

DEED OF TRUST, MORTGAGE, ASSIGNMENT,  
SECURITY AGREEMENT AND FINANCING STATEMENT

THE STATE OF NEVADA                    )  
  ) KNOW ALL MEN BY THESE PRESENTS:  
COUNTIES OF ELKO, EUREKA            )  
  ) AND LANDER                            )

THAT A. W. ARNOLD & ASSOCIATES, INC., a Texas corporation (hereinafter called "Grantor"), for and in consideration of the sum of Ten Dollars (\$10.00) to Grantor in hand paid by LOWELL G. WINKLER, Trustee, of the City of Dallas, County of Dallas, State of Texas (hereinafter called the "Trustee") and of the debts and trust hereafter mentioned, in order to secure the payment of the indebtedness hereinafter referred to and the performance of the obligations, covenants, agreements and undertakings of the Grantor hereinafter described, does hereby GRANT, BARGAIN, SELL, CONVEY, TRANSFER, ASSIGN and SET OVER to the Trustee the following:

A. The mineral claims, leasehold interests and estates and other properties and interests which are described in Exhibit A attached hereto and made a part hereof, and all interest of Grantor in all minerals of every kind therein or thereunder or mined or to be mined in connection therewith;

B. All of Grantor's interest in and to all mines, buildings, mills, plants and all other fixtures now or hereafter located upon or used in connection with any of the properties described in Exhibit A or properties unitized therewith; and

C. All of Grantor's interest in, to and under all rights of way, easements, surface leases and similar rights and interests affecting any of the interests now or hereafter covered hereby or which are useful or appropriate in excavating, producing, treating, handling, storing, transporting or marketing any and every kind of minerals from any of the properties described in Exhibit A or properties unitized therewith;

subject to the overriding royalties, agreements, joint operating contracts and other matters described in Exhibit A (all of the properties, interests and rights described in headings A, B and C, subject as aforesaid, being hereinafter sometimes referred to as the "Mortgaged Properties").

TO HAVE AND TO HOLD the Mortgaged Properties, together with all rights, estates, powers and privileges appurtenant or incident thereto, unto the Trustee and his successors or substitutes in this trust and to his or their successors and assigns, in trust, however, upon the terms and provisions herein set forth.

AND FURTHER to secure the payment of the indebtedness hereinafter referred to and the performance of the obligations, covenants, agreements, and undertakings of Grantor hereinafter described, Grantor hereby grants to the Noteholder (as hereinafter defined) a security interest in all minerals of every kind produced from or located on or under or allocated to the Mortgaged Properties which accrue to Grantor's interest in said properties, the proceeds thereof and all accounts, contract rights, and general intangibles of Grantor under which such proceeds may arise, the entire interest of Grantor in all materials, equipment and other personal property of whatever nature now or hereafter located on or used in and about the lands described in Exhibit A and all accessions and

appurtenances thereto, and all renewals or replacements of or substitutions for any of the foregoing, and all contract rights and other general intangibles related to the Mortgaged Properties (all of said items in which Grantor has granted a security interest being hereinafter collectively called the "Collateral") and all proceeds of the Collateral.

#### ARTICLE I.

##### Secured Indebtedness

1.1. This Deed of Trust, Mortgage, Assignment, Security Agreement and Financing Statement (hereinafter called the "Mortgage") is made to secure and enforce the payment of the following note, obligations, indebtedness and liabilities:

(a) One certain promissory note dated July 30, 1980, in the principal amount of Four Million Five Hundred Thousand Dollars (\$4,500,000) made by Grantor and payable to the order of Republic National Bank of Dallas, a national banking association with offices in Dallas, Texas (now named RepublicBank Dallas, National Association and hereinafter called the "Bank"), on or before July 1, 1987, bearing interest as therein provided, and containing a provision for the payment of a reasonable additional amount as attorneys' fees, and all other notes given in substitution therefor or in renewal and extension thereof, in whole or in part;

(b) One certain promissory note dated April 27, 1981, in the principal amount of Six Hundred Thousand Dollars (\$600,000) made by Grantor and payable to the order of the Bank on or before August 17, 1981, bearing interest as therein provided, and containing a provision for the payment of a reasonable additional amount as attorney's fees, and all other notes given in substitution therefor or in renewal and extension thereof, in whole or in part;

(c) One certain promissory note dated February 9, 1981, in the principal amount of Seven Million Dollars (\$7,000,000) made by Grantor and payable to the order of the Bank on or before July 1, 1985, bearing interest as therein provided, and containing a provision for the payment of a reasonable additional amount as attorneys' fees, and all other notes given in substitution therefor or in renewal and extension thereof, in whole or in part (such note, together with the notes described in Subsections (a) and (b) above, and all other notes given in substitution, renewal and extension of any or all of such notes, in whole or in part, being hereinafter called the "Notes", and the Bank and all subsequent holders of the Notes or any part thereof or any interest therein or any of the "secured indebtedness" [as hereinafter defined] being hereinafter called the "Noteholder");

(d) All indebtedness now or hereafter incurred or arising pursuant to or permitted by the provisions of the Notes, this Mortgage or any other instrument now or hereafter evidencing or securing the "secured indebtedness" (as hereinafter defined) or any part thereof; and

(e) All other loans and future advances made by the Noteholder to Grantor and all other debts, obligations and liabilities of every kind and character now or hereafter owing by Grantor to the Noteholder, whether direct or indirect, primary or secondary, joint or several, fixed or contingent, and whether originally payable to the Noteholder or to a third party and subsequently acquired by the Noteholder.



1.2. The indebtedness referred to in subheadings (a), (b), (c), (d) and (e) of Section 1.1 and all renewals and extensions thereof and all substitutions therefor are hereinafter sometimes referred to as the "secured indebtedness" or the "indebtedness secured hereby".

## ARTICLE II.

### Representations, Warranties and Covenants

2.1. Grantor represents, warrants and covenants that Grantor is now in a solvent condition; that no bankruptcy or insolvency proceedings are pending or contemplated by or against Grantor; that all reports, statements and other data furnished by Grantor to the Noteholder in connection with the loan evidenced by the Notes are true and correct in all material respects and do not omit to state any fact or circumstance necessary to make the statements contained therein not misleading; that Grantor is the lawful owner of the Mortgaged Properties and the Collateral and has good right and authority to grant, bargain, sell, transfer, assign and mortgage the Mortgaged Properties and to grant a security interest in the Collateral; that all leases, mineral leases, leasehold estates, mining claims (patented or unpatented), permits and licenses described in Exhibit A attached hereto are valid and subsisting and are in full force and effect and are subject to no royalties, overriding royalties or other burdens or charges, except as reflected in Exhibit A; that all rents and royalties due and payable thereunder and all severance, production and Net Proceeds of Mines taxes payable with respect to the production therefrom have been duly paid; that the Mortgaged Properties and the Collateral (and the proceeds of the Collateral) are free and clear from all liens, security interests and encumbrances except the lien and security interest evidenced by this Mortgage and the liens, security interests, burdens, encumbrances, contracts and agreements ("Permitted Encumbrances") described or referred to in Exhibit A; that there are no financing statements covering the Collateral or its proceeds on file in any public office except those listing the Bank as secured party and any which may be described or referred to in Exhibit A; that the equipment forming a part of the Collateral will be located on the lands described in Exhibit A; that all mines located on the Mortgaged Properties or properties unitized therewith have been excavated, operated and produced in conformity with all applicable laws and rules, regulations and orders of all regulatory authorities having jurisdiction and are subject to no penalties on account of past production; that no portion of the Mortgaged Properties is being used as Grantor's business or residential homestead; that the execution and delivery of this Mortgage and the Notes do not contravene, result in a breach of or constitute a default under any contract or agreement to which Grantor is a party or by which Grantor or any of Grantor's properties may be bound and do not violate or contravene any law, order, decree, rule or regulation to which Grantor is subject; and that Grantor will warrant and forever defend the title to the Mortgaged Properties and the Collateral against the claims of all persons whomsoever claiming or to claim the same or any part thereof, subject to the Permitted Encumbrances.

