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MAY 11 2006

FEB 17 2006

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIPDepartment of Water Resources
Eastern RegionPlease print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
<u>29-2406</u>					
<u>29-11331</u>		X			
<u>29-13690</u>					

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts. \$150 -
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)

Jeff Matkin

4. New Owner/Claimant(s)

Furniss ~~Employee~~ Investments, LLCName Connector (Check one): ☒ and, ☐ or, ☐ and/or

New Mailing Address

480 West Sunnyside #4

City, State and ZIP Code

Idaho Falls ID 83402

New Telephone Number

208 589 1100

5. Date you acquired the property

September 1st 2004

SUPPORT DATA

IN FILE 29-2406

Form 42-248/42-1409(6) July 2000

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____ 52 _____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s)
(include title if applicable)

Steve Vigilant *Majing Member*

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date 5/12/06 Fee \$150.00 + \$75.00
 Received by _____ Date _____ Receipt No. E031891 + C082116
 Processed by _____ AJ Date _____ WR _____ Date _____

FIRST AMERICAN TITLE COMPANY

2240 E CENTER, P.O. BOX 9, POCA TELLO, ID 83201

TELEPHONE (208) 232-6224

FAX (208) 232-6257

PROPERTY PROFILE

PREPARED ESPECIALLY FOR:

**STEVE VIGLIATURO
PREMIER PROPERTIES**

DATE: **May 9, 2006**

PREPARED BY: LISA YORK

TELEPHONE NO.: 232-6224

LEGAL DESCRIPTION:

**PARCEL LOCATED IN THE SE1/4 OF SECTION 30, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN,
BANNOCK COUNTY, IDAHO**

ADDRESS (IF OF RECORD):

1268 N. MINK CREEK ROAD, POCA TELLO, ID 83204

LAST GRANTEE OF RECORD:

FURNISS INVESTMENTS, LLC

**FOR: TAX INFORMATION, CONTACT THE BANNOCK COUNTY ASSESSOR'S
OFFICE AT 236-7260.**

**FOR: BANNOCK COUNTY ZONING INFORMATION, CONTACT THE BANNOCK
COUNTY ZONING OFFICE AT 236-7230.**

**FOR: POCA TELLO WATER AND SANITATION INFORMATION, CONTACT THE
POCA TELLO UTILITY BILLING OFFICE AT 234-6241**

ATTACHMENTS:

**DEED
DEED OF TRUST / MORTGAGE
PLAT**

**** THIS INFORMATION IS PROVIDED AT NO CHARGE BY FIRST AMERICAN TITLE COMPANY TO REALTORS ONLY IN ANTICIPATION OF RECEIVING AN ORDER
ON THE ABOVE MENTIONED PROPERTY. NO LIABILITY IS ASSUMED HEREWITH.**



A Pioneer Company
PIONEER TITLE COMPANY
 OF BANNOCK COUNTY
 135 N. Arthur / Pocatello, Idaho 83201 / (208) 233-9595

20419253

20419253
 PIONEER TITLE

RECORDED AT REQUEST OF
 FEE 6- DEPUTY m

2004 SEP 2 PM 3 32

OFFICIAL RECORD BK# 855
 LARRY W SHAN RECORDER
 BANNOCK COUNTY IDAHO

Order No. 20041125 SW MH

WARRANTY DEED

For Value Received
 Jeffery L. Matkin, an unmarried person as his sole and separate property

hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto
 Furniss Investments, LLC

hereinafter referred to as Grantee, whose current address is 1268 N Mink Creek Road, Pocatello, ID 83204 the
 following described premises, to-wit:

mail: 480 W. Sunnyside #4 Idaho Falls ID

83402

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

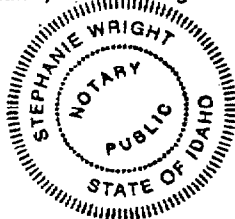
Dated: September 1, 2004

[Signature]
 Jeffery L. Matkin

STATE OF IDAHO

COUNTY OF BANNOCK

On this 2nd day of September, in the year of 2004, before me Stephanie Wright, notary public personally appeared Jeffery L. Matkin, known or identified to me to be the person/persons whose name is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.



