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AND WHEN RECORDED MAIL TO:

Morrison & Foerster LLP
250 West 55th Street
New York, NY 10019
Attn: Keith M. Print, Esq.

TAX PARCEL #(s): 15-08-177-001-0000 AND 15-08-177-002-0000

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

made by

FINLAYSON LOGISTICS ASSETS LLC,
a Delaware limited liability company
(Trustor)

to

FIRST AMERICAN TITLE INSURANCE COMPANY
(Trustee)

for the benefit of

STANDARD CHARTERED BANK, AS ADMINISTRATIVE AGENT
(Beneficiary)

Dated: As of March 28, 2024

This document serves as a Fixture Filing under the Utah Uniform Commercial Code.

Trustor is the record owner of the Property.

Property: 955 South 3800 West, Salt Lake City, UT 84116

Trustor's Organizational Identification Number is 6727129.

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- Exhibit A - Description of Land
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DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT, AND FIXTURE FILING

THIS DEED OF TRUST CONSTITUTES A SECURITY AGREEMENT, AND IS FILED AS A FIXTURE FILING, WITH RESPECT TO ANY PORTION OF THE TRUST ESTATE IN WHICH A PERSONAL PROPERTY SECURITY INTEREST OR LIEN MAY BE GRANTED OR CREATED PURSUANT TO THE UTAH UNIFORM COMMERCIAL CODE OR UNDER COMMON LAW, AND AS TO ALL REPLACEMENTS, SUBSTITUTIONS, AND ADDITIONS TO SUCH PROPERTY AND THE PROCEEDS THEREOF. FOR PURPOSES OF THE SECURITY INTEREST OR LIEN CREATED HEREBY, BENEFICIARY IS THE “SECURED PARTY” AND TRUSTOR IS THE “DEBTOR.” TRUSTOR IS THE OWNER OF THE TRUST ESTATE DESCRIBED HEREIN.

THIS **DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING** (this “Deed of Trust”) is made as of March 28, 2024 by FINLAYSON LOGISTICS ASSETS LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware and having an office at 5 Bryant Park, 28th Floor, New York, New York 10018 (“Trustor”), as trustor, to FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation, having an office at 215 South State Street, Suite 380, Salt Lake City, Utah 84111 (“Trustee”), as trustee, for the benefit of STANDARD CHARTERED BANK, incorporated in England with limited liability by Royal Charter 1853 of 1 Basinghall Avenue, London EC2V 5DD, having an office at 1095 Avenue of the Americas, New York, New York 10036, as administrative agent for the Secured Parties referred to below (in such capacity, together with its successors and permitted assigns in such capacity, “Administrative Agent” or “Beneficiary”), as beneficiary.

W I T N E S S E T H:

WHEREAS, Trustor is the fee owner of that certain tract of land located in the County of Salt Lake, State of Utah and being more fully described in Exhibit A attached hereto (the “Land”).

WHEREAS, Trustor and Anson Logistics Assets LLC, a Delaware limited liability company (each, a “Borrower”, and collectively, jointly and severally, the “Borrowers”), certain lenders (collectively, the “Lenders”) and Administrative Agent are parties to a Loan Agreement dated as of the date hereof (said Loan Agreement, as the same may be modified, amended, amended and restated, supplemented or extended after the date hereof and in effect from time to time, being herein called the “Loan Agreement”; and, except as otherwise herein expressly provided, all terms defined in the Loan Agreement are being used herein as defined therein), which Loan Agreement provides, among other things, for Loans to be made by the Lenders to the Borrowers; such Loans to be evidenced by, and repayable with interest thereon in accordance with, various Notes to be executed and delivered to the respective order of the Lenders;

WHEREAS, in connection with the Loans, one or more Borrowers have entered into Hedge Agreements (Secured) with one or more Hedge Agreement Counterparties (Secured).

Each Hedge Agreement Counterparty (Secured), Administrative Agent and each Lender, together with their respective successors and permitted assigns, are, collectively, the “Secured Parties”;

WHEREAS, it is a condition to the obligation of the Lenders to extend credit to Borrowers pursuant to the Loan Agreement that Trustor execute and deliver this Deed of Trust as one of the Mortgages defined in the Loan Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into the operative provisions of this Deed of Trust by this reference, and for other good and valuable consideration, the receipt and adequacy of which are hereby conclusively acknowledged,

To secure (i) the payment of the aggregate principal balance of the Loans, in lawful money of the United States of America to be paid with interest according to the Notes, and (ii) the payment and performance of all Hedge Obligations (Secured), as additional interest, and (iii) the payment and performance of all other Obligations (defined below) of Trustor, Trustor has mortgaged, given, granted, bargained, sold, alienated, conveyed, confirmed, pledged, assigned and hypothecated and by these presents does hereby transfer, mortgage, give, grant, bargain, sell, alienate, convey, confirm, pledge, assign and hypothecate unto Trustee, and Trustee’s successors and assigns, in trust, with power of sale and right of entry and possession, for the benefit of Beneficiary, all right, title, interest and estate of Trustor, now owned, or hereafter acquired, in and to the following property, rights and interests (such property, rights and interests being collectively referred to herein as the “Trust Estate”), subject only to the Permitted Encumbrances (as defined below):

(a) the Land;

(b) any and all buildings, constructions and improvements now or hereafter erected or located in or on the Land or any portion thereof, including all Equipment (defined below) and other articles now or hereafter attached or affixed thereto or located thereon and owned or ground leased by Trustor, together with all appurtenances and additions thereto and betterments, renewals, substitutions and replacements thereof (collectively, the “Improvements”), all of which shall be deemed and construed to be part of the realty;

(c) all of the estate, rights, title, interest, claims or demands of any nature whatsoever of Trustor, whether in law or in equity, in possession or expectancy, in and to the Trust Estate or any part thereof;

(d) all easements, streets, rights-of-way, strips and gores of land, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments, and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Trust Estate (including any and all development rights, air rights, signage rights, rights under trackage agreements, mineral, mining, oil and gas rights and rights to produce or share in the production of anything related thereto and similar or comparable rights of any nature whatsoever now or hereafter appurtenant to the Premises (defined below) or now or hereafter transferred to the Premises) and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Premises to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy property, possessions,

claims and demands whatsoever, both at law and in equity, of Trustor of, in and to the Trust Estate, and every part and parcel thereof, with the appurtenances thereto (collectively, the “Appurtenances”; the Land, the Improvements and the Appurtenances being referred to herein, collectively, as the “Premises”);

(e) all machinery, apparatus, equipment, fittings and other property of every kind and nature whatsoever owned or leased by Trustor, or in which Trustor has or shall have an interest, now or hereafter located upon the Trust Estate, or appurtenant thereto, or useable in connection with the present or future operation and occupancy of the Trust Estate and all building equipment, materials and supplies of any nature whatsoever owned by Trustor, or in which Trustor has or shall have an interest, now or hereafter located upon the Trust Estate, including all such items that do not constitute personal property under the laws of the State of Utah (herein collectively referred to as the “Equipment”), and the right, title and interest of Trustor in and to any of the Equipment that may be subject to any security agreements (as defined in the Uniform Commercial Code of the State of Utah (the “Uniform Commercial Code”)), superior or inferior or pari passu in lien to the lien of this Deed of Trust;

(f) all awards or payments, including interest thereon, and the right to receive the same, which may heretofore or hereafter be made with respect to the whole or part of the Trust Estate, whether from the exercise of the right of eminent domain (including any proceeding or transfer in lieu of or in anticipation of the exercise of such right), or for any other injury to or decrease in the value of the Trust Estate, including any award resulting from a change of any streets (whether as to grade, access or otherwise) and any award for severance damages;

(g) all tax refunds, including interest thereon, and tax abatements, and the right to receive the same, which may be payable or available with respect to the Trust Estate;

(h) all leasehold estates, leases, ground leases, subleases, licenses, concessionaire agreements, bailments or other agreements affecting the use, enjoyment or occupancy of the Trust Estate or any portion thereof now or hereafter existing or entered into (including any use or occupancy arrangements created pursuant to Section 365(d) of Title 11 of the United States Code (the “Bankruptcy Code”) or otherwise in connection with the commencement or continuance of any bankruptcy, reorganization, arrangement, insolvency, dissolution, receivership or similar proceedings, or any assignment for the benefit of creditors, in respect of any tenant or occupant of any portion of the Trust Estate (a “Tenant”) and all extensions, amendments and modifications thereto heretofore or hereafter entered into (collectively, the “Leases”), and all right, title and interest of Trustor thereunder, including all guaranties thereof;

(i) all rents, (including, without limitation, “Rents” as defined in the Utah Uniform Assignment of Rents Act, Utah Code Annotated, § 57-26-101 et seq. (the “Utah Rents Act”)) issues, profits, royalties, use and occupancy charges (including all oil and gas or other mineral royalties and bonuses), income and other benefits now or hereafter derived from any portion of the Trust Estate or the use or occupancy thereof (including any payments received pursuant to Section 502(b) of the Bankruptcy Code or otherwise in connection with the commencement or continuance of any bankruptcy, reorganization, arrangement, insolvency, dissolution, receivership or similar proceedings, or any assignment for the benefit of creditors, in respect of any Tenant of any portion of the Trust Estate and all claims as a creditor in connection with any of the foregoing) and all cash or

security deposits, advance rentals, and all deposits or payments of a similar nature relating thereto (collectively, the “Rents”);

(j) all proceeds of and any unearned premiums on any insurance policies that may now or hereafter cover the Trust Estate, including the right to receive and apply the proceeds of any insurance, judgments or settlements made in lieu thereof, for damage to the Trust Estate;

(k) all right, title and interest of Trustor in, to and under all plans, specifications, maps, surveys, studies, reports, permits, licenses, architectural, engineering and construction contracts, books of account, insurance policies and other documents, of whatever kind or character, relating to the use, development, construction upon, occupancy, leasing, sale or operation of the Trust Estate;

(l) all the fixtures (including all heating, air conditioning, plumbing, lighting, communications and elevator fixtures) and, to the extent the same constitutes an interest in real property, all of the property described in Exhibit B attached hereto, now owned or hereafter acquired by Trustor, and all appurtenances and additions thereto and betterments, renewals, substitutions and replacements thereof (collectively, the “Fixtures”); and, if the lien and security interest of this Deed of Trust is subject to any security interest in such property, all right, title and interest of Trustor now owned or hereafter arising in and to any and all such property is hereby assigned to Trustee, together with the benefits of all deposits and payments now or hereafter made thereon by or on behalf of Trustor;

(m) all right, title and interest now owned or hereafter acquired by Trustor in and to all options to purchase or ground lease the Trust Estate or any portion thereof or interest therein, and in and to any greater estate in the Premises or any other Trust Estate; and

(n) the right, in the name and on behalf of Trustor, to appear in and defend any action or proceeding brought with respect to the Trust Estate, and to commence any action or proceeding to protect the interest of Trustee, Beneficiary and the Secured Parties in the Trust Estate.