2.2. So long as the secured indebtedness or any part thereof remains unpaid, Grantor covenants and agrees with the Noteholder as follows:

(a) That Grantor will make prompt payment, as the same becomes due, of the Notes and of all installments of principal and interest thereon and of all other secured indebtedness;

(b) That Grantor, if a corporation, will continuously maintain Grantor's corporate existence and Grantor's right to do business in the State of Nevada and in each other state where any part of the Mortgaged Properties is situated, and that Grantor will promptly pay all income, franchise and other taxes owing by Grantor and any stamp taxes which may be required to be paid with respect to the Notes, this Mortgage or any other instrument evidencing or securing any of the secured indebtedness; that Grantor will not change its name or identity or its corporate structure without notifying the Noteholder of such change in writing at least thirty (30) days prior to the effective date of such change;

(c) That Grantor will cause the Mortgaged Properties to be developed, maintained and operated in a good and workmanlike manner in accordance with all applicable laws and with all rules, regulations and orders promulgated by all duly constituted authorities and in accordance with the provisions of the mineral leases or other instruments described in Exhibit A, that Grantor will do all things necessary to maintain, against the United States or against any person claiming under any statute or regulation thereof, Grantor's interest in all unpatented mining claims which constitute part of the Mortgaged Properties, and that Grantor will keep all of the Mortgaged Properties and the Collateral in good order, repair, and operating condition, causing all necessary repairs, renewals, replacements, additions and improvements to be promptly made;

(d) That Grantor will observe and comply with all of the terms and provisions, express or implied, of the mineral leases and other instruments described in Exhibit A in order to keep the same in full force and effect, and will not, without the prior written consent of Noteholder, surrender, abandon or release such leases, claims, permits or licenses in whole or in part, so long as any mine situated thereon or operated in connection therewith is capable of producing minerals in paying quantities, and will not sell, transfer, or otherwise dispose of any part of, or interest in, the mineral claims, leasehold interests and estates, and other interests described in Exhibit A or any interest of Grantor in other mineral interests with which any of the interests and estates described in Exhibit A are now or may hereafter be unitized.

(e) That Grantor will cause all debts and liabilities of any character, including without limitation all debts and liabilities for labor, material and equipment, incurred in the operation, maintenance and development of the Mortgaged Properties and/or the Collateral, to be promptly paid and will promptly discharge all obligations to the holders of royalty interests and of other interests in the properties described in Exhibit A;

(f) That if the validity or priority of this Mortgage or of any rights, titles, liens or security interests created or evidenced hereby with respect to the Mortgaged Properties or the Collateral or any part thereof shall be endangered or questioned or shall be attacked directly or indirectly or if any legal proceedings are instituted against Grantor with respect thereto, Grantor will give prompt written notice thereof to the Noteholder and at Grantor's own cost and expense will diligently endeavor to cure any defect that may be developed or claimed, and will take all necessary and proper steps for the defense of such legal proceedings, including, but not limited to, the employment of counsel, the prosecution or defense of litigation and the release or discharge of all adverse claims; and the Trustee and the Noteholder, or either of



them (whether or not named as parties to legal proceedings with respect thereto), are hereby authorized and empowered to take such additional steps as in their judgment and discretion may be necessary or proper for the defense of any such legal proceedings or the protection of the validity or priority of the rights, titles, liens and security interests created or evidenced hereby, including but not limited to the employment of independent counsel, the prosecution or defense of litigation, the compromise or discharge of any adverse claims made with respect to the Mortgaged Properties and/or the Collateral, the purchase of any tax title and the removal of prior liens or security interests, and all expenses so incurred of every kind and character shall be a demand obligation owing by Grantor to the Noteholder and shall bear interest from the date of expenditure until paid at the same rate as is provided in the Note described in Section 1.1(a) hereof for interest on past due principal and shall be part of the secured indebtedness and shall be secured by the lien and security interest evidenced by this Mortgage and any other instrument securing the secured indebtedness, and the party incurring such expenses shall be subrogated to all rights of the person receiving such payment;

(g) That Grantor will, on request of the Noteholder, (i) promptly correct any defect, error or omission which may be discovered in the contents of this Mortgage, or in any other instrument executed in connection herewith and/or evidencing or securing the secured indebtedness, or in the execution or acknowledgment of this Mortgage or any such instrument; (ii) execute, acknowledge, deliver and record and/or file such further instruments (including, without limitation, further deeds of trust, security agreements, financing statements, continuation statements, and assignments of production, accounts, contract rights, and proceeds) and do such further acts as may be necessary, desirable or proper to carry out more effectively the purposes of this Mortgage and such other instruments and to more fully identify and subject to the liens and security interests hereof and thereof any property intended by the terms hereof and thereof to be covered hereby and thereby, including specifically, but without limitation, any renewals, additions, substitutions, replacements or appurtenances to the then Mortgaged Properties and/or the then Collateral; and (iii) execute, acknowledge, deliver, and file and/or record any document or instrument (including specifically any financing statement) deemed advisable by the Noteholder to protect the lien or the security interest hereunder against the rights or interests of third persons, and Grantor shall pay all costs connected with any of the foregoing;

(h) That Grantor will pay all appraisal fees, recording fees, taxes, abstract fees, attorneys' fees and all other costs and expenses of every character incurred by Grantor or the Noteholder in connection with the closing of the loan evidenced by the Notes, and will reimburse the Noteholder for all expenditures, including reasonable attorney's fees and legal expenses, incurred or expended in connection with the Noteholder's exercise of any of its rights and remedies hereunder or under the Notes or any other instrument securing payment of the secured indebtedness or in connection with the protection of the Mortgaged Properties and the Noteholder's lien therein and the Collateral and the Noteholder's security interest therein; that Grantor will indemnify and hold harmless the Trustee and the Noteholder from and against all claims, demands, liabilities, losses, damages, judgments, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorney's fees) which may

be imposed upon, asserted against or incurred or paid by either of them on account of or in connection with any bodily injury or death or property damage occurring in or upon or in the vicinity of the Mortgaged Properties or the Collateral through any cause whatsoever or asserted against them on account of any act performed or omitted to be performed hereunder or on account of any transaction arising out of or in any way connected with the Mortgaged Properties or the Collateral or with this Mortgage or any of the secured indebtedness, save and except for their bad faith and willful misconduct; and any amounts to be paid hereunder by Grantor to the Noteholder shall be a demand obligation owing by Grantor to the Noteholder and shall bear interest from the date of expenditure by the Noteholder until paid at the same rate as is provided in the Note described in Section 1.1(a) hereof for interest on past due principal and shall be a part of the secured indebtedness and shall be secured by this Mortgage and by any other instrument securing the secured indebtedness;

(i) That Grantor shall account fully and faithfully for and, if Noteholder so elects, shall promptly pay or turn over to the Noteholder, the proceeds in whatever form received in disposition in any manner of any of the Collateral; and Grantor shall at all times keep the Collateral and its proceeds separate and distinct from other property of Grantor and shall keep accurate and complete records of the Collateral and its proceeds; and

(j) That the equipment forming a part of the Collateral will be used in the business of Grantor and shall remain in Grantor's possession or control at all times at Grantor's risk of loss and shall be kept on the Mortgaged Properties except for its temporary removal in connection with its ordinary use or unless Grantor notifies the Noteholder in writing and the Noteholder consents in writing in advance of its removal to another location.

(k) Grantor will punctually perform and discharge each and every obligation and undertaking of Grantor under the Loan Agreement dated July 30, 1980, as from time to time amended (herein called the "Loan Agreement") between Grantor and the Noteholder and will not permit a Default or Event of Default to occur thereunder.

(l) Grantor shall comply with and shall perform all of the covenants, agreements and obligations imposed upon Grantor or the Mortgaged Properties or the Collateral by the Permitted Encumbrances in accordance with their respective terms and provisions, and Grantor shall not modify or permit any modification of any Permitted Encumbrances, without the prior written consent of the Noteholder.

2.3. As to any part of the Mortgaged Properties which is operated by a party other than Grantor, Grantor agrees to take all such action and to exercise all rights and remedies as are available to Grantor (including, but not limited to, all rights under any Operating Agreement) to cause the party who is the operator of such property to comply with the covenants and agreements contained herein.

2.4. Grantor agrees that, if Grantor fails to perform any act or to take any action which hereunder Grantor is required to perform or take or to pay any money which hereunder Grantor is required to pay, the Noteholder, in Grantor's name or its own name, may, but shall not be obligated to, perform or cause to be performed such act or take such action or pay such money, and any expenses so incurred by the Noteholder and any money so paid by the Noteholder shall be a demand obligation owing by



Grantor to the Noteholder and shall bear interest from the date of expenditure, or of making such payment, by the Noteholder until paid at the same rate as is provided in the Note described in Section 1.1(a) hereof for interest on past due principal and shall be a part of the secured indebtedness and shall be secured by this Mortgage and by any other instrument securing the secured indebtedness, and the Noteholder, upon making such payment, shall be subrogated to all of the rights of the person, corporation or body politic receiving such payment.