[Signature]
 Stephanie Wright
 Notary Public of Idaho
 Residing at McCammon ID
 Commission expires: April 25, 2006

2-2
EXHIBIT A

20419253

PARCEL 1:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST ¼ CORNER OF SECTION 30, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M.; THENCE SOUTH 0°06'06" EAST, ALONG THE EAST LINE OF SECTION 30, A DISTANCE OF 888.76 FEET; THENCE NORTH 79°49'00" WEST A DISTANCE OF 1154.36 FEET TO THE EASTERLY RIGHT OF WAY LINE OF BANNOCK HIGHWAY; THENCE FOLLOWING SAID EASTERLY RIGHT OF WAY LINE OF BANNOCK HIGHWAY, NORTH 10°46'13" EAST, A DISTANCE OF 491.84 FEET TO THE SOUTH LINE OF THE PROPERTY DESCRIBED IN DEED NO. 99001889; THENCE NORTH 90°00'00" EAST ALONG SAID SOUTH LINE TO THE CENTERLINE OF MINK CREEK; THENCE IN A NORTHEASTERLY DIRECTION FOLLOWING THE CENTERLINE OF MINK CREEK TO THE LATITUDINAL CENTERLINE OF SAID SECTION 30; THENCE SOUTH 89°43'41" EAST, ALONG THE LATITUDINAL CENTERLINE OF SAID SECTION 30, A DISTANCE OF 582.51 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST ¼ CORNER OF SECTION 30, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., THENCE SOUTH 0°06'06" EAST, ALONG THE EAST LINE OF SECTION 30, A DISTANCE OF 888.76 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH 0°06'06" EAST, ALONG THE EAST LINE OF SECTION 30, A DISTANCE OF 999.04 FEET TO THE NORTHEASTERLY LINE OF THE PROPERTY DESCRIBED AS PARCEL 1 IN DEED NO. 20223547; THENCE NORTH 43°42'57" WEST, ALONG SAID LINE A DISTANCE OF 503.00 FEET; THENCE NORTH 80°37'58" WEST A DISTANCE OF 898.41 FEET TO THE EASTERLY RIGHT OF WAY LINE OF BANNOCK COUNTY HIGHWAY, ALSO BEING A POINT OF NON-TANGENCY ON A 1390.88 FOOT RADIUS CURVE IN WHICH THE RADIUS POINT BEARS NORTH 88°04'13" EAST; THENCE FOLLOWING SAID CURVE IN A NORTHEASTERLY DIRECTION HAVING A CENTRAL ANGLE OF 12°42'00" AN ARC LENGTH OF 308.30 FEET (CHORD BEARS NORTH 4°25'13" EAST A DISTANCE OF 307.67 FEET); THENCE NORTH 10°46'13" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 190.41 FEET TO THE SOUTH LINE OF THE PROPERTY DESCRIBED IN DEED NO. 97013530; THENCE SOUTH 79°49'00" EAST, ALONG SAID SOUTH LINE A DISTANCE OF 80.04 TO THE SOUTHEAST CORNER OF SAID DEED NO. 97013530; THENCE NORTH 10°11'00" EAST ALONG SAID DEED NO. 97013530, A DISTANCE OF 197.00 FEET TO THE NORTHEAST CORNER OF SAID DEED NO. 97013530; THENCE SOUTH 79°49'00" EAST A DISTANCE OF 1076.34 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 3:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST ¼ CORNER OF SECTION 30, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., THENCE SOUTH 0°06'06" EAST, ALONG THE EAST LINE OF SECTION 30, A DISTANCE OF 2062.03 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF PARCEL 1 AS SHOWN IN DEED NO. 20223547; THENCE CONTINUING SOUTH 0°06'06" EAST ALONG THE EAST LINE OF SECTION 30, A DISTANCE OF 291.04 FEET, MORE OR LESS, TO A POINT THAT IS 250 FEET NORTH OF THE SE CORNER OF SAID SECTION 30; THENCE NORTH 89°54'43" WEST ALONG SAID LINE, THAT IS NORTH 250 FEET FROM THE SOUTH LINE OF SECTION 30, A DISTANCE OF 1201.88 FEET TO THE EASTERLY RIGHT OF WAY LINE OF BANNOCK HIGHWAY; THENCE NORTH 1°55'47" WEST, ALONG THE SAID EASTERLY LINE, A DISTANCE OF 979.77 FEET; THENCE SOUTH 80°37'58" EAST A DISTANCE OF 898.41 FEET TO THE MOST NORTHERLY CORNER OF PARCEL 1 AS SHOWN IN DEED NO. 20223547; THENCE SOUTH 64°00'34" WEST, ALONG PARCEL 1 AS SHOWN IN DEED NO. 20223547, A DISTANCE OF 76.04 FEET; THENCE SOUTH 56°42'41" WEST, ALONG PARCEL 1 AS SHOWN IN DEED NO 20223547, A DISTANCE OF 67.34 FEET; THENCE SOUTH 9°52'02" WEST, ALONG PARCEL 1 AS SHOWN IN DEED NO. 20223547, A DISTANCE OF 22.57 FEET; THENCE SOUTH 53°09'30" WEST, ALONG PARCEL 1 AS SHOWN IN DEED NO. 20223547, A DISTANCE OF 118.22 FEET; THENCE LEAVING SAID LINE OF PARCEL 1 AS SHOWN IN DEED NO 20223547, NORTH 70°47'41" WEST, ALONG THE NORTHERLY LINE OF PARCEL 2 AS SHOWN IN DEED NO. 20223547, A DISTANCE OF 272.30 FEET; THENCE SOUTH 03°48'47" WEST, ALONG PARCEL 2 AS SHOWN IN DEED NO 20223547, A DISTANCE OF 469.68 FEET; THENCE SOUTH 89°54'42" EAST A DISTANCE OF 247.78 FEET TO THE SOUTHEAST CORNER OF PARCEL 2 AS SHOWN IN DEED NO. 20223547; THENCE SOUTH 89°54'42" EAST, ALONG THE SOUTH LINE OF PARCEL 1 AS SHOWN IN DEED NO 20223547, A DISTANCE OF 611.55 FEET TO THE POINT OF BEGINNING.

