other proof satisfactory to Beneficiary, evidencing the payment thereof.

(d) Trustor shall have the right before any delinquency occurs to contest or object to the amount or validity of any Imposition by appropriate proceedings, but this shall not be deemed or construed in any way as relieving, modifying, or extending Trustor's covenant to pay any such Imposition at the time and in the manner provided in this **Section 1.8**, unless Trustor has given prior written notice to Beneficiary of Trustor's intent to so contest or object to an Imposition, and unless, in Beneficiary's absolute and sole discretion, (i) Trustor shall demonstrate to Beneficiary's satisfaction that the proceedings to be initiated by Trustor shall conclusively operate to prevent the sale of the Trust Estate or any part thereof or interest therein to satisfy such Imposition prior to final determination of such proceedings, (ii) Trustor shall furnish a good and sufficient bond or surety as requested by and satisfactory to Beneficiary, or (iii) Trustor shall demonstrate to Beneficiary's satisfaction that Trustor has provided a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale.

(e) Upon the occurrence and during the continuation of an Event of Default and upon request by Beneficiary, Trustor shall pay to Beneficiary an initial cash deposit in an amount adequate to pay all Impositions for the ensuing tax fiscal year and shall thereafter continue to deposit with Beneficiary, in monthly installments, an amount equal to one-twelfth (1/12) of the sum of the annual Impositions reasonably estimated by Beneficiary, for the purpose of paying the installment of Impositions next due (funds deposited for this purpose are referred to as "*Impositions Impounds*"). In such event, Trustor further agrees to cause all bills, statements, or other documents relating to Impositions to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements, or other documents, and providing there are sufficient Impositions Impounds, Beneficiary shall timely pay such amounts as may be due thereunder out of the Impositions Impounds. If at any time and for any reason the Impositions Impounds are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary may notify Trustor and upon such notice Trustor shall deposit immediately an amount equal to such deficiency with Beneficiary. Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a trustee of Impositions Impounds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this **Section 1.8(e)**. Beneficiary may commingle Impositions Impounds with its own funds and shall not be obligated to pay any interest on any Impositions Impounds. Beneficiary may reserve for future payment of Impositions such portion of Impositions Impounds as Beneficiary may in its absolute and sole discretion deem proper. If Trustor fails to deposit with Beneficiary sums sufficient to fully pay such Impositions at least thirty (30) days before delinquency thereof, Beneficiary may, at Beneficiary's election, but without any obligation so to do, advance any amounts required to make up the deficiency, which advances, if any, shall be secured hereby and shall be repayable to Beneficiary upon demand together with interest thereon at the Agreed Rate from the date of such advance, or at the option of Beneficiary the latter may, without making any advance whatever, apply any Impositions Impounds held by it upon any of the Obligations in such order as Beneficiary may determine, notwithstanding that such Obligations may not yet be due.

(f) Trustor shall not initiate or suffer to occur or exist the joint assessment of any real and personal property included in the Trust Estate or any other procedure whereby the lien of real property taxes and the lien of personal property taxes shall be assessed, levied, or charged to the Trust Estate as a single lien.

1.9 Utilities. Trustor shall pay when due all charges that are incurred by Trustor for the benefit of the Trust Estate or that may become a charge or lien against the Trust Estate for gas, electricity, water, sewer, or other services furnished to the Trust Estate.

1.10 Actions Affecting Trust Estate. Trustor shall appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and shall pay all costs and expenses (including, without limitation, costs of evidence of title, litigation, and attorneys' fees) in any such action or proceeding in which Beneficiary or Trustee may appear.

1.11 Actions By Trustee or Beneficiary. If Trustor fails to make any payment or to do any act as and in the manner provided in any of the Loan Documents, Beneficiary and/or Trustee, each in its absolute and sole discretion, without obligation so to do, without releasing Trustor from any obligation, and with only such notice to or demand upon Trustor as may be reasonable under the then existing circumstances, but in no event exceeding ten (10) days prior written notice, may make or do the same in such manner and to such extent as either may deem necessary or appropriate. In connection therewith (without limiting their general powers, whether conferred herein, in another Loan Document or by law), Beneficiary and Trustee shall have and are hereby given the right, but not the obligation, (a) to enter upon and take possession of the Trust Estate; (b) to make additions, alterations, repairs and improvements to the Trust Estate that they or either of them may consider necessary or appropriate to keep the Trust Estate in good condition and repair; (c) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Beneficiary or Trustee; (d) to pay, purchase, contest or compromise any Lien or Encumbrance (as defined below) or alleged Lien or Encumbrance whether superior or junior to this Deed of Trust; and (e) in exercising such powers, to pay necessary expenses (including, without limitation, expenses of employment of counsel or other necessary or desirable consultants). Trustor shall, immediately upon demand therefor by Beneficiary and Trustee or either of them, pay to Beneficiary and Trustee an amount equal to all respective costs and expenses incurred by them in connection with the exercise by either Beneficiary or Trustee or both of the foregoing rights (including, without limitation, costs of evidence of title, court costs, appraisals, surveys and receiver's, trustee's and attorneys' fees) together with interest thereon from the date of such expenditures at the Agreed Rate.

1.12 Transfer of Trust Estate by Trustor. In order to induce Beneficiary to make the Loan, Trustor agrees that, in the event of any Transfer (as hereinafter defined), without the prior written consent of Beneficiary, Beneficiary shall have the absolute right, at its option, without prior demand or notice, to declare all sums secured hereby immediately due and payable. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. Beneficiary may grant or deny such consent in its sole discretion and, if consent should be given, any such Transfer shall be subject to this Deed of Trust, and such transferee shall assume all obligations hereunder and agree to be bound by all provisions contained herein. Such assumption shall not, however, release Trustor or any maker or guarantor (if any) of the Note from any liability thereunder without the prior written consent of Beneficiary. As used herein, "*Transfer*" shall mean:

(a) any sale, transfer, conveyance, hypothecation, encumbrance, lease (except for Tenant Subleases of the Property approved by Beneficiary in accordance with the Loan Agreement) or vesting of the Trust Estate or any part thereof or interest therein to or in any Person, whether voluntary, involuntary, by operation of law, or otherwise, except the Permitted Exceptions (as such term is defined in Exhibit C to this Deed of Trust);

(b) any sale, transfer, assignment, conveyance, hypothecation, encumbrance or vesting of any general partnership interest in Trustor or any partner in Trustor to or in any Person (if Trustor or any partner in Trustor is a partnership, whether general or limited) whether voluntary, involuntary, by operation of law, or otherwise, except the Permitted Exceptions;

(c) any sale, transfer, assignment, conveyance, hypothecation, encumbrance or vesting of any membership interest in Trustor or any member in Trustor to or in any Person (if Trustor or any member in Trustor is a limited liability company) whether voluntary, involuntary, by operation of law, or otherwise, except the Permitted Exceptions;

(d) any sale, transfer, assignment, conveyance, hypothecation, encumbrance or vesting of any shares of stock in Trustor or any partner in Trustor to or in any Person or any consolidation or merger of Trustor or any partner in Trustor into or with any Person (if Trustor or any partner or member in Trustor is a corporation) whether voluntary, involuntary, by operation of law, or otherwise, except the Permitted Exceptions; or

(e) the execution of any agreements to do any of the foregoing, except the Permitted Exceptions.

1.13 Eminent Domain.

(a) In the event that any proceeding or action be commenced for the taking of the Trust Estate, or any part thereof or interest therein, for public or quasi-public use under the power of eminent domain, condemnation (including, without limitation, inverse condemnation) or otherwise (hereinafter collectively referred to as a "Taking"), or if the same be taken or damaged by reason of any public improvement or Taking, or should Trustor receive any notice or other information regarding such Taking or damage, Trustor shall give prompt written notice thereof to Beneficiary. All compensation, awards, damages, rights of action and proceeds awarded to Trustor by reason of any such Taking or damage or received by Trustor as the result of a transfer in lieu of a Taking (the "Condemnation Proceeds") are hereby assigned to Beneficiary, and Trustor agrees to execute such further assignments of the Condemnation Proceeds as Beneficiary or Trustee may require. If Trustor receives any Condemnation Proceeds Trustor shall promptly pay over such proceeds to Beneficiary. Beneficiary is hereby authorized and empowered by Trustor, at Beneficiary's option and in Beneficiary's sole discretion, as attorney-in-fact for Trustor, to settle, adjust, or compromise any claim for loss or damage in connection with any Taking or proposed Taking and, without regard to the adequacy of its security, to commence, appear in and prosecute in its own name and/or on behalf of Trustor any such action or proceeding arising out of or relating to a Taking or proposed Taking.

(b) Trustor shall not be excused from repairing or maintaining the Trust Estate as provided in **Section 1.2** or restoring all damage or destruction to the Trust Estate, regardless of whether or not there are Condemnation Proceeds available to Trustor or whether any such Condemnation Proceeds are sufficient in amount. The application or release of the Condemnation Proceeds shall not cure or waive any default or notice of default hereunder or under any other Loan Document or invalidate any act done pursuant to such default or notice of default.

1.14 Additional Security. No other security now existing, or hereafter taken, to secure the Obligations secured hereby shall be impaired or affected by the execution of this Deed of Trust. All security for the Obligations from time to time shall be taken, considered and held as cumulative. Any taking of additional security, execution of partial releases of the security, or any extension of the time of payment of, or modification of other terms of any of the Obligations shall not diminish the force, effect or lien of this Deed of Trust and shall not affect or impair the liability of any maker, guarantor, surety or endorser for the payment or performance of any of the Obligations. In the event Beneficiary at any time holds additional security for any

of the Obligations, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before, concurrently with, or after a sale or realization is made hereunder.

1.15 Appointment of Successor Trustee. Beneficiary may, from time to time, by a written instrument executed and acknowledged by Beneficiary, mailed to Trustor and recorded in the county in which the Trust Estate is located and by otherwise complying with the provisions of applicable law, substitute a successor or successors to any Trustee named herein or acting hereunder, and such successor(s) shall, without conveyance from the Trustee predecessor, succeed to all title, estate, rights, powers and duties of such predecessor.

1.16 Inspections. Beneficiary, and its agents, representatives officers, and employees, are authorized to enter at any reasonable time upon or in any part of the Trust Estate for the purpose of inspecting the same and for the purpose of performing any of the acts Beneficiary is authorized to perform hereunder or under the terms of any of the Loan Documents.

