

**After Recording Return to:**

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315 East Robinson Street, Suite 600  
Orlando, FL 32801

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

**Grantor:** NAUTICAL STRUCTURES REAL ESTATE HOLDINGS LLC, a Florida limited liability company

**Grantee:** 1. COGENT BANK, Beneficiary  
2. CLARK COUNTY TITLE COMPANY, Trustee

**Legal Description:**

**Abbreviated Legal Description:** Portion of Lots 1, 2, 3 & 4 of Short Plat 3/130

**Full Legal Description:** See attached **Exhibit A**

**Assessor's Tax Parcel No.:** 03-75-01-0-0-0300-00, 03-75-01-0-0-0301-00, and 03-75-01-0-0-0302-00

**Reference No. of Related Documents:** Not applicable

**NOTICE TO RECORDER: THIS DOCUMENT SERVES AS A FIXTURE FILING UNDER THE WASHINGTON UNIFORM COMMERCIAL CODE. THIS FINANCING STATEMENT COVERS GOODS DESCRIBED HEREIN BY ITEM OR TYPE SOME OR ALL OF WHICH ARE AFFIXED OR ARE TO BE AFFIXED TO THE REAL PROPERTY DESCRIBED IN EXHIBIT A TO THIS DOCUMENT.**

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

THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING (“**Deed of Trust**”) is made as of 11 - 9, 2023, by **NAUTICAL STRUCTURES REAL ESTATE HOLDINGS LLC**, a Florida limited liability company (“**Grantor**”), whose address is 7301 114th Ave, Largo, FL 33773, to **CLARK COUNTY TITLE COMPANY** (“**Trustee**”), whose address is 1400 Washington Street, Ste. 100, Vancouver, WA 98660, for the benefit of **COGENT BANK**, a state chartered bank (“**Lender**”), whose address is 420 S Orange Ave, Suite 150, Orlando FL 32801.

**ARTICLE 1.  
GRANT IN TRUST AND SECURED OBLIGATIONS**

**1.1. Grant in Trust.** For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the purpose of securing the full and timely payment and performance of the Secured Obligations (defined and described in **Section 1.2**) for the benefit of Lender, Grantor hereby irrevocably and unconditionally grants, transfers, bargains, conveys transfers, sets over, and assigns to Trustee, in trust and the uses and purposes set forth herein forever, with power of sale and right of entry and possession, and grants a security interest in, all estate, right, title and interest that Grantor now has or may later acquire in and to the following property (all or any part of such property, or any interest in all or any part of it, as the context may require, the “**Collateral**”), which Collateral is not used principally or primarily for agricultural or farming purposes:

**1.1.1. Land, Appurtenances, Easements.** That certain real property and all interests therein located at **1181, 1132 and 1581 Old State Road, Carson, Skamania County, Washington**, more particularly described on the attached **Exhibit A** and incorporated herein by this reference, together with all existing and future easements, access rights, appurtenances, privileges, licenses, hereditaments, franchises and tenements, including all water stock and water rights owned by Grantor and all minerals, oil, gas, and other commercially valuable substances that may be in, under or produced from any part of such real property, including any rights now or hereafter acquired by Grantor by vacation or otherwise in the alleys, streets, right of ways and roads adjoining or abutting the real property (collectively, the “**Land**”);

**1.1.2. Improvements.** All buildings, structures, and improvements now located or later to be constructed on the Land (the “**Improvements**”);

**1.1.3. Related Real Property and Improvements.** All real property and improvements on it, and all appurtenances, permits, plans, licenses, subdivision rights, contracts, contract rights, and other property and interests of any kind or character, including all water and sewer taps belonging to or in any way related to or appurtenant to the Land or Improvements, whether described in EXHIBIT A or not, that may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Land and Improvements;

**1.1.4. Project.** The Land, Improvements, related real property, and all personal property now or hereafter installed on or used in connection with the Land and/or Improvements are collectively referred to herein as the “**Project**”. The Project constitutes the bulk of, but not the entirety of, the Collateral.

