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**DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS AND  
SECURITY AGREEMENT (INCLUDING FIXTURE FILING)**

MADE BY

**SLS INDUSTRIAL PORTFOLIO OWNER SLCP, LLC,**

a Delaware limited liability company  
10100 Santa Monica Blvd., Suite 1000, Los Angeles, CA 90067  
Hereinafter referred to as "**Trustor**"

TO

**FIRST AMERICAN TITLE INSURANCE COMPANY**

4380 La Jolla Village Drive, Suite 110, San Diego, California 92112  
Hereinafter referred to as "**Trustee**"

IN FAVOR OF

**ZIONS BANCORPORATION, N.A.**

dba California Bank & Trust  
1900 Main Street, Suite 200, Irvine, California 92614  
(as collateral and administrative agent ("**Agent**") for itself and each lender party to the subject loan  
from time to time (collectively "**Lenders**")), (for the avoidance of doubt, ZIONS  
BANCORPORATION, N.A. dba California Bank & Trust, is a "**Lender**" as such term is further  
defined hereinbelow)  
Hereinafter referred to as "**Beneficiary**"

**TERM LOAN AMOUNT: \$29,090,000.00**

Dated as of June 30, 2020

THIS INSTRUMENT IS A "TRUST DEED" AS DEFINED IN UTAH CODE ANNOTATED SECTION 57-1-19. THIS INSTRUMENT IS TO BE FILED AND INDEXED IN THE REAL ESTATE RECORDS AS A "FIXTURE FILING," AS DEFINED IN UTAH UNIFORM COMMERCIAL CODE SECTION 70A-9a-102(a)(40), AND IS RECORDED IN ACCORDANCE WITH THE UTAH UNIFORM COMMERCIAL CODE SECTION 70A-9a-501(1) AND COVERS GOODS THAT ARE OR ARE TO BECOME FIXTURES." THIS DOCUMENT IS ALSO A FIXTURE FILING IN ACCORDANCE WITH SECTIONS UTAH CODE ANNOTATED 70A-9a-501(1)(a) AND 70A-9a-502(2) AND (3) OF THE UTAH UNIFORM COMMERCIAL CODE.

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**EXHIBITS:**

- Exhibit "A" Legal Description
- Exhibit "B" Description of Personal Property for Fixture Filing



## DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT (INCLUDING FIXTURE FILING)

### RECITALS

A. This DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT (INCLUDING FIXTURE FILING) ("**Deed of Trust**") is being executed by SLS INDUSTRIAL PORTFOLIO OWNER SLCP, LLC, a Delaware limited liability company, whose address is set forth above ("**Trustor**").

B. Trustor is the owner of the real property described in the attached **Exhibit "A"** ("**Real Property**").

C. This Deed of Trust is being executed by Trustor to FIRST AMERICAN TITLE INSURANCE COMPANY ("**Trustee**"), whose address is set forth above, in favor of ZIONS BANCORPORATION, N.A. dba California Bank & Trust ("**Agent**"), as administrative agent for itself and each lender party to the Loan Agreement referred to below (each a "**Lender**" and, collectively, "**Lenders**"), as beneficiary and secured party (collectively referred to in the singular as "**Beneficiary**"), whose address is set forth above.

D. All terms not specifically defined herein shall have the meanings set forth in the Loan Agreement.

### DEFINITIONS

"**Action**" shall mean any legal or equitable proceeding brought before a court, tribunal, administrative court, arbitrator, mediator or other forum for alternative dispute resolution.

"**Beneficiary**" shall mean ZIONS BANCORPORATION, N.A. dba California Bank & Trust, as administrative and collateral agent for itself and each lender party to the Loan Agreement referred to below.

"**Borrower**" shall mean, collectively, SLS INDUSTRIAL PORTFOLIO OWNER SAP, LLC, a Delaware limited liability company, and SLS INDUSTRIAL PORTFOLIO OWNER SLCP, LLC, a Delaware limited liability company.

"**CC&Rs**" shall mean any and all agreements setting forth conditions, covenants, restrictions, easements, reservations, rights and rights of way for the Property.

"**Collateral**" shall mean the definition set forth in **Exhibit "B"** below.

"**Compensation**" shall mean the definition set forth in Section 2.14 below.

"**Deed of Trust**" shall mean the definition set forth in **Recital "A"** above.

"**Default Interest Rate**" shall mean the definition given to such term in the Note.

"**Event of Default**" shall mean any "Event of Default" defined in the Deed of Trust, Loan Agreement and Note.

"**Future Advances**" shall mean the definition set forth in Section 1.3.4 below.

"**Guarantor**" shall mean the definition set forth in Loan Agreement.

"**Impound Account**" shall mean the definition set forth in Section 2.17 below.

"**Improvements**" shall mean, without limitation, all right, title and interest of Trustor in and to any present and future structures, buildings, improvements, appurtenances and fixtures of any kind on the Real Property, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Real Property, and all window coverings, drapes and rods, carpeting and floor coverings, it being intended and agreed that all such items will be conclusively considered to be part of the Real Property conveyed by this Deed of Trust, whether or not attached or affixed to the Real Property.

"**Leases**" shall mean the definition set forth in Section 2.8.1(b) below.

"**Loan**" shall mean the definition set forth in Section 1.1 below.

"**Loan Agreement**" shall mean the definition set forth in Section 1.1 below.

"**Loan Documents**" shall mean the definition set forth in Section 1.1 below.

"**Note**" shall mean the definition set forth in Section 1.1 below.

"**Obligations**" shall mean the definition set forth in Section 1.3 below.

"**Other Borrowers**" shall mean have the meaning set forth in Section 6.1 below.

"**Personal Property**" shall mean the definition set forth in Section 1.2.3 below.

"**Prevailing Party**" shall mean (a) the party who brings an Action against the other after the other is in breach or default, if such Action is dismissed upon the other's payment of the sums allegedly due or upon the other's performance of the covenants allegedly breached, or (b) the party obtains substantially the relief sought by it, whether or not such Action proceeds to a hearing, a trial on the merits, or a final judgment or determination.

"**Proceeds**" shall mean the definition set forth in Section 2.3.1 below.

"**Property**" shall mean the real and personal property described in Sections 1.2.1 through 1.2.7 below.

"**Real Property**" shall mean the real property described in the attached Exhibit "A".

"**Rents**" shall mean the definition set forth in Section 2.8.1(a) below.

"**Security Deposits**" shall mean the definition set forth in Section 2.8.1(c) below.

"**Subdivision**" shall mean the definition set forth in Section 2.10.3 below.

"**Trustee**" shall mean FIRST AMERICAN TITLE INSURANCE COMPANY.

"**Trustor**" shall mean SLS INDUSTRIAL PORTFOLIO OWNER SLCP, LLC, a Delaware limited liability company.

1. **BASIC PROVISIONS.**

1.1 **Amount of Loan; Loan Documents.** Beneficiary is making a term loan to Borrower in an amount not to exceed Twenty-Nine Million Ninety Thousand Dollars (\$29,090,000.00) ("**Loan**"). The Loan is evidenced by one (1) or more promissory notes of even date herewith (collectively referred to in the singular as the "**Note**"), executed by Borrower in favor of Beneficiary. The terms and conditions of the Loan are evidenced by and subject to the terms and conditions of that certain Term Loan Agreement (Bridge Loan) (Syndicated) of even date herewith ("**Loan Agreement**") executed by Borrower and Beneficiary. All present and future agreements executed by Borrower in favor of Beneficiary and relating to the Loan collectively shall be referred to as the "**Loan Documents**."

1.2 **Grant of Security in Property.** In consideration of the Loan, Trustor hereby irrevocably grants, conveys, transfers and assigns to Trustee, its successors and assigns, in trust, with power of sale and right of entry and possession as provided below, all of its present and future estate, right, title and interest in and to the following described property now or hereafter acquired ("**Property**"):

1.2.1 **Real Property.** The Real Property, and all minerals, oil, gas and other hydrocarbon substances on or under the surface of the Real Property (to the extent owned by Trustor), as well as all development rights, permits, licenses, air rights, water, water rights, and water stock relating to the Real Property, including without limitation, all water ditches and ditch rights, pipelines, reservoirs and storage rights, wells and well rights, springs and spring rights, groundwater rights (whether tributary, non-tributary or not non-tributary), water contracts, water allotments, water taps, shares in ditch or reservoir companies, and all other rights of any kind or nature in or to the use of water, which are appurtenant to, historically used on or in connection with, or located on or under the Land, together with any and all easements, rights of way, fixtures, personal property, contract rights, permits or decrees associated with or used in connection with any such rights.

1.2.2 **Improvements.** All items listed as "**Improvements**" on **Exhibit "B"** attached hereto.

1.2.3 **Personal Property.** The term "**Personal Property**" shall include: (a) all property described in **Exhibit "B"** attached hereto; (b) all "**Proceeds**" (as defined in Section 2.3.1 below); and (c) all "**Rents**" (as defined in Section 2.8.1 (a) below).

1.2.4 **Appurtenances of Real Property.** All appurtenances of the Real Property and all rights of Trustor in and to any streets, roads or public places, easements or rights of way, relating to the Real Property.

1.2.5 **Rents.** All Rents and all rights of Trustor under all present and future leases affecting the Real Property, including but not limited to any security deposits.

1.2.6 **Proceeds.** All Proceeds and all claims arising on account of any damage to or taking of the Real Property or any Improvements thereon or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Real Property or any Improvements.

1.2.7 **Other Collateral.** All other Collateral pledged by Trustor as security for the Loan.



**1.3 Obligations Secured.** This Deed of Trust secures the following obligations ("Obligations"):

**1.3.1 Note Payments.** Payment and performance of the Note, including all extensions, renewals and modifications of the Note.

**1.3.2 Performance of the Deed of Trust Obligations.** The performance of Trustor's obligations under this Deed of Trust and Borrower's obligations under the Loan Agreement.

**1.3.3 Payment of Advanced Sums.** The payment of all sums advanced or paid out by Beneficiary or Trustee under any provision of this Deed of Trust, or to protect the security of this Deed of Trust, together with interest thereon as provided herein, should an Event of Default exist and be continuing, Beneficiary or Trustee, without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereunder, may make any payment or do any act in such manner and to such extent as herein provided or as either may deem necessary to protect the security hereof.

**1.3.4 Payment of Future Advances.** The payment of the principal and interest on all other future loans or advances made by Beneficiary to Borrower (or any successor in interest to Borrower as the owner of all or any part of the Property) when the promissory note evidencing such loan or advance specifically states that it is secured by this Deed of Trust ("**Future Advances**"), including all extensions, renewals and modifications of any Future Advances.