As used herein, “Permitted Encumbrances” means the outstanding liens, easements, restrictions, security interests and other exceptions to title set forth in the policy of title insurance insuring the lien of this Deed of Trust, in each case of the foregoing, as of the date hereof (other than any mechanic’s lien exception set forth in such policy of title insurance), together with the liens and security interests in favor of Beneficiary created by the Loan Documents and any other liens expressly permitted by the Loan Agreement.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR HEREBY COVENANTS AND AGREES WITH BENEFICIARY AND THE SECURED PARTIES AS FOLLOWS:

ARTICLE 1

OBLIGATIONS

Section 1.01 Obligations. This Deed of Trust is executed, acknowledged and delivered by Trustor to secure the payment and performance of the following obligations (collectively, the "Obligations"), subject to the limitations set forth in Section 1.02 hereof:

(a) Payment of (i) the aggregate principal balance of, and all accrued and unpaid interest on, the Loans from time to time (ii) all other indebtedness, liabilities, obligations and covenants of any Borrower owing to Administrative Agent or any Lender of every kind, nature and description, under or in respect of this Deed of Trust or any of the other Loan Documents, including fees and indemnification obligations, whether direct or indirect, absolute or contingent, due or not due, contractual or tortious, liquidated or unliquidated, and whether or not evidenced by any promissory note, and (iii) as additional interest, all Hedge Obligations (Secured);

(b) Full and prompt performance of every obligation, covenant and agreement of the Borrowers arising under or in connection with the Loan Documents and each Hedge Agreement (Secured) at the time and in the manner provided therein for such performance;

(c) Payment of all other indebtedness and liabilities and performance of all other obligations of any Borrower to Beneficiary and/or the Secured Parties arising pursuant to or in connection with this Deed of Trust or any other Loan Document or any Hedge Agreement (Secured); and

(d) All renewals, extensions, amendments, modifications, consolidations and changes of, or substitutions or replacements for, all or any part of the items described under clauses (a) through (c) above; however evidenced, including, without limitation, (i) modifications of the principal payment dates or interest payment dates or both, as the case may be, deferring or accelerating payment dates wholly or partly or (ii) modifications, extensions or renewals at a different rate of interest, whether or not in the case of a note, the modification, extension or renewal is evidenced by a new or additional promissory note or notes.

Section 1.02 Intentionally Omitted.

Section 1.03 Future Advances. The Beneficiary and/or the other Secured Parties may advance or loan additional sums (herein, "Future Advances") to Trustor or any other Borrower. This Deed of Trust shall secure not only existing indebtedness, but also such Future Advances, with interest thereon as provided in the Loan Agreement, whether such advances are obligatory or to be made at the option of the Beneficiary, the other Secured Parties or otherwise, to the same extent as if such Future Advances were made on the date of execution of this Deed of Trust.

ARTICLE 2

PARTICULAR COVENANTS AND AGREEMENTS OF TRUSTOR

Section 2.01 Payment of Secured Obligations. Trustor shall pay and perform the Obligations in full in accordance with the terms of the Notes, the Loan Agreement and the other Loan Documents and the Hedge Agreements (Secured). All of Trustor's covenants in the Loan Agreement are incorporated by reference herein.

Section 2.02 Title, etc.

(a) Trustor represents and warrants that (i) Trustor is lawfully seized and possessed of good, valid and insurable fee simple title to the Premises and good sufficient and legal title to all other portions of the Trust Estate, in each case subject to no Liens other than Permitted Encumbrances and (ii) it has the full power and lawful authority to grant, bargain, sell, release, convey, warrant, assign, transfer, mortgage, pledge, set over and confirm unto Trustee the Trust Estate as hereinabove provided.

(b) Trustor shall, at Trustor's sole cost and expense, preserve Trustor's title to the Trust Estate and the validity, enforceability and first priority of the lien of this Deed of Trust (subject to the Permitted Encumbrances) and shall forever warrant and defend the same to Trustee and Beneficiary against the claims of each and every Person claiming or threatening to claim the same or any part thereof.

(c) If the Lien or security interest created by this Deed of Trust, or the validity, enforceability or priority thereof or of this Deed of Trust, or if title or any of the rights of Trustor, Trustee, Beneficiary or any other Secured Party in or to the Trust Estate, shall be endangered or questioned, or shall be attacked directly or indirectly, or if any action or proceeding is instituted against Trustor, Trustee or Beneficiary with respect thereto, Trustor will promptly notify Beneficiary thereof and will diligently take such action as may be required to cure any defect that may be developed or claimed, and will take all necessary and proper steps for the defense of such action or proceeding, including the employment of counsel, the prosecution or defense of litigation and (subject to Beneficiary's approval, not to be unreasonably withheld, conditioned or delayed) the release or discharge of any and all adverse claims. During the continuance of an Event of Default, Beneficiary shall have the right to appear in and defend any such actions or proceedings (whether or not originally named as a party to such actions or proceedings) and is hereby authorized and empowered (but shall not be obligated) to take such additional steps as it may deem necessary or proper, in the name and on behalf of Trustor, for the defense of any such action or proceeding or the protection of the lien, security interest, validity, enforceability or priority of this Deed of Trust or of such title or rights, including the employment of counsel, the institution, prosecution or defense of litigation, the compromise, release or discharge of such adverse claims, the purchase of any tax title and the removal of such prior liens and security interests.

(d) Trustor represents and warrants that certain of the Leases executed prior to the date hereof may contain provisions granting the landlords thereunder the right to subordinate such Leases to any mortgage or deed of trust presently existing or hereafter encumbering the Trust

Estate by so declaring in such mortgage or deed of trust. Accordingly, subject to the rights of Tenants under Leases (including any subordination and non-disturbance agreement between such Tenants and Beneficiary), Trustor acknowledges and agrees that each such Lease is and shall be expressly subject and subordinate at all times to the lien of this Deed of Trust and no further instruments shall be required to effect such subordination.

Section 2.03 Further Assurances; Filing; Re-Filing; etc.

(a) Trustor shall execute, acknowledge and deliver, from time to time, such further instruments as may be reasonably necessary, or that Trustee or Beneficiary may reasonably require to accomplish the purposes of this Deed of Trust.

(b) Trustor, immediately upon the execution and delivery of this Deed of Trust, and thereafter from time to time, shall cause this Deed of Trust, any security agreement or mortgage supplemental hereto and each instrument of further assurance to be executed, acknowledged, filed, registered or recorded and refiled, re-registered or re-recorded in such manner and in such places as may be reasonably required by Trustee or Beneficiary or by any present or future law in order to publish notice of and perfect the lien and estate of this Deed of Trust upon, and security interest in, the Trust Estate.

(c) Trustor shall pay all filing, registration and recording fees, all refiling, re-registration and re-recording fees, and all expenses incident to the execution, filing, recording and acknowledgment of this Deed of Trust, any security agreement or mortgage supplemental hereto and any instrument of further assurance, and all Federal, state, county and municipal stamp taxes, mortgage taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery, filing and recording, as applicable, of this Deed of Trust, the Loan Agreement or any of the other Loan Documents, any security agreement or mortgage supplemental hereto or any instruments of further assurance.

Section 2.04 Liens. Trustor shall not create or suffer to be created any Lien upon the Trust Estate prior to, on a parity with, or subordinate to the lien of this Deed of Trust, or permit any transfers in violation of Section 9.1 of the Loan Agreement, other than Permitted Encumbrances or as otherwise expressly permitted by the Loan Agreement.

Section 2.05 Insurance. Trustor shall cause the Trust Estate to be insured in the manner and to the extent required by Section 3.1 of the Loan Agreement.

Section 2.06 Impositions. Trustor shall pay or cause to be paid, before any fine, penalty, interest or cost attaches thereto, all Real Estate Taxes and Other Charges relating to the Trust Estate in accordance with Section 9.2 of the Loan Agreement (including Trustor's right to contest the same in accordance with Section 9.2 of the Loan Agreement).

Section 2.07 Maintenance of the Improvements and Equipment. Trustor shall (i) not permit the Improvements or Fixtures to be removed, demolished or altered except in accordance with the provisions of Sections 9.4 and 9.14 of the Loan Agreement; (ii) maintain the Trust Estate in accordance with Section 9.4 of the Loan Agreement; and (iii) restore and repair the Improvements and Equipment or any part thereof now or hereafter affected by any Casualty or Condemnation in accordance with Sections 3.2 and 3.3 of the Loan Agreement.

Section 2.08 Compliance With Laws. Trustor covenants and agrees to comply with all applicable laws, including, without limitation, Environmental Laws, in accordance with Article 5 of the Loan Agreement and the Environmental Indemnity (subject to Trustor's right to contest the same in accordance with Section 9.4 of the Loan Agreement).

Section 2.09 Actions to Protect Trust Estate. If an Event of Default exists and Beneficiary is exercising its remedies hereunder or in accordance with Section 11.3 of the Loan Agreement, to the maximum extent permitted by law, all sums, including reasonable attorneys' fees and disbursements, so expended or expended to sustain the lien or estate of this Deed of Trust or its priority, or to protect or enforce any of the rights hereunder, or to recover any of the Obligations, shall be a lien on the Trust Estate, and shall be deemed to be added to the Obligations secured hereby, and shall be paid by Trustor within ten (10) days after demand therefor (unless a longer time period is afforded in such circumstances under the Loan Agreement), together with interest thereon at the Default Rate. Trustor expressly grants to Beneficiary, during the continuance of an Event of Default, the right to appear in, defend or bring any action or proceeding to protect Trustee's, Beneficiary's and the other Secured Parties' interests in the Trust Estate or, during the continuance of an Event of Default, to cause Trustee to execute the power of sale, or foreclose, under this Deed of Trust or collect the Obligations, and Trustor hereby irrevocably appoints and constitutes Beneficiary as Trustor's lawful attorney-in-fact, coupled with an interest and with full power of substitution, for such purposes and the taking of all acts incidental thereto.