**1.1.5. Leases and Licenses.** Subject to the rights of Lender under **Article 3** hereof, all existing and future leases, subleases, subtenancies, licenses, occupancy agreements, and concessions relating to the use and enjoyment of all or any part of the Project (defined below), written or oral, now in existence or hereafter arising, and extensions or renewals thereof, together with the right, power, and authority of Grantor to alter, modify or change the terms thereof or surrender, cancel or terminate the same (the "**Leases**"), and any and all deposits, guaranties and other agreements relating to or made in connection with any of the Leases;

**1.1.6. Goods, Materials, Fixtures, Etc.** All goods, materials, supplies, chattels, furniture, appliances, furnishings, fixtures, equipment, inventory, general intangibles, and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Project, whether stored on the Land or elsewhere, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Deed of Trust;

**1.1.7. Grantor Funds.** All of Grantor's interest in and to the proceeds of the Loan, whether disbursed or not; all present and future monetary deposits given by Grantor to any public or private utility with respect to utility services furnished to the Land or Improvements;

**1.1.8. Rents, Issues, and Profits.** Subject to the rights of Lender under **Article 3** hereof, all income, rents, security or similar deposits, revenues, issues, royalties, profits, leases, earnings, products and proceeds of the Land or Improvements, together with the right, power and authority to collect the same, including, without limitation, all rights to the payment of money, accounts, investment property, accounts receivable, reserves, deferred payments, refunds, cost savings, any award or other payment that Grantor may become entitled to receive with respect to any of the Leases as a result of or pursuant to any bankruptcy, insolvency or reorganization or similar proceedings involving any tenant under the Leases, insurance or condemnation proceeds, payments and deposits, (including all earnest money sales deposits and all utility, tenant, escrow and security deposits), advanced payments of insurance premiums, contract rights, development and use rights, governmental permits, fees, deposits and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, chattel paper, instruments, documents, notes, drafts, and letters of credit and related rights (other than letters of credit in favor of Lender), that arise from or relate to construction on the Land or to any business now or later to be conducted on it or to the Land and Improvements, whether now due, past due, or to become due, generally including, without limitation, any proceeds from the sale of any lots comprising the Land and any Improvements constructed thereon, and any deposits on account thereof, and also all proceeds of the voluntary or involuntary conversion of any of the Land, Improvements, or the other property described above into cash or liquidated claims, including proceeds of all present and future insurance policies and all condemnation or eminent domain proceedings, and all causes of action and their proceeds for any damage or injury to the Land, Improvements, or the other property described above or any part thereof, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud, or concealment of a material fact (collectively, the "**Rents, Issues and Profits**");

**1.1.9. Miscellaneous Personal Property.** Any and all personal property of any kind whatsoever, whether tangible or intangible, that is used or will be used in construction of, or is or will be placed upon or is derived from or used in any connection with the use, occupancy or enjoyment of, the Land or Improvements;

**1.1.10. Rights of Declarant.** All of Grantor's right, title and interest in and to any and all units, common elements, declarant rights, development rights, and any other rights relating to the Land or the Improvements, whether now existing or subsequently arising, under any and all covenants, conditions, restrictions, development agreements, laws or other agreements now existing or later enacted relating to the Land and Improvements, including, without limitation, those relating to condominiums, and all rights of Grantor in connection with any homeowner's association, condominium association, architectural control committee, or similar association or committee, established in connection with the Project, including Grantor's rights and powers to elect, appoint, and remove officers and directors of any such associations or committees;

**1.1.11. Additional Property.** Any additional personal property otherwise set forth herein or listed on any UCC-1 financing statement filed to perfect Lender's security interest hereunder, whether or not located on the Land: all inventory, equipment, accounts (including, without limitation, all healthcare insurance receivables), chattel paper, instruments (including, without limitation, all promissory notes), letter-of-credit rights, letters of credit, documents, deposit accounts, investment property, money, other rights to payment and performance, and general intangibles (including, without limitation, all software and all payment intangibles); all attachments, accessions, accessories, fittings, increases, tools, parts, repairs, supplies, and commingled goods relating to such property, and all additions, replacements of and substitutions for all or any part of such personal property; and all supporting obligations relating to the such personal property; all whether now existing or hereafter arising, whether now owned or hereafter acquired;

