

Great Basin Bank Nevada Loan No. 7010535

After recording, return Deed  
to the following address:

Great Basin Bank Nevada  
Elko Office  
487 Railroad Street  
P.O. Box 2808  
Elko, Nevada 89801

BOOK 363 PAGE 177-205  
OFFICIAL RECORDS  
RECORDED AT THE REQUEST OF  
*Stewart Title*  
2003 JUL -7 AM 9:59

EUREKA COUNTY NEVADA  
M.N. REGALATI, RECORDER  
FILE NO. FEE \$ 42.00

182187

This document filed for record by Frontier Title  
Company as an accommodation only. It has not  
been examined as to its execution or as to its  
effect upon the title.

**LEA HOLD DEED OF TRUST, FIXTURE FILING, AND  
SECURITY AGREEMENT WITH ASSIGNMENT OF RENTS**

This Deed of Trust, Fixture Filing, and Security Agreement with Assignment of Rents is executed by Gulf Insport, LLC, a Tennessee limited liability company, as "Trustor," to Stewart Title of Northeastern Nevada, a Nevada corporation, as "Trustee," for the benefit of Great Basin Bank Nevada, a Nevada corporation, as "Beneficiary."

1. **DEFINITION** For purposes of this Deed of Trust, each of the following terms shall have the following respective meanings:

- 1.1 **"Beneficiary"** means Great Basin Bank of Nevada, a Nevada corporation.
- 1.2 **"Default Rate"** means the rate specified in the Note, if any.
- 1.3 **"Event Default"** means an Event of Default as set forth in Article 7. hereof.
- 1.4 **"Fixture"** means all right, title, and interest of Trustor, in and to all materials, supplies, equipment, apparatus and other items now or hereafter attached to, installed on or in the Land or the improvements, or which in some fashion are deemed to be fixtures to the Land or Improvements under the laws of the State of Nevada, including the Nevada Uniform Commercial Code. The term "Fixtures" shall include, without limitation, all items of Personalty to the extent that the same may be deemed Fixtures under applicable law.
- 1.5 **"Governmental Authority"** means any and all courts, boards, agencies, commissions, officers or authorities of any nature whatsoever for any governmental unit (federal, state, court district, municipal, city or otherwise) whether now or hereafter in existence.
- 1.6 **"Guarantor"** means, collectively, James E. Cooper, James W. Cooper, and Jennifer R. Cooper.

1.7 "Impoons" means all real estate and personal property taxes, water, gas, sewer, electricity another utility rates and charges; charges imposed pursuant to any subdivision, plan, permit development or condominium declaration or restrictions; charges for any easement, use or agreement maintained for the benefit of the Mortgaged Property, and all car taxes, charges and assessments and any interest, costs or penalties with respect hereto of any kind and nature whatsoever which at any time prior to or after the execution hereof may be assessed, levied or imposed upon the Mortgaged Property or the ownership, use, occupancy or enjoyment thereof.

1.8 "Improvements" means any and all buildings, structures, open parking areas and other improvements, and any and all accessions, additions, replacements, substitutions or alterations thereof or appurtenances thereto, now or at any time hereafter situated, placed or constructed upon the Land or any part thereof.

1.9 "Indebtedness" means the principal of, interest on and all other amounts and payments due pursuant to or evidenced by the following:

- (1) The Note;
- (2) The Loan Agreement and all other Loan Documents;
- (3) All funds hereafter advanced by Beneficiary to or for the benefit of Trustor pursuant to any provision of any of the Loan Documents;
- (4) Any future loans or amounts advanced by Beneficiary to Trustor when evidenced by a written instrument or document which specifically recites that the obligations evidenced hereby are secured by the terms of this Deed of Trust, including, but not limited to, funds advanced to protect the security or priority of the Deed of Trust; and
- (5) Any amendment, modification, extension, rearrangement, restatement, renewal, substitution or replacement of any of the foregoing.

1.10 "Land" means the real estate or any interest therein described in Exhibit "A" attached hereto and a part hereof, together with all Improvements and Fixtures and all rights, titles, and interests appurtenant thereto (including, without limitation, the Water Rights).

1.11 "Lease" means any and all leases, subleases, licenses, concessions or other agreements (written or verbal, now or hereafter in effect) which grant a possessory interest in and to, or a right to extract, mine, reside in, sell or use the Mortgaged Property, and all other agreements, including, but not limited to, utility contracts, maintenance agreements and service contracts, which in any way relate to the use, occupancy, operation, maintenance, enjoyment, or ownership of the Mortgaged Property.

1.12 "Legal requirements" means, collectively, (1) Any and all present and future judicial decisions, statutes, rulings, rules, regulations, permits, certificates or ordinances of any Governmental Authority in any way applicable to Trustor, any Guarantor (with respect

to the Indebtedness the Mortgaged Property) or the Mortgaged Property, including, but not limited to, those respecting the ownership, use, occupancy, possession, operation, maintenance, alteration, repair, or reconstruction thereof, (2) Trustor's or any Guarantor's presently or subsequently effective bylaws and articles of incorporation, or any instruments establishing any limited liability company, corporation, partnership, limited partnership, joint venture, trust, or other form of business association (if either, both or all, by any of same), (3) any and all Leases and other contracts (written or oral) of any nature to which Trustor or any Guarantor may be bound, and (4) any and all restrictions, reservations, conditions, easements or other covenants or agreements now or hereafter of record affecting the Mortgaged Property.

1.13 "Loan" means the Loan made by Beneficiary to Trustor pursuant to the terms of the Loan Documents.

1.14 "Loan agreement" means the certain agreement dated May 27, 2003, between Trustor and Beneficiary relating to the Loan evidenced by the Note and Loan Documents, together with any amendments, modifications, extensions or renewals thereof. Any capitalized term not otherwise defined herein shall have the meaning ascribed to them in the Loan Agreement.

1.15 "Loan documents" means, collectively, the Loan Agreement, this Deed of Trust, the Note, and other related and relevant instruments and agreements, whether or not executed by Trustor in connection with the Loan, or otherwise defined as "Loan Documents" under the Loan Agreement.

1.16 "Mortgaged Property" means the Land, Improvements, Fixtures, Personalty, Leases and Rents, together with:

- ) all rights, privileges, tenements, hereditaments, rights-of-way, easements, appurtenances and appurtenances in any ways appertaining thereto, and all right, title and interest of Trustor in and to any streets, ways, alleys, strips or gores of land adjoining the Land or any part thereof, which Trustor now owns or at any time hereafter acquires;

- ) all betterments, accessions, additions, appurtenances, substitutions, replacements and revisions thereof and thereto and all reversions and remainders therein;

- ) all of Trustor's right, title and interest in and to any award, remuneration, settlement or compensation theretofore made or hereafter to be made by any Governmental Authority to Trustor, including those for any vacation of, or change of grade in, any street affecting the Land or the Improvements;

- ) all plans and specifications for the Improvements; all contracts and subcontracts relating to the Improvements, all deposits (including tenants' security deposits; provided, however, if Beneficiary acquires possession or control of the tenants' security deposits, Beneficiary shall use the tenants' security deposit only for such purposes

as are permitted (applicable law), funds, accounts, contract rights instruments, documents, general intangibles (including trademarks, service marks, trade names, and symbols used in connection therewith), and notes or chattel paper arising from or in connection with the land; all permits, licenses, certificates, and other rights and privileges obtained in connection with the Land; all proceeds arising from or by virtue of the sale, lease, grant of option or other disposition of all or any part of the Land, Fixtures, or Personalty (consent same not granted or to be implied hereby), all proceeds (including premium refunds) payable or to be payable under each policy of insurance relating to the Land, Fixtures or Personalty;

) all other interest of every kind and character which Trustor now has or at any time hereafter acquires in and to the above-described real and personal property and all property which is used or useful in connection therewith, including rights of ingress and egress, easements, licenses, and all reversionary rights or interests of Trustor with respect to such property. To the extent permitted by law all of the foregoing Personalty and Fixtures are to be deemed and held to be a part of and affixed to the Land;

) any and all other security and collateral of any nature whatsoever, now or hereafter given for the repayment of the Indebtedness or the performance and discharge of the Obligations;

) Trustor's right, title and interest in and to all leases, licenses, concessions, or similar agreements whether or not specifically herein described which now or may hereafter pertain to the Mortgaged Property and all amendments to the same, including, but not limited to, the following: (i) all payments due and to become due under such leases, whether as rent, damages, insurance payments, condemnation awards, or otherwise; (ii) all covenants, rights, powers, privileges and remedies under such leases to exercise any election or option, or to give or receive any notice, consent, waiver or approval, or to accept any surrender of the premises or any part thereof, together with full power and authority in the name of the Trustor, or otherwise, to demand and receive, enforce or execute checks or any instruments or orders, to file any claims or to take any action which Beneficiary may deem necessary or advisable in connection therewith;

) All insurance policies required to be maintained by Trustor and all proceeds therefrom and all proceeds of any judgment, award or settlement in any condemnation or eminent domain proceeding;