Section 2.10 Limitations of Use. Trustor shall use the Trust Estate in accordance with Section 7.17 of the Loan Agreement and shall not seek, consent to, or change any zoning related to the Trust Estate in violation of Section 9.18 of the Loan Agreement.

Section 2.11 Insurance and Condemnation Proceeds. Trustor assigns as security for the Obligations, all insurance proceeds and Awards pertaining to the Trust Estate to the Administrative Agent on behalf of the Secured Parties. Any such insurance proceeds or Awards shall be held and applied by Trustor and Beneficiary in accordance with Article 3 of the Loan Agreement.

Section 2.12 Reserves and Security Accounts. Trustor hereby acknowledges and agrees to comply with each of the covenants, agreements and conditions set forth in Article 4 of the Loan Agreement to the extent applicable to Trustor, and the provisions thereof shall be deemed incorporated herein *mutatis mutandis*, including without limitation, the grant of a perfected first priority security interest in favor of Administrative Agent for the ratable benefit of the Secured Parties and each Hedge Agreement Counterparty (Secured) in each Deposit Account established by Trustor, and all other Deposit Account Collateral relating thereto, in each case as described in said Article 4.

Section 2.13 Inspections. Trustor shall permit Trustee, Beneficiary and each other Secured Party, and their agents, representatives and employees, to inspect the Trust Estate as provided in Section 9.4 of the Loan Agreement.

ARTICLE 3

ASSIGNMENT OF LEASES AND RENTS

Section 3.01 Assignment of Rents, Issues and Profits.

(a) As additional security for the payment and performance of the Obligations, Trustor hereby collaterally assigns to Beneficiary and grants Beneficiary a security interest in the Rents and Leases and other documents or instruments evidencing the Rents now or hereafter in effect and any and all deposits or letters of credit held as security under the Leases. Nothing contained in the foregoing sentence shall be construed to bind Beneficiary to the performance of any of the covenants, conditions or provisions contained in any such Lease or other document or otherwise to impose any obligation on Beneficiary (including any liability under the covenant of quiet enjoyment contained in any Lease), except that Beneficiary shall be accountable for any money or security actually received pursuant to such assignment. To the fullest extent permitted by applicable law, such collateral assignment and security interest shall continue in effect until the Obligations have been indefeasibly paid in full and the Commitments have been terminated, the execution of this Deed of Trust constituting and evidencing the irrevocable consent of Trustor, while an Event of Default exists, to the entry upon and taking possession of the Trust Estate by Beneficiary and the exercise by Beneficiary of the rights and powers granted pursuant hereto, including, without limitation, those set forth in clauses (i) through (vii) below, regardless of whether foreclosure has been instituted and without applying for a receiver. Such assignment shall include, without limitation:

(i) the immediate and continuing right to receive and collect all amounts payable by all Tenants, including without limitation (A) all Rents, (B) all damages or other amounts payable in the event of any expiration or termination of any Lease pursuant to the terms thereof, by operation of law or otherwise, (C) any indemnification against, or reimbursement for, sums paid and costs and expenses incurred by Trustor under any Lease or otherwise, (D) any award in the event of the bankruptcy of any Tenant or guarantor of a Lease, and (E) all security deposits, other security instruments, other deposits or prepayments with respect to any such Leases;

(ii) all claims, rights, powers, privileges and remedies of Trustor, whether provided for in any Lease or arising by statute or at law or in equity or otherwise, consequent on any failure on the part of any Tenant to perform or comply with any term of any Lease;

(iii) all right to take all action upon the happening of a default under any Lease as shall be permitted by any Lease or by law, including, without limitation, the commencement, conduct and consummation of proceedings at law or in equity;

(iv) the full power and authority, in the name of Trustor, or otherwise, to enforce, collect, receive and make receipt for any and all of the foregoing and to do any and all other acts and things whatsoever which Trustor, or any landlord is or may be entitled to do under any Lease;

(v) the full power and authority, in the name of Trustor, or otherwise, to enforce any Lease;

(vi) the full power and authority, in the name of Trustor, or otherwise, to lease the Trust Estate; and

(vii) the right to apply the Rents to the payment of the Obligations in accordance with the Loan Agreement.

(b) During the term hereof, all rights, powers and privileges of Beneficiary herein set forth are coupled with an interest and are irrevocable, subject to the terms and conditions hereof, and Trustor will not take any action under any Lease or otherwise which is inconsistent with this Deed of Trust or the Loan Agreement or any of the terms hereof or thereof and any such action inconsistent herewith or therewith shall, to the fullest extent permitted by applicable law, be void. Any further assignment of any rents, issues, or profits from the Trust Estate shall to the fullest extent permitted by law be void. To the fullest extent permitted by applicable law, Trustor hereby waives any requirement that Beneficiary commence any foreclosure proceeding with respect to any or all of the Trust Estate prior to enforcement of any remedies pursuant to this Article 3, including the right to commence and prosecute an action to appoint a receiver for rents and all other amounts due under any Leases. Trustor will, from time to time, upon request of Beneficiary, execute all instruments and further assurances and all supplemental instruments and take all such action as Beneficiary from time to time may reasonably request in order to perfect, preserve and protect the interests intended to be assigned to Beneficiary hereby, so long as such actions or instruments do not increase the obligations or liabilities or decrease the rights of any Borrower Party hereunder or under the other Loan Documents other than to a *de minimis* extent.

Section 3.02 Grant of Collection Right; Revocation. Unless an Event of Default exists, Beneficiary waives its rights under Section 3.01(a) and (b) above, and grants Trustor the right to collect the Rents and enforce the rights and powers enumerated in clauses (i) through (vii) of Section 3.01(a). Such right to collect and receive the Rents and enforce such rights and powers shall be automatically revoked and the rights of Trustor thereunder shall automatically cease and terminate while an Event of Default exists under this Deed of Trust. In such event, (i) Trustor hereby authorizes Beneficiary to receive and collect the Rents due under the terms of each Lease and to direct any Tenant, by written notice from Beneficiary or otherwise, to forward such Rents by mail or in person to Beneficiary and (ii) Trustor shall immediately pay to Beneficiary any Rents held by or under the control of Trustor. Trustor hereby irrevocably appoints and constitutes Beneficiary as Trustor's lawful attorney-in-fact, coupled with an interest and with full power of substitution, for the purpose of taking any of the actions described in the immediately preceding sentence and all acts incidental thereto, which appointment shall be effective upon the occurrence and during the continuance of an Event of Default. Following the revocation of the right herein granted, Beneficiary may retain and apply the Rents toward payment of the Obligations in such order, priority and proportions as Beneficiary, in its discretion, shall deem proper, or to the operation, maintenance and repair of the Trust Estate, and irrespective of whether Beneficiary shall have commenced a foreclosure of this Deed of Trust or shall have applied or arranged for the appointment of a receiver with respect thereto.

Section 3.03 Direction to Tenants. Trustor hereby irrevocably authorizes and directs each Tenant of the Trust Estate, upon receipt of notice from Beneficiary of an Event of Default, to pay all Rents due or to become due under its Lease directly to Beneficiary or to any appointed receiver of the Trust Estate. Each such Tenant shall have the right to rely upon any such notice of Beneficiary directing the payment of all Rents to Beneficiary, without any obligation to inquire as to the actual existence of the Event of Default, notwithstanding any claim of Trustor to the contrary and Trustor shall have no rights or claims against any Tenant for any Rents so paid to Beneficiary. Trustor shall facilitate, in all reasonable ways, the collection of the Rents by Beneficiary and will, upon request by Beneficiary, execute a written notice to each Tenant directing the Tenant to pay the Rents payable under such Tenant's respective Lease to Beneficiary. Each Tenant is hereby expressly authorized and directed, upon demand by Beneficiary and without the necessity of any further consent by, or notice from, Trustor, to attorn to Beneficiary as the owner of the Leases and to pay any and all Rents due to Trustor pursuant to such Tenant's Lease directly to Beneficiary or to any appointed receiver, and to observe and perform such Tenant's obligations under the Tenant's Lease to or for Beneficiary and to accept performance of the landlord's obligations under the Lease from Beneficiary. Each Tenant is hereby expressly relieved of any and all duty, liability or obligation to Trustor in respect of all payments so made. The payment of Rents to Beneficiary pursuant to Beneficiary's demand 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 any of the provisions of any such Lease and shall not relieve Trustor of its obligations thereunder.

ARTICLE 4

SECURITY AGREEMENT; FIXTURE FILING

Section 4.01 Creation of Security Interest. This Deed of Trust constitutes both a real property mortgage and a "security agreement", within the meaning of the Uniform Commercial Code. The Trust Estate includes both real and personal property and all other rights and interest, whether tangible or intangible in nature, of Trustor in the Trust Estate whether now or hereafter existing. Trustor by executing and delivering this Deed of Trust has granted and hereby grants to Beneficiary, as security for the Obligations, a security interest in all of Trustor's right, title and interest in and to (a) the portion of the Trust Estate constituting personal property, and (b) the personal property identified on Exhibit B attached hereto, whether now or hereafter existing, in each case to the fullest extent that the same may be subject to the Uniform Commercial Code (all of such personal property so subject to the Uniform Commercial Code, the "Personal Property Collateral"). Trustor hereby authorizes Beneficiary to file a UCC financing statement in the office of the Secretary of State of Delaware and each other jurisdiction deemed appropriate by Beneficiary, naming Trustor as the debtor and Beneficiary as the secured party, which describes the collateral named therein as "all assets" of Trustor whether now owned or hereafter acquired, or words of similar effect. If an Event of Default shall exist, (i) Beneficiary, in addition to any other rights and remedies that it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including the right to take possession of the Personal Property Collateral, or any part thereof, and to take such other measures as Beneficiary may deem necessary for the care, protection and preservation of the Personal Property Collateral and (ii) upon request or demand of

Beneficiary, Trustor shall, at Trustor's sole expense, assemble the Personal Property Collateral and make it available to Beneficiary at a convenient place acceptable to Beneficiary. Trustor shall pay to Beneficiary on demand any and all expenses, including reasonable attorneys' fees, costs and disbursements, incurred or paid by Beneficiary in protecting its interest in the Personal Property Collateral and in enforcing its rights hereunder with respect to the Personal Property Collateral. Any notice of sale, disposition or other intended action by Beneficiary with respect to the Personal Property Collateral sent to Trustor in accordance with the provisions of this Deed of Trust at least ten (10) Business Days prior to such sale, disposition or other action, shall constitute reasonable notice to Trustor, and the method of sale or disposition or other intended action set forth or specified in such notice shall conclusively be deemed to be commercially reasonable within the meaning of the Uniform Commercial Code unless objected to by Trustor within three (3) Business Days after such notice. The proceeds of any sale or disposition of the Personal Property Collateral, or any part thereof, may be applied by Beneficiary to the payment of the Obligations in such priority and proportions in accordance with the Loan Agreement.