**1.1.12. Books and Records.** All books and records pertaining to any and all of the property described above, including records stored on computer readable media, and a limited sublicense to use the computer hardware or software necessary to access such records ("**Books and Records**"); and

**1.1.13. Proceeds.** All proceeds of, supporting obligations for, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

**1.2. Secured Obligations.** Grantor makes the grant, conveyance, transfer and assignment set forth in **Section 1.1** and grants the security interest set forth in **Section 2.1** for the purpose of securing the following obligations (the "**Secured Obligations**") in any order of priority that Lender may choose:

**1.2.1. Promissory Note.** Payment of all obligations at any time owing under that certain Revolving Line of Credit Promissory Note payable by NAUTICAL STRUCTURES INDUSTRIES INC., a Florida corporation, and all current and future subsidiaries of such entity, as makers (collectively, "**Makers**"), to the order of Lender, dated as of the same date as this Deed of Trust (the "**Note**"), evidencing a loan from Lender to Makers in the maximum outstanding principal amount of up to **EIGHT MILLION FIVE HUNDRED THOUSAND and 00/100 Dollars (\$8,500,000.00.00)** (the "**Loan**"), together with interest thereon at a variable rate and any modifications, extensions or renewals thereof, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes;

**1.2.2. Loan Documents.** Payment and/or performance of each and every other obligation of Makers or Grantor under the Note, this Deed of Trust, the Business Loan Agreement between Lender and Makers dated as of the same date as this Deed of Trust (the "**Loan Agreement**"), all other documents evidencing, securing, or otherwise governing the Loan (specifically excluding,



however, for purposes of establishing the Secured Obligations, any obligations of Makers or Grantor arising under any guaranty of the Secured Obligations or any environmental indemnity agreement made by any party to the Loan (the "**Indemnity Agreement**"), and any and all amendments, modifications, and supplements thereto (collectively, the "**Loan Documents**"), the provisions of which are incorporated herein by this reference. Capitalized terms used in this Deed of Trust and not defined shall have the meanings given to them in the Loan Documents;

**1.2.3. Advances.** Payment of all sums advanced to protect the security of this Deed of Trust, together with interest thereon as herein provided;

**1.2.4. Future Obligations.** Payment to Lender of all future advances, indebtedness and further sums and/or performance of such further obligations as Makers, Grantor, or the then record owner of the Project or the then owner of the balance of the Collateral may undertake to pay and/or perform (whether as principal, surety, or guarantor) for the benefit of Lender, its successors or assigns, (it being contemplated by Makers, Grantor and Lender that Makers and/or Grantor may hereafter become indebted to Lender in such further sum or sums), when such borrowing and/or obligations are evidenced by a written instrument reciting that it or they are secured by this Deed of Trust; and

**1.2.5. Modifications and Amendments.** Payment and performance of all modifications, amendments, extensions, and renewals, however evidenced, of any of the Secured Obligations.

All persons who may have or acquire an interest in all or any part of the Collateral will be considered to have notice of, and will be bound by, the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations.

## **ARTICLE 2. SECURITY AGREEMENT**

**2.1. Grant of Security Interest.** This Deed of Trust creates a lien on the Collateral, and constitutes an absolute assignment of the Rents, Issues and Profits and of the Leases, all in favor of Lender, and includes all property now or hereafter affixed or attached to or incorporated upon the Land and Improvements, which, to the fullest extent permitted by law, shall be deemed fixtures and a part of the Land. To the extent that any part of the Collateral or Rents, Issues and Profits and Leases may be, or are determined to be, personal property, Grantor, as debtor, hereby grants to Lender, as secured party, a security interest in such part of the Collateral and Rents, Issues and Profits and Leases as is determined to be personal property, to secure payment and performance of the Secured Obligations. As to such personal property, this Deed of Trust constitutes a security agreement under the Uniform Commercial Code of the state in which the Project is located (the "**Project State**"), and terms used to describe the Collateral in **Section 1.1** of this Deed of Trust shall have the definitions ascribed to such terms under the Uniform Commercial Code of the Project State.