) All trade names, trademarks, symbols and service marks and goodwill associated herewith and any and all state and federal applications and registrations thereon now or hereafter used in connection with the use or operation of the Mortgaged Property

(j) All tax refunds, bills, notes, inventories and accounts and charges receivable, credits, claims, securities and documents of all kinds, and all instruments, contract rights, general intangibles, and all bonds and deposits and all proceeds and products thereof;

1) All money or other personal property of debtor (including, without limitation, an instrument, deposit account, general intangible or chattel paper, as defined in Article 9 the Nevada Uniform Commercial Code as in effect) heretofore or hereafter delivered, deposited with or which otherwise comes into possession of Beneficiary;

2) All accounts, contract rights, chattel paper, documents, instruments, books, records, claims against third parties, monies, securities, drafts, notes, proceeds and other items relating to the foregoing;

3) All plans and specifications for the Improvements; all contracts and subcontracts relating to the Improvements, all soils reports, engineering reports, land planning maps, drags, construction contracts, notes, drafts, documents, engineering and architectural drawings, letters of credit, bonds, surety bonds, any other intangible rights, relating to the Land and Improvements, surveys and other reports, exhibits, or plans used or to be used in connection with the construction, planning, operation, or maintenance of the Land and Improvements and all amendments and modifications thereof, all deposits including tenants' security deposits; provided, however, if Beneficiary acquires possession or control of the tenants' security deposits, Beneficiary shall use the tenants' security deposit only for such purposes as are permitted by applicable law), funds, accounts, contract rights, instruments, documents, general intangibles (including trademarks, service marks, trade names, and symbols used in connection therewith), and notes or chattel paper arising from or in connection with the Land and other Mortgaged Property; all permits, licenses, certificates, and other rights and privileges obtained in connection with the Land and Mortgaged Property; all proceeds arising from or by virtue of the sale, lease, grant of option or other disposition of all or any part of the Mortgaged Property (consent to same not granted or to be implied hereby);

4) All construction, supply, engineering, and architectural contracts executed and to be executed by Trustor for the construction of the Improvements; and

5) All proceeds of any of the foregoing.

As used in this Deed of Trust, the term "Mortgaged Property" is expressly defined as meaning all or, where the context permits or requires, any portion of the above and all or, where the context permits or requires, any interest therein.

1.17 "Note" means the Promissory Note payable by Borrower to the order or Lender in the principal amount of Two Hundred Ninety Thousand, Five Hundred Dollars (\$290,500), evidencing the Loan, in such form as is acceptable to Lender, together with any and all rearrangements, extensions, renewals, substitutions, replacements, modifications, restatements and amendments thereof or thereto.

1.18 "Obligations" means any and all of the covenants, warranties, representations and other obligations (other than to repay the Indebtedness) made or undertaken by Trustor to Beneficiary or Trustee as set forth in the Loan Documents, or any lease,



sublease or other agreement pursuant to which Trustor is granted a possessory interest in the Land.

1.19 "Perman Encumbrances" means, at any particular time, (i) liens for taxes, assessments or governmental charges not then due and payable or not then delinquent and (ii) liens in favor of or consented to in writing by Lender.

1.20 "Personalty" means all of the right, title and interest of Trustor in and to all tangible and intangible personal property, whether now owned or hereafter acquired by Trustor, all equipment, inventory, goods, consumer goods, accounts, chattel paper, instruments, money, general intangibles, documents, minerals, crops, and timber (as those terms are defined in the Nevada Uniform Commercial Code in effect) and which are now or at any time hereafter located on, attached to, installed, placed, used on, in connection with or is acquired for such attachment, installation, placement, or use on the Land, the Improvements, Fixtures, or on other goods located on the Land or Improvements, together with all additions, accessories, amendments, and modifications thereto, extensions, renewal and enlargements and proceeds thereof, substitutions therefor, and income and profits therefrom. The Personalty includes, but is not limited to, all goods, machinery, tools, equipment (including fire sprinklers and alarm systems), building materials, office conditioning, heating, refrigerating, electronic monitoring, entertainment, recreation, maintenance, exclusion of vermin or insects, dust removal, refuse or garbage equipment, vehicular maintenance and repair equipment and all other equipment of every kind, office furniture (including computers, tables, chairs, planters, desks, sofas, shelving units and cabinets), wall safes, furnishings, appliances (including ice boxes, refrigerators, fans, water heaters and incinerators), rugs, carpets and other floor coverings, draperies and drapery rods and brackets, awnings, window shades, venetian blinds, curtains, and other window coverings, lamps, chandeliers and other lighting fixtures, office maintenance and other supplies, loan commitments, financing arrangements, bonds, construction contracts, leases, tenants' security deposits, licenses, permits, sales contracts, option contracts, lease contracts, insurance policies and the proceeds therefrom, plans and specifications, surveys, books and records, funds, bank deposits and all other intangible personal property. Personalty shall also include any other portion or items of the Mortgaged Property which constitute personal property under the Nevada Uniform Commercial Code in effect.

1.21 "Rents" means all of the rents, issues, revenues, income, proceeds, royalties, profits and other benefits paid or payable for using, leasing, licensing, possessing, operating from or insuring in, selling, mining, extracting or otherwise enjoying or using the Mortgaged Property.

1.22 The "Gulf Lease" means that certain lease dated April 11, 2003, between Newmont USA Limited, dba Newmont Mining Corporation, a Delaware corporation, as "Lessor," and Trustor as "Lessee." The Gulf Lease shall include all rights, privileges, titles, and interests now or hereafter acquired by Trustor under or by virtue of such lease and any amendments thereto and any and all causes of action relating to or arising out of such Lease.

1.23 "Trust" means Gulf Transport, LLC, a Tennessee limited liability company, as owner and lessor as applicable, together with any and all subsequent record or equitable owners and lessees, as applicable, of the Mortgaged Property.

2. GRANT. For the purpose of securing the full and timely payment of the Indebtedness and full and timely performance and discharge of the Obligations, Trustor does hereby GRANT, BARGAIN, SELL AND CONVEY unto Trustee the Mortgaged Property, with the power of sale and right of entry, subject only to the Permitted Encumbrances, to have and to hold the Mortgaged Property unto Trustee, its successors in trust and the Trustee assigns forever, and Trustor does hereby bind itself, its successors and assigns to warrant and forever defend the title to the Mortgaged Property unto Trustee against every person whomsoever lawfully claiming or to claim the same or any part thereof; provided, however, that if the Indebtedness is paid as and when the same shall become due and payable and the Obligations are performed on or before the date the same are to be performed and discharged, then the liens, security interests, estates, and rights granted by the aforesaid Documents shall terminate, otherwise the same shall remain in full force and effect. As additional security for the full and timely payment of the Indebtedness and full and timely performance and discharge of the Obligations, Trustor does hereby grant to Beneficiary a security interest in the Personalty, Fixtures, Leases and Rents, Mortgaged Property (to the extent it is characterized as personal property), and the Gulf Lease pursuant to Article Nine of the Uniform Commercial Code in effect in the State of Nevada. Trustor does hereby further grant, bargain, convey, assign, transfer and set over unto Trustee, acting as both a Trustee and agent for Beneficiary under the terms hereof, a security interest in and to all of Trustor's right, title and interest in, to and under the Personalty, Fixtures, Leases and Rents and Mortgaged Property (to the extent characterized as personal property), and the Gulf Lease to secure the full and timely payment of the Indebtedness and the full and timely performance and discharge of the Obligations.

3. ASSIGNMENT OF RENTS AND PROFITS. Trustor further irrevocably grants, transfers, and assigns to Beneficiary the Rents from the Mortgaged Property, absolutely and unconditionally and not merely as additional security for the Indebtedness. Prior to the occurrence of an Event of Default, Beneficiary grants permission to Trustor to collect and retain the rents they become due and payable. Upon the occurrence of an Event of Default or at any time thereafter during the continuance thereof, Beneficiary shall have the right, with or without taking possession of the Mortgaged Property, to collect all Rents, and shall be entitled either personally or by attorney or agent, without bringing any action or proceeding, or by receiver to be appointed by the court, to enter into possession, and hold, occupy, possess and enjoy the Mortgaged Property, make, cancel, enforce, and modify Leases, obtain and eject tenants, and said and modify Rents and terms of payment of Rents. Beneficiary shall have the further right to sue, and to take, receive, and collect all or any part of the Rents and after paying all costs of maintenance, operation, and collection, including reasonable attorneys' fees, as Beneficiary may deem proper, to apply the balance upon the entire Indebtedness. The receipt and application by the Beneficiary of such Rents after execution and delivery of the Notice of Default and Election to Sell or during the pendency of the Trustee's sales proceedings under this Deed of Trust, shall not cure such breach or default nor affect the sale proceedings, or any sale made pursuant to

this Deed of Trust. Such Rents, less the cost of operation, maintenance, collection, and reasonable attorney fees, when received by Beneficiary, shall be applied in reduction of the entire Indebtedness from time to time outstanding, in such order as Beneficiary may determine. If the Rents are not sufficient to satisfy the cost, if any, of taking control of and managing the Mortgaged Property and collecting the Rents thereof, any funds expended by Beneficiary for such purposes shall become the Indebtedness of Trustor to Beneficiary and shall be secured by this Deed of Trust. Such amounts shall be repayable to Beneficiary upon demand and shall bear interest from the date of the disbursement at the Default Rate set forth in the Note. Nothing contained herein, nor any collection of rents, issues, profits, and income by Beneficiary, or its agent or receiver, shall be construed to make Beneficiary a "mortgagee-in-possession" of the Mortgaged Property.