Section 4.02 Continuation Statements; Amendments. Trustor hereby authorizes Beneficiary to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Personal Property Collateral without the signature of Trustor where permitted by applicable law.

Section 4.03 Fixture Filing. This Deed of Trust shall also constitute a "fixture filing" filed as a fixture filing in the Official Records of the County Recorder of the county in which the Trust Estate is located for the purposes of the Uniform Commercial Code against all of the Trust Estate which is or is to become fixtures. Information concerning the security interest herein granted may be obtained at the addresses of Debtor (Trustor) and Secured Party (Beneficiary) as set forth in the first paragraph of this Deed of Trust. Trustor's organizational ID number is: DE 6727129.

ARTICLE 5

DEFAULTS; REMEDIES

Section 5.01 Events of Default. If any Event of Default (herein, an "Event of Default") under the Loan Agreement shall occur and be continuing then, as more particularly provided in the Loan Agreement, the unpaid principal of and accrued interest on the Notes and all other Obligations may be declared, or may become, due and payable, without presentment, demand, protest or other formalities of any kind, all of which have been waived pursuant to the Loan Agreement.

Section 5.02 Remedies. If an Event of Default shall have occurred and be continuing, this Deed of Trust may, to the maximum extent permitted by law, be enforced, and Beneficiary may exercise any right, power or remedy permitted to it hereunder, under the Loan Agreement or under any of the other Loan Documents or by law, and, without limiting the generality of the foregoing, Beneficiary may, personally or by its agents, exercise any or all of the following rights to the maximum extent permitted by law:

(a) Subject to any applicable provisions of the Loan Documents and any Hedge Agreement (Secured), Beneficiary may declare all or any portion of the unpaid principal balance under the Notes, together with all accrued and unpaid interest thereon, and all other unpaid Obligations, to be immediately due and payable;

(b) Subject to the rights of Tenants under Leases, Beneficiary may enter into or upon the Premises, personally or by its agents, nominees or attorneys, and may dispossess Trustor and its agents and servants therefrom, and thereupon Beneficiary at its sole discretion may: (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every portion of the Trust Estate and conduct business thereon, in any case either in the name of Beneficiary or in such other name as Beneficiary shall deem best; (ii) complete any construction with respect to the Trust Estate in such manner and form as Beneficiary deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Trust Estate; (iv) exercise all rights and powers of Trustor with respect to the Trust Estate, whether in the name of Trustor or otherwise, including the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents; and (v) apply the receipts of all such Rents to the payment of the Obligations as provided in the Loan Agreement, after deducting therefrom all expenses (including reasonable attorneys' fees and disbursements) incurred in connection with the aforesaid operations and all amounts necessary to pay the operating costs for the Trust Estate and other charges in connection with the Trust Estate, as well as just and reasonable compensation for the services of Beneficiary, its agents, nominees and attorneys.

(c) Beneficiary, with or without entry, personally or by their agents or attorneys, insofar as applicable, may, to the fullest extent permitted by applicable law, at Beneficiary's election cause Trustee to exercise the power of sale granted by this Deed of Trust and sell the Premises, and all estate, right, title and interest, claim and demand therein, and right of redemption thereof, at public auction to the highest bidder in strict accordance with all notice, advertisement and other applicable laws of the State of Utah and any other remedies permitted by the laws of the State of Utah or as provided in this Deed of Trust or in any other Loan Document. Trustor acknowledges that the power of sale granted in this Deed of Trust may be exercised by Trustee at the direction of Beneficiary without prior judicial hearing. At any such sale by virtue of any judicial proceedings or any other legal right, remedy or recourse, the title to and right of possession of any such property shall pass to the purchaser thereof, and to the fullest extent permitted by law, Trustor shall be completely and irrevocably divested of all of its right, title, interest, claim and demand whatsoever, either at law or in equity, in and to the property sold and such sale shall be a perpetual bar both at law and in equity against Trustor, and against all other Persons claiming or to claim the property sold or any part thereof, by, through or under Trustor. Beneficiary shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including reasonable attorneys' fees, costs of documentary evidence, abstracts and title reports. Trustor agrees that in addition to all other remedies and rights provided for in this Deed of Trust, this Deed of Trust shall be construed to impose and confer upon Trustee and Beneficiary, all rights prescribed in accordance with the laws of the State of Utah. Trustee, at the direction of Beneficiary, shall give notice of sale and shall sell the Premises according to the laws of the State of Utah.

(d) Beneficiary may institute proceedings for the foreclosure of this Deed of Trust against all or any portion of the Trust Estate, in which case the Trust Estate may be sold for cash or upon credit, as an entirety or in parcels or portions.

(e) Subject to Utah Code Annotated § 78B-6-901 and other applicable law, Beneficiary may institute an action, suit or proceeding at law or in equity for the specific performance of any covenant, condition or agreement contained herein or in the Loan Agreement or any other Loan Document, or in aid of the execution of any power granted hereunder or for the enforcement of any other appropriate legal or equitable remedy.

(f) Subject to Utah Code Annotated § 78B-6-901 and other applicable law, to the extent Beneficiary has a claim under the Guaranty of Recourse Obligations, Beneficiary may recover judgment on such Guaranty either before, during or after any proceedings for foreclosure (or partial foreclosure) or enforcement of this Deed of Trust.

(g) Subject to the limitations of applicable law, Beneficiary may, as a matter of right, secure the appointment of a receiver, trustee, liquidator or similar official of the Trust Estate or any portion thereof, and Trustor hereby consents and agrees to such appointment, without notice to Trustor and without regard to the adequacy of the security for the Obligations and without regard to the solvency of Trustor or any other Person liable for the payment of the Obligations, and such receiver or other official shall have all rights and powers permitted by applicable law and such other rights and powers as the court making such appointment may confer, but the appointment of such receiver or other official shall not impair or in any manner prejudice the rights of Beneficiary to receive the Rents with respect to the Trust Estate pursuant to this Deed of Trust.

(h) Intentionally omitted.

(i) Beneficiary shall have all of the rights and remedies with respect to the Personal Property Collateral of a secured party under the Uniform Commercial Code (whether or not said Uniform Commercial Code is in effect in the jurisdiction where the rights and remedies are asserted) and such additional rights and remedies to which a secured party is entitled under applicable law, including, without limitation, the right, to the maximum extent permitted by law, to exercise all voting, consensual and other power of ownership pertaining to the Personal Property Collateral as if Beneficiary were the sole and absolute owner thereof (and Trustor agrees to take all such action as may be appropriate to give effect to such right).

(j) Subject to Utah Code Annotated § 78B-6-901 and other applicable law, Trustee, Beneficiary or the other Secured Parties may pursue against Trustor, any other rights and remedies of Beneficiary permitted by law, equity or contract or as set forth herein or in the Loan Agreement, any Hedge Agreement (Secured), or the other Loan Documents.

Section 5.03 Application of Proceeds. The proceeds of any sale made either under the power of sale hereby given or under a judgment, order or decree made in any action to foreclose or to enforce this Deed of Trust, or of any monies held by Trustee or Beneficiary hereunder, shall be applied as required by Utah Code Annotated § 57-1-29 or other applicable law, and otherwise, to the extent permitted by applicable law, first to payment of the costs and expenses of taking

possession of the Trust Estate, and 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 expenses, liabilities and advances of Trustee, and then in accordance with the terms of Section 11.5 of the Loan Agreement.

Section 5.04 Right to Sue. To the fullest extent permitted by Utah Code Annotated § 78B-6-901 and other applicable law, during the continuance of an Event of Default, Beneficiary shall have the right from time to time to sue for any sums required to be paid by Trustor under the terms of this Deed of Trust as the same become due, without regard to whether or not the Obligations shall be, or have become, due and without prejudice to the right of Trustee to thereafter exercise its power of sale or Trustee or Beneficiary thereafter to bring any action or proceeding of foreclosure or any other action upon the occurrence of any Event of Default existing at the time such earlier action was commenced.

Section 5.05 Powers of Beneficiary. To the fullest extent permitted by applicable law, Beneficiary may at any time or from time to time renew or extend this Deed of Trust or (with the agreement of Trustor) alter or modify the same in any way, or waive any of the terms, covenants or conditions hereof or thereof, in whole or in part, and may release any portion of the Trust Estate or any other security, and grant such extensions and indulgences in relation to the Obligations, or release any Person liable therefor as Beneficiary may determine without the consent of any junior lienor or encumbrancer, without in any manner affecting the priority of the Lien and estate of this Deed of Trust on or in any part of the Trust Estate, and without affecting the liability of any other Person liable for any of the Obligations.

Section 5.06 Remedies Cumulative.

(a) No right or remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy under this Deed of Trust and the other Loan Documents, or under applicable law, whether now or hereafter existing; the failure of Trustee or Beneficiary to insist at any time upon the strict observance or performance of any of the provisions of this Deed of Trust or to exercise any right or remedy provided for herein or under applicable law, shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof.

(b) To fullest extent permitted by Utah Code Annotated § 78B-6-901 and other applicable law, during the continuance of an Event of Default Trustee (as applicable, and at Beneficiary's direction) and Beneficiary shall be entitled to enforce payment and performance of any of the Obligations and to exercise all rights and powers under this Deed of Trust or under any Loan Document or any laws now or hereafter in force, notwithstanding that some or all of the Obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise; neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Beneficiary, it being stipulated that Beneficiary shall be entitled to enforce this Deed of Trust, any of the Security Documents and any other security now or hereafter held by Beneficiary in such order and manner as Beneficiary, in

its sole discretion, may determine; every power or remedy given by the Loan Agreement, this Deed of Trust or any of the other Loan Documents to Trustee or Beneficiary, or to which Trustee or Beneficiary is otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Beneficiary, and Beneficiary may pursue inconsistent remedies.

Section 5.07 General Provisions.