**2.2. Perfection of Security Interest.** Grantor hereby authorizes Lender to file one or more financing statements and such other documents as Lender may from time to time require to perfect and continue the perfection of Lender's security interest in any part of the Collateral or the Rents, Issues and Profits and Leases. Grantor shall pay all fees and costs that Lender may incur in filing such documents in public offices and in obtaining such record searches as Lender may reasonably require. Grantor shall cooperate with Lender in obtaining control of any portion of the Collateral that consists of Deposit

Accounts, Investment Property, Letter-of-Credit Rights, and Electronic Chattel Paper, as such terms are defined in **Article 8** of the Uniform Commercial Code of the Project State. Should Lender so request, Grantor shall provide, at Grantor's sole cost and expense, such insurance of Lender's personal property security interest hereunder as may be available to Lender at reasonable cost. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall not be construed as in any way derogating from or impairing the declaration and the stated intention of the parties hereto that the Collateral and all components thereof are, to the maximum extent possible, real property or otherwise impair the rights or obligations of the parties under this Deed of Trust. Nothing herein shall be construed to authorize any financing statement filed to perfect Lender's security interest hereunder to be terminated by any means without Lender's express written consent.

**2.3. Fixture Filing.** This Deed of Trust constitutes a financing statement filed as a fixture filing under the Uniform Commercial Code in effect in the Project State, as amended or recodified from time to time, covering any part of the Collateral that now is or later may become fixtures attached to the Land or Improvements.

**2.4. Nature of Collateral.** Grantor and Lender agree that the filing of a financing statement in the records having to do with personal property shall never be construed as in any way derogating from or impairing the declaration and the stated intention of the parties hereto that the Collateral and all components thereof are, to the maximum extent possible, real property, subject to Lender's right on default to exercise, in any manner permitted by applicable law, those remedies (a) available to Lender under this Deed of Trust, (b) available to Lender as a secured party under the provisions of the UCC, or (c) otherwise provided for by law or available in equity. Whenever Lender's security is deemed to include personal property, Lender shall be entitled to foreclose against such property in connection with and as a part of any judicial or nonjudicial proceeding against the real property secured hereby, the parties hereby acknowledging that such foreclosure constitutes a commercially reasonable method of selling such property, or, in Lender's sole discretion and as permitted by applicable law, to pursue any and all other remedies afforded a secured party under the UCC or other applicable law. Upon the occurrence of an Event of Default, Grantor agrees to assemble all such property and make it available to the Trustee or Lender as secured party at a place to be designated by such party that is reasonably convenient to all parties.

### **ARTICLE 3. ASSIGNMENT OF LEASES AND RENTS**

**3.1. Leasing.** Grantor shall not lease the Project or any part thereof unless permitted under one of the other Loan Documents or by other express written consent of Lender, and then only strictly in accordance with such agreement. Notwithstanding the foregoing, however, any and all Leases at the Project, whether or not entered into with the consent of Lender, shall be subject to the provisions of this **Article 3**.

**3.2. Assignment.** Grantor hereby irrevocably, presently, absolutely and unconditionally assigns and transfers to Lender: (a) the Rents, Issues and Profits; (b) all Leases, and (c) any and all guarantees of any obligations of any lessee under each of the Leases (a "**Lessee**"). The assignments in this Section are absolute assignments and irrevocable from Grantor to Lender and not merely the passing of security interests or assignments for security only.

**3.3. Grant of License.** Lender hereby confers upon Grantor a license (“**License**”) to collect and retain the Rents, Issues and Profits as they become due and payable, and to administer the Leases, so long as no Event of Default, as defined in **Section 6.1**, shall exist and be continuing. If an Event of Default has occurred and is continuing, such License shall terminate without notice to or demand upon Grantor, without regard to the adequacy of Lender’s security under this Deed of Trust.

