

OFFICIAL RECORD

Requested By:

STEWART TITLE OF DOUGLAS

COUNTY

Douglas County - NV

Werner Christen - Recorder

Page: 1 of 48 Fee: 61.00

BK-0805 PG-00469 RPTT: 0.00



APN's 1419-26-310-002 through 1419-26-310-011, inclusive;
1419-26-410-001 through 1419-26-410-015, inclusive;
1419-26-710-001 through 1419-26-710-017, inclusive;
1419-26-810-001 through 1419-26-810-006, inclusive;
1419-26-401-002, 1419-26-310-012, 1419-26-001-013 and 016

Recording Requested By:

Stewart Title of Douglas County

1663 US Highway 395 N, Ste. 101

Minden, NV 89423

050701515

CONSTRUCTION DEED OF TRUST

(Title of Document)

APN's 1419-26-310-002 through 1419-26-310-011, inclusive;
1419-26-410-001 through 1419-26-410-015, inclusive;
1419-26-710-001 through 1419-26-710-017, inclusive;
1419-26-810-001 through 1419-26-810-006, inclusive;
1419-26-401-002, 1419-26-310-012, 1419-26-001-013 and 016

This page added to provide additional information required by NRS 111.312 Sections 1-2.
(Additional recording fee applies)

This cover page must be typed.

APN 1419-26-001-013,016
RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
Bank of America, N.A.)
6140 Stoneridge Mall Road,)
Suite 200)
Pleasanton, CA 94588-3232)
Attn.: Ms. Raechel A. Koh)
050701515)

Space above for Recorder's Use

This Document Serves as a Fixture Filing Under Section 9-502 of the California Uniform Commercial Code (or similar statute in another applicable jurisdiction).

CONSTRUCTION DEED OF TRUST
with Assignment of Rents, Security Agreement
and Fixture Filing
(Nevada)

(Phase 1 Property, Adjusted Remainder Parcel 1 and Adjusted Parcel 17)

The parties to this Deed of Trust, made as of July 6, 2005, are Genoa Developer Associates, LLC, a Nevada limited liability company ("Borrower"), and Genoa Land Investors, LLC, a Nevada limited liability company ("GLI," with Borrower and GLI being individually, collectively and interchangeably referred to herein as "Trustor"), each of whose address is 6900 S. McCarren Blvd., Suite 1010, Reno, NV 89501, as trustor and debtor, PRLAP, Inc. ("Trustee"), whose address is P.O. Box 2240, Brea, California 92822, as trustee, and Bank of America, N.A., a national banking association ("Beneficiary"), whose address is 6140 Stoneridge Mall Road, Suite 200, Pleasanton, CA 94588-3232, as beneficiary and secured party. Trustee is an affiliate of Beneficiary.

1. Grant in Trust and Secured Obligations.

1.1 Grant in Trust. For the purpose of securing payment and performance of the Secured Obligations defined and described in Section 1.2, Trustor hereby irrevocably and unconditionally grants, conveys, transfers and assigns to Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, all estate, right, title and interest which Trustor now has or may later acquire in and to the following property (all or any part of such property, or any interest in all or any part of it, as the context may require, the "Property"):

(a) The real property located in the County of Douglas, State of Nevada, as described in Exhibit A, together with all existing and future easements and rights affording access to it (the "Land"); together with

(b) All buildings, structures and improvements now located or later to be constructed on the Land (the "Improvements"); together with

(c) All existing and future appurtenances, privileges, easements, franchises and tenements of the Land, including as-extracted collateral which may be in, under or produced

from any part of the Land, including minerals, oil, gas, other hydrocarbons and associated substances, sulphur, nitrogen, carbon dioxide, helium and other commercially valuable substances and all products processed or obtained therefrom and the proceeds thereof, all development rights and credits, air rights, water, water rights (whether riparian, appropriative or otherwise, and whether or not appurtenant) and water stock, and any land lying in the streets, roads or avenues, open or proposed, in front of or adjoining the Land and Improvements; together with

(d) All existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions ("leases") relating to the use and enjoyment of all or any part of the Land and Improvements, and any and all guaranties, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing) and other agreements relating to or made in connection with any of such leases; together with

(e) All real property and improvements on it, and all appurtenances and other property and interests of any kind or character, whether described in Exhibit A or not, which may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Land and Improvements; together with

(f) All goods, materials, supplies, chattels, furniture, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Land and Improvements, whether stored on the Land or elsewhere, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment, including any and all software embedded therein, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Deed of Trust; together with

(g) All building materials, equipment, work in process or other personal property of any kind, including any and all software embedded therein, whether stored on the Land or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Land or Improvements; together with

(h) All of Trustor's interest in and to the Account, the Loan funds, whether disbursed or not, the Borrower's Funds Account, and Trustor's own funds now or later to be held on deposit in the Borrower's Funds Account; together with

(i) All of Trustor's right, title and interest now or hereafter acquired in the Checking Account and any other deposit account from which Trustor may from time to time authorize Beneficiary to debit and/or credit payments due with respect to the Loan or any interest rate swap transaction, forward rate transaction, interest rate cap, floor or collar transaction, any similar transaction, any option to enter into any of the foregoing or any combination of the foregoing or any instrument, document or agreement with Beneficiary, now existing or hereafter entered into, which agreement may be oral or in writing, relating thereto, including any Master Agreement relating to or governing any or all of the foregoing and any related schedule or confirmation, each as amended from time to time (each a "Swap Contract"), all rights to the payment of money from Beneficiary under any Swap Contract, and all other accounts, deposit



accounts and general intangibles, including payment intangibles, described in any Swap Contract, any other Loan Document or any other instrument, document or agreement with Beneficiary relating thereto; together with

(j) All general intangibles, payment intangibles, rights to the payment of money, accounts, deposit accounts, accounts receivable, reserves, deferred payments, refunds, cost savings, payments and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) or deposited by Trustor with third parties (including all utility deposits), all existing and future construction contracts, architect contracts, engineering contracts and related agreements ("construction documents") (including any construction documents identified in the Loan Agreement (as defined hereinafter), but Beneficiary assumes no obligation under any construction document), development and use rights, governmental permits, approvals and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, chattel paper (whether tangible or electronic), instruments, documents, promissory notes, drafts and letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), which arise from or relate to construction on the Land or to any business now or later to be conducted on it, or to the Land and Improvements generally; together with

(k) All general intangibles, accounts, deposit accounts and proceeds, including all claims thereto and demands therefor (whether cash or non-cash and including payment intangibles), of or arising from the voluntary or involuntary conversion of any of the Land, Improvements or the other property described above into cash or liquidated claims, including all proceeds of any insurance policies, present and future, payable because of loss sustained to all or part of any Property, whether or not such insurance policies are required by Beneficiary, and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Land, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud or concealment of a material fact; together with

(l) All books and records pertaining to any and all of the property described above, including computer-readable memory and any computer hardware or software necessary to access and process such memory ("Books and Records"); together with

(m) All letter-of-credit rights (whether or not the letter of credit is evidenced by a writing) that Trustor may now have or hereafter acquire relating to the properties, rights, titles and interests referred to in this Section 1.1; together with

(n) All commercial tort claims that Trustor may now have or hereafter acquire relating to the properties, rights, titles and interests referred to in this Section 1.1; together with

(o) All proceeds and products of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above, together with all supporting obligations ancillary thereto or arising in any way in connection therewith.

Capitalized terms used above and elsewhere in this Deed of Trust without definition have the meanings given them in the Loan Agreement referred to in Section 1.2(a) below.

1.2 Secured Obligations.

(a) Trustor makes the grant, conveyance, transfer and assignment set forth in Section 1.1 and grants the security interest set forth in Article 3 for the purpose of securing the following obligations (the "Secured Obligations") in any order of priority that Beneficiary may choose:

(i) Payment of all obligations at any time owing under a restated and amended promissory note (the "A&D Note") dated of even date herewith payable by Borrower as maker in the stated principal amount of Twenty-Six Million Fifty Thousand and no/100 Dollars (\$26,050,000.00) to the order of Beneficiary; and

(ii) Payment of all obligations at any time owing under a promissory note (the "Revolving Construction Note") dated as of July 21, 2004, payable by Borrower as maker in the stated principal amount of Sixteen Million Five Hundred Thousand and no/100 Dollars (\$16,500,000.00) to the order of Beneficiary; and

(iii) Payment and performance of all obligations of Trustor under this Deed of Trust; and

(iv) Payment and performance of all obligations of Borrower under the construction loan agreement dated as of July 21, 2004, as amended by that certain modification and additional advance agreement dated of even date herewith relating to the loan evidenced by the A&D Note, by Borrower as "Borrower" and Beneficiary as "Bank" (collectively, the "A&D Loan Agreement"); and

(v) Payment and performance of all obligations of Borrower under the construction loan agreement dated as of July 21, 2004, as amended by that certain modification agreement of even date herewith relating to the loan evidenced by the Revolving Note, by Borrower as "Borrower" and Beneficiary as "Bank" (the "Revolving Construction Loan Agreement"); and

(vi) Payment and performance of all future advances and other obligations that Trustor or any successor in ownership of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Beneficiary, when a writing evidences the parties' agreement that the advance or obligation be secured by this Deed of Trust; and

(vii) Payment and performance of all obligations of Borrower under any Swap Contract if and only if a writing, such as the Swap Contract, evidences the parties' agreement that such obligations shall be secured by this Deed of Trust; and

(viii) Except as specified in Section 1.2(b) below, payment and performance of any obligations of Trustor under any Loan Documents which are executed by Trustor; and



(ix) Payment and performance of all modifications, amendments, extensions and renewals, however evidenced, of any of the Secured Obligations.

As used herein, (i) the A&D Note and the Revolving Construction Note are hereinafter collectively referred to as the "Note" and (b) the A&D Loan Agreement and the Revolving Construction Loan Agreement are hereinafter collectively referred to as the "Loan Agreement."

(b) In addition to certain other Loan Documents, Trustor is executing an Indemnity Agreement (the "Indemnity Agreement") in connection with the Loan. Notwithstanding any provision of this Deed of Trust or any other Loan Document, the obligations of Trustor arising from the Indemnity Agreement are not and shall not be Secured Obligations under this Deed of Trust.

(c) All persons who may have or acquire an interest in all or any part of the Property will be considered to have notice of, and will be bound by, the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations. Such terms include any provisions in the Note, the Loan Agreement or any Swap Contract which permit borrowing, repayment and reborrowing, or which state that the interest rate on one or more of the Secured Obligations may vary from time to time.

2. Assignment of Rents.

2.1 Assignment. Trustor hereby irrevocably, absolutely, presently and unconditionally assigns to Beneficiary all rents, royalties, issues, profits, revenue, income and proceeds of the Property, whether now due, past due or to become due, including all prepaid rents and security deposits (some or all collectively, as the context may require, "Rents"). This is an absolute assignment, not an assignment for security only.

2.2 Grant of License. Beneficiary hereby confers upon Trustor a license ("License") to collect and retain the Rents as they become due and payable, so long as no Event of Default, as defined in Section 6.2, shall exist and be continuing. If an Event of Default has occurred and is continuing, Beneficiary shall have the right, which it may choose to exercise in its sole discretion, to terminate this License without notice to or demand upon Trustor, and without regard to the adequacy of Beneficiary's security under this Deed of Trust.

2.3 Collection and Application of Rents. Subject to the License granted to Trustor under Section 2.2, Beneficiary has the right, power and authority to collect any and all Rents. Trustor hereby appoints Beneficiary its attorney-in-fact to perform any and all of the following acts, if and at the times when Beneficiary in its sole discretion may so choose:

- (a) Demand, receive and enforce payment of any and all Rents; or
- (b) Give receipts, releases and satisfactions for any and all Rents; or
- (c) Sue either in the name of Trustor or in the name of Beneficiary for any and all Rents.