### ARTICLE III.

#### Assignment of Production, Accounts and Proceeds

3.1. For the purpose of additionally securing the payment of all secured indebtedness and to facilitate the discharge of all such indebtedness and as cumulative of any and all rights and remedies herein provided for, Grantor hereby bargains, sells, transfers, assigns, sets over and delivers to the Noteholder all minerals of every kind produced from or allocated to the Mortgaged Properties which accrue after the Effective Date (as herein defined) to Grantor's interest in said properties and all proceeds thereof (such proceeds being hereinafter referred to as the "mining proceeds") and all accounts, contract rights, and other general intangibles under which such proceeds may arise, and Grantor directs and instructs any and all purchasers of any minerals produced from or allocated to the Mortgaged Properties to pay to the Noteholder all of the mining proceeds accruing to Grantor's interest until such time as such purchasers have been furnished with evidence that all secured indebtedness has been paid and that the liens evidenced hereby have been released, and Grantor authorizes the Noteholder to receive and collect all the mining proceeds assigned hereunder, and no purchasers of the production attributed to the Mortgaged Properties shall have any responsibility for the application of any funds paid to the Noteholder. The office where the records of Grantor with respect to the accounts, contract rights and other general intangibles concerning the Mortgaged Properties are kept is located at the address shown opposite the signature of Grantor to this Mortgage, and Grantor agrees that the place at which such records are kept will not be changed without the prior written consent of the Noteholder.

3.2. Independent of the foregoing provisions and authorities herein granted, Grantor agrees to execute and deliver any and all transfer orders, division orders and other instruments that may be requested by the Noteholder or that may be required by any purchaser of the production from any of the Mortgaged Properties for the purpose of effectuating payment of the mining proceeds to the Noteholder. If under any existing sales agreements, other than division orders or transfer orders, any mining proceeds are required to be paid by the purchaser to Grantor so that under such existing agreements payment cannot be made of such mining proceeds to the Noteholder, Grantor's interest in all mining proceeds under such sales agreements and in all other mining proceeds which for any reason may be paid to Grantor shall, when received by Grantor, constitute trust funds in Grantor's hands and shall be immediately paid over to the Noteholder.

3.3. So long as no default has occurred hereunder, the mining proceeds received by the Noteholder during each calendar month shall on the first day of the next succeeding calendar month (or, at the option of the Noteholder, on any earlier date) be applied by the Noteholder as follows:

FIRST, to the payment of all unpaid installments of interest on the Notes maturing on or prior to such application date;

SECOND, to the payment of all matured principal owing on the Notes;

THIRD, to the payment of principal and interest on all secured indebtedness other than the Notes, in such manner as the Noteholder deems advisable;

FOURTH, to the prepayment (without penalty) of the principal of the Notes and of any other indebtedness secured hereby in such manner as the Noteholder deems advisable; and

FIFTH, the remainder, if any, of the mining proceeds shall be paid over to Grantor or to Grantor's order.

After an event of default has occurred, all mining proceeds in the hands of the Noteholder shall be applied by it toward the payment of all secured indebtedness, principal, interest and attorneys' fees, at such times and in such manner as the Noteholder deems advisable.

3.4. The Noteholder and its successors and assigns are hereby absolved from all liability for failure to enforce collection of the mining proceeds and from all other responsibility in connection therewith, except the responsibility to account to Grantor for funds actually received. Grantor agrees to indemnify and hold harmless the Noteholder against any and all liabilities, actions, claims, judgments, costs, charges and attorneys' fees by reason of the assertion that it received either before or after payment in full of the secured indebtedness funds from the production of minerals claimed by third persons, and the Noteholder shall have the right to defend against any such claims or actions, employing attorneys of its own selection, and if not furnished with indemnity satisfactory to it, the Noteholder shall have the right to compromise and adjust any such claims, actions and judgments, and in addition to the rights to be indemnified as herein provided, all amounts paid by the Noteholder in compromise, satisfaction or discharge of any such claim, action or judgment, and all court costs, attorneys' fees and other expenses of every character incurred by Noteholder pursuant to the provisions of this section shall be a demand obligation owing by Grantor to the Noteholder, shall bear interest from date of expenditure until paid at the same rate as is provided in the Note described in Section 1.1(a) hereof for interest on past due principal, and shall be a part of the secured indebtedness and shall be secured by this Mortgage and any other instrument securing the secured indebtedness.

#### ARTICLE IV.

##### Waiver and Partial Release

4.1. The Noteholder may at any time and from time to time in writing

(a) Waive compliance by Grantor with any covenant herein made by Grantor to the extent and in the manner specified in such writing; or

(b) Consent to Grantor's doing any act which hereunder Grantor is prohibited from doing, or to Grantor's failing to do any act which hereunder Grantor is required to do, to the extent and in the manner specified in such writing; or



(c) Release any part of the Mortgaged Properties or the Collateral or any interest therein or any mining proceeds from the lien and security interest of this Mortgage, without the joinder of the Trustee; or

(d) Release any party liable, either directly or indirectly, for the secured indebtedness or for any covenant herein or in any other instrument now or hereafter securing payment of the secured indebtedness, without impairing or releasing the liability of any other party.

No such act shall in any way impair the rights of the Noteholder hereunder except to the extent specifically agreed to by the Noteholder in such writing.

4.2. The lien and security interest and other security rights of the Noteholder hereunder shall not be impaired by any indulgence, moratorium or release granted by the Noteholder including, but not limited to,

(a) Any renewal, extension or modification which the Noteholder may grant with respect to any secured indebtedness; or

(b) Any surrender, compromise, release, renewal, extension, exchange or substitution which the Noteholder may grant in respect of any item of the Mortgaged Properties or the Collateral or any part thereof or any interest therein, or any of the mining proceeds; or

(c) Any release or indulgence granted to any endorser, guarantor or surety of any secured indebtedness.

#### ARTICLE V.

##### Possession Until Default, Defeasance

5.1. Unless a default specified in Section 6.1 hereof shall occur and be continuing, Grantor shall retain full possession of the Mortgaged Properties and the Collateral (except the mining proceeds assigned under Section 3.1 hereof) and shall manage, operate, develop and use the same and every part thereof, subject, however, to all of the terms and provisions of this Mortgage.

5.2. If all of the secured indebtedness be paid as the same becomes due and payable and if the covenants, warranties, undertakings and agreements made in this Mortgage are kept and performed, then, and in that event only, all rights under this Mortgage shall terminate and the properties hereby conveyed shall become wholly clear of the liens, security interests, conveyances and assignments evidenced hereby, and such liens and security interests shall be released by the Noteholder in due form at Grantor's cost.

#### ARTICLE VI.

##### Remedies in Event of Default

6.1. The term "default" as used in this Mortgage shall mean the occurrence of any of the following events:

(a) the failure of Grantor to make due and punctual payment of either of the Notes or of any other secured indebtedness or of any installment of principal thereof or interest thereon, or any part thereof, as the same shall become due and payable, whether at maturity or when accelerated pursuant to any power to accelerate contained

in the Notes or contained herein, within five (5) Business Days (as such term is defined in the Loan Agreement) after the same becomes due; or

(b) the failure of Grantor to pay over to the Noteholder within five (5) Business Days after receipt of written demand any mining proceeds or other proceeds of the sale or any minerals produced, saved and sold from or allocated to the Mortgaged Properties which are receivable by Noteholder under this Mortgage but which are paid to Grantor rather than the Noteholder (either as provided for in Section 3.2 hereof or otherwise), except mining proceeds paid over to Grantor by the Noteholder under clause FIFTH of Section 3.3; or

(c) the failure of Grantor timely and properly to observe, keep or perform any covenant, agreement, warranty or condition herein required to be observed, kept or performed, if such failure continues for thirty (30) days after written notice and demand by the Noteholder for the performance of such covenant, agreement, warranty or condition; or

(d) any representation contained herein or contained in any other instrument now or hereafter securing the secured indebtedness or otherwise made by Grantor to the Noteholder shall be false or misleading in any material respect; or

(e) the occurrence of an Event of Default under the Loan Agreement;

(f) the holder of any lien or security interest on the Mortgaged Properties or the Collateral (without hereby implying the consent of the Noteholder to the existence or creation of any such lien or security interest) institutes foreclosure or other proceedings for the enforcement of its remedies thereunder.

6.2. Upon the occurrence of a default the Noteholder shall have the option, by giving notice in writing to Grantor, of declaring all secured indebtedness in its entirety to be immediately due and payable, and the liens evidenced hereby shall be subject to foreclosure in any manner provided for herein or provided for by law as the Noteholder may elect.

