

02-12-1999



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RECORDATION FORM COVER SHEET  
TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
- Resubmission (Non-Recordation)  
Document ID #
- Correction of PTO Error  
Reel #  Frame #
- Corrective Document  
Reel #  Frame #

Conveyance Type

- Assignment  License
- Security Agreement  Nunc Pro Tunc Assignment
- Merger  Effective Date  
Month Day Year
- Change of Name
- Other

Conveying Party

Mark if additional names of conveying parties attached

Execution Date  
Month Day Year  
06/30/97

Name

Formerly

- Individual  General Partnership  Limited Partnership  Corporation  Association

Other

Citizenship/State of Incorporation/Organization

115 E

Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AK/A TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

- Individual  General Partnership  Limited Partnership

- Corporation  Association

Other

Citizenship/State of Incorporation/Organization

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

FOR OFFICE USE ONLY

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:  
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

TRADEMARK  
REEL: 1853 FRAME: 0663

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name Diana J. Peterson

Address (line 1) Peterson Ventures, Inc.

Address (line 2) 111 East Broadway

Address (line 3) Suite 1080

Address (line 4) Salt Lake City, UT 84111

**Correspondent Name and Address**

Area Code and Telephone Number

Name N/A

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Pages**

Enter the total number of pages of the attached conveyance document including any attachments.

# 21

**Trademark Application Number(s) or Registration Number(s)**

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

**Trademark Application Number(s)**

<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Registration Number(s)**

<u>1840724</u>	<u>1341158</u>	<input type="text"/>
<u>1552129</u>	<input type="text"/>	<input type="text"/>
<u>1504142</u>	<input type="text"/>	<input type="text"/>

**Number of Properties**

Enter the total number of properties involved.

# 4

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 115.00

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

No

**Statement and Signature**

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Brad W. Merrill,  
Attorney for Peterson

Brad W. Merrill

02/8/99

Name of Person Signing

Signature

Date Signed



(c) All water rights and conditional water rights that are appurtenant to or that have been used or are intended for use in connection with such land, including but not limited to (i) ditch, well, pipeline, spring and reservoir rights, whether or not evidenced by any certificate of appropriation, well or other permit, or stock in any water or ditch company, (ii) all rights with respect to nontributary groundwater underlying said land, (iii) any permit to drill or construct any water well, water from which is intended to be used in connection with such land, and (iv) all of Trustor's right, title and interest under any decreed or pending plan of augmentation or water exchange plan;

(d) All minerals, crops, timber, trees, shrubs, flowers and landscaping features now or hereafter located on, under or above such land;

(e) With the exception of items that are owned by tenants and that such tenants are entitled, under the terms of applicable lease agreements, to remove from the leased premises at or before the expiration or termination of such leases, all machinery, apparatus, equipment, fittings, fixtures (whether actually or constructively attached, and including all trade, domestic and ornamental fixtures) now or hereafter located in, on or under such land or improvements and used or usable in connection with any present or future operation thereof, including but not limited to all heating, air-conditioning, freezing, lighting, laundry, incinerating and power equipment; extruders; friers; cookers; packaging lines and systems; engines; pipes; pumps; tanks; motors; conduits; switchboards; plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, cooking and communications apparatus; boilers, water heaters, ranges, furnaces and burners; appliances; vacuum cleaning systems; elevators; escalators; shades; awnings; screens; storm doors and windows; stoves; refrigerators; attached cabinets; partitions; ducts and compressors; rugs and carpets; draperies; and all additions thereto and replacements therefor;

(f) All development rights associated with such land, whether previously or subsequently transferred to such land from other real property or now or hereafter susceptible of transfer from such land to other real property;

(g) All awards payments, including interest thereon, resulting from the exercise of any right of eminent domain or any other public or private taking of, injury to, or decreases in the value of, any of such property; and

(h) All other or greater rights and interests of every nature in any of the above-described property and in the possession or use thereof and income therefrom, whether now owned or subsequently acquired by Trustor.

1.5 Chattels: All goods, fixtures, building and other materials, supplies and other tangible personal property of every nature now owned or hereafter acquired by Trustor and used or intended for use in the construction, development or operation of the Property, excluding inventory, together with all accessions thereto, replacements and substitutions therefor and proceeds thereof.

1.6 Intangible Personalty: All rights to any trademarks, trade names, symbols or logos, or any modifications or variations thereof, used in connection with the operation of the

improvements existing or to be constructed on the Property, together with all plans, specifications, licenses, water stock certificates, permits and other general intangibles (whether now owned or hereafter acquired, and including proceeds thereof relating to or arising from Trustor's ownership, use, operation, leasing or sale of all or any part of the Property, specifically including but in no way limited to any right that Trustor may have or acquire to transfer any development rights from the Property to other real property, and any development rights that may be so transferred.

1.7 Loan Documents: The Promissory Note (the "Promissory Note") executed by Trustor to the order of Beneficiary in the original principal amount of One Million Dollars (\$1,000,000), dated as of the date hereof, this Deed of Trust and any financing statements executed in connection herewith, the Security Documents (as defined in the Loan Agreement) , and each other document executed or delivered by Trustor as security for the Loan or in connection with the transaction pursuant to which the Loan Agreement has been executed and delivered. The term "Loan Documents" also includes all modifications, extensions, renewals and replacements of each document referred to above.

1.8 Environmental Law: Any federal, state or local enactment relating to protection of public health or the environment, including (by way of illustration rather than limitation) the Clean Water Act, 33 U.S.C. § 1251, et al., the Clean Air Act, 42 U.S.C. § 7401, et al., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et al., the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601, et al., the Toxic Substances Control Act, 15 U.S.C. § 2601, et al., and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 135, et al., as well as applicable state counterparts to such federal legislation and any regulations, guidelines, directives or other interpretations of any such enactment, all as amended from time to time.

1.9 Regulated Substance: Any substance, the manufacture, storage, transport, generation, use, treatment, recycling, disposal or other disposition of which is prohibited or regulated (including, without limitation, being subjected to notice, reporting, record-keeping or cleanup requirements) by any Environmental Law.

1.10 Person: An individual, corporation, association, partnership, trust or other legal entity.

1.11 Secured Obligations: All present and future obligations of Trustor to Beneficiary under the Loan Agreement and the Loan Documents, whether stated in the form of promises, covenants, representations, warranties, conditions or prohibitions or in any other form.

1.12 Default Rate: The default rate of interest set forth in the Promissory Note.

## ARTICLE 2 GRANTING CLAUSE

2.1 Grant to Trustee. As security for the Secured Obligations, Trustor grants, bargains, sells and conveys the Property to Trustee, in trust for the use and benefit of Beneficiary and subject to all provisions of this Deed of Trust.

2.2 Security Interest to Beneficiary. As additional security for the Secured Obligations, Trustor hereby grants to Beneficiary a security interest in the Chattels and in the Intangible Personalty. To the extent any of the Chattels or the Intangible Personalty may be or have been acquired with funds advanced by Beneficiary under the Loan Documents, this security interest is a purchase money security interest. The security interest granted in this section shall survive any judicial or nonjudicial foreclosure of this Deed of Trust as against the Property and, notwithstanding any purported cancellation of this Deed of Trust in connection with any such foreclosure, shall continue in force as against the Chattels and the Intangible Personalty until all of the Secured Obligations have been satisfied and discharged in full. Any complete release of this Deed of Trust shall, however, unless otherwise expressly provided in the release document, constitute a release of such security interest as well. Trustor agrees that a carbon, photographic or other reproduction of this Deed of Trust, or of any financing statement signed in connection with this Deed of Trust, may be filed or recorded to perfect the security interests granted in this section. Trustor appoints Beneficiary attorney-in-fact for Trustor, to sign on Trustor's behalf any financing statement or amendment of financing statement that Beneficiary may at any time consider necessary or appropriate.

### ARTICLE 3 TRUSTOR'S WARRANTIES AND REPRESENTATIONS

3.1 Warranty of Title. Trustor represents and warrants to Beneficiary that Trustor has good title to the Property in fee simple absolute, subject only to (i) a lien in favor of Fleet Capital Corporation in the maximum amount of FIVE HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$550,000); and (ii) unpaid ad valorem real property taxes not yet delinquent. Trustor further represents and warrants to Beneficiary that Trustor is the absolute owner of the Chattels and the Intangible Property, free of any liens, encumbrances, security interests and other claims whatever, except insofar as the Chattels may be encumbered by any of the Permitted Exceptions. The warranties contained in this section shall survive foreclosure of this Deed of Trust, and shall inure to the benefit of and be enforceable by any Person who may acquire title to the Property, the Chattels or the Intangible Personalty pursuant to any such foreclosure.

3.2 Organizational Status. Trustor represents and warrants to Beneficiary that Trustor is a corporation properly organized, validly existing and in good standing under the laws of the State of California, with all necessary power and authority to execute, deliver and perform Trustor's obligations under the Loan Documents.

3.3 Due Authorization. If Trustor is other than a natural person, then each individual who executes this document on behalf of Trustor represents and warrants to Beneficiary that such execution has been author by all necessary corporate, partnership or other action on the part of Trustor.

3.4 No Regulated Substances. As of the date hereof and after reasonable inquiry, which consists of Trustor's interviews of officers of Trustor's predecessor-in-interest and obtaining a Phase I environmental report, Trustor represents and warrants to Beneficiary that:

(a) No Regulated Substance is currently being generated, used, treated, stored or disposed of on by Trustor, in or under the Property;

(b) Neither Trustor nor any other Person has ever caused or permitted any Regulated Substance to be generated, placed, held, located or disposed of on, under or in the Property;

(c) Neither Trustor nor any other Person has ever used the Property as a dump site, permanent or temporary storage site or transfer station for any Substance;

(d) Trustor has received no notice of, and is not aware of, any actual or alleged violation of any Environmental Law affecting the Property or any activity conducted on the Property; and

(e) To the best of Trustor's knowledge after due investigation, no action or proceeding is pending before or appealable from any court, quasi-judicial body or administrative agency relating to the enforcement of any Environmental Law affecting the Property or any activity conducted on the Property.

3.5 No Susceptibility to Forfeiture. Trustor represents and warrants to Beneficiary that Trustor is not engaged, and has not at any time since Trustor's acquisition of the Property been engaged, in a "pattern of racketeering activity" within the meaning of 18 U.S.C. § 1961, as amended, or within the meaning of any similar state or federal law, nor has Trustor committed any other act or engaged in any other pattern of actions, the potential results of which might include forfeiture of Trustor's interest in the Property.

3.6 Compliance with Laws. Trustor represents and warrants to Beneficiary that the Property and Trustor's present and proposed use of the Property are in compliance with all current and applicable laws, ordinances and other governmental requirements.

3.7 No Conflict with Other Agreements. Trustor represents and warrants to Beneficiary that Trustor's execution and delivery of the Loan Documents does not conflict with, violate or constitute a default under any other agreement by which Trustor or any part of the Property, the Chattels or the Intangible Personalty are bound.

3.8 No Material Litigation. Trustor represents and warrants to Beneficiary that Trustor is not a party to any litigation or other administrative or judicial proceeding that, if determined adversely to Trustor, would materially adversely affect Trustor's financial condition or Trustor's ability to perform Trustor's obligations under the Loan Documents.

3.9 Accurate Financial Information. Trustor represents and warrants to Beneficiary that all financial information provided to Beneficiary with respect to Trustor or any other Person liable for all or any part of the Secured Obligations is complete and accurate in all material respects as of the date of this Deed of Trust.

ARTICLE 4  
TRUSTOR'S AFFIRMATIVE COVENANTS

4.1 Payment of Loan. Trustor will pay all principal, interest and other sums payable under the Loan Agreement, on the date when each such payment is due.

4.2 Performance of Other Obligations. Trustor will perform and comply with all other covenants, conditions and prohibitions required of Trustor by the terms of the Loan Documents, as and when required by such terms.