4. WARRANTIES AND REPRESENTATIONS. Trustor hereby unconditionally warrants and represents to Beneficiary as follows:

4.1 Title Mortgaged Property And Lien Of This Instrument. Trustor has good and indefeasible title to the Land and is lessee under the Gulf Lease, and is owner of the Improvements, free and clear of any liens, charges, encumbrances, security interests and adverse claims whatsoever except the Permitted Encumbrances, and Trustor has good and indefeasible title to the Fixtures and Personalty, free and clear of any liens, charges, encumbrances, security interests, and adverse claims whatsoever except the Permitted Encumbrances. This Deed of Trust constitutes a valid, subsisting first (1<sup>st</sup>) lien deed of trust on the Improvements, Fixtures, and the Gulf Lease, and a first (1<sup>st</sup>) priority lien security interest on the Personalty, in accordance with the terms hereof, subject only to the Permitted Encumbrances.

4.2 Taxes and Other Payments. Trustor and Guarantor have filed all federal, state, county, municipal and city income and other tax returns required to have been filed by them and have paid all taxes which have become due pursuant to such returns or pursuant to any assessments received by it, and neither Trustor nor Guarantor know of any basis for any additional assessment in respect of any such taxes. Trustor has paid or will pay in full all sums owing or claimed for labor, material, supplies, personal property (whether or not constituting a Fixture hereunder), and services of every kind and character used, furnished or installed on the Mortgaged Property and no claim for same currently exists or will be asserted to become past due. Notwithstanding the foregoing, however, Trustor shall have the right to contest in good faith by appropriate proceedings the payment of any tax or assessment or claims for labor, material, supplies, personal property and services used, furnished or installed on the Mortgaged Property; provided, that as a condition thereto Trustor shall furnish to Beneficiary a surety bond or other security reasonably satisfactory to Beneficiary and Trustee, fully protecting Beneficiary and Trustee from any material adverse consequences of any such contest.

4.3 Gulf Lease. (1) The Gulf Lease is currently in full force and effect and unmodified, (2) there is no existing default under the Gulf Lease by reason of any act or omission of the Lessor or Trustor and no event has occurred which with lapse of time or the giving of notice, both, will constitute a default or authorize the Lessor or Trustor to terminate the Gulf Lease, and (3) all rentals and other obligations accrued to date have



been paid and neither the Lessor nor Trustor claim any present charge, lien, or claim of offset against any sums due under the terms of the Gulf Lease.

4.4 Assignment. Except as set forth in the Loan Agreement, there is no assignment or pledge of any leases or, or rentals or income from, the Mortgaged Property now in effect, and until the Note is fully paid, Trustor will not make any such assignment or pledge to anyone other than Beneficiary, nor will Trustor accept any periodic payments which are to be made pursuant to such leases or rentals more than thirty (30) days in advance of the date which such payments are due.

4.5 Incorporation of Loan Agreement Representations and Warranties. All of the representations and warranties of Trustor set forth in the Loan Agreement and the Loan Documents are incorporated by this reference into this Deed of Trust as though fully set forth herein and made a part hereof.

5. AFFIRMATIVE COVENANTS OF TRUSTOR. Trustor hereby unconditionally covenants and agrees with Beneficiary as follows:

5.1 Compliance With Legal Requirements. Trustor will promptly and faithfully comply with, conform to and obey all present and future Legal Requirements, whether or not the same shall necessitate structural changes in, improvements to, or interfere with the use or enjoyment of the Mortgaged Property.

5.2 Payment Of Impositions. Trustor will duly pay and discharge, or cause to be paid and discharged the Impositions not later than the due date thereof, or the day any fine, penalty, interest cost may be added thereto or imposed, or the date the lien may be filed, for the nonpayment thereof (if such day is used to determine the due date of the respective item); provided, however, that Trustor may, if permitted by law and if installment payments would not create or permit the filing of a lien against the Mortgaged Property, pay the Impositions installments whether or not interest shall accrue on the unpaid balance of such Impositions. Trustor may in good faith, in lieu of paying such Impositions as they become due and payable, by appropriate proceedings, contest the validity thereof. During such contest Trustor shall not be deemed in default hereunder because of such nonpayment if, prior delinquency of the asserted tax or assessment Trustor furnishes Beneficiary an indenture bond, conditioned that such tax or assessment with interest, cost and penalties be paid as herein stipulated, secured by a deposit in cash or security acceptable to Beneficiary or with surety acceptable to Beneficiary, in the amount of the tax or assessment being contested by Trustor and a reasonable additional sum to pay all possible costs, interest and penalties imposed or incurred in connection therewith. Upon conclusion of such contest, Trustor shall promptly pay any amount adjudged by a court of competent jurisdiction to be due, with all costs, penalties and interest thereon prior to the date such judgment comes final or any writ or order issued under which the Mortgaged Property may be sold pursuant to such judgment.

5.3 Repair. Trustor will keep the Mortgaged Property in condition and order equivalent to its current order and condition and presenting an appearance equivalent to its current appearance and will make all repairs, replacements, renewals, additions,

betterments, improvements and alterations thereof and thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, foreseen and unforeseen, which are necessary or reasonably appropriate to keep same in such order and condition, reasonable wear and tear excepted. Trustor will also use its best efforts to prevent any act or occurrence which might impair the value or usefulness of the Mortgaged Property for its intended usage as set forth in any plans and specifications for the Improvements submitted to Beneficiary or in the Loan Documents. In instances where repairs, replacements, renewals, additions, betterments, improvements or alterations are required in and to the Mortgaged Property on an emergency basis to prevent loss, damage, waste or destruction thereof, Trustor shall proceed to construct same, or cause same to be constructed; provided, however, that in instances where such emergency measures are to be taken, Trustor shall promptly notify Beneficiary in writing of the commencement of same and the measures to be taken, and when same are completed, the completion date and the measures actually taken.

5.4 Insurance. During the term of this Deed of Trust, Trustor agrees to keep all Improvements that may now or at any time be on the Land insured against loss by fire, flood, earthquake (to the extent the same is available at a commercially reasonable rate and generally being required by Beneficiary for borrowers in the Elko, Nevada area), course of construction and hazard insurance with extended coverage and such other endorsements as shall be reasonably required by Beneficiary, all in the manner set forth in the Loan Agreement. Copies of the policy or policies of said insurance shall be delivered to Beneficiary, as further security, and in default thereof, Beneficiary may procure such insurance and expend for such purpose such sum or sums as Beneficiary shall deem reasonably necessary. Said insurance, as to Mortgaged Property owned by Trustor and encumbered hereby and as to Mortgaged Property leased by Trustor and encumbered hereby, shall be in an amount of not less than the full replacement cost, without deduction for depreciation, of Improvements that may now or at any time be situated on said Mortgaged Property.

(1) Unless the provisions of the Gulf Lease requires otherwise, the proceeds collected in any fire or other insurance policy which are reasonably attributable to a loss to any portion of the Mortgaged Property which is the subject of the Gulf Lease shall be held by a bank or trust company approved by Beneficiary, the lessor of any such Lease and whose property incurred insured damage, and Trustor, subject to the following:

) Such insurance proceeds will be applied to the repair, replacement and/or restoration of such portion of the Mortgaged Property to its previous condition or to a substantially equivalent condition in accordance with the provisions of the Loan Agreement concerning the release of funds for repair, replacement and/or restoration, with the balance, if any, to be paid as all parties with an interest in the balance of proceeds shall agree or as shall be directed by a court of competent jurisdiction; or

) If it shall be determined between Beneficiary, the Lessor and Trustor, that the insurance proceeds reasonably attributable to the loss to any portion of the Mortgaged Property which is the subject of a lease will not be sufficient to return such portion of the Mortgaged Property to its previous condition, or a substantially equivalent

condition, Lessor or Trustor may, within thirty (30) days from the date of written notice given by Beneficiary Lessor and Trustor, pay the amount that when added to the insurance proceeds attributable to such loss will be sufficient to return such portion of the Real Property to its previous condition or a substantially equivalent condition in accordance with the provisions the Loan Agreement concerning the release of funds for repair, replacement and/or restoration, and such insurance proceeds, together with such additional payment being deposited with Beneficiary within the time period set forth above, shall be paid to Beneficiary, to the extent of the indebtedness secured hereby. Any amount in excess of that to which Beneficiary is entitled under this Deed of Trust shall be paid to Trustor and each lessor as Trustor and such lessor may agree or as shall be directed by a court competent jurisdiction.