**3.4. Collection and Application of Rents, Issues and Profits.** Subject to the License granted to Grantor under **Section 3.3**, Lender has the right, power, and authority to collect any and all Rents, Issues and Profits and administer the Leases. Grantor hereby appoints Lender its attorney-in-fact, coupled with an interest, to, at such times as Lender may choose in its sole discretion: (a) demand, receive and enforce payment of any and all Rents, Issues and Profits; (b) give receipts, releases and satisfactions for any and all Rents, Issues and Profits; (c) sue either in the name of Grantor and/or in the name of Lender for any and all Rents, Issues and Profits; (d) perform any obligation, covenant or agreement of Grantor under any of the Leases, and, in exercising any of such obligations, pay all necessary costs and expenses, employ counsel and incur and pay attorneys’ fees; (e) delegate any and all rights and powers given to Lender by the assignment of Leases and Rents pursuant to this **Article 3**; (f) appear in any bankruptcy, insolvency or reorganization proceeding involving any Lessee and to collect any award or payment due Grantor pursuant to any such proceeding; and/or (g) use such measures, legal or equitable, as in its discretion may carry out and effectuate the terms and intent of the assignment pursuant to this **Article 3**. Lender’s right to the Rents, Issues and Profits does not depend on whether or not Lender takes possession of the Project as permitted hereunder.

**3.5. Enforcement of Leases.** Grantor will (i) comply with and observe Grantor’s obligations as landlord under all Leases and will do all that is necessary to preserve all Leases in force and free from any right of counterclaim, defense or set off, (ii) enforce the performance of each and every obligation, term, covenant, condition and agreement in the Leases by the tenants to be performed, (iii) notify Lender of the occurrence of any default under any Leases for non-residential use, and (iv) appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases or the obligations, duties, or liabilities of Grantor or the tenants thereunder. Without Lender’s written consent, Grantor will not collect or accept payment of any Rents from the Collateral more than one (1) month prior to the due dates thereof; will not surrender or terminate any Lease for non-residential use; and will not request or consent to the subordination of any Lease to any lien subordinate to this Deed of Trust.

**3.6. Modification of Leases.** Without the prior written consent of Lender, Grantor shall not: (a) waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge the tenant under any Leases for non-residential use from any obligations, covenants, conditions and agreements by tenant to be kept, observed and performed, including the obligation to pay the Rents thereunder in the manner and at the place and time specified therein; (b) cancel, terminate, consent to or permit any surrender of any non-residential Leases; or (c) renew or extend the term of the Leases for any non-residential use for a lesser rental unless an option therefor was originally so reserved by the tenant of the Leases for a fixed and definite rental.

**3.7. Payment of Rents Directly to Lender.** At any time during the existence of a continuing Event of Default, Lender may, at its option, notify any tenant or other parties of the existence of the assignment of Leases and Rents, Issues and Profits pursuant to this **Article 3**. Grantor hereby specifically authorizes, instructs, and directs each and every present and future Lessee of all or any part of the Land or Improvements to pay all unpaid and future Rents, Issues and Profits directly to Lender

upon receipt of demand from Lender to so pay the same, and Grantor hereby agrees that each such present and future tenant, lessee and licensee may rely upon such written demand from Lender to so pay the Rents, Issues and Profits without any inquiry into whether there exists an Event of Default or whether Lender is otherwise entitled to the Rents, Issues and Profits. No proof of the occurrence of an Event of Default shall be required. Grantor hereby waives any right, claim or demand that Grantor may now or hereafter have against any present or future Lessee by reason of such payment of Rents, Issues and Profits to Lender, and any such payment shall discharge Lessee's obligation to make such payment to Grantor. For purposes of RCW 61.24.140, this Section constitutes written consent by Grantor, as landlord under the Leases, to the payment of Rents, Issues and Profits directly from the Lessees to Lender.