4.3 Waiver of Homestead and Other Exemptions. Trustor hereby waives all rights to any homestead or other exemption to which Trustor would otherwise be entitled under any present or future constitutional, statutory or other provision of Utah or other state or federal law.

4.4 Other Encumbrances. Trustor will promptly and strictly perform and comply with all covenants, conditions and prohibitions required of Trustor connection with any other encumbrance affecting the Property, the Chattels or the Intangible Personalty, or any part thereof, regardless of whether such other encumbrance is superior or subordinate to the lien hereof.

4.5 Payment of Taxes.

(a) Property Taxes. Trustor will pay, before delinquency, all taxes and assessments, general or special, that may be levied or imposed at any time against the Property, the Chattels or the Intangible Personalty.

(b) Intangible Taxes. If any tax, assessment or similar charge (other than customary taxes on net income) is imposed against the Loan, against Beneficiary or against any interest of Beneficiary in any real or personal property encumbered hereby, Trustor will pay such tax, assessment or other charge before delinquency and will indemnify Beneficiary against all loss, expense or diminution of income in connection therewith.

(c) Right to Contest. Notwithstanding any other provision of this section, Trustor will not be deemed to be in default solely by reason of Trustor's failure to pay any tax, assessment or similar governmental charge so long as, in Beneficiary's judgment, each of the following conditions is satisfied:

(i) Trustor is engaged in and diligently pursuing in good faith administrative or judicial proceedings appropriate to contest the validity or amount of such tax, assessment or charge; and

(ii) Trustor's payment of such tax, assessment or charge would necessarily and materially prejudice Trustor's prospects for success in such proceedings; and



(iii) Nonpayment of such tax, assessment or charge will not result in the loss or, forfeiture of any property encumbered hereby or any interest of Beneficiary therein; and

(iv) Trustor deposits with Beneficiary, as security for any such payment that may ultimately be required, a sum equal to the amount of the disputed tax, assessment or charge, and other costs that Beneficiary estimates are likely to become payable if Trustor's contest is unsuccessful.

If Beneficiary determines that any one or more of such conditions is not satisfied or is no longer satisfied, Trustor will pay the tax, assessment or charge in question, together with any interest and penalties thereon, within ten days after Beneficiary gives notice of such determination.

(d) Beneficiary May Challenge. Trustor hereby appoints Beneficiary the attorney-in-fact for Trustor, with full power and authority to take such action (including but not limited to the institution of administrative or judicial proceedings) as Beneficiary may consider appropriate to challenge (i) the validity or amount (or both) of any tax or other imposition levied or proposed to be levied against all or any part of the Property, or (ii) the valuation of the Property on which any tax is based or proposed to be based. This power of attorney is coupled with an interest and may not be revoked, but Beneficiary will have no obligation at any time to exercise any of the rights or powers referred to in this paragraph. The granting of such power of attorney is not intended to limit Trustor's right to take any action that Beneficiary could take under such power of attorney, but if Trustor institutes any action or proceeding for any of the purposes referred to in this paragraph, then Trustor will not dismiss or compromise such action or proceeding without the express written consent of Beneficiary.

#### 4.6 Maintenance of Insurance.

(a) Coverages Required. Trustor will keep the Property and Chattels insured with all risk replacement cost insurance with an agreed amount endorsement, rent insurance, flood risk insurance, war risk insurance (if available), builder's risk insurance (throughout the period of construction of any improvement on the Property), and such other kinds of insurance as Beneficiary may from time to time require, in amounts and forms and with insurers satisfactory to Beneficiary. In addition, Trustor will maintain public liability insurance with respect to all activities on or relating to the Property, also in amounts and forms and with insurers satisfactory to Beneficiary. Each hazard insurance policy will name Beneficiary as the loss payee, and each liability insurance policy will, without condition or restriction, name Beneficiary as an additional insured. All required policies will provide for 30 days' written notice to Beneficiary prior to the effective date of any cancellation. The original or a certified copy of each insurance policy (or an authorized agent's certificate with respect thereto) will be delivered to Beneficiary, and such delivery will constitute an assignment to Beneficiary, as further security for the Secured Obligations, of all unearned premiums returnable on cancellation of each such policy.

(b) Renewal Policies. Not less than 30 days prior to the expiration date of each insurance policy required pursuant to paragraph (a) above, Trustor will deliver to Beneficiary an appropriate renewal policy (or a certified copy thereof or an authorized agent's certificate with respect thereto), together with evidence satisfactory to Beneficiary that the applicable premium has been prepaid.

(c) Application of Hazard Insurance Proceeds. Any insurance proceeds received by Beneficiary with respect to an insured casualty may, in Beneficiary's sole discretion, either (i) be retained and applied by Beneficiary toward payment of the Secured Obligations, or (ii) be paid over, in whole or in part and subject to such conditions as Beneficiary may impose, to Trustor to pay for repairs or replacements necessitated by the casualty; provided, that if all of the Secured Obligations have been performed or are discharged by the application of less than all of such insurance proceeds, then any remaining proceeds will be paid over to Trustor. Beneficiary will have no obligation to see to the proper application of any insurance proceeds paid over to Trustor, nor will any such proceeds received by Beneficiary bear interest or be subject to any other charge for the benefit of Trustor. Beneficiary may, prior to the application of insurance proceeds, commingle them with Beneficiary's own funds and otherwise act with regard to such proceeds as Beneficiary may determine in Beneficiary's sole discretion.

(d) Successor's Rights. Any Person who acquires title to the Property or the Chattels through foreclosure of this Deed of Trust will succeed to all of Trustor's rights under all policies of insurance maintained pursuant to this section.

4.7 Payment of Utilities. Trustor will pay when due all charges for water, sewer, electricity, natural gas and other utilities serving the Property.

4.8 Maintenance and Repair of Property and Chattels. Trustor will at all times maintain the Property and the Chattels in condition and repair (subject to normal wear and tear), will diligently prosecute the completion of any building or other improvement that is at any time in the process of construction on the Property, and will promptly repair, restore, replace or rebuild any part of the Property or the Chattels that may be affected by any casualty or any public or private taking of or injury to the Property or the Chattels. Beneficiary and any Person authorized by Beneficiary may enter and inspect the Property at all reasonable times, and may inspect the Chattels, wherever located, at all reasonable times.

4.9 Compliance with Laws. Trustor will comply with all statutes, ordinances and other governmental or quasi-governmental requirements and private covenants relating to the ownership, construction, use or operation of the Property, including but not limited to all Environmental Laws; provided, that so long as Trustor is not otherwise in default hereunder, Trustor may proceed diligently and in good faith to contest the validity or applicability of any such statute, ordinance, requirement or covenant. Whether or not Trustor elects to contest such validity or applicability, Trustor will notify Beneficiary promptly of any apparent or alleged violation of any such statute, ordinance, requirement or covenant, and will provide Beneficiary promptly with copies of all notices, pleadings and other communications (other than privileged communications between Trustor and Trustor's legal counsel) relating to any such violation.

4.10 Performance of Lease Obligations. Trustor will perform promptly all of Trustor's obligations under or in connection with each present and future lease of all or any part of the Property. If Trustor receives at any time any written communication from the tenant under any such lease asserting a default by Trustor under such lease, or purporting to terminate or cancel such lease, Trustor will promptly forward a copy of such communication (and any subsequent communications relating thereto) to Beneficiary.

4.11 Eminent Domain; Private Damage. If all or any part of any property encumbered hereby is taken or damaged by eminent domain or any other public or private action, Trustor will notify Beneficiary promptly of the time and place of all meetings, hearings, trials and other proceedings relating to such action. Beneficiary may participate in all negotiations and appear and participate in all judicial or arbitration proceedings concerning any award or payment that may be due as a result of such taking or damaging, and may, in Beneficiary's reasonable discretion, compromise or settle, in the names of both Trustor and Beneficiary, any claim for any such award or payment. Any such award or payment is to be paid to Beneficiary and will be applied first to reimburse Beneficiary for all costs and expenses, including attorneys, fees, incurred by Beneficiary in connection with the ascertainment and collection of such award or payment. The balance, if any, of such award or payment may, in Beneficiary's sole discretion, either (a) be retained by Beneficiary and applied toward the Secured obligations, or (b) be paid over, in whole or in part and subject to such conditions as Beneficiary may impose, to Trustor for the purpose of restoring, repairing or rebuilding any part of the encumbered property affected by the taking or damaging. Beneficiary will have no duty to see to the application of any part of any award or payment released to Trustor. Trustor's duty to pay the Loan in accordance with its terms and to perform the other Secured Obligations will not be suspended by the pendency or discharged by the conclusion of any proceedings for the collection of any such award or payment, and any reduction in the Secured obligations resulting from Beneficiary's application for any such award or payment will take effect only when Beneficiary receives such award or payment. If this Deed of Trust has been foreclosed prior to Beneficiary's receipt of such award or payment, Beneficiary may nonetheless retain such award or payment to the extent required to reimburse Beneficiary for all costs and expenses, including attorneys' fees, incurred in connection, therewith, and to discharge any deficiency remaining with respect to the Secured Obligations.

4.12 Mechanics, Liens. Trustor will keep the Property free and clear of all liens and claims of liens by contractors, subcontractors, mechanics, laborers, materialmen and other such Persons, and will cause any recorded statement of any such lien to be released of record within 30 days after the recording thereof. Notwithstanding the preceding sentence, however, Trustor will not be deemed to be in default under this section if and so long as Trustor (a) contests in good faith the validity or amount of any asserted lien and diligently prosecutes or defends an action appropriate to obtain a binding determination of the disputed matter, and (b) provides Beneficiary with a bond or other security reasonably acceptable to Beneficiary to protect Beneficiary against all loss, damage and expense, including attorneys, fees, that Beneficiary might incur if the asserted lien is determined to be valid. Trustor will indemnify Beneficiary against and hold Beneficiary harmless from any loss, damage or expense, including attorneys, fees and other litigation expenses, incurred by Beneficiary as a result of any default by Trustor under this section, and Trustor's obligations under this sentence shall survive foreclosure of this Deed of Trust.

4.13 Defense of Actions. Trustor will defend, at Trustor's expense, any action, proceeding or claim that affects any property encumbered hereby or any interest of Beneficiary in such property or in the Secured Obligations, and will indemnify and hold Beneficiary harmless from all loss, damage, cost or expense, including attorneys' fees, that Beneficiary may incur in connection therewith, except for actions, proceedings or claims that result solely from Beneficiary's gross negligence or willful misconduct.

4.14 Expenses of Enforcement. Trustor will pay on demand all costs and expenses, including but not limited to attorneys, fees, appraisal costs and expenses for title insurance and title searches and certificates, that Beneficiary may incur in connection with any effort or action (whether or not litigation or foreclosure is involved) to enforce or defend Beneficiary's rights and remedies under any of the Loan Documents, or to secure title to or possession of, or to realize on, any security for the Secured Obligations.

4.15 Books and Records; Financial Reports. Trustor will keep, at Trustor's principal place of business, complete and accurate books and records with respect to the operation, management, maintenance and repair of the Property, and will permit Beneficiary or any Person designated by Beneficiary to inspect and audit such books and records at any reasonable time on reasonable advance notice. Within 90 days after the end of each fiscal year of Trustor, Trustor will furnish to Beneficiary Trustor's balance sheet and statement of earnings as of the end of and for the preceding fiscal year, in such detail as Beneficiary may require, accompanied by an unqualified opinion of independent certified public accountants satisfactory to Beneficiary confirming that such balance sheet and statement of earnings have been prepared in accordance with generally accepted accounting principles consistently applied.