(a) Effect of Judgment. Except for any limitations imposed by Utah Code Annotated §§ 57-1-32 and 78B-6-901, applicable deficiency provisions of the UCC and other applicable law, no recovery of any judgment by Beneficiary and no levy of an execution under any judgment upon any other property of Trustor shall adversely affect in any manner or to any extent the Lien of this Deed of Trust upon the Trust Estate, or any rights, powers or remedies of Trustee or Beneficiary hereunder. To the extent provided above, such Lien, rights, powers and remedies of Trustee and Beneficiary shall continue unimpaired as before.

(b) Continuing Power of Sale. To the extent permitted by applicable law, any power of sale conferred upon Trustee in this Deed of Trust shall not be exhausted by any one or more sales as to any portion of the Trust Estate or the Personal Property Collateral remaining unsold, but shall continue unimpaired, to the fullest extent permitted by law, until all of the Obligations are paid in full and the Commitments have been terminated.

(c) Right to Purchase. At any sale of the Trust Estate or the Personal Property Collateral or any portion thereof pursuant to the provisions of this Deed of Trust, Beneficiary shall have the right to purchase the Trust Estate (or such portion thereof) being sold, and in such case shall have the right to credit against the amount of the bid made therefor (to the extent necessary) all or any portion of the Obligations in accordance with Utah Code Annotated § 57-1-28(1)(b) or other applicable law.

(d) Adjournment of Sale. Trustee may postpone or adjourn from time to time any sale of all or any part of the Trust Estate by it to be made hereunder or by virtue hereof by announcement at the time and place appointed for such sale or such adjourned sale or sales; and, except as otherwise provided by any applicable provision of law, Trustee, without further notice or publication, may make such sale at the time and place to which the same shall be so postponed or adjourned, as the case may be.

(e) Right to Terminate Proceedings. Subject to applicable law, Beneficiary may terminate or rescind any proceeding or other action brought in connection with its exercise of the remedies provided in this Article 5 at any time before the conclusion thereof, as determined in Beneficiary's sole discretion and without prejudice to Beneficiary or any other Secured Party.

(f) No Waiver or Release. Subject to applicable law, Beneficiary may resort to any remedies and the security given by the Loan Documents, in whole or in part, and in such portions and in such order as determined in Beneficiary's sole discretion. No such action shall in any way be considered a waiver of any rights, benefits or remedies evidenced or provided by the Loan Documents. To the maximum extent permitted by applicable law, the failure of Beneficiary to exercise any right, remedy or option provided in the Loan Documents shall not be deemed a

waiver of such right, remedy or option or of any covenant or obligation secured by the Loan Documents. Subject to applicable law, no acceptance by Beneficiary of any payment during the existence of an Event of Default and no payment by Beneficiary of any obligation for which Trustor is liable hereunder shall be deemed to waive or cure any Event of Default with respect to Trustor, or Trustor's liability to pay such obligation. Subject to applicable law, no sale of all or any portion of the Trust Estate, no forbearance on the part of Beneficiary, and no extension of time for the payment of the whole or any portion of the Obligations or any other indulgence given by Beneficiary to Trustor or any other Person, shall operate to release or in any manner affect the interest of Trustee or Beneficiary in any remaining portion of the Trust Estate or the liability of Trustor to pay and perform the Obligations, except to the extent that such liability shall be reduced by net proceeds actually received by Beneficiary with respect to any portion of the Trust Estate. No waiver by Beneficiary shall be effective unless it is in writing and then only to the extent specifically stated.

(g) No Impairment; No Release. The interests and rights of Beneficiary under the Loan Documents shall not be impaired by any indulgence, including (i) any renewal, extension or modification which Beneficiary may grant with respect to any of the Obligations; (ii) any surrender, compromise, release, renewal, extension, exchange or substitution which Beneficiary may grant with respect to the Trust Estate or any portion thereof; or (iii) any waiver, release or indulgence granted to any maker, endorser, guarantor or surety of any of the Obligations.

(h) Waivers and Agreements Regarding Remedies. To the fullest extent Trustor may legally do so, Trustor, for itself and for all Persons hereunder claiming through or under it or who may at any time acquire a lien on all or any part of the Trust Estate or any interest therein:

(i) To the maximum extent permitted by applicable law, agrees that Trustor will not at any time insist upon, plead, claim or take the benefit or advantage of any laws now or hereafter in force providing for any appraisal or appraisement, valuation, stay, extension or redemption, and waives and releases all rights of redemption, valuation, appraisal or appraisement, stay of execution, extension and notice of election to accelerate or declare due the whole or any portion of the Obligations;

(ii) waives all rights to a marshaling of the assets of Trustor and others with interests in Trustor, and of the Trust Estate, or to a sale in inverse order of alienation in the event of foreclosure of the interests hereby created, and agrees not to assert any right under any laws pertaining to the marshaling of assets, the sale in inverse order of alienation, homestead exemption, the administration of estates of decedents, or any other matters whatsoever to defeat, reduce or affect the right of Beneficiary under the Loan Documents to a sale of the Trust Estate for the collection of the Obligations without any prior or different resort for collection, or the right of Beneficiary to the payment of the Obligations out of the net proceeds from the Trust Estate in preference to every other claimant whatsoever;

(iii) intentionally omitted;

(iv) waives and relinquishes any and all rights and remedies which Trustor may have or be able to assert by reason of the provisions of any laws pertaining to the rights and remedies of sureties; and

(v) waives any right which it may have to require the Trust Estate (or any part thereof) to be sold as one or more units.

(i) Subrogation. If all or any portion of the proceeds of the Notes or any disbursement shall be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any prior Lien upon the Trust Estate or any portion thereof, then Beneficiary shall be subrogated to, and shall have the benefit of the priority of, such other Lien and any additional security held by the holder thereof.

Section 5.08 No Mortgagee-in-Possession. None of the enforcement of any of the remedies under this Article 5, the assignment of the Leases and Rents under Article 3, the security interests under Article 4, nor any other remedies afforded to Beneficiary and/or the other Secured Parties under the Loan Documents, at law or in equity shall cause Beneficiary, Trustee or any other Secured Party to be deemed or construed to be a mortgagee in possession of the Trust Estate, to obligate Beneficiary, Trustee or any other Secured Party to lease the Trust Estate or attempt to do so, or to take any action, incur any expense, or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

Section 5.09 Prepayment Charge. Subject to the terms and provisions of the Loan Agreement, if this Deed of Trust or any obligation secured hereby provides for any charge for prepayment of any indebtedness secured hereby, Trustor agrees to pay said charge if for any reason any of said indebtedness shall be paid prior to the stated maturity date thereof, even if and notwithstanding that an Event of Default shall exist and Beneficiary, by reason thereof, shall have declared said indebtedness or all sums secured hereby immediately due and payable, and whether or not said payment is made prior to or at any sale held under or by virtue of this Article 5.

ARTICLE 6

CONCERNING TRUSTEE

Section 6.01 Acceptance. Trustee accepts the trust created under this Deed of Trust and covenants faithfully to perform and fulfill the trusts herein created, being liable, however, only for negligence or willful misconduct, and hereby waives any statutory fee and agrees to accept reasonable compensation in lieu thereof for any services rendered by it in accordance with the terms hereof. All amounts payable to Trustee shall be limited to amounts permitted by Utah Code Annotated § 57-1-21.5.

Section 6.02 Certain Rights. With the approval of Beneficiary, Trustee shall have the right to select, employ and consult with counsel. Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by it hereunder, believed by it in good faith to be genuine. Trustee shall be entitled to reimbursement for actual, reasonable expenses incurred by Trustee in the performance of its duties. Subject to the limitations of Utah Code Annotated § 57-1-21.5, Trustor shall, from time to time, pay the compensation due to Trustee hereunder and reimburse Trustee for, and indemnify, defend and save Trustee harmless against, all liability and reasonable expenses which may be incurred by it in the performance of its duties, including those arising from the joint, concurrent, or comparative

negligence of Trustee; however, Trustor shall not be liable under such indemnification to the extent such liability or expenses result solely from Trustee's gross negligence or willful misconduct hereunder. Trustor's obligations under this Section 6.02 shall not be reduced or impaired by principles of comparative or contributory negligence.

Section 6.03 Resignation. Trustee may resign at any time upon giving thirty (30) days' notice in writing to Beneficiary and Trustor, but shall continue to act as trustee until its successor shall have been qualified and appointed pursuant to Section 6.04.

Section 6.04 Successor Trustees. Beneficiary, without cause, may remove Trustee at any time and select a successor Trustee. In the event of the death, removal, resignation, refusal to act, or inability to act of Trustee, or in its sole discretion for any reason whatsoever Beneficiary may, without notice and without specifying any reason therefor and without applying to any court, select and appoint a successor Trustee; and all powers, rights, duties and authority of Trustee, as aforesaid, shall thereupon become vested in such successor. Such successor Trustee shall not be required to give a bond for the faithful performance of its duties unless required to do so by Beneficiary. Each such appointment and substitution shall be by written instrument executed by Beneficiary containing reference to this Deed of Trust sufficient to identify it, which, when recorded in the Official Records of the County Recorder of the county where the Trust Estate is located, or in any other manner permitted by law, shall be conclusive proof of proper appointment of the successor trustee. The recital or statements in any instrument executed by Trustee, in pursuance of any of said trusts of the due authorization of any agent of Trustee executing the same shall for all purposes be conclusive proof of such authorization. In the event any foreclosure advertisement is running or has run at the time of such appointment of a substitute Trustee, the substitute Trustee may, to the extent permitted by applicable law, consummate the advertised sale without the necessity of republishing such advertisement. The making of oath or giving of bond by Trustee or any substitute Trustee is expressly waived. The appointment of a successor trustee by Beneficiary is subject to the fulfillment of the requirements of Utah Code Annotated § 57-1-22 or other applicable law.

Section 6.05 Perfection of Appointment. Trustor forthwith upon request, at any and all times hereafter, at the expense of Trustor, will cause to be made, executed, acknowledged and delivered to Trustee, any and every deed or assurance in law which Trustee or counsel of Trustee shall reasonably require for the more sure, effectual and satisfactory granting and confirming of said property unto Trustee.

Section 6.06 Enforcement; Court Actions. Trustee shall not be required to take any action toward the execution and enforcement of this Deed of Trust or to institute, appear in or defend any action, suit or other proceeding in connection therewith where in the opinion of Trustee such action will be likely to involve Trustee in expense or liability, unless requested so to do by a written instrument signed by Beneficiary and, if Trustee so requests, unless Trustee is tendered security and indemnity satisfactory to Trustee against any and all costs, expenses and liabilities arising therefrom.