**1.3.5 Performance of the Loan Obligations.** The performance of Borrower's obligations under the Loan Agreement and under all other Loan Documents including, without limitation, Borrower's payment and/or reimbursement of costs, charges, fees and expenses reasonably incurred by Beneficiary in connection with (i) the enforcement of any of Beneficiary's rights under the Loan Documents (including court costs, reasonable attorneys' fees and expert witness charges, whether incurred in any court action, arbitration, mediation, alternative dispute resolution forum, appeal proceedings or bankruptcy proceedings involving Borrower or any Guarantor), (ii) Beneficiary's or any receiver's entry upon and taking possession of all or any part of the Property, (iii) any reappraisal or updated appraisal of the Property obtained by Beneficiary, either following the occurrence of an "**Event of Default**" (as defined in the Loan Agreement) or pursuant to the terms of the Loan Agreement, and (iv) Beneficiary exercising any of its rights under Article 4 below.

**1.3.6 Payment of Costs and Expenses.** The payment of any and all costs and expenses (together with interest on such sums at the Interest Rate set forth in the Note, which amount shall be the Default Interest Rate if not paid within ten (10) days after notice from Beneficiary) reasonably incurred by Beneficiary in connection with, following the occurrence and during the continuation of an Event of Default, entering into possession of the Property, either by a court-appointed receiver or by any other legally permissible means, assuming control with respect to the development, construction, operation, maintenance, repair and/or restoration of the Property and/or any Improvements thereon, enforcing all "**Leases**" (as defined in Section 2.8.1(b) below) and/or collecting all Rents due thereunder, and taking any and all other acts which Beneficiary shall reasonably determine to be reasonably necessary or desirable for the administration of the Loan and/or to enforce the provisions and carry out the purposes of the Note, the Loan Agreement, this Deed of Trust and/or the other Loan Documents (including without limitation any appraisal and/or appraisal review fees, environmental consulting, inspection and/or review costs, property inspection fees, consultant expenses and other similar costs).

**1.3.7 Obligations not Secured.** Notwithstanding any provision to the contrary herein or in any Loan Document which may now or in the future be in effect: (i) any guaranty obligations under any guaranty agreement now or hereafter in existence or executed in connection with the Loan are not included within the definition of Obligations, nor are any such obligations secured in whole or in part by this Deed of Trust; and (ii) any guaranty agreement now or hereafter in existence or executed in connection with the Loan is not included within the definition of Loan Documents.

**1.4 Warranty of Title.** Trustor warrants that, except as disclosed to Beneficiary in a writing that refers to this warranty, Trustor lawfully possesses and holds fee simple title to the Property (to the extent composed of real property) without limitation on the right to encumber, and that this Deed of Trust is a valid first and prior lien on the Property subject only to the matters set forth in Schedule B, Part I of the title insurance policy issued in favor of Beneficiary that ensures the priority of this Deed of Trust. Trustor, at its sole cost and expense, shall at all times keep, protect, defend, and maintain title to the Property free and clear of any liens or encumbrances that would or could impair the validity or priority of this Deed of Trust except for the Permitted Encumbrances. Trustor shall timely make all required payments under any other deeds of trust or other encumbrances which may now or hereafter affect the Property encumbered by this Deed of Trust and comply with all obligations hereunder. Should Trustor fail to make any such payment or comply with any such obligation, Beneficiary may, without notice to or authorization from Trustor, and without releasing Trustor from any obligation hereunder or under said deed of trust or other encumbrance, pay any sum which may be owing under any other deed of trust or other encumbrance or otherwise cure any default of Trustor thereunder, and the sums so expended by Beneficiary shall be secured hereby and shall be immediately due and payable by Trustor to Beneficiary, and shall bear interest at the "Default Interest Rate" provided for in the Note until paid.

**2. COVENANTS OF TRUSTOR.** To protect the security of this Deed of Trust, Trustor agrees:

**2.1 Performance.** To pay all indebtedness and perform all obligations that are secured by this Deed of Trust in accordance with their terms.

**2.2 Insurance.** Trustor shall comply with all of the policies of insurance for Trustor and/or the Property as set forth in Section 2.1 (and all subsections thereof) of the Loan Agreement. In the event of Trustor's failure to obtain or maintain any of said policies of insurance, Beneficiary upon giving prior written notice to Trustor may procure such insurance to be effected upon Beneficiary's interest or upon the interest of Trustee or upon the interest of the owners of said Property and in their names, and Beneficiary may pay and expend for premiums for such insurance such sums as Beneficiary may deem to be reasonably necessary. At its option, in its own name, Beneficiary shall be entitled to commence, appear in and prosecute any action or proceedings or to make any compromise or settlement, in connection with such loss, taking or damage.

**2.3 Assignment of Proceeds.**

**2.3.1 Definition of Proceeds.** The term "Proceeds" shall mean all insurance proceeds on the Property, all proceeds of a sale of all or any portion of the Property (subject to the release provisions of the Loan Agreement), and all causes of action, claims, "Compensation" (as defined below in Section 2.14), awards and recoveries for any damage, condemnation or taking of all or any part of the Property or for any damage or injury to it or for any loss or diminution in value of the Property. All Proceeds are hereby collaterally assigned to and shall be paid to Beneficiary. At any time Beneficiary reasonably determines that Trustor is not diligently pursuing any such process, Beneficiary may appear in and prosecute (either in its own name or in the name of Trustor) or participate in any suits or proceedings relating to any such proceeds, causes of actions, claims,

Compensation, awards or recoveries and may adjust, compromise or settle any claim in connection therewith.

**2.3.2 Application of Proceeds.** Subject to the provisions of Section 2.3.3 below, Beneficiary shall apply any Proceeds received by it as follows: first, to the payment of all of Beneficiary's reasonable costs and expenses (including but not limited to legal fees and disbursements) actually incurred in obtaining those sums; and, then, to the payment of the indebtedness and obligations secured by this Deed of Trust. Any application of such funds to the indebtedness secured hereby shall not be construed to cure or waive any Event of Default or invalidate any acts of Beneficiary or Trustee arising out of such Event of Default.

**2.3.3 Application of Insurance Proceeds.** Notwithstanding the foregoing, any insurance proceeds or condemnation or eminent domain awards (in addition to any funds provided by Trustor, as set forth in Section 2.13.3 below) shall be applied to the restoration of the Property pursuant to Section 2.13 below, provided that:

(a) The Improvements on the Property are able to be restored substantially to their prior condition with such proceeds or awards together with any funds provided by Trustor;

(b) Trustor is not in default under any of the Loan Documents beyond the expiration of any applicable cure periods; and

(c) The method for disbursement of any such proceeds or awards by Beneficiary for restoration shall be subject to the terms and conditions of Section 2.13 below.

Provided, however, that nothing herein shall prevent Beneficiary from applying any such proceeds or awards and/or Trustor's funds in accordance with the terms of Section 2.3.2 if, as required by Utah law, Beneficiary is able to demonstrate that its security for the Loan has been impaired.

**2.4 Property Taxes and Assessments.** Trustor agrees to pay prior to delinquency all taxes, fees, impositions, and assessments which are or may become a lien on all or any portion of or interest in the Property or which are assessed against the Property or its rents, royalties, profits and income.

**2.5 Mechanic's Liens.** Subject to the contest rights below, Trustor also agrees to pay prior to delinquency all lawful claims and demands of mechanics, materialmen, laborers and others for any work performed or materials delivered with respect to the Property. Trustor may in good faith contest any such claims by appropriate administrative or judicial proceedings as long as Trustor procures a bond that effectively removes the claim as a lien on the Real Property, causes the Title Company to issue an endorsement to Lender's policy insuring the priority of Lender's lien over such mechanic's lien, or:

2.5.1 Trustor has, in Beneficiary's judgment, a reasonable basis for such contest;

2.5.2 Trustor pays, prior to the date any interest or penalties will attach thereto, any portion of any such claims that Trustor does not contest;

2.5.3 Trustor's contest will not result in or pose any imminent risk of the seizure, sale or imposition of a lien upon the Property or any portion thereof;

2.5.4 Trustor delivers to Beneficiary such bond or other security as Beneficiary may reasonably require in connection with such contest;

2.5.5 Trustor at all times prosecutes such contest with due diligence; and

2.5.6 Trustor pays, prior to the date any interest or penalties will attach thereto, the amount of the disputed claim that is determined by a court of competent jurisdiction to be due and owing by Trustor.

In the event that Trustor does not make any payment required to be made pursuant to subsection 2.5.6 above, Beneficiary may draw or realize upon any bond or other security delivered to Beneficiary in connection with the contest by Trustor, in order to make such payment.

2.6 **Taxation of Deed of Trust.** In the event of the passage after the date of this Deed of Trust of any law of the State of Utah deducting from the value of land, for the purpose of taxation, any lien thereon, or changing in any way the laws now in force for the taxation of deeds of trust or debts secured by deeds of trust for state or local purposes or the manner of the collection of such taxes so as to affect this Deed of Trust, the entire principal balance under said Note, together with all accrued interest thereon, at the option of Beneficiary, with ninety (90) days' advance notice, forthwith shall become due and payable; provided, however, that such option shall be ineffective if Trustor is permitted by law to pay the whole of such tax, in addition to all other payments required hereunder, and, if prior to such specified date, Trustor does pay such tax and agrees to pay any such tax when hereafter levied or assessed against the Property, and such agreement shall constitute a modification of this Deed of Trust.

2.7 **Perfection of Security.** Trustor agrees to execute and deliver to Beneficiary, from time to time on demand and at Trustor's cost and expense, any documents required to perfect and continue the perfection of Beneficiary's interest in the Property, or to effect any reasonable purpose hereunder.

2.8 **Assignment of Rents and Income.**

2.8.1 **Scope of Assignment.** This assignment is intended to confer upon Beneficiary all rights, and impose upon Trustor all obligations, under Utah Uniform Assignment of Rents Act, *Utah Code Annotated*, Section 57-26-101 et. seq. (the "Act") and other applicable law, and is intended to be construed in accordance with said statutory requirements. Trustor hereby absolutely and irrevocably grants, sells, assigns, transfers and sets over to Beneficiary:

(a) **Rents.** All Trustor's right, title and interest in and to the rents, issues, profits, royalties, income, cash proceeds, "Security Deposits" (as defined in Section 2.8.1(c) below) and other benefits (collectively "Rents") now existing or hereafter created and affecting all or any portion of the Property or the use or occupancy thereof.

(b) **Leases.** All of Trustor's right, title and interest in and to all leases, subleases, subtenancies, licenses, occupancy agreements and concessions covering Property or any portion thereof or space therein now or hereafter existing, including all modifications, amendments, extensions and renewals thereof, and all rights and privileges incident thereto (collectively "Leases").

(c) **Security Deposits.** All security deposits, guaranties and other security now or hereafter held by Trustor as security for the performance of the obligations of the lessees under the Leases (collectively "Security Deposits").

2.8.2 **Assignment.** This assignment is intended by Trustor and Beneficiary to create and shall be construed to create an assignment to Beneficiary of all of Trustor's right, title and interest in the Rents and in the Leases. Trustor and Beneficiary further agree that, during the term

of this assignment, the Rents shall not constitute property of Trustor (or of any estate of Trustor) within the meaning of 11 U.S.C. Section 541, as amended from time to time.