1.17 Ownership and Liens and Encumbrances.

(a) Liens in General. Trustor is, and as to any portion of the Trust Estate acquired hereafter will upon such acquisitions be, and shall remain the owner of the Trust Estate free and clear of any Liens and Encumbrances. Trustor shall not grant, shall not suffer to exist, and shall pay and promptly discharge, at Trustor's cost and expense, all Liens and Encumbrances and any claims thereof upon the Trust Estate, or any part thereof or interest therein. Trustor shall notify Beneficiary immediately in writing of any Lien or Encumbrance or claim thereof. Except in the case of mechanic's and materialmen's liens which are governed by **Section 1.17(b)** below, Trustor shall have the right to contest in good faith the validity of any involuntary Lien or Encumbrance, provided Trustor shall first deposit with Beneficiary a bond or other security satisfactory to Beneficiary in such amount as Beneficiary shall reasonably require, but not more than one hundred fifty percent (150.0%) of the amount of the claim, and provided further that if Trustor loses such contest, Trustor shall thereafter diligently proceed to cause such Lien or Encumbrance to be removed and discharged. If Trustor shall fail to remove and discharge any Lien or Encumbrance or claim thereof, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, after only such notice to Trustor as may be reasonable under the then existing circumstances, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such Lien or Encumbrance by depositing in a court a bond or the amount claimed or otherwise giving security for such claim, or by procuring such discharge in such manner as is or may be prescribed by law. Trustor shall, immediately upon demand therefor by Beneficiary, pay to Beneficiary an amount equal to all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing right to discharge any Lien or Encumbrance or claim thereof, together with interest thereon from the date of each such expenditure at the Agreed Rate. Such costs and expenses shall be secured by this Deed of Trust. "*Lien or Encumbrance*" and "*Liens and Encumbrances*" mean, respectively, each and all of the following in respect of the Trust Estate: leases (except for Leases of the Property approved by Beneficiary in accordance with the Loan Agreement), other rights to occupy or use, mortgages, deeds of trust, pledges, security agreements, assignments, assignments as security, conditional sales, title retention arrangements or agreements, conditions, covenants, and restrictions, and other charges, liens, encumbrances, or adverse interests, whether voluntarily or involuntarily created and regardless of whether prior or subordinate to any estate, right, title, or interest granted to Trustee or Beneficiary in this Deed of Trust, excluding from the foregoing the Permitted Exceptions.

1.18 Mechanic's and Materialmen's Liens; State Construction Registry.

(a) Trustor represents and warrants to Beneficiary that it has inspected the records of the State Construction Registry and that such inspection reveals no current filings of a preliminary notice or notice of retention filed by any lien claimant (whether a pre-construction services lien or a

construction services lien). Trustor further represents and warrants that no mechanic's lien claim, notice of lien, *lis pendens* or similar filing has been filed in the State Construction Registry in any form prior to the date hereof with respect to the Property or recorded against the Property.

(b) If Beneficiary or its title insurer determines that a preliminary notice has been filed in the State Construction Registry prior to the time of the recording of this Deed of Trust, Trustor covenants and agrees to cause the lien claimant that filed such preliminary notice to withdraw the preliminary notice pursuant to *Utah Code Annotated* Section 38-1-5(3)(b)(ii) and Trustor shall provide to Beneficiary written evidence acceptable to Beneficiary and its title insurer that the lien claimant has accepted payment in full for construction services that the claimant furnished before the recording of this Deed of Trust pursuant to *Utah Code Annotated* Section 38-1-5(3)(b)(i) and that such lien claimant has agreed to re-file its withdrawn preliminary notice within 20 days of the date of withdrawal such that the priority for any pre-construction services lien or a construction services lien dates immediately after the recording of this Deed of Trust.

(c) Trustor shall cause, as a condition precedent to the closing of the loan secured hereby, Beneficiary's title insurer to insure in a manner acceptable to Beneficiary in its sole discretion, that this Deed of Trust shall be a valid and existing first priority lien on the Property free and clear of any and all exceptions for mechanic's and materialman's liens and all other liens and exceptions except as set forth in the mortgagee's policy of title insurance accepted by Beneficiary, and such title insurance policy may not contain an exception for broken lien priority and may not include any pending disbursement endorsement, or any similar limitation or coverage or requiring future endorsements to increase mechanic lien coverage under Covered Risk 11(a) of the 2006 Form of Mortgagee's Title Insurance Policy.

(d) Trustor shall pay and promptly discharge, at Trustor's cost and expense, all liens, encumbrances and charges upon the Property, or any part thereof or interest therein whether inferior or superior to this Deed of Trust and keep and maintain the same free from the claim of all persons supplying labor, services or materials that will be used in connection with or enter into the construction of any and all buildings now being erected or that hereafter may be erected on the Property regardless of by whom such services, labor or materials may have been contracted, provided, however, that Trustor shall have the right to contest any such claim or lien so long as Trustor previously records a notice of release of lien and substitution of alternate security as contemplated by *Utah Code Annotated* Section 38-1-28 and otherwise complies with the requirements of *Utah Code Annotated* Section 38-1-28 to release the Property from such lien or claim. Notwithstanding the foregoing, Trustor may (A) with the prior written consent of Beneficiary, contest the amount of any such lien or claim related to services, labor or materials in accordance with *Utah Code Annotated* Section 38-1-28(7) without previously recording a notice of release of lien and substitution of alternate security or (B) appropriately bond or reserve (in cash deposited with Beneficiary) for any such lien or claim, as determined in Beneficiary's reasonable discretion.

(e) If Trustor shall fail to remove and discharge or otherwise provide alternate security or appropriately bond or serve for any such lien, encumbrance or charge, or if Trustor shall dispute the amount thereof in contravention of the requirements hereof, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the release of the Property from the effect of such lien, encumbrance or charge by obtaining a bond in the name of and for the account Trustor of and recording a notice of release of lien and substitution of alternate security in the name of Trustor, each as contemplated by *Utah Code Annotated* Section 38-1-28 or other applicable law, or otherwise by giving security for such claim. Trustor shall, immediately upon demand therefor by Beneficiary, pay to Beneficiary an amount equal to all reasonable costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing right to discharge any such lien,

encumbrance or charge, including costs of any bond or additional security, together with interest thereon from the date of such expenditure at the default rate set forth in the Debt Instrument.

1.19 Trustee's Powers. At any time, or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and without affecting the personal liability of any person for payment of the Obligations or the effect of this Deed of Trust upon the remainder of said Trust Estate, Trustee may (a) reconvey any part of said Trust Estate, (b) consent in writing to the making of any map or plat thereof, (c) join in granting any easement thereon, or (d) join in any extension agreement or any agreement subordinating the lien or charge hereof.

1.20 Beneficiary's Powers. Without affecting the liability of any Person liable for the payment of the Obligations herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Trust Estate not then or theretofore released as security for the Obligations, Beneficiary may, from time to time and without notice (a) release any person so liable, (b) extend the Obligations, (c) grant other indulgences, (d) release or reconvey, or cause to be released or reconveyed, at any time at Beneficiary's option any parcel, portion or all of the Trust Estate, (e) take or release any other or additional security or any guaranty for any Obligation herein mentioned, or (f) make compositions or other arrangements with debtors in relation thereto.

1.21 Financial Statements. Trustor shall deliver to Beneficiary such financial statements, balance sheets, profit and loss statements, operating statements, income and expense statements and other financial information in such detail and at the times required by the Loan Agreement. All such statements shall be prepared in accordance with the requirements of the Loan Agreement. Beneficiary shall have the right to audit, inspect and copy all of Trustor's books and records, relating thereto in accordance with the Loan Agreement.

1.22 Trade Names. At the request of Beneficiary from time to time, Trustor shall execute a certificate in form satisfactory to Beneficiary listing the trade names or fictitious business names under which Trustor intends to operate the Trust Estate or any business located thereon and representing and warranting that Trustor does business under no other trade names or fictitious business names with respect to the Trust Estate. Trustor shall immediately notify Beneficiary in writing of any change in said trade names or fictitious business names, and will, upon request of Beneficiary, execute any additional financing statements and other certificates necessary to reflect the change in trade names or fictitious business names.

1.23 Leasehold. If a leasehold estate constitutes any portion of the Trust Estate, Trustor agrees not to materially amend or modify such leasehold estate, any interest therein, or the lease granting such leasehold estate without the prior written consent of Beneficiary, which consent shall be exercised by Beneficiary in its reasonable discretion. Consent to one amendment, modification, extension or renewal shall not be deemed to be a waiver of the right to require consent to other, future or successive amendments, modifications, extensions or renewals. Trustor agrees to timely pay any sums due under any lease creating the leasehold estate on or before the date due and to timely perform all obligations and agreements under said leasehold. Trustor shall not take any action or omit to take any action which would effect or permit the termination of said leasehold estate. Trustor agrees to promptly notify Beneficiary in writing with respect to any default or alleged default by any party thereto and to deliver to Beneficiary copies of all notices, demands, complaints or other communications received or given by Trustor, within three (3) days of its receipt, with respect to any such default or alleged default. Beneficiary shall have the option, but not the obligation, to cure any such default and to perform any or all of Trustor's obligations thereunder. All reasonable sums expended by Beneficiary in curing any such default shall be secured hereby and shall be immediately due and payable upon demand and written notice and shall bear interest from date of expenditure at the Agreed Rate.

1.24 Non-Residential Status of Property. For purposes of *Utah Code Annotated* Section 57-1-25 and 78B-6-901.5, Trustor acknowledges that the a purpose for which this Deed of Trust is given is not to construct residential or residential rental property.

ARTICLE 2**ASSIGNMENT OF RENTS**

2.1 Assignment of Rents. Trustor hereby absolutely and irrevocably assigns and transfers to Beneficiary all the Rents of the Trust Estate, and hereby gives to and confers upon Beneficiary the right, power and authority to collect the Rents. Trustor irrevocably appoints Beneficiary its true and lawful attorney-in-fact, at the option of Beneficiary at any time and from time to time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Trustor or Beneficiary, for all Rents and apply the same to the payment of the Obligations in such order as Beneficiary shall determine. Trustor hereby authorizes and directs the lessees, tenants and occupants to make all payments under the Subleases directly to Beneficiary upon written demand by Beneficiary, without further consent of Trustor; provided, however, that Trustor shall have the right to collect such Rents (but not more than one (1) month in advance unless the written approval of Beneficiary is first obtained), and to retain and enjoy same, so long as an Event of Default shall not have occurred hereunder or under the other Loan Documents. The assignment of the Rents of the Trust Estate in this **Article 2** is intended to be an absolute assignment from Trustor to Beneficiary and not merely the passing of a security interest. Beneficiary's rights to the Rents are not contingent upon and may be exercised without possession of the Trust Estate.