ARTICLE 7
MISCELLANEOUS

Section 7.01 Release of Deed of Trust.

(a) Upon the termination of the Commitments under and as defined in the Loan Agreement and the payment in full of the Obligations, Beneficiary shall request Trustee to release the Lien of this Deed of Trust and upon payment of its fees and all other sums owing to it under this Deed of Trust, Trustee will reconvey the Trust Estate 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 on all Persons. The grantee in the reconveyance may be described as “the Person or Persons legally entitled thereto.”

(b) Notwithstanding Section 7.01(a) above, if all of the requirements under Section 2.11 of the Loan Agreement have been satisfied with respect to the Trust Estate, then in that event, Beneficiary shall cause the Lien of this Deed of Trust to be released and the Trust Estate to be reconveyed in accordance with Section 2.11 of the Loan Agreement.

Section 7.02 Notices. All notices and other communications required or which any party desires to give under this Deed of Trust shall be given in accordance with Section 12.1 of the Loan Agreement.

Section 7.03 No Waiver. To the fullest extent permitted by applicable law, any failure by Trustee or Beneficiary to insist upon strict performance of any of the terms, provisions or conditions of this Deed of Trust or the other Loan Documents shall not be deemed to be a waiver of same, and Trustee and Beneficiary shall have the right at any time to insist upon strict performance of all of such terms, provisions and conditions.

Section 7.04 Amendments; etc. This Deed of Trust cannot be modified, changed or discharged except by an agreement in writing, duly acknowledged in form for recording, signed by Trustor and Beneficiary and, to the extent provided in the Loan Agreement, the consent of the other Secured Parties. For purposes hereof, a statement by Beneficiary in any modification or supplement to this Deed of Trust to the effect that such modification or supplement has been consented to by the Secured Parties as provided in the Loan Agreement shall be conclusive evidence of such consent and it shall not be necessary for a copy of such consent to be recorded with such modification or supplement as a condition to such modification or supplement being recorded in the appropriate real estate records. Without affecting Trustor’s liability for the payment of any of the indebtedness secured by this Deed of Trust, Beneficiary or any Hedge Agreement Counterparty (Secured) may from time to time and without notice to Trustor (a) release any Person liable for the payment of that indebtedness, (b) [intentionally omitted], (c) accept additional real or personal property of any kind as security, or alter, substitute or release any property securing that indebtedness, or (d) cause Trustee to consent to the making of any map or plat of the Trust Estate, or to reconvey any part of the Trust Estate, or to join in granting any easement or creating any restriction on the Trust Estate, or to join in any subordination or other agreement affecting this Deed of Trust.

Section 7.05 Successors and Assigns. This Deed of Trust applies to, inures to the benefit of and binds Trustor and Beneficiary and their respective successors and assigns, as permitted under the Loan Agreement, and shall run with the Premises.

Section 7.06 Captions. The captions or headings at the beginning of each Article and Section hereof are for the convenience of reference and are not a part of this Deed of Trust.

Section 7.07 Severability. If any term or provision of this Deed of Trust or the application thereof to any Person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Deed of Trust, or the application of such term or provision to Persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Deed of Trust shall be valid and enforceable to the maximum extent permitted by law. If any portion of the Obligations shall for any reason not be secured by a valid and enforceable lien upon any part of the Trust Estate, then any payments made in respect of the Obligations (whether voluntary or under foreclosure or other enforcement action or procedure or otherwise) shall, for purposes of this Deed of Trust (except to the extent otherwise required by applicable law) be deemed to be made (i) first, in respect of the portion of the Obligations not secured by the lien of this Deed of Trust, (ii) second, in respect of the portion of the Obligations secured by the lien of this Deed of Trust, but which lien is on less than all of the Trust Estate, and (iii) last, to the portion of the Obligations secured by the lien of this Deed of Trust, and which lien is on all of the Trust Estate.

Section 7.08 Usury Savings Clause. It is the intention of Trustor, Beneficiary, the Lenders and Trustee to conform strictly to the usury and similar laws relating to interest payable on loans from time to time in force, and all agreements between Trustor, Beneficiary, the Lenders and Trustee, whether now existing or hereafter arising and whether oral or written, are hereby expressly limited so that in no contingency or event whatsoever, whether by acceleration of maturity hereof otherwise, shall the amount paid or agreed to be paid in the aggregate to the Lenders as interest (whether or not designated as interest, and including any amount otherwise designated by or deemed to constitute interest by a court of competent jurisdiction) hereunder or under the other Loan Documents or in any other agreement given to secure the Obligations, or in any other document evidencing, securing or pertaining to the Obligations, exceed the maximum amount (the "Maximum Rate") permissible under applicable law. If under any circumstances whatsoever fulfillment of any provision hereof, of the Loan Agreement or of the other Loan Documents, at the time performance of such provisions shall be due, shall involve exceeding the Maximum Rate, then, ipso facto, the obligation to be fulfilled shall be reduced to the Maximum Rate. For purposes of calculating the actual amount of interest paid and/or payable hereunder in respect of laws pertaining to usury or such other laws, all sums paid or agreed to be paid to the Lenders for the use, forbearance or detention of the Loans secured hereby, outstanding from time to time shall, to the extent permitted by applicable law, be amortized, pro-rated, allocated and spread from the date of disbursement of the proceeds of the Loans until payment in full of all of such indebtedness, so that the actual rate of interest on account of such Loans is uniform through the term hereof. If under any circumstances any Lender shall ever receive an amount which would exceed the Maximum Rate, such amount shall be deemed a payment in reduction of the principal amount of the Loans and shall be treated as a voluntary prepayment under the Loan Agreement and shall be so applied in accordance with the provisions of the Loan Agreement or if such

excessive interest exceeds the outstanding amount of the Loans and any other Obligations, the excess shall be deemed to have been a payment made by mistake and shall be refunded to Trustor.

Section 7.09 CERTAIN ACKNOWLEDGMENTS AND WAIVERS.
TRUSTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY (A) ACKNOWLEDGES THE POWER GIVEN HEREIN TO TRUSTEE TO CONDUCT, AND BENEFICIARY TO CAUSE TRUSTEE TO CONDUCT, A NON-JUDICIAL FORECLOSURE OR TO SELL THE TRUST ESTATE BY NONJUDICIAL FORECLOSURE UPON DEFAULT BY THE TRUSTOR WITHOUT ANY JUDICIAL HEARING AND WITHOUT ANY NOTICE (INCLUDING, WITHOUT LIMITATION, ANY NOTICE OF BENEFICIARY'S INTENTION TO ACCELERATE OR NOTICE OF ACCELERATION) OTHER THAN SUCH NOTICE (IF ANY) AS IS SPECIFICALLY REQUIRED TO BE GIVEN UNDER THE PROVISIONS OF THIS DEED OF TRUST OR BY APPLICABLE LAW, AND (B) WAIVES, IN CONNECTION WITH ANY SALE, FORECLOSURE OR OTHER ACTION BROUGHT BY TRUSTEE TO ENFORCE ITS RIGHTS AND REMEDIES UNDER THIS DEED OF TRUST, ANY AND EVERY RIGHT TRUSTOR MAY HAVE TO (1) INTERPOSE ANY COUNTERCLAIM THEREIN, OTHER THAN A COMPULSORY COUNTERCLAIM, AND (2) HAVE THE SAME CONSOLIDATED WITH ANY OTHER OR SEPARATE SUIT, ACTION OR PROCEEDING. NOTHING CONTAINED IN THE IMMEDIATELY PRECEDING SENTENCE SHALL PREVENT OR PROHIBIT TRUSTOR FROM INSTITUTING OR MAINTAINING A SEPARATE ACTION AGAINST BENEFICIARY OR THE OTHER SECURED PARTIES WITH RESPECT TO ANY ASSERTED CLAIM.

Section 7.10 GOVERNING LAW.

(a) THIS DEED OF TRUST AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS CREATED PURSUANT HERETO SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE PREMISES IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL OTHERWISE GOVERN THE CONSTRUCTION, VALIDITY AND ENFORCEABILITY OF THIS DEED OF TRUST AND ALL OF THE OBLIGATIONS ARISING HEREUNDER. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF TRUSTOR, BENEFICIARY AND EACH OTHER SECURED PARTY HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS DEED OF TRUST, AND THIS DEED OF TRUST SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST BENEFICIARY, ANY OTHER SECURED PARTY OR TRUSTOR ARISING OUT OF OR RELATING TO THIS DEED OF TRUST SHALL BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, COUNTY OF NEW YORK, PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW (EXCEPT ANY FORECLOSURE PROCEEDINGS AND ANCILLARY PROCEEDINGS RELATED TO THE PREMISES SHALL TAKE PLACE IN THE STATE WHERE THE PREMISES ARE LOCATED) AND TRUSTOR WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND TRUSTOR HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING. TRUSTOR DOES HEREBY DESIGNATE AND APPOINT

**CORPORATION SERVICE COMPANY
251 LITTLE FALLS DRIVE
NEW CASTLE COUNTY, WILMINGTON, DELAWARE 19808**

AS ITS AUTHORIZED AGENT TO ACCEPT AND ACKNOWLEDGE ON ITS BEHALF SERVICE OF ANY AND ALL PROCESS WHICH MAY BE SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY FEDERAL OR STATE COURT IN THE COUNTY OF NEW YORK, STATE OF NEW YORK, AND AGREES THAT SERVICE OF PROCESS UPON SAID AGENT AT SAID ADDRESS AND WRITTEN NOTICE OF SAID SERVICE MAILED OR DELIVERED TO TRUSTOR IN THE MANNER PROVIDED HEREIN SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON TRUSTOR, IN ANY SUCH SUIT, ACTION OR PROCEEDING IN THE STATE OF NEW YORK. TRUSTOR (A) SHALL GIVE PROMPT NOTICE TO BENEFICIARY OF ANY CHANGED ADDRESS OF ITS AUTHORIZED AGENT HEREUNDER, (B) MAY AT ANY TIME AND FROM TIME TO TIME DESIGNATE A SUBSTITUTE AUTHORIZED AGENT WITH AN OFFICE IN NEW YORK, NEW YORK (WHICH SUBSTITUTE AGENT AND OFFICE SHALL BE DESIGNATED AS THE PERSON AND ADDRESS FOR SERVICE OF PROCESS), AND (C) SHALL PROMPTLY DESIGNATE SUCH A SUBSTITUTE IF ITS AUTHORIZED AGENT CEASES TO HAVE AN OFFICE IN NEW YORK, NEW YORK OR IS DISSOLVED WITHOUT LEAVING A SUCCESSOR.