4.16 Priority of Liens. To the extent Trustor has the right, under the terms of any existing lease of all or any part of the Property, to make such lease subordinate to the lien hereof, Trustor will, at Beneficiary's request and Trustor's expense, take such action as may be required to effect such subordination. Conversely, Trustor will, at Beneficiary's request and Trustor's expense, take such action as may be necessary to subordinate the lien hereof to any future lease of all or any part of the Property designated by Beneficiary.

4.17 Further Assurances; Estoppel Certificates. Trustor will execute and deliver to Beneficiary on demand, and pay the costs of preparation and recording thereof, any further documents that Beneficiary may request to confirm or perfect the liens and security interests created or intended to be created hereby, or to confirm or perfect any evidence of the Secured Obligations. Trustor will also, within ten days after any request by Beneficiary, deliver to Beneficiary a signed and acknowledged statement certifying to Beneficiary, or to any proposed transferee of the Secured Obligations, (a) the balance of principal, interest and other sums then outstanding under the Loan, and (b) whether Trustor claims to have any offsets or defenses with respect to the Secured Obligations and, if so, the nature of such offsets or defenses. Trustor's failure to provide such a statement within such ten-day period will result in Trustor's being conclusively bound by any representation that Beneficiary may make as to those matters.

ARTICLE 5  
TRUSTOR'S NEGATIVE COVENANTS

5.1 Waste and Alterations. Trustor will not commit or permit any waste with respect to the Property or the Chattels, nor will Trustor cause or permit any part of the Property, including but not limited to any building, structure, parking lot, driveway, landscape, timber, or other ground improvement, to be removed, demolished or materially altered without the prior written consent of Beneficiary, which will not be withheld unreasonably.

5.2 Zoning and Private Covenants. Trustor will not initiate, join in or consent to any change in any zoning ordinance or classification, any change in the "zone lot" or "zone lots" (or similar zoning unit or units) presently comprising the Property, any transfer of development rights, any change in any private restrictive covenant, or any change in any other public or private restriction limiting or defining the uses that may be made of the Property or any part thereof, without the express written consent of Beneficiary, which consent will not be withheld unreasonably. If under applicable zoning provisions the use of all or any part of the Property is or becomes a nonconforming use, Trustor will not cause or permit such use to be discontinued or abandoned without the express written consent of Beneficiary (which consent shall not be unreasonably withheld).

5.3 Additional Tax Burden. Except with the prior written consent of Beneficiary, Trustor will not initiate, join in or consent to any action or proposal to include all or any part of the Property in any special improvement district or other special district or taxing authority that does not include the Property on the date of this Deed of Trust.

5.4 Interference with Leases. Trustor will neither do nor neglect to do anything that may cause or permit the termination of any lease of all or any part of the Property, or cause or permit the withholding or abatement of any rent payable under any such lease. Except with the prior written consent of Beneficiary, which consent will not be withheld unreasonably, Trustor will not (a) collect rent from all or any part of the Property for more than one month in advance, (b) modify any lease of all or any part of the Property, (c) assign the rents from the Property or any part thereof, or (d) consent to the surrender of all or any part of any such lease, except that Trustor may in good faith terminate any such lease for nonpayment of rent or other material breach by the tenant.

5.5 Except as beneficiary may consent to in writing, Trustor will not convey, lease or otherwise transfer, either voluntarily or involuntarily, the Property or any part thereof or interest therein other than as permitted in this Deed. Any change which results in Keith J. Kim and/or Doyle & Boissiere Fund I not collectively controlling the Board of Directors shall be

deemed a change in the parties having effective control over Trustor's business constituting a transfer of the Property.

5.6 Further Encumbrance of Property. Trustor will neither create nor permit any junior lien or encumbrance against the Property without the prior written consent of Beneficiary.

5.7 Use of Regulated Substances. Trustor will not cause or permit all or any part of the Property to be used to manufacture, generate, store, transfer, treat, recycle or dispose of any Regulated Substance, nor will Trustor cause or permit, as a result of any intentional or unintentional act on the part of Trustor or any tenant, subtenant or other user or occupant of the Property, any release of any Regulated Substance onto the Property or from the Property onto other property.

5.8 Transfer or Removal of Chattels. Trustor will not sell, transfer or remove from the Property all or any part of the Chattels, unless the items sold, transferred or removed are simultaneously replaced with similar items of equal or greater value.

5.9 Change of Name. Trustor will not change the name under which Trustor does business, or adopt or begin doing business under any other name or assumed or trade name, without first notifying Beneficiary of Trustor's intention to do so and delivering to Beneficiary such executed modifications or supplements to this Deed of Trust (and to any financing statement that may be filed in connection herewith) as Beneficiary may require to maintain the perfected status of the security interests granted in this Deed of Trust.

5.10 Improper Use of Property or Chattels. Trustor will not use the Property or the Chattels for any purpose or in any manner that violates any applicable law, ordinance or other governmental requirement, the requirements or conditions of any insurance policy, or any private covenant.

5.11 Use of Proceeds. Trustor will not use any funds advanced by Beneficiary under the Loan Documents for any purpose other than (a) acquisition of the Property, (b) payment of the cost of labor, services, materials and equipment used in the construction of improvements on the Property, and (c) such other purposes as may be or have been approved in writing by Beneficiary.

5.12 Extent of Personal Property Security Interest. Notwithstanding anything contained in paragraph 1.4(e) above or otherwise contained in this Deed of Trust, Beneficiary acknowledges that it has not been granted, and does not assert, any security interest in any personal property, whether now owned or hereafter acquired by Trustor, that is subject to a consensual lien or security interest in favor of The CIT Group/Credit Finance, Inc., or any replacement lender.

ARTICLE 6  
EVENTS OF DEFAULT

Each of the following events will constitute a default under this Deed of Trust and under each of the other Loan Documents:

6.1 Default under Loan Agreement. The occurrence of any Event of Default as defined in the Loan Documents;

6.2 Acts Threatening Forfeiture. Beneficiary's reasonable determination that Trustor has committed any act or engaged in any pattern of actions that may lead to a claim for forfeiture of Trustor's interest in the Property, it being agreed that the issuance of any criminal complaint or indictment charging Trustor with any such act or pattern of actions would be a sufficient basis for such a determination by Beneficiary; or

6.3 Assertion of Priority. The assertion (except by the owner of an encumbrance expressly excepted from Trustor's warranty of title herein) of any claim of priority over this Deed of Trust, by title, lien or otherwise, unless Trustor within 30 days after such assertion either causes the assertion to be withdrawn or provides Beneficiary with such security as Beneficiary may require to protect Beneficiary against all loss, damage or expense, including attorneys' fees, that Beneficiary may incur in the event such assertion is upheld.

ARTICLE 7  
BENEFICIARY'S REMEDIES

Immediately upon or at any time after the occurrence of any event of default hereunder, Beneficiary may exercise any remedy available at law or in equity, including but not limited to those listed below and those listed in the other Loan Documents, in such sequence or combination as Beneficiary may determine in Beneficiary's sole discretion:

7.1 Performance of Defaulted Obligations. Beneficiary may make any payment or perform any other obligation under the Loan Documents that Trustor has failed to make or perform, and Trustor hereby irrevocably appoints Beneficiary as the true and lawful attorney-in-fact for Trustor to make any such payment and perform any such obligation in the name of Trustor. All payments made and expenses (including attorneys' fees) incurred by Beneficiary in this connection, together with interest thereon at the Default Rate from the date paid or incurred until repaid, will be part of the Secured Obligations and will be immediately due and payable by Trustor to Beneficiary. In lieu of advancing Beneficiary's own funds for such purposes, Beneficiary may use any funds of Trustor that may be in Beneficiary's possession, including but not limited to insurance or condemnation proceeds and amounts deposited for taxes, insurance premiums or other purposes.

7.2 Specific Performance and Injunctive Relief. Notwithstanding the availability of legal remedies, Beneficiary will be entitled to obtain specific performance, mandatory or prohibitory injunctive relief or other equitable relief requiring Trustor to cure or refrain from repeating any default.

7.3 Acceleration of Secured Obligations. Beneficiary may, without notice or demand, declare all of the Secured Obligations immediately due and payable in full.

7.4 Suit for Monetary Relief. With or without accelerating the maturity of the Secured Obligations, Beneficiary may, to the extent permitted by law, sue from time to time for any payment due under any of the Loan Documents, or for money damages resulting from Trustor's default under any of the Loan Documents.

7.5 Possession of Property. Beneficiary may enter and take possession of the Property without seeking or obtaining the appointment of a receiver, may employ a managing agent for the Property and may lease or rent all or any part of the Property, either in Beneficiary's name or in the name of Trustor, and may collect the rents, issues and profits of the Property. Any revenues collected by Beneficiary under this section will be applied first toward payment of all expenses (including attorneys' fees) incurred by Beneficiary, together with interest thereon at the Default Rate from the date incurred until repaid, and the balance, if any, will be applied against the Secured Obligations.

7.6 Enforcement of Security Interests. Beneficiary may exercise all rights of a secured party under the Utah Uniform Commercial Code with respect to the Chattels and the Intangible Personalty, including but not limited to taking possession of, holding and selling the Chattels and enforcing or otherwise realizing on any general intangibles. Any requirement for reasonable notice of the time and place of any public sale, or of the time after which any private sale or other disposition is to be made, will be satisfied by Beneficiary's giving of such notice to Trustor at least five days prior to the time of any public sale or the time after which any private sale or other intended disposition is to be made. To the extent permitted by applicable law, Beneficiary may, at Beneficiary's option, cause Trustee to sell any or all of the Chattels, the Intangible Personalty or other personal property as part of the sale of the Property, without making any distinction between real and personal property.

7.7 Foreclosure Against Property. Beneficiary may foreclose this Deed of Trust either by judicial action or through Trustee. Foreclosure through Trustee will be initiated by Beneficiary's delivery to Trustee of a written request that Trustee record a notice of default in the office of the County Recorder for the county in which the Property is located, and Trustee shall forthwith comply with any such request; unless otherwise expressly required by law, Beneficiary need not deliver the Loan Agreement or this Deed of Trust to Trustee. Trustor requests that a copy of any such notice of default and of any notice of sale under this Deed of Trust be mailed to Trustor as provided by law. If all defaults under the Loan Documents have been cured within three months after such notice of default is recorded, Beneficiary will direct Trustee to record a cancellation of such notice of default; otherwise, Beneficiary may, at any time after the expiration of such three-month period, notify Trustee of Beneficiary's election to cause the Property to be sold. Upon receipt of such notice of election, Trustee shall promptly comply with all notice, publication and other requirements of the laws of Utah then in force with respect to such sales, and shall then proceed to sell the Property. Any sale conducted by Trustee pursuant to this section shall be held at the office of Trustee, or at the Property, or at such other place as similar sales are then customarily held in such County, provided that the actual place of sale shall be specified in the notice of sale. If the Property includes two or more recognized parcels of land, Trustor may, before commencement of the



sale, direct Trustee in writing to offer such parcels for sale separately, in such order as Trustor's direction may specify, but unless otherwise directed in writing by Beneficiary, Trustee shall not accept any offer or offers to purchase less than all of the Property at an aggregate price that is insufficient to discharge the Secured Obligations (including costs of sale) in full without first offering the entire Property for sale as a unit and determining that the proceeds of sales in separate parcels will equal or exceed the proceeds of a sale of the entire Property. Unless payment in another form is approved in writing by Beneficiary, any bid must be paid, immediately after its acceptance by Trustee, in cash or immediately available funds, except that if Beneficiary is the successful bidder, Beneficiary may credit the amount of Beneficiary's bid against the Secured Obligations in lieu of paying cash. The proceeds of any sale under this section shall be applied first to the fees and expenses of the Person conducting the sale, and then to the reduction or discharge of the Secured Obligations in such order as Beneficiary may elect; any surplus remaining shall be paid over to Trustor or to such other Person or Persons as may be lawfully entitled to such surplus. At the conclusion of any foreclosure sale, the officer conducting the sale shall execute and deliver to the purchaser at the sale a deed (and, if the sale includes personal property, an appropriate bill of sale, assignment, or both), which shall operate to divest Trustor and all Persons claiming under Trustor of all right, title and interest, whether legal or equitable, in the property described in the deed and other instruments, if any. Nothing in this section dealing with foreclosure procedures or specifying particular actions to be taken by Beneficiary or by Trustee or any similar Person shall be deemed to contradict or add to the requirements and procedures now or hereafter specified by Utah law, and any such inconsistency shall be resolved in favor of Utah law applicable at the time of foreclosure.