**3.8. Lender Not Responsible.** Under no circumstances shall Lender have any duty to produce Rents, Issues and Profits from the Project. Regardless of whether or not Lender, in person or by agent, takes actual possession of the Project, Lender is not and shall not be deemed to be: (a) a **"mortgagee in possession"** for any purpose; (b) responsible for performing any of the obligations of the lessor under any Lease; (c) responsible for any waste committed by Lessees or any other parties, any dangerous or defective condition of the Project, or any negligence in the management, upkeep, repair or control of the Project; (d) responsible for any loss sustained by Grantor resulting from Lender's failure to lease the Land or Improvements or from any other act or omission of Lender in managing the Project or administering the Leases; or (e) liable in any manner for the Project or the use, occupancy, enjoyment or operation of all or any part of it, except for such matters as may arise from the gross negligence or willful misconduct of Lender.

**3.9. Indemnity.** Grantor shall indemnify, defend with counsel selected by Lender in its sole discretion, and hold Lender harmless from and against any and all claims, demands, liabilities, losses, lawsuits, judgments, damages, costs and expenses, including, without limitation, attorneys' fees and costs, to which Lender may be exposed or which Lender may incur in exercising any of its rights under this Deed of Trust.

## **ARTICLE 4. ENVIRONMENTAL**

**4.1. Definitions.** The following terms shall have the meanings specified below:

**4.1.1. "Environmental Laws"** means the Federal Resource Conservation and Recovery Act of 1976; the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980; the Federal Hazardous Materials Transportation Control Act; the Federal Clean Air Act; the Federal Water Pollution Control Act, Federal Clean Water Act of 1977; the Federal Insecticide, Fungicide, and Rodenticide Act, Federal Pesticide Act of 1978; the Federal Endangered Species Act; the Federal Toxic Substances Control Act; the Federal Safe Drinking Water Act; and all other federal, state and local laws, statutes, codes, ordinances, regulations, judgments, orders, injunctions, decrees, covenants, restrictions and standards presently in effect or that may be promulgated in the future relating to the use, release, handling, storage, transportation, clean-up, or other disposal of Hazardous Substances; or relating to the water quality, air quality, soils quality, and other environmental quality of real property and improvements constructed upon real property; or related to the protection of endangered species, as such laws and ordinances may be amended from time to time.



**4.1.2. "Environmental Report"** means those written reports relating to environmental matters on the Property which have been delivered by the Grantor, and accepted by the Lender.

**4.1.3. "Hazardous Substances"** means any waste, pollutants, contaminants, petroleum or petroleum product, asbestos, tremolite, anthophyllite or actinolite, polychlorinated biphenyls, or other chemical, substance, or material that: (a) after release into the environment and upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, bodily injury, behavior abnormalities, cancer and/or genetic abnormalities, or (b) is now or at any time in the future becomes regulated under, or is defined, classified or designated as hazardous, toxic, radioactive or dangerous, or other similar term or category under any Environmental Laws.

**4.1.4. "Nearby Property"** means real property that is adjacent to or near the Property that could reasonably cause contamination of the Property or could become contaminated with Hazardous Substances as a result of construction, operations, or other activities involving Hazardous Substances on, over, or under the Property.

**4.1.5. "Transition Date"** means, with reference to all or any portion of the Property being foreclosed or transferred by deed in lieu of foreclosure, the date on which this Deed of Trust is fully and finally foreclosed or a conveyance by deed in lieu of foreclosure has become effective and has been recorded in the county where the applicable Property is located.

**4.2. Representations and Warranties.** Grantor makes the following representations and warranties represents and warrants to Lender, which representations and warranties representation and warranty shall be continuing so long as any amount remains owing under the Secured Obligations or Lender retains any interest in the Property:

**4.2.1. Environmental Laws.** Except for any contamination or environmental condition that may be disclosed in the Environmental Report, Grantor has no knowledge of: (a) the presence of any Hazardous Substances on the Project, including all personal property located on the Land, the soil and the groundwater on or under the Land, including any streams crossing or abutting the Land, and the aquifer underlying the Land, (b) any spills, releases, discharges or disposal of Hazardous Substances that have occurred or are presently occurring on or into the Project or the Nearby Property, or (iii) any failure of the Project to comply fully with all applicable Environmental Laws. To the best of Grantor's knowledge, Grantor's intended uses of the Project, including but not limited to the improvements and materials to be constructed and installed on and in the Project and the work method for accomplishing such construction, comply fully with all Environmental Laws.