Received Time May . . . 2:43PM

20419254 20419254

RECORDATION REQUESTED BY:

**CONTRIBUTION REQUESTED FROM
NATIONS FIRST NATIONAL BANK
RIGBY BRANCH
219 EAST MAIN, P.O. BOX 54
RIGBY, ID 83442**

PIONEER TITLE

RECORDED AT REQUEST OF

FEE 27 DEPUTY m

WHEN RECORDED MAIL TO:

**Zions First National Bank
Loan Servicing Group - UT RDWG 0187
2480 South 3270 West
West Valley City, UT 84119**

2004 SEP 2 PM 3 33

OFFICIAL RECORD BK# 853

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

750 100 2000 10480

2004/125 SW mlt



0000000000000000009003074509022004

MORTGAGE

THIS MORTGAGE dated September 2, 2004, is made and executed between FURNISS INVESTMENTS, LLC (referred to below as "Grantor") and ZIONS FIRST NATIONAL BANK, whose address is 219 EAST MAIN, P.O. BOX 54, RIGBY, ID 83442 (referred to below as "Lender").

GRANT OF MORTGAGE. For valuable consideration, Grantor mortgages, grants, bargains, sells and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in **BANNOCK** County, State of Idaho:

See EXHIBIT "A", which is attached to this Mortgage and made a part of this Mortgage as if fully set forth herein.

The Real Property or its address is commonly known as 1268 NORTH MINK CREEK ROAD, POCA TELLO, ID 83204. The Real Property tax identification number is R4013052906

CROSS-COLLATERALIZATION. In addition to the Note, this Mortgage secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due and shall strictly perform all of Grantor's obligations under this Mortgage.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property. The following provisions relate to the use of the Property or to other limitations on the Property.

Duty to Maintain. Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Compliance With Environmental Laws. Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor

authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

Removal of Improvements. Grantor shall not demolish or remove any improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Duty to Protect. Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

DUE ON SALE - CONSENT BY LENDER. Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, or leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in the Real Property, or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Idaho law.

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

Right to Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and reasonable attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

Notice of Construction. Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialman's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Mortgage:

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption and boiler insurance as Lender may require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that

coverage will not be cancelled or diminished without a minimum of ten (10) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

Grantor's Report on Insurance. Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Mortgage or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Mortgage or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

WARRANTY: DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Mortgage:

Title. Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

Defense of Title. Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

Compliance With Laws. Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Grantor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's indebtedness shall be paid in full.

CONDEMNATION. The following provisions relating to condemnation proceedings are a part of this Mortgage:

Proceedings. If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

Application of Net Proceeds. If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES. The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

Current Taxes, Fees and Charges. Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

Taxes. The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any

part of the indebtedness secured by this Mortgage; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the indebtedness or on payments of principal and interest made by Grantor.