6.3. Upon the occurrence of a default, the Trustee and the Noteholder and each of them are authorized, prior or subsequent to the institution of any foreclosure proceedings, to enter upon the Mortgaged Properties, or any part thereof, and to take possession of the Mortgaged Properties and the Collateral and all books and records relating thereto, and to exercise without interference from Grantor any and all rights which Grantor has with respect to the management, possession, operation, protection or preservation of the Mortgaged Properties and the Collateral. All costs, expenses and liabilities of every character incurred by the Trustee or the Noteholder in managing, operating, maintaining, protecting or preserving such properties, respectively, shall constitute a demand obligation owing by Grantor to the Noteholder and shall bear interest from date of expenditure until paid at the same rate as is provided in the Note described in Section 1.1(a) hereof for interest on past due principal, all of which shall constitute a portion of the secured indebtedness and shall be secured by this Mortgage and by any other instrument securing the secured indebtedness. If necessary to obtain the possession provided for above, the Trustee or the Noteholder, as the case may be, may invoke any and all remedies to dispossess Grantor including specifically one or more actions for summary possession, forcible entry and detainer, trespass to try title and restitution. In connection



with any action taken by the Noteholder or the Trustee pursuant to this Section 6.3, neither the Noteholder nor the Trustee shall be liable for any loss sustained by Grantor resulting from any act or omission of the Noteholder or the Trustee in managing the Mortgaged Properties and the Collateral unless such loss is caused by the willful misconduct or bad faith of the Noteholder or the Trustee. Grantor shall and does hereby agree to indemnify the Noteholder and the Trustee for, and to hold the Noteholder and the Trustee harmless from, any and all liability, loss or damage which may or might be incurred by either of them by reason of this instrument or the exercise of rights or remedies hereunder. Should the Noteholder or the Trustee incur any such liability by reason of this instrument or the exercise of rights or remedies hereunder or in defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be a demand obligation owing by Grantor to the Noteholder or the Trustee, as the case may be, and shall bear interest from the date incurred until paid at the same rate as provided in the Note described in Section 1.1(a) for interest on past due principal and shall be a part of the secured indebtedness and shall be secured by this Mortgage and any other instrument securing the secured indebtedness. Grantor hereby assents to, ratifies and confirms any and all actions of the Noteholder or the Trustee with respect to the Mortgaged Properties or the Collateral taken under this Section 6.3.

6.4. Upon the occurrence of a default the Trustee, or his successor or substitute, is authorized and empowered and it shall be his special duty at the request of the Noteholder to sell the Mortgaged Properties or any part thereof situated within the State of Nevada in accordance with the statutes of the State of Nevada then in force governing sales of real estate under powers conferred by deed of trust, at public vendue to the highest bidder for cash, after having given notice of such sale. Any sale made by the Trustee hereunder may be as an entirety or in such parcels as the Noteholder may request, and any sale may be adjourned by announcement at the time and place appointed for such sale without further notice except as may be required by law. The sale by the Trustee of less than the whole of the Mortgaged Properties shall not exhaust the power of sale herein granted, and the Trustee is specifically empowered to make successive sales under such power until the whole of the Mortgaged Properties shall be sold; and, if the proceeds of such sale of less than the whole of the Mortgaged Properties shall be less than the aggregate of the indebtedness secured hereby and the expense of executing this trust as provided herein, this Mortgage and the lien hereof shall remain in full force and effect as to the unsold portion of the Mortgaged Properties just as though no sale had been made; provided, however, that Grantor shall never have any right to require the sale of less than the whole of the Mortgaged Properties but the Noteholder shall have the right, at its sole election, to request the Trustee to sell less than the whole of the Mortgaged Properties. After each sale, the Trustee shall make to the purchaser or purchasers at such sale good and sufficient conveyances in the name of Grantor with general warranty of title, and shall receive the proceeds of said sale or sales and apply the same as herein provided. The power of sale granted herein shall not be exhausted by any sale held hereunder by the Trustee or his substitute or successor, and such power of sale may be exercised from time to time and as many times as the Noteholder may deem necessary until all of the Mortgaged Properties have been duly sold and all secured indebtedness has been fully paid. In the event any sale hereunder is not completed or is defective in the opinion of the Noteholder, such sale shall not exhaust the power of sale hereunder and the Noteholder shall have the right to cause a subsequent sale or sales to be made hereunder. Any and all statements of fact or other recitals made in any deed or deeds

given by the Trustee or any successor or substitute appointed hereunder as to nonpayment of the secured indebtedness or as to the occurrence of any default or event of default, or as to the Noteholder having declared all of said indebtedness to be due and payable, or as to the request to sell, or as to notice of time, place and terms of sale and the properties to be sold having been duly given, or as to the refusal, failure or inability to act of the Trustee or any substitute or successor trustee, or as to the appointment of any substitute or successor trustee, or as to any other act or thing having been duly done by the Noteholder or by such Trustee, substitute or successor, shall be taken as prima facie evidence of the truth of the facts so stated and recited. The Trustee or his successor or substitute may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by the Trustee, including the posting of notices and the conduct of sale, but in the name and on behalf of the Trustee, his successor or substitute. If the Trustee or his successor or substitute shall have given notice of sale hereunder, any successor or substitute Trustee thereafter appointed may complete the sale and the conveyance of the property pursuant thereto as if such notice had been given by the successor or substitute Trustee conducting the sale.

6.5. This instrument shall be effective as a mortgage as well as a deed of trust and upon the occurrence of a default may be foreclosed as to any of the Mortgaged Properties in any manner permitted by the laws of the State of Nevada or of any other state in which any part of the Mortgaged Properties is situated, and any foreclosure suit may be brought by the Trustee or by the Noteholder. In the event a foreclosure hereunder shall be commenced by the Trustee, or his substitute or successor, the Noteholder may at any time before the sale of the Mortgaged Properties direct the said Trustee to abandon the sale, and may then institute suit for the collection of the Notes and/or any other secured indebtedness, and for the foreclosure of the lien of this Mortgage. It is agreed that if the Noteholder should institute suit for the collection of the Notes and the other secured indebtedness and for the foreclosure of the lien of this Mortgage, the Noteholder may at any time before the entry of a final judgment in said suit dismiss the same, and require the Trustee, his substitute or successor to sell the property in accordance with the provisions of this Mortgage.

6.6. Upon the occurrence of a default the Noteholder may exercise its rights of enforcement with respect to the Collateral under the Uniform Commercial Code in force in the State of Nevada and in conjunction with, in addition to or in substitution for those rights and remedies:

(a) the Noteholder may enter upon Grantor's premises to take possession of, assemble and collect the Collateral or to render it unusable; and

(b) the Noteholder may require Grantor to assemble the Collateral and make it available at a place the Noteholder designates which is mutually convenient to allow the Noteholder to take possession or dispose of the Collateral; and

(c) written notice mailed to Grantor as provided herein at least five (5) days prior to the date of public sale or the Collateral or prior to the date after which private sale of the Collateral will be made shall constitute reasonable notice; and

(d) any sale made pursuant to the provisions of this section shall be deemed to have been a public sale



conducted in a commercially reasonable manner if held contemporaneously with and upon the same notice as required for the sale of the Mortgaged Properties under power of sale as provided in Section 6.4 of this Mortgage; and

(e) in the event of a foreclosure sale, whether made by the Trustee under the terms hereof, or under judgment of a court, the Collateral and the Mortgaged Properties may, at the option of the Noteholder, be sold as a whole; and

(f) it shall not be necessary that the Noteholder take possession of the Collateral or any part thereof prior to the time that any sale pursuant to the provisions of this section is conducted and it shall not be necessary that the Collateral or any part thereof be present at the location of such sale; and

(g) prior to application of proceeds of disposition of the Collateral to the secured indebtedness, such proceeds shall be applied to the reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like and the reasonable attorneys' fees and legal expenses incurred by the Noteholder; and

(n) any and all statements of fact or other recitals made in any bill of sale or assignment or other instrument evidencing any foreclosure sale hereunder as to nonpayment of the secured indebtedness or as to the occurrence of any default, or as to the Noteholder having declared all of such indebtedness to be due and payable, or as to notice of time, place and terms of sale and of the properties to be sold having been duly given, as to any other act or thing having been duly done by the Noteholder, shall be taken as prima facie evidence of the truth of the facts so stated and recited; and

(i) the Noteholder may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by the Noteholder, including the sending of notices and the conduct of the sale, but in the name and on behalf of the Noteholder.