**2.8.3 Grant of License.** By its acceptance of this assignment and so long as an Event of Default shall not have occurred and be continuing hereunder, Beneficiary hereby grants to Trustor a revocable license to enforce the Leases, to collect the Rents, to apply the Rents to the payment of costs and expenses incurred in connection with the development, construction, operation, maintenance, repair and restoration of the Property, and to any indebtedness secured thereby and to distribute the balance, if any, to Trustor.

**2.8.4 Revocation of License.** Upon the occurrence of an Event of Default, and at any time thereafter during the continuance of such Event of Default, Beneficiary shall have the right to revoke the license granted to Trustor hereby by giving written notice of such revocation to Trustor. Upon such revocation, Trustor shall promptly deliver to Beneficiary all Rents then held by Trustor and Beneficiary shall thereafter be entitled to:

(a) enforce the Leases, to collect and receive, without deduction or offset, all Rents payable thereunder, including, but not limited to, all Rents which were accrued and unpaid as of the date of such revocation; and

(b) apply such Rents as provided in this Deed of Trust.

**2.8.5 Appointment of Trustor as Agent for Beneficiary.**

(a) **Purpose of Appointment.** Upon such revocation, Beneficiary may, at its option, appoint Trustor to act as agent for Beneficiary for the purpose of:

(i) Managing and operating the Property and paying all expenses incurred in connection therewith and approved by Beneficiary.

(ii) Enforcing the provisions of the Leases.

(iii) Collecting all Rents due thereunder.

(b) **Notice to Trustor To Act as Agent.** If Beneficiary so elects, Beneficiary shall give written notice thereof to Trustor to act as agent of Beneficiary for the purpose or purposes specified in such notice. Trustor shall promptly comply with all instructions and directions from Beneficiary with respect thereto. Trustor shall not be entitled to any management fee, commission or other compensation unless expressly agreed to in writing by Beneficiary.

(c) **Deposit of Rents Collected.** All Rents collected by Trustor as agent for Beneficiary pursuant to this Section 2.8 shall be immediately deposited in an insured account in the name of Beneficiary in a bank or other financial institution designated by Beneficiary. All Rents collected by Trustor and all amounts deposited in such account, including interest thereon, shall be the property of Beneficiary and Trustor shall not be entitled to withdraw any amount from such account without the prior written consent of Beneficiary.

(d) **Purpose of Agency.** The agency hereby created shall be solely responsible for the purpose of implementing the provisions of this assignment and collecting the Rents due Beneficiary hereunder. Nothing contained herein shall place upon Beneficiary the responsibility for the management, control, operation, repair, maintenance or restoration

of the Property, nor shall Beneficiary be liable under or be deemed to have assumed Trustor's obligations with respect to the Leases. Beneficiary may at any time terminate the agency relationship with Trustor by written notice to Trustor.

**2.8.6 Collection by Beneficiary.** Upon the occurrence of an Event of Default, and at any time thereafter during the continuance thereof, Beneficiary shall have the right, in addition to the rights granted pursuant to this Section 2.8, to collect all or any portion of the Rents assigned hereby directly or through a court-appointed receiver or pursuant to a notice to the lessees or by any other means set forth under applicable Utah law. Such rights shall include without limitation any and all of the following:

(a) **Notice to Lessees To Pay Rents to Beneficiary.** The right to notify the lessees under the Leases, with or without taking possession of the Property, to demand that all Rents under such Leases thereafter be paid to Beneficiary;

(b) **Enter and Possess the Property.**

(i) The right to enter into possession of the Property, either by a court-appointed receiver or by any other legally permissible means;

(ii) to assume control with respect to and to pay all expenses incurred in connection with the development, construction, operation, maintenance, repair or restoration of the Property;

(iii) to enforce all Leases and to collect all Rents due thereunder, and to apply all Rents received by Beneficiary as set forth herein;

(iv) if ordered by a court of competent jurisdiction, to amend, modify, extend, renew and terminate any or all Leases or to execute new Leases; and

(v) to do all other acts which Beneficiary shall determine, in its sole discretion, to be necessary or desirable to carry out the purposes of this Assignment; and

(c) **Specific Performance.** The right to specifically enforce the provisions of this assignment and, if Beneficiary shall so elect, to obtain the appointment of a receiver pursuant to and in accordance with the provisions of this Deed of Trust.

**2.8.7 Protection of Lessees.** Trustor and Beneficiary agree that all lessees under any Leases shall be bound by and required to comply with the provisions of this assignment. In connection therewith, Trustor and Beneficiary further agree as follows:

(a) **Notice to Lessees of Assignment.** If requested by Beneficiary, Trustor shall:

(i) notify each lessee under any Lease now or hereafter affecting all or any portion of the Property of the existence of this assignment and the rights and obligations of Trustor and Beneficiary hereunder;

(ii) provide each present or future lessee with a copy of this assignment; and

(iii) use commercially reasonable efforts to obtain each lessee's agreement to be bound and comply with the provisions hereof to the extent they are valid and enforceable under the applicable laws.

(b) **Intentionally Omitted.**

(c) **Occurrence of Event of Default.** Upon the occurrence of an Event of Default and at any time thereafter during the continuance thereof, Beneficiary may, at its option, send any lessee a notice in compliance with applicable Utah law to the effect that:

(i) an Event of Default has occurred and that Beneficiary has revoked Trustor's license to collect the Rents;

(ii) Beneficiary has elected to exercise its rights under this assignment and applicable Utah law; and

(iii) such lessee is thereby directed to thereafter make all payments of Rents and to perform all obligations under its Lease for the benefit of Beneficiary or as Beneficiary shall direct.

(d) **Notice to Lessee To Comply With Leases.** Upon receipt of any such notice from Beneficiary, each lessee is hereby instructed by Trustor and Beneficiary to comply with the provisions of such notice, to make all payments of Rents and to perform all obligations under the Lease to and for the benefit of Beneficiary or as Beneficiary shall direct. Such notice and direction shall remain effective until the first to occur:

(i) the receipt by lessee of a subsequent notice from Beneficiary to the effect that such Event of Default has been cured or that Beneficiary has appointed Trustor to act as agent for Beneficiary pursuant to this assignment;

(ii) the appointment of a receiver pursuant to this assignment, in which event such lessee shall thereafter make payments of Rents and perform all obligations under the Leases as may be directed by such receiver; or

(iii) the issuance of an order of a court of competent jurisdiction terminating this assignment or otherwise directing such lessee to pay Rents and perform its obligations in a manner inconsistent with said notice.

(e) **Lessee's Reliance on Notice From Beneficiary.** Each lessee shall be entitled to rely upon any notice from Beneficiary and shall be protected with respect to any payment of Rents made pursuant to such notice.

(f) **No Duty for Lessee To Investigate.** Each lessee who receives a notice from Beneficiary pursuant to this assignment shall not be required to investigate or determine the validity or accuracy of such notice or the validity or enforceability of this assignment. Trustor hereby agrees to indemnify, defend and hold such lessee harmless from and against any and all loss, claim, damage (excluding consequential, special or punitive damage) or liability arising from or related to payment of Rents or performance of obligations under any Lease by such lessee made in good faith in reliance on and pursuant to such notice.

(g) **No Assumption by Beneficiary of Lease Obligations.** The payment of Rents to Beneficiary pursuant to any such notice and the performance of

obligations under any Lease to or for the benefit of Beneficiary shall not cause Beneficiary to assume or be bound by the provisions of such Lease, including, but not limited to, any duty to return any Security Deposit to the lessee under such Lease unless and to the extent such Security Deposit was paid to Beneficiary by Trustor.

(h) **Assignment Binding on Lessees.** The provisions of this Section 2.8(h) are expressly made for the benefit of and shall be binding on and enforceable by each lessee under any Lease now or hereafter affecting all or any portion of the Property.

**2.8.8 Application of Rents; Security Deposits.** All Rents received by Beneficiary pursuant to this assignment shall be applied by Beneficiary, in its sole discretion, to any of the following:

(a) **First,** to pay any costs and expenses of collection of the Rents that may be incurred by Beneficiary;

(b) **Second,** to pay any costs and expenses incurred by Beneficiary in connection with the development, construction, operation, maintenance, repair or restoration of the Property;

(c) **Third,** to the establishment of reasonable reserves for working capital and for anticipated or projected costs and expenses of the Property, including, without limitation, capital improvements which may be necessary or desirable or required by law;

(d) **Fourth,** to the payment of any indebtedness then owing by Trustor to Beneficiary; and

(e) **Thereafter,** to remit the remainder, if any, to the person or persons entitled thereto.

(f) **In connection herewith,** Trustor further agrees that all Rents received by Beneficiary from any lessee may be allocated, if Beneficiary so elects, to the payment of all current obligations of such lessee under its Lease and not to amounts which may be accrued and unpaid as of the date of revocation of Trustor's license to collect such Rents. Beneficiary may, but shall have no obligation to, pursue any lessee for the payment of Rents which may be due under its Lease with respect to any period prior to the exercise of Beneficiary's rights under this assignment or which may become due thereafter. Beneficiary shall not be liable to any lessee for the payment or return of any Security Deposit under any Lease unless and to the extent that such Security Deposit has been paid to and received by Beneficiary, and Trustor agrees to indemnify, defend and hold Beneficiary harmless from and against any and all losses, claims, damages or liabilities arising out of any claim by a lessee with respect thereto, except to the extent such claim, loss, damage or liability arises from the gross negligence or willful misconduct of Beneficiary. Trustor further agrees that the collection of Rents by Beneficiary and the application of such Rents by Beneficiary to the costs, expenses and obligations referred to herein shall not cure or waive any default or Event of Default or invalidate any act (including, but not limited to, any sale of all or any portion of the Property or any property now or hereafter securing the Loan) done in response to or as a result of such Event of Default or pursuant to any notice of default or notice of sale issued pursuant to this Deed of Trust.

**2.8.9 Covenants of Trustor.** Trustor agrees as follows:



(a) **No Amendment or Termination of Leases.** Trustor shall not enter into, amend, modify or terminate any Lease of all or any portion of the Property, except in accordance with the provisions of this Deed of Trust or as otherwise not prohibited by the Loan Agreement;

(b) **No Acceptance of Advance Rent.** Trustor shall not accept advance rent (other than security deposits) in excess of one (1) month from any Lessee without the prior written consent of Beneficiary;

(c) **Delivery of Leases.** Upon request by written notice to Trustor by Beneficiary, Trustor shall provide Beneficiary with true, correct and complete copies of all Leases, together with such other information relating to the Leases or to the lessees thereunder as Beneficiary shall reasonably request; and

(d) **Beneficiary's Rights To Inspect Books and Records.** Upon request of Beneficiary, Trustor shall make available to Beneficiary all books, records, financial statements and other information relating to the Leases, the collection of all Rents, and the disposition and disbursement thereof.

**2.8.10 Priority of Assignment; Further Assurances.** Trustor hereby represents and warrants that the assignment hereby granted is a first priority assignment and that no other assignments of all or any portion of the Rents or the Leases exist or remain outstanding. Trustor agrees to take such action and to execute, deliver and record such documents as may be reasonably necessary to evidence such assignment, and to establish the priority thereof and to carry out the intent and purpose hereof. If requested by Beneficiary, Trustor shall execute a specific assignment of any Lease now or hereafter affecting all or any portion of the Property.