2.2 Collection Upon an Event of Default. Upon the occurrence of an Event of Default, Beneficiary may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the Obligations, enter upon and take possession of the Trust Estate, or any part thereof, and, with or without such entry or taking possession, in its own name sue for or otherwise collect the Rents (including, without limitation, those past due and unpaid) and apply the same, less costs and expenses of operation and collection (including, without limitation, attorneys' fees) to payment of the Obligations in such order as Beneficiary may determine. The collection of such Rents, or the entering upon and taking possession of the Trust Estate, or the application of the Rents as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default. Trustor also hereby authorizes Beneficiary upon such entry, at its option, to take over and assume the management, operation and maintenance of the Trust Estate and to perform all acts Beneficiary in its sole discretion deems necessary and proper and to expend such sums out of Rents as may be needed in connection therewith, in the same manner and to the same extent as Trustor theretofore could do (including, without limitation, the right to enter into new Leases, to cancel, surrender, alter or amend the terms of, and/or renew existing Leases, and/or to make concessions to tenants). Trustor hereby releases all claims of any kind or nature against Beneficiary arising out of such management, operation and maintenance, excepting the liability of Beneficiary to account as hereinafter set forth.

2.3 Application of Rents.

(a) Upon such entry, Beneficiary shall, after payment of all property charges and expenses (including, without limitation, reasonable compensation to such managing agent as it may select and employ) and after the accumulation of a reserve to meet requisite amounts, credit the net amount of the Rents received by it to the Obligations, but the manner of the application of such net income and which items shall be credited shall be determined in the sole discretion of Beneficiary. Beneficiary shall not be accountable for more monies than it actually receives from the Trust Estate; nor shall it be liable for failure to collect Rents. Beneficiary shall make reasonable efforts to collect Rents, reserving, however, within its own absolute and sole discretion, the right to determine the method of collection and the extent to which enforcement of collection of Rents shall be prosecuted and Beneficiary's judgment shall be deemed conclusive and reasonable.

(b) In connection herewith, Trustor further agrees that all Rents received by Beneficiary from any lessee may be allocated, if Beneficiary so elects, to the payment of all current obligations of such lessee under its Lease and not to amounts which may be accrued and unpaid as of the date of

revocation of Trustor's license to collect such Rents. Beneficiary may, but shall have no obligation to, pursue any lessee for the payment of Rents which may be due under its Sublease with respect to any period prior to the exercise of Beneficiary's rights under this assignment or which may become due thereafter. Beneficiary shall not be liable to any lessee for the payment or return of any security deposit under any Sublease unless and to the extent that such security deposit has been paid to and received by Beneficiary, and Trustor agrees to indemnify, defend and hold Beneficiary harmless from and against any and all losses, claims, damages or liabilities arising out of any claim by a lessee with respect thereto. Trustor further agrees that the collection of Rents by Beneficiary and the application of such Rents by Beneficiary to the costs, expenses and obligations referred to herein shall not cure or waive any default or Event of Default or invalidate any act (including, but not limited to, any sale of all or any portion of the Property or any property now or hereafter securing the Loan) done in response to or as a result of such Event of Default or pursuant to any notice of default or notice of sale issued pursuant to this Deed of Trust.

2.4 Protection of Subleases. Trustor and Beneficiary agree that all lessees under any Subleases shall be bound by and required to comply with the provisions of this assignment. In connection therewith, Trustor and Beneficiary further agree as follows:

(a) Notice to Lessees of Assignment. If requested by Beneficiary with respect to any Sublease of the commercial space in the improvements on the Property, Trustor shall: (i) notify each lessee under any Sublease of the commercial space now or hereafter existing, of the existence of this assignment and the rights and obligations of Trustor and Beneficiary hereunder; (ii) provide each present or future lessee of the commercial space with a copy of this Deed of Trust and the assignment of leases hereunder; and (iii) obtain each lessee's agreement to be bound and comply with the provisions of Article 2 hereof.

(b) Reference to Assignment. All Subleases of the commercial space in the improvements on the Property hereafter executed with respect to the Property or any portion thereof shall contain a reference to this Deed of Trust and the assignment of leases hereunder and shall state that such lessee shall be bound by and shall comply with the provisions of Article 2 hereof.

(c) Occurrence of Event of Default. Upon the occurrence of an Event of Default and at any time thereafter during the continuance thereof, Beneficiary may, at its option, send any lessee a notice to the effect that: (i) an Event of Default has occurred and that Beneficiary has revoked Trustor's license to collect the Rents; (ii) Beneficiary has elected to exercise its rights under this assignment; and (iii) such lessee is thereby directed to thereafter make all payments of Rents and to perform all obligations under its Sublease for the benefit of Beneficiary or as Beneficiary shall direct.

(d) Notice to Lessee to Comply with Subleases. Upon receipt of any such notice from Beneficiary, each lessee is hereby instructed by Trustor and Beneficiary to comply with the provisions of such notice, to make all payments of Rents and to perform all obligations under the Sublease to and for the benefit of Beneficiary or as Beneficiary shall direct. Such notice and direction shall remain effective until the first to occur: (i) the receipt by Lessee of a subsequent notice from Beneficiary to the effect that such Event of Default has been cured or that Beneficiary has appointed Trustor to act as agent for Beneficiary pursuant to this assignment; (ii) the appointment of a receiver pursuant to this assignment, in which event such lessee shall thereafter make payments of Rents and perform all obligations under the Subleases as may be directed by such receiver; or (iii) the issuance of an order of a court of competent jurisdiction terminating this assignment or otherwise directing such lessee to pay Rents and perform its obligations in a manner inconsistent with said notice.

(e) Lessee's Reliance on Notice from Beneficiary. Each lessee shall be entitled to rely upon any notice from Beneficiary and shall be protected with respect to any payment of Rents made pursuant to such notice.

(f) No Duty for Lessee to Investigate. Each lessee who receives a notice from Beneficiary pursuant to this assignment shall not be required to investigate or determine the validity or accuracy of such notice or the validity or enforceability of this assignment. Trustor hereby agrees to indemnify, defend and hold such lessee harmless from and against any and all loss, claim, damage or liability arising from or related to payment of Rents or performance of obligations under any Sublease by such lessee made in good faith in reliance on and pursuant to such notice.

(g) No Assumption by Beneficiary of Sublease Obligations. The payment of Rents to Beneficiary pursuant to any such notice and the performance of obligations under any Sublease to or for the benefit of Beneficiary shall not cause Beneficiary to assume or be bound by the provisions of such Sublease, including, but not limited to, any duty to return any security deposit to the lessee under such Sublease unless and to the extent such security deposit was paid to Beneficiary by Trustor.

(h) Assignment Binding on Lessees. The provisions of this **Section 2.4** are expressly made for the benefit of and shall be binding on and enforceable by each lessee under any Sublease now or hereafter affecting all or any portion of the Property.

2.5 Mortgagee in Possession. It is not the intention of the parties hereto that an entry by Beneficiary upon the Property under the terms of this instrument shall make Beneficiary a party in possession in contemplation of the law, except at the option of Beneficiary.

2.6 No Obligation to Perform. Nothing contained herein shall operate or be construed to obligate Beneficiary to perform any obligations of Trustor under any Sublease (including, without limitation, any obligation arising out of any covenant of quiet enjoyment therein contained in the event the lessee under any such Sublease shall have been joined as a party defendant in any action to foreclose and the estate of such lessee shall have been thereby terminated). Prior to actual entry into and taking possession of the Property by Beneficiary, this assignment shall not operate to place upon Beneficiary any responsibility for the operation, control, care, management or repair of the Trust Estate or any portion thereof, and the execution of this assignment by Trustor shall constitute conclusive evidence that all responsibility for the operation, control, care, management and repair of the Trust Estate is and shall be that of Trustor, prior to such actual entry and taking of possession.

2.7 Assignment of Rents Act. This Article 2 is subject to the Utah Uniform Assignment of Rents Act, *Utah Code Annotated*, Section 57-26-101 et seq. (the "*Act*"), and in the event of any conflict or inconsistency between the provisions of this Article 9 and the provisions of the Act, the provisions of the Act shall control.

ARTICLE 3

SECURITY AGREEMENT

3.1 Creation of Security Interest.

(a) Trustor hereby grants to Beneficiary, to secure the payment and performance in full of all of the Obligations, a security interest in and so pledges and assigns to Beneficiary all of Trustor's Personal Property (as defined herein) and all other personal property assets of Trustor, including, without limitation, "Accounts", "Cash Proceeds", "Chattel Paper", "Collateral", "Deposit Accounts", "Electronic Chattel Paper", "Equipment", "Fixtures", "General Intangibles", "Goods", "Instruments", "Inventory", "Investment Property", "Letter-of-credit Rights", "Noncash Proceeds", and "Tangible Chattel Paper", as defined in the Utah Commercial Code, as more particularly described on Exhibit B hereto, and all insurance claims and other proceeds or products thereof, whether now owned or existing or hereafter acquired or arising, wherever located and whether in Trustor's possession and control or in the possession and control of a third party.

(b) This Deed of Trust constitutes and shall be deemed to be a "security agreement" for all purposes of the Utah Uniform Commercial Code. Beneficiary shall be entitled to all the rights and remedies of a "secured party" under the Utah Uniform Commercial Code.

(c) Trustor further agrees, at the request and option of Beneficiary, to take any and all actions Beneficiary may determine to be necessary or useful for the attachment, perfection and first priority of, and the ability of Beneficiary to enforce, Beneficiary's security interest in any and all of the Personal Property, including, without limitation, (i) causing Beneficiary's name to be noted as Beneficiary on any certificate of title for the Personal Property or any portion thereof if such notation is a condition to attachment, perfection or priority of, or ability of Beneficiary to enforce, Beneficiary's security interest in such Personal Property, (ii) complying with any provision of any statute, regulation or treaty of any State or the United States as to any Personal 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 Personal Property, (iii) obtaining governmental and other third party waivers, consents and approvals in form and substance satisfactory to Beneficiary, including, without limitation, any consent of any licensor, lessor or other person obligated on Personal Property and (iv) obtaining waivers from mortgagees and landlords in form and substance satisfactory to Beneficiary.