6.7. In addition to all other remedies herein provided for, Grantor agrees that upon the occurrence of a default the Noteholder shall as a matter of right be entitled to the appointment of a receiver or receivers for all or any part of the Mortgaged Properties and/or the Collateral, whether such receivership be incident to a proposed sale or sales of such property or otherwise, and without regard to the value of the Mortgaged Properties and/or the Collateral or the solvency of any person or persons liable for the payment of the indebtedness secured hereby, and Grantor does hereby consent to the appointment of such receiver or receivers, waives any and all defenses to such appointment, and agrees not to oppose any application therefor by the Noteholder, and agrees that such appointment shall in no manner affect the rights of the Noteholder under Article III hereof. Nothing herein is to be construed to deprive the Noteholder of any other right, remedy or privilege it may now have under the law to have a receiver appointed. Any money advanced by the Noteholder in connection with any such receivership shall be a demand obligation owing by Grantor to the Noteholder and shall bear interest from the date of making such advancement by the Noteholder until paid at the same rate as is provided in the Note described in Section 1.1(a) hereof for interest on past due principal and shall be a part of the secured indebtedness and shall be secured by this Mortgage and by any other instrument securing the secured indebtedness.

6.8. The proceeds of any sale held by the Trustee or any receiver or public officer in foreclosure of the liens evidenced hereby shall be applied:

FIRST, to the payment of all necessary costs and expenses incident to such foreclosure sale, including but not limited to all court costs and charges of every character in the event foreclosed by suit, and a reasonable fee to the Trustee acting under the provisions of Section 6.4 if foreclosed by power of sale as provided in said section, not exceeding five percent (5%) of the gross proceeds of such sale;

SECOND, to the payment of the secured indebtedness (including specifically without limitation the principal, interest and attorneys' fees due and unpaid on the Notes and the amounts due and unpaid and owed to the Noteholder under this Mortgage) in such order as the Noteholder may elect; and

THIRD, the remainder, if any there shall be, shall be paid to Grantor or to Grantor's representatives, successors or assigns, or to whomsoever may be lawfully entitled to receive the same as a court of competent jurisdiction may direct.

6.9. The Noteholder shall have the right to become the purchaser at any sale of the Mortgaged Properties held by any Trustee or substitute or successor or by any receiver or public officer and/or at any sale of the Collateral held by the Noteholder or by any receiver or public officer, and any Noteholder purchasing at any such sale shall have the right to credit upon the amount of the bid made therefor, to the extent necessary to satisfy such bid, the secured indebtedness owing to such Noteholder, or if such Noteholder holds less than all of such indebtedness the pro rata part thereof owing to such Noteholder, accounting to all other Noteholders not joining in such bid in cash for the portion of such bid or bids apportionable to such nonbidding Noteholder or Noteholders.

6.10. If default be made in the payment of any part of the secured indebtedness, the holder of said indebtedness or any part thereof on which the payment is delinquent shall have the option to proceed with foreclosure of the liens and security interests evidenced hereby in satisfaction of such item either through the courts or by directing the Trustee or his successor or substitute in trust to proceed as if under a full foreclosure, conducting the sale as herein provided, and to proceed with foreclosure of the security interest created hereby, all without declaring the entire secured indebtedness due, and provided that if sale of the Mortgaged Properties and/or the Collateral is made because of default in the payment of a part of the secured indebtedness, such sale may be made subject to the unmatured part of the secured indebtedness; and it is agreed that such sale, if so made, shall not in any manner affect the unmatured part of the secured indebtedness, but as to such unmatured part this Mortgage shall remain in full force and effect just as though no sale had been made under the provisions of this Section. And it is further agreed that several sales may be made hereunder without exhausting the right of sale for any unmatured part of the secured indebtedness, it being the purpose hereof to permit foreclosure and sale of the Mortgaged Properties and/or foreclosure and sale of the Collateral for any matured portion of the secured indebtedness without exhausting the power to foreclose and to sell the Mortgaged Properties and/or to foreclose and sell the Collateral for any other part of the secured indebtedness whether matured at the time or subsequently maturing.



6.11. All remedies herein expressly provided for are cumulative of any and all other remedies existing at law or in equity and are cumulative of any and all other remedies provided for in any other instrument now or hereafter evidencing or securing the secured indebtedness or any part thereof, and the Trustee and the Noteholder shall, in addition to the remedies herein provided, be entitled to avail themselves of all such other remedies as may now or hereafter exist at law or in equity for the collection of said indebtedness and the enforcement of the covenants herein and the foreclosure of the liens evidenced hereby and/or the security interests evidenced hereby, and the resort to any remedy provided for hereunder or under any such other instrument or provided for by law shall not prevent the concurrent or subsequent employment of any other appropriate remedy or remedies.

6.12. The Noteholder may resort to any security given by this Mortgage or to any other security now existing or hereafter given to secure the payment of the secured indebtedness, in whole or in part, and in such portions and in such order as may seem best to the Noteholder in its sole and uncontrolled discretion, and any action shall not in anywise be considered as a waiver of any of the rights, benefits, liens or security interests evidenced by this Mortgage.

6.13. To the full extent Grantor may do so, Grantor agrees that Grantor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisement, valuation, stay, extension or redemption, and Grantor, for Grantor, Grantor's successors and assigns, and for any and all persons ever claiming any interest in the Mortgaged Properties or the Collateral, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisement, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness and all rights to a marshaling of assets of Grantor, including the Mortgaged Properties and the Collateral, or to a sale in inverse order of alienation in the event of foreclosure of the liens hereby created and/or foreclosure of the security interests hereby created. Grantor shall not have or assert any right under any statute or rule of law pertaining to the marshaling of assets, sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents, or other matters whatever to defeat, reduce or affect the right of the Noteholder under the terms of this Mortgage to a sale of the Mortgaged Properties and/or a sale of the Collateral for the collection of the secured indebtedness without any prior or different resort for collection, or the right of the Noteholder under the terms of this Mortgage to the payment of such indebtedness out of the proceeds of sale of the Mortgaged Properties and/or the proceeds of sale of the Collateral in preference to every other claimant whatever. If any law referred to in this section and now in force, of which Grantor or Grantor's successors or assigns or any other persons claiming any interest in the Mortgaged Properties or the Collateral might take advantage despite this section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this section.

6.14. In the event there is a foreclosure sale hereunder and at the time of such sale Grantor or Grantor's successors or assigns or any other persons claiming any interest in the Mortgaged Properties and/or the Collateral by, through or under Grantor, are occupying or using the Mortgaged Properties and/or the Collateral, or any part thereof, each and all shall immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day to day, terminable at

the will of either landlord or tenant, at a reasonable rental per day based upon the value of the property occupied, such rental to be due daily to the purchaser. In the event the tenant fails to surrender possession of said property upon demand, the purchaser shall be entitled to institute and maintain an action for summary possession in any court having jurisdiction. The purchaser or purchasers at foreclosure shall have the right to affirm or disaffirm any lease of the Mortgaged Properties and/or the Collateral or any part thereof.

#### ARTICLE VII.

##### Miscellaneous

7.1. This instrument is a deed of trust and mortgage of both real and personal property, a security agreement, a financing statement and an assignment, and also covers proceeds and fixtures.

7.2. This Mortgage shall be effective as a financing statement covering minerals or the like and accounts subject to Sec. 104.9103.5 of the Uniform Commercial Code in effect in the State of Nevada. This Mortgage shall also be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Mortgaged Properties and the Collateral and is to be filed for record in the Office of the County Recorder of each county where any part of the Mortgaged Properties and the Collateral (including said fixtures) is situated. The mailing address of Grantor is set forth below opposite the signature of Grantor to this Mortgage and the address of the Noteholder from which information concerning the security interest may be obtained is the address of the Noteholder set forth at the end of this Mortgage.

7.3. In addition to the rights granted in Article III hereof, the Noteholder may at any time after the occurrence of an event of default hereunder notify the account debtors or obligors of any accounts, chattel paper, negotiable instruments or other evidences of indebtedness included in the Collateral to pay the Noteholder directly.

7.4. A carbon, photographic or other reproduction of this Mortgage or of any financing statement relating to this Mortgage shall be sufficient as a financing statement.