7.8 Appointment of Receiver. Beneficiary shall be entitled, as a matter of absolute right and without regard to the value of any security for the Secured Obligations or the solvency of any Person liable therefor, to the appointment of a receiver for the Property on ex parte application to any court of competent jurisdiction. Trustor waives any right to any hearing or notice of hearing prior to the appointment of a receiver. Such receiver and his agents shall be empowered (a) to take possession of the Property and any businesses conducted by Trustor or any other Person thereon and any business assets used in connection therewith, (b) to exclude Trustor and Trustor's agents, servants and employees from the Property, or, at the option of the receiver, in lieu of such exclusion, to collect a fair market rental from any such Persons occupying any part of the Property, (c) to collect the rents, issues, profits and income therefrom, (d) to complete any construction that may be in progress, (e) to do such maintenance and make such repairs and alterations as the receiver deems necessary, (f) to use all stores of materials, supplies and maintenance equipment on the Property and replace such items at the expense of the receivership estate, (g) to pay all taxes and assessments against the Property and the Chattels, all premiums for insurance thereon, all utility and other operating expenses, and all sums due under any prior or subsequent encumbrance, (h) to borrow from Beneficiary such funds as may reasonably be necessary to the effective exercise of the receiver's powers, on such terms as may be agreed upon by the receiver and Beneficiary, and (i) generally to do anything that Trustor could legally do if Trustor were in possession of the Property. All expenses incurred by the receiver or his agents, including obligations to repay funds borrowed by the receiver, shall constitute a part of the Secured Obligations. Any revenues collected by the receiver shall be applied first to the expenses of the receivership, including attorneys' fees incurred by the receiver and by Beneficiary, together with interest

thereon at the Default Rate from the date incurred until repaid, and the balance shall be applied toward the Secured Obligations or in such other manner as the court may direct. Unless sooner terminated with the express consent of Beneficiary, any such receivership will continue until the Secured Obligations have been discharged in full, or until title to the Property has passed after foreclosure sale and all applicable periods of redemption have expired.

## ARTICLE 8 PROVISIONS CONCERNING TRUSTEE

8.1 Protection of Trustee. Trustee will not be liable for any error in judgment or for any act done in good faith by Trustee, nor will Trustee be otherwise accountable or responsible, except for Trustee's own gross negligence, bad faith or willful misconduct, under any circumstances whatever. Trustee will not be personally liable, in the event Trustee or any other person acting under the powers granted Trustee under this Deed of Trust enters or takes possession of the Property, for debts contracted or for liability or damages incurred in the management or operation of the Property. Trustee may rely absolutely on any document, instrument or signature purporting to authorize or support any action by Trustee under this Deed of Trust which Trustee believes in good faith to be genuine. Trustor will from time to time pay Trustee all compensation due Trustee under this Deed of Trust, will reimburse Trustee for all expenses, including attorneys, fees, incurred by Trustee in the performance of Trustee's duties under this Deed of Trust, and will indemnify Trustee and hold Trustee harmless against any loss, claim, damage or expense incurred by Trustee in connection with the performance of such duties.

8.2 Retention of Funds. Any funds received by Trustee shall, until used or applied as provided in this Deed of Trust, be held in trust for the purposes for which they were received. Except to the extent required by law, such funds need not be segregated from other funds held in trust by Trustee. In no event shall Trustee or Beneficiary be liable to pay interest on any funds held by Trustee.

8.3 Successor Trustees. Trustee may resign by giving 30 days' notice of resignation in writing to Beneficiary. If Trustee resigns, dies or becomes disqualified from acting as trustee under this Deed of Trust, or if Trustee fails or refuses to exercise Trustee's powers under this Deed of Trust upon request by Beneficiary, or if Beneficiary elects with or without cause to replace Trustee, then Beneficiary may appoint a successor trustee by notifying Trustee of such appointment and recording notice thereof in the appropriate public records. Beneficiary may replace any such successor trustee in the same manner.

8.4 Instruments of Succession. Any new Trustee appointed pursuant to the preceding section will, without further act, deed or conveyance, automatically become vested with all of the rights, powers, interests and trusts which had been held by such new Trustee's predecessor, with the same effect as though the new Trustee had originally been named Trustee in this Deed of Trust. Nevertheless, upon request of Beneficiary or of the new Trustee, the former Trustee shall execute and deliver to the new Trustee an instrument in recordable form, transferring to the new Trustee all of the former Trustee's rights, powers, interests and trusts under this Deed of Trust, and shall also transfer and deliver to the new Trustee any property or funds held by the former Trustee in the former Trustee's capacity as trustee under this Deed of Trust.



way the priority of this Deed of Trust over the interests of any Person acquired or first evidenced by recording subsequent to the recording hereof, Beneficiary may, either before or after the maturity of the Loan, and without notice or consent: (a) release any Person liable for payment or performance of all or any part of the Secured Obligations; (b) make any agreement altering the terms of payment or performance of all or any of the Secured Obligations; (c) exercise or refrain from exercising, or waive, any right or remedy that Beneficiary may have under any of the Loan Documents; (d) accept additional security of any kind for any of the Secured Obligations; or (e) release or otherwise deal with any real or Personal property securing the Secured Obligations. Any Person acquiring or recording evidence of any interest of any nature in the Property, the Chattels or the Intangible Personalty shall be deemed, by acquiring such interest or recording any evidence thereof, to have agreed and consented to any or all such actions by Beneficiary.

9.8 Subrogation of Beneficiary. Beneficiary shall be subrogated to the lien of any previous encumbrance discharged with funds advanced by Beneficiary under the Loan Documents, regardless of whether such previous encumbrance has been released of record.

9.9 Notices. Any notice required or permitted to be given by Trustor or Beneficiary under any of the Loan Documents must be in writing and will be deemed given on personal delivery or on the third business day after the mailing thereof, by registered or certified United States mail, postage prepaid, to the appropriate party at its address shown on the first page of this Deed of Trust. Either party may change such party's address for notices by giving notice to the other party in accordance with this section, but no such change of address will be effective as against any Person without actual knowledge of the change.

9.10 Fixture Filing. This Deed of Trust is intended to serve as a financing statement under the Utah Uniform Commercial Code with respect to any fixtures that may at any time be part of the Property or the Chattels, and the recording of this Deed of Trust is intended to constitute a "fixture filing" for purposes of such Uniform Commercial Code.

9.11 Defeasance. Upon payment and performance in full of all of the Secured Obligations, Beneficiary will execute and deliver to Trustor such documents as may be required to release this Deed of Trust of record.

9.12 Severability. Wherever possible, each provision of the Loan Documents is to be interpreted so as to be effective and valid under applicable law. If any provision of any Loan Document is, for any reason and to any extent, invalid or unenforceable, then neither the remainder of the Loan Document in which such provision appears, nor any other Loan Document, nor the application of the provision to other Persons or in other circumstances, shall be affected by such invalidity or unenforceability.

9.13 Agreement to Reconvey on Partial Payment. Beneficiary shall reconvey her lien on the Property in exchange for a paydown of 80 percent of the remaining principal balance of the Note, plus all accrued interest, unless sale of property located at 11273 Pellicano Drive, 43, El Paso, Texas, has already taken place.

9.14 Subordination to Senior Lien.

(a) This Deed of Trust is presently in second position to a first deed of trust held by Fleet Capital Corporation (the "Fleet Deed of Trust") securing up to \$550,000 in obligations of the Trustor to Fleet Capital Corporation that are payable before the conclusion of the five-year term of this Promissory Note (the "Fleet Debt"). If the Fleet Debt is repaid before the conclusion of the five-year term of this Promissory Note and if the Fleet Deed of Trust is reconveyed, Lender agrees that until, and only until, the expiration of the five-year term of this Promissory Note the Kaysville Deed of Trust will be subordinate to a deed of trust given to another lender securing an obligation not to exceed \$550,000 (subject to periodic increases as provided herein); provided, however, that if all obligations of Trustor pursuant to this Promissory Note are not fully repaid at the conclusion of the five-year term of this Promissory Note, then Beneficiary's agreement that this Deed of Trust will be subordinate to a deed of trust given to another lender securing an obligation not to exceed \$550,000 (subject to periodic increases as provided herein) shall automatically expire and this Deed of Trust shall not be subordinate to any deed of trust.

(b) This Deed of Trust shall be subject to an agreement with the senior lender to limit its prior collateral and lien rights in the property to a maximum of \$550,000 (subject to periodic increases equal to 80% of the principal reduction of the Note after the amount of principal and interest owing under the Consensual Note, together with the amount of all prior liens, drops below an 80% loan to value ratio, and remains below 80% after any increases in any senior liens; provided that "value" for purposes of the foregoing calculation shall be \$1,350,000.

Signed and delivered as of the date first mentioned above.

GRANNY GOOSE FOODS, INC.,  
a California corporation

By \_\_\_\_\_

  
*Executive*  
Chief ~~Executive~~ Officer

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF ~~State~~ California )  
 ) SS.  
COUNTY OF Alameda )

On June 25, 1997, before me, Demetria Telefree, a Notary Public, personally appeared Keith Kim,  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.

Demetria Telefree  
Notary Public, State of ~~State~~ California

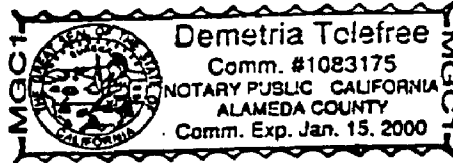


EXHIBIT A  
to  
DEED OF TRUST AND SECURITY AGREEMENT

(Legal Description)

A part of Lot 11, Block "D", KAYSVILLE CITY SURVEY, described as follows:

Beginning at a point which is North 89°22'30" West 66.0 feet from the Southeast corner of said Lot 11 and running thence North 89°22'30" West 187.65 feet along the South line of said Lot 11 to the West line of the Old Bamberger Rail Road Right of Way; thence Northerly along the arc of a 1406.7 foot radius curve to the left 690.64 feet (long chord of which bears North 25°43'23" West 683.72 feet) along said West line to the South line of Crestwood Road; thence North 67°22'30" East 502.59 feet along said South line to the West line of Fairfield Road; thence two courses along said West line as follows: Southerly along the arc of a 778.51 foot radius curve to the right 221.59 feet (long chord bears South 7°23'15" East 220.85 feet) and South 0°46' West 592.40 feet to the point of beginning.

Kaysville City,  
County of Davis,  
State of Utah.

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Diana J. Peterson  
c/o Peterson Ventures, Inc.  
111 E. Broadway, Suite 1080  
Salt Lake City, Utah 84111

## DEED OF TRUST AND SECURITY AGREEMENT

THIS DEED OF TRUST AND SECURITY AGREEMENT ("Deed of Trust") is given as of June 30, 1997, by the Trustor named below to the Trustee named below, for the use and benefit of the Beneficiary named below.

### ARTICLE I PARTIES, PROPERTY AND DEFINITIONS

The following terms and references shall have the meanings indicated:

1.1 Trustor: GRANNY GOOSE FOODS, INC., a California corporation whose legal address is 930 - 98th Avenue, Oakland, California 94603, together with any future owner of the Property or any part thereof or interest therein.