3.2 Financing Statements. Trustor hereby irrevocably authorizes Beneficiary at any time and from time to time to file or record in any filing office in any Uniform Commercial Code jurisdiction, or in any county recorder's office or other public office for recording of public land records, any initial financing statements and amendments thereto that (a) indicate the Personal Property: (i) as all assets of Trustor or words of similar effect, regardless of whether any particular asset comprised in the Personal Property falls within the scope of Article 9a of the Uniform Commercial Code of the State of Utah or such jurisdiction, or (ii) as being of an equal or lesser scope or with greater detail, and (b) provide any other information required by Part 5 of Article 9a of the Uniform Commercial Code of the State of Utah, or such other jurisdiction, for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether Trustor is an organization, the type of organization and any organization identification number issued to Trustor, and (ii) in the case of a financing statement filed as a fixture filing or indicating Personal Property as as-extracted collateral or timber to be cut, a sufficient description of real property to which the Personal Property relates. Trustor agrees to furnish any such information to Beneficiary promptly upon request. Trustor also ratifies its authorization for Beneficiary to have filed in any Uniform Commercial Code jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof. Beneficiary is fully authorized to file, record, or otherwise utilize such documents as it deems necessary to perfect and/or enforce any security interest or lien granted hereunder. Trustor acknowledges that it is not authorized to file any financing statement or amendment or termination statement with respect to any financing statement without the prior written consent of Beneficiary and agrees that it will not do so without the prior written consent of Beneficiary, subject to Trustor's rights under Section 9-509(4)(b) of the Utah Uniform Commercial Code. Trustor will pay the cost of recording and filing the same in all public offices wherever recording or filing is deemed by Beneficiary to be necessary or desirable.

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

(a) Commercial Use. The Personal Property is not used or bought for personal, family or household purposes.

(b) Location of Property; Replacement. The tangible portion of the Personal Property will be kept on or at the Property or Improvements and Trustor will not, without the prior written consent of Beneficiary, remove the Personal Property or any portion thereof therefrom except such

portions or items of Personal Property which are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Trustor with similar items.

(c) Trade Names. Trustor does not do business under any trade name except as previously disclosed in writing to Beneficiary. Trustor will immediately notify Beneficiary in writing of any trade name or fictitious business name.

(d) Trustor's Legal Status. Trustor represents and warrants to Beneficiary as follows: (i) Trustor's exact legal name is as indicated in the introductory paragraph hereof and on the signature page hereof, (ii) Trustor is an organization of the type, and is organized in the jurisdiction set forth in the introductory paragraph hereof, (iii) Trustor's organizational identification number is as set forth in Exhibit D hereto, and (iv) the address listed in the introductory paragraph hereof accurately sets forth Trustor's place of business or, if more than one, its chief executive office, as well as Trustor's mailing address, if different. Trustor covenants with Beneficiary as follows: (x) without providing at least thirty (30) days prior written notice to Beneficiary, Trustor will not change its name, its place of business or, if more than one, chief executive office, or its mailing address or organizational identification number if it has one, (y) if Trustor does not have an organizational identification number and later obtains one, Trustor shall forthwith notify Beneficiary of such organizational identification number, and (z) Trustor will not change its type of organization, jurisdiction of organization or other legal structure.

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

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

(g) Ownership. Trustor is, or will be upon acquisition, and shall at all times remain the owner of the Personal Property, free from any right or claim or any person or any adverse lien, security interest or other encumbrance, except for the security interest created by this Deed of Trust and except for the Permitted Exceptions. Trustor shall defend the same against all claims and demands of all persons at any time claiming the same or any interests therein adverse to Beneficiary.

(h) Farm Products. None of the Personal Property constitutes, or is the proceeds of, "farm products" as defined in Section 9-102(a)(34) of the Uniform Commercial Code of the State of Utah.

(i) Commercial Tort Claims. Trustor holds no commercial tort claims with respect to the Property.

(j) Fair Labor Standards Act. Trustor has at all times operated its business in compliance with all applicable provisions of the federal Fair Labor Standards Act.

3.4 Power of Attorney.

(a) Appointment and Powers of Beneficiary. Upon the occurrence and during the continuance of an Event of Default, Trustor hereby irrevocably constitutes and appoints Beneficiary and any officer or agent thereof, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of Trustor or in Beneficiary's own name, for the purpose of carrying out the terms of this Deed of Trust, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or useful to

accomplish the purposes of this Deed of Trust and, without limiting the generality of the foregoing, hereby gives said attorneys the power and right, on behalf of Trustor, without notice to or assent by Trustor, to do the following:

(i) upon the occurrence and during the continuance of an Event of Default, generally to exercise any rights and remedies of Trustor under the Ground Lease and any Sublease;

(ii) upon the occurrence and during the continuance of an Event of Default, generally to sell, transfer, pledge, make any agreement with respect to or otherwise dispose of or deal with any of the Personal Property in such manner as is consistent with the Uniform Commercial Code of the State of Utah and as fully and completely as though Beneficiary were the absolute owner thereof for all purposes, and to do, at Trustor's expense, at any time, or from time to time, all acts and things which Beneficiary deems necessary or useful to protect, preserve or realize upon the Personal Property and Beneficiary's security interest therein, in order to effect the intent of this Deed of Trust, all at least as fully and effectively as Trustor might do, including, without limitation, (A) the filing and prosecuting of registration and transfer applications with the appropriate federal, state, local or other agencies or authorities with respect to trademarks, copyrights and patentable inventions and processes, (B) upon written notice to Trustor, the exercise of voting rights with respect to voting securities, which rights may be exercised, if Beneficiary so elects, with a view to causing the liquidation of assets of the issuer of any such securities, and (C) the execution, delivery and recording, in connection with any sale or other disposition of any Personal Property, of the endorsements, assignments or other instruments of conveyance or transfer with respect to such Personal Property; and

(iii) to the extent that Trustor's authorization given in **Section 3.2** is not sufficient, to file such financing statements with respect hereto, with or without Trustor's signature, or a photocopy of this Deed of Trust in substitution for a financing statement, as Beneficiary may deem appropriate and to execute in Trustor's name such financing statements and amendments thereto and continuation statements which may require Trustor's signature.

(b) Ratification by Trustor. To the extent permitted by law, Trustor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and is irrevocable.

(c) No Duty on Beneficiary. The powers conferred on Beneficiary hereunder are solely to protect its interests in the Personal Property and shall not impose any duty upon it to exercise any such powers. Beneficiary shall be accountable only for the amounts that it actually receives as a result of the exercise of such powers, and neither it nor any of its officers, directors, employees or agents shall be responsible to Trustor for any act or failure to act, except for Beneficiary's own gross negligence or willful misconduct.

3.5 Use of Personal Property by Trustor. Until the occurrence of an Event of Default hereunder or under any other Loan Document, Trustor may have possession of the Personal Property and use it in any lawful manner not inconsistent with this Deed of Trust and not inconsistent with any policy of insurance thereon.

3.6 Remedies Upon an Event of Default.

(a) Remedies. If an Event of Default shall have occurred and be continuing, in addition to the remedies provided in **Section 4.2** hereof, Beneficiary, without any other notice to or demand

upon Trustor shall have in any jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a Beneficiary under the Uniform Commercial Code of the State of Utah and any additional rights and remedies which may be provided to a Beneficiary in any jurisdiction in which Personal Property is located, including, without limitation:

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

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

(iii) Require Trustor from time to time to assemble the Personal Property, or any portion thereof, at such location or locations within the jurisdiction(s) of Trustor's principal office(s) or at such other locations as Beneficiary, or an agent or representative designated by Beneficiary, may reasonably designate. Beneficiary, and its agents and representatives, shall have the right to enter upon any or all of Trustor's Property and property to exercise Beneficiary's rights hereunder;

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

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

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

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

(b) Notice of Sale. Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Beneficiary shall give to Trustor at least ten (10) Business Days prior written notice of the time and place of any public sale of Personal 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. Such notice may be mailed to Trustor at the address set forth in **Section 6.4**. In addition, 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 and remedies hereunder, including, without

limitation, its right following an Event of Default to take immediate possession of the Personal Property and to exercise its rights and remedies with respect thereto.

(c) 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 and remedies under or in respect of any of the Obligations or any of the Personal Property and arising from the discharge of all Impositions, Liens and Encumbrances, and claims thereof, if any, on the Personal Property prior to the security interest granted herein (except any Impositions or Liens and Encumbrances subject to which such sale shall have been made). After deducting all of said expenses, the residue of any proceeds of collection or sale or other disposition of the Personal Property shall, to the extent actually received in cash, be applied to the payment of the Obligations in such order or preference as Beneficiary may determine, proper allowance and provision being made for any Obligations not then due. Upon the final payment and satisfaction in full of all of the Obligations and after making any payments required by Sections 9-608(a)(1)(C) or 9-615(a)(3) of the Uniform Commercial Code of the State of Utah, any excess shall be returned to Trustor. In the absence of final payment and satisfaction in full of all of the Obligations, Trustor shall remain liable for any deficiency. Until paid, all amounts due and payable by Trustor hereunder shall be a debt secured by the Trust Estate and shall bear, whether before or after judgment, interest at the Agreed Rate.

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

3.8 Standards for Exercising Rights and 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 Personal Property for disposition or otherwise to fail 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 Personal 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 Personal Property to be collected or disposed of, (c) to fail to exercise collection remedies against account debtors or other persons obligated on Personal Property or to fail to remove liens or encumbrances on or any adverse claims against Personal Property, (d) to exercise collection remedies against account debtors and other persons obligated on Personal Property directly or through the use of collection agencies and other collection specialists, (e) to advertise dispositions of Personal Property through publications or media of general circulation, whether or not the Personal 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 Personal Property, (g) to hire one or more professional auctioneers to assist in the disposition of Personal Property, whether or not the Personal Property is of a specialized nature, (h) to dispose of Personal Property by utilizing Internet sites that provide for the auction of assets of the types included in the Personal 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 Personal Property or to provide to Beneficiary a guaranteed return from the collection or disposition of Personal 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 Personal Property. Trustor acknowledges that the purpose of this **Section 3.8** is to provide non-exhaustive indications of what actions or omissions by Beneficiary would fulfill Beneficiary's duties under the Uniform Commercial Code or other law of the State or any other relevant jurisdiction in Beneficiary's exercise of remedies against the Personal Property and that other actions or omissions by Beneficiary shall not be

deemed to fail to fulfill such duties solely on account of not being indicated in this **Section 3.8**. Without limitation upon the foregoing, nothing contained in this **Section 3.8** 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 **Section 3.8**.

3.9 Marshalling. Beneficiary shall not be required to marshal any present or future collateral security (including but not limited to the Personal Property) for, or other assurances of payment of, the Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights and remedies hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights and remedies, however existing or arising. To the extent that it lawfully may, Trustor hereby agrees that it will not invoke any law relating to the marshalling of Personal Property which might cause delay in or impede the enforcement of Beneficiary's rights and remedies under this Deed of Trust or under any other instrument creating or evidencing any of the Obligations or under which any of the Obligations is outstanding or by which any of the Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, Trustor hereby irrevocably waives the benefits of all such laws.