Beneficiary's right to the Rents does not depend on whether or not Beneficiary takes possession of the Property as permitted under Section 6.3(c). In Beneficiary's sole discretion,



Beneficiary may choose to collect Rents either with or without taking possession of the Property. Beneficiary shall apply all Rents collected by it in the manner provided under Section 6.6. If an Event of Default occurs while Beneficiary is in possession of all or part of the Property and is collecting and applying Rents as permitted under this Deed of Trust, Beneficiary, Trustee and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Deed of Trust and at law or in equity, including the right to exercise the power of sale granted under Section 1.1 and Section 6.3(g).

2.4 Beneficiary Not Responsible. Under no circumstances shall Beneficiary have any duty to produce Rents from the Property. Regardless of whether or not Beneficiary, in person or by agent, takes actual possession of the Land and Improvements, Beneficiary is not and shall not be deemed to be:

- (a) A "mortgagee in possession" for any purpose; or
- (b) Responsible for performing any of the obligations of the lessor under any lease or performing any obligation under any construction document; or
- (c) Responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair or control of the Property; or
- (d) Liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it.

2.5 Leasing. Trustor shall not accept any deposit or prepayment of Rents for any rental period exceeding one (1) month without Beneficiary's prior written consent. Trustor shall not lease the Property or any part of it except strictly in accordance with the Loan Agreement. Trustor shall apply all Rents in the manner required by the Loan Agreement.

3. Grant of Security Interest.

3.1 Security Agreement. The parties intend for this Deed of Trust to create a lien on the Property, and an absolute assignment of the Rents, all in favor of Beneficiary. The parties acknowledge that some of the Property and some or all of the Rents may be determined under applicable law to be personal property or fixtures. To the extent that any Property or Rents may be or be determined to be personal property or fixtures, Trustor as debtor hereby grants Beneficiary as secured party a security interest in all such Property and Rents, to secure payment and performance of the Secured Obligations. This Deed of Trust constitutes a security agreement under the Nevada Uniform Commercial Code, covering all such Property and Rents.

3.2 Authorization to File Financing Statements; Power of Attorney. Trustor hereby authorizes Beneficiary at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements as authorized by applicable law, required by Beneficiary to establish or maintain the validity, perfection and priority of the security interest granted in this Deed of Trust. For purposes of such filings, Trustor agrees to furnish any information requested by Beneficiary promptly upon request by Beneficiary. Trustor also ratifies its authorization for Beneficiary to have filed any like initial financing statements,



amendments thereto or continuation statements if filed prior to the date of this Deed of Trust. Trustor hereby irrevocably constitutes and appoints Beneficiary and any officer or agent of Beneficiary, 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 Trustor's own name to execute in Trustor's name any such documents and to otherwise carry out the purposes of this Section 3.2, to the extent that Trustor's authorization above is not sufficient. To the extent permitted by law, Trustor hereby ratifies all acts said attorneys-in-fact have lawfully done in the past or shall lawfully do or cause to be done in the future by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable. As provided in Section 5.10, Trustor shall pay all fees and costs that Beneficiary may incur in filing such documents in public offices and in obtaining such record searches as Beneficiary may require. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall never be construed as in any way derogating from or impairing this Deed of Trust or the rights or obligations of the parties hereunder.

4. Financing Statement and Fixture Filing.

This Deed of Trust shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Property and is to be filed for record in the real estate records of each county where any part of the Property is situated. This Deed of Trust shall also be effective as a financing statement covering as-extracted collateral (including oil and gas), accounts and general intangibles under the Nevada Uniform Commercial Code, as in effect from time to time, that will be financed at the wellhead or minehead of the wells or mines located on the Property. This Deed of Trust shall also be effective as a financing statement covering any other Property and may be filed in any appropriate filing or recording office. A carbon, photographic or other reproduction of this Deed of Trust or of any financing statement relating to this Deed of Trust shall be sufficient as a financing statement for any of the purposes referred to in this Article 4.

5. Rights and Duties of the Parties.

5.1 Representations and Warranties. Trustor represents and warrants that, except as previously disclosed to Beneficiary in a writing making reference to this Section 5.1:

(a) Trustor lawfully possesses and holds fee simple title to all of the Land and Improvements, unless Trustor's present interest in the Land is described in Exhibit A as a leasehold interest, in which case Trustor lawfully possesses and holds a leasehold interest in the Land as stated in Exhibit A;

(b) Trustor has or will have good title to all Property other than the Land and Improvements;

(c) Trustor has the full and unlimited power, right and authority to encumber the Property and assign the Rents;

(d) This Deed of Trust creates a first and prior lien on the Property;



(e) The Property includes all property and rights which may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Land and Improvements; and

(f) Trustor owns any Property which is personal property free and clear of any security agreements, reservations of title or conditional sales contracts, and there is no financing statement affecting such personal property on file in any public office.

5.2 Taxes and Assessments. Trustor shall pay prior to delinquency all taxes, levies, charges and assessments, including assessments on appurtenant water stock, imposed by any public or quasi-public authority or utility company which are (or if not paid, may become) a lien on all or part of the Property or any interest in it, or which may cause any decrease in the value of the Property or any part of it. If any such taxes, levies, charges or assessments become delinquent, Beneficiary may require Trustor to present evidence that they have been paid in full, on ten (10) days' written notice by Beneficiary to Trustor.

5.3 Performance of Secured Obligations. Trustor shall promptly pay and perform each Secured Obligation in accordance with its terms.

5.4 Liens, Charges and Encumbrances. Trustor shall immediately discharge any lien on the Property which Beneficiary has not consented to in writing. Trustor shall pay when due each obligation secured by or reducible to a lien, charge or encumbrance which now does or later may encumber or appear to encumber all or part of the Property or any interest in it, whether the lien, charge or encumbrance is or would be senior or subordinate to this Deed of Trust. This Section 5.4 is subject to any right granted to Trustor in the Loan Agreement to contest in good faith claims and liens for labor done and materials and services furnished in connection with construction of the Improvements.

5.5 Damages and Insurance and Condemnation Proceeds.

(a) Trustor hereby absolutely and irrevocably assigns to Beneficiary, and authorizes the payor to pay to Beneficiary, the following claims, causes of action, awards, payments and rights to payment:

(i) All awards of damages and all other compensation payable directly or indirectly because of a condemnation, proposed condemnation or taking for public or private use which affects all or part of the Property or any interest in it; and

(ii) All other awards, claims and causes of action, arising out of any warranty affecting all or any part of the Property, or for damage or injury to or decrease in value of all or part of the Property or any interest in it; and

(iii) All proceeds of any insurance policies payable because of loss sustained to all or part of the Property, whether or not such insurance policies are required by Beneficiary; and

(iv) All interest which may accrue on any of the foregoing.

(b) Trustor shall immediately notify Beneficiary in writing if:

(i) Any damage occurs or any injury or loss is sustained in the amount of Twenty-Five Thousand and no/100 Dollars (\$25,000) or more to all or part of the Property, or any action or proceeding relating to any such damage, injury or loss is commenced; or

(ii) Any offer is made, or any action or proceeding is commenced, which relates to any actual or proposed condemnation or taking of all or part of the Property.

(c) If Beneficiary chooses to do so, Beneficiary may in its own name appear in or prosecute any action or proceeding to enforce any cause of action based on warranty, or for damage, injury or loss to all or part of the Property, and Beneficiary may make any compromise or settlement of the action or proceeding. Beneficiary, if it so chooses, may participate in any action or proceeding relating to condemnation or taking of all or part of the Property, and may join Trustor in adjusting any loss covered by insurance.

(d) All proceeds of these assigned claims, other property and rights which Trustor may receive or be entitled to shall be paid to Beneficiary. In each instance, Beneficiary shall apply such proceeds first toward reimbursement of all of Beneficiary's costs and expenses of recovering the proceeds, including attorneys' fees. If, in any instance, each and all of the following conditions are satisfied in Beneficiary's reasonable judgment, Beneficiary shall permit Trustor to use the balance of such proceeds ("Net Claims Proceeds") to pay costs of repairing or reconstructing the Property in the manner described below:

(i) The plans and specifications, cost breakdown, construction contract, construction schedule, contractor and payment and performance bond for the work of repair or reconstruction must all be acceptable to Beneficiary.

(ii) Beneficiary must receive evidence satisfactory to it that after repair or reconstruction, the Property would be at least as valuable as it was immediately before the damage or condemnation occurred.

(iii) The Net Claims Proceeds must be sufficient in Beneficiary's determination to pay for the total cost of repair or reconstruction, including all associated development costs and interest and other sums projected to be payable on the Secured Obligations until the repair or reconstruction is complete; or Trustor must provide its own funds in an amount equal to the difference between the Net Claims Proceeds and a reasonable estimate, made by Trustor and found acceptable by Beneficiary, of the total cost of repair or reconstruction.

(iv) Beneficiary must receive evidence satisfactory to it that all leases which Beneficiary may find acceptable will continue after the repair or reconstruction is complete.

(v) No Event of Default shall have occurred and be continuing.



If Beneficiary finds that such conditions have been met, Beneficiary shall hold the Net Claims Proceeds and any funds which Trustor is required to provide in a non-interest-bearing account and shall disburse them to Trustor to pay costs of repair or reconstruction upon presentation of evidence reasonably satisfactory to Beneficiary that repair or reconstruction has been completed satisfactorily and lien-free. However, if Beneficiary finds that one or more of such conditions have not been satisfied, Beneficiary may apply the Net Claims Proceeds to pay or prepay some or all of the Secured Obligations in such order and proportions as Beneficiary in its sole discretion may choose.

(e) Trustor hereby specifically, unconditionally and irrevocably waives all rights of a property owner granted under California Code of Civil Procedure Section 1265.225(a) (or similar statute of another applicable jurisdiction), which provides for allocation of condemnation proceeds between a property owner and a lienholder, and any other law or successor statute of similar import.

5.6 Maintenance and Preservation of Property.

(a) Trustor shall insure the Property as required by the Loan Agreement and keep the Property in good condition and repair.

(b) Trustor shall not remove or demolish the Property or any part of it, or alter, restore or add to the Property, or initiate or allow any change in any zoning or other land use classification which affects the Property or any part of it, except as permitted or required by the Loan Agreement or with Beneficiary's express prior written consent in each instance.

(c) If all or part of the Property becomes damaged or destroyed, Trustor shall promptly and completely repair and/or restore the Property in a good and workmanlike manner in accordance with sound building practices, regardless of whether or not Beneficiary agrees to disburse insurance proceeds or other sums to pay costs of the work of repair or reconstruction under Section 5.5.

(d) Trustor shall not commit or allow any act upon or use of the Property which would violate: (i) any applicable law or order of any governmental authority, whether now existing or later to be enacted and whether foreseen or unforeseen; or (ii) any public or private covenant, condition, restriction or equitable servitude affecting the Property. Trustor shall not bring or keep any article on the Property or cause or allow any condition to exist on it, if that could invalidate or would be prohibited by any insurance coverage required to be maintained by Trustor on the Property or any part of it under the Loan Agreement.

(e) Trustor shall not commit or allow waste of the Property.

(f) Trustor shall perform all other acts which from the character or use of the Property may be reasonably necessary to maintain and preserve its value.

5.7 Trustee's Acceptance of Trust. Trustee accepts this trust when this Deed of Trust is recorded.

5.8 Releases, Extensions, Modifications and Additional Security.

(a) From time to time, Beneficiary may perform any of the following acts without incurring any liability or giving notice to any person:

- (i) Release any person liable for payment of any Secured Obligation;
- (ii) Extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligation;
- (iii) Accept additional real or personal property of any kind as security for any Secured Obligation, whether evidenced by deeds of trust, mortgages, security agreements or any other instruments of security; or
- (iv) Alter, substitute or release any property securing the Secured Obligations.