1.2 Beneficiary: DIANA J. PETERSON, an individual having an office at c/o Peterson Ventures, Inc., 111 East Broadway, Suite 1080, Salt Lake City, Utah 84111, together with any future holder of the loan secured by this Deed of Trust.

1.3 Trustee: Associated Title Company, a Utah corporation, whose address is 349 South 200 East, Salt Lake City, Utah 84111, together with any receiver trustee appointed by Beneficiary in accordance with applicable law and the provisions of this Deed of Trust.

1.4 Property: The land described in Exhibit A attached, commonly referred to as 100 East 200 North, Kaysville, Utah, together with the following:

(a) All buildings, structures and improvements now or hereafter located thereon, as well as all rights of way, easements, trackage rights and other appurtenances to such land;

(b) All of Trustor's right, title and interest in any land lying between the boundaries of the land described on Exhibit A and the center line of any adjacent street, road, avenue or alley, whether opened or proposed;



(c) All water rights and conditional water rights that are appurtenant to or that have been used or are intended for use in connection with such land, including but not limited to (i) ditch, well, pipeline, spring and reservoir rights, whether or not evidenced by any certificate of appropriation, well or other permit, or stock in any water or ditch company, (ii) all rights with respect to nontributary groundwater underlying said land, (iii) any permit to drill or construct any water well, water from which is intended to be used in connection with such land, and (iv) all of Trustor's right, title and interest under any decreed or pending plan of augmentation or water exchange plan;

(d) All minerals, crops, timber, trees, shrubs, flowers and landscaping features now or hereafter located on, under or above such land;

(e) With the exception of items that are owned by tenants and that such tenants are entitled, under the terms of applicable lease agreements, to remove from the leased premises at or before the expiration or termination of such leases, all machinery, apparatus, equipment, fittings, fixtures (whether actually or constructively attached, and including all trade, domestic and ornamental fixtures) now or hereafter located in, on or under such land or improvements and used or usable in connection with any present or future operation thereof, including but not limited to all heating, air-conditioning, freezing, lighting, laundry, incinerating and power equipment; extruders; friers; cookers; packaging lines and systems; engines; pipes; pumps; tanks; motors; conduits; switchboards; plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, cooking and communications apparatus; boilers, water heaters, ranges, furnaces and burners; appliances; vacuum cleaning systems; elevators; escalators; shades; awnings; screens; storm doors and windows; stoves; refrigerators; attached cabinets; partitions; ducts and compressors; rugs and carpets; draperies; and all additions thereto and replacements therefor;

(f) All development rights associated with such land, whether previously or subsequently transferred to such land from other real property or now or hereafter susceptible of transfer from such land to other real property;

(g) All awards payments, including interest thereon, resulting from the exercise of any right of eminent domain or any other public or private taking of, injury to, or decreases in the value of, any of such property; and

(h) All other or greater rights and interests of every nature in any of the above-described property and in the possession or use thereof and income therefrom, whether now owned or subsequently acquired by Trustor.

1.5 Chattels: All goods, fixtures, building and other materials, supplies and other tangible personal property of every nature now owned or hereafter acquired by Trustor and used or intended for use in the construction, development or operation of the Property, excluding inventory, together with all accessions thereto, replacements and substitutions therefor and proceeds thereof.

1.6 Intangible Personalty: All rights to any trademarks, trade names, symbols or logos, or any modifications or variations thereof, used in connection with the operation of the

improvements existing or to be constructed on the Property, together with all plans, specifications, licenses, water stock certificates, permits and other general intangibles (whether now owned or hereafter acquired, and including proceeds thereof relating to or arising from Trustor's ownership, use, operation, leasing or sale of all or any part of the Property, specifically including but in no way limited to any right that Trustor may have or acquire to transfer any development rights from the Property to other real property, and any development rights that may be so transferred.

1.7 Loan Documents: The Promissory Note (the "Promissory Note") executed by Trustor to the order of Beneficiary in the original principal amount of One Million Dollars (\$1,000,000), dated as of the date hereof, this Deed of Trust and any financing statements executed in connection herewith, the Security Documents (as defined in the Loan Agreement), and each other document executed or delivered by Trustor as security for the Loan or in connection with the transaction pursuant to which the Loan Agreement has been executed and delivered. The term "Loan Documents" also includes all modifications, extensions, renewals and replacements of each document referred to above.

1.8 Environmental Law: Any federal, state or local enactment relating to protection of public health or the environment, including (by way of illustration rather than limitation) the Clean Water Act, 33 U.S.C. § 1251, et al., the Clean Air Act, 42 U.S.C. § 7401, et al., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et al., the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601, et al., the Toxic Substances Control Act, 15 U.S.C. § 2601, et al., and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 135, et al., as well as applicable state counterparts to such federal legislation and any regulations, guidelines, directives or other interpretations of any such enactment, all as amended from time to time.

1.9 Regulated Substance: Any substance, the manufacture, storage, transport, generation, use, treatment, recycling, disposal or other disposition of which is prohibited or regulated (including, without limitation, being subjected to notice, reporting, record-keeping or cleanup requirements) by any Environmental Law.

1.10 Person: An individual, corporation, association, partnership, trust or other legal entity.

1.11 Secured Obligations: All present and future obligations of Trustor to Beneficiary under the Loan Agreement and the Loan Documents, whether stated in the form of promises, covenants, representations, warranties, conditions or prohibitions or in any other form.

1.12 Default Rate: The default rate of interest set forth in the Promissory Note.

## ARTICLE 2 GRANTING CLAUSE

2.1 Grant to Trustee. As security for the Secured Obligations, Trustor grants, bargains, sells and conveys the Property to Trustee, in trust for the use and benefit of Beneficiary and subject to all provisions of this Deed of Trust.

2.2 Security Interest to Beneficiary. As additional security for the Secured Obligations, Trustor hereby grants to Beneficiary a security interest in the Chattels and in the Intangible Personalty. To the extent any of the Chattels or the Intangible Personalty may be or have been acquired with funds advanced by Beneficiary under the Loan Documents, this security interest is a purchase money security interest. The security interest granted in this section shall survive any judicial or nonjudicial foreclosure of this Deed of Trust as against the Property and, notwithstanding any purported cancellation of this Deed of Trust in connection with any such foreclosure, shall continue in force as against the Chattels and the Intangible Personalty until all of the Secured Obligations have been satisfied and discharged in full. Any complete release of this Deed of Trust shall, however, unless otherwise expressly provided in the release document, constitute a release of such security interest as well. Trustor agrees that a carbon, photographic or other reproduction of this Deed of Trust, or of any financing statement signed in connection with this Deed of Trust, may be filed or recorded to perfect the security interests granted in this section. Trustor appoints Beneficiary attorney-in-fact for Trustor, to sign on Trustor's behalf any financing statement or amendment of financing statement that Beneficiary may at any time consider necessary or appropriate.

### ARTICLE 3 TRUSTOR'S WARRANTIES AND REPRESENTATIONS

3.1 Warranty of Title. Trustor represents and warrants to Beneficiary that Trustor has good title to the Property in fee simple absolute, subject only to (i) a lien in favor of Fleet Capital Corporation in the maximum amount of FIVE HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$550,000); and (ii) unpaid ad valorem real property taxes not yet delinquent. Trustor further represents and warrants to Beneficiary that Trustor is the absolute owner of the Chattels and the Intangible Property, free of any liens, encumbrances, security interests and other claims whatever, except insofar as the Chattels may be encumbered by any of the Permitted Exceptions. The warranties contained in this section shall survive foreclosure of this Deed of Trust, and shall inure to the benefit of and be enforceable by any Person who may acquire title to the Property, the Chattels or the Intangible Personalty pursuant to any such foreclosure.

3.2 Organizational Status. Trustor represents and warrants to Beneficiary that Trustor is a corporation properly organized, validly existing and in good standing under the laws of the State of California, with all necessary power and authority to execute, deliver and perform Trustor's obligations under the Loan Documents.

3.3 Due Authorization. If Trustor is other than a natural person, then each individual who executes this document on behalf of Trustor represents and warrants to Beneficiary that such execution has been authorized by all necessary corporate, partnership or other action on the part of Trustor.

3.4 No Regulated Substances. As of the date hereof and after reasonable inquiry, which consists of Trustor's interviews of officers of Trustor's predecessor-in-interest and obtaining a Phase I environmental report, Trustor represents and warrants to Beneficiary that:



ARTICLE 4  
TRUSTOR'S AFFIRMATIVE COVENANTS

4.1 Payment of Loan. Trustor will pay all principal, interest and other sums payable under the Loan Agreement, on the date when each such payment is due.

4.2 Performance of Other Obligations. Trustor will perform and comply with all other covenants, conditions and prohibitions required of Trustor by the terms of the Loan Documents, as and when required by such terms.

4.3 Waiver of Homestead and Other Exemptions. Trustor hereby waives all rights to any homestead or other exemption to which Trustor would otherwise be entitled under any present or future constitutional, statutory or other provision of Utah or other state or federal law.

4.4 Other Encumbrances. Trustor will promptly and strictly perform and comply with all covenants, conditions and prohibitions required of Trustor connection with any other encumbrance affecting the Property, the Chattels or the Intangible Personalty, or any part thereof, regardless of whether such other encumbrance is superior or subordinate to the lien hereof.

4.5 Payment of Taxes.

(a) Property Taxes. Trustor will pay, before delinquency, all taxes and assessments, general or special, that may be levied or imposed at any time against the Property, the Chattels or the Intangible Personalty.

(b) Intangible Taxes. If any tax, assessment or similar charge (other than customary taxes on net income) is imposed against the Loan, against Beneficiary or against any interest of Beneficiary in any real or personal property encumbered hereby, Trustor will pay such tax, assessment or other charge before delinquency and will indemnify Beneficiary against all loss, expense or diminution of income in connection therewith.

(c) Right to Contest. Notwithstanding any other provision of this section, Trustor will not be deemed to be in default solely by reason of Trustor's failure to pay any tax, assessment or similar governmental charge so long as, in Beneficiary's judgment, each of the following conditions is satisfied:

(i) Trustor is engaged in and diligently pursuing in good faith administrative or judicial proceedings appropriate to contest the validity or amount of such tax, assessment or charge; and

(ii) Trustor's payment of such tax, assessment or charge would necessarily and materially prejudice Trustor's prospects for success in such proceedings; and

(iii) Nonpayment of such tax, assessment or charge will not result in the loss or, forfeiture of any property encumbered hereby or any interest of Beneficiary therein; and

(iv) Trustor deposits with Beneficiary, as security for any such payment that may ultimately be required, a sum equal to the amount of the disputed tax, assessment or charge, and other costs that Beneficiary estimates are likely to become payable if Trustor's contest is unsuccessful.

If Beneficiary determines that any one or more of such conditions is not satisfied or is no longer satisfied, Trustor will pay the tax, assessment or charge in question, together with any interest and penalties thereon, within ten days after Beneficiary gives notice of such determination.

(d) Beneficiary May Challenge. Trustor hereby appoints Beneficiary the attorney-in-fact for Trustor, with full power and authority to take such action (including but not limited to the institution of administrative or judicial proceedings) as Beneficiary may consider appropriate to challenge (i) the validity or amount (or both) of any tax or other imposition levied or proposed to be levied against all or any part of the Property, or (ii) the valuation of the Property on which any tax is based or proposed to be based. This power of attorney is coupled with an interest and may not be revoked, but Beneficiary will have no obligation at any time to exercise any of the rights or powers referred to in this paragraph. The granting of such power of attorney is not intended to limit Trustor's right to take any action that Beneficiary could take under such power of attorney, but if Trustor institutes any action or proceeding for any of the purposes referred to in this paragraph, then Trustor will not dismiss or compromise such action or proceeding without the express written consent of Beneficiary.