(1) In no event shall Beneficiary be liable or responsible for the payment or satisfaction of any construction costs or other expenses relating to the repair, replacement and/or restoration of such portion of the Real Property except to the extent of any insurance proceeds held by Beneficiary.

(2) The proceeds collected by Beneficiary under any fire or other insurance policy which are attributable to a loss to any portion of the Mortgaged Property which is not the subject of the Gulf Lease, shall be paid to and received by Beneficiary and retained or disbursed by Beneficiary in accordance with the Loan Agreement.

5.5 Compliance With Leases. Trustor agrees to faithfully perform all of its obligations under the Gulf Lease, all present and future leases, and other agreements relative to the occupancy of the Mortgaged Property at any time assigned to Beneficiary by separate instrument and to refrain from any action or inaction which would result in termination of any such leases or agreements or in the diminution of the value thereof or of the rents or revenue due thereunder. Trustor further agrees that any lease of the Mortgaged Property made after the date of recording of this Deed of Trust shall contain a covenant to the effect that such lessee shall, at Beneficiary's option, agree to attorn to Beneficiary as lessor and upon demand, to pay rent directly to Beneficiary. Trustor shall use Trustor's best efforts to enforce the obligations of the lessor under the Gulf Lease and if at any time Beneficiary desires Trustor to exercise and enforce any rights in favor of the lessee under the Gulf Lease, Trustor, after notice and demand by the Beneficiary specifying the right or rights to be exercised and enforced, shall, at Trustor's cost, diligently and faithfully exercise and enforce such right or rights, and the provisions of this Deed of Trust shall not be deemed to prohibit the Beneficiary from taking any action, including without limitation, legal proceedings which Beneficiary deems appropriate to exercise any of such rights or to remedy any violation of the Gulf Lease, but the Beneficiary shall have no obligation to take any such action. Trustor shall promptly furnish to Beneficiary each and every notice given by the lessee or recorded by the Lessor under the Gulf Lease, including, without limitation, written notice of any event that constitutes a default thereunder. The curing by Beneficiary of any default by Trustor under the Gulf Lease shall not remove or waive, as between Trustor and Beneficiary, the default which occurred hereunder by virtue of the default by Trustor under the Gulf Lease, and all sums expended by Beneficiary in order to cure any such default and costs and expenses incurred by Beneficiary in connection with the curing of such default shall be paid by Trustor to Beneficiary upon

demand, with interest hereon at the Default Rate set forth in the Loan Agreement from the date of advancement until paid, and any such indebtedness shall be deemed to be secured by, and shall constitute a part of the indebtedness secured by this Deed of Trust.

5.6 Indemnification. Trustor agrees to indemnify Beneficiary from all loss, damage and expense, including reasonable attorneys' fees and paralegal's fees and expenses and the costs of any settlement or judgment, incurred in connection with (1) any suit or proceeding in or to which Beneficiary may be made a party for the purpose of protecting the lien on this Deed of Trust, (2) any breach or default by Trustor or (3) an order of a Governmental Authority directed to Beneficiary and/or Trustor requiring the testing, remediation or cleanup of any contamination in, on, under or about the Mortgaged Property under any legal Requirement now or hereafter applicable to the Mortgaged Property. This indemnification shall be a personal obligation of the Trustor and shall survive any foreclosure sale of the Mortgaged Property conducted pursuant to the terms of this Deed of Trust.

5.7 Reconveyance Fees. Trustor covenants and agrees to pay all reconveyance fees charged by Trustee at the time or times the lien of this Deed of Trust is fully or partially reconveyed.

5.8 Inspection. Trustor will permit Trustee and Beneficiary, and their agents, representatives and employees, to inspect the Mortgaged Property at all reasonable times, and in such a manner as will not result in an unreasonable disruption of Trustor's business.

5.9 Defense Of Title. If the status of this Deed of Trust as a first and prior lien and security interest in the Mortgaged Property shall be endangered or shall be attacked or attached, directly or indirectly, Trustor hereby authorizes Beneficiary, at Trustor's expense, to take all necessary and proper steps for the defense of such interest, including the employment of counsel, the prosecution or defense of litigation and the compromise or discharge of claims made against such interest in the Mortgaged Property. Trustor will indemnify and hold Beneficiary harmless from and against any and all loss, cost, damage, liability or expense incurred by Beneficiary in protecting its interests hereunder in such an event (including all out-of-pocket costs and attorneys' fees).

5.10 Future Impositions. If at any time any law shall be enacted imposing or authorizing the imposition of any tax not applicable as of the date hereof with respect to the Mortgaged Property, this Deed of Trust or upon any rights, titles, liens or security interest created hereby or upon the Note, or any part thereof, Trustor shall immediately pay all such taxes; provided that, the alternative, Trustor may, in the event of the enactment of such a law, and must, if it is lawful for Trustor to pay such taxes, prepay the Note in full within sixty (60) days after demand therefor by Beneficiary; provided, however, that there shall be no prepayment premium in the event of such prepayment. Trustor shall, upon request, promptly furnish at all times and from time to time, a written statement or affidavit, in such form as may be required by Beneficiary, stating the amount of the unpaid balance of the Note and that there are no offsets or defenses against full payment of the Note and performance of the terms hereof or, if there are any such offsets and defenses, specifying them in detail.



5.11 Statute Covenants. To the extent not inconsistent with the express provisions of this Deed of Trust, the following covenants of Section 107.030 of the Nevada Revised Statutes are hereby adopted and made a part of this Deed of Trust: Covenant No. 3, Covenant No. 4 (interest, Default Rate), Covenant No. 5, Covenant No. 6, Covenant No. 7 (attorneys' fees, reasonable), Covenant No. 8, and Covenant No. 9.

5.12 Prior Liens, Encumbrances, and Security Interests. Trustor will pay on a current basis not later than the due dates therefore, all obligations arising out of all notes, deeds of trust, contracts of sale, liens, charges, encumbrances, and security interests encumbering the Mortgaged Property and having priority over the lien of this Deed of Trust, if any.

5.13 Payment for Labor and Materials. Trustor will promptly pay all bills for labor, materials, and specially fabricated materials incurred in connection with the Mortgaged Property and never permit to exist in respect of the Mortgaged Property or any part thereof any lien or security interest, even though inferior to the liens and security interests hereof, for any such bill, and any event never permit to be created or exist in respect of the Mortgaged Property any part thereof any other or additional lien or security interest on a parity with, superior, inferior to any of the liens or security interests hereof, except for the Permitted Exception.

6. NEGATIVE COVENANTS OF TRUSTOR. Trustor hereby covenants and agrees with Beneficiary that until the entire Indebtedness shall have been paid in full and all of the Obligations shall have been fully performed and discharged:

6.1 Use Violations. Trustor will not use, maintain, operate or occupy, or allow the use, maintenance, operation or occupancy of the Mortgaged Property in a manner which (1) violates any Local Requirements, (2) may be dangerous unless safeguarded as required by law, (3) constitutes a public or private nuisance or (4) makes void, voidable or calculable, or increases the premium of, any insurance then in force with respect thereto.

6.2 Alterations. Trustor will not commit or permit any waste of the Mortgaged Property and will not subject to the provisions of Sections 5.3 and 5.5 hereof) without the prior written consent Beneficiary, make or permit to be made any alterations or additions to the Mortgaged Property which would reduce the value of the Real Property.

6.3 Replacement Of Fixtures And Personalty. Trustor will not, without the prior written consent of Beneficiary, permit any of the Fixtures or Personalty to be removed at any time from the Land or Improvements unless the removed item is removed temporarily for maintenance or repair or, if removed permanently, is replaced by an article of equal suitability and value owned by Trustor, free and clear of any lien or security interest except such as may be first proved in writing by Beneficiary.

6.4 Liens. Trustor will not create, incur, assume or suffer to exist any lien (including any encumbrance or security interest) of any kind upon any of the Mortgaged Property, whether now owned or hereafter acquired, except the Permitted Encumbrances.

7. EVENTS OF DEFAULT. The term "Event of Default" as used herein shall mean the occurrence or happening, at any time and from time to time, of any one or more of the following:

7.1 Payment Of Indebtedness. Trustor shall have defaulted in the payment of any installment of interest and/or principal under the Note or any other Indebtedness when due as provided in the Loan Documents, whether on maturity, the date stipulated in any Loan Document, by acceleration or otherwise.

7.2 Performance Of Obligations. The failure, refusal or neglect to perform and discharge fully and timely any of the Obligations as and when required as provided in the Loan Documents.

7.3 Judgment. If any final judgment, order, or decree shall be rendered against either Trustor and the same shall not be paid or execution on the same shall not be stayed by perfection of an appeal or other appropriate action as bonded or otherwise satisfied or disposed of to Beneficiary's satisfaction within thirty (30) days of entry of the judgment, order, or decree.