**2.8.11 Beneficiary Not Responsible for Trustor's Obligations.** Nothing contained herein shall operate or be construed to obligate Beneficiary to perform any of the terms, covenants and conditions contained in any Lease or otherwise to impose any obligation upon Beneficiary with respect to any Lease, including, but not limited to, any obligation arising out of any covenant of quiet enjoyment therein contained in the event the lessee under any such Lease shall have been joined as a party defendant in any action to foreclose and the estate of such Lessee shall have been thereby terminated. Prior to actual entry into and taking possession of the Property by Beneficiary, this assignment shall not operate to place upon Beneficiary any responsibility for the operation, control, care, management or repair of the Property or any portion thereof, and the execution of this assignment by Trustor shall constitute conclusive evidence that all responsibility for the operation control, care, management and repair of the Property is and shall be that of Trustor, prior to such actual entry and taking of possession.

**2.8.12 Termination of Assignment.** A full and complete release and reconveyance of this Deed of Trust shall operate as a full and complete release of all of Beneficiary's rights and interest hereunder. Upon the recordation of such release and reconveyance, this assignment shall thereafter be void and of no further effect.

**2.9 Due-On-Sale Provision.** The Note secured by this Deed of Trust provides for, among other provisions, the following:

"Borrower acknowledges and agrees that the creditworthiness and expertise of Borrower in owning and operating the Property covered by the Deed of Trust which secures this Note is the basis upon which Agent and Lenders have determined that they are protected against impairment of the security and risk of default and thereby have agreed to lend Borrower the principal sum set forth above. Except as

may be permitted in the Loan Agreement for a "**Permitted Transfer**" (as defined in the Loan Agreement), Borrower agrees that (a) said Property shall not be sold, agreed to be sold, conveyed, transferred, assigned, disposed of, or further encumbered, whether voluntarily, involuntarily, by operation of law or otherwise, and/or (b) any change in (i) the manager(s) or management company of Borrower (it being understood that a change of property manager is not within the ambit of this clause (b)), or (ii) any direct or indirect "**Transfer**" (as defined in the Loan Agreement) of any membership, partnership or other ownership interest of Borrower, shall cause the then outstanding principal balance and interest thereon and other sums secured by said Deed of Trust, at the option of Agent, to immediately become due and payable."

**2.10 Waste; Changes in Zoning; Subdivision.**

**2.10.1 No Waste Permitted; Condition and Repair of Property.** Trustor shall not commit any waste on the Property or take any actions that would likely invalidate any insurance carried on the Property. Trustor shall maintain the Property, and every portion thereof, in good condition and repair (subject to any damage caused by casualty and any alterations permitted under the Loan Agreement). If Trustor fails to maintain the Property in good condition and repair (subject to any damage caused by casualty and any alterations permitted under the Loan Agreement), Beneficiary shall have the right, after the occurrence of an Event of Default and so long as it continues, but not the obligation, to enter upon and take possession of the Property and to make additions, alterations, repairs, or improvements to the Property which Beneficiary may reasonably consider necessary or proper to keep the Property in good condition and repair. Except for any demolition of existing improvements which has been approved by Beneficiary, no improvements may be removed, demolished or materially altered without the prior written consent of Beneficiary, which Beneficiary may withhold in its reasonable discretion. No Personal Property in which Beneficiary has a security interest may be removed from the Property unless it is promptly replaced by similar property of substantially equivalent value on which Beneficiary will immediately have a valid first lien and security interest. Trustor shall comply in all material respects with all laws, ordinances, governmental regulations, and CC&Rs affecting the Property or requiring any alteration or improvement thereof, and shall not, to the extent within its control, permit any material violation, as to the Property, of any such law, ordinance, governmental regulation, covenant, condition or restriction affecting the Property.

**2.10.2 No Change in Zoning, CC&Rs, Etc.** Without the prior written consent of Beneficiary, which Beneficiary may withhold in its sole and absolute discretion, Trustor shall not seek, make or consent to any change in the zoning or conditions of use of the Property (other than changes that expand the permitted uses of the Property). Trustor, at its sole cost, shall comply in all material respects with and make all payments required under the provisions of any CC&Rs affecting the Property, including but not limited to those contained in any declaration and constituent documents of any condominium, cooperative or planned unit development project on the Property. Trustor, at its sole cost, shall comply in all material respects with all existing and future requirements of all governmental authorities having jurisdiction over the Property.

**2.10.3 Governmental Permits, Licenses and Approvals.** If this Deed of Trust covers a subdivision or common interest development ("**Subdivision**"), as defined under any Utah law relating to the development or sale of a "common interest development" or a "subdivision," Trustor shall obtain, comply with and keep in effect all present and future permits, maps, bonds and other agreements required by applicable laws and regulations for the lawful construction or sale of the Subdivision lots and/or units.

## **2.11 Books and Records.**

**2.11.1 Books and Records Maintained by Trustor.** Trustor shall keep adequate books and records of account for the Property and for its own financial affairs in a manner sufficient to permit the preparation of financial statements therefrom in accordance with the requirements of the Loan Agreement. Beneficiary shall have the right to examine, copy and audit Trustor's records and books of account at all reasonable times by written notice to Trustor. Trustor will deliver to Beneficiary all financial statements for Trustor and the Property as required under the Loan Agreement.

**2.11.2 Written Statement of Indebtedness.** Trustor will promptly furnish from time to time, upon Beneficiary's request, a duly acknowledged written statement setting forth all amounts due on the indebtedness secured by this Deed of Trust and stating whether, to Trustor's knowledge, any offsets or defenses exist, and containing such other matters as Beneficiary may reasonably require.

## **2.12 Defend Security.**

**2.12.1 Defense of Beneficiary.** Trustor shall, at its own expense, appear in and defend any action or proceeding that is reasonably likely to materially affect Beneficiary's security or the rights or powers of Beneficiary or Trustee or that purports to affect any of the Property. If Trustor fails to perform any of its covenants or agreements contained in this Deed of Trust, the Loan Agreement, or any of the other Loan Documents, or if any action or proceedings of any kind (including but not limited to any bankruptcy, insolvency, arrangement, reorganization or other debtor relief proceeding) is commenced which would likely affect Beneficiary's or Trustee's interest in the Property or Beneficiary's right to enforce its security, then Beneficiary and/or Trustee may, at their option, make any appearances, disburse any sums and take any actions as may be necessary or desirable to protect or enforce the security of this Deed of Trust or to remedy the failure of Trustor to perform its covenants, including without limitation payment on behalf of Trustor of any taxes, assessments, liens, insurance premiums, and repair or maintenance costs (without, however, waiving any default of Trustor). Beneficiary shall, unless impractical under the circumstances or unless Beneficiary determines in its sole discretion that immediate action is necessary to protect Beneficiary's security or the rights or powers of Beneficiary or Trustee hereunder, demand performance by Trustor before exercising its rights under this Section.

**2.12.2 Payment of Defense Fees and Costs.** Trustor agrees to pay all reasonable out-of-pocket expenses of Beneficiary and Trustee actually incurred under Section 2.12.1 above (including but not limited to fees and disbursements of counsel). Any sums disbursed or advanced by Beneficiary or Trustee shall be additional indebtedness of Trustor secured by this Deed of Trust and shall be payable by Trustor upon demand. Any such sums so disbursed or advanced by Beneficiary shall, if an Event of Default exists, bear interest at the Default Interest Rate as set forth in the Note. This Section 2.12 shall not be construed to require Beneficiary or Trustee to incur any expenses, make any appearances, or take any other actions.

**2.13 Damage and Destruction.** Notwithstanding anything contained herein to the contrary, if any part of the Property is damaged or destroyed by any means, including, without limitation, by flood, earthquake, wind or fire, Trustor shall promptly restore the Property to its prior undamaged condition in accordance with the following:

**2.13.1 Plan of Restoration.** Trustor shall present within sixty (60) days of such damage or destruction to Beneficiary a plan for restoration which includes, among other things, plans and specifications prepared by an architect reasonably satisfactory to Beneficiary, cost estimates and time schedules which in Beneficiary's reasonable discretion are satisfactory;

**2.13.2 Construction Contract.** Trustor shall enter into, with Beneficiary's prior written consent, which consent shall not be unreasonably withheld, a contract with contractor(s) providing for the complete restoration in accordance with such restoration plan previously approved by Beneficiary within ninety (90) days of such damage or destruction; and

**2.13.3 Application of Insurance Proceeds.** The insurance proceeds available by reason of such damage or destruction that are received by Beneficiary pursuant to Section 2.3.1 above (less Beneficiary's reasonable costs and expenses actually incurred in obtaining such funds) plus additional sums provided to Beneficiary by Trustor for restoration purposes shall be at least equal to the anticipated costs of competing such construction, which anticipated costs shall include, but not be limited to, appropriate interest reserves and contingency funds reasonably required by Beneficiary.

**2.13.4 Conditions to Disbursement of Proceeds.** When Trustor has complied with all of the preceding subsections of this Section 2.13, Beneficiary may condition disbursement of the sums specified in subsection 2.13.3 above to Trustor on terms and conditions such as those governing disbursements of loan funds in construction loans made by Beneficiary for similar properties.

**2.14 Condemnation.** Trustor hereby assigns to Beneficiary, as security for Trustor's obligations under the Loan Documents, all compensation, awards and other payments (collectively "Compensation") payable to Trustor in connection with any taking of all or any portion of the Property for public use, and any Proceeds of any related settlement regardless of whether eminent domain proceedings are instituted in connection therewith. Trustor shall deliver to Beneficiary immediately upon receipt all Compensation and related settlement proceeds.

**2.15 Security Agreement and Fixture Filing.**

**2.15.1 Deed of Trust Includes Security Agreement.** This Deed of Trust is intended to be and shall constitute a "Security Agreement" as defined in the Utah Commercial Code, Trustor being the "debtor" and the Beneficiary being the "secured party." Trustor hereby grants Beneficiary a security interest in any items of Personal Property described in Exhibit "B" attached hereto which are not herein effectively made a part of the Real Property for the purpose of securing all indebtedness and other obligations of Trustor now or hereafter secured by this Deed of Trust.

**2.15.2 Delivery of Financing Statements.** Trustor agrees to execute and deliver financing and continuation statements covering the Personal Property from time to time in such form as Beneficiary may reasonably require to perfect and continue the perfection of Beneficiary's security interest with respect to said property, and to reimburse Beneficiary for any costs incurred in filing such financing statements and any continuation statements.

**2.15.3 No Other Security Interest Permitted.** Trustor shall not create or allow the creation of any other security interest in the Personal Property, except as expressly permitted herein and in the Loan Agreement.

**2.15.4 Rights Upon Default.** Upon the occurrence of any Event of Default by Trustor, Beneficiary shall have the rights and remedies of a secured party under the Utah Commercial Code, as well as all other rights and remedies available at law or in equity or as provided herein, all at Beneficiary's option.