#### 4.6 Maintenance of Insurance.

(a) Coverages Required. Trustor will keep the Property and Chattels insured with all risk replacement cost insurance with an agreed amount endorsement, rent insurance, flood risk insurance, war risk insurance (if available), builder's risk insurance (throughout the period of construction of any improvement on the Property), and such other kinds of insurance as Beneficiary may from time to time require, in amounts and forms and with insurers satisfactory to Beneficiary. In addition, Trustor will maintain public liability insurance with respect to all activities on or relating to the Property, also in amounts and forms and with insurers satisfactory to Beneficiary. Each hazard insurance policy will name Beneficiary as the loss payee, and each liability insurance policy will, without condition or restriction, name Beneficiary as an additional insured. All required policies will provide for 30 days' written notice to Beneficiary prior to the effective date of any cancellation. The original or a certified copy of each insurance policy (or an authorized agent's certificate with respect thereto) will be delivered to Beneficiary, and such delivery will constitute an assignment to Beneficiary, as further security for the Secured Obligations, of all unearned premiums returnable on cancellation of each such policy.

(b) Renewal Policies. Not less than 30 days prior to the expiration date of each insurance policy required pursuant to paragraph (a) above, Trustor will deliver to Beneficiary an appropriate renewal policy (or a certified copy thereof or an authorized agent's certificate with respect thereto), together with evidence satisfactory to Beneficiary that the applicable premium has been prepaid.

(c) Application of Hazard Insurance Proceeds. Any insurance proceeds received by Beneficiary with respect to an insured casualty may, in Beneficiary's sole discretion, either (i) be retained and applied by Beneficiary toward payment of the Secured Obligations, or (ii) be paid over, in whole or in part and subject to such conditions as Beneficiary may impose, to Trustor to pay for repairs or replacements necessitated by the casualty; provided, that if all of the Secured Obligations have been performed or are discharged by the application of less than all of such insurance proceeds, then any remaining proceeds will be paid over to Trustor. Beneficiary will have no obligation to see to the proper application of any insurance proceeds paid over to Trustor, nor will any such proceeds received by Beneficiary bear interest or be subject to any other charge for the benefit of Trustor. Beneficiary may, prior to the application of insurance proceeds, commingle them with Beneficiary's own funds and otherwise act with regard to such proceeds as Beneficiary may determine in Beneficiary's sole discretion.

(d) Successor's Rights. Any Person who acquires title to the Property or the Chattels through foreclosure of this Deed of Trust will succeed to all of Trustor's rights under all policies of insurance maintained pursuant to this section.

4.7 Payment of Utilities. Trustor will pay when due all charges for water, sewer, electricity, natural gas and other utilities serving the Property.

4.8 Maintenance and Repair of Property and Chattels. Trustor will at all times maintain the Property and the Chattels in condition and repair (subject to normal wear and tear), will diligently prosecute the completion of any building or other improvement that is at any time in the process of construction on the Property, and will promptly repair, restore, replace or rebuild any part of the Property or the Chattels that may be affected by any casualty or any public or private taking of or injury to the Property or the Chattels. Beneficiary and any Person authorized by Beneficiary may enter and inspect the Property at all reasonable times, and may inspect the Chattels, wherever located, at all reasonable times.

4.9 Compliance with Laws. Trustor will comply with all statutes, ordinances and other governmental or quasi-governmental requirements and private covenants relating to the ownership, construction, use or operation of the Property, including but not limited to all Environmental Laws; provided, that so long as Trustor is not otherwise in default hereunder, Trustor may proceed diligently and in good faith to contest the validity or applicability of any such statute, ordinance, requirement or covenant. Whether or not Trustor elects to contest such validity or applicability, Trustor will notify Beneficiary promptly of any apparent or alleged violation of any such statute, ordinance, requirement or covenant, and will provide Beneficiary promptly with copies of all notices, pleadings and other communications (other than privileged communications between Trustor and Trustor's legal counsel) relating to any such violation.

4.10 Performance of Lease Obligations. Trustor will perform promptly all of Trustor's obligations under or in connection with each present and future lease of all or any part of the Property. If Trustor receives at any time any written communication from the tenant under any such lease asserting a default by Trustor under such lease, or purporting to terminate or cancel such lease, Trustor will promptly forward a copy of such communication (and any subsequent communications relating thereto) to Beneficiary.

4.11 Eminent Domain; Private Damage. If all or any part of any property encumbered hereby is taken or damaged by eminent domain or any other public or private action, Trustor will notify Beneficiary promptly of the time and place of all meetings, hearings, trials and other proceedings relating to such action. Beneficiary may participate in all negotiations and appear and participate in all judicial or arbitration proceedings concerning any award or payment that may be due as a result of such taking or damaging, and may, in Beneficiary's reasonable discretion, compromise or settle, in the names of both Trustor and Beneficiary, any claim for any such award or payment. Any such award or payment is to be paid to Beneficiary and will be applied first to reimburse Beneficiary for all costs and expenses, including attorneys, fees, incurred by Beneficiary in connection with the ascertainment and collection of such award or payment. The balance, if any, of such award or payment may, in Beneficiary's sole discretion, either (a) be retained by Beneficiary and applied toward the Secured obligations, or (b) be paid over, in whole or in part and subject to such conditions as Beneficiary may impose, to Trustor for the purpose of restoring, repairing or rebuilding any part of the encumbered property affected by the taking or damaging. Beneficiary will have no duty to see to the application of any part of any award or payment released to Trustor. Trustor's duty to pay the Loan in accordance with its terms and to perform the other Secured Obligations will not be suspended by the pendency or discharged by the conclusion of any proceedings for the collection of any such award or payment, and any reduction in the Secured obligations resulting from Beneficiary's application for any such award or payment will take effect only when Beneficiary receives such award or payment. If this Deed of Trust has been foreclosed prior to Beneficiary's receipt of such award or payment, Beneficiary may nonetheless retain such award or payment to the extent required to reimburse Beneficiary for all costs and expenses, including attorneys' fees, incurred in connection, therewith, and to discharge any deficiency remaining with respect to the Secured Obligations.

4.12 Mechanics, Liens. Trustor will keep the Property free and clear of all liens and claims of liens by contractors, subcontractors, mechanics, laborers, materialmen and other such Persons, and will cause any recorded statement of any such lien to be released of record within 30 days after the recording thereof. Notwithstanding the preceding sentence, however, Trustor will not be deemed to be in default under this section if and so long as Trustor (a) contests in good faith the validity or amount of any asserted lien and diligently prosecutes or defends an action appropriate to obtain a binding determination of the disputed matter, and (b) provides Beneficiary with a bond or other security reasonably acceptable to Beneficiary to protect Beneficiary against all loss, damage and expense, including attorneys, fees, that Beneficiary might incur if the asserted lien is determined to be valid. Trustor will indemnify Beneficiary against and hold Beneficiary harmless from any loss, damage or expense, including attorneys, fees and other litigation expenses, incurred by Beneficiary as a result of any default by Trustor under this section, and Trustor's obligations under this sentence shall survive foreclosure of this Deed of Trust.



4.13 Defense of Actions. Trustor will defend, at Trustor's expense, any action, proceeding or claim that affects any property encumbered hereby or any interest of Beneficiary in such property or in the Secured Obligations, and will indemnify and hold Beneficiary harmless from all loss, damage, cost or expense, including attorneys' fees, that Beneficiary may incur in connection therewith, except for actions, proceedings or claims that result solely from Beneficiary's gross negligence or willful misconduct.

4.14 Expenses of Enforcement. Trustor will pay on demand all costs and expenses, including but not limited to attorneys, fees, appraisal costs and expenses for title insurance and title searches and certificates, that Beneficiary may incur in connection with any effort or action (whether or not litigation or foreclosure is involved) to enforce or defend Beneficiary's rights and remedies under any of the Loan Documents, or to secure title to or possession of, or to realize on, any security for the Secured Obligations.

4.15 Books and Records; Financial Reports. Trustor will keep, at Trustor's principal place of business, complete and accurate books and records with respect to the operation, management, maintenance and repair of the Property, and will permit Beneficiary or any Person designated by Beneficiary to inspect and audit such books and records at any reasonable time on reasonable advance notice. Within 90 days after the end of each fiscal year of Trustor, Trustor will furnish to Beneficiary Trustor's balance sheet and statement of earnings as of the end of and for the preceding fiscal year, in such detail as Beneficiary may require, accompanied by an unqualified opinion of independent certified public accountants satisfactory to Beneficiary confirming that such balance sheet and statement of earnings have been prepared in accordance with generally accepted accounting principles consistently applied.

4.16 Priority of Liens. To the extent Trustor has the right, under the terms of any existing lease of all or any part of the Property, to make such lease subordinate to the lien hereof, Trustor will, at Beneficiary's request and Trustor's expense, take such action as may be required to effect such subordination. Conversely, Trustor will, at Beneficiary's request and Trustor's expense, take such action as may be necessary to subordinate the lien hereof to any future lease of all or any part of the Property designated by Beneficiary.

4.17 Further Assurances; Estoppel Certificates. Trustor will execute and deliver to Beneficiary on demand, and pay the costs of preparation and recording thereof, any further documents that Beneficiary may request to confirm or perfect the liens and security interests created or intended to be created hereby, or to confirm or perfect any evidence of the Secured Obligations. Trustor will also, within ten days after any request by Beneficiary, deliver to Beneficiary a signed and acknowledged statement certifying to Beneficiary, or to any proposed transferee of the Secured Obligations, (a) the balance of principal, interest and other sums then outstanding under the Loan, and (b) whether Trustor claims to have any offsets or defenses with respect to the Secured Obligations and, if so, the nature of such offsets or defenses. Trustor's failure to provide such a statement within such ten-day period will result in Trustor's being conclusively bound by any representation that Beneficiary may make as to those matters.

ARTICLE 5  
TRUSTOR'S NEGATIVE COVENANTS

5.1 Waste and Alterations. Trustor will not commit or permit any waste with respect to the Property or the Chattels, nor will Trustor cause or permit any part of the Property, including but not limited to any building, structure, parking lot, driveway, landscape, timber, or other ground improvement, to be removed, demolished or materially altered without the prior written consent of Beneficiary, which will not be withheld unreasonably.

5.2 Zoning and Private Covenants. Trustor will not initiate, join in or consent to any change in any zoning ordinance or classification, any change in the "zone lot" or "zone lots" (or similar zoning unit or units) presently comprising the Property, any transfer of development rights, any change in any private restrictive covenant, or any change in any other public or private restriction limiting or defining the uses that may be made of the Property or any part thereof, without the express written consent of Beneficiary, which consent will not be withheld unreasonably. If under applicable zoning provisions the use of all or any part of the Property is or becomes a nonconforming use, Trustor will not cause or permit such use to be discontinued or abandoned without the express written consent of Beneficiary (which consent shall not be unreasonably withheld).

5.3 Additional Tax Burden. Except with the prior written consent of Beneficiary, Trustor will not initiate, join in or consent to any action or proposal to include all or any part of the Property in any special improvement district or other special district or taxing authority that does not include the Property on the date of this Deed of Trust.

5.4 Interference with Leases. Trustor will neither do nor neglect to do anything that may cause or permit the termination of any lease of all or any part of the Property, or cause or permit the withholding or abatement of any rent payable under any such lease. Except with the prior written consent of Beneficiary, which consent will not be withheld unreasonably, Trustor will not (a) collect rent from all or any part of the Property for more than one month in advance, (b) modify any lease of all or any part of the Property, (c) assign the rents from the Property or any part thereof, or (d) consent to the surrender of all or any part of any such lease, except that Trustor may in good faith terminate any such lease for nonpayment of rent or other material breach by the tenant.

5.5 Except as beneficiary may consent to in writing, Trustor will not convey, lease or otherwise transfer, either voluntarily or involuntarily, the Property or any part thereof or interest therein other than as permitted in this Deed. Any change which results in Keith J. Kim and/or Doyle & Boissiere Fund I not collectively controlling the Board of Directors shall be

deemed a change in the parties having effective control over Trustor's business constituting a transfer of the Property.