7.4 Voluntary Bankruptcy. If Trustor shall (1) seek entry of an order for relief as a debtor in a proceeding under the Bankruptcy Code; (2) seek, consent to or not contest the appointment of receiver or trustee for itself or himself or for all or any part of its property; (3) file petition seeking relief under the bankruptcy, arrangement, reorganization or other debtor relief laws of the United States or any state or any other competent jurisdiction; (4) make a general assignment for the benefit of its or his creditors; or (5) admit in writing or his inability to pay its or his debts as they mature.

7.5 Involuntary Bankruptcy. If (1) a petition is filed against Trustor seeking relief under the bankruptcy arrangement, reorganization or other debtor relief laws of the United States or any state other competent jurisdiction; or (2) a court of competent jurisdiction enters an order, judgment or decree appointing, without the consent of Trustor or Guarantor, a receiver trustee for it, or for all or any part of its property; and (3) such petition, order, judgment or decree shall not be discharged or stayed within a period of thirty (30) days after entry.

7.6 Foreclosure Of Other Liens. If the holder of any lien or security interest on the Mortgaged Property (without implying Beneficiary's consent to the existence, placing, creating or permitting of any lien or security interest) institutes foreclosure or other proceedings for the enforcement of its remedies thereunder and any such proceedings shall not be stayed or discharged within ten (10) days thereafter.

7.7 Sale, Lease, Encumbrance Or Other Transfer. Any sale, lease, exchange, assignment, conveyance, encumbrance (other than a Permitted Encumbrance), transfer of possession or other disposition of all or any portion of the Land or Improvements or any of Trustor's interest therein without the prior written consent of the Beneficiary, or any sale, lease, exchange, assignment, conveyance, encumbrance (other than a Permitted

Encumbrance), or the disposition of any portion of the Personalty, without the prior written consent of the Beneficiary.

7.8 Title & Lien Priority. If title of Trustor to any or all of the Mortgaged Property or the status of this Deed of Trust shall be endangered in any manner whatsoever, and Trustor shall fail to cure the same upon demand by Beneficiary; provided, however, that Trust shall not be in default under this Section 7.8 if Trustor is diligently pursuing a contest cure of such title or lien issue and Trustor has posted adequate security in order to protect Beneficiary's rights, interest, and priority under this Deed of Trust, as determined by Beneficiary.

7.9 Other Defaults. The occurrence of an Event of Default or any default, as defined or described in any of the other Loan Documents, or the occurrence of a default on any other Indebtedness or Obligation to Beneficiary.

7.10 Levy (Assets). A levy on any of the assets of Trustor or either Guarantor, and such levy is notayed or abated within ten (10) days thereafter.

7.11 Breach Under Deed of Trust. The breach of any representation, warranty, or covenant contained in this Deed of Trust.

7.12 Default Under Prior Deed of Trust, Security Instrument or Lien. The failure to pay on a timely basis or the occurrence of any other default under any note, deeds of trust, contracts of sale, liens, charges, encumbrances, or security interests encumbering or affecting the Mortgaged Property and having priority over the lien of this Deed of Trust, if any.

7.13 Breach Under Gulf Lease. The breach by Trustor of any representation, warranty, covenant, obligation under the Gulf Lease.

8. REMEDIES (BENEFICIARY). If an Event of Default shall occur, Beneficiary may then, or at any time thereafter during the continuance thereof, at Beneficiary's election and by and through Trust or otherwise, exercise any or all of the following rights, remedies and resources, in addition to any other remedy which Beneficiary may have under any of the other Loan Documents, at law or at equity:

8.1 Acceleration And Future Advances. Beneficiary may declare all or any portion of the Indebtedness, including, but not limited to, the "Principal Balance" (defined hereby as meaning the then unpaid principal balance of the Indebtedness), the accrued interest and any other accrued but unpaid charges thereon, amounts advanced by Beneficiary hereunder, any other amounts payable to Beneficiary under the Loan Documents, court costs and attorneys' fees immediately due and payable, without notice, presentment, protest, demand or action of any nature whatsoever (each of which hereby is expressly waived by Trustor), whereupon the same shall become immediately due and payable. Additional Beneficiary shall not be required to make any further advances on the Note or other Loan Documents upon the occurrence of an Event of Default or an event which, with the giving of notice or passing of time, would constitute an Event of Default.

8.2 Entry in Mortgaged Property. Beneficiary may enter upon the Mortgaged Property and take exclusive possession thereof and of all books, records, and accounts relating thereto without notice and without being guilty of trespass; provided, however, that before taking possession of such books, records and accounts, Beneficiary shall permit Trustor or Guarantor make copies thereof. If Trustor remains in possession of all or any part of the Mortgaged Property after an Event of Default and without Beneficiary's prior written consent thereto, Beneficiary may, without notice to Trustor, invoke any and all legal remedies to dispossess Trustor, including specifically one or more actions for forcible entry and detainer, trespass to try title and writ of restitution. Nothing contained in the foregoing sentence shall, however, be construed to impose any greater obligation or any prerequisites to acquiring possession of the Mortgaged Property after an Event of Default than would have existed in the absence of such sentence.

8.3 Operation Of Mortgaged Property. Beneficiary may hold, lease, manage, operate or otherwise use or permit the use of the Mortgaged Property, either itself or by other persons, firms or entities, in such manner, for such time and upon such other terms as Beneficiary may deem to be prudent and reasonable under the circumstances (making such repairs, alterations, additions and improvements thereto and taking any and all other action with reference thereto, from time to time, as Beneficiary shall deem necessary or desirable), and apportion Rents and other amounts collected by Trustee in connection therewith in accordance with the provisions of Section 8.13 below.

8.4 Foreclosure And Sale.

8.4.1 Beneficiary may, by and through the Trustee, or otherwise, sell or offer for sale the Mortgaged Property in such portions, order and parcels as Beneficiary may determine, with or without having first taken possession of same, to the highest bidder, for cash at public auction.

8.4.2 Beneficiary may, at its option, accomplish all or any of the aforesaid in such manner as permitted or required by the Nevada Revised Statutes regarding foreclosure of real estate and the Nevada Uniform Commercial Code as in effect regarding foreclosure of personal property. Nothing contained in this section shall be construed to limit in any way Trustor's right to sell the Mortgaged Property by private sale if, and to the extent that such private sale is permitted under the laws of the state where the Mortgaged Property (or that portion thereof to be sold) is located or by public or private sale after entry of a judgment by a court of competent jurisdiction ordering same. At any such sale:

whether made under the power herein contained, any other Legal Requirement or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it shall not be necessary for Trustee to have physically present, or to have constructive possession of, the Mortgaged Property (Trustor shall deliver to trustee any portion of the Mortgaged Property not actually or constructively possessed by Trustee immediately upon demand by Trustee) and the title to and right of possession of any such property shall pass to the purchaser thereof as completely as if the same had been actually present and delivered to purchaser at such sale;



) each and every recital contained in any instrument of conveyance made Trustee shall conclusively establish the truth and accuracy of the matters recited then, including without limitation, nonpayment of the Indebtedness, advertisement and conduct of such sale in the manner provided herein and otherwise by law and appointment of any successor Trustee hereunder;

) any and all prerequisites to the validity thereof shall be conclusively presumed to have been performed;

) the receipt of Trustee or of such other party or officer making the sale shall be sufficient to discharge the purchaser or purchasers for his or their purchase money, and such purchaser or purchasers, or his or their assigns or personal representatives, shall thereafter be obligated to see to the application of such purchase money or be in any way answerable for any loss, misapplication or nonapplication thereof;

) to the fullest extent permitted by law, Trustor shall be completely and irrevocably divested of all of its right, title, interest, claim and demand whatsoever, either at law or in equity, in and to the property sold, and such sale shall be a perpetual bar, both at law and in equity, against Trustor and against all other persons claiming or to claim property sold or to any part thereof by, through or under Trustor; and

) to the extent and under such circumstances as permitted by law, Beneficiary may be a purchaser at any such sale.

#### 8.5 Remedies With Respect To Personality.

8.5.1 ) to the extent that this Deed of Trust encumbers both real and personal property, Beneficiary may, in the sole discretion of Beneficiary, either alternatively, concurrently, or consecutively in any order, proceed with any of the following rights and remedies

) Proceed as to both the real and personal property in accordance with Beneficiary's rights and remedies in respect to real property; or

) Proceed as to the real property in accordance with Beneficiary's rights and remedies in respect to real property and proceed as to the Personality in accordance with Beneficiary's rights and remedies in respect to personal property. Beneficiary may, in the sole discretion of Beneficiary, appoint Trustee as the agent of Beneficiary for the purpose of disposition of the Personality in accordance with the Nevada Uniform Commercial Code as in effect. Trustor hereby authorizes Trustee to act accordingly.

8.5.2 Beneficiary should elect to proceed as to both the real and personal property collateral in accordance with Beneficiary's rights and remedies in respect to real property, then the following shall occur:

) The Mortgaged Property, including all of the Land, Improvements, Fixtures, Personalty, Leases and Rents may be foreclosed upon and sold by either private sale or judicial action, in the manner provided in this Deed of Trust, in one lot, or in separate lots consisting of any combination or combinations of real and personal property, as the Beneficiary may elect, in the sole discretion of Beneficiary.