3.10 Fixture Filing. Upon its recording in the real property records, this Deed of Trust shall be effective as a financing statement filed as a fixture filing. In addition, a carbon, photographic or other reproduced copy of this Deed of Trust and/or any financing statement relating hereto shall be sufficient for filing and/or recording as a financing statement. The filing of any other financing statement relating to any personal property, rights or interests described herein shall not be construed to diminish any right or priority hereunder. Certain financing statement information is set forth on Exhibit D to this Deed of Trust.

ARTICLE 4

REMEDIES UPON DEFAULT

4.1 Events of Default. Each of the following shall constitute an event of default ("*Event of Default*"):

(a) Failure by Trustor or Guarantor to pay the entire outstanding balance of the Note on the Maturity Date.

(b) Failure by Trustor or Guarantor to pay principal, interest, fees or other amounts owing under the Loan Documents except principal and except at maturity, within ten (10) days after the due date for such payment, unless cured within such ten (10) day period.

(c) Except as otherwise provided herein, any failure by Trustor to perform any obligation not involving the payment of money, or to comply with any other term or condition applicable to Trustor under any Loan Document and the expiration of thirty (30) days after written notice of such failure by Beneficiary to Trustor, unless (a) such failure, by its nature, is not capable of being cured within such period, and (b) within such period, Trustor commences to cure such failure and thereafter diligently prosecutes the cure thereof, and (c) Trustor causes such failure to be cured no later than thirty (30) days after the date of such notice from Lender.

(d) Any representation or warranty by Trustor hereunder is materially false, incorrect, or misleading as of the date made.

(e) The occurrence of any Transfer, unless prior to such Transfer the holder of the Note has delivered to Trustor the written consent of such holder to such Transfer.

(f) The occurrence of (i) any default under the Ground Lease and the failure to cure such default during applicable cure periods, if any, or (ii) any Event of Default, (as such term is defined in any other Loan Document), under any other Loan Document.

4.2 Acceleration Upon Default; Additional Remedies. Upon the occurrence of an Event of Default, Beneficiary may, at its option, declare all or any part of the Obligations immediately due and payable without any presentment, demand, protest or notice of any kind. Beneficiary may, in addition to the exercise of any or all of the remedies specified in **Section 3.6** or **Section 2.2**:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Trust Estate, or any part thereof, in its own name or in the name of Trustee, and do any acts that it deems necessary or desirable to preserve the value, marketability or rentability of the Trust Estate, or any part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Trust Estate, sue for or otherwise collect the Rents, or any part thereof, including, without limitation, those past due and unpaid, and apply the same, less costs and expenses of operation and collection (including, without limitation, attorneys' fees) to the Obligations, all in such order as Beneficiary may determine. The entering upon and taking possession of the Trust Estate, the collection of such Rents and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of all or any portion of the Trust Estate or the collection, receipt and application of Rents, Trustee or Beneficiary shall be entitled to exercise every right provided for in any of the Loan Documents or by law upon occurrence of any Event of Default, including, without limitation, the right to exercise the power of sale contained herein;

(b) Commence an action to foreclose the lien of this Deed of Trust as a mortgage in accordance with Beneficiary's rights under *Utah Code Annotated* § 57-1-23, or other applicable law, appoint a receiver as more particularly described in **Section 4.5**, or specifically enforce any of the covenants hereof;

(c) Exercise the power of sale herein contained and deliver to Trustee a written statement of default or breach and cause Trustee to execute and record a notice of default and election to cause Trustor's interest in the Trust Estate to be sold in accordance with *Utah Annotated Code* § 57-1-24 or other applicable law; or

(d) Exercise all other rights and remedies provided herein, in any Loan Document or other document or agreement now or hereafter securing or guarantying all or any portion of the Obligations, or by law.

4.3 Exercise of Power of Sale. After the lapse of such time as may then be required by *Utah Annotated Code* § 57-1-24 or other applicable law following the recordation of the notice of default, and notice of default and notice of sale having been given as then required by *Utah Annotated Code* § 57-1-25 and § 57-1-26 or other applicable law, Trustee, without demand on Trustor, shall sell the Trust Estate on the date and at the time and place designated in the notice of sale, either as a whole or in separate parcels, and in such order as Beneficiary may determine (but subject to Trustor's statutory right under *Utah Annotated Code* § 57-1-27 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 deemed 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*, if the sale is postponed for longer than forty-five (45) days beyond the date designated in the notice of sale, notice of the time, date, and place of sale shall be given in the same manner as the original notice of sale as required by

Utah Annotated Code § 57-1-27. Trustee shall execute and deliver to the purchaser a Trustee's Deed, in accordance with *Utah Annotated Code* § 57-1-28, conveying the Property so sold, but without any covenant of warranty, express or implied. The recitals in the Trustee's 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 as follows:

FIRST: To the costs and expenses of exercising the power of sale and of the sale, including the payment of the trustee's and attorney's fees actually incurred not to exceed the amount which may be provided for in the trust deed.

SECOND: To payment of the obligations secured by the trust deed.

THIRD: The balance, if any, to the person or person's legally entitled to the proceeds, or the trustee, in the trustee's discretion, may deposit the balance of the proceeds with the clerk of the district court of the county in which the sale took place, in accordance with *Utah Code Annotated* § 57-1-29.

Upon any sale made under or by virtue of this **Section 4.3**, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, the Beneficiary may bid for and acquire the Trust Estate, whether by payment of cash or by credit bid in accordance with *Utah Annotated Code* § 57-1-28(1)(b). In the event of a successful credit bid, Beneficiary shall make settlement for the purchase price by crediting upon the Obligations of Trustor secured by this Deed of Trust such credit bid amount. Beneficiary, upon so acquiring the Property or any part thereof, shall be entitled to hold, lease, rent, operate, manage, and sell the same in any manner provided by applicable laws.

For purposes of *Utah Code Annotated* § 57-1-28, Trustor agrees that all default interest, late charges, any prepayment premium, swap contract breakage fees and similar amounts, if any, owing from time to time under the Note shall constitute a part of and be entitled to the benefits of Beneficiary's Deed of Trust lien upon the Trust Estate, and (ii) Beneficiary may add all default interest, late charges, any prepayment premium, swap contract breakage fees and similar amounts owing from time to time under the Note to the principal balance of the Note, and in either case Beneficiary may include the amount of all unpaid late charges in any credit bid Beneficiary may make at a foreclosure sale of the Trust Estate pursuant to this Deed of Trust.

In the event of any amendment to the provisions of *Utah Code Annotated* Title 57 or other provisions of *Utah Code Annotated* referenced in this Deed of Trust, this Deed of Trust shall, at the sole election of Beneficiary, be deemed amended to be consistent with such amendments or Beneficiary may elect not to give effect to such deemed amendments hereto if permitted by applicable law.

4.4 Personal Property. It is the express understanding and intent of the parties that as to any personal property interests subject to Article 9a of the Utah Uniform Commercial Code, Beneficiary, upon an Event of Default, may proceed under the Utah Uniform Commercial Code or may proceed as to both real and personal property interests in accordance with the provisions of this Deed of Trust and its rights and remedies in respect of real property, and treat both real and personal property interests as one parcel or package of security as permitted by *Utah Annotated Code* § 70A-9a-601 or other applicable law, and further may sell any shares of corporate stock evidencing water rights in accordance with *Utah Annotated Code* § 57-1-30 or other applicable law.

4.5 Appointment of Receiver. Upon the occurrence of an Event of Default, Beneficiary, as a matter of right and without notice to Trustor or any one claiming under Trustor, and without regard to the then value of the Trust Estate or the interest of Trustor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Trust Estate, and Trustor hereby irrevocably consents to such appointment and waives notice of any application therefor and consents to Beneficiary being appointed as such receiver if Beneficiary so elects. 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 later of the date of confirmation of sale of the Trust Estate or the date of expiration of any redemption period, unless such receivership is sooner terminated.

4.6 Remedies Not Exclusive. Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any and all of the Obligations and to exercise all rights and powers under the Loan Documents and under the law now or hereafter in effect, notwithstanding some or all of the Obligations may now or hereafter be otherwise secured or guaranteed. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other rights herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security or guaranty now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security or any guaranty now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing under the law. Every power or remedy given by any of the Loan Documents or by law to Trustee or Beneficiary or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and, to the extent permitted by law, either of them may pursue inconsistent remedies.

4.7 Deficiency. Trustor agrees to pay any deficiency arising from any cause, to which Beneficiary may be entitled after applications of the proceeds of any sale, any Beneficiary may commence suit to collect such deficiency in accordance with *Utah Annotated Code* § 57-1-32 or other applicable law.

4.8 Reinstatement. If Trustor, Trustor's successor interest or any other person having a subordinate lien or encumbrance of record on the Property, reinstates this Deed of Trust and the Loan with three (3) months of the recordation of a notice of default in accordance with *Utah Annotated Code* § 57-1-31(1), such party shall pay to Beneficiary the reasonable cancellation fee contemplated by *Utah Annotated Code* § 57-1-31(2), as delivered by Beneficiary, in accordance with its then current policies and procedures, whereupon Trustee shall record a notice of cancellation of the pending sale.

4.9 Marshalling of Assets. Trustor, on its own behalf and on behalf of its successors and assigns, hereby expressly waives all rights to require a marshalling of assets by Trustee or Beneficiary, or to require Trustee or Beneficiary, upon a foreclosure, to first resort to the sale of any portion of the Trust Estate which might have been retained by Trustor before foreclosing upon and selling any other portion as may be conveyed by Trustor subject to this Deed of Trust.

4.10 No Merger. In the event of a foreclosure of this Deed of Trust or any other mortgage or deed of trust securing the Obligations, the Obligations then due Beneficiary shall not be merged into any decree of foreclosure entered by the court, and Beneficiary may concurrently or subsequently seek to foreclose one or more mortgages or deeds of trust which also secure said Obligations.

4.11 Request for Notice. Beneficiary hereby requests, pursuant to *Utah Annotated Code* § 57-1-26(3), a copy of any notice of default and that any notice of sale hereunder and under any other deed of trust affecting the Trust Estate now or at any time in the future be mailed to it at the address set forth in **Section 6.4**.

ARTICLE 5

RELEASE AND RECONVEYANCE OF TRUST ESTATE

5.1 Reconveyance by Trustee. Upon written request of Beneficiary stating that all Obligations have been satisfied in full, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation

and retention and upon payment by Trustor of Trustee's fees, Trustee shall reconvey to Trustor, or to the person or persons legally entitled thereto, without warranty, any portion of the Trust Estate then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto."