**2.15.5 Effect of Filing of Financing Statement.** Trustor and Beneficiary agree that the filing of a financing statement in the records normally having to do with personal property

shall never be construed as in any way impairing this declaration and the stated intention of the parties hereto that everything used in connection with the operation or occupancy of said property or the production of income therefrom (which is owned by Trustor) is and, at all times and for all purposes and in all proceedings, both legal and equitable, shall be regarded as Real Property encumbered by this Deed of Trust.

**2.15.6 Fixture Filing.** The personal property in which Beneficiary has a security interest includes goods which are or shall become fixtures on the Property. This Deed of Trust is intended to serve as a fixture filing pursuant to the terms of the Utah Uniform Commercial Code. This filing is to be recorded in the real estate records of the county in which the Property is located. This filing remains in effect as a fixture filing until this Deed of Trust is released or satisfied of record or its effectiveness otherwise terminates as to the Property. In that regard, the following information is provided:

Name and Address of Debtor: SLS INDUSTRIAL PORTFOLIO OWNER SLCP,  
LLC  
17755 Sky Park East, Suite 100  
Irvine, CA 92614  
Attention: Gerald Yahr  
Email: yahrj@koll.com

Name and Address of Secured Party: CALIFORNIA BANK & TRUST  
1900 Main Street, Suite 200  
Irvine, California 92614  
Attention: Stefan Junus

Property Description: See Exhibit "A" attached hereto.

**2.16 Indemnification of Trustee and Beneficiary.**

**2.16.1 Indemnification.** Subject to the limitation set forth in Section 2.16.2 below, Trustor hereby agrees to indemnify Trustee and Beneficiary against, and hold them harmless from, all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, which either may suffer or reasonably incur:

(a) By reason of this Deed of Trust (excluding any regulatory or other administrative losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses arising out of claims against Beneficiary in connection with its lending activities); or

(b) By reason of the execution of this Deed of Trust or in performance of any act by Trustor which is required or permitted hereunder or by law; or

(c) As a result of any failure of Trustor to perform Trustor's obligations under the Loan Documents; or

(d) By reason of any alleged obligation or undertaking on Beneficiary's part to perform or discharge any of the representations, warranties, conditions, covenants or other obligations of Trustor contained in any other Loan Document related to the Property, the Loan or Trustor.

**2.16.2 No Liability of Trustor.** Notwithstanding the foregoing, Trustor shall not be liable under Section 2.16.1 to the extent that Trustor establishes that such liability is attributable solely and directly to the gross negligence, illegal act or willful misconduct of Trustee or Beneficiary.

**2.16.3 Payment of Indebtedness.** Trustor shall pay all indebtedness arising under this Section 2.16 promptly upon demand by Trustee or Beneficiary, together with interest thereon from the date that is ten (10) days after the date demand for payment is made at the Default Interest Rate of interest set forth in the Note (after giving effect to any notice and/or cure periods). Trustor's duty to indemnify Trustee and Beneficiary shall survive the release and cancellation of the Obligations and the reconveyance of this Deed of Trust.

**2.17 Insurance and Tax Impounds.** Upon notice by Beneficiary to Trustor on or after the occurrence of an Event of Default, Trustor shall establish and maintain at all times while this Deed of Trust continues in effect an impound account ("**Impound Account**") with Beneficiary for the payment of real estate taxes and assessments and insurance on the Property and as additional security for the indebtedness secured hereby.

**2.17.1 Deposit Into Impound Account.** If required by Beneficiary in its sole discretion after the occurrence and during the continuance of any Event of Default, Trustor shall deposit in the Impound Account an amount reasonably determined by Beneficiary to be necessary to ensure that there will be on deposit with Beneficiary an amount which, when added to the monthly payments subsequently required to be deposited with Beneficiary hereunder on account of real estate taxes, assessments and insurance premiums, will result in there always being on deposit with Beneficiary in the Impound Account an amount sufficient to pay the next due semiannual installments of real estate taxes and assessments on the Property and the next due annual insurance premiums with respect to the Property (if paid in one installment).

(a) If required by Beneficiary in its sole discretion, after the occurrence and during the continuance of an Event of Default and commencing on the next monthly payment date under the Note following said default, and continuing thereafter on each subsequent monthly payment date under the Note, Trustor shall pay to Beneficiary, concurrently with and in addition to the monthly payment due under the Note and until the Note and all other indebtedness secured hereby is fully paid and performed, deposits in an amount equal to one-twelfth (1/12) of the amount of the annual real estate taxes and assessments that will next become due and payable on the Property, plus one-twelfth (1/12) of the amount of the annual premiums that will next become due and payable on insurance policies which Trustor is required to maintain hereunder, each as estimated and reasonably determined by Beneficiary.

(b) Notwithstanding anything to the contrary herein, if the amount of the monthly deposit being paid at any time pursuant to subsection (a) above, multiplied by the number of subsequent monthly installments, when added to the amount held on deposit at such time, will be insufficient to pay, thirty (30) days prior to delinquency, the next annual installments of insurance and taxes and assessments due and payable, then Trustor shall promptly, following a demand for deposit, deposit the amount of the deficiency, and any failure to do so shall be deemed to be an Event of Default under this Deed of Trust.

**2.17.2 Responsibility.** Trustor shall be responsible for ensuring the receipt by Beneficiary, at least thirty (30) days prior to the respective due dates for payment thereof, of all bills, invoices and statements for all taxes, assessments and insurance premiums to be paid from the Impound Account, and Beneficiary shall pay the governmental authority or other party entitled thereto directly to the extent funds are available for such purpose in the Impound Account.

**2.17.3 Reliance.** In making any payment from the Impound Account, Beneficiary shall be entitled to rely on any bill, statement or estimate procured from the appropriate public office or insurance company or agent without any inquiry into the accuracy of such bill, statement or estimate and without any inquiry into the accuracy, validity, enforceability or contestability of any tax, assessment, valuation, sale, forfeiture, tax lien or title or claim thereof.

**2.17.4 Funds in Impound Account.** The Impound Account shall not, unless otherwise explicitly required by applicable law, be or be deemed to be escrow or trust funds, but, at Beneficiary's option and in Beneficiary's discretion, may either be held in a separate account or be commingled by Beneficiary with the general funds of Beneficiary. No interest on funds contained in the Impound Account shall be paid by Beneficiary to Trustor. The Impound Account is solely for the protection of Beneficiary and entails no responsibility on Beneficiary's part beyond the payment of taxes, assessments and insurance premiums following receipt of bills, invoices or statements therefor in accordance with the terms hereof and beyond the allowing of due credit for the sums actually received.

(a) Upon assignment of this Deed of Trust by Beneficiary, any funds in the Impound Account shall be turned over to the assignee and any responsibility of Beneficiary, as assignor, with respect thereto shall terminate.

(b) If the total funds in the Impound Account shall exceed the amount of payments actually applied by Beneficiary for the purposes of the Impound Account, such excess may be credited by Beneficiary on subsequent payments to be made hereunder or, at the option of Beneficiary, refunded to Trustor. If, however, the Impound Account shall not contain sufficient funds to pay the sums required when the same shall become due and payable, Trustor shall, within ten (10) days after receipt of written notice thereof, deposit with Beneficiary the full amount of any such deficiency. If Trustor shall fail to deposit with Beneficiary the full amount of such deficiency as provided above, Beneficiary shall have the option, but not the obligation, to make such deposit and all amounts so deposited by Beneficiary, together with interest thereon at the Default Interest Rate from the date incurred by Beneficiary until actually paid by Trustor, shall be promptly paid by Trustor on demand and shall be secured by this Deed of Trust and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note. If there is a default under this Deed of Trust which is not cured within any applicable grace or cure period, Beneficiary may, but shall not be obligated to, apply at any time the balance then remaining in the Impound Account against the indebtedness secured hereby in whatever order Beneficiary shall subjectively determine.

**2.17.5 No Cure or Waiver.** No such application of the Impound Account shall be deemed to cure any default hereunder. Upon full payment of the indebtedness secured hereby in accordance with its terms or at such earlier time as Beneficiary may elect, the balance of the Impound Account then in Beneficiary's possession shall be paid over to Trustor and no other party shall have any right or claim thereto.

### **3. EVENTS OF DEFAULT.**

**3.1 List of Events of Default.** An "Event of Default" shall have occurred under this Deed of Trust upon the occurrence of an Event of Default as defined in the Loan Agreement.

### **4. REMEDIES FOR DEFAULT.**

**4.1 List of Remedies for Default.** At any time following an Event of Default and for so long as such Event of Default continues, Beneficiary may, at its option, and without notice to or demand upon Trustor (except as may be required under applicable law):

**4.1.1 Acceleration of Debt.** Declare any or all indebtedness secured by this Deed of Trust to be due and payable immediately;

**4.1.2 Enter and Possess Property.** Enter onto the Property in accordance with applicable laws, in person or by agent or by court appointed receiver, and take any and all steps which may be desirable in Beneficiary's judgment to complete any unfinished construction and/or to manage, operate, preserve, develop, maintain and protect the Property, and Beneficiary may apply any Rents, royalties, income or profits collected against the Obligations secured by this Deed of Trust without in any way curing or waiving any default of Trustor;

**4.1.3 Assemble and Deliver Personal Property.** Cause Trustor to assemble any Personal Property and deliver it to Beneficiary at a place designated by Beneficiary;

**4.1.4 Judicial Foreclosure.** Bring a court action to foreclose this Deed of Trust or to enforce its provisions or any of the indebtedness or Obligations secured by this Deed of Trust;

**4.1.5 Power of Sale.** Cause any or all of the Property to be sold under the power of sale granted by this Deed of Trust in any manner permitted by applicable law;

**4.1.6 Appointment of Receiver.** Beneficiary shall have the right to petition the court, on an ex parte basis, for the appointment of a receiver for the Property. Trustor acknowledges and agrees that Beneficiary is entitled to the appointment of a receiver for the Property without regard to (a) the adequacy of the collateral or (b) the existence of any waste with respect to the Property. TRUSTOR HEREBY CONSENTS TO THE APPOINTMENT OF A RECEIVER ON AN EX PARTE BASIS. BENEFICIARY MAY PROVIDE ANY COURT WITH A COPY OF THIS AGREEMENT AS PROOF OF BENEFICIARY'S AUTHORITY, AND TRUSTOR'S AND GUARANTOR'S CONSENT THERETO, TO OBTAIN A RECEIVER FOR THE PROPERTY. Such right shall be exercised, if at all, by Beneficiary in Beneficiary's sole and absolute discretion at any time on or after the date hereof (but only while an Event of Default exists).

**4.1.7 Other Rights and Remedies.** Exercise any other right or remedy available under any of the Loan Documents or otherwise available under law or in equity, including without limitation, rights and remedies with respect to the Personal Property that are available to a Secured Party under the Utah Uniform Commercial Code.

**4.2 Sale of Property.**

**4.2.1 Record Notices of Default and Sale.** For any sale under the power of sale granted by this Deed of Trust, Beneficiary shall cause Trustee to record and give all notices required by law. After compliance with such notice requirements, and upon the expiration of such time as is required by law, Trustee may sell the Property upon any terms and conditions specified by Beneficiary and permitted by applicable law.