) Trustor acknowledges and agrees that a disposition of the Personalty in accordance with Beneficiary's rights and remedies in respect to real property, as hereinabove provided, is a commercially reasonable disposition of the Personalty. Beneficiary may, in the sole discretion of Beneficiary appoint Trustee as the agent of Beneficiary for the purpose of disposition of the Personalty in accordance with Beneficiary's rights and remedies in respect to real property. Trustor hereby authorizes Trustee to act accordingly.

8.5.3 Beneficiary should elect to proceed as to the Personalty in accordance with Beneficiary's rights and remedies in respect to personal property. Beneficiary shall have all of the rights and remedies conferred upon a secured party by the Nevada Uniform Commercial Code as in effect.

8.6 Divestment Of Rights; Tenant At Sufferance. After sale of the Mortgaged Property, or any portion thereof, Trustor will be divested of any and all interest and claim thereto, including an interest or claim to all insurance policies, bonds, loan commitments and other intangible property covered hereby. Additionally, with respect to the Land, Leases, Improvements, Fixtures and Personalty, after a sale of all or any portion thereof, Trustor will be considered a tenant at sufferance of the purchaser of the same, and said purchaser shall be entitled to immediate possession thereof, and if Trustor shall fail to vacate the Mortgaged Property immediately, the purchaser may and shall have the right, without further notice to Trustor, to go into any court of competent jurisdiction in any county in which the Mortgaged Property is located and file an action in forcible entry and detainer with respect to the real property and an action in claim and delivery with respect to the Personalty, which actions shall lie against Trustor or its assigns or legal representatives, as a tenant at sufferance. This remedy is cumulative of any and all remedies the purchaser may have hereunder otherwise.

#### 8.7 Trustee Or Receiver.

8.7.1 Beneficiary may, by and through the Trustee, or otherwise, make application to a court of competent jurisdiction, as a matter of strict right and without notice to Trustor or regarding the adequacy of the Mortgaged Property as security for the repayment of the Indebtedness, for appointment of a receiver of the Mortgaged Property, and Trustor does hereby irrevocably consent to such appointment and expressly waives any right to receive notice of application for such appointment and the right to a hearing prior to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Mortgaged Property upon such terms as may be approved by the court, and apply such Rents in accordance with the provisions of Section 9.13 hereof.

8.7.2 Beneficiary may, by and through the Trustee, or otherwise, exercise any and all other rights, remedies or resources granted under the Loan Documents or now or hereafter existing equity, at law, by virtue of statute or otherwise.

8.8 Separate Sales. Trustee may sell all or any portion of the Mortgaged Property together or lots or parcels and in such manner and order as the Trustee or Beneficiary, in their discretion, may elect. The sale or sales by Trustee of less than the whole of the Mortgaged Property shall not exhaust the power of sale herein granted, and Trustee is specially empowered to make successive sale or sales under such power until the whole of the Mortgaged Property shall be sold; and if the proceeds of such sale or sales of less than the whole of such Mortgaged Property shall be less than the aggregate of the Indebtedness and the expenses of enforcing this Deed of Trust, then the lien, security interest and assignment hereof shall remain in full force and effect as to the unsold portion of the Mortgaged Property just as though no sale or sales had been made; provided, however, that Trustor shall never have any right to require the sale or sales of less than the whole the Mortgaged Property, but Beneficiary shall have the right, at its sole election, to request Trustee to sell less than the whole of the Mortgaged Property. If default is made hereunder, the holder of the Indebtedness or any part thereof on which the payment is delinquent shall have the option to proceed as if under a full foreclosure, conducting the sale herein provided without declaring the entire Indebtedness due, and if sale is made because of default of an installment, or a part of an installment, such sale may be made subject to the unmatured part of the Note and the Indebtedness; and such sale, if so made, shall in any manner affect the unmatured part of the Indebtedness but as to such unmatured part, this Deed of Trust shall remain in full force and effect as though no sale had been made under the provisions of this Section 9.8. Any number of sales may be made hereunder without exhausting the right of sale for any unmatured part of the Indebtedness secured hereby.

8.9 Remedies Cumulative, Concurrent and Nonexclusive. Trustee and Beneficiary shall have all rights, remedies and resources granted in the Loan Documents and available at law or equity (including specifically those granted by the Uniform Commercial Code) and applicable to the Mortgaged Property or any portion thereof) and the same (1) shall be cumulative, and concurrent; (2) may be pursued separately, successively or concurrently against Trustor, Guarantor or others obligated under the Note, or against the Mortgaged Property, or against any one or more of them at the sole discretion of Beneficiary; (3) may be exercised as often as occasion therefor shall arise, it being agreed by Trustor that the exercise or failure to exercise any of the same shall in no event be construed as a waiver or release thereof or of any other right, remedy or recourse; and (4) are intended to be, and shall be, nonexclusive.

8.10 Release Of And Resort To Collateral. Any part of the Mortgaged Property may be released by Beneficiary without affecting, subordinating or releasing the lien, security interest and assignment hereof against the remainder. The lien, security interest and other rights granted hereby shall not affect or be affected by any other security taken for the same Indebtedness or any part thereof. The taking of additional security, or the rearrangement, extension or renewal of the Indebtedness, or any part thereof, shall not

release or impair their, security interest and other rights granted hereby or affect the liability of any endorser, guarantor or surety, or improve the right of any permitted junior lien holder; and this Deed of Trust, as well as any instrument given to secure any rearrangement, renewal or extension of the Indebtedness secured hereby, or any part thereof, shall be and remain a first and prior lien, except as otherwise provided herein, on all of the Mortgaged Property not expressly released until the Indebtedness is completely paid.

**8.11 Waiver Of Redemption, Notice And Marshaling Of Assets.** To the fullest extent permitted by law, Trustor hereby irrevocably and unconditionally waives and releases (1) all benefits that might accrue to Trustor and/or Guarantor by any present or future law exempting Mortgaged Property from attachment, levy or sale on execution or providing for any appraisal, valuation, stay of execution, exemption from civil process, redemption or extension of time for payment; (2) all notices of any Event of Default (except as may be provided under the terms hereof) or of Beneficiary's or Trustee's election to exercise or the actual exercise of any right, remedy or recourse provided for under the Loan Documents; (3) any right to appraisal or Marshaling of assets or a sale in inverse order of alienation; (4) the exemption of homestead; (5) the administration of estates of decedents, or otherwise whatever to defeat, reduce or affect the right of Beneficiary under the terms of this Deed of Trust, to sell the Mortgaged Property for the collection of the Indebtedness secured hereby (without any prior or different resort for collection) or the right of Beneficiary under the terms of this Deed of Trust, to the payment of the Indebtedness out of the proceeds of sale of the Mortgaged Property in preference to every other person and claimant whatever; (6) the automatic stay of Section 362 of the Bankruptcy Code, Title 11, U.S. Code.

**8.12 Discontinuance Of Proceedings.** In case Beneficiary shall have proceeded to invoke any right, remedy or recourse permitted under the Loan Documents and shall thereafter elect to discontinue or abandon the same for any reason, Beneficiary shall have the unqualified right to do so and, in such event, Trustor and Beneficiary shall be restored to their former positions with respect to the Indebtedness, the Obligations, the Loan Documents, the Mortgaged Property and otherwise, and the rights, remedies, resources and powers of Beneficiary shall continue as if same had never been invoked.

**8.13 Application Of Proceeds.** The proceeds of any sale of, and the Rents and other income generated by the holding, leasing, operating or other use of, the Mortgaged Property shall be applied by Beneficiary (or the receiver, if one is appointed) to the extent that funds are so available therefrom, as provided in Section 40.462 of the Nevada Revised Statutes or any substitute Legal Requirement then applicable to the distribution of such proceeds. In the absence of a conflicting Legal Requirement governing the distribution of such proceeds at the time of the sale, the proceeds shall be applied in the following order of priority: (1) first, to the payment of the costs and expenses of taking possession of the Mortgaged Property and of holding, using, leasing, maintaining, repairing, improving and selling the same, including, without limitation (a) Trustee's fees, title insurance and receiver's fees; (b) costs of advertisement and Trustee sale guarantees; (c) attorneys' and accountants' fees; (d) court costs; and (e) payment of any and all Impositions and prior liens, security interests or other rights, title or interests on the Mortgaged Property without in any way implying Beneficiary's prior consent to the creation



thereof); (2) second, to the payment of all amounts, other than the principal amount and accrued but unpaid interest under the Note, which may be due to Beneficiary under the Loan Documents, together with interest thereon as provided therein; (3) third, to the payment of all accrued but unpaid interest due on the Note; (4) fourth, to the payment of the principal amount outstanding on the Note; (5) fifth, to the payment of all remaining Indebtedness secured hereby; (6) sixth, to the payment of any Indebtedness or obligation secured by a subordinate deed of trust or security interest on the Mortgaged Property; and (7) seventh, to Trust or Trustor's successor in interest.