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage:

Security Agreement. This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

Security Interest. Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

Addresses. The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Mortgage.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage:

Further Assurances. At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

Attorney-in-Fact. If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. If Grantor pays all the indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

EVENTS OF DEFAULT. Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

Payment Default. Grantor fails to make any payment when due under the indebtedness.

Default on Other Payments. Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

Other Defaults. Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

Default in Favor of Third Parties. Should Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Grantor's property or Grantor's ability to repay the indebtedness or Grantor's ability to perform Grantor's obligations under this Mortgage or any related document.

False Statements. Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Mortgage or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Defective Collateralization. This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Death or Insolvency. The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any property securing the indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the

9-5
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Loan No: 9003

Page 5

creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Breach of Other Agreement. Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the indebtedness. In the event of a death, Lender, at its option, may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure any Event of Default.

Adverse Change. A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the indebtedness is impaired.

Insecurity. Lender in good faith believes itself insecure.

Right to Cure. If any default, other than a default in payment is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured if Grantor, after receiving written notice from Lender demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of an Event of Default and at any time thereafter, Lender, at Lender's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

Accelerate Indebtedness. Lender shall have the right at its option without notice to Grantor to declare the entire indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

Collect Rents. Lender shall have the right, without notice to Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

Appoint Receiver. Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

Judicial Foreclosure. Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

Nonjudicial Sale. If permitted by applicable law, Lender may foreclose Grantor's interest in all or in any part of the Personal Property or the Real Property by non-judicial sale.

Deficiency Judgment. If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

Tenancy at Sufferance. If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

Other Remedies. Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

Sale of the Property. To the extent permitted by applicable law, Grantor hereby waives any and all right to have the Property marshalled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

Notice of Sale. Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

Election of Remedies. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to Lender following an Event of Default, or in any way to limit or restrict the rights and ability of Lender to proceed directly against Grantor and/or against any other co-maker, guarantor, surety or endorser and/or to proceed against any other collateral directly or indirectly securing the indebtedness.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses whether or not there is

a lawsuit, including reasonable attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

NOTICES. Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Mortgage:

Amendments. This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration of or amendment to this Mortgage shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Annual Reports. If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

Arbitration Disclosures.