**4.2.2 Right To Postpone Sale.** Trustee may postpone any sale by public announcement at the time and place noticed for the sale.

**4.2.3 Sale of Multiple Lots/Parcels.** If the Property consists of several lots or parcels, Beneficiary in its discretion may designate their order of sale or may elect to sell them through a single sale, or through two (2) or more successive sales, or in any other manner



Beneficiary may elect. In the event Beneficiary elects to dispose of the Property through more than one (1) sale, Trustor shall pay the costs and expenses of each such sale and of any judicial proceedings wherein the same may be made.

**4.2.4 Right To Purchase at Nonjudicial Sale.** Any person, including Trustor, Trustee, and Beneficiary, may purchase at any sale, and Beneficiary shall have the right to purchase at any sale hereunder by crediting upon the bid price the amount of all or any part of the indebtedness secured hereby.

**4.2.5 Deed at Sale.** Upon the completion of the sale, Trustee shall execute and deliver to the purchaser or purchasers a deed or deeds conveying the property sold, but without any covenant or warranty, express or implied, and the recitals in the deed or deeds of any facts affecting the regularity or validity of the sale shall be conclusive against all persons.

**4.3 Application of Proceeds.** The proceeds of any sale under this Deed of Trust shall be applied in the following manner or as otherwise required by law:

**4.3.1 First:** Payment of the costs and expenses of the sale, including but not limited to Trustee's fees, legal fees and disbursements, title charges and transfer taxes, and payment of all reasonable expenses, liabilities and advances of Trustee that were actually incurred by Trustee, together with interest on all advances made by Trustee at the maximum rate permitted to be charged by Trustee under applicable law.

**4.3.2 Second:** Payment of all sums expended by Beneficiary under the terms of this Deed of Trust and not yet repaid, together with interest on such sums at the Default Interest Rate set forth in the Note.

**4.3.3 Third:** Payment of the entire indebtedness and Obligations of Trustor secured by this Deed of Trust, in any order that Beneficiary chooses.

**4.3.4 Fourth:** The remainder, if any, to the person or persons legally entitled to it.

**4.4 Waiver of Rights.** Trustor waives all rights to direct the order in which any of the Property shall be sold in the event of any sale under this Deed of Trust, and also any right to have any of the Property marshaled upon any sale.

**4.5 Remedies Are Cumulative.** All remedies contained in this Deed of Trust are cumulative, and Beneficiary has all other remedies provided by law, in equity, or in any other agreement between Trustor and Beneficiary. No delay or failure by Beneficiary to exercise any right or remedy under this Deed of Trust shall be construed to be a waiver of that right or remedy or of any default by Trustor. Beneficiary may exercise any one (1) or more of its rights and remedies at its option without regard to the adequacy of its security.

**4.6 Payment of Expenses.** Trustor shall pay all of Beneficiary's and Trustee's reasonable expenses incurred in any efforts to enforce any terms of this Deed of Trust, whether or not any lawsuit is filed, including but not limited to legal fees and disbursements, foreclosure costs, escrow fees, filing fees, recording fees, and title charges.

**4.7 No Cure or Waiver.** Neither Beneficiary's nor Trustee's nor any receiver's entry upon and taking possession of all or any part of the Property, nor any collection of Rents, issues, profits, Proceeds, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Obligation, nor the exercise of any other right or remedy by Beneficiary or Trustee or any receiver shall cure or waive any breach, Event of Default or notice of default under

this Deed of Trust, or nullify the effect of any notice of default or sale (unless all Obligations then due have been paid and performed and Trustor has cured all other defaults), or impair the status of the security, or prejudice Beneficiary or Trustee in the exercise of any right or remedy, or be construed as an affirmation by Beneficiary of any tenancy, Lease, or option or a subordination of the lien of this Deed of Trust.

**4.8 Power To File Notices and Cure Defaults.** Subject to any notice and cure rights set forth herein or in any of the Loan Documents, Trustor hereby irrevocably appoints Beneficiary and its successors and assigns as Trustor's attorney-in-fact, which agency is coupled with an interest:

**4.8.1** to execute and record any notices of completion, cessation of labor, or any other notices that Beneficiary deems reasonably appropriate to protect Beneficiary's interest, and

**4.8.2** upon the occurrence and during the continuance of an Event of Default, to perform any obligation of Trustor hereunder; provided, that:

(a) Beneficiary, as such attorney-in-fact, shall only be accountable for such funds as are actually received by Beneficiary, and

(b) Beneficiary shall not be liable to Trustor or any other person or entity for any failure to act under this section.

## **5. MISCELLANEOUS.**

**5.1 Invalidity.** The invalidity or unenforceability of any one (1) or more provisions of this Deed of Trust will in no way affect any other provision.

**5.2 Statement.** Trustor agrees to pay Beneficiary a reasonable charge, not to exceed the maximum allowed by law, for giving any statement of the status of the Obligations secured by this Deed of Trust.

**5.3 Notices.** All notices given under this Deed of Trust must be in writing and shall be in the form and delivered in the manner set forth in the Loan Agreement.

**5.4 Rights of Beneficiary To Release Debtors or Security.** Without affecting Trustor's liability for the payment of any of the indebtedness secured by this Deed of Trust, Beneficiary may from time to time and without notice to Trustor:

**5.4.1** release any person liable for the payment of this indebtedness;

**5.4.2** extend or modify the terms of that indebtedness in accordance with the terms of the Loan Documents;

**5.4.3** accept additional real or personal property of any kind as security, or alter, substitute or release any property securing that indebtedness; or

**5.4.4** cause Trustee to consent to the making of any map or plat of the Property, or to reconvey any part of the Property, or to join in granting any easement or creating any restriction on the Property, or to join in any subordination or other agreement affecting this Deed of Trust.

**5.5 Inspection Rights.** Beneficiary may at any reasonable times enter upon and inspect the Property in person or by agent upon reasonable prior written notice to Trustor; provided

that such inspection shall not unreasonably interfere with the operations of the tenant(s) of the Property.

**5.6 Full Reconveyance.** Upon the payment and performance in full of all Obligations secured by this Deed of Trust, Beneficiary agrees to request Trustee to reconvey the Property, and upon payment by Trustor of its fees and all other sums owing to it under this Deed of Trust, Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons must pay all costs of recordation. The recitals in the reconveyance of any facts will be conclusive as to all persons. The grantee in the reconveyance may be described as "the person or persons legally entitled thereto." The Loan Agreement shall set forth certain terms and conditions, if applicable, for the partial reconveyance of parcels or lots comprising the Property encumbered by this Deed of Trust.

**5.7 Governing Law.** This Deed of Trust and all rights and obligations hereunder shall be governed by and interpreted according to the laws of the State of Utah, without regard to conflicts of laws principles.

**5.8 Subsequent Trustors and Beneficiaries.** The term "Trustor" includes both the original Trustor and any subsequent owner or owners of any of the Property, and the term "Beneficiary" includes the original Beneficiary and also any future owner or holder, including pledges and participants, of the Note or any interest therein.

**5.9 Headings; Underlining.** The headings of the sections of this Deed of Trust are for convenience only and do not limit its provisions. The use of underlining in this Deed of Trust is for convenience only, and the parties understand and agree that the presence or absence of underlining shall not be used in interpreting or construing this Deed of Trust or any provision hereof.

**5.10 Waiver.** Neither the acceptance of any partial or delinquent payment or performance, nor the failure to exercise any rights upon a default, shall be a waiver of Trustor's obligations hereunder. Beneficiary's consent to any act or omission by Trustor will not be a consent to any other or subsequent act or omission or a waiver of the need for such consent in any future or other instance.

**5.11 Successors and Assigns.** The terms of this Deed of Trust shall bind and benefit heirs, legal representatives, successors and assigns of Trustor and Beneficiary and the successors in trust of Trustee.

**5.12 Joint and Several Liability.** If Trustor consists of more than one (1) person or entity, each shall be jointly and severally liable to perform the obligations of Trustor.

**5.13 Acceptance of Trust; Powers and Duties of Trustee.** Trustee accepts this trust when this Deed of Trust is recorded. From time to time upon written request of Beneficiary and presentation of this Deed of Trust for endorsement, and without affecting the personal liability of any person for payment of any indebtedness or performance of any Obligation secured hereby, Trustee may, without liability therefor and without notice, and upon the direction of Beneficiary : reconvey all or any part of the Property; consent to the making of any map or plat thereof; join in any grant of easement thereon, any declaration of CC&Rs, any extension agreement or any agreement subordinating the lien or charge hereof.

**5.14 Removal of Trustee.** Beneficiary may remove Trustee or any successor Trustee at any time or times and appoint a successor Trustee by recording a written substitution in the county where the Real Property covered by this Deed of Trust is located, or in any other manner permitted

by law. Upon that appointment, all of the powers, rights and authority of Trustee will immediately become vested in its successor.

**5.15 Subrogation.** Beneficiary shall be subrogated to the lien of all encumbrances, whether released of record or not, paid in whole or in part by Beneficiary pursuant to this Deed of Trust or by the proceeds of any loan secured by this Deed of Trust.

**5.16 Statutes of Limitation.** Trustor hereby waives the pleading of any and all statutes of limitation as a defense to any action brought against Trustor by Beneficiary, to the fullest extent permitted by law.

**5.17 Time of the Essence.** Time is of the essence as to all Obligations secured by or arising under this Deed of Trust.

**5.18 Requests For Notice.** Trustor requests that a copy of any notice of default and notice of sale required by law be mailed to it at its address set forth above.

**5.19 Attorneys' Fees.** The Prevailing Party in any Action shall recover all reasonable attorneys' fees incurred by said Prevailing Party in connection with any default hereunder and in any proceeding brought to enforce any of the provisions of this Deed of Trust.

**5.20 Partial Release.** Any partial release of any portion of the Real or Personal Property shall be made pursuant to the terms and conditions of the Loan Agreement.

**5.21 Savings Clause.** Regardless of any provision contained in this Deed of Trust, the Loan Documents, or any documents executed or delivered in connection therewith, Beneficiary will never be considered to have contracted for or to be entitled to charge, receive, collect, or apply as interest, and hereby disavows any intention to so receive, collect, or apply as interest, any amount in excess of the maximum amount permissible under applicable law. Without limiting its general applicability, the preceding sentence specifically applies to any acceleration of the Obligations or any part thereof. In the event that Beneficiary ever receives, collects, or applies as interest any such excess, the amount which would be excessive interest will be applied to the reduction of the principal balance of the Obligations, and, if the principal balance of the Obligations is paid in full, any remaining excess shall forthwith be paid to Trustor, and Trustor agrees to accept such payment from Beneficiary, together with interest on such sums at the maximum lawful rate then in effect. In determining whether the interest paid or payable exceeds the maximum amount permissible under applicable law, Trustor and Beneficiary shall, to the greatest extent permitted under applicable law:

**5.21.1** Characterize any nonprincipal payment (other than payments which are expressly designated as interest payments hereunder) as an expense or fee rather than as interest;

**5.21.2** Exclude voluntary prepayments and the effect thereof; and

**5.21.3** Amortize, prorate, allocate, and spread the total amount of interest throughout the entire contemplated term of the Obligations so that the interest rate is uniform throughout the term.