(b) From time to time when requested to do so by Beneficiary in writing, Trustee may perform any of the following acts without incurring any liability or giving notice to any person:

- (i) Consent to the making of any plat or map of the Property or any part of it;
- (ii) Join in granting any easement or creating any restriction affecting the Property;
- (iii) Join in any subordination or other agreement affecting this Deed of Trust or the lien of it; or
- (iv) Reconvey the Property or any part of it without any warranty.

5.9 Reconveyance. When all of the Secured Obligations have been paid in full and all of the Swap Contracts (if any) have been terminated, Beneficiary shall request Trustee in writing to reconvey the Property, and shall surrender this Deed of Trust and all notes and instruments evidencing the Secured Obligations to Trustee. When Trustee receives Beneficiary's written request for reconveyance and all fees and other sums owing to Trustee by Trustor under Section 5.10, Trustee shall reconvey the Property, or so much of it as is then held under this Deed of Trust, without warranty to the person or persons legally entitled to it. Such person or persons shall pay any costs of recordation. In the reconveyance, the grantee may be described as "the person or persons legally entitled thereto," and the recitals of any matters or facts shall be conclusive proof of their truthfulness. Neither Beneficiary nor Trustee shall have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance.

5.10 Compensation, Exculpation, Indemnification.

(a) Trustor agrees to pay fees in the maximum amounts legally permitted, or reasonable fees as may be charged by Beneficiary and Trustee when the law provides no



maximum limit, for any services that Beneficiary or Trustee may render in connection with this Deed of Trust, including Beneficiary's providing a statement of the Secured Obligations or Trustee's rendering of services in connection with a reconveyance. Trustor shall also pay or reimburse all of Beneficiary's and Trustee's costs and expenses which may be incurred in rendering any such services. Trustor further agrees to pay or reimburse Beneficiary for all costs, expenses and other advances which may be incurred or made by Beneficiary or Trustee in any efforts to enforce any terms of this Deed of Trust, including any rights or remedies afforded to Beneficiary or Trustee or both of them under Section 6.3, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Deed of Trust, including attorneys' fees and other legal costs, costs of any Foreclosure Sale (as defined in Section 6.3(h)) and any cost of evidence of title. If Beneficiary chooses to dispose of Property through more than one Foreclosure Sale, Trustor shall pay all costs, expenses or other advances that may be incurred or made by Trustee or Beneficiary in each of such Foreclosure Sales.

(b) Beneficiary shall not be directly or indirectly liable to Trustor or any other person as a consequence of any of the following:

(i) Beneficiary's exercise of or failure to exercise any rights, remedies or powers granted to Beneficiary in this Deed of Trust;

(ii) Beneficiary's failure or refusal to perform or discharge any obligation or liability of Trustor under any agreement related to the Property or under this Deed of Trust including, without limitation, any construction documents; or

(iii) Any loss sustained by Trustor or any third party resulting from Beneficiary's failure to lease the Property, or from any other act or omission of Beneficiary in managing the Property, after an Event of Default, unless the loss is caused by the willful misconduct and bad faith of Beneficiary.

Trustor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Beneficiary.

(c) Trustor agrees to indemnify Trustee and Beneficiary against and hold them harmless from all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses which either may suffer or incur:

(i) In performing any act required or permitted by this Deed of Trust or any of the other Loan Documents or by law;

(ii) Because of any failure of Trustor to perform any of Trustor's obligations; or

(iii) Because of any alleged obligation of or undertaking by Beneficiary to perform or discharge any of the representations, warranties, conditions, covenants or other obligations in any document (including any construction documents) relating to the Property other than the Loan Documents.



This agreement by Trustor to indemnify Trustee and Beneficiary shall survive the release and cancellation of any or all of the Secured Obligations and the full or partial release and/or reconveyance of this Deed of Trust.

(d) Trustor shall pay all obligations to pay money arising under this Section 5.10 immediately upon demand by Trustee or Beneficiary. While the Loan remains outstanding, each such obligation shall be added to, and considered to be part of, the principal of the Note, and shall bear interest from the date the obligation arises at the "Prime-based Rate" as defined in the Note. If the Loan has been paid in full, but any Swap Contract remains outstanding, each such obligation shall bear interest at the "Default Rate" as defined in the Master Agreement included in the Swap Contracts.

5.11 Defense and Notice of Claims and Actions. At Trustor's sole expense, Trustor shall protect, preserve and defend the Property and title to and right of possession of the Property, and the security of this Deed of Trust and the rights and powers of Beneficiary and Trustee created under it, against all adverse claims. Trustor shall give Beneficiary and Trustee prompt notice in writing if any claim is asserted which does or could affect any of such matters, or if any action or proceeding is commenced which alleges or relates to any such claim.

5.12 Substitution of Trustee. From time to time, Beneficiary may substitute a successor to any Trustee named in or acting under this Deed of Trust in any manner now or later to be provided at law, or by a written instrument executed and acknowledged by Beneficiary and recorded in the office(s) of the recorder(s) of the county or counties where the Land and Improvements are situated. Any such instrument shall be conclusive proof of the proper substitution of the successor Trustee, who shall automatically upon recordation of the instrument succeed to all estate, title, rights, powers and duties of the predecessor Trustee, without conveyance from it.

5.13 Subrogation. Beneficiary shall be subrogated to the liens of all encumbrances, whether released of record or not, which are discharged in whole or in part by Beneficiary in accordance with this Deed of Trust or with the proceeds of any loan secured by this Deed of Trust.

5.14 Site Visits, Observation and Testing. Beneficiary and its agents and representatives shall have the right at any reasonable time to enter and visit the Property for the purpose of performing appraisals. In addition, the Indemnified Parties (as defined in the Indemnity Agreement) and their agents and representatives shall have the right at any reasonable time to enter and visit the Property for the purposes of observing the Property, taking and removing soil or groundwater samples, and conducting tests on any part of the Property. The Indemnified Parties have no duty, however, to visit or observe the Property or to conduct tests, and no site visit, observation or testing by any Indemnified Party shall impose any liability on any Indemnified Party. In no event shall any site visit, observation or testing by any Indemnified Party be a representation that Hazardous Substances are or are not present in, on or under the Property, or that there has been or shall be compliance with any law, regulation or ordinance pertaining to Hazardous Substances or any other applicable governmental law. Neither Trustor nor any other party is entitled to rely on any site visit, observation or testing by any Indemnified Party. The Indemnified Parties owe no duty of care to protect Trustor or any other party against,



or to inform Trustor or any other party of, any Hazardous Substances or any other adverse condition affecting the Property. The Indemnified Parties may in their discretion disclose to Trustor or any other party any report or findings made as a result of, or in connection with, any site visit, observation or testing by the Indemnified Parties. Trustor understands and agrees that the Indemnified Parties make no representation or warranty to Trustor or any other party regarding the truth, accuracy or completeness of any such report or findings that may be disclosed. Trustor also understands that, depending on the results of any site visit, observation or testing by any Indemnified Party which are disclosed to Trustor, Trustor may have a legal obligation to notify one or more environmental agencies of the results and that such reporting requirements are site-specific and are to be evaluated by Trustor without advice or assistance from the Indemnified Parties. Any Indemnified Party shall give Trustor reasonable notice before entering the Property. Such Indemnified Party shall make reasonable efforts to avoid interfering with Trustor's use of the Property in exercising any rights provided in this Section.

5.15 Letter-of-Credit Rights. If at any time Trustor is or becomes a beneficiary under a letter of credit (whether or not the letter of credit is evidenced by a writing) relating to the properties, rights, titles and interests referred to in Section 1.1 of this Deed of Trust now or hereafter issued in favor of Trustor, Trustor shall promptly notify Beneficiary thereof and, at the request and option of Beneficiary, shall either (a) arrange for the issuer and any confirmer of such letter of credit to consent to an assignment to Beneficiary of the proceeds of any drawings under the letter of credit, or (b) arrange for Beneficiary to become the transferee beneficiary of the letter of credit, with Beneficiary agreeing, in each case, that the proceeds of any drawing under the letter of credit will be applied as provided in Section 6.6 of this Deed of Trust.

5.16 Status of Trustor. If Trustor is a corporation, partnership, limited liability company or other legal entity, Trustor is and will continue to be (a) duly organized, validly existing and in good standing under the laws of its state of organization, (b) authorized to do business and in good standing in each state in which the Property is located, and (c) possessed of all requisite power and authority to carry on its business and to own and operate the Property. Trustor's exact legal name is correctly set forth on the signature page of this Deed of Trust. If Trustor is not an individual, Trustor is an organization of the following type: limited liability company. If Trustor is a registered entity or an unregistered entity (including a general partnership), Trustor is incorporated in or organized under the laws of the State of Nevada. Trustor will not cause or permit any change to be made to its name or identity (including its trade name or names) or to its corporate, partnership or other organizational structure unless Trustor shall have notified Beneficiary in writing of such change at least 30 days prior to the effective date of such change, and shall have first taken all action required by Beneficiary for the purpose of further perfecting or protecting the lien and security interest of Beneficiary in the Property. In addition, Trustor shall not change its corporate, partnership or other organizational structure without first obtaining the prior written consent of Beneficiary. Trustor's principal place of business and chief executive office, and the place where Trustor keeps its books and records, including recorded data of any kind or nature, regardless of the medium of recording, including software, writings, plans, specifications and schematics concerning the Property, has been for the preceding four months (or, if less, the entire period of the existence of Trustor) and will continue to be the address of Trustor for notices set forth at the end of this Deed of Trust (unless Trustor notifies Beneficiary of any change in writing at least 30 days prior to the date of such change). If Trustor is an individual, Trustor's principal residence has been for the preceding four months and



will continue to be the address of Trustor for notices set forth at the end of this Deed of Trust (unless Trustor notifies Beneficiary of any change in writing at least 30 days prior to the date of such change). Trustor's organizational identification number, if any, assigned by the state of incorporation or organization is correctly set forth on the first page of this Deed of Trust. Trustor shall promptly notify Beneficiary of any change in its organizational identification number. If Trustor does not now have an organizational identification number and later obtains one, Trustor shall promptly notify Beneficiary of such organizational identification number.

6. Accelerating Transfers, Default and Remedies.

6.1 Accelerating Transfers.

(a) "Accelerating Transfer" means any sale, contract to sell, conveyance, encumbrance, lease not expressly permitted under the Loan Agreement, or other transfer of all or any material part of the Property or any interest in it, whether voluntary, involuntary, by operation of law or otherwise. If Trustor is a corporation, "Accelerating Transfer" also means any transfer or transfers of shares possessing, in the aggregate, more than fifty percent (50%) of the voting power. If Trustor is a partnership, "Accelerating Transfer" also means withdrawal or removal of any general partner, dissolution of the partnership under applicable law, or any transfer or transfers of, in the aggregate, more than fifty percent (50%) of the partnership interests. If Trustor is a limited liability company, "Accelerating Transfer" also means withdrawal or removal of any managing member, termination of the limited liability company or any transfer or transfers of, in the aggregate, more than fifty percent (50%) of the voting power or, in the aggregate, more than fifty percent (50%) of the ownership interests in Trustor. "Accelerating Transfer" also means the transfer of any of Chip L. Bowlby's ownership interest or voting power in Montaheno Investment, LLC, a Nevada limited company, or the transfer of any of Thomas Merschel's ownership interest or voting power in Toyon Investments, LLC, a Nevada limited liability company.

(b) Trustor acknowledges that Beneficiary is making one or more advances under the Loan Agreement and/or may also be entering into one or more Swap Contracts in reliance on the expertise, skill and experience of Trustor; thus, the Secured Obligations include material elements similar in nature to a personal service contract. In consideration of Beneficiary's reliance, Trustor agrees that Trustor shall not make any Accelerating Transfer, unless the transfer is preceded by Beneficiary's express written consent to the particular transaction and transferee. Beneficiary may withhold such consent in its sole discretion. If any Accelerating Transfer occurs, Beneficiary in its sole discretion may declare all of the Secured Obligations to be immediately due and payable, and Beneficiary and Trustee may invoke any rights and remedies provided by Section 6.3 of this Deed of Trust. Trustor acknowledges the materiality of the provisions of this Section 6.1 as a covenant of Trustor, given individual weight and consideration by Beneficiary in entering into the Secured Obligations, including any Swap Contracts, and that any Accelerating Transfer in violation of the prohibited transfer provisions herein set forth shall result in a material impairment of Beneficiary's interest in the Property and be deemed a breach of the foregoing covenant.