8.14 Purchase By Beneficiary. Beneficiary shall have the right to become the purchaser at the sale of the Mortgaged Property hereunder or pursuant to any other means and shall have the right to be credited on the amount of its bid therefor all of the Indebtedness and Obligations due and owing as of the date of such sale.

8.15 Disaffirmation Of Contracts. The purchaser at any Trustee's or foreclosure sale hereunder may disaffirm any easement granted, or rental, lease or other contract made in violation of any provisions of this Deed of Trust and may take immediate possession of the Mortgaged Property free from and despite the terms of, such grant of easement and rental, lease or other contract.

9. CONDEMNATION. If the Mortgaged Property, or any part thereof, shall be condemned or otherwise taken for public or quasi-public use under the power of eminent domain, or be transferred in lieu thereof, all damages or other amounts awarded for the taking of, or injury to the Mortgaged Property shall be paid to Beneficiary who shall have the right, in its reasonable discretion, to apply the amounts so received against (1) the costs and expenses of Beneficiary or Trustee, including reasonable attorneys' fees incurred in connection with collection of such amounts, and (2) the balance against the Indebtedness and Obligations; provided, however, that if (a) Beneficiary, in its reasonable discretion, determine that the proceeds of such award are sufficient to restore, repair, replace and rebuild the Mortgaged Property as nearly as possible to its value, condition and character immediately prior to such taking, or if Trustor provides additional sums to Beneficiary's satisfaction so that the aggregate of such sums and the proceeds of such award will be sufficient for such purpose, and (b) no Event of Default hereunder then exists, the proceeds of such award, together with such additional sums provided by Trustor, shall be placed in a separate account for the benefit of Beneficiary and Trustor to be used to restore, repair, replace and rebuild the Mortgaged Property as nearly as possible to its value, condition and character immediately prior to such taking, subject to reasonable controls of the part of Beneficiary to assure that the work is being performed and such proceeds and additional sums, if any, are being applied to pay for such work. All work to be performed in connection therewith shall be pursuant to a written contract therefor, which contract shall be subject to the prior approval of Beneficiary. If (1) an Event of Default hereunder then exists, or (2) Beneficiary reasonably determines that (a) such proceeds are insufficient for such purpose, and Trustor does not provide such additional sums as are deemed necessary by Beneficiary to complete such work, or (b) any funds remain after the Mortgaged Property has been so restored or repaired, such funds shall be applied against the Indebtedness and Obligations. To enforce its rights hereunder, Beneficiary shall be entitled to participate in and control any condemnation proceedings.

and to be represented therein by counsel of its own choice, and Trustor will deliver, or cause to be delivered to Beneficiary such instruments as may be requested by it from time to time to permit its participation. In the event Beneficiary, as a result of any such judgment, decree or award, believes that the payment of any Indebtedness or performance of any Obligation secured by this Deed of Trust is impaired, Beneficiary may, without notice, declare all of the Indebtedness secured hereby immediately due and payable.

#### 10. SECURITY AGREEMENT.

10.1 Security Interest. This Deed of Trust shall be construed as a Deed of Trust on real property, and shall also constitute and serve as a security agreement on personal property within the meaning of, and shall constitute until the grant of this Deed of Trust shall terminate as provided in Section 2. hereof, a first and prior pledge and assignment and a first and prior security interest under the Uniform Commercial Code in effect with respect to the Personalty, Fixtures, Leases and Rents, subject only to the Permitted Encumbrances. Trustor has granted, bargained, conveyed, assigned, transferred and set over, and by these presents does grant, bargain, convey, assign, transfer and set over unto Beneficiary and Trustee (acting as both a trustee and agent for Beneficiary under the terms hereof) a first and prior security interest in and to all of Trustor's right, title and interest in, to and under the Personalty, Fixtures, Leases and Rents in trust, to secure the full and timely payment of the Indebtedness and the full and timely performance and discharge of the Obligations. Upon a default of Default, Trustor shall gather all of the Mortgaged Property which is Personalty at a location designated by Beneficiary for sale pursuant to the terms hereof.

10.2 Financing Statements. Trustor shall execute and deliver to Beneficiary, in form and substance satisfactory to Beneficiary, such financing statements and such further assurances as Beneficiary may, from time to time, consider reasonably necessary to create, perfect and preserve Beneficiary's security interest herein granted and Beneficiary may cause such statements and assurances to be recorded and filed at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest. Pursuant to the Nevada Uniform Commercial Code in effect, this Deed of Trust shall be effective as a financing statement filed as a fixture filing from the date of its filing for record covering the Fixtures and Personalty. The address of Trustor, as Debtor, and Beneficiary, as Secured Party, are as set forth herein. The Fixtures are related to the Land and Improvements of which Trustor is the record title owner.

10.3 Remedies. Trustor agrees that all property of every nature and description, whether real or personal, covered by this Deed of Trust, together with all Personalty covered by such security interests, are encumbered as one unit, and that upon an Event of Default, this Deed of Trust and such security interests, at Beneficiary's option, may be foreclosed or sold in the same proceeding, and all of the Mortgaged Property (both realty and Personalty) may at Beneficiary's option, be sold as such in one unit as a going business, or sold in separate units, as more specifically provided in Article 9 in effect. The filing or recording of any financing statement relating to any personal property or rights or interests generally or specifically described herein shall not be construed to diminish or alter any of Beneficiary's rights or priorities hereunder. Trustee and Beneficiary shall have

all the rights, remedies and resources with respect to the Personalty, Fixtures, Leases and Rents afforded to a secured party by the Nevada Uniform Commercial Code in addition to, and not in limitation of, the other rights, remedies and recourse afforded by the Loan Documents at law or equity.

10.4 No Obligation Of Trustee Or Beneficiary. The assignment and security interest herein granted shall not be deemed or construed to constitute Trustee or Beneficiary as a trust or mortgagee in possession of the Mortgaged Property, to obligate Trustee or Beneficiary to operate the Mortgaged Property or attempt to do the same, or take any action, incur expenses or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

## 11. MISCELLANEOUS.

11.1 Survival Of Obligations. Each and all of the Obligations shall survive the execution and delivery of the Loan Documents and the consummation of the loan called for therein and shall continue in full force and effect until the Indebtedness shall have been paid in full. Trustor's obligations under this Deed of Trust shall be joint and several.

11.2 Further Assurances. Trustor, upon the request of Trustee, or Beneficiary, will execute, acknowledge, deliver and record and/or file such further instruments and do such further acts as may be necessary, desirable or proper to carry out more effectively the purposes of the Loan Documents, to create and perfect the liens and security interests on any property intended by the terms thereof to be covered thereby, including specifically, without limitation, renewals, additions, substitutions, and replacements or appurtenances to the Mortgaged Property, and to complete, execute, record and file any document or instrument necessary to place third parties on notice of the liens and security interests granted under the Loan Documents. Trustor hereby irrevocably appoints Beneficiary as its agent to execute and deliver all such instruments and additionally to record and file any the same as may be necessary.

11.3 Recording And Filing. Trustor will cause the Loan Documents and all amendments and supplements thereto and substitutions therefor to be recorded, filed, re-recorded and refiled in such manner and in such places as Trustee or Beneficiary shall reasonably request and will pay all such recording, filing, re-recording and re-filing taxes, fees and other charges.

11.4 Notice. Except as otherwise provided herein or by law, all notices required or permitted to be given by law or by the terms of this Deed of Trust shall be in writing and shall be considered given upon (1) personal service of a copy on the party to be served, (2) three (3) business days after proper deposit of a copy of such notice in the United States Mail, by certified or registered mail, postage prepaid, receipt for delivery requested, addressed to the party to be served, or (3) transmission of such notice by telefax transmission during normal business hours. Notices given pursuant to clauses (1) or (2) above shall be given to the respective party at the addresses set forth below. Notices given pursuant to clause (3) above shall be given through the telefax numbers listed beneath the parties' addresses set forth below and shall also be immediately thereafter

transmitted by certified mail or personal service as provided above. The addresses and telefax numbers of the parties are as follows:

Trustor:

Gulf Transport, LLC Tennessee  
limited liability company,  
6000 Poplar Avenue  
Suite 250  
Memphis, TN 38119-971

With a copy to:

Gulf Transport, LLC  
975 5<sup>th</sup> Street  
Elko, NV 89801

Beneficiary:

Great Basin Bank of Nevada  
Elko Office  
487 Railroad Street  
P.O. Box 2808  
Elko, NV 89801

With a copy to:

Christopher D. Jaime, Esq.  
Walther, Key, Maupin, Oats,  
Cox & LeGoy  
3500 Lakeside Court, Suite 200  
Reno, NV 89509  
Telefax: (775) 827-2000

Any change in the address or telefax number of any party shall be given by the party having such change to the other parties in the manner provided above. Thereafter, all notices shall be given in accordance with the notice of change of address or telefax number. Notices given before actual receipt of the notice of 11.4.1 change of address shall not be invalidated by the change of address.