**4.3. No Waivers of Other Indemnifications Relating to Environmental Condition.** Except as set forth herein or in any separate Indemnity Agreement executed by Grantor in connection with the Loan: (i) Grantor has not and will not release or waive the liability of any past or current owner, lessee, or operator of the Property, any party who performs work on the Property, or any party who may be responsible for the presence of or removal of Hazardous Substances on or from the Property or the Nearby Property, and (ii) Grantor has made no prior promises of indemnification to any party relating to the existence or non-existence of Hazardous Substances on the Property.

**4.4. Obligation to Comply with Environmental.** Grantor shall construct, keep, and maintain the Collateral in compliance with any and all laws relating to public safety and the condition of the environment, including but not limited to the Environmental Laws. Grantor covenants that, so long as Grantor owns any interest in the Property, Grantor and Grantor's agents, contractors, authorized representatives, and employees shall not engage in any of the following prohibited activities, and Grantor shall use diligent efforts to assure that Grantor's invitees and tenants, and such tenant's employees, agents, and invitees shall not: (a) cause or permit any release or discharge of Hazardous Material on the Property other than in full compliance with all Environmental Laws; (b) cause or permit any manufacturing, storage, holding, handling, usage, placement, transporting, spilling, leaking, discharging, or dumping of Hazardous Material in or on any portion of the Property other than in full compliance with all Environmental Laws; (c) suffer or permit any other act upon or concerning the Property that would result in a violation of any Environmental Law or require any alterations or improvements to be made on the Property under any Environmental Laws; or (d) suffer or permit any other act upon or concerning the Property that would result in a violation of any Access Law.

**4.5. Remedies on Default.** A default by Grantor under any of the covenants, representations, or warranties set forth in this Article shall, upon the expiration of any applicable cure period, constitute an Event of Default (as defined below) entitling Lender to exercise all of the rights and remedies available to Lender upon the occurrence of an Event of Default hereunder; provided, however, that such Event of Default shall not form the basis for any claim for damages or indemnification by Lender against Grantor except to the extent of sums actually advanced by Lender as a consequence of such default, pursuant to the terms of this Deed of Trust and prior to the Transition Date, in order to maintain and protect Lender's security hereunder.

**4.6. Not Substantial Equivalent.** None of the covenants, representations, or other obligations of Grantor set forth in this Article are intended by the parties to be the substantial equivalent of obligations of Grantor arising under any Indemnity Agreement. To the extent any such representations, covenants, or obligations may nonetheless subsequently be determined to be the substantial equivalent of obligations of Grantor arising under any Indemnity Agreement, without in any way limiting or affecting Lender's other rights and remedies hereunder, this Deed of Trust will cease to secure any such provisions and a default under any such provision shall not constitute a basis for non-judicial foreclosure hereunder.

## **ARTICLE 5. RIGHTS AND DUTIES OF THE PARTIES**

**5.1. Performance of Secured Obligations.** Makers and/or Grantor shall promptly pay and perform each Secured Obligation in accordance with its terms.

**5.2. Representations and Warranties.** Grantor represents and warrants that, except as previously disclosed and accepted by Lender in writing:

**5.2.1. Title to Land and Improvements.** Grantor holds good and indefeasible fee simple title to all of the Land and Improvements, subject only to such exceptions and encumbrances as appear in the title insurance policy issued to Lender and insuring the lien of this Deed of Trust or such other exceptions and encumbrances as Lender may approve in writing (the "**Permitted Exceptions**").

**5.2.2. Title to Personal Property.** Grantor owns any portion of the Collateral that is personal property free and clear of any security agreements, reservations of title, or conditional sales contracts, and there is no financing statement affecting such personal property on file in any public office other than in Lender's favor.