6.2 Events of Default. Trustor will be in default under this Deed of Trust upon the occurrence of any one or more of the following events (some or all collectively, "Events of Default"; any one singly, an "Event of Default"):

(a) Trustor fails to perform any obligation to pay money which arises under this Deed of Trust, and does not cure that failure within fifteen (15) days after written notice from Beneficiary or Trustee; or

(b) Trustor fails to perform any obligation arising under this Deed of Trust other than one to pay money, and does not cure that failure either within thirty (30) days ("Initial Cure Period") after written notice from Beneficiary or Trustee, or within ninety (90) days after such written notice, so long as Trustor begins within the Initial Cure Period and diligently continues to cure the failure, and Beneficiary, exercising reasonable judgment, determines that the cure cannot reasonably be completed at or before expiration of the Initial Cure Period; or

(c) A default or Event of Default occurs under any of the Secured Obligations; or

(d) A default or Event of Default or Early Termination Event occurs under any secured or unsecured Swap Contract, whether such Swap Contract may be now existing or in the future arising.

6.3 Remedies. At any time after an Event of Default, Beneficiary and Trustee shall be entitled to invoke any and all of the rights and remedies described below. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) Acceleration. Beneficiary may declare any or all of the Secured Obligations to be due and payable immediately and may terminate any secured or unsecured Swap Contract or any other Loan Document in accordance with its terms.

(b) Receiver. Beneficiary may apply to any court of competent jurisdiction for, and obtain appointment of, a receiver for the Property.

(c) Entry. Beneficiary, in person, by agent or by court-appointed receiver, may enter, take possession of, manage and operate all or any part of the Property, and may also do any and all other things in connection with those actions that Beneficiary may in its sole discretion consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include: taking and possessing all of Trustor's or the then owner's Books and Records; entering into, enforcing, modifying, or canceling leases on such terms and conditions as Beneficiary may consider proper; obtaining and evicting tenants; fixing or modifying Rents; collecting and receiving any payment of money owing to Trustor; completing any unfinished construction; and/or contracting for and making repairs and alterations. If Beneficiary so requests, Trustor shall assemble all of the Property that has been removed from the Land and make all of it available to Beneficiary at the site of the Land. Trustor hereby irrevocably constitutes and appoints Beneficiary as Trustor's attorney-in-fact to perform such acts and execute such documents as Beneficiary in its sole discretion may consider to be appropriate in connection with taking these measures, including endorsement of Trustor's name on any



instruments. Regardless of any provision of this Deed of Trust, any secured or unsecured Swap Contract or any other Loan Document, Beneficiary shall not be considered to have accepted any property other than cash or immediately available funds in satisfaction of any obligation of Trustor to Beneficiary, unless Beneficiary has given express written notice of Beneficiary's election of that remedy in accordance with the Nevada Uniform Commercial Code, as it may be in effect from time to time.

(d) Cure; Protection of Security. Either Beneficiary or Trustee may cure any breach or default of Trustor, and if it chooses to do so in connection with any such cure, Beneficiary or Trustee may also enter the Property and/or do any and all other things which it may in its sole discretion consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Beneficiary or Trustee under, this Deed of Trust; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which in Beneficiary's or Trustee's sole judgment is or may be senior in priority to this Deed of Trust, such judgment of Beneficiary or Trustee to be conclusive as among the parties to this Deed of Trust; obtaining insurance and/or paying any premiums or charges for insurance required to be carried under the Loan Agreement; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Beneficiary or Trustee. Beneficiary and Trustee may take any of the actions permitted under this Section 6.3(d) either with or without giving notice to any person.

(e) Uniform Commercial Code Remedies. Beneficiary may exercise any or all of the remedies granted to a secured party under the Nevada Uniform Commercial Code, as in effect from time to time, or under the Uniform Commercial Code in force from time to time in any other state to the extent the same is applicable law.

(f) Judicial Action. Beneficiary may bring an action in any court of competent jurisdiction to foreclose this instrument or to obtain specific enforcement of any of the covenants or agreements of this Deed of Trust.

(g) Power of Sale. Under the power of sale hereby granted, Beneficiary shall have the discretionary right to cause some or all of the Property, including any Property which constitutes personal property, to be sold or otherwise disposed of in any combination and in any manner permitted by applicable law.

(i) Sales of Personal Property.

(A) For purposes of this power of sale, Beneficiary may elect to treat as personal property any Property which is intangible or which can be severed from the Land or Improvements without causing structural damage. If it chooses to do so, Beneficiary may dispose of any personal property separately from the sale of real property, in any manner permitted by Division 9 of the Nevada Uniform Commercial Code, as in effect from time to time, including any public or private sale, or in any manner permitted by any other applicable state or federal law or regulation, and Beneficiary's compliance therewith will not be



deemed to affect adversely the commercial reasonableness of any sale of personal property collateral. Beneficiary may sell any personal property collateral without giving any warranties, and may specifically disclaim all disposition warranties, including, without limitation, warranties relating to title, possession, quiet enjoyment and the like, and all warranties of quality, merchantability and fitness for a specific purpose, and this procedure will not be deemed to affect adversely the commercial reasonableness of any sale of such collateral. Trustor acknowledges that a private sale of collateral may result in fewer proceeds than a public sale. Trustor acknowledges that the personal property collateral may be sold at a loss to Trustor and that in such event, Beneficiary shall have no liability or responsibility to Trustor for such loss. Proceeds of any such disposition shall not cure any Event of Default or reinstate any Secured Obligation for purposes of Section 2924c of the California Civil Code (or similar statute in another applicable jurisdiction).

(B) In connection with any sale or other disposition of such Property, Trustor agrees that the following procedures constitute a commercially reasonable sale: Beneficiary shall mail written notice of the sale to Trustor not later than forty-five (45) days prior to such sale. Once per week during the four weeks immediately preceding such sale, Beneficiary will publish notice of the sale in a local daily newspaper of general circulation. Upon receipt of any written request, Beneficiary will make the Property available to any bona fide prospective purchaser for inspection during reasonable business hours. Notwithstanding the foregoing, Beneficiary shall be under no obligation to consummate a sale if, in its judgment, none of the offers received by it equals the fair value of the Property offered for sale. The foregoing procedures do not constitute the only procedures that may be commercially reasonable. If Beneficiary fails to comply with this clause (B) in any respect, its liability for such failure shall be the liability, if any, imposed on it as a matter of law under the Nevada Uniform Commercial Code, as in effect from time to time or under the Uniform Commercial Code in force from time to time in any other state to the extent the same is applicable law.

(ii) Trustee's Sales of Real Property or Mixed Collateral.

(A) Beneficiary may choose to dispose of some or all of the Property which consists solely of real property in any manner then permitted by applicable law. In its discretion, Beneficiary may also or alternatively choose to dispose of some or all of the Property, in any combination consisting of both real and personal property, together in one sale to be held in accordance with the law and procedures applicable to real property, as permitted by Division 9 of the Nevada Uniform Commercial Code, as in effect from time to time. Trustor agrees that such a sale of personal property together with real property constitutes a commercially reasonable sale of the personal property. For purposes of this power of sale, either a sale of real property alone, or a sale of both real and personal property together in accordance with Division 9 of the Nevada Uniform Commercial Code, will sometimes be referred to as a "Trustee's Sale."



(B) Before any Trustee's Sale, Beneficiary or Trustee shall give such notice of default and election to sell as may then be required by law. When all time periods then legally mandated have expired, and after such notice of sale as may then be legally required has been given, Trustee shall sell the property being sold at a public auction to be held at the time and place specified in the notice of sale. Neither Trustee nor Beneficiary shall have any obligation to make demand on Trustor before any Trustee's Sale. From time to time in accordance with then applicable law, Trustee may, and in any event at Beneficiary's request shall, postpone any Trustee's Sale by public announcement at the time and place noticed for that sale.

(C) At any Trustee's Sale, Trustee shall sell to the highest bidder at public auction for cash in lawful money of the United States. Trustee shall execute and deliver to the purchaser(s) a deed or deeds conveying the property being sold without any covenant or warranty whatsoever, express or implied. The recitals in any such deed of any matters or facts, including any facts bearing upon the regularity or validity of any Trustee's Sale, shall be conclusive proof of their truthfulness. Any such deed shall be conclusive against all persons as to the facts recited in it.

(h) Single or Multiple Foreclosure Sales. If the Property consists of more than one lot, parcel or item of property, Beneficiary may:

(i) Designate the order in which the lots, parcels and/or items shall be sold or disposed of or offered for sale or disposition; and

(ii) Elect to dispose of the lots, parcels and/or items through a single consolidated sale or disposition to be held or made under the power of sale granted in Section 6.3(g), or in connection with judicial proceedings, or by virtue of a judgment and decree of foreclosure and sale; or through two or more such sales or dispositions; or in any other manner Beneficiary may deem to be in its best interests (any such sale or disposition, a "Foreclosure Sale"; any two or more, "Foreclosure Sales").

If Beneficiary chooses to have more than one Foreclosure Sale, Beneficiary at its option may cause the Foreclosure Sales to be held simultaneously or successively, on the same day, or on such different days and at such different times and in such order as Beneficiary may deem to be in its best interests. No Foreclosure Sale shall terminate or affect the lien of this Deed of Trust on any part of the Property which has not been sold, until all of the Secured Obligations have been paid and performed in full, and all of the Swap Contracts (if any) have been terminated.

6.4 Credit Bids. At any Foreclosure Sale, any person, including Trustor, Trustee or Beneficiary, may bid for and acquire the Property or any part of it to the extent permitted by then applicable law. Instead of paying cash for such property, Beneficiary may settle for the purchase price by crediting the sales price of the property against the following obligations:



(a) First, the portion of the Secured Obligations attributable to the expenses of sale, costs of any action and any other sums for which Trustor is obligated to pay or reimburse Beneficiary or Trustee under Section 5.10; and

(b) Second, all other Secured Obligations in any order and proportions as Beneficiary in its sole discretion may choose.

6.5 Application of Foreclosure Sale Proceeds. Beneficiary and Trustee shall apply the proceeds of any Foreclosure Sale in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the expenses of sale, costs of any action and any other sums for which Trustor is obligated to reimburse Beneficiary or Trustee under Section 5.10;

(b) Second, to pay the portion of the Secured Obligations attributable to any sums expended or advanced by Beneficiary or Trustee under the terms of this Deed of Trust which then remain unpaid;

(c) Third, to pay all other Secured Obligations in any order and proportions as Beneficiary in its sole discretion may choose; and

(d) Fourth, to remit the remainder, if any, to the person or persons entitled to it.

6.6 Application of Rents and Other Sums. Beneficiary shall apply any and all Rents collected by it, and any and all sums other than proceeds of a Foreclosure Sale which Beneficiary may receive or collect under Section 6.3, in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the costs and expenses of operation and collection that may be incurred by Trustee, Beneficiary or any receiver;

(b) Second, to pay all other Secured Obligations in any order and proportions as Beneficiary in its sole discretion may choose; and

(c) Third, to remit the remainder, if any, to the person or persons entitled to it.

Beneficiary shall have no liability for any funds which it does not actually receive.

7. Miscellaneous Provisions.

7.1 Additional Provisions. The Loan Documents, including any Swap Contracts, fully state all of the terms and conditions of the parties' agreement regarding the matters mentioned in or incidental to this Deed of Trust. The Loan Documents also grant further rights to Beneficiary and certain of them contain further agreements and affirmative and negative covenants by Trustor which apply to this Deed of Trust and to the Property.