7.5. The Noteholder may waive any default without waiving any other prior or subsequent default. The Noteholder may remedy any default without waiving the default remedied. The failure by the Noteholder to exercise any right, power or remedy upon any default shall not be construed as a waiver of such default or as a waiver of the right to exercise any such right, power or remedy at a later date. No single or partial exercise by the Noteholder of any right, power or remedy hereunder shall exhaust the same or shall preclude any other or further exercise thereof, and every such right, power or remedy hereunder may be exercised at any time and from time to time. No modification or waiver of any provision hereof nor consent to any departure by Grantor therefrom shall in any event be effective unless the same shall be in writing and signed by the Noteholder and then such waiver or consent shall be effective only in the specific instances, for the purpose for which given and to the extent therein specified. No notice to nor demand on Grantor in any case shall of itself entitle Grantor to any other or further notice of demand in similar or other circumstances. Acceptance by the Noteholder of any payment in an amount less than the amount then due on any secured indebtedness shall be deemed an acceptance on account only and



shall not in any way excuse the existence of a default hereunder.

7.6. In the event the ownership of the Mortgaged Properties and/or the Collateral or any part thereof becomes vested in a person other than Grantor, the Noteholder may, without notice to Grantor, deal with such successor or successors in interest with reference to this Mortgage and to the indebtedness secured hereby in the same manner as with Grantor, without in any way vitiating or discharging Grantor's liability hereunder or for the payment of the indebtedness secured hereby. No sale of the Mortgaged Properties and/or the Collateral, and no forbearance on the part of the Noteholder, and no extension of the time for the payment of the indebtedness secured hereby, given by the Noteholder, shall operate to release, discharge, modify, change or affect, in whole or in part, the liability of Grantor hereunder or for the payment of the indebtedness secured hereby or the liability of any other person hereunder or for the payment of the indebtedness secured hereby.

7.7. The Notes and all other secured indebtedness which may be owing hereunder at any time by Grantor shall be payable as provided therein and in the Loan Agreement.

7.8. To the extent that proceeds of the Notes are used to pay indebtedness secured by any outstanding lien, security interest, charge or prior encumbrance against the Mortgaged Properties and/or the Collateral, such proceeds have been advanced by the Noteholder at Grantor's request, and the Noteholder shall be subrogated to any and all rights, security interests and liens owned by any owner or holder of such outstanding liens, security interests, charges or encumbrances, irrespective of whether said liens, security interests, charges or encumbrances are released, and it is expressly understood that, in consideration of the payment of such indebtedness by the Noteholder, Grantor hereby waives and releases all demands and causes of action for offsets and payments to, upon and in connection with the said indebtedness.

7.9. If any part of the secured indebtedness cannot be lawfully secured by this Mortgage or if any part of the Mortgaged Properties and/or the Collateral cannot be lawfully subject to the lien hereof and/or the security interest created hereby to the full extent of such indebtedness, then all payments made shall be applied on said indebtedness first in discharge of that portion thereof which is unsecured by this Mortgage.

7.10. Any provision contained herein or in the Notes or in any other instrument evidencing or relating to any secured indebtedness to the contrary notwithstanding, neither the Bank nor any subsequent holder of the Notes or of any other secured indebtedness shall be entitled to receive or collect, nor shall Grantor be obligated to pay, interest on any of the secured indebtedness in excess of the maximum interest permitted by applicable law, and if any provision herein or in the Notes or in any such other instrument shall ever be construed or held to permit the collection or to require the payment of any amount of interest in excess of that permitted by applicable law, the provisions of this section shall control and shall override any contrary or inconsistent provision herein or in the Notes or in any such other instrument.

7.11. The terms, provisions, covenants and conditions hereof shall be binding upon Grantor, and the successors and assigns of Grantor, and shall inure to the benefit of the Trustee and the Noteholder and their respective successors and assigns and shall constitute covenants running with the land described in Exhibit A.

7.12. The Trustee may resign by an instrument in writing addressed to the Noteholder, or the Trustee may be removed at any time with or without cause by an instrument in writing executed by the Noteholder. In case of the death, resignation, removal, or disqualification of the Trustee, or if for any reason the Noteholder shall deem it desirable to appoint a substitute or successor trustee to act instead of the herein named trustee or any substitute or successor trustee, then the Noteholder shall have the right and is hereby authorized and empowered to appoint a successor trustee, or a substitute trustee, without other formality than appointment and designation in writing executed by the Noteholder and the authority hereby conferred shall extend to the appointment of other successor and substitute trustees successively until the indebtedness secured hereby has been paid in full, or until the Mortgaged Properties are sold hereunder. In the event the secured indebtedness is owned by more than one person or entity, the holder or holders of not less than a majority in the amount of such indebtedness shall have the right and authority to make the appointment of a successor or substitute trustee as provided for in the preceding sentence. Such appointment and designation by the Noteholder, or by the holder or holders of not less than a majority of the indebtedness secured hereby, shall be full evidence of the right and authority to make the same and of all facts therein recited. If the Noteholder is a corporation and such appointment is executed in its behalf by an officer of such corporation, such appointment shall be conclusively presumed to be executed with authority and shall be valid and sufficient without proof of any action by the board of directors or any superior officer of the corporation. Upon the making of any such appointment and designation, all of the estate and title of the Trustee in the Mortgaged Properties shall vest in the named successor or substitute Trustee and he shall thereupon succeed to all the rights, powers, privileges, immunities and duties herein conferred upon the Trustee. All references herein to the Trustee shall be deemed to refer to the Trustee (including any successor or substitute appointed and designated as herein provided) from time to time acting hereunder.

7.13. The Trustee shall not be liable for any error of judgment or act done by the Trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever, except for Trustee's negligence or willful misconduct. The Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by him hereunder, believed by him in good faith to be genuine. All moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by law), and the Trustee shall be under no liability for interest on any moneys received by him hereunder. Grantor hereby ratifies and confirms any and all acts which the herein named Trustee or his successor or successors or substitute or substitutes in this trust, shall do lawfully by virtue hereof. Grantor will reimburse Trustee for, and save him harmless against, any and all liability and expenses which may be incurred by him in the performance of his duties.

7.14. Any notice, request, demand or other communication required or permitted hereunder or under the Notes or under any other instrument now or hereafter evidencing or securing payment of the secured indebtedness (unless otherwise specifically provided therein) shall be given as provided in the Loan Agreement.

7.15. A determination that any provision of this Mortgage is unenforceable or invalid shall not affect the enforceability



or validity of any other provision and the determination that the application of any provision of this Mortgage to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other persons or circumstances.

7.16. Within this Mortgage, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

7.17. Grantor will cause this Mortgage and all amendments and supplements hereto and substitutions herefor and all financing statements and continuation statements relating hereto and thereto to be recorded, filed, re-recorded and refiled in such manner and in such places as the Trustee or the Noteholder shall reasonably request and will pay all such recording, filing, re-recording and refiling taxes, fees and other charges.

7.18. This Mortgage is executed in several counterparts, all of which are identical and each of which shall be deemed an original, and all counterparts together shall constitute one and the same instrument.

7.19. The "Effective Date" of this instrument is 7:00 o'clock a.m. local time on August 1, 1980 at the location of the Mortgaged Properties, respectively.

IN WITNESS WHEREOF, this instrument is executed and delivered by Grantor and executed by the Bank on the dates set out below in the respective acknowledgments of the officers of Grantor and the Bank who have signed this instrument.

A. W. ARNOLD & ASSOCIATES, INC.

The address of the  
Grantor is:

2400 Augusta, Suite 400  
Houston, Texas 77057

By: *Robert L. Under*  
Title: *President*

The address of the  
Noteholder is:

P. O. Box 225961  
Pacific & Ervay Streets  
Dallas, Texas 75265  
Attention: Petroleum &  
Minerals Department

REPUBLICBANK DALLAS, NATIONAL  
ASSOCIATION

By: *Maura Schubert*  
Title: *Vice President*

STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME the undersigned authority, a notary public in and for said State, on this day personally appeared RODNEY C. VICKERS, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said A. W. ARNOLD & ASSOCIATES, INC., a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 6th day of October, 1981.

(SEAL)

SEAL  
Affixed

Sherry B. DuBois  
Notary Public in and for the  
State of Texas

My commission expires:

MARCH 14, 1984

Sherry B. DuBois  
(Notary's Name: Printed)

STATE OF TEXAS

COUNTY OF DALLAS

BEFORE ME the undersigned authority, a notary public in and for the State of Texas, on this day personally appeared MARVIN G. SCHIEBOUT, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said REPUBLICBANK DALLAS, NATIONAL ASSOCIATION, a national banking association, and that he executed the same as the act of such national banking association for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 4th day of September, 1981.