Nothing in this Section 7.10 shall affect the right of Beneficiary or any other Secured Party to serve legal process in any other manner permitted by law.

Section 7.11 WAIVER OF JURY TRIAL. **TRUSTOR, BENEFICIARY AND EACH OTHER SECURED PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS DEED OF TRUST, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER VERBAL OR WRITTEN) OR ACTION OF EITHER PARTY OR ANY EXERCISE BY ANY PARTY OF THEIR**

RESPECTIVE RIGHTS UNDER THIS DEED OF TRUST OR IN ANY WAY RELATING TO THE LOANS OR THE TRUST ESTATE (INCLUDING, WITHOUT LIMITATION, ANY ACTION TO RESCIND OR CANCEL THIS DEED OF TRUST, AND ANY CLAIM OR DEFENSE ASSERTING THAT THIS DEED OF TRUST WAS FRAUDULENTLY INDUCED OR IS OTHERWISE VOID OR VOIDABLE). THIS WAIVER IS A MATERIAL INDUCEMENT FOR THE BENEFICIARY AND EACH OTHER SECURED PARTY TO ENTER THIS DEED OF TRUST.

Section 7.12 Attorney-In-Fact. Trustor hereby irrevocably appoints Beneficiary (on behalf of the Secured Parties) and its successors and permitted assigns, as its attorney-in-fact, which agency is coupled with an interest, (a) while any Event of Default exists, to execute and/or record any notices of completion, cessation of labor or any other notices that Beneficiary deems appropriate to protect Beneficiary's interest, if Trustor shall fail to do so after written request by Beneficiary, (b) upon the issuance of a deed pursuant to the foreclosure of this Deed of Trust or the delivery of a deed in lieu of foreclosure or upon any Trustee's sale, to execute all instruments of assignment, conveyance or further assurance with respect to the Leases, Rents, Personal Property Collateral, Fixtures, and Management Agreements in favor of the grantee of any such deed and as may be necessary or desirable for such purpose, and (c) while any Event of Default exists, to perform any obligation of Trustor hereunder; however: (i) Beneficiary shall not under any circumstances be obligated to perform any obligation of Trustor; (ii) any sums advanced by Beneficiary in such performance shall be added to and included in the indebtedness secured by this Deed of Trust and shall bear interest at the Default Rate if not paid within ten (10) days of demand; (iii) Beneficiary as such attorney-in-fact shall only be accountable for such funds as are actually received by Beneficiary; and (iv) neither Beneficiary nor any other Secured Party shall be liable to Trustor or any other Person or entity for any failure to take any action which it is empowered to take under this Section 7.12. Trustor requests that a copy of any notice of default and notice of sale required by law be mailed to it at its address as provided in Section 7.02 above. Trustor authorizes Beneficiary to prepare, execute and file or record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve Beneficiary's security interests and rights in or to any of the collateral, so long as the same do not increase the obligations or liabilities or decrease the rights of any Borrower Party hereunder or under the other Loan Documents other than to a *de minimis* extent.

ARTICLE 8 SPECIAL STATE SPECIFIC PROVISIONS

Section 8.01 Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Article 8 and the terms and conditions of this Deed of Trust, the terms and conditions of this Article 8 shall control and be binding.

Section 8.02 Default Interest, Late Charges, Etc. For purposes of Utah Code Annotated § 57-1-28, and to the fullest extent permitted by applicable law, Trustor agrees that all default interest, late charges, any prepayment premiums, swap breakage fees and similar amounts, if any, owing from time to time under the Note, Loan Agreement or other Loan Documents (including, without limitation, the Hedge Agreements (Secured)) shall constitute a part of and be entitled to the benefits of Beneficiary's Deed of Trust lien upon the Trust Estate, and (ii) Trustor

may add all default interest, late charges, prepayment premiums, swap breakage fees and similar amounts owing from time to time to the principal balance of the Note in its sole discretion, to the extent necessary to include all such amounts in any credit which Beneficiary may make against its bid at a foreclosure sale of the Trust Estate pursuant to this Deed of Trust.

Section 8.03 Assignment of Rents. Article 3 hereof is subject to the Utah Rents Act, and in the event of any conflict or inconsistency between the provisions of Article 3 and the provisions of the Utah Rents Act, the provisions of the Utah Rents Act shall control and Beneficiary shall have all rights and remedies available under the Utah Rents Act which rights and remedies shall be cumulative with all rights and remedies hereunder.

Section 8.04 Personal Property. It is the express understanding and intent of the parties that as to any personal property interests subject to Chapter 9a of the Uniform Commercial Code, Beneficiary, upon an Event of Default, may proceed under the Uniform Commercial Code or may proceed as to both real and personal property interests in accordance with the provisions of this Deed of Trust and its rights and remedies in respect of real property, and treat both real and personal property interests as one parcel or package of security as permitted by Utah Code Annotated § 70A-9a-604 or other applicable law, and further may sell any shares of corporate stock evidencing water rights in accordance with Utah Code Annotated § 57-1-30 or other applicable law.

Section 8.05 Deficiency. Trustor agrees to pay any deficiency, arising from any cause, to which Beneficiary may be entitled after applications of the proceeds of any sale, and Beneficiary may commence suit to collect such deficiency in accordance with Utah Code Annotated § 57-1-32 or other applicable law. To the extent Utah Code Annotated § 57-1-32, as now existing or hereafter amended, or any other statute requires that the “fair market value” or “fair value” of the Trust Estate be determined as of the foreclosure date in order to enforce a deficiency against Trustor or any other party liable for repayment of the Obligations, to the maximum extent permitted by applicable law, the term “fair market value” or “fair value” shall include those matters required by law and the additional factors set forth below:

(a) The Trust Estate shall be valued “as is” and “with all faults” and there shall be no assumption of restoration or refurbishment of Improvements, if any, after the date of the foreclosure.

(b) An offset to the fair market value or fair value of the Trust Estate, as determined hereunder, shall be made by deducting from such value the reasonable estimated closing costs related to the sale of the Trust Estate, including, but not limited to, brokerage commissions, title policy expenses, tax pro-rations, escrow fees, and other common charges that are incurred by the seller of real property.

(c) Trustor shall pay the costs of any appraisals and other expenses incurred in connection with any such determination of fair market value or fair value.

Section 8.06 Reinstatement. If Trustor, Trustor’s successor in interest or any other person having a subordinate lien or encumbrance of record on the Trust Estate, reinstates this Deed of Trust and the Loan within three (3) months of the recordation of a notice of default in

accordance with Utah Code Annotated § 57-1-31(1), such party shall pay to Beneficiary the reasonable cancellation fee contemplated by Utah Code Annotated § 57-1-31(2), as delivered by Beneficiary, in accordance with its then current policies and procedures, whereupon Trustee shall record a notice of cancellation of the pending sale. Furthermore, in addition to any Trustor payment obligations under this Deed of Trust, Trustor shall pay, for the benefit of Beneficiary, all costs, fees and expenses incurred by Trustee and Trustee's agents and counsel for accountings and reinstatement quotes as may be required by Utah Code Annotated § 57-1-31.5 and all such costs, fees and expenses shall be secured by this Deed of Trust.

Section 8.07 Notice. Beneficiary and Trustor both hereby request, pursuant to Utah Code Annotated § 57-1-26(3), a copy of any notice of default and that any notice of sale under any deed of trust or mortgage affecting the Trust Estate (including, but not limited to, this Deed of Trust) be mailed to it at the address set forth in the preamble hereto.

Section 8.08 Property Status. Trustor represents and warrants to Beneficiary that (a) the Trust Estate is not used principally for agricultural purposes, and (b) the loan secured by this Deed of Trust was not made primarily for personal, family or household purposes. Trustor acknowledges that the stated purpose for which this Deed of Trust is given is not to construct residential rental property.

Section 8.09 Foreclosure; Lawsuits. Upon the occurrence and during the continuance of an Event of Default, Beneficiary shall have the right, in one or several concurrent or consecutive proceedings (if permitted by applicable law), to foreclose (or cause the Trustee to foreclose, if and as applicable) the lien hereof upon the Trust Estate or any part thereof, for the Obligations, or any part thereof, by any proceedings appropriate under applicable law. Beneficiary or its nominee may bid and become the purchaser of all or any part of the Trust Estate at any foreclosure or other sale hereunder, and the amount of Beneficiary's successful bid may be credited against the Obligations in accordance with Utah Code Annotated § 57-1-28(1)(b) or other applicable law. Beneficiary, upon so acquiring the Trust Estate or any part thereof, shall be entitled to hold, lease, rent, operate, manage, and sell the same in any manner provided by applicable laws. Without limiting the foregoing, to the extent permitted by applicable law, Beneficiary may proceed by a suit or suits in law or equity, whether for specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure under the judgment or decree of any court of competent jurisdiction. Trustee (at Beneficiary's request) or Beneficiary may also, at any time after the filing of a complaint to foreclose this Deed of Trust, request appointment of a receiver of the Trust Estate by the court in which such complaint is filed, and Trustor hereby consents to such appointment. Without limiting the foregoing:

(a) Beneficiary may commence an action to foreclose the lien of this Deed of Trust as a mortgage in accordance with Beneficiary's rights under Utah Code Annotated § 57-1-23, or other applicable law, appoint a receiver as more particularly described in the Utah Uniform Commercial Real Estate Receivership Act, or elsewhere herein, or to the extent permitted by applicable law, specifically enforce any of the covenants hereof.