5.2 Partial Reconveyance. At any time, without liability therefor and without notice, and without affecting the personal liability of Trustor or any other person for payment of the Obligations, Trustee may, with the consent of Beneficiary: (a) release and reconvey by deed of reconveyance any part of the Trust Estate from the lien hereof; (b) consent to the making and recording of any maps or plats of the Trust Estate; (c) join in granting any easement on the Trust Estate; or (d) join in any extension agreement or any agreement subordinating or modifying the lien or charge hereof. If Trustee shall perform any such acts or execute complete or partial reconveyances it shall be paid a fee in accordance with its established fees and charges therefor.

5.3 Unit Releases. In connection with Section 2.6 of the Loan Agreement, so long as there does not exist any uncured Default or Event of Default under the Loan Documents, Trustor shall be entitled to a partial reconveyance of this Deed of Trust as against a particular Unit (as defined in the Loan Agreement) upon Trustor's fulfillment of all conditions to such partial reconveyance set forth in this Deed of Trust, the Loan Agreement, or any of the other Loan Documents as determined by Beneficiary in its sole and absolute discretion.

ARTICLE 6

GROUND LEASE PROVISIONS

6.1 Any exercise by Trustor under the Ground Lease to acquire fee simple title to the Real Property shall require Beneficiary's prior written consent and upon such exercise, shall take such steps as Beneficiary may require to ensure that this Deed of Trust constitutes a first lien on the fee interest in such Real Property. Trustor shall also provide such additional title insurance policies or endorsements to Beneficiary's current title insurance policy insuring the lien hereof as Beneficiary may require, and shall enter into such amendments to the Loan Documents as Lender may require. All of the foregoing shall be at the expense of Trustor.

6.2 Trustor will pay or cause to be paid all rent and other charges required under the Ground Lease as and when the same are due and Trustor will keep, observe and perform, or cause to be kept, observed and performed, all of the other terms, covenants, provisions and agreements of the Lease on the part of the lessee thereunder to be kept, observed and performed, and will not in any manner, cancel, terminate or surrender, or permit any cancellation, termination or surrender of the Lease, in whole or in part, or, without the written consent of Beneficiary, either orally or in writing, modify, amend or permit any modification or amendment of any of the terms thereof in any respect, and any attempt on the part of Trustor to exercise any such right without such written consent of Beneficiary shall be null and void and of no effect.

6.3 Trustor will do, or cause to be done, all things necessary to preserve and keep unimpaired the rights of Trustor as lessee under the Ground Lease, and to prevent any default under the Ground Lease, or any termination, surrender, cancellation, forfeiture or impairment thereof, and in the event of the failure of Trustor to make any payment required to be made by Trustor pursuant to the provisions of the Ground Lease or to keep, observe or perform, or cause to be kept, observed or performed, any of the terms, covenants, provisions or agreements of the Ground Lease, Trustor agrees that Beneficiary may (but shall not be obligated to), after notice to Trustor (*provided, however*, that no such notice shall be required to be given after the occurrence of an Event of Default hereunder or under any of the other Loan Documents) take any action on behalf of Trustor, to make or cause to be kept, observed or performed any such terms, covenants, provisions or agreements and to enter upon the Premises and take all such action thereof as may be necessary therefor, to the end that the rights

of Trustor in and to the leasehold estate created by the Ground Lease shall be kept unimpaired and free from default, and all money so expended by Beneficiary, with interest thereon at the Agreed Rate (as defined in the Loan Agreement) from the date of each such expenditure, shall be paid by Trustor to Beneficiary promptly upon demand by Beneficiary and shall be added to the indebtedness and secured by the Deed of Trust and Beneficiary shall have, in addition to any other remedy of Beneficiary, the same rights and remedies in the event of non-payment of any such sum by Trustor as in the case of a default by Trustor in the payment of any sums due under the Note.

6.4 Trustor will enforce the obligations of the lessor under the Ground Lease to the end that Trustor may enjoy all of the rights granted to it under the Ground Lease, and will promptly notify Beneficiary in writing of any default by the lessor or by Trustor in the performance or observance of any of the terms, covenants and conditions on the part of the lessor or Trustor, as the case may be, to be performed or observed under the Ground Lease and Trustor will promptly advise Beneficiary in writing of the occurrences of any of the events of default enumerated in the Ground Lease and of the giving of any notice by the lessor to Trustor of any default by Trustor in performance or observance of any of the terms, covenants or conditions of the Ground Lease on the part of the Trustor to be performed or observed and will deliver to Beneficiary a true copy of each such notice. If, pursuant to the Ground Lease, the lessor shall deliver to Beneficiary a copy of any notice of default given to Trustor, such notice shall constitute full authority and protection to Beneficiary for any action taken or omitted to be taken by Beneficiary in good faith in reliance thereon to cure such default.

6.5 If any action or proceeding shall be instituted to evict Trustor or to recover possession of the Premises or for any other purpose affecting the Ground Lease or this Deed of Trust, Trustor will, immediately upon service thereof on or to Trustor, deliver to Beneficiary a true copy of each petition, summons, complaint, notice of motion, order to show cause and of all other provisions, pleadings, and papers, however designated, served in any such action or proceeding.

6.6 Trustor covenants and agrees that unless Beneficiary shall otherwise expressly consent in writing, the fee title to the property demised by the Ground Lease and the leasehold estate shall not merge but shall always remain separate and distinct, notwithstanding the union of said estates either in the lessor, Trustor, or a third party by purchase or otherwise; and in case Trustor acquires the fee title or any other estate, title or interest in the Premises, this Deed of Trust shall attach to and cover and be a lien upon the fee title or such other estate so acquired, and such fee title or other estate shall, without further assignment, Deed of Trust or conveyance, become and be subject to the lien of and covered by this Deed of Trust.

6.7 No release or forbearance of any of Trustor's obligations under the Ground Lease, pursuant to the Ground Lease, or otherwise, shall release Trustor from any of its obligations under this Deed of Trust, including its obligation with respect to the payment of rent as provided for in the Ground Lease and the performance of all of the terms, provisions, covenants, conditions and agreements contained in the Ground Lease, to be kept, performed and complied with by the tenant therein.

6.8 Upon the occurrence of an Event of Default Trustor shall not make any election or give any consent or approval (other than the exercise of a renewal right or extension right pursuant to Paragraph 9 below) for which a right to do so is conferred upon Trustor as lessee under the Ground Lease without Beneficiary's prior written consent. In case of any Event of Default under this Deed of Trust, all such rights, together with the right of termination, cancellation, modification, change, supplement, alteration or amendment of the Ground Lease, all of which have been assigned for collateral purpose to Beneficiary, shall vest in and be exercisable solely by Beneficiary.

6.9 Trustor will give Beneficiary prompt written notice of the commencement of any arbitration or appraisal proceeding under and pursuant to the provisions of the Ground Lease. Beneficiary shall have the right to intervene and participate in any such proceeding and Trustor shall confer with Beneficiary to the extent which Beneficiary deems necessary for the protection of Beneficiary. Upon the written request of Beneficiary, if an Event of Default exists, Trustor will exercise all rights of arbitration conferred upon it by the Ground

Lease. Trustor shall select an arbitrator who is approved in writing by Beneficiary, *provided, however*, that if at the time any such proceeding shall be commenced, Trustor shall be in default in the performance or observance of any covenant, condition or other requirement of the Ground Lease, or of this Deed of Trust, on the part of Trustor to be performed or observed, Beneficiary shall have, and is hereby granted, the sole and exclusive right to designate and appoint on behalf of Trustor the arbitrator or arbitrators, or appraiser, in such proceeding.

6.10 Trustor may exercise any option or right to renew or extend the term of the Ground Lease or exercise the fee option contained therein without the prior written consent of Beneficiary. Trustor shall give Beneficiary simultaneous written notice of the exercise of such option or right to renew or extend, together with a copy of the instrument given to the lessor under the Ground Lease exercising such option or right, and, thereafter, shall promptly deliver to Beneficiary a copy of any acknowledgment by the lessor under such Ground Lease with respect to the exercise of such option or right. If such option or right has not been exercised as aforesaid, then not more than three hundred sixty (360) and not less than two hundred seventy (270) days before the right of Trustor to exercise any option or right to renew or extend the term of the Ground Lease shall expire, Trustor shall give Beneficiary written notice specifying the date, term and manner for which such option or renewal is to be exercised. Within fifteen (15) business days of written demand by Beneficiary, Trustor shall exercise any such option or renewal which is necessary to extend the term of the Ground Lease beyond the term of this Deed of Trust or to comply with any law affecting Trustor or Beneficiary or which is necessary, in Beneficiary's reasonable judgment, to preserve the value of the security intended to be afforded by this Deed of Trust. Trustor shall promptly provide evidence of such exercise of such option or right to Beneficiary's reasonable satisfaction. In the event that Trustor fails to so exercise any such option or right or in the event of any default hereunder which is continuing beyond the applicable cure periods, Trustor hereby agrees and grants to Beneficiary all right and authority to exercise such option in the name of Trustor or in its own name. Nothing contained herein shall affect or limit any rights of Beneficiary granted under the Ground Lease.

6.11 The lien of this Deed of Trust shall attach to all of Trustor's rights and remedies at any time arising under or pursuant to Subsection 365(h) of the Bankruptcy Code, 11 U.S.C. § 365(h), including, without limitation, all of Trustor's rights to remain in possession of the Premises.

6.12 Trustor shall not, without Beneficiary's prior written consent, elect to treat the Ground Lease as terminated under Subsection 365(h)(1) of the Bankruptcy Code, 11 U.S.C. § 365(h)(1). Any such election made without Beneficiary's consent shall be void.

6.13 Trustor hereby unconditionally assigns, transfers and sets over to Beneficiary all of Trustor's claims and rights to the payment of damages arising from any rejection of the Ground Lease by lessor or any other fee owner of the Premises under the Bankruptcy Code. Beneficiary shall have the right to proceed in its own name or in the name of Trustor in respect of any claim, suit, action or proceeding relating to the rejection of the Ground Lease, including, without limitation, the right to file and prosecute, either in its own name or in the name of Trustor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect to the lessor or any fee owner under the Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the obligations secured by this Deed of Trust shall have been satisfied and discharged in full. Any amounts received by Beneficiary as damages arising out of the rejection of the Ground Lease as aforesaid shall be applied first to all costs and expenses of Beneficiary (including, without limitation, attorneys' fees) incurred in connection with the exercise of any of its rights or remedies under this Section and then in accordance with the provisions of this Deed of Trust. Trustor shall promptly make, execute, acknowledge and deliver, in form and substance satisfactory to Beneficiary, a UCC Financing Statement (Form UCC-1) and all such additional instruments, agreements and other documents, as may at any time hereafter be required by Beneficiary to effectuate and carry out the assignment made pursuant to this Section.