(SEAL)

SEAL  
Affixed

Paula C. Clement  
Notary Public in and for the  
State of Texas

My commission expires:

(Notary's Name: Printed)

PAULA C. CLEMENT  
Notary Public, State of Texas  
My Commission Expires 1-25-84

AFTER RECORDING RETURN TO:

Mr. John W. Rain

Thompson & Knight

2300 Republic National Bank Building

Dallas, Texas 75201



EXHIBIT A

I. Properties Situated North of Wells, Nevada.

A. That certain group of unpatented lode mining claims located in Township 40 North, Range 63 East of the Mt. Diablo Base and Meridian, in Elko County, Nevada, known as "Easy Miner #1 through #43," and "Easy Miner #52 through #110," more particularly described as follows:

1. Easy Miner #1 (BLM Serial # NMC 28320), primarily located in Sections 2 and 11, overlapping into Sections 3 and 10.

2. Easy Miner #2 (BLM Serial # NMC 28321), Easy Miner #3 (BLM Serial # NMC 28322), Easy Miner #4 (BLM Serial # NMC 28323) and Easy Miner #5 (BLM Serial # NMC 28324), primarily located in Section 2, overlapping into Section 3.

3. Easy Miner #6 (BLM Serial # NMC 28325), Easy Miner #7 (BLM Serial # NMC 28326), Easy Miner #8 (BLM Serial # NMC 28327), and Easy Miner #9 (BLM Serial # NMC 28328) all contained in Section 2.

4. Easy Miner #10 (BLM Serial # NMC 28329) and Easy Miner #11 (BLM Serial # NMC 28330), located in Sections 2 and 11.

5. Easy Miner #12 (BLM Serial # NMC 28331), Easy Miner #13 (BLM Serial # NMC 28332), Easy Miner #14 (BLM Serial # NMC 28333), and Easy Miner #15 (BLM Serial # NMC 28334), all contained in Section 2.

6. Easy Miner #16 (BLM Serial # NMC 28335), Easy Miner #17 (BLM Serial # NMC 28336), Easy Miner #18 (BLM Serial # NMC 28337), and Easy Miner #19 (BLM Serial # NMC 28338), primarily located in Section 2, overlapping into Section 1.

7. Easy Miner #20 (BLM Serial # NMC 28339) primarily located in Sections 2 and 11, overlapping into Sections 1 and 12.

8. Easy Miner #21 (BLM Serial # NMC 28358), Easy Miner #22 (BLM Serial # NMC 28359), Easy Miner #23 (BLM Serial # NMC 28360), Easy Miner #24 (BLM Serial # NMC 28361), Easy Miner #25 (BLM Serial # NMC 28362), Easy Miner #26 (BLM Serial # NMC 28363), Easy Miner #27 (BLM Serial # NMC 28364), and Easy Miner #28 (BLM Serial # NMC 28365), primarily located in Section 12, overlapping into Section 11.

9. Easy Miner #29 (BLM Serial # NMC 28366), primarily located in Section 12, overlapping into Sections 11, 14, and 13.

10. Easy Miner #30 (BLM Serial # NMC 28367), primarily located in Section 12, overlapping into Section 13.

11. Easy Miner #31 (BLM Serial # NMC 28368), Easy Miner #32 (BLM Serial # NMC 28369), Easy Miner #33 (BLM Serial # NMC 28370), Easy Miner #34 (BLM Serial # NMC 28371), Easy Miner #35 (BLM Serial # NMC 28372), Easy Miner #36 (BLM Serial

# NMC 28373), Easy Miner #37 (BLM Serial # NMC 28374), Easy Miner #38 (BLM Serial # NMC 28375), Easy Miner #39 (BLM Serial # NMC 28376), Easy Miner #40 (BLM Serial # NMC 28377), Easy Miner #41 (BLM Serial # NMC 28378), Easy Miner #42 (BLM Serial # NMC 28379), and Easy Miner #43 (BLM Serial # NMC 28380), all contained in Section 12.

12. Easy Miner #52 (BLM Serial # NMC 28381), Easy Miner #53 (BLM Serial # NMC 28382), Easy Miner #54 (BLM Serial # NMC 28383), Easy Miner #55 (BLM Serial # NMC 28384) and Easy Miner #56 (BLM Serial # NMC 28385), primarily located in Section 12, overlapping into Section 7.

13. Easy Miner #57 (BLM Serial # NMC 28386), primarily located in Section 14, overlaps into Sections 10, 11 and 15.

14. Easy Miner #58 (BLM Serial # NMC 28387), Easy Miner #59 (BLM Serial # NMC 28388), Easy Miner #60 (BLM Serial # NMC 28389), Easy Miner #61 (BLM Serial # NMC 28390), Easy Miner #62 (BLM Serial # NMC 28391), Easy Miner #63 (BLM Serial # NMC 28392), and Easy Miner #64 (BLM Serial # NMC 28393), primarily located in Section 14, overlapping into Section 15.

15. Easy Miner #65 (BLM Serial # NMC 28394), primarily located in Section 14, overlapping into Sections 15, 22 and 23.

16. Easy Miner #66 (BLM Serial # NMC 28395), located in Section 14, overlapping into into Section 23.

17. Easy Miner #67 (BLM Serial # NMC 28396), Easy Miner #68 (BLM Serial # NMC 28397), Easy Miner #69 (BLM Serial # NMC 28398), Easy Miner #70 (BLM Serial # NMC 28399), Easy Miner #71 (BLM Serial # NMC 28400), Easy Miner #72 (BLM Serial # NMC 28401), Easy Miner #73 (BLM Serial # NMC 28402), Easy Miner #74 (BLM Serial # NMC 28403), Easy Miner #75 (BLM Serial # NMC 28404), Easy Miner #76 (BLM Serial # NMC 28405), Easy Miner #77 (BLM Serial # NMC 28406), Easy Miner #78 (BLM Serial # NMC 28407), Easy Miner #79 (BLM Serial # NMC 28408), Easy Miner #80 (BLM Serial # NMC 28409), Easy Miner #81 (BLM Serial # NMC 28410), and Easy Miner #82 (BLM Serial # NMC 28411), all contained in Section 14.

18. Easy Miner #83 (BLM Serial # NMC 28412), primarily located in Section 14, overlapping into Section 23.

19. Easy Miner #84 (BLM Serial # NMC 28413), primarily located in Section 14, overlapping into Sections 13, 23 and 24.

20. Easy Miner #85 (BLM Serial # NMC 28414), Easy Miner #86 (BLM Serial # NMC 28415), Easy Miner #87 (BLM Serial # NMC 28416), Easy Miner #88 (BLM Serial # NMC 28417), Easy Miner #89 (BLM Serial # NMC 28418), Easy Miner #90 (BLM Serial # NMC 28419), and Easy Miner #91 (BLM Serial # NMC 28420), primarily located in Section 14, overlapping into Section 13.



21. Easy Miner #92 (BLM Serial # NMC 28421), primarily located in Section 14, overlapping into Sections 11, 12 and 13.

22. Easy Miner #93 (BLM Serial # NMC 28340), primarily located in Section 22, overlapping into Section 27.

23. Easy Miner #94 (BLM Serial # NMC 28341), Easy Miner #95 (BLM Serial # NMC 28342), Easy Miner #96 (BLM Serial # NMC 28343), Easy Miner #97 (BLM Serial # NMC 28344), Easy Miner #98 (BLM Serial # NMC 28345), Easy Miner #99 (BLM Serial # NMC 28346), Easy Miner #100 (BLM Serial # NMC 28347), and Easy Miner #101 (BLM Serial # NMC 28348), all contained in Section 22.

24. Easy Miner #102 (BLM Serial # NMC 28349), Easy Miner #103 (BLM Serial # NMC 28350), Easy Miner #104 (BLM Serial # NMC 28351), Easy Miner #105 (BLM Serial # NMC 28352), Easy Miner #106 (BLM Serial # NMC 28353), Easy Miner #107 (BLM Serial # NMC 28354), Easy Miner #108 (BLM Serial # NMC 28355), and Easy Miner #109 (BLM Serial # NMC 28356), primarily located in Section 22, overlapping into Section 23.

25. Easy Miner #110 (BLM Serial # NMC 28357), primarily located in Section 22, overlapping into Sections 23, 26 and 27.

B. A leasehold interest in the following described real property:

All of Sections 11, 13 and 15, of Township 40 North, Range 63 East, of the Mt. Diablo Base & Meridian, Elko County, Nevada, EXCEPTING THEREFROM 12.4 acres situated in Section 13, subject to highway right-of-way.