7.2 No Waiver or Cure.

(a) Each waiver by Beneficiary or Trustee must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by Beneficiary or Trustee to take action on account of any default of Trustor. Consent by Beneficiary or Trustee to any act or omission by Trustor shall not be construed as a consent to any other or subsequent act or omission or to waive the requirement for Beneficiary's or Trustee's consent to be obtained in any future or other instance.

(b) If any of the events described below occurs, that event alone shall not: cure or waive any breach, Event of Default or notice of default under this Deed of Trust or invalidate any act performed pursuant to any such default or notice; or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed and all other defaults under the Loan Documents, including any Swap Contracts, have been cured); or impair the security of this Deed of Trust; or prejudice Beneficiary, Trustee or any receiver in the exercise of any right or remedy afforded any of them under this Deed of Trust; or be construed as an affirmation by Beneficiary of any tenancy, lease or option, or a subordination of the lien of this Deed of Trust.

(i) Beneficiary, its agent or a receiver takes possession of all or any part of the Property in the manner provided in Section 6.3(c).

(ii) Beneficiary collects and applies Rents as permitted under Sections 2.3 and 6.6, either with or without taking possession of all or any part of the Property.

(iii) Beneficiary receives and applies to any Secured Obligation any proceeds of any Property, including any proceeds of insurance policies, condemnation awards, or other claims, property or rights assigned to Beneficiary under Section 5.5.

(iv) Beneficiary makes a site visit, observes the Property and/or conducts tests as permitted under Section 5.14.

(v) Beneficiary receives any sums under this Deed of Trust or any proceeds of any collateral held for any of the Secured Obligations, and applies them to one or more Secured Obligations.

(vi) Beneficiary, Trustee or any receiver invokes any right or remedy provided under this Deed of Trust.

7.3 Powers of Beneficiary and Trustee.

(a) Trustee shall have no obligation to perform any act which it is empowered to perform under this Deed of Trust unless it is requested to do so in writing and is reasonably indemnified against loss, cost, liability and expense.

(b) If either Beneficiary or Trustee performs any act which it is empowered or authorized to perform under this Deed of Trust, including any act permitted by Section 5.8 or

Section 6.3(d), that act alone shall not release or change the personal liability of any person for the payment and performance of the Secured Obligations then outstanding, or the lien of this Deed of Trust on all or the remainder of the Property for full payment and performance of all outstanding Secured Obligations. The liability of the original Trustor shall not be released or changed if Beneficiary grants any successor in interest to Trustor any extension of time for payment, or modification of the terms of payment, of any Secured Obligation. Beneficiary shall not be required to comply with any demand by the original Trustor that Beneficiary refuse to grant such an extension or modification to, or commence proceedings against, any such successor in interest.

(c) Beneficiary may take any of the actions permitted under Sections 6.3(b) and/or 6.3(c) regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Deed of Trust.

(d) From time to time, Beneficiary or Trustee may apply to any court of competent jurisdiction for aid and direction in executing the trust and enforcing the rights and remedies created under this Deed of Trust. Beneficiary or Trustee may from time to time obtain orders or decrees directing, confirming or approving acts in executing this trust and enforcing such rights and remedies.

7.4 Merger. No merger shall occur as a result of Beneficiary's acquiring any other estate in or any other lien on the Property unless Beneficiary consents to a merger in writing.

7.5 Joint and Several Liability. If Trustor consists of more than one person, each shall be jointly and severally liable for the faithful performance of all of Trustor's obligations under this Deed of Trust.

7.6 Applicable Law. Except as otherwise provided herein, this Deed of Trust shall be governed by California law (without regard to any conflict of law principles) and applicable United States federal law, except as otherwise required by mandatory provisions of law and except to the extent that remedies provided by the laws of any jurisdiction other than the State of California are governed by the laws of such other jurisdiction. Notwithstanding the foregoing, the laws of the State of Nevada shall govern the creation, perfection, priority and enforcement of security interests hereunder (whether in real or personal property).

7.7 Successors in Interest. The terms, covenants and conditions of this Deed of Trust shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. However, this Section 7.7 does not waive the provisions of Section 6.1.

7.8 Interpretation.

(a) Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the sections of this Deed of Trust are for convenience only and do not define or limit any terms or provisions. The word "include(s)" means "include(s), without limitation," and the word "including" means "including, but not limited to."



(b) The word "obligations" is used in its broadest and most comprehensive sense, and includes all primary, secondary, direct, indirect, fixed and contingent obligations. It further includes all principal, interest, prepayment fees, late charges, loan fees and any other fees and charges accruing or assessed at any time, as well as all obligations to perform acts or satisfy conditions.

(c) No listing of specific instances, items or matters in any way limits the scope or generality of any language of this Deed of Trust. The Exhibits to this Deed of Trust are hereby incorporated in this Deed of Trust.

(d) No course of prior dealing, usage of trade, parol or extrinsic evidence of any nature shall be used to supplement, modify or vary any of the terms hereof.

(e) Any term used or defined in the Nevada Uniform Commercial Code, as in effect from time to time, and not defined in this Deed of Trust has the meaning given to that term in the Nevada Uniform Commercial Code, as in effect from time to time, when used in this Deed of Trust. However, if a term is defined in Division 9 of the Nevada Uniform Commercial Code differently than in another Division of the Nevada Uniform Commercial Code, the term has the meaning specified in Division 9.

7.9 In-House Counsel Fees. Whenever Trustor is obligated to pay or reimburse Beneficiary or Trustee for any attorneys' fees, those fees shall include the market value of services of in-house counsel.

7.10 Waiver of Marshalling. Trustor waives all rights, legal and equitable, it may now or hereafter have to require marshalling of assets or to require upon foreclosure sales of assets in a particular order, including any rights provided by California Civil Code Sections 2899 and 3433 (or similar statutes in another applicable jurisdiction), as such Sections may be amended from time to time. Each successor and assign of Trustor, including any holder of a lien subordinate to this Deed of Trust, by acceptance of its interest or lien agrees that it shall be bound by the above waiver, as if it had given the waiver itself.

7.11 Severability. If any provision of this Deed of Trust should be held unenforceable or void, that provision shall be deemed severable from the remaining provisions and shall in no way affect the validity of this Deed of Trust, except that if such provision relates to the payment of any monetary sum, then Beneficiary may, at its option, declare all Secured Obligations immediately due and payable.

7.12 Notices. Trustor hereby requests that a copy of notice of default and notice of sale be mailed to it at the address set forth below. That address is also the mailing address of Trustor as debtor under the Nevada Uniform Commercial Code. Beneficiary's address given below is the address for Beneficiary as secured party under the Nevada Uniform Commercial Code.

7.13 Certain Legal Proceedings. Should Beneficiary or Trustee, or both, become parties to any action to enjoin foreclosure, or other legal proceedings instituted by Trustor, or by any third party, or should Trustor institute or be subject to any bankruptcy, reorganization, receivership or other proceeding in relation to creditors, then all attorneys' fees and costs



incurred by Beneficiary or Trustee, or both, in any of those proceedings, shall be secured by this Deed of Trust and shall be paid by Trustor upon demand, and if not paid, shall be recovered from the Property.

7.14 Statutory Covenants. The following Covenants, Nos. 1, 3, 4 (rate of interest default rate in the Note), 5, 6, 7 (reasonable attorneys' fees), 8 and 9 of NRS 107.030 are hereby adopted and made a part of this Deed of Trust; provided, however, that the express covenants of this Deed of Trust shall control to the extent that the same are inconsistent with Covenants 1, 3, 4, 5, and 9; and, provided further, that Covenants Nos. 6, 7 and 8 shall control over the express covenants of this Deed of Trust to the extent the same are inconsistent with Covenants Nos. 6, 7 and 8.

The power of sale under this Deed of Trust shall not be exhausted by any one or more sales (or attempts to sell) as to all or any portion of the Property remaining unsold, but shall continue unimpaired until all of the Property has been sold by exercise of the power of sale herein contained and all indebtedness of Trustor to Beneficiary under the Deed of Trust, the Note or other Loan Documents has been paid in full, in money as defined in NRS 104.1201(24).

8. Third Party Secured Obligation Provisions.

8.1. Definitions. As used in this Section 8, "Third Party Secured Obligation" means any Secured Obligation which is required to be performed by any person or entity other than GLI or is not required to be performed by GLI.

8.2. Rights of Beneficiary. GLI authorizes Beneficiary to perform any or all of the following acts at any time in its sole discretion, all without notice to GLI and without affecting Beneficiary's rights or GLI's obligations under this Deed of Trust:

(a) Beneficiary may alter any terms of the Third Party Secured Obligation or any part of it, including renewing, compromising, modifying, extending or accelerating, or otherwise changing the time for payment of, or increasing or decreasing the rate of interest on, the Third Party Secured Obligation or any part of it.

(b) Beneficiary may take and hold security for the Third Party Secured Obligation, accept additional or substituted security for that obligation, and subordinate, exchange, enforce, waive, release, reconvey, compromise, fail to perfect and sell or otherwise dispose of any such security.

(c) Beneficiary may direct the order and manner of any sale of all or any part of any security now or later to be held for the Third Party Secured Obligation, and Beneficiary may also bid at any such sale and may apply all or any part of the Third Party Secured Obligation against the amount so bid.

(d) Beneficiary may apply any payments or recoveries from Borrower, GLI or any other source, and any proceeds of any security, to the Third Party Secured Obligation in such



manner, order and priority as Beneficiary may elect, whether that obligation is secured by this Deed of Trust or not at the time of the application.

(e) Beneficiary may substitute, add or release any one or more Borrowers, guarantors or endorsers.

(f) In addition to the Third Party Secured Obligation, Beneficiary may extend other credit to Borrower, and may take and hold security for the credit so extended, whether or not such security is also security for the Third Party Secured Obligation, all without affecting Beneficiary's rights or GLI's liability under this Deed of Trust.

8.3. Deed of Trust to be Absolute. GLI expressly agrees that until the Third Party Secured Obligation is paid and performed in full, and each and every term, covenant and condition of this Deed of Trust is fully performed, GLI shall not be released by or because of:

(a) Any act or event which might otherwise discharge, reduce, limit or modify GLI's obligations under this Deed of Trust;

(b) Any waiver, extension, modification, forbearance, delay or other act or omission of Beneficiary, or its failure to proceed promptly or otherwise against Borrower, GLI or any security;

(c) Any action, omission or circumstance which might increase the likelihood that GLI may be called upon to perform under this Deed of Trust or which might affect the rights or remedies of GLI against Borrower; or

(d) Borrower becoming insolvent or subject to any bankruptcy or other voluntary or involuntary proceeding, in or out of court, for the adjustment of debtor-creditor relationships ("Insolvency Proceeding") and as a result thereof some or all of the Third Party Secured Obligation being terminated, rejected, discharged, modified or abrogated.

GLI hereby acknowledges that absent this Section 8.3, GLI might have a defense to the enforcement of this Deed of Trust as a result of one or more of the foregoing acts, omissions, agreements, waivers or matters. GLI hereby expressly waives and surrenders any defense to any liability under this Deed of Trust based upon any of such acts, omissions, agreements, waivers or matters. It is the express intent of GLI that GLI's obligations under this Deed of Trust are and shall be absolute, unconditional and irrevocable.