**5.22 Prohibited Drug Law Activities.**

**5.22.1** Trustor shall not knowingly enter into any Lease, license, sublease, occupancy agreement or other agreement with any Person involving or relating to the use or occupancy of the Property (or any portion thereof) which would be a violation of any state and/or federal laws relating to the use, sale, possession, cultivation and/or distribution of any controlled

substances, including without limitation any Person engaged or intending to engage in activities (whether for commercial or personal purposes) regulated under any Utah law or other applicable law relating to the medicinal use and/or distribution of marijuana (otherwise known as the Compassionate Use Act of 1996) ("**Prohibited Drug Law Activities**"). Every Lease, license, sublease, occupancy agreement and/or other agreement involving or relating to the use or occupancy of the Property entered into by Trustor during the term of the Loan shall expressly prohibit the tenant or other occupant of the Property (or any portion thereof) from using the leased premises in any manner that would violate applicable law, including any Prohibited Drug Law Activities. In the event that Trustor becomes aware from any source that any tenant or other Person is or may be using, occupying and/or leasing the Property (or any portion thereof) with the intent to engage, and/or is engaged, in any Prohibited Drug Law Activities, Trustor shall terminate its agreement with such Person and take all actions permitted under applicable law to discontinue such activities in or on the Property, and shall promptly notify Beneficiary of Trustor's notice regarding said Prohibited Drug Law Activities and Trustor's actions to terminate such activities. Trustor shall keep Beneficiary advised of each action it takes or plans to take in compliance with the requirements of this Section 5.22.

5.22.2 Compliance with the covenants in this Section 5.22 is a material consideration and inducement to Beneficiary in its agreement to make the Loan to Trustor, and any failure of Trustor to comply with the foregoing requirements shall constitute an Event of Default hereunder if Trustor fails to remedy such non-compliance promptly after learning of the same. In addition, and not by way of limitation, Trustor hereby agrees to indemnify, defend and hold Beneficiary harmless from and against any loss, claim, damage or liability arising from or related to Trustor's breach or violation of said covenants, including without limitation any seizure and forfeiture to the United States without compensation to Beneficiary, free and clear of Beneficiary's first lien security interest in and to the Property, or any action taken by the state or federal government to accomplish same. Trustor shall, within ten (10) Business Days following a request from Beneficiary, provide Beneficiary with a written statement setting forth its efforts to comply with the provisions of this Section 5.22 and stating whether to Trustor's knowledge any Prohibited Drug Law Activities are or may be on-going and/or have occurred in, on or around the Property.

5.23 **Recourse Provisions.** Notwithstanding any other provision contained in this Deed of Trust, Trustor's personal liability for the indebtedness secured by this Deed of Trust shall be subject to the provisions of Sections 7.1–7.3 of the Loan Agreement.

## 6. **ADDITIONAL COVENANTS OF TRUSTOR.**

6.1 **Relationship of Trustor to Loan Transaction.** Trustor warrants and acknowledges Trustor and the Borrowers other than Trustor (the "**Other Borrowers**") have common ownership which has a financial interest in Trustor and the Other Borrowers such that Trustor agrees to enter into this Deed of Trust and pledge its interest in the Property encumbered by the lien of this Deed of Trust to induce Beneficiary to make the Loan, and Trustor further warrants and acknowledges that it will receive substantial benefit from the making of such Loan. Notwithstanding the foregoing, and in consideration of the Loan, Trustor agrees as follows:

6.1.1 Trustor waives and agrees not to assert or take advantage of:

(a) any defense or right based upon election of remedies by the Beneficiary, including without limitation, an election to proceed by non-judicial rather than judicial foreclosure, even if such election destroys, alters or otherwise impairs subrogation rights of Trustor or the right of Trustor to proceed against the Other Borrowers for reimbursement, or both.

(b) any defense or right based upon the acceptance by Beneficiary or an affiliate of Beneficiary of a deed in lieu of foreclosure, without extinguishing the debt, even if such acceptance destroys, alters or otherwise impairs subrogation rights of Trustor or the right of Trustor to proceed against the Other Borrowers for reimbursement, or both.

(c) any and all benefits, rights and/or defenses which might otherwise be available to Trustor under California Civil Code sections 2809, 2810, 2819, 2845, 2848, 2850, 2899, 2953 and 3433.

(1) any and all benefits, rights and/or defenses which might otherwise be available to Trustor under California Code of Civil Procedure sections 580a, 580b, 580d and 726. In specific, but not by way of limitation, Trustor expressly waives any and all fair value rights under California Code of Civil Procedure section 580a.

**6.1.2** Upon the occurrence of any default hereunder, Beneficiary may maintain an action upon this Deed of Trust whether or not action is brought against the Other Borrowers and whether or not any Other Borrower is joined in any such action. Beneficiary may maintain successive actions for other Events of Default, and Beneficiary's rights hereunder shall not be exhausted or waived, and Beneficiary shall not be estopped to proceed against Trustor pursuant to this Deed of Trust by the exercise of any of Beneficiary's rights or remedies or by any such action or by any number of successive actions, until and unless the Loan secured by this Deed of Trust has been paid in full and each of Trustor's obligations hereunder has been fully performed or otherwise satisfied.

**6.1.3** Any action, whether judicial or non-judicial or in pursuit of any provisional remedy, taken by Beneficiary against the Other Borrowers or against any collateral or security held by Beneficiary which shall impair or destroy any rights Trustor may have against the Other Borrowers shall not act as a waiver or an estoppel of Beneficiary's rights to proceed against and initiate any action against Trustor to enforce the terms of this Deed of Trust until the Loan has been paid in full.

**6.1.4** Trustor expressly waives any defense or benefits arising out of any voluntary or involuntary filing by or on behalf of any of the Other Borrowers for protection under any federal or state bankruptcy, insolvency, or debtor relief laws, including without limitation under Sections 364 or 1111(b)(2) of the United States Bankruptcy Code.

**6.1.5** Trustor, by execution hereof, represents to Beneficiary that the relationship between Trustor and the Other Borrowers is such that Trustor has access to all relevant facts and information concerning the Loan and the Property and that Beneficiary can rely upon Trustor having such access. Trustor waives and agrees not to assert any duty on the part of Beneficiary to disclose to Trustor any facts that it may now or hereafter know about the Other Borrowers, regardless of whether Beneficiary has reason to believe that any such facts materially increase the risk beyond that which Trustor intends to assume or has reason to believe that such facts are unknown to Trustor or has a reasonable opportunity to communicate such facts to Trustor. Trustor is fully responsible for being and keeping informed of the financial condition of the Other Borrowers and all circumstances bearing on the risk of non-payment of any indebtedness hereby secured.

**6.1.6** Until the Loan has been paid in full, Trustor waives the right of subrogation and waives any right to enforce any remedy which Beneficiary now has or may hereafter have against any Other Borrower and any benefit of, and any right to participate in, any security now or hereafter held by Beneficiary. Trustor specifically agrees that Trustor shall not be released from liability hereunder by any action taken by Beneficiary, including without limitation a nonjudicial sale under the Deed of Trust, that would afford Trustor a defense based on California's anti-

deficiency laws, in general, and Code of Civil Procedure section 580d, in specific. Without limiting the foregoing, Trustor expressly understands, acknowledges and agrees as follows:

(a) In the event of a non-judicial foreclosure (through the exercise of the power of sale under the Deed of Trust): (i) Trustor would not be liable for any deficiency on the Note under California Code of Civil Procedure section 580d, (ii) Trustor's subrogation rights against the Other Borrowers would thereby be destroyed, and (iii) Trustor would thereby be deprived of the anti-deficiency protections of said section 580d;

(b) Were it not for Trustor's knowing and intentional waivers contained herein, the destruction of Trustor's subrogation rights and anti-deficiency protections would afford Trustor a defense to an action against Trustor hereunder; and

(c) Notwithstanding the foregoing, Trustor expressly waives any such defense to any action against Trustor hereunder following a nonjudicial foreclosure sale or in any other circumstance under which Trustor's subrogation rights against any Other Borrower have been destroyed.

(d) Trustor acknowledges that it has been made aware of the provisions of California Civil Code section 2856, has read and understands the provisions of that statute, has been advised by its counsel as to the scope, purpose and effect of that statute, and based thereon, and without limiting the foregoing waivers, Trustor agrees to waive all suretyship rights and defenses described in Civil Code sections 2856(a)-(d). Without limiting any other waivers herein, Trustor hereby gives the following waivers pursuant to Section 2856 of the California Civil Code:

Trustor waives all rights and defenses arising out of an election of remedies by Beneficiary, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, has destroyed Trustor's rights of subrogation and reimbursement against Borrower by the operation of Section 580d of the Code of Civil Procedure or otherwise.

(e) Trustor waives all rights and defenses that Trustor may have because Trustor's and the Other Borrower's debt is secured by real property. This means, among other things:

(i) Beneficiary may collect from Trustor without first foreclosing on any real or personal property collateral pledged by the Other Borrowers.

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

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

(2) Beneficiary may collect from Trustor even if Beneficiary, by foreclosing on the real property collateral, has destroyed any right Trustor may have to collect from the Other Borrowers.

This is an unconditional and irrevocable waiver of any rights and defenses Trustor may have because the Trustor's and the Other Borrower's debt is secured by real

property. These rights and defenses include, but are not limited to, any rights or defenses based on Section 580a, 580b, 580d, or 726 of the Code of Civil Procedure.

**6.1.7** During the continuance of an Event of Default, with or without notice to Trustor, Beneficiary, in its sole discretion, at any time and from time to time, in such manner and upon such terms as it considers best, may (a) apply any and all payments or recoveries from the Other Borrowers, from Trustor, from any guarantor or endorser, or realized from any security, in such manner, order and priority as Beneficiary elects, to any indebtedness of Borrower, and (b) refund to Borrower any payment received by Beneficiary upon any indebtedness hereby secured and payment of the amount refunded shall be fully secured hereby.

**6.1.8** No exercise or nonexercise by Beneficiary of any right hereby given it, no dealing by Beneficiary with Borrower or any other person, and no change, impairment or suspension of any right or remedy of Beneficiary shall in any way affect any of the obligations of Trustor hereunder or give Trustor any recourse against Beneficiary.

**6.1.9** If any term or provision of this Deed of Trust, or the application thereof to any person, entity or circumstances shall to any extent be invalid or unenforceable the remainder of this Deed of Trust, or the application of such or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term or provision of this Deed of Trust shall be valid and enforceable to the fullest extent permitted by law.

**6.1.10** In the event any other terms or provisions of this Deed of Trust differ from or are in any way inconsistent with the terms and provisions of this Article 6, the terms and provisions of this Article 6 shall be deemed to govern the obligations, rights and relationship of the parties.