1. ARBITRATION IS FINAL AND BINDING ON THE PARTIES AND SUBJECT TO ONLY VERY LIMITED REVIEW BY A COURT.
 2. IN ARBITRATION THE PARTIES ARE WAIVING THEIR RIGHT TO LITIGATE IN COURT, INCLUDING THEIR RIGHT TO A JURY TRIAL.
 3. DISCOVERY IN ARBITRATION IS MORE LIMITED THAN DISCOVERY IN COURT.
 4. ARBITRATORS ARE NOT REQUIRED TO INCLUDE FACTUAL FINDINGS OR LEGAL REASONING IN THEIR AWARDS. THE RIGHT TO APPEAL OR SEEK MODIFICATION OF ARBITRATORS' RULINGS IS VERY LIMITED.
 5. A PANEL OF ARBITRATORS MIGHT INCLUDE AN ARBITRATOR WHO IS OR WAS AFFILIATED WITH THE BANKING INDUSTRY.
 6. ARBITRATION WILL APPLY TO ALL DISPUTES BETWEEN THE PARTIES, NOT JUST THOSE CONCERNING THE AGREEMENT.
 7. IF YOU HAVE QUESTIONS ABOUT ARBITRATION, CONSULT YOUR ATTORNEY OR THE AMERICAN ARBITRATION ASSOCIATION.
- (a) Any claim or controversy ("Dispute") between or among the parties and their employees, agents, affiliates, and assigns, including, but not limited to, Disputes arising out of or relating to this agreement, this arbitration provision ("arbitration clause"), or any related agreements or instruments relating hereto or delivered in connection herewith ("Related Agreements"), and including, but not limited to, a Dispute based on or arising from an alleged tort, shall at the request of any party be resolved by binding arbitration in accordance with the applicable arbitration rules of the American Arbitration Association (the "Administrator"). The provisions of this arbitration clause shall survive any termination, amendment, or expiration of this agreement or Related Agreements. The provisions of this arbitration clause shall supersede any prior arbitration agreement between or among the parties.
- (b) The arbitration proceedings shall be conducted in a city mutually agreed by the parties. Absent such an agreement, arbitration will be conducted in Boise, Idaho or such other place as may be determined by the Administrator. The Administrator and the arbitrator(s) shall have the authority to the extent practicable to take any action to require the arbitration proceeding to be completed and the arbitrator(s) have the authority to impose sanctions on any party that fails to comply with time periods imposed by the Administrator or the arbitrator(s), including the sanction of summarily dismissing any Dispute or defense with prejudice. The arbitrator(s) shall have the authority to resolve any Dispute regarding the terms of this agreement, this arbitration clause, or Related Agreements, including any claim or controversy regarding the arbitrability of any Dispute. All limitations periods applicable to any Dispute or defense, whether by statute or agreement, shall apply to any arbitration proceeding hereunder and the arbitrator(s) shall have the authority to decide whether any Dispute or defense is barred by a limitations period and, if so, to summarily enter an award dismissing any Dispute or defense on that basis. The doctrines of compulsory counterclaim, res judicata, and collateral estoppel shall apply to any arbitration proceeding hereunder so that a party must state as a counterclaim in the arbitration proceeding any claim or controversy which arises out of the transaction or occurrence that is the subject matter of the Dispute. The arbitrator(s) may in the arbitrator(s)' discretion and at the request of any party: (1) consolidate in a single arbitration proceeding any other claim arising out of the same transaction involving another party to that transaction that is bound by an arbitration clause with Lender, such as borrowers, guarantors, sureties, and owners of collateral; and (2) consolidate or administer multiple arbitration claims or controversies as a class action in accordance with Rule 23 of the Federal Rules of Civil Procedure.
- (c) The arbitrator(s) shall be selected in accordance with the rules of the Administrator from panels maintained by the Administrator. A single arbitrator shall have expertise in the subject matter of the Dispute. Where three arbitrators conduct an arbitration proceeding, the Dispute shall be decided by a majority vote of the three arbitrators, at least one of whom must have expertise in the subject matter of the Dispute and at least one of whom must be a practicing attorney. The arbitrator(s) shall award to the prevailing party recovery of all costs and fees (including attorneys' fees and costs, arbitration administration fees and costs, and arbitrator(s)' fees). The arbitrator(s), either during the pendency of the arbitration proceeding or as part of the arbitration award, also may grant provisional or ancillary remedies including but not limited to an award of injunctive relief, foreclosure, sequestration, attachment, replevin, garnishment, or the appointment of a receiver.
- (d) Judgement upon an arbitration award may be entered in any court having jurisdiction, subject to the following limitation: the arbitration award is binding upon the parties only if the amount does not exceed Four Million Dollars (\$4,000,000.00); if the award exceeds that limit, either party may demand the right to a court trial. Such a demand must be filed with the Administrator within thirty (30) days following the date of the arbitration award; if such a demand is not made with that time period, the amount of the arbitration award shall be binding. The computation of the total amount of an arbitration award shall include amounts awarded for attorneys' fees and costs, arbitration administration fees and costs, and arbitrator(s)' fees.
- (e) No provision of this arbitration clause, nor the exercise of any rights hereunder, shall limit the right of any party to: (1) judicially or non-judicially foreclose against any real or personal property collateral or other security; (2) exercise self-help remedies, including but not

limited to repossession and setoff rights; or (3) obtain from a court having jurisdiction thereover any provisional or ancillary remedies including but not limited to injunctive relief, foreclosure, sequestration, attachment, replevin, garnishment, or the appointment of a receiver. Such rights can be exercised at any time, before or after initiation of an arbitration proceeding, except to the extent such action is contrary to the arbitration award. The exercise of such rights shall not constitute a waiver of the right to submit any Dispute to arbitration, and any claim or controversy related to the exercise of such rights shall be a Dispute to be resolved under the provisions of this arbitration clause. Any party may initiate arbitration with the Administrator. If any party desires to arbitrate a Dispute asserted against such party in a complaint, counterclaim, cross-claim, or third-party complaint thereto, or in an answer or other reply to any such pleading, such party must make an appropriate motion to the trial court seeking to compel arbitration, which motion must be filed with the court within 45 days of service of the pleading, or amendment thereto, setting forth such Dispute. If arbitration is compelled after commencement of litigation of a Dispute, the party obtaining an order compelling arbitration shall commence arbitration and pay the Administrator's filing fees and costs within 45 days of entry of such order. Failure to do so shall constitute an agreement to proceed with litigation and waiver of the right to arbitrate. In any arbitration commenced by a consumer regarding a consumer Dispute, Lender shall pay one half of the Administrator's filing fee, up to \$250.