8.4. GLI's Waivers. GLI waives:

(a) All statutes of limitations as a defense to any action or proceeding brought against GLI by Beneficiary, to the fullest extent permitted by law;

(b) Any right it may have to require Beneficiary to proceed against Borrower or any other party, proceed against or exhaust any security held from Borrower or any other party, or pursue any other remedy in Beneficiary's power to pursue;

(c) To the extent permitted by applicable law, the benefit of all laws now existing or which may hereafter be enacted providing for any appraisal, valuation, stay, extension, redemption or moratorium;

(d) All rights of marshaling in the event of foreclosure;

(e) Any defense based on any claim that GLI's obligations exceed or are more burdensome than those of Borrower;

(f) Any defense based on: (i) any legal disability of Borrower, (ii) any release, discharge, modification, impairment or limitation of the liability of Borrower to Beneficiary from any cause, whether consented to by Beneficiary or arising by operation of law or from any Insolvency Proceeding and (iii) any rejection, disallowance or disaffirmance of the Third Party Secured Obligation, or any part of it, or any security held for it, in any such Insolvency Proceeding;

(g) Any defense based on any action taken or omitted by Beneficiary in any Insolvency Proceeding involving Borrower, including, without limitation, filing, defending, settling or obtaining a judgment or order on any proof of claim or any adversary proceeding, making any election to have Beneficiary's claim allowed as being secured, partially secured or unsecured, including any election under 11 U.S.C. Section 1111(b), seeking relief from the automatic stay or adequate protection, including submitting an appraisal of any security, voting to reject or accept or failing to vote on any reorganization plan, making any extension of credit by Beneficiary to Borrower in any Insolvency Proceeding, and the taking and holding by Beneficiary of any security for any such extension of credit, whether or not such security is also security for the Third Party Secured Obligation;

(h) All presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, notices of acceptance of this Deed of Trust and of the existence, creation, or incurring of new or additional indebtedness, and demands and notices of every kind; and

(i) Any defense based on or arising out of any defense that Borrower may have to the payment or performance of the Third Party Secured Obligation or any part of it.

8.5. Waivers of Subrogation and Other Rights and Defenses.

(a) The obligations of GLI hereunder are independent of the obligations of Borrower, and a separate action or actions may be brought against GLI whether or not action or suit is brought against Borrower or Borrower is joined in any such action or actions. At the option of Beneficiary, GLI may be joined in any action or proceeding commenced by Beneficiary against Borrower in connection with or based on the Third Party Secured Obligation or any security for such obligation, and recovery may be had against GLI in such action or proceeding without any requirement that Beneficiary first assert, prosecute or exhaust any remedy or claim against Borrower.



(b) Upon a default by Borrower, Beneficiary in its sole discretion, without prior notice to or consent of GLI, may elect to: (i) foreclose either judicially or nonjudicially against any real or personal property security that Beneficiary may hold for the Third Party Secured Obligation other than the Property hereby encumbered, (ii) accept a transfer of any such security in lieu of foreclosure, (iii) compromise or adjust the Third Party Secured Obligation or any part of it or make any other accommodation with Borrower or GLI, or (iv) exercise any other remedy against Borrower or any security other than the Property hereby encumbered. With respect to security other than the Property hereby encumbered, no such action by Beneficiary shall release or limit the liability of GLI, who shall remain liable under this Deed of Trust after the action, even if the effect of the action is to deprive GLI of any subrogation rights, rights of indemnity, rights of contribution, or other rights to collect reimbursement from Borrower for any recovery by Beneficiary against GLI, whether contractual or arising by operation of law or otherwise. After any foreclosure or deed in lieu of foreclosure of any real or personal property pledged to secure the Third Party Secured Obligation, GLI shall under no circumstances be deemed to have any right, title, interest or claim in or to such property, whether it is held by Beneficiary or any third party.

(c) Regardless of whether Beneficiary may have recovered against GLI, GLI hereby waives: (i) all rights of subrogation, all rights of indemnity, and any other rights to collect reimbursement or contribution from Borrower or any other party for any recovery by Beneficiary against GLI, whether contractual or arising by operation of law (including the United States Bankruptcy Code or any successor or similar statute) or otherwise (collectively, "Reimbursement Rights"), (ii) all rights to enforce any remedy that Beneficiary may have against Borrower, and (iii) all rights to participate in any security now or later to be held by Beneficiary for the Third Party Secured Obligation. To the extent GLI's waiver of Reimbursement Rights is found by a court of competent jurisdiction to be void or voidable for any reason, any Reimbursement Rights GLI may have against Borrower or any collateral or security shall be junior and subordinate to any rights Beneficiary may have against Borrower and to all right, title and interest Beneficiary may have in any such collateral or security. If any amount should be paid to GLI on account of any Reimbursement Rights at any time when the Third Party Secured Obligation has not been paid in full, such amount shall be held in trust for Beneficiary and shall immediately be paid over to Beneficiary to be credited and applied against the Third Party Secured Obligation, whether matured or unmatured, in accordance with the terms of the Loan Documents. The covenants and waivers of GLI set forth in this Section 8.5(c) shall be effective until the Third party Secured Obligation has been paid and performed in full and are made solely for the benefit of Beneficiary.

(d) GLI waives any rights and defenses described in Section 2856(a) of the California Civil Code that are or may become available to GLI, including, without limitation, any rights and defenses by reason of Sections 2787 to 2855, inclusive, of the California Civil Code (or similar statutes of another applicable jurisdiction).

(e) GLI waives all rights and defenses that GLI may have because the Third Party Secured Obligation may be secured by real property other than the Property hereby encumbered. This means, among other things:



(i) Beneficiary may collect from GLI (including enforcing this Deed of Trust against GLI) without first foreclosing on any real or personal property collateral pledged by Borrower;

(ii) If Beneficiary forecloses on any real property collateral pledged by Borrower:

(A) The amount of the Third Party Secured Obligation may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.

(B) Beneficiary may collect from GLI (including enforcing this Deed of Trust against GLI) even if Beneficiary, by foreclosing on the real property collateral pledged by Borrower, has destroyed any right GLI may have to collect from Borrower.

This Section 8.5(e) is an unconditional and irrevocable waiver of any rights and defenses GLI may have because the Third Party Secured Obligation may be secured by real property other than the Property hereby encumbered. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the California Code of Civil Procedure (or similar statutes of another applicable jurisdiction).

(f) Without limiting the generality of the foregoing Section 8.5(e), GLI understands and acknowledges that if Beneficiary forecloses judicially or nonjudicially against any real property securing the Third Party Secured Obligation other than the Property hereby encumbered, that foreclosure could impair or destroy any ability that GLI may have to seek reimbursement, contribution or indemnification from Borrower or others based on any Reimbursement Right GLI may have for any recovery by Beneficiary under this Deed of Trust. GLI further understands and acknowledges that in the absence of this Section 5, such potential impairment or destruction of GLI's rights, if any, may entitle GLI to assert a defense to this Deed of Trust based on Section 580d of the California Code of Civil Procedure as interpreted in Union Bank v. Gradsky, 265 Cal.App.2d 40 (1968) (or similar statute and case law of another applicable jurisdiction). By executing this Deed of Trust, GLI freely, irrevocably and unconditionally: (i) waives and relinquishes that defense and agrees that GLI will be fully liable under this Deed of Trust even though Beneficiary may foreclose judicially or nonjudicially against any real property security for the Third Party Secured Obligation other than the Property; (ii) agrees that GLI will not assert that defense in any action or proceeding which Beneficiary may commence to enforce this Deed of Trust; (iii) acknowledges and agrees that the rights and defenses waived by GLI under this Deed of Trust include any right or defense that GLI may have or be entitled to assert based upon or arising out of any one or more of Sections 580a, 580b, 580d or 726 of the California Code of Civil Procedure or Section 2848 of the California Civil Code (or similar statutes of another applicable jurisdiction); and (iv) acknowledges and agrees that Beneficiary is relying on this waiver in extending credit to Borrower in the form of the Third Party Secured Obligation, and that this waiver is a material part of the consideration which Beneficiary is receiving for extending such credit to Borrower.



(g) GLI waives any right or defense it may have at law or equity, including California Code of Civil Procedure Section 580a (or similar statute of another applicable jurisdiction), to a fair market value hearing or action to determine a deficiency judgment after a foreclosure of any property other than the Property hereby encumbered.

(h) No provision or waiver in this Deed of Trust shall be construed as limiting the generality of any other provision or waiver contained in this Deed of Trust.

8.6. Revival and Reinstatement. If Beneficiary is required to pay, return or restore to Borrower or any other person any amounts previously paid on the Third Party Secured Obligation because of any Insolvency Proceeding of Borrower, any stop notice or any other reason, the obligations of GLI shall be reinstated and revived and the rights of Beneficiary shall continue with regard to such amounts, all as though they had never been paid, and this Deed of Trust shall continue to be effective or be reinstated, as the case may be.

8.7. Information Regarding Borrower. GLI represents that: (a) Beneficiary has made no representation to GLI as to the creditworthiness of Borrower, and (b) no oral promises, assurances, representations or warranties have been made by or on behalf of Beneficiary to induce GLI to execute and deliver this Deed of Trust. GLI has received and approved copies of all other requested Loan Documents. Before signing this Deed of Trust, GLI investigated the financial condition and business operations of Borrower and such other matters as GLI deemed appropriate to assure itself of Borrower's ability to discharge its obligations in connection with the Third Party Secured Obligation. GLI assumes full responsibility for that due diligence and for keeping informed of all matters which may affect Borrower's ability to pay and perform its obligations to Beneficiary. Beneficiary has no duty to disclose to GLI any information which Beneficiary may have or receive about Borrower's financial condition or business operations or any other circumstances bearing on Borrower's ability to perform.

8.8. Counsel; Integration; Miscellaneous. GLI hereby expressly approves all of the terms and conditions of the A&D Loan Agreement and the other Loan Documents, including the provisions in the A&D Loan Agreement pertaining to partial release or reconveyance of the Property and other restrictions with respect thereto and to GLI. GLI further hereby (a) makes to Beneficiary the representations and warranties (i) concerning the portion of the Property owned by it that were made by Borrower under the A&D Loan Agreement concerning the Property, and (ii) concerning GLI, that were made by Borrower under the A&D Loan Agreement, as though all such representations and warranties were made by GLI, and (b) agrees to comply with any and all covenants and agreements by Borrower (i) concerning the portion of the Property owned by GLI that were made by Borrower under the A&D Loan Agreement and (ii) concerning GLI, that were made by Borrower under the A&D Loan Agreement, as though all such representations and warranties were made by GLI; provided, however, that the foregoing shall not apply to the extent the context otherwise requires. GLI irrevocably appoint Bank as its attorney-in-fact, with full power of substitution, to file for record, at GLI's cost and expense and in GLI's name, any notices that Bank in its sole discretion may consider necessary or desirable to protect its security, if GLI fails to do so. This appointment shall be deemed to be a power coupled with an interest. GLI acknowledges that GLI has had adequate opportunity to carefully read this Deed of Trust and to consult with an attorney of GLI's choice prior to signing it. No consent, approval or authorization



of or notice to any person or entity is required in connection with GLI's execution of and obligations under this Deed of Trust, and GLI acknowledges its execution and delivery of this Deed of Trust is made voluntarily without any duress or undue influence of any kind. No course of prior dealing, usage of trade, parol or extrinsic evidence of any nature shall be used to supplement, modify or vary any of the terms hereof. This Deed of Trust is intended by the parties to be a fully integrated and final expression of their agreement. This Deed of Trust and the other Loan Documents incorporate all negotiations of the parties and constitute the parties' entire agreement. GLI acknowledges that is relying on no written or oral agreement, representation, warranty or understanding of any kind made by Beneficiary or any employee, attorney or agent of Beneficiary, except for the agreements of Beneficiary set forth herein and in the Loan Documents.

[Signatures appear on following page.]