THIS DEED OF TRUST SECURES AN ADJUSTABLE RATE PROMISSORY NOTE. THIS DEED OF TRUST IS A FIRST DEED OF TRUST. NO FURTHER DEEDS OF TRUST WILL BE RECORDED AGAINST THE REAL PROPERTY WITHOUT THE PRIOR WRITTEN CONSENT OF BENEFICIARY. FAILURE TO COMPLY WITH THIS PROVISION SHALL CONSTITUTE AN EVENT OF DEFAULT AND THE LOAN SHALL IMMEDIATELY BECOME DUE AND PAYABLE. CONSENT TO ONE (1) FURTHER ENCUMBRANCE SHALL NOT BE DEEMED TO BE A WAIVER OF THE RIGHT TO REQUIRE SUCH CONSENT TO FUTURE OR SUCCESSIVE ENCUMBRANCES.

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IN WITNESS WHEREOF, each of the parties hereto has executed this Deed of Trust as of the date first above written.

**TRUSTOR**

SLS INDUSTRIAL PORTFOLIO OWNER SLCP,  
LLC, a Delaware limited liability company

By: 

Name: William R. Lindsay

Its: Authorized Signatory

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )

COUNTY OF Los Angeles

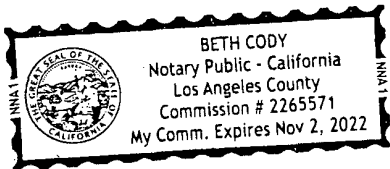
On 10/26, 2020 before me, Beth Cody, Notary Public  
*(Here Insert Name and Title of the Officer)*

personally appeared William R. Lindsay  
*Name(s) of Signer(s)*

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Beth Cody  
*Signature of Notary Public*

**Place Notary Seal Above**

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

THE LAND REFERRED TO HEREIN IS SITUATED IN SALT LAKE COUNTY, UTAH, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

ALL OF LOT 1B, SECOND AMENDED LOT 1, PHASE II, CENTENNIAL INDUSTRIAL PARK, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

PARCEL 1A:

TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS AS ESTABLISHED AND DESCRIBED ON THAT CERTAIN CENTENNIAL INDUSTRIAL PARK PHASE II, 2ND AMENDED LOT 1 PLAT, RECORDED OCTOBER 20, 1995 AS ENTRY NO. 6194444 IN BOOK 95-10P OF PLATS AT PAGE 282.

PARCEL 2:

LOT 1C, CENTENNIAL INDUSTRIAL PARK PHASE II, 2ND AMENDED LOT 1, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

PARCEL 2A:

TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS AS ESTABLISHED AND DESCRIBED ON THAT CERTAIN CENTENNIAL INDUSTRIAL PARK PHASE II, 2ND AMENDED LOT 1 PLAT, RECORDED OCTOBER 20, 1995 AS ENTRY NO. 6194444 IN BOOK 95-10P OF PLATS AT PAGE 282.

PARCEL 3:

LOT 1A, AMENDED LOT 1, PHASE III, CENTENNIAL INDUSTRIAL PARK, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

PARCEL 3A:

TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS AS ESTABLISHED AND DESCRIBED ON THAT CERTAIN OFFICIAL PLAT OF AMENDED LOT 1, PHASE III, CENTENNIAL INDUSTRIAL PARK RECORDED MARCH 13, 1995 AS ENTRY NO. 6038846 OF OFFICIAL RECORDS.

PARCEL 4:

LOT 1B, AMENDED LOT 1, PHASE III, CENTENNIAL INDUSTRIAL PARK, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

PARCEL 4A:

TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS AS ESTABLISHED AND DESCRIBED ON THAT CERTAIN OFFICIAL PLAT OF AMENDED LOT 1, PHASE III, CENTENNIAL INDUSTRIAL PARK RECORDED MARCH 13, 1995 AS ENTRY NO. 6038846 OF OFFICIAL RECORDS.

PARCEL 5:

ALL OF LOT 1C, AMENDED LOT 1, PHASE III, CENTENNIAL INDUSTRIAL PARK, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER.

PARCEL 5A:

TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS AS ESTABLISHED AND DESCRIBED ON THAT CERTAIN PLAT OF AMENDED LOT 1, PHASE III, CENTENNIAL INDUSTRIAL PARK, RECORDED MARCH 13, 1995 AS ENTRY NO. 6038846 IN BOOK 95-3P OF PLATS AT PAGE 57.

**EXHIBIT "B"**  
**DESCRIPTION OF PERSONAL PROPERTY FOR FIXTURE FILING**

1. **REAL PROPERTY RIGHTS, APPURTENANCES AND IMPROVEMENTS.** All present and future structures, buildings, improvements and fixtures of any kind on the real property described in the attached Exhibit "A" ("**Real Property**"), which is incorporated herein by this reference, as well as:

1.1 all appurtenances of the Real Property and all rights in and to any streets, roads or public places, easements or rights of way, relating to the Real Property, and all minerals, oil, gas and other hydrocarbon substances on or under the surface of the Real Property, as well as all development rights, permits, licenses, air rights, water and water rights relating to the Real Property (including without limitation all water ditches and ditch rights, pipelines, reservoirs and storage rights, wells and well rights, springs and spring rights, groundwater rights (whether tributary, non-tributary or not non-tributary), water contracts, water allotments, water taps, shares in ditch or reservoir companies, and all other rights of any kind or nature in or to the use of water, which are appurtenant to, historically used on or in connection with, or located on or under the Land, together with any and all easements, rights of way, fixtures, personal property, contract rights, permits or decrees associated with or used in connection with any such rights), and all existing and future goods and tangible personal property located on the Real Property or wherever located and used or useable in connection with the use, operation or occupancy of the Real Property or in construction of any improvements thereon, including, but not limited to, apparatus, equipment and appliances used to supply air cooling, air conditioning, heat, gas, water, light, power, refrigeration, ventilation, laundry, drying, dishwashing, garbage disposal, waste removal, recreation or other services on the Real Property; and

1.2 all elevators, escalators, and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, partitions, ducts, compressors, plumbing, ovens, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, pools and spas and pool and spa operation and maintenance equipment and apparatus; and

1.3 all trees and plants located on the Real Property, and all renewals or replacements thereof or articles in substitution thereof; it being intended and agreed that all such items will be conclusively considered to be part of the Real Property, whether or not attached or affixed to the Real Property ("**Improvements**").

2. **COLLATERAL.** All right, title and interest in and to the following described property and any and all products and proceeds thereof, now owned or hereafter acquired (sometimes all of such being collectively referred to herein as the "**Collateral**"):

2.1 **General Intangibles.** All general intangibles relating to design, development, operation, management and use of the Real Property and construction of the Improvements, including, but not limited to:

2.1.1 all names under which or by which the Real Property or the Improvements may at any time be operated or known, all rights to carry on business under any such names or any variants thereof, and all goodwill in any way relating to the Real Property;

2.1.2 all permits, licenses, authorizations, variances, land use entitlements, approvals and consents issued or obtained in connection with the construction, maintenance or operation of the Improvements;

**2.1.3** all permits, licenses, approvals, consents, authorizations, franchises and agreements issued or obtained in connection with the use, occupancy or operation of the Real Property;

**2.1.4** all rights as a declarant (or its equivalent) under any covenants, conditions and restrictions or other matters of record affecting the Real Property;

**2.1.5** all materials prepared for filing or filed with any governmental agency;

**2.1.6** all rights under any contract in connection with the development, design, use, operation, management and construction of the Real Property and/or the Improvements; and

**2.1.7** all books and records prepared and kept in connection with the acquisition, construction, operation and occupancy of the Real Property and the Improvements;

**2.2** **Contracts.** All construction, service, management, engineering, consulting, leasing, architectural, design, landscape and other similar contracts of any nature, as such may be modified, amended or supplemented from time to time, concerning the design, construction, management, operation, occupancy, use, and/or disposition of any portion of or all of the Real Property;

**2.3** **Plans and Reports.** All architectural, design and engineering drawings, plans, specifications, working drawings, shop drawings, general conditions, addenda, soil tests and reports, feasibility studies, appraisals, engineering reports, environmental reports and similar materials relating to any portion of or all of the Real Property and/or the Improvements and all modifications, supplements and amendments thereto;

**2.4** **Sureties.** All payment and performance bonds or guarantees, and any and all modifications and extensions thereof relating to the Real Property and/or the Improvements;

**2.5** **Payments.** All reserves, deferred payments, deposits, refunds, cost savings, letters of credit and payments of any kind relating to the construction, design, development, operation, occupancy, use and disposition of all or any portion of the Real Property and/or the Improvements, including, without limitation, any property tax rebates now owing or hereafter payable;

**2.6** **Loan Proceeds.** All proceeds of the loan secured hereby;

**2.7** **Claims.** All proceeds and any claims arising on account of any damage to or taking of the Real Property and/or the Improvements or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Real Property and/or the Improvements;

**2.8** **Insurance.** All policies of, and proceeds resulting from, insurance relating to the Real Property, Improvements or any of the Collateral, and any and all riders, amendments, renewals, supplements or extensions thereof, and all proceeds thereof;

**2.9** **Deposits.** All deposits made with or other security given to utility companies with respect to the Real Property and/or the Improvements, and all advance payments of insurance premiums made with respect thereto and claims or demands relating to insurance and all deposit accounts wherever located;

**2.10** **Stock.** All shares of stock or other evidence of ownership of any part of the Real Property that are owned in common with others, including all water stock relating to the Real Property, if any, and all documents or rights of membership in any owners' or members' association

or similar group having responsibility for managing or operating any part of the Real Property and/or the Improvements;

**2.11 Sale Contracts.** All sales contracts, escrow agreements and broker's agreements concerning the sale of any or all of the Real Property and/or the Improvements, and all amendments thereto; and

**2.12 Income.** All income, rents, revenues, issues, deposits, receipts, profits and proceeds, and accounts receivable generated from the use and operation, of the Real Property, the Improvements and the Collateral to which Trustor may be entitled, whether now due, past due or to become due including, without limiting the above items, all "Goods", "Accounts", "Documents", "Instruments", "Money", "Chattel Paper" and "General Intangibles", as those terms are defined in the California Commercial Code from time to time in effect.

ATTENTION: COUNTY CLERK/RECORDER — THIS INSTRUMENT COVERS GOODS THAT ARE OR ARE TO BECOME FIXTURES ON THE REAL PROPERTY DESCRIBED HEREIN AND IS TO BE FILED FOR RECORD IN THE RECORDS WHERE DEEDS OF TRUST AND MORTGAGES ON REAL ESTATE ARE RECORDED.

ADDITIONALLY, THIS INSTRUMENT SHOULD BE APPROPRIATELY INDEXED, NOT ONLY AS A DEED OF TRUST OR MORTGAGE, BUT ALSO AS A FINANCING STATEMENT COVERING GOODS THAT ARE OR ARE TO BECOME FIXTURES ON THE REAL PROPERTY DESCRIBED HEREIN. THE MAILING ADDRESSES OF THE TRUSTOR (DEBTOR) AND BENEFICIARY (SECURED PARTY) ARE SET FORTH IN THIS INSTRUMENT.