11.5 No Waiver. Any failure by Trustee or Beneficiary to insist, or any election by Trustee or Beneficiary not to insist, upon strict performance by Trustor of any of the terms, provisions or conditions of the Loan Documents shall not be deemed to be a waiver of the same or of any other term, provision or condition thereof, and Trustee and Beneficiary shall have the right at any time and from time to time thereafter to insist upon strict performance by Trustor of any and all of such terms, provisions and conditions.



11.6 Beneficiary's Right To Pay Indebtedness And Pay Obligations. If Maker, Trustor or any other party shall fail, refuse or neglect to make any required payment of the Indebtedness or permit any of the Obligations required by the Loan Documents, then at any time and from time to time thereafter and without notice or demand upon Maker, Trustor or any other party, and without waiving or releasing any other right, remedy or recourse Beneficiary may have because of the same, Beneficiary may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of Trustor and shall have the right to enter upon the Mortgaged Property for such purpose and to take such action thereon with respect to the Mortgaged Property as it may deem necessary and appropriate. Trustor shall be obligated to repay Beneficiary for all sums advanced by it pursuant to this Section 11.6 and shall indemnify and hold Beneficiary harmless from and against any and all loss, cost, expense, liability, damage and claims and causes of action including reasonable attorneys' fees, incurred or accruing by any acts performed by Beneficiary pursuant to the provisions of this Section 11.6 or by reason of any other provision of the Loan Documents. All sums paid by Beneficiary pursuant to this Section 11.6 and all other sums expended by Beneficiary to which it shall be entitled to be indemnified, together with interest thereon at the Default Rate per annum from the date of such payment or expenditure shall constitute additions to the Indebtedness and Obligations, shall be secured by the Loan Documents and shall be paid by Trustor to Beneficiary upon demand.

11.7 Covenants Running With The Land. All Obligations contained in the Loan Documents are intended by the parties to be and shall be construed as covenants running with the Mortgaged Property.

11.8 Successors And Assigns. All of the terms of the Loan Documents shall apply to, be binding upon and inure to the benefit of the parties thereto, their respective successors, assigns and legal representatives and all other persons claiming by, through or under them.

11.9 Severability. The Loan Documents are intended to be performed in accordance with, and only to the extent permitted by, all applicable Legal Requirements. If any provision of any of the Loan Documents are, or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of the instrument in which such provision is contained nor the application of such provision to other persons or circumstances or other instruments referred to hereinabove shall be affected thereby, but rather, the same shall be enforced to the greatest extent permitted by law.

11.10 Entire Agreement And Modification. The Loan Documents, including without limitation this Deed of Trust, contain the entire agreements between the parties relating to the subject matter hereof and thereof, and all prior agreements relative thereto which are not contained herein are hereby terminated. The Loan Documents, including this Deed of Trust, may be amended, revised, waived, discharged, released or terminated only by a written instrument or instruments executed by the party against which enforcement of the amendment, revision, waiver, discharge, release or termination is

asserted. Any alleged amendment, revision, waiver, discharge, release or termination which is not so documented shall not be effective as to any party.

11.11 Counterparts. This Deed of Trust may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute but one instrument.

11.12 Applicable Law And Uniform Commercial Code. The Loan Documents shall be governed by and construed according to the laws of the State of Nevada and applicable federal laws. All terms used herein which are defined in the Nevada Uniform Commercial Code as in effect shall be used with the definition therefor in said Code.

11.13 Header And General Application. The Section and Subsection entitlements hereof are inserted for convenience of reference only and shall in no way affect, modify nor define, or be used in construing, the content of such Section or Subsection. If the text requires, words used in the singular shall be read as including the plural, and pronouns of any gender shall include all genders.

11.14 Sole Benefit. This instrument and the other Loan Documents have been executed for the sole benefit of Trustor, Guarantor and Beneficiary and the heirs, successors, assigns and legal representatives of Beneficiary. No other party shall have the rights hereunder nor entitled to assume that the parties thereto will insist upon strict performance of their mutual Obligations hereunder, any of which may be waived from time to time. Trustor shall have no right to assign any of their rights under the Loan Documents to any party whatsoever, including the right to receive advances under the Note or otherwise.

11.15 Subrogation. If any or all of the proceeds of the Indebtedness or the Obligations have been used to extinguish, extend or renew any indebtedness heretofore existing against the mortgaged Property or to satisfy any indebtedness or obligation secured by a lien or encumbrance of any kind (including liens securing the payment of any Impositions), such proceeds have been advanced by Beneficiary at Trustor's request, and, to the extent of such funds so used, the Indebtedness and Obligations in this Deed of Trust shall be subrogated and extend to all of the rights, claims, liens, titles and interests heretofore existing against the Mortgaged Property to secure the Indebtedness or Obligation so extinguished, paid, extended or renewed, and the former rights, claims, liens, titles and interests, in any, shall not be waived, whether or not released of record, but rather shall be continued in full force and effect and in favor of Beneficiary and shall be merged with the lien and security interest created herein as cumulative security for the payment of the Indebtedness and satisfaction of the Obligations.

11.16 Business Or Commercial Purpose. Trustor warrants that the extension of credit evidenced by the Note is solely for business or commercial purposes, other than agricultural purposes.

11.17 No Member Or Partner. Beneficiary, by its acceptance hereof, does not become a member partner of or with Trustor, and in no event shall Beneficiary be liable

for any of the debt obligations or liabilities of Trustor, as a result of the execution of this Deed of Trust, the Note, the Loan Agreement or any other document executed in connection with the same, nor is Beneficiary liable for any contributions to Trustor. Provided further, and without limiting the generality of the foregoing, nothing contained in this Deed of Trust or any of the Loan Documents shall be deemed to create a partnership and/or a joint venture between Trustor and Beneficiary.

11.18 Incorporation of Terms and Conditions of Loan Agreement. The terms, covenants and provisions of the Loan Agreement and Loan Documents are incorporated by reference and made a part hereof as if fully set forth herein. The provision of any other Loan Document giving the greater security or additional rights and remedies shall control in the event of a conflict.

TRUSTOR

Gulf Transport, LLC, a Tennessee limited liability company,

Dated: 05/21, 2003.

By

Name

Title

James E. Cooper  
JAMES E. COOPER  
MEMBER

APPROVED AND ACCEPTED:  
TRUSTEE

Stewart Title Company of Northeastern

Nevada

Dated: 7/2, 2003.

By

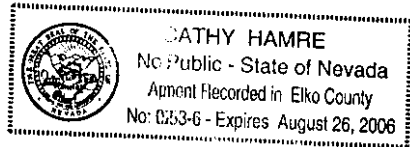
Name

Title

Colleen M. Menes  
Colleen M. Menes  
Vice President

STATE OF NEVADA )  
 : ss.  
COUNTY OF Elko )

This Leasehold Deed of Trust, Fixture Filing, and Security Agreement With Assignment of Rent was acknowledged before me on the 27 day of May, 2003, by James Cooper, as the Member of Gulf Transport, LLC, a Tennessee limited liability company.

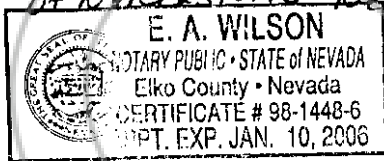


Cathy Hamre

Notary Public

STATE OF NEVADA )  
 : ss.  
COUNTY OF Elko )

This Leasehold Deed of Trust, Fixture Filing, and Security Agreement With Assignment of Rent was acknowledged before me on the 2nd day of July, 2003, by Colin M. Memeo, as the Vice President of Stewart Trucking Company, a Nevada Corporation of Northeastern Nevada.



E. A. Wilson

Notary Public



**EXHIBIT A**  
**GULF TRANSPORT, LLC**  
**LEASE PREMISES**

May 15, 2003

A parcel of land located in the North 1/2 of Section 1, T. 33 N., R. 51 E., M.D.B. & M., Eureka County Nevada, more particularly described as follows:

Commencing the Northwest corner of Section 31, T. 34 N., R. 52 E., M.D.B. & M., a point from which: Northeast corner of said Section 31 bears N 89° 39' 03" E, 5337.29 feet, as shown on the record of Survey for Newmont Gold Company, on file in the Office of the Eureka County Recorder, Eureka, Nevada, as File No.s 142927 and 142928, thence S 20° 13' 20" W, 7029 feet to Corner No. 1, the true point of beginning;

Thence S 00° 11" E, 70.00 feet to Corner No. 2;

Thence S 89° 49" W, 250.00 feet to Corner No. 3;

Thence N 00° 11" W, 70.00 feet to Corner No. 4;

Thence N 89° 49" E, 250.00 feet to Corner No. 1, the point of beginning, containing 0.402 acre more or less.

Reference is hereby made to Exhibit A1, Map of Lease Premises for Gulf Transport, LLC, attached hereto and made a part hereof.

Prepared by Robert E. Mo  
High Desert Engineering

640 Idaho Street  
Elko, Nevada 89801