(f) Notwithstanding the applicability of any other law to this agreement, the arbitration clause, or Related Agreements between or among the parties, the Federal Arbitration Act, 9 U.S.C. Section 1 et seq., shall apply to the construction and interpretation of this arbitration clause. If any provision of this arbitration clause should be determined to be unenforceable, all other provisions of this arbitration clause shall remain in full force and effect.

Caption Headings. Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

Governing Law. This Mortgage will be governed by, construed and enforced in accordance with federal law and the laws of the State of Idaho. This Mortgage has been accepted by Lender in the State of Idaho.

Choice of Venue. If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of ADA County, State of Idaho.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Mortgage unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Mortgage shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Mortgage. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Severability. If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of this Mortgage.

Merger. There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Successors and Assigns. Subject to any limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Mortgage.

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Idaho as to all indebtedness secured by this Mortgage.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Mortgage. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code:

Borrower. The word "Borrower" means FURNISS INVESTMENTS, LLC and includes all co-signers and co-makers signing the Note.

Default. The word "Default" means the Default set forth in this Mortgage in the section titled "Default".

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

Grantor. The word "Grantor" means FURNISS INVESTMENTS, LLC.

Guarantor. The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the indebtedness.

Guaranty. The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when

PARCEL 1:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST ¼ CORNER OF SECTION 30, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M.; THENCE SOUTH 0°06'06" EAST, ALONG THE EAST LINE OF SECTION 30, A DISTANCE OF 888.76 FEET; THENCE NORTH 79°49'00" WEST A DISTANCE OF 1154.36 FEET TO THE EASTERLY RIGHT OF WAY LINE OF BANNOCK HIGHWAY; THENCE FOLLOWING SAID EASTERLY RIGHT OF WAY LINE OF BANNOCK HIGHWAY, NORTH 10°46'13" EAST, A DISTANCE OF 491.84 FEET TO THE SOUTH LINE OF THE PROPERTY DESCRIBED IN DEED NO. 99001889; THENCE NORTH 90°00'00" EAST ALONG SAID SOUTH LINE TO THE CENTERLINE OF MINK CREEK; THENCE IN A NORTHEASTERLY DIRECTION FOLLOWING THE CENTERLINE OF MINK CREEK TO THE LATITUDINAL CENTERLINE OF SAID SECTION 30; THENCE SOUTH 89°43'41" EAST, ALONG THE LATITUDINAL CENTERLINE OF SAID SECTION 30, A DISTANCE OF 582.51 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST ¼ CORNER OF SECTION 30, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., THENCE SOUTH 0°06'06" EAST, ALONG THE EAST LINE OF SECTION 30, A DISTANCE OF 888.76 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH 0°06'06" EAST, ALONG THE EAST LINE OF SECTION 30, A DISTANCE OF 999.04 FEET TO THE NORTHEASTERLY LINE OF THE PROPERTY DESCRIBED AS PARCEL 1 IN DEED NO. 20223547; THENCE NORTH 43°42'57" WEST, ALONG SAID LINE A DISTANCE OF 503.00 FEET; THENCE NORTH 80°37'58" WEST A DISTANCE OF 898.41 FEET TO THE EASTERLY RIGHT OF WAY LINE OF BANNOCK COUNTY HIGHWAY, ALSO BEING A POINT OF NON-TANGENCY ON A 1390.88 FOOT RADIUS CURVE IN WHICH THE RADIUS POINT BEARS NORTH 88°04'13" EAST; THENCE FOLLOWING SAID CURVE IN A NORTHEASTERLY DIRECTION HAVING A CENTRAL ANGLE OF 12°42'00" AN ARC LENGTH OF 308.30 FEET (CHORD BEARS NORTH 4°25'13" EAST A DISTANCE