6.14 If pursuant to Subsection 365(h)(2) of the Bankruptcy Code, 11 U.S.C. § 365(h)(2), Trustor shall seek to offset against the rent reserved in the Ground Lease the amount of any damages caused by the nonperformance by the lessor or any fee owner of any of their obligations under the Ground Lease after the rejection by the lessor or any fee owner of the Ground Lease under the Bankruptcy Code, Trustor shall, prior to effecting such offset, notify Beneficiary of its intent to do so, setting forth the amounts proposed to be so offset and the basis therefor. Beneficiary shall have the right to object to all or any part of such offset that, in the reasonable judgment of Beneficiary, would constitute a breach of the Ground Lease, and in the event of such objection, Trustor shall not effect any offset of the amounts so objected to by Beneficiary. Neither Beneficiary's failure to object as aforesaid nor any objection relating to such offset shall constitute an approval of any such offset by Beneficiary.

6.15 If any action, proceeding, motion or notice shall be commenced or filed in respect of the lessor or any fee owner, the Premises or the Ground Lease in connection with any case under the Bankruptcy Code, Beneficiary shall have the option, exercisable upon notice from Beneficiary to Trustor, to conduct and control any such litigation with counsel of Beneficiary's choice. Beneficiary may proceed in its own name or in the name of Trustor in connection with any such litigation, and Trustor agrees to execute any and all powers, authorizations, consents or other documents reasonably required by Beneficiary in connection therewith. Trustor shall, upon demand, pay to Beneficiary all costs and expenses (including attorneys' fees) paid or incurred by Beneficiary in connection with the prosecution or conduct of any such proceedings. Any such costs or expenses not paid by Trustor as aforesaid shall be secured by the lien of this Deed of Trust and shall be added to the principal amount of the indebtedness secured hereby. Trustor shall not commence any action, suit, proceeding or case, or file any application or make any motion (unless such motion is for the purpose of protecting the Ground Lease and its value as security for the obligations secured by this Deed of Trust), in respect of the Ground Lease in any such case under the Bankruptcy Code without the prior written consent of Beneficiary, which consent shall not be unreasonably withheld or delayed.

6.16 Trustor shall, after obtaining knowledge thereof, promptly notify Beneficiary of any filing by or against the lessor or other fee owner of a petition under the Bankruptcy Code. Trustor shall promptly deliver to Beneficiary, following receipt, copies of any and all notices, summonses, pleadings, applications and other documents received by Trustor in connection with any such petition and any proceedings relating thereto.

6.17 If there shall be filed by or against Trustor a petition under the Bankruptcy Code and Trustor, as lessee under the Ground Lease, shall determine to reject the Ground Lease pursuant to Section 365(a) of the Bankruptcy Code, Trustor shall give Beneficiary not less than thirty (30) days' prior notice of the date on which Trustor shall apply to the Bankruptcy Court for authority to reject the Ground Lease. Beneficiary shall have the right, but not the obligation, to serve upon Trustor within such thirty (30) day period a notice stating that Beneficiary demands that Trustor assume and assign the Ground Lease to Beneficiary pursuant to Section 365 of the Bankruptcy Code. If Beneficiary shall serve upon Trustor the notice described in the preceding sentence, Trustor shall not seek to reject the Ground Lease and shall comply with the demand provided for in the preceding sentence.

6.18 Notwithstanding anything to the contrary contained herein, this Deed of Trust shall not constitute an assignment of the Ground Lease and Beneficiary shall have not liability or obligation thereunder by reason of its acceptance of this Deed of Trust.

ARTICLE 7

MISCELLANEOUS

7.1 Change, Discharge, Termination, or Waiver. No provision of this Deed of Trust may be changed, discharged, terminated, or waived except in a writing signed by the party against whom enforcement of the change, discharge, termination, or waiver is sought. No failure on the part of Beneficiary to exercise and

no delay by Beneficiary in exercising any right or remedy under the Loan Documents or under the law shall operate as a waiver thereof.

7.2

7.3 Notices. All notices, requests and demands to be made hereunder to the parties hereto shall be in writing and shall be delivered by hand or sent by registered or certified mail, return receipt requested, (except for any notice address which is a post office box, in which case notice shall be given by first class mail) through the United States Postal Service to the addresses shown below or such other address which the parties may provide to one another in accordance herewith. Such notices, requests and demands, if sent by mail, shall be deemed given two (2) days after deposit in the United States mail, and if delivered by hand, shall be deemed given when delivered.

To Beneficiary: Washington Federal
 1207 East Draper Parkway
 Draper, UT 84020
 Attention: James Endrizzi

with a copy to: Snell & Wilmer L.L.P.
 Gateway Tower West
 15 West South Temple, Suite 1200
 Salt Lake City, Utah 84101
 Attention: Brian D. Cunningham, Esq.

To Trustor: Wright Development Group, Inc.
 1178 Legacy Crossing Blvd., Suite 100
 Centerville, UT 84014
 Attention: Gary M. Wright

7.4 Acceptance by Trustee. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

7.5 Captions and References. The headings at the beginning of each section of this Deed of Trust are solely for convenience and are not part of this Deed of Trust. Unless otherwise indicated, each reference in this Deed of Trust to a section or an exhibit is a reference to the respective section herein or exhibit hereto. All exhibits hereto are incorporated herein by reference.

7.6 Invalidity of Certain Provisions. If any provision of this Deed of Trust is unenforceable, the enforceability of the other provisions shall not be affected and they shall remain in full force and effect. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Trust Estate, the unsecured or partially secured portion of the obligations shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the obligations, and all payments made on the obligations, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the debt which is not secured or fully secured by the lien of this Deed of Trust.

7.7 Subrogation. To the extent that proceeds of the Note are used to pay any outstanding lien, charge or prior encumbrance against the Trust Estate, such proceeds have been or will be advanced by Beneficiary at Trustor's request and Beneficiary shall be subrogated to any and all rights and liens held by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released.

7.8 Attorneys' Fees. If any or all of the Obligations are not paid when due or if an Event of Default occurs, Trustor agrees to pay all costs of enforcement and collection and preparation therefore (including, without limitation, reasonable attorneys' fees) whether or not any action or proceeding is brought (including, without limitation, all such costs incurred in connection with any bankruptcy, receivership, or other court proceedings (whether at the trial or appellate level)), together with interest therein from the date of demand at the Agreed Rate.

7.9 Governing Law. THIS DEED OF TRUST AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF UTAH EXCLUDING ANY UTAH CONFLICT OF LAWS RULES.

7.10 Joint and Several Obligations. If this Deed of Trust is signed by more than one party as Trustor, all obligations of Trustor herein shall be the joint and several obligations of each party executing this Deed of Trust as Trustor.

7.11 Number and Gender. In this Deed of Trust the singular shall include the plural and the masculine shall include the feminine and neuter gender and vice versa, if the context so requires.

7.12 Loan Statement Fees. Trustor shall pay the amount demanded by Beneficiary or its authorized loan servicing agent for any statement regarding the Obligations, provided, however, that such amount may not exceed the maximum amount allowed by law at the time request for the statement is made.

7.13 Counterparts. This document may be executed and acknowledged in counterparts, all of which executed and acknowledged counterparts shall together constitute a single document. Signature and acknowledgment pages may be detached from the counterparts and attached to a single copy of this document to form physically one document, which may be recorded.

7.14 No Merger of Lease. If both the lessor's and lessee's estate under any lease or any portion thereof which constitutes a part of the Trust Estate shall at any time become vested in one owner, this Deed of Trust and the lien created hereby shall not be destroyed or terminated by application of the doctrine of merger unless Beneficiary so elects as evidenced by recording a written declaration executed by Beneficiary so stating, and, unless and until Beneficiary so elects, Beneficiary shall continue to have and enjoy all of the rights and privileges of Beneficiary as to the separate estates. In addition, upon the foreclosure of the lien created by this Deed of Trust on the Trust Estate pursuant to the provisions hereof, any leases or subleases then existing and affecting all or any portion of the Trust Estate shall not be destroyed or terminated by application of the law of merger or as a matter of law or as a result of such foreclosure unless Beneficiary or any purchaser at such foreclosure sale shall so elect. No act by or on behalf of Beneficiary or any such purchaser shall constitute a termination of any lease or sublease unless Beneficiary or such purchaser shall give written notice thereof to such tenant or subtenant.

7.15 Status of Title. Trustor represents and warrants that it is the lawful owner of the Trust Estate free and clear of all Liens and Encumbrances and holds a fee simple estate in the Property and Improvements, subject only to the Permitted Exceptions and that Trustor has full right, power and authority to convey and mortgage the same and to execute this Deed of Trust.

7.16 Integration. The Loan Documents contain the complete understanding and agreement of Trustor and Beneficiary and supersede all prior representations, warranties, agreements, arrangements, understandings, and negotiations.

7.17 Binding Effect. The Loan Documents will be binding upon, and inure to the benefit of, Trustor, Trustee and Beneficiary and their respective successors and assigns. Trustor shall not assign or delegate its obligations under this Deed of Trust.

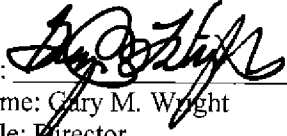
7.18 Time of the Essence. Time is of the essence with regard to the each provision of the Loan Documents as to which time is a factor.

7.19 Survival. The representations, warranties, and covenants of the Trustor and the Loan Documents shall survive the execution and delivery of the Loan Documents and the making of the Loan.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

WRIGHT DEVELOPMENT GROUP, INC.
a Utah corporation

By: 
Name: Gary M. Wright
Title: Director

“Trustor”

STATE OF UTAH)
: ss.
COUNTY OF Davis)

The foregoing instrument was acknowledged before me this 2 day of ~~October~~ ^{November}, 2015, by Gary M. Wright, an individual, a Director of WRIGHT DEVELOPMENT GROUP, a Utah corporation, for and on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


NOTARY PUBLIC

[Seal]

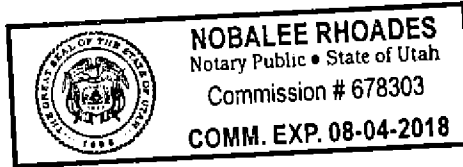


EXHIBIT A

PROPERTY DESCRIPTION

That certain real property owned by Trustor and situated in the County of Utah, State of Utah and described as follows:

Parcel 1:

Lot 1, PLAT "B", ALBERTSONS CENTER SUBDIVISION AMENDED, according to the Official Plat thereof as recorded in the Office of the Utah County Recorder, State of Utah.