5.6 Further Encumbrance of Property. Trustor will neither create nor permit any junior lien or encumbrance against the Property without the prior written consent of Beneficiary.

5.7 Use of Regulated Substances. Trustor will not cause or permit all or any part of the Property to be used to manufacture, generate, store, transfer, treat, recycle or dispose of any Regulated Substance, nor will Trustor cause or permit, as a result of any intentional or unintentional act on the part of Trustor or any tenant, subtenant or other user or occupant of the Property, any release of any Regulated Substance onto the Property or from the Property onto other property.

5.8 Transfer or Removal of Chattels. Trustor will not sell, transfer or remove from the Property all or any part of the Chattels, unless the items sold, transferred or removed are simultaneously replaced with similar items of equal or greater value.

5.9 Change of Name. Trustor will not change the name under which Trustor does business, or adopt or begin doing business under any other name or assumed or trade name, without first notifying Beneficiary of Trustor's intention to do so and delivering to Beneficiary such executed modifications or supplements to this Deed of Trust (and to any financing statement that may be filed in connection herewith) as Beneficiary may require to maintain the perfected status of the security interests granted in this Deed of Trust.

5.10 Improper Use of Property or Chattels. Trustor will not use the Property or the Chattels for any purpose or in any manner that violates any applicable law, ordinance or other governmental requirement, the requirements or conditions of any insurance policy, or any private covenant.

5.11 Use of Proceeds. Trustor will not use any funds advanced by Beneficiary under the Loan Documents for any purpose other than (a) acquisition of the Property, (b) payment of the cost of labor, services, materials and equipment used in the construction of improvements on the Property, and (c) such other purposes as may be or have been approved in writing by Beneficiary.

5.12 Extent of Personal Property Security Interest. Notwithstanding anything contained in paragraph 1.4(e) above or otherwise contained in this Deed of Trust, Beneficiary acknowledges that it has not been granted, and does not assert, any security interest in any personal property, whether now owned or hereafter acquired by Trustor, that is subject to a consensual lien or security interest in favor of The CIT Group/Credit Finance, Inc., or any replacement lender.

ARTICLE 6  
EVENTS OF DEFAULT

Each of the following events will constitute a default under this Deed of Trust and under each of the other Loan Documents:

6.1 Default under Loan Agreement. The occurrence of any Event of Default as defined in the Loan Documents;

6.2 Acts Threatening Forfeiture. Beneficiary's reasonable determination that Trustor has committed any act or engaged in any pattern of actions that may lead to a claim for forfeiture of Trustor's interest in the Property, it being agreed that the issuance of any criminal complaint or indictment charging Trustor with any such act or pattern of actions would be a sufficient basis for such a determination by Beneficiary; or

6.3 Assertion of Priority. The assertion (except by the owner of an encumbrance expressly excepted from Trustor's warranty of title herein) of any claim of priority over this Deed of Trust, by title, lien or otherwise, unless Trustor within 30 days after such assertion either causes the assertion to be withdrawn or provides Beneficiary with such security as Beneficiary may require to protect Beneficiary against all loss, damage or expense, including attorneys' fees, that Beneficiary may incur in the event such assertion is upheld.

ARTICLE 7  
BENEFICIARY'S REMEDIES

Immediately upon or at any time after the occurrence of any event of default hereunder, Beneficiary may exercise any remedy available at law or in equity, including but not limited to those listed below and those listed in the other Loan Documents, in such sequence or combination as Beneficiary may determine in Beneficiary's sole discretion:

7.1 Performance of Defaulted Obligations. Beneficiary may make any payment or perform any other obligation under the Loan Documents that Trustor has failed to make or perform, and Trustor hereby irrevocably appoints Beneficiary as the true and lawful attorney-in-fact for Trustor to make any such payment and perform any such obligation in the name of Trustor. All payments made and expenses (including attorneys' fees) incurred by Beneficiary in this connection, together with interest thereon at the Default Rate from the date paid or incurred until repaid, will be part of the Secured Obligations and will be immediately due and payable by Trustor to Beneficiary. In lieu of advancing Beneficiary's own funds for such purposes, Beneficiary may use any funds of Trustor that may be in Beneficiary's possession, including but not limited to insurance or condemnation proceeds and amounts deposited for taxes, insurance premiums or other purposes.

7.2 Specific Performance and Injunctive Relief. Notwithstanding the availability of legal remedies, Beneficiary will be entitled to obtain specific performance, mandatory or prohibitory injunctive relief or other equitable relief requiring Trustor to cure or refrain from repeating any default.

7.3 Acceleration of Secured Obligations. Beneficiary may, without notice or demand, declare all of the Secured Obligations immediately due and payable in full.

7.4 Suit for Monetary Relief. With or without accelerating the maturity of the Secured Obligations, Beneficiary may, to the extent permitted by law, sue from time to time for any payment due under any of the Loan Documents, or for money damages resulting from Trustor's default under any of the Loan Documents.

7.5 Possession of Property. Beneficiary may enter and take possession of the Property without seeking or obtaining the appointment of a receiver, may employ a managing agent for the Property and may lease or rent all or any part of the Property, either in Beneficiary's name or in the name of Trustor, and may collect the rents, issues and profits of the Property. Any revenues collected by Beneficiary under this section will be applied first toward payment of all expenses (including attorneys' fees) incurred by Beneficiary, together with interest thereon at the Default Rate from the date incurred until repaid, and the balance, if any, will be applied against the Secured Obligations.

7.6 Enforcement of Security Interests. Beneficiary may exercise all rights of a secured party under the Utah Uniform Commercial Code with respect to the Chattels and the Intangible Personalty, including but not limited to taking possession of, holding and selling the Chattels and enforcing or otherwise realizing on any general intangibles. Any requirement for reasonable notice of the time and place of any public sale, or of the time after which any private sale or other disposition is to be made, will be satisfied by Beneficiary's giving of such notice to Trustor at least five days prior to the time of any public sale or the time after which any private sale or other intended disposition is to be made. To the extent permitted by applicable law, Beneficiary may, at Beneficiary's option, cause Trustee to sell any or all of the Chattels, the Intangible Personalty or other personal property as part of the sale of the Property, without making any distinction between real and personal property.

7.7 Foreclosure Against Property. Beneficiary may foreclose this Deed of Trust either by judicial action or through Trustee. Foreclosure through Trustee will be initiated by Beneficiary's delivery to Trustee of a written request that Trustee record a notice of default in the office of the County Recorder for the county in which the Property is located, and Trustee shall forthwith comply with any such request; unless otherwise expressly required by law, Beneficiary need not deliver the Loan Agreement or this Deed of Trust to Trustee. Trustor requests that a copy of any such notice of default and of any notice of sale under this Deed of Trust be mailed to Trustor as provided by law. If all defaults under the Loan Documents have been cured within three months after such notice of default is recorded, Beneficiary will direct Trustee to record a cancellation of such notice of default; otherwise, Beneficiary may, at any time after the expiration of such three-month period, notify Trustee of Beneficiary's election to cause the Property to be sold. Upon receipt of such notice of election, Trustee shall promptly comply with all notice, publication and other requirements of the laws of Utah then in force with respect to such sales, and shall then proceed to sell the Property. Any sale conducted by Trustee pursuant to this section shall be held at the office of Trustee, or on the Property, or at such other place as similar sales are then customarily held in such County, provided that the actual place of sale shall be specified in the notice of sale. If the Property includes two or more recognized parcels of land, Trustor may, before commencement of the

sale, direct Trustee in writing to offer such parcels for sale separately, in such order as Trustor's direction may specify, but unless otherwise directed in writing by Beneficiary, Trustee shall not accept any offer or offers to purchase less than all of the Property at an aggregate price that is insufficient to discharge the Secured Obligations (including costs of sale) in full without first offering the entire Property for sale as a unit and determining that the proceeds of sales in separate parcels will equal or exceed the proceeds of a sale of the entire Property. Unless payment in another form is approved in writing by Beneficiary, any bid must be paid, immediately after its acceptance by Trustee, in cash or immediately available funds, except that if Beneficiary is the successful bidder, Beneficiary may credit the amount of Beneficiary's bid against the Secured Obligations in lieu of paying cash. The proceeds of any sale under this section shall be applied first to the fees and expenses of the Person conducting the sale, and then to the reduction or discharge of the Secured Obligations in such order as Beneficiary may elect; any surplus remaining shall be paid over to Trustor or to such other Person or Persons as may be lawfully entitled to such surplus. At the conclusion of any foreclosure sale, the officer conducting the sale shall execute and deliver to the purchaser at the sale a deed (and, if the sale includes personal property, an appropriate bill of sale, assignment, or both), which shall operate to divest Trustor and all Persons claiming under Trustor of all right, title and interest, whether legal or equitable, in the property described in the deed and other instruments, if any. Nothing in this section dealing with foreclosure procedures or specifying particular actions to be taken by Beneficiary or by Trustee or any similar Person shall be deemed to contradict or add to the requirements and procedures now or hereafter specified by Utah law, and any such inconsistency shall be resolved in favor of Utah law applicable at the time of foreclosure.

7.8 Appointment of Receiver. Beneficiary shall be entitled, as a matter of absolute right and without regard to the value of any security for the Secured Obligations or the solvency of any Person liable therefor, to the appointment of a receiver for the Property on ex parte application to any court of competent jurisdiction. Trustor waives any right to any hearing or notice of hearing prior to the appointment of a receiver. Such receiver and his agents shall be empowered (a) to take possession of the Property and any businesses conducted by Trustor or any other Person thereon and any business assets used in connection therewith, (b) to exclude Trustor and Trustor's agents, servants and employees from the Property, or, at the option of the receiver, in lieu of such exclusion, to collect a fair market rental from any such Persons occupying any part of the Property, (c) to collect the rents, issues, profits and income therefrom, (d) to complete any construction that may be in progress, (e) to do such maintenance and make such repairs and alterations as the receiver deems necessary, (f) to use all stores of materials, supplies and maintenance equipment on the Property and replace such items at the expense of the receivership estate, (g) to pay all taxes and assessments against the Property and the Chattels, all premiums for insurance thereon, all utility and other operating expenses, and all sums due under any prior or subsequent encumbrance, (h) to borrow from Beneficiary such funds as may reasonably be necessary to the effective exercise of the receiver's powers, on such terms as may be agreed upon by the receiver and Beneficiary, and (i) generally to do anything that Trustor could legally do if Trustor were in possession of the Property. All expenses incurred by the receiver or his agents, including obligations to repay funds borrowed by the receiver, shall constitute a part of the Secured Obligations. Any revenues collected by the receiver shall be applied first to the expenses of the receivership, including attorneys' fees incurred by the receiver and by Beneficiary, together with interest

thereon at the Default Rate from the date incurred until repaid, and the balance shall be applied toward the Secured Obligations or in such other manner as the court may direct. Unless sooner terminated with the express consent of Beneficiary, any such receivership will continue until the Secured Obligations have been discharged in full, or until title to the Property has passed after foreclosure sale and all applicable periods of redemption have expired.

## ARTICLE 8 PROVISIONS CONCERNING TRUSTEE

8.1 Protection of Trustee. Trustee will not be liable for any error in judgment or for any act done in good faith by Trustee, nor will Trustee be otherwise accountable or responsible, except for Trustee's own gross negligence, bad faith or willful misconduct, under any circumstances whatever. Trustee will not be personally liable, in the event Trustee or any other person acting under the powers granted Trustee under this Deed of Trust enters or takes possession of the Property, for debts contracted or for liability or damages incurred in the management or operation of the Property. Trustee may rely absolutely on any document, instrument or signature purporting to authorize or support any action by Trustee under this Deed of Trust which Trustee believes in good faith to be genuine. Trustor will from time to time pay Trustee all compensation due Trustee under this Deed of Trust, will reimburse Trustee for all expenses, including attorneys, fees, incurred by Trustee in the performance of Trustee's duties under this Deed of Trust, and will indemnify Trustee and hold Trustee harmless against any loss, claim, damage or expense incurred by Trustee in connection with the performance of such duties.