OF 307.67 FEET); THENCE NORTH 10°46'13" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 190.41 FEET TO THE SOUTH LINE OF THE PROPERTY DESCRIBED IN DEED NO. 97013530; THENCE SOUTH 79°49'00" EAST, ALONG SAID SOUTH LINE A DISTANCE OF 80.04 TO THE SOUTHEAST CORNER OF SAID DEED NO. 97013530; THENCE NORTH 10°11'00" EAST ALONG SAID DEED NO. 97013530, A DISTANCE OF 197.00 FEET TO THE NORTHEAST CORNER OF SAID DEED NO. 97013530; THENCE SOUTH 79°49'00" EAST A DISTANCE OF 1076.34 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 3:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST ¼ CORNER OF SECTION 30, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., THENCE SOUTH 0°06'06" EAST, ALONG THE EAST LINE OF SECTION 30, A DISTANCE OF 2062.03 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF PARCEL 1 AS SHOWN IN DEED NO. 20223547; THENCE CONTINUING SOUTH 0°06'06" EAST ALONG THE EAST LINE OF SECTION 30, A DISTANCE OF 291.04 FEET, MORE OR LESS, TO A POINT THAT IS 250 FEET NORTH OF THE SE CORNER OF SAID SECTION 30; THENCE NORTH 89°54'43" WEST ALONG SAID LINE, THAT IS NORTH 250 FEET FROM THE SOUTH LINE OF SECTION 30, A DISTANCE OF 1201.88 FEET TO THE EASTERLY RIGHT OF WAY LINE OF BANNOCK HIGHWAY; THENCE NORTH 1°55'47" WEST, ALONG THE SAID EASTERLY LINE, A DISTANCE OF 979.77 FEET; THENCE SOUTH 80°37'58" EAST A DISTANCE OF 898.41 FEET TO THE MOST NORTHERLY CORNER OF PARCEL 1 AS SHOWN IN DEED NO. 20223547; THENCE SOUTH 64°00'34" WEST, ALONG PARCEL 1 AS SHOWN IN DEED NO. 20223547, A DISTANCE OF 76.04 FEET; THENCE SOUTH 56°42'41" WEST, ALONG PARCEL 1 AS SHOWN IN DEED NO. 20223547, A DISTANCE OF 67.34 FEET; THENCE SOUTH 9°52'02" WEST, ALONG PARCEL 1 AS SHOWN IN DEED NO. 20223547, A DISTANCE OF 22.57 FEET; THENCE SOUTH 53°09'30" WEST, ALONG PARCEL 1 AS SHOWN IN DEED NO. 20223547, A DISTANCE OF 118.22 FEET; THENCE LEAVING SAID LINE OF PARCEL 1 AS SHOWN IN DEED NO. 20223547, NORTH 70°47'41" WEST, ALONG THE NORTHERLY LINE OF PARCEL 2 AS SHOWN IN DEED NO. 20223547, A DISTANCE OF 272.30 FEET; THENCE SOUTH 03°48'47" WEST, ALONG PARCEL 2 AS SHOWN IN DEED NO. 20223547, A DISTANCE OF 469.68 FEET; THENCE SOUTH 89°54'42" EAST A DISTANCE OF 247.78 FEET TO THE SOUTHEAST CORNER OF PARCEL 2 AS SHOWN IN DEED NO. 20223547; THENCE SOUTH 89°54'42" EAST, ALONG THE SOUTH LINE OF PARCEL 1 AS SHOWN IN DEED NO. 20223547, A DISTANCE OF 614.53 FEET TO THE POINT OF BEGINNING.

FURNISS INVESTMENTS, LLC

BY:

ROD FURNISS, MANAGING MEMBER

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ITX101 | TAX MASTER INQUIRY YEAR-->|[2005]| [INQUIRE ]|[05/09/06]
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Parcel[R4013052906] Option[ ] |---- Market Value ----|--- Tax Information ---
'U'D' ( ) prev/next           Mkt. Value      312,031 Tax          4,484.64
----- Name /address ----- Homeowners      Specials        40.00
FURNISS INVESTMENTS LLC      Hardship          Total Tax      4,524.64
480 W SUNNYSIDE #4           Net Value      312,031 Circ Brk        .00
                               - Parcel Information - Tax Bill      4,524.64
                               Code Area      001100
                               Bill Number    R04128
                               Prev Parc R4013052903
                               Bank Code
IDAH0 FALLS                  ID
                               834020000
----- Legal Description ----- Loan#
S30-T7S-R35E                Hms
TR E2SE4 TAX 222 54.44 AC    Deed      20419253
                               Old Deed 20120139
                               Property Type      RR
                               Hardship Flag
                               Hardship Pct.      0.00
                               Circ. Brk. Code
SEE COM'L APPRAISAL ALSO    Map Number      05
001268      N MINK CREEK

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