(b) Upon the occurrence and during the continuance of an Event of Default, Beneficiary may cause Trustee to exercise the power of sale herein contained by delivering to

Trustee a written statement of default or breach and causing Trustee to execute and record a notice of default and election to cause Trustor's interest in the Trust Estate to be sold in accordance with Utah Code Annotated § 57-1-24 or other applicable law. After the lapse of such time as may then be required by Utah Code Annotated § 57-1-24 or other applicable law following the recordation of the notice of default, and notice of default and notice of sale having been given as then required by Utah Code Annotated §§ 57-1-25 and 57-1-26 or other applicable law, Trustee, without demand on Trustor, shall sell the Trust Estate on the date and at the time and place designated in the notice of sale, either as a whole or in separate parcels, and in such order as Beneficiary may determine (but subject to Trustor's statutory right under Utah Code Annotated § 57-1-27 to direct the order in which the property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale (subject to Beneficiary's (or its nominee's) right to make a credit bid or pursuant Utah Code Annotated § 57-1-28(1)(b) or other to applicable law. The person conducting the sale may, for any cause deemed expedient, postpone the sale from time to time until it shall be completed and, in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale; provided, however, if the sale is postponed for longer than forty-five (45) days beyond the date designated in the notice of sale, notice of the time, date, and place of sale shall be given in the same manner as the original notice of sale as required by Utah Code Annotated § 57-1-27. Trustee shall execute and deliver to the purchaser a Trustee's Deed, in accordance with Utah Code Annotated § 57-1-28, conveying the Trust Estate so sold, but without any covenant of warranty, express or implied. The recitals in the Trustee's Deed of any matters or facts shall be conclusive proof of the truthfulness thereof to the fullest extent permitted by applicable law. Any person, including Beneficiary, may bid at the sale.

Section 8.10 Amendments to Utah Code Annotated. In the event of any amendment to the provisions of Utah Code Annotated Title 57 or other provisions of Utah Code Annotated referenced in this Deed of Trust, this Deed of Trust shall, at the sole election of Beneficiary, be deemed amended to be consistent with such amendments or Beneficiary may elect not to give effect to such deemed amendments hereto if permitted by applicable law.

Section 8.11 Obligations of Environmental Indemnity. Notwithstanding anything to the contrary set forth herein or any of the Loan Documents, this Deed of Trust shall not secure the obligations evidenced by or arising under any environmental indemnity made by Trustor or Guarantor with respect to the Trust Estate.

Section 8.12 ORAL AGREEMENTS. PURSUANT TO UTAH CODE ANNOTATED SECTION 25-5-4, TRUSTOR IS HEREBY NOTIFIED THAT THE WRITTEN LOAN DOCUMENTS AND OTHER RELATED DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENT OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

Section 8.13 Appointment of Receiver. In addition to any other rights provided for in this Deed of Trust, during the existence of an Event of Default, Beneficiary may petition for


the appointment of a receiver as and when provided in the Utah Uniform Commercial Real Estate Receivership Act, Utah Code Annotated § 78B-21-101 et seq.

[signature page follows; remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Deed of Trust has been duly executed by Trustor as of the day and year first above written.

TRUSTOR:

FINLAYSON LOGISTICS ASSETS LLC,
a Delaware limited liability company

By: 
Name: Judah Elbaum
Title: Director


Signature Page for Deed of Trust:
955 South 3800 West, Salt Lake City, UT

ny-2701451

MUSEL

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 21st day of March, 2024, before me, the undersigned, personally appeared JUDAH ELBAUM, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he or she executed the same in his or her capacity and that by his or her signature on the instrument the individual or the person upon behalf of which the individual acted executed the instrument.



Signature and Office of individual
taking acknowledgement

CLARA W. TOME
Notary Public, State of New York
Registration No. 02TO6112134
My Commission Expires June 28, 2024

Notary Acknowledgment for Deed of Trust:
955 South 3800 West, Salt Lake City, UT

ny-2701451

MUSEL

EXHIBIT A

LEGAL DESCRIPTION OF LAND

REAL PROPERTY IN THE COUNTY OF SALT LAKE, STATE OF UT, DESCRIBED AS FOLLOWS:

PARCEL 1:

LOT 53, SORENSON TECHNOLOGY PARK - PLAT 3, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED SEPTEMBER 23, 1998 AS ENTRY NO. 7095353 IN BOOK 98-9P OF PLATS AT PAGE 263 IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER.

PARCEL 2:

LOT 54, SORENSON TECHNOLOGY PARK - PLAT 3, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED SEPTEMBER 23, 1998 AS ENTRY NO. 7095353 IN BOOK 98-9P OF PLATS AT PAGE 263 IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER.

Tax ID/PIN:

15-08-177-001-0000

15-08-177-002-0000

EXHIBIT B

PERSONAL PROPERTY COLLATERAL

As used in this Exhibit B, the term “Premises” means that certain real property, including all improvements thereon, more particularly described in Schedule 1 attached hereto. All capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of March 28, 2024 by and from FINLAYSON LOGISTICS ASSETS LLC, a Delaware limited liability company (“Debtor”), in favor of STANDARD CHARTERED BANK, incorporated in England with limited liability by Royal Charter 1853 of 1 Basinghall Avenue, London EC2V 5DD, as Administrative Agent for the Secured Parties referred to therein (collectively, the “Beneficiary”) (as amended, modified, extended, split or consolidated, the “Deed of Trust”).

(a) All personal property in all of its forms, including, without limitation, all goods, supplies, equipment, furniture, furnishings, fixtures, machinery, inventory (including, without limitation, inventory as such term is defined in the Uniform Commercial Code), raw materials, work in process and construction materials which Debtor now or hereafter owns or in which Debtor now or hereafter acquires an interest or right, including, without limitation, those in which Debtor has an interest or right of any kind, those which are now or hereafter located on or affixed to the Premises, and those in transit thereto or in any other location, or used or useful in the operation, use or occupancy of the Premises or the construction of any improvements thereon, including, without limitation, all documents of title with respect to such personal property, any interest of Debtor in and to personal property that is leased or subject to any superior security interest, all books, records, ledger cards, leases, other documents of whatever kind or character, relating to the Premises;

(b) All computer programs, tapes, disks, and related data processing software (owned by Debtor or in which it has an interest) that at any time evidence or contain information relating to the Premises or to Debtor’s business thereon;

(c) All fees, income, rents, issues, profits, earnings, receipts, royalties and revenues which, after the date hereof and while any portion of the indebtedness secured hereby remains unpaid, may accrue to Debtor from such goods, fixtures, furnishings, equipment and building materials or any part thereof located on the Premises, or which may be received or receivable by Debtor from any hiring, using, letting, leasing, subhiring, subletting, or subleasing of the Premises;

(d) All of Debtor’s present and future rights and claims to receive payments of money, utility deposits, services or property relating to the Premises, including, without limitation, rights to all deposits from tenants of the Premises, rights to receive payment with respect to media and advertising agreements and sponsorships, amounts payable on account of the sale of interests in Debtor, accounts receivable, deposit or other accounts (including, without limitation, deposit accounts maintained with Beneficiary; and accounts as that term is defined in the Uniform Commercial Code), chattel paper, notes, drafts, contract rights, rights to performance, instruments (including, without limitation, instruments as such term is defined in the Uniform Commercial Code), general intangibles, principal, interest and payments due on account of goods sold, services

rendered, loans made or credit extended, guaranties, letters of credit, documents, drafts, acceptances, and tax refunds, together with title or interest in all documents evidencing or securing the same, and judgments taken on any rights or claims which now or hereafter relate to, are derived from or used in connection with the Premises or the ownership, construction, use, operation, maintenance, occupancy or enjoyment thereof or the conduct of business or activities therefrom;

(e) All of Debtor's rights and interests in all other general intangibles including all payment intangibles (as in the foregoing terms are defined in Uniform Commercial Code) and rights relating to the Premises or the construction, development, use or operation thereof, or used in connection therewith, including but not limited to all governmental permits, certificates of use and occupancy (or their equivalent) relating to construction or other activities on the Premises, all names under or by which the Premises may at any time be operated or known, all rights to carry on business under any such names, or any variant thereof, all trade names, trademarks, logos, and franchises relating in any way to the Premises, all patents and copyrights of Debtor relating in any way to the Premises, all good will in any way relating to the Premises, all licenses and permits relating in any way to, or to the operation of, the Premises, all contract rights, all options, all purchase orders, all manufacturers' warranties with respect to improvements, all construction contracts, all maintenance contracts, and all of Debtor's claims and rights arising under or pursuant to Section 365 of the Bankruptcy Code, 11 U.S.C. § 365;

(f) All of Debtor's rights under all warranties, guaranties or insurance policies (whether or not Beneficiary is the loss payee thereunder) covering the Premises or any of the aforesaid collateral, and all proceeds, loss payments and premium refunds payable regarding the same;

(g) All of Debtor's rights and interests in reserves, deferred payments, deposits, refunds, cost savings and payments of any kind relating to the construction of any improvements on the Premises;

(h) All of Debtor's rights and interests in all causes of action, claims compensation and recoveries for any damage to or condemnation or taking of the Premises or the aforesaid collateral, or for any conveyance in lieu thereof, whether direct or consequential, or for any damage or injury to the Premises or the aforesaid collateral, or for any loss or diminution in value of the Premises or the aforesaid collateral;

(i) All architectural, structural, mechanical and engineering plans and specifications prepared for construction of improvements or extraction of minerals or gravel from the Premises and all studies, data and drawings related thereto; and also all contracts and agreements relating to the aforesaid plans and specifications or to the aforesaid studies, data and drawings or to the construction of improvements on or extraction of minerals or gravel from the Premises;

(j) All sums on deposit with the Beneficiary for any reason whatsoever pursuant to the terms and provisions of the Deed of Trust;

(k) All water stock relating to the premises, all shares of stock or other evidence of ownership of any part of the Premises that is owned by Debtor in common with others, and all

documents of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Premises; and

(l) All proceeds, products, offspring, rents, profits, income, benefits, accessions, substitutions and replacements from sale, collection, exchange or other disposition of the aforesaid collateral, whether such disposition is voluntary or involuntary.

SCHEDULE 1

LEGAL DESCRIPTION OF LAND

REAL PROPERTY IN THE COUNTY OF SALT LAKE, STATE OF UT, DESCRIBED AS FOLLOWS:

PARCEL 1:

LOT 53, SORENSON TECHNOLOGY PARK - PLAT 3, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED SEPTEMBER 23, 1998 AS ENTRY NO. 7095353 IN BOOK 98-9P OF PLATS AT PAGE 263 IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER.

PARCEL 2:

LOT 54, SORENSON TECHNOLOGY PARK - PLAT 3, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED SEPTEMBER 23, 1998 AS ENTRY NO. 7095353 IN BOOK 98-9P OF PLATS AT PAGE 263 IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER.

Tax ID/PIN:

15-08-177-001-0000

15-08-177-002-0000