Parcel 1A:

Together with non-exclusive easements for ingress, egress, parking, utility lines, and signs as set forth in Declaration of Covenants, Conditions, Restrictions, and Grant of Easements, recorded November 5, 1981, as Entry No. 31788 in Book 1946 at Page 615 in the Office of the Recorder, Utah County, Utah (as said Declaration may have heretofore been amended or supplemented.)

Tax ID Number: 34-205-0001

EXHIBIT B**DESCRIPTION OF PERSONAL PROPERTY**

All of Trustor's assets, including, without limitation, "Accounts", "Cash Proceeds", "Chattel Paper", "Collateral", "Deposit Accounts", "Electronic Chattel Paper", "Equipment", "Fixtures", "General Intangibles", "Goods", "Instruments", "Inventory", "Investment Property", "Letter-of-credit Rights", "Noncash Proceeds", and "Tangible Chattel Paper", as defined in the Uniform Commercial Code. Such assets include, without limitation:

(a) All personal property, (including, without limitation, all goods, supplies, equipment, furniture, furnishings, fixtures, machinery, inventory, construction materials and software embedded in any of the foregoing) in which Trustor now or hereafter acquires an interest or right, which is now or hereafter located on or affixed to the Property or the Improvements or used or useful in the operation, use, or occupancy thereof or the construction of any Improvements thereon, together with any interest of Trustor in and to personal property which is leased or subject to any superior security interest, and all books, records, leases and other agreements, documents, and instruments of whatever kind or character, relating to the Property, Improvements, or such personal property;

(b) All fees, income, rents, issues, profits, earnings, receipts, royalties, and revenues which, after the date hereof and while any portion of the Obligations remains unpaid or unperformed, may accrue from such personal property or any part thereof or from the Property, the Improvements or any other part of the Trust Estate, or which may be received or receivable by Trustor from any hiring, using, letting, leasing, subhiring, subletting, subleasing, occupancy, operation, or use thereof;

(c) All of Trustor's present and future rights to receive payments of money, services, or property, including, without limitation, rights to all deposits from tenants or purchasers of any portion of the Property or Improvements, deposit accounts, chattel paper (whether tangible or electronic), notes, drafts, contract rights, instruments, general intangibles, and principal, interest, and payments due on account of goods sold or leased, services rendered, loans made or credit extended, together with title to or interest in all agreements, documents, and instruments evidencing securing or guarantying the same;

(d) All other intangible property (and related software) and rights relating to the Property, the Improvements, the personal property described in **Paragraph (a)** above or the operation, occupancy, or use thereof, including, without limitation, all governmental and private contracts, agreements, permits, licenses, and approvals relating to the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Property or Improvements (including, without limitation, contracts, agreements, permits, licenses and approvals relating to Project amenities, building maintenance, security service, elevator maintenance, landscaping services, parking lot and garage janitorial services), all names under or by which the Property or Improvements may at any time be operated or known, all rights to carry on business under any such names, or any variant thereof, all trade names and trademarks, copyrights, patent and copyright applications and registrations, patterns, designs, drawings, plans and specifications, other proprietary information and intellectual property, and royalties relating in any way to the Property or the Improvements, and all management agreements with respect to the management and operation of the Property, and all goodwill and software in any way relating to the Property or the Improvements;

(e) Trustor's rights under all insurance policies covering the Property, the Improvements, the Personal Property, and the other parts of the Trust Estate and any and all proceeds, loss payments, and premium refunds payable regarding the same;

(f) All reserves, deferred payments, deposits, refunds, cost savings, and payments of any kind relating to the construction of any Improvements on the Property;

- (g) All water, water stock and water rights relating to the Property;
- (h) All causes of action, claims, compensation, and recoveries for any damage to, destruction of, or condemnation or taking of the Property, the Improvements, the Personal Property, or any other part of the Trust Estate, or for any conveyance in lieu thereof, whether direct or consequential, or for any damage or injury to the Property, the Improvements, the Personal Property, or any other part of the Trust Estate, or for any loss or diminution in value of the Property, the Improvements, the Personal Property, or any other part of the Trust Estate;
- (i) All architectural, structural, mechanical, and engineering plans and specifications prepared for construction of Improvements or extraction of minerals or gravel from the Property and all studies, data, and drawings related thereto; and also all contracts and agreements of Trustor relating to the aforesaid plans and specifications or to the aforesaid studies, data, and drawings or to the construction of Improvements on or extraction of minerals or gravel from the Property;
- (j) All of Trustor's rights as a declarant, developer or otherwise, including, without limitation, all voting and other rights under all covenants, conditions and restrictions affecting the Property or the Improvements;
- (k) All Trustor's rights in proceeds of the loan evidenced by the Note;
- (l) All of Trustor's rights under any agreements affecting the Property, whether now existing or hereafter arising; and
- (m) All proceeds from sale or disposition of any of the aforesaid collateral.

As used in this Exhibit B the terms "Obligations", " Note", "Trust Estate", "Property", "Improvements", and "Personal Property" shall have the meanings set forth in the Deed of Trust to which this Exhibit B is attached.

EXHIBIT C**PERMITTED EXCEPTIONS**

“Permitted Exceptions” means the following:

1. Taxes for the year 2015 are paid. Tax ID No. 34-205-0001.
2. Said property is located within the boundaries of Weber Basin Water Conservancy District, Mosquito Abatement District, Central Davis Sewer Improvement District and Farmington Pressurized Water District (451-2105), and is subject to the charges and assessments levied thereunder. There are no delinquent assessments at time of policy.
3. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, or under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interest that are not listed.
4. Water rights, claims or title to water, whether or not the matters are shown by the Public Records.
5. Subject to easements, building setback lines, restrictions, dedications or offer for dedications if any, conditions of approval if any, and notes if any, all as set forth on the plat recorded July 20, 1994, as Entry No. 58784, Map No. 5630, of Official Records.
6. Covenants, Conditions, Restrictions, Easements, and assessments, if any, recorded November 5, 1981 as Entry No. 31788, in Book 1946, Page 615, of Official Records, but deleting restrictions, if any, based on race, color, religion or national origin. (Copies will be provided upon request)

Said Covenants, Conditions and Restrictions were amended by Amendment and recorded May 20, 1986 as Entry No. 15378, in Book 2305, Page 353, of Official Records.

Said Covenants, Conditions and Restrictions were amended by Amendment and recorded March 30, 1994 as Entry No. 26302, in Book 3405, Page 795, of Official Records.

Said Covenants, Conditions and Restrictions were amended by Amendment and recorded September 11, 2001 as Entry No. 92067-2001, of Official Records.
7. Easement and right of way upon the terms and conditions therein provided, in favor of Utah Power & Light Company, a Corporation, recorded August 10, 1982 as Entry No. 19628, in Book 1995, Page 371, of Official Records.
8. Easement and right of way upon the terms and conditions therein provided, in favor of Utah Power & Light Company, a Corporation, recorded April 28, 1986 as Entry No. 12653, in Book 2299, Page 249, of Official Records.
9. A Lease, executed by Property Reserve, Inc., a Utah corporation, as Lessor, and Taco Bell Corp., a California Corporation, as Lessee, upon the terms, conditions and covenants therein provided, recorded November 18, 1993 as Entry No. 83687, in Book 3300, Page 204, of Official Records.

The interest of Taco Bell Corp., a California corporation in and to said Lease was assigned to ES-O-EN Corp., an Oregon corporation by Assignment Of Lease, recorded September 1, 1998 as Entry No. 88556, in Book 4760, at Page 865, of Official Records.

The interest of ES-O-EN Corp., an Oregon Corporation in and to said Lease was assigned to DDO-Utah, LLC, a Utah limited liability company by Assignment Of Lease, recorded November 5, 2008 as Entry No. 119542:2008, of Official Records.

The interest of Property Reserve, Inc., a Utah nonprofit corporation in and to said Lease was assigned to Temple Square Hospitality Corporation, a Utah corporation by Assignment Of Lease, recorded June 3, 2010 as Entry No. 45676:2010, of Official Records.

10. A Deed of Trust executed by BHNC-CS, LLC, a Utah limited liability company as TRUSTOR and First American Title Insurance Company, a Nebraska Corporation as TRUSTEE, in the stated amount of \$1,250,000.00, in favor of Symetra Life Insurance Company, an Iowa corporation as BENEFCIARY, dated June 23, 2015 and recorded June 29, 2015 as Entry No. 57507:2015, of Official Records.
11. Subordination, Non-Disturbance and Attornment Agreement dated May 27, 2015, among Symetra Life Insurance Company, an Iowa corporation, BHNC-CS, LLC, a Utah limited liability company, and Wright Development Group, Inc., a Utah corporation, upon the terms, conditions and limitations contained therein, recorded July 1, 2015, as Entry No. 58588:2015, of Official Records.
12. Subordinate, Non-Disturbance and Attornment Agreement dated May 27, 2015, among Symetra Life Insurance Company, an Iowa corporation, BHNC-CS, LLC, a Utah limited liability company, and Terratron Inc., a Utah corporation, upon the terms, conditions and limitations contained therein, recorded July 1, 2015, as Entry No. 58589:2015, of Official Records.
13. Unrecorded Ground Lease dated June 20, 2014 between BHNC-CS, LLC, a Utah limited liability company and Wright Development Group, Inc., a Utah Corporation, upon the terms, conditions and limitations contained therein, as evidenced by that certain Memorandum of Lease recorded October 22, 2015, as Entry No. 96294:2015, of Official Records.

Recognition Agreement dated December 4, 2014, by and among BHNC-CS, LLC, a Utah limited liability company, Wright Development Group, Inc., a Utah corporation, MJM 5G, LLC, a Utah limited liability company, and ZAXBY'S Franchising, Inc., upon the terms, conditions and limitations contained therein, recorded January 23, 2015, as Entry No. 5315:2015, of Official Records.

EXHIBIT D

FINANCING STATEMENT INFORMATION

The Beneficiary/Secured Party is:

Washington Federal
1207 East Draper Parkway
Draper, UT 84020
Attention: James Endrizzi

The Debtor is:

Wright Development Group
1572 Woodland Park Dr., Ste 505
Layton, UT 84041

Organizational ID No.: 6191084-0142

The Collateral is the Personal Property (including all fixtures) described on Exhibit B to the Deed of Trust.