COOPER



Trustor:

Genoa Developer Associates, LLC,
a Nevada limited liability company

By: [Signature]
Name: Chip L. Bowlby
Title: Manager

By: [Signature]
Name: Thomas J. Merschel
Title: Manager

Genoa Land Investors, LLC,
a Nevada limited liability company

By: [Signature]
Name: Chip L. Bowlby
Title: Manager

By: [Signature]
Name: Thomas J. Merschel
Title: Manager

Address where notices to Trustor
are to be sent:

6900 S. McCarren Blvd., Suite 1010
Reno, NV 89509
Attention: Chip L. Bowlby
Telecopier No.: 775-324-6922

Address where notices to Beneficiary
are to be sent:

Bank of America, N.A.,
a national banking association
6140 Stoneridge Mall Road, Suite 200
Pleasanton, CA 94588-3232

Address where notices to Trustee
are to be sent:

PRLAP, Inc.
P.O. Box 2240
Brea, California 92822




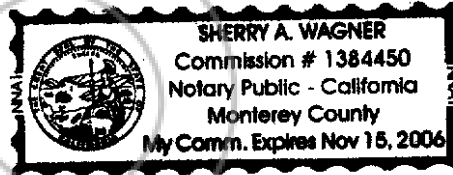
ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF MONTEREY)

On July 15, 2005, before me, Sherry A. Wagner,
a Notary Public in and for the State of California, personally appeared Chip L. Bowlby,
personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) (is/are) subscribed to the within instrument and
acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized
capacity(ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.


(Signature)



(Space above for official notarial seal)



EXHIBIT "A"
LEGAL DESCRIPTION

Order No.: 050701515

The land referred to herein is situated in the State of Nevada,
County of DOUGLAS, described as follows:

LEGAL DESCRIPTION 1:

Adjusted Remainder Parcel 1 as set forth on that certain
Record of Survey to Support a Boundary Line Adjustment for
GENOA LAND INVESTORS, LLC., GENOA DEVELOPER ASSOCIATES,
LLC., MDA ENTERPRISES, INC. and INCOMPARABLE HOLDING CO.,
et al, filed for record in the office of the Douglas County
Recorder on June 30, 2005, Book 0605, Page 14555, Document
No. 0648319, Official Records.

ASSESSOR'S PARCEL NO. 1419-26-001-012

AND

A PORTION OF 1419-26-001-011

TOGETHER WITH the following easements for ACCESS:

(H) A non-exclusive 50 foot wide access easements, created in that
certain document entitled "Easement Amendment Deed",
executed by Little Mondeaux Limousin Corporation, recorded
on February 25, 1998 as Document No. 433367 in Book 298,
Page 4658, of the Official Records of Douglas County,
Nevada.

(U) A 50 foot wide access, irrigation, and utility easement, over
and across those certain lands described in document
recorded on February 3, 2004, in Book 0204, Page 0954, as
Document No. 0603680, of the Official Records of Douglas
County, Nevada.

(N1) A 60 foot private access, private irrigation, and public
utility easement, as set forth on the Final Subdivision Map
entitled CANYON CREEK MEADOWS PHASE 1, according to the
plat thereof filed on February 11, 2004 in Book 0204, Page
4470, as Document No. 604356, of the Official Records of
Douglas County, Nevada.

(F) An easement for non-exclusive access purposes

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LEGAL DESCRIPTION - continued
Order No.:050701515

within the Easement Area, created in that certain document entitled "Master Grant Deed" executed by Ronald L. Simek, et al, recorded on December 31, 1996 as Document No. 403934, in Book 1296, Page 4911 of the Official Records of Douglas County, Nevada.

(T) An easement for pedestrian and vehicular ingress and egress to and from that certain real property; and the installation, construction, repair, maintenance, and replacement of roadway improvements within the Easement Area, such as, without limitation, asphalt paving, cattle guards, and so forth, created in that certain Document entitled "Grant of Relocatable Private Access Easement (#OS6)", executed by Ronald L. Simek, recorded on February 3, 2004 as Document No. 603676 in Book 0204 Page 862, of the Official Records of Douglas County, Nevada.

LEGAL DESCRIPTION 2: - WATER, SEWER, AND PUBLIC UTILITY EASEMENTS:

(Q) TOGETHER WITH an easement for public utility purposes, including, without limitation, the installation, construction, repair, maintenance, and replacement of public utility improvements within the Easement Area, such as, without limitation, gas, electric, water, sewer, telephone, storm drain, and cable TV lines and facilities owned or maintained (or to be owned or maintained) by any public utility (as defined in Section 704.020 of the Nevada Revised Statutes (or its successor statute)), created in that certain document entitled "Grant of Public Utility Easement (#OS3)", executed by Ronald L. Simek, recorded February 3, 2004 as Document No. 603673 in Book 0204, Page 808 of the Official Records of Douglas County, Nevada.

(S) TOGETHER WITH a 50 foot relocatable public utility easement, over and across those certain lands described in document

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recorded February 3, 2004 in Book 0204, Page 0841, as Document No. 0603675 of the Official Records of Douglas County, Nevada.

(C1) TOGETHER WITH a perpetual, relocatable, non-exclusive easement for public utility purposes, including, without limitation, the installation, construction, repair, maintenance and replacement of public utility improvements within the Easement Area described in document recorded February 3, 2004 in Book 0204, Page 1118, as Document No. 0603688 of the Official Records of Douglas County, Nevada.

(D1) TOGETHER WITH a 50 foot wide access, irrigation, and utility easement, over and across those certain lands described in document recorded on February 3, 2004 in Book 0204, Page 1130, as Document No. 0603689.

(R) TOGETHER WITH an easement for a twenty foot (20) wide strip of land for sanitary sewer purposes within the Easement Area, created in that certain document entitled "Grant of Sanitary Sewer Easement (#OS4), executed by Little Mondeaux Limousin Corporation, recorded on February 3, 2004 as Document No. 0603674 in Book 0204, at Page 829 of the Official Records of Douglas County, Nevada.

(V) TOGETHER WITH an easement for the installation, construction, repair, maintenance, and replacement of well and waterline improvements, located within an area 50' by 50', as set forth and described in that certain document recorded on February 3, 20004 in Book 0204 page 00978 as Document No. 0603681 of the Official Records of Douglas County, Nevada.

(X) TOGETHER WITH an easement for the installation, construction, repair, maintenance, and replacement of well and waterline improvements, located within an area 50' by 50', as set forth and described in that certain document recorded on February 3, 20004 in Book 0204 page 001017 as Document No.

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0603683 of the Official Records of Douglas County, Nevada.

(W) TOGETHER WITH an easement for installing, constructing, repairing, maintaining, and replacing Water Lines, which easement area may be relocated under the terms and conditions of said easement, as set forth in document recorded on February 3, 2004 in Book 0204 page 00994 as Document No. 0603682, of the Official Records of Douglas County, Nevada.

(Y) TOGETHER WITH an easement for the installation, construction, repair, maintenance, and replacing waterline and waterline related improvements, as set forth and described in that certain document recorded on February 3, 2004 in Book 0204 page 001033 as Document No. 0603684 of the Official Records of Douglas County, Nevada.

(HH1)-TOGETHER WITH: An easement for public utility purposes 20' in width, as set forth in Document recorded on August 6, 2004 in Book 0804 page 2248 as Document No. 0620761, in the Official Records of Douglas County, Nevada.

(KK1)-TOGETHER WITH: An easement for public waterline purposes 20' in width, as set forth in Document recorded on August 6, 2004 in Book 0804 page 2248 as Document No. 0620761, in the Official Records of Douglas County, Nevada.

(MM1)-TOGETHER WITH: A temporary septic system easement over Remainder Parcel 1 to be abandoned upon operation of the Canyon Creek Meadows sewer lift station as set forth in Document recorded August 6, 2004, in Book 0804, Page 2248 as Document No. 0620761, in the Official Records of Douglas County, Nevada.

(III1) ALSO TOGETHER WITH an easement for construction, access, and maintenance of Water System Improvements as set forth in that document recorded January 15, 2004 in Book 0104

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page 4429, as Document No. 0602082 of the Official Records of Douglas County, Nevada.

(III) ALSO TOGETHER WITH an easement 20' in width for waterline access purposes, as set forth in that document recorded January 15, 2004 in Book 0104 page 4429, as Document No. 0602082 of the Official Records of Douglas County, Nevada.

(01) ALSO TOGETHER WITH a 60 foot utility easement and a 30 foot utility easement for the purpose of access to and construction, maintenance, repair and replacement of an underground water line, as set forth in document recorded June 11, 1998 in Book 698, Page 2782 as Document No. 441787 of the Official Records of Douglas County, Nevada.

(GG1) ALSO TOGETHER WITH a permanent easement and right-of-way for the location and maintenance of a domestic water storage tank or tanks, a well site and an underground water pipeline as set forth in document recorded February 20, 1991 in Book 291, Page 2198 as Document No. 245153 of the Official Records of Douglas County, Nevada.

(AA1) ALSO TOGETHER WITH a circular easement 100 feet in diameter for Water Storage Tank Easement and a 50' pipeline right of way from the tank to Jacks Valley Road, located within the REMAINDER parcel as set forth on the Final Subdivision Map entitled MOUNTAIN MEADOWS ESTATES PHASE 1, according to the plat thereof filed on March 6, 2002 in Book 0302 page 2214, as Document No. 536360 of the Official Records of Douglas County, Nevada.

(AA1) ALSO TOGETHER WITH a 30' Public Water and Utility Access easement located within the REMAINDER parcel as set forth on the Final Subdivision Map entitled MOUNTAIN MEADOWS ESTATES PHASE 1, according to the plat thereof filed on March 6, 2002 in Book 0302 page 2214, as Document No. 536360 of the Official Records of Douglas County, Nevada.

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(AA1) ALSO TOGETHER WITH a 20 foot public drain pipe easement, as set forth on the Final Subdivision Map entitled "MOUNTAIN MEADOW ESTATES, PHASE 1" now known as CANYON CREEK ESTATES, PHASE 1, according to the plat thereof filed on March 6, 2002, in Book 0302, Page 2214, as Document No. 536360 of the Official Records of Douglas County, Nevada.

(AA1) ALSO TOGETHER WITH a 50' Public Water and Utility Access easement located within the REMAINDER parcel as set forth on the Final Subdivision Map entitled MOUNTAIN MEADOWS ESTATES PHASE 1, according to the plat thereof filed on March 6, 2002 in Book 0302 page 2214, as Document No. 536360 of the Official Records of Douglas County, Nevada.

(AA1) ALSO TOGETHER WITH a Public booster pump easement, located within the REMAINDER parcel as set forth on the Final Subdivision Map entitled MOUNTAIN MEADOWS ESTATES PHASE 1, according to the plat thereof filed on March 6, 2002 in Book 0302 page 2214, as Document No. 536360 of the Official Records of Douglas County, Nevada.

(AA1) ALSO TOGETHER WITH a 20' Public water line easement located within the REMAINDER parcel as set forth on the Final Subdivision Map entitled MOUNTAIN MEADOWS ESTATES PHASE 1, according to the plat thereof filed on March 6, 2002 in Book 0302 page 2214, as Document No. 536360 of the Official Records of Douglas County, Nevada.

(P) ALSO TOGETHER WITH a 35' sewer and water line easement, as set forth in document recorded on February 3, 2004 in Book 0204 page 799, as Document No. 603672, of the Official Records of Douglas County, Nevada.

(O1) ALSO TOGETHER WITH a non-exclusive access and public utility easement 60 feet in width over and across those certain lands described in document recorded on June 11, 1998 in

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Book 0698 page 2782, as Document No. 0441787, of the Official Records of Douglas County, Nevada.

(AA1) ALSO TOGETHER WITH James Canyon Loop, 60 foot private access and public utility easement as set forth on the Final Subdivision Map entitled "MOUNTAIN MEADOW ESTATES, PHASE 1" now known as CANYON CREEK ESTATES, PHASE 1, according to the plat thereof filed on March 6, 2002, in Book 0302, Page 2214, as Document No. 536360 of the Official Records of Douglas County, Nevada.

(AA1) ALSO TOGETHER WITH a 60' P.U.E. easement located within the REMAINDER parcel as set forth on the Final Subdivision Map entitled MOUNTAIN MEADOWS ESTATES PHASE 1, according to the plat thereof filed on March 6, 2002 in Book 0302 page 2214, as Document No. 536360 of the Official Records of Douglas County, Nevada.