8.2 Retention of Funds. Any funds received by Trustee shall, until used or applied as provided in this Deed of Trust, be held in trust for the purposes for which they were received. Except to the extent required by law, such funds need not be segregated from other funds held in trust by Trustee. In no event shall Trustee or Beneficiary be liable to pay interest on any funds held by Trustee.

8.3 Successor Trustees. Trustee may resign by giving 30 days' notice of resignation in writing to Beneficiary. If Trustee resigns, dies or becomes disqualified from acting as trustee under this Deed of Trust, or if Trustee fails or refuses to exercise Trustee's powers under this Deed of Trust upon request by Beneficiary, or if Beneficiary elects with or without cause to replace Trustee, then Beneficiary may appoint a successor trustee by notifying Trustee of such appointment and recording notice thereof in the appropriate public records. Beneficiary may replace any such successor trustee in the same manner.

8.4 Instruments of Succession. Any new Trustee appointed pursuant to the preceding section will, without further act, deed or conveyance, automatically become vested with all of the rights, powers, interests and trusts which had been held by such new Trustee's predecessor, with the same effect as though the new Trustee had originally been named Trustee in this Deed of Trust. Nevertheless, upon request of Beneficiary or of the new Trustee, the former Trustee shall execute and deliver to the new Trustee an instrument in recordable form, transferring to the new Trustee all of the former Trustee's rights, powers, interests and trusts under this Deed of Trust, and shall also transfer and deliver to the new Trustee any property or funds held by the former Trustee in the former Trustee's capacity as trustee under this Deed of Trust.

8.5 Performance of Duties Through Agents. Trustee may authorize one or more persons to act on Trustee's behalf in the performance of ministerial acts under this Deed of Trust, including but not limited to the transmittal and posting of notices.

ARTICLE 9  
MISCELLANEOUS PROVISIONS

9.1 Time of the Essence. Time is of the essence with respect to all provisions of the Loan Documents.

9.2 Joint and Several Obligations. If Trustor is more than one Person, then all Persons comprising Trustor are jointly and severally liable for all of the Secured Obligations.

9.3 Rights and Remedies Cumulative. Beneficiary's rights and remedies under each of the Loan Documents are cumulative of the rights and remedies available to Beneficiary under each of the other Loan Documents and those otherwise available to Beneficiary at law or in equity. No act of Beneficiary shall be construed as an election to proceed under any particular Provision of any Loan Document to the exclusion of any other provision in the same or any other Loan Document, or as an election of remedies to the exclusion of any other remedy that may then or thereafter be available to Beneficiary.

9.4 No Implied Waivers. Beneficiary shall not be deemed to have waived any provision or any Loan Document unless such waiver is in writing and is signed by Beneficiary. Without limiting the generality of the preceding sentence, neither Beneficiary's acceptance of any payment with knowledge of a default by Trustor, nor any failure by Beneficiary to exercise any remedy following a default by Trustor, shall be deemed a waiver of such default, and no waiver by Beneficiary of any particular default on the part of Trustor shall be deemed a waiver of any other default or of any similar default in the future.

9.5 Dealings with Successor Owners. If the Property or any interest in the Property is transferred to any Person other than Trustor, whether voluntarily or involuntarily and whether or not Beneficiary has consented to such transfer, then Beneficiary may deal with such successor owner in all matters relating to the Secured Obligations, and no such dealings, including but not limited to any change in the terms of the Secured Obligations, will be deemed to discharge or impair the obligations of Trustor to Beneficiary under the Loan Documents.

9.6 No Third Party Rights. No Person shall be a third party beneficiary of any provision of any of the Loan Documents. All provisions of the Loan Documents favoring Beneficiary are intended solely for the benefit of Beneficiary, and no third party shall be entitled to assume or expect that Beneficiary will not waive or consent to modification of any such provision in Beneficiary's sole discretion.

9.7 Preservation of Liability and Priority. Without affecting the liability of Trustor or of any other Person (except a Person expressly released in writing) for payment and performance of all of the Secured Obligations, and without affecting the rights of Beneficiary with respect to any security not expressly released in writing, and without impairing in any



way the priority of this Deed of Trust over the interests of any Person acquired or first evidenced by recording subsequent to the recording hereof, Beneficiary may, either before or after the maturity of the Loan, and without notice or consent: (a) release any Person liable for payment or performance of all or any part of the Secured Obligations; (b) make any agreement altering the terms of payment or performance of all or any of the Secured Obligations; (c) exercise or refrain from exercising, or waive, any right or remedy that Beneficiary may have under any of the Loan Documents; (d) accept additional security of any kind for any of the Secured Obligations; or (e) release or otherwise deal with any real or Personal property securing the Secured Obligations. Any Person acquiring or recording evidence of any interest of any nature in the Property, the Chattels or the Intangible Personalty shall be deemed, by acquiring such interest or recording any evidence thereof, to have agreed and consented to any or all such actions by Beneficiary.

9.8 Subrogation of Beneficiary. Beneficiary shall be subrogated to the lien of any previous encumbrance discharged with funds advanced by Beneficiary under the Loan Documents, regardless of whether such previous encumbrance has been released of record.

9.9 Notices. Any notice required or permitted to be given by Trustor or Beneficiary under any of the Loan Documents must be in writing and will be deemed given on personal delivery or on the third business day after the mailing thereof, by registered or certified United States mail, postage prepaid, to the appropriate party at its address shown on the first page of this Deed of Trust. Either party may change such party's address for notices by giving notice to the other party in accordance with this section, but no such change of address will be effective as against any Person without actual knowledge of the change.

9.10 Fixture Filing. This Deed of Trust is intended to serve as a financing statement under the Utah Uniform Commercial Code with respect to any fixtures that may at any time be part of the Property or the Chattels, and the recording of this Deed of Trust is intended to constitute a "fixture filing" for purposes of such Uniform Commercial Code.

9.11 Defeasance. Upon payment and performance in full of all of the Secured Obligations, Beneficiary will execute and deliver to Trustor such documents as may be required to release this Deed of Trust of record.

9.12 Severability. Wherever possible, each provision of the Loan Documents is to be interpreted so as to be effective and valid under applicable law. If any provision of any Loan Document is, for any reason and to any extent, invalid or unenforceable, then neither the remainder of the Loan Document in which such provision appears, nor any other Loan Document, nor the application of the provision to other Persons or in other circumstances, shall be affected by such invalidity or unenforceability.

9.13 Agreement to Reconvey on Partial Payment. Beneficiary shall reconvey her lien on the Property in exchange for a paydown of 80 percent of the remaining principal balance of the Note, plus all accrued interest, unless sale of property located at 11273 Pellicano Drive, 43, El Paso, Texas, has already taken place.

9.14 Subordination to Senior Lien.

(a) This Deed of Trust is presently in second position to a first deed of trust held by Fleet Capital Corporation (the "Fleet Deed of Trust") securing up to \$550,000 in obligations of the Trustor to Fleet Capital Corporation that are payable before the conclusion of the five-year term of this Promissory Note (the "Fleet Debt"). If the Fleet Debt is repaid before the conclusion of the five-year term of this Promissory Note and if the Fleet Deed of Trust is reconveyed, Lender agrees that until, and only until, the expiration of the five-year term of this Promissory Note the Kaysville Deed of Trust will be subordinate to a deed of trust given to another lender securing an obligation not to exceed \$550,000 (subject to periodic increases as provided herein); provided, however, that if all obligations of Trustor pursuant to this Promissory Note are not fully repaid at the conclusion of the five-year term of this Promissory Note, then Beneficiary's agreement that this Deed of Trust will be subordinate to a deed of trust given to another lender securing an obligation not to exceed \$550,000 (subject to periodic increases as provided herein) shall automatically expire and this Deed of Trust shall not be subordinate to any deed of trust.

(b) This Deed of Trust shall be subject to an agreement with the senior lender to limit its prior collateral and lien rights in the property to a maximum of \$550,000 (subject to periodic increases equal to 80% of the principal reduction of the Note after the amount of principal and interest owing under the Consensual Note, together with the amount of all prior liens, drops below an 80% loan to value ratio, and remains below 80% after any increases in any senior liens; provided that "value" for purposes of the foregoing calculation shall be \$1,350,000.

Signed and delivered as of the date first mentioned above.

GRANNY GOOSE FOODS, INC.,  
a California corporation

By \_\_\_\_\_

*Executive*  
Chief ~~Executive~~ Officer

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF ~~STATE~~ California )  
 ) SS.  
COUNTY OF Alameda )

On June 25, 1997, before me, Demetria Tolefree, a Notary Public, personally appeared Keith Kim,  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.

Demetria Tolefree  
Notary Public, State of ~~State~~ California

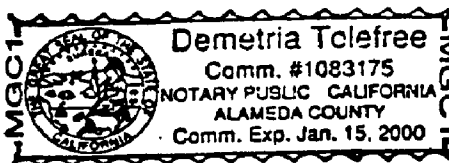


EXHIBIT A  
to  
DEED OF TRUST AND SECURITY AGREEMENT

(Legal Description)

A part of Lot 11, Block "D", KAYSVILLE CITY SURVEY, described as follows:

Beginning at a point which is North 89°22'30" West 66.0 feet from the Southeast corner of said Lot 11 and running thence North 89°22'30" West 187.65 feet along the South line of said Lot 11 to the West line of the Old Bamberger Rail Road Right of Way; thence Northerly along the arc of a 1406.7 foot radius curve to the left 690.64 feet (long chord of which bears North 25°43'23" West 683.72 feet) along said West line to the South line of Crestwood Road; thence North 67°22'30" East 502.59 feet along said South line to the West line of Fairfield Road; thence two courses along said West line as follows: Southerly along the arc of a 778.51 foot radius curve to the right 221.59 feet (long chord bears South 7°23'15" East 220.85 feet) and South 0°46' West 592.40 feet to the point of beginning.

Kaysville City,  
County of Davis,  
State of Utah.



LEBOEUF, LAMB, GREENE & MACRAE  
L.L.P.

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PITTSBURGH  
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BRUSSELS  
PARIS  
MOSCOW  
ALMATY  
LONDON  
(A LONDON-BASED  
MULTINATIONAL PARTNERSHIP)  
SÃO PAULO  
IN ASSOCIATION WITH  
TAVARES GUERREIRO ADVOGADOS

February 8, 1999

**VIA FEDEX**

United States Department of Commerce  
Commissioner of Patents and Trademarks  
Box Assignments  
Washington, D.C. 20231

Re: Filing of Security Interest in Trademark Registration Nos. 1840724;  
1552129; 1504142; and 1341158.

Dear Commissioner:

Enclosed for filing as a security interest in the above-referenced trademarks are the following:

- ▶ Two copies of a Recordation Form Cover Sheet - Trademarks Only for security interest in the above-referenced trademarks;
  - ▶ Two copies of a Deed of Trust and Security Agreement granting Diana J. Peterson a security interest in any ownership Granny Goose Foods, Inc. may have in the referenced trademarks;
  - ▶ A check in the amount of \$115.00 to cover the filing fees (\$40.00 for the first trademark and \$25.00 for each additional trademark).
- A returned addressed, stamped envelop to return a file stamped copy of the Cover Sheet and Security Agreement.

02/11/1999 DNGUYEN 00000209 1840724

01 FC:481  
02 FC:482

40.00 OP  
75.00 OP

Please file stamp one copy of the Cover Sheet and Security Agreement and return it to me in the return addressed stamped envelop.