Said properties being subject of an Exploration and Mineral Lease Agreement dated January 1, 1978 by and between Chromalloy American Corporation and Patsy R. Grube, et al., as amended by First Amendment to Exploration and Mineral Lease Agreement dated November 20, 1978, and subject of an Exploration and Mineral Lease Agreement dated January 1, 1978 by and between Chromalloy American Corporation and The Superior Oil Company, as amended by Quitclaim Deed and Leasehold Release dated December 19, 1978.

C. That certain group of unpatented lode mining claims located in Township 39 North, Range 64 East of the Mt. Diablo Base & Meridian, Elko County, Nevada, known as the "Dig Claims," more particularly described as follows:

1. Dig #1 (BLM Serial # NMC 76963), located in Section 10.

2. Dig #2 (BLM Serial # NMC 76964), located in Section 10.

3. Dig #3 (BLM Serial # NMC 76965), located in Section 10, overlapping into Section 11.

D. That certain patented lode mining claim more particularly described as follows:

Wildcat Barium Lode Mining Claim;

U.S. Mineral Survey No. 4876;

U.S. Patent No. 27-68-0067;

Located within Section 20, Township 44 North, Range 59 East, M.D.B.&M., Patent recorded in Book 88 Page 486, Official Records, Elko County, Nevada.

## II. Properties Situated South of Carlin, Nevada.

A. A leasehold interest in the following described real property:

That certain group of unpatented lode mining claims known as Bear No. 1 (BLM Serial # NMC 58971), Bear No. 2 (BLM Serial # NMC 58972), and Bear No. 3 (BLM Serial # NMC 58973), located in the central portion of Section 19 of Township 26 North, Range 53 East, of the Mt. Diablo & Meridian, Eureka County, Nevada;

That certain claim known as the "Gail" (BLM Serial # NMC 8694) unpatented lode mining claim, located in the West one-half of Section 27, Township 27 North, Range 53 East, M.D.&M., in Elko County, Nevada; and

That certain claim known as the "Jeanne Marie" (BLM Serial # NMC 8695) unpatented lode mining claim, located in Sections 22 & 27 of Township 27 North, Range 53 East, M.D.M., in Elko County, Nevada.

Said properties being subject of a Mineral Lease dated June 1, 1978 by and between Arnold & Clarke Chemical Company and Reinhold Sadler, Verna Sadler, Ruth Sadler, Kathleen Compton, Jeanne Brown, Paul Sadler, Jon Sadler and Gail Pesmark.

B. Those certain unpatented lode mining claims known as "Blue Tuesday (BLM Serial # NMC 44927)," located in Section 18, and "Blue Tuesday No. 2 (BLM Serial # NMC 44928)," located in Sections 18 and 19, of Township 26 North, Range 53 East, of the Mt. Diablo Base & Meridian, in Eureka County, Nevada.



C. That certain group of unpatented lode mining claims known as "Brown Sugar #1 through #8," located in Township 27 North, Range 53 East, in the Mt. Diablo Base & Meridian, Elko County, Nevada, more particularly described as follows:

BROWN SUGAR #1 (BLM Serial # NMC 43901),  
primarily located in Section 20,  
overlapping Section 21;

BROWN SUGAR #2 (BLM Serial # NMC 43902),  
primarily located in Section 21,  
overlapping section 20;

BROWN SUGAR #3 (BLM Serial # NMC 43903),  
located in Sections 20 and 21;

BROWN SUGAR #4 (BLM Serial # NMC 43904),  
located in Section 21;

BROWN SUGAR #5 (BLM Serial # NMC 43905),  
located in Sections 20 and 21;

BROWN SUGAR #6 (BLM Serial # NMC 43906),  
located in Section 21;

BROWN SUGAR #7 (BLM Serial # NMC 43907),  
located in Sections 21 and 28;  
and

BROWN SUGAR #8 (BLM Serial # NMC 43908),  
located in Sections 21 and 28.

### III. Properties Situated North of Austin, Nevada.

A. A leasehold interest in the following described real property:

Those certain unpatented lode mining claims known as Gray Barium-Doc Allen #1 (BLM Serial # NMC 58583) and Gray Barium-Doc Allen #2 (BLM Serial # NMC 58584), both located in Section 25 (unsurveyed) of Township 21 North, Range 46 East of the Mt. Diablo Base & Meridian in Lander County, Nevada, formerly known as Amended Gray Barium & Amended.

Said properties being subject of a Mineral Lease Agreement dated July 1, 1978 by and between Chromalloy American Corporation and Clarence Allen.

B. That certain group of unpatented lode mining claims known as "Tiff Teaser #1 through #6" and "Tiff Teaser #7 through #26," located in Township 23 North, Range 44 East, of the Mt. Diablo Meridian, in Lander County, Nevada, more particularly described as follows:

TIFF TEASER #1 (BLM Serial # NMC 78310)  
through TIFF TEASER #5 (BLM Serial  
# NMC 78314), located in Section 20;

TIFF TEASER #6 (BLM Serial # NMC 78315),  
located in Sections 20 and 17;

TIFF TEASER #7 (BLM Serial # NMC 120240),  
located in Sections 17 and 20;

TIFF TEASER #8 (BLM Serial # NMC 120241),  
located in Sections 17 and 20;

TIFF TEASER #9 (BLM Serial # NMC 120242),  
located in Section 27;

TIFF TEASER #10 (BLM Serial # NMC 120243),  
located in Sections 17 and 18;

TIFF TEASER #11 (BLM Serial # NMC 120244),  
located in Sections 18 and 19;

TIFF TEASER #12 (BLM Serial # NMC 120245),  
located in Sections 17, 18, 19,  
and 20;

TIFF TEASER #13 (BLM Serial # NMC 120246),  
located in Sections 19 and 20;

TIFF TEASER #14 (BLM Serial # NMC 120247),  
located in Sections 19 and 20;

TIFF TEASER #15 (BLM Serial # NMC 120248),  
located in Sections 19 and 20;

TIFF TEASER #16 (BLM Serial # NMC 120249),  
located in Sections 19 and 20;

TIFF TEASER #17 (BLM Serial # NMC 120250),  
located in Sections 19 and 20; and

TIFF TEASER #18 (BLM Serial # NMC 120251)  
through TIFF TEASER #26 (BLM Serial  
# NMC 120259), located in Section 19.

C. That certain unpatented lode mining claim known as  
"Finally (BLM Serial # NMC 61372)," located in Section 2, of  
Township 22 North, Range 42 East, of the Mt. Diablo Meridian, in  
Lander County, Nevada.

D. Those certain unpatented lode mining claims known as  
"Dirty Dog #1 through #6" located in Township 20 North, Range 44  
East, of the Mt. Diablo Meridian, in Lander County, Nevada, as  
follows:



Dirty Dog #1 (BLM Serial # NMC 78304) and #2 (BLM Serial # NMC 78305) located in Section 8; and Dirty Dog #3 (BLM Serial # NMC 78306) through #6 (BLM Serial # NMC 78309) located in Section 9.

IV. Properties Situated North of Battle Mountain, Nevada.

A. A leasehold interest in the following described real property:

1. Two unpatented lode mining claims known as "Darling Darlene (BLM Serial # NMC 84049)" and "Darling Darlene #1 (BLM Serial # NMC 84050)," located in the Northeast 1/4 of Section 10, Township 33 North, Range 45 East, of the Mt. Diablo Meridian, in Lander County, Nevada.

2. 160 acres of Southern Pacific Land Company patented land located in Lander County, Nevada, more particularly described as:

The NW1/4 of Section 11, Township 33 North, Range 45 East, of the Mt. Diablo Meridian, containing 160 acres more or less.

Said properties being subject of a Mineral Lease Agreement dated April 8, 1977 by and between Chromalloy Mining and Minerals and Catherine and Joseph Barredo; Ronald and Pamela Sego; John and Sandra Petersen; and Richard C. Lapier.

B. A leasehold interest in the following described real property:

1. 120 acres of Southern Pacific Land Company property located in Lander County, Nevada, more particularly described as:

The SE1/4 of SE1/4 Section 3; NW1/4 of NE1/4 and SW1/4 of SW1/4 of Section 11, Township 33 North, Range 45 East, M.D.B.&M., in Lander County, Nevada.

Said property being subject of a Lease of Mining Rights, No. R-03-33-345, dated March 14, 1978 by and between Southern Pacific Land Company and Chromalloy American Corporation.

RECORDED AT REQUEST OF  
Tim Detas  
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81 OCT 7 AM: 58

OFFICIAL RECORDS  
EUREKA COUNTY, NEVADA  
WILLIS A. DEPAULI, RECORDER  
FILE NO. 82264  
FEE \$ 30.00

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