(AA1) ALSO TOGETHER WITH a 30' P.U.E. AND CULDESAC easement, located within the REMAINDER parcel as set forth on the Final Subdivision Map entitled MOUNTAIN MEADOWS ESTATES PHASE 1, according to the plat thereof filed on March 6, 2002 in Book 0302 page 2214, as Document No. 536360 of the Official Records of Douglas County, Nevada.

(AA1) ALSO TOGETHER WITH an easement for public slope and drainage purposes, located within the REMAINDER parcel as set forth on the Final Subdivision Map entitled MOUNTAIN MEADOWS ESTATES PHASE 1, according to the plat thereof filed on March 6, 2002 in Book 0302 page 2214, as Document No. 536360 of the Official Records of Douglas County, Nevada.

(FF1) -TOGETHER WITH: An easement for public water access and waterline easement as set forth in Document recorded on August 6, 2004 in Book 0804 page 2248 as Document No. 0620761, in the Official Records of Douglas County, Nevada.

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(AA1) ALSO TOGETHER WITH a 20' wide public reservoir access and waterline easement located within the REMAINDER parcel as set forth on the Final Subdivision Map entitled MOUNTAIN MEADOWS ESTATES PHASE 1, according to the plat thereof filed on March 6, 2002 in Book 0302 page 2214, as Document No. 536360 of the Official Records of Douglas County, Nevada.

(EE1) ALSO TOGETHER WITH an easement for Water storage and water access, as set forth in that document recorded January 15, 2004 in Book 0104 page 4429, as Document No. 0602082 of the Official Records of Douglas County, Nevada.

(O) ALSO TOGETHER WITH a 15 foot perpetual non-exclusive sanitary sewer easement for purposes of installing, constructing, repairing, maintaining, and replacing sanitary sewer lines and other sewer systems with the Easement Area as set forth in document recorded February 3, 2004 in Book 0204, Page 0781, as Document No. 0603671 of the Official Records of Douglas County, Nevada.

"IN COMPLIANCE WITH NEVADA REVISED STATUTE 111.312, THE HEREIN ABOVE LEGAL DESCRIPTION WAS TAKEN FROM INSTRUMENT RECORDED JUNE 30, 2005, BOOK 0605, PAGE 14507, AS FILE NO. 0648311, RECORDED IN THE OFFICIAL RECORDS OF DOUGLAS COUNTY, STATE OF NEVADA."

LEGAL DESCRIPTION 3:

A parcel of land located within a portion of Section 26, Township 14 North, Range 19 East, Mount Diablo Meridian, more particularly described as follows:

Adjusted Parcel 17 as set forth on that certain Record of Survey to Support a Boundary Line Adjustment for GENOA LAND INVESTORS, LLC., GENOA DEVELOPER ASSOCIATES, LLC., MDA ENTERPRISES, INC. AND INCOMPARABLE HOLDING CO., et al,

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filed for record in the office of the Douglas County
Recorder on June 30, 2005, Book 0605, Page 14555, Document
No. 0648319, Official Records.

A PORTION OF APN 1419-26-001-005

AND

A PORTION OF APN 1419-26-001-011

Together with that certain non-exclusive private access
easement as described below:

DESCRIPTION EASEMENT #2

50' WIDE NON-EXCLUSIVE PRIVATE EASEMENT

A fifty foot (50') wide easement for access purposes located
within a portion of Section 26, Township 14 North, Range 19
East, Mount Diablo Meridian, the centerline of which is more
particularly described as follows:

Commencing at a found 5/8" rebar, no tag, a point on the
Easterly line of Jacks Valley Road, the Northwesterly
corner of Parcel 2 as shown on the Map of Division Into
Large Parcels for Little Mondeaux Limousin Corporation
recorded July 31, 1992 in the office of Recorder, Douglas
County, Nevada, as Document No. 284936, said point bears
South 32°55'56" West, 2868.09 feet from the Southwest
corner of Section 26, T.14N., R.19E., M.D.M.; thence along
said Easterly line of Jacks Valley Road North 21°17'11"
East, 5624.78 feet to the POINT OF BEGINNING; thence South
57°24'21" East, 901.15 feet; thence along the arc of a
curve to the right having a radius of 100.00 feet, central
angle of 57°24'26", arc length of 100.19 feet, and chord
bearing South 28°42'10" East; thence South, 163.85 feet;
thence along the arc of a curve to the left having a radius

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of 100.00 feet, central angle of 59°14'14", arc length of 103.39 feet, and chord bearing South 29°37'07" East; thence South 59°14'14" East, 87.62 feet; thence South 57°20'21" East, 299.51 feet; thence along the arc of a curve to the left having a radius of 95.00 feet, central angle of 98°13'48", arc length of 162.87 feet, and chord bearing North 73°32'45" East; thence North 24°25'51" East, 166.00 feet; thence along the arc of a curve to the right having a radius of 75.00 feet, central angle of 34°48'01", arc length of 45.55 feet, and chord bearing North 41°49'51" East; thence North 59°13'52" East, 94.39 feet; thence along the arc of a curve to the right having a radius of 75.00 feet, central angle of 55°06'44", arc length of 72.14 feet, and chord bearing North 86°47'14" East; thence South 65°39'24" East, 403.40 feet; thence North 24°52'01" East, 62.44 feet; thence North 19°23'04" East, 165.42 feet; thence North 03°46'32" West, 200.60 feet to the terminus of this description.

The Basis of Bearing of this description is North 89°23'01" East, the North line of the Northeast one-quarter (NE 1/4) of Section 26, T.14N., R.19E., M.D.M. per Map of Division Into Large Parcels for Little Mondeaux Limousin Corporation recorded July 31, 1992 as Document No. 284936.

"IN COMPLIANCE WITH NEVADA REVISED STATUTE 111.312, THE HEREIN ABOVE LEGAL DESCRIPTION WAS TAKEN FROM INSTRUMENT RECORDED JUNE 30, 2005, BOOK 0605, PAGE 14547, AS FILE NO. 0648317, RECORDED IN THE OFFICIAL RECORDS OF DOUGLAS COUNTY, STATE OF NEVADA."

AND TOGETHER WITH that certain non-exclusive private access easement as described below:

DESCRIPTION EASEMENT #0S7

50' WIDE NON-EXCLUSIVE PRIVATE ACCESS EASEMENT (OVER PARCEL
Continued on next page

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16, A.P.N. 1419-26-001-009)

A fifty-foot (50') wide strip of land for non-exclusive private access purposes located within a portion of Section 26, Township 14 North, Range 19 East, Mount Diablo Meridian, lying 25 feet (25') on both sides of the following described centerline:

Commencing at the most easterly corner of Parcel 16 as shown on the Record of Survey to Support a Boundary Line Adjustment for Little Mondeaux Limousin Corporation recorded November 19, 2001 in the office of Recorder, Douglas County, Nevada as Document No. 528042;

thence along the northeasterly line of said Parcel 16, North 58°31'29" West, 25.01 feet to the POINT OF BEGINNING; thence along a line 25 feet westerly of and parallel with the easterly line of said Parcel 16, the following courses:

South 33°08'08" West, 168.54 feet;

South 19°17'56" West, 192.13 feet;

South 06°55'50" West, 142.07 feet;

South 04°16'47" East, 148.06 feet;

South 08°17'50" West, 159.03 feet;

South 27°18'20" West, 270.10 feet;

South 38°59'28" West, 89.85 feet to a point on the southerly line of said Parcel 16, the TERMINUS of this description.

The sidelines of the above described strip of land shall be extended and shortened to terminate at said northeasterly line of Parcel 16 and said southerly line of Parcel 16.

The Basis of Bearing of this description is North 89°23'01" East, the north line of the Northeast one-quarter (NE 1/4) of Section 26, Township 14 North, Range 19 East, M.D.M. per Map of Division Into Large Parcels for Little Mondeaux Limousin Corporation recorded July 31, 1992 as Document No. 284936.

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"IN COMPLIANCE WITH NEVADA REVISED STATUTE 111.312, THE
HEREIN ABOVE LEGAL DESCRIPTION WAS TAKEN FROM INSTRUMENT
RECORDED FEBRUARY 3, 2004, BOOK 0204, PAGE 882, AS FILE NO.
0603677, RECORDED IN THE OFFICIAL RECORDS OF DOUGLAS
COUNTY, STATE OF NEVADA."

LEGAL DESCRIPTION 4:

Lots 1 through 9, inclusive, Block A; Lots 10 and 11, Block
B; Lots 12 through 27, inclusive, Block C; Lots 28 and 29,
Block D; Lots 30 through 44, inclusive, Block E; Open Space
Area A and B; Common Areas 2 and 3 and those roadways
within said subdivision commonly named Daggett Creek Road,
Daggett Creek Loop, Cloudburst Canyon Drive, Antelope
Valley Court, and Acorn Canyon Drive, Mountain Meadow
Drive, and Voight Canyon Drive, lying within the boundaries
of the Final Subdivision Map, a Planned Unit Development,
PD-0016/LDA 02-008 for CANYON CREEK MEADOWS, PHASE 1, filed
in the office of the Douglas County Recorder on February 4,
2004 in Book 0204, at Page 4470, as Document No. 604356.

APN's 1419-26-310-002 through 1419-26-310-011, inclusive;
1419-26-410-001 through 1419-26-410-015, inclusive;
1419-26-710-001 through 1419-26-710-017, inclusive;
1419-26-810-001 through 1419-26-810-006, inclusive;
and 1419-26-401-001

AND

Adjusted Remainder Parcel 2 and Adjusted Common Area 1 as
set forth on that certain Record of Survey to Support a
Boundary Line Adjustment for GENOA LAND INVESTORS, LLC.,
GENOA DEVELOPER ASSOCIATES, LLC., MDA ENTERPRISES, INC. and
INCOMPARABLE HOLDING CO., et al, filed for record in the
office of the Douglas County Recorder on June 30, 2005,
Book 0605, Page 14555, Document No. 0648319, Official
Records.

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ASSESSOR'S PARCEL NO.:

A portion of 1419-26-401-001 and a portion of 1419-26-001-011

AND

A portion of 1419-26-301-001

TOGETHER WITH the following easements for ACCESS:

(H) A non-exclusive 50 foot wide access easements, created in that certain document entitled "Easement Amendment Deed", executed by Little Mondeaux Limousin Corporation, recorded on February 25, 1998 as Document No. 433367 in Book 298, Page 4658, of the Official Records of Douglas County, Nevada.

(U) A 50 foot wide access, irrigation, and utility easement, over and across those certain lands described in document recorded on February 3, 2004, in Book 0204, Page 0954, as Document No. 0603680, of the Official Records of Douglas County, Nevada.

(N1) A 60 foot private access, private irrigation, and public utility easement, as set forth on the Final Subdivision Map entitled CANYON CREEK MEADOWS PHASE 1, according to the plat thereof filed on February 11, 2004 in Book 0204, Page 4470, as Document No. 604356, of the Official Records of Douglas County, Nevada.

(F) An easement for non-exclusive access purposes within the Easement Area, created in that certain document entitled "Master Grant Deed" executed by Ronald L. Simek, et al, recorded on December 31, 1996 as Document No. 403934, in Book 1296, Page 4911 of the Official Records of Douglas County, Nevada.

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(T) An easement for pedestrian and vehicular ingress and egress to and from that certain real property; and the installation, construction, repair, maintenance, and replacement of roadway improvements within the Easement Area, such as, without limitation, asphalt paving, cattle guards, and so forth, created in that certain Document entitled "Grant of Relocatable Private Access Easement (#OS6)", executed by Ronald L. Simek, recorded on February 3, 2004 as Document No. 603676 in Book 0204 Page 862, of the Official Records of Douglas County, Nevada.

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