**5.2.3. Right to Encumber/Priority.** Grantor has the full and unlimited power, right, and authority to encumber the Collateral and assign the Rents, Issues and Profits, Leases, and the Contracts and Plans. Upon recording of this Deed of Trust and filing of a UCC Financing Statement with respect to any portion of the Collateral that is determined to be personal property, this Deed of Trust will create a first and prior lien on and security interest in the Collateral that is subject and subordinate to no other liens except for the Permitted Exceptions.

**5.2.4. Commercial Purposes.** The Loan and the other Secured Obligations were obtained, and will continue to be used, for commercial or business purposes, other than agricultural, timber, or grazing purposes, and not for personal, family or household purposes.

**5.2.5. Business Location.** Grantor maintains a place of business in the State of Washington and will immediately notify Lender in writing of any change in its place of business.

**5.3. Taxes and Assessments.** Grantor shall pay or cause to be paid when due, all general real and personal property taxes, special and supplemental real and personal property taxes and assessments, license fees, license taxes, levies, charges, penalties, or other taxes or similar impositions imposed by any public or quasi-public authority or utility company that are or may become a lien upon the Collateral or any portion thereof or interest therein, or that may cause any decrease in the value of the Collateral or any part of it. Grantor shall also pay when due all real property taxes, assessments, levies and charges imposed by any public authority upon Lender by reason of its interest in the Collateral created hereby. All of the foregoing taxes, assessments and other charges payable by Grantor with respect to the Collateral are collectively referred to as the "**Impositions**". If requested by Lender, Grantor shall furnish Lender with receipts from the appropriate taxing authority or other proof satisfactory to Lender that all Impositions have been paid on or before the date upon which they become delinquent.

**5.4. Liens, Charges and Encumbrances.** Grantor shall not encumber or permit the encumbrance of the Collateral without Lender's prior written consent and Grantor shall immediately discharge any lien on the Collateral to which Lender has not consented in writing. Grantor shall pay or cause to be paid when due all obligations secured by or reducible to liens and encumbrances that shall now or hereafter encumber or appear to encumber the Collateral or any part thereof, all claims for work or labor performed, or materials or supplies furnished, in connection with any work upon the Project, whether the lien, charge or encumbrance is or would be senior or subordinate to this Deed of Trust; provided, however, that Grantor shall not be in default hereunder due to any such lien, charge, or encumbrance that is a Permitted Exception, or if Grantor removes any such lien from the Property by the posting of a statutory bond in accordance with RCW 60.04.161. Lender hereby expressly reserves the right to advance any and all funds necessary to cure any and all such obligations, and/or claims.

**5.5. Required Insurance.** Grantor shall keep in effect with respect to the Collateral all insurance coverage required pursuant to the terms of the Loan Agreement.

## **5.6. Insurance and Condemnation Proceeds.**

**5.6.1. Payment to Lender.** Grantor hereby absolutely and irrevocably assigns to Lender, and authorizes the payor to pay to Lender, the following claims, causes of action, awards, payments and rights to payment, together with all interest that may accrue thereon (collectively, the “**Claims**”):

**5.6.1.1. Condemnation Awards.** All awards of damages and all other compensation payable directly or indirectly because of a condemnation, proposed condemnation, or taking for public or private use that affects all or part of the Collateral or any interest in it;

**5.6.1.2. Warranty Claims.** All awards, claims, and causes of action arising out of any warranty affecting all or any part of the Collateral, or for damage or injury to or decrease in value of all or part of the Collateral or any interest in it; and

**5.6.1.3. Insurance Proceeds.** All proceeds of any insurance policies payable because of damage or loss sustained to all or part of the Collateral.

**5.6.2. Notice to Lender.** Grantor shall immediately notify Lender in writing if: (i) any damage occurs or any injury or loss is sustained to all or part of the Collateral, whether or not covered by insurance or warranty, or any action or proceeding relating to any such damage, injury, or loss is commenced; or (ii) any offer is made, or any action or proceeding is commenced, that relates to any actual or proposed condemnation or taking of all or part of the Collateral.

**5.6.3. Pursuit of Claims.** Grantor shall pursue recovery of all such Claims and defend its rights under any proceeding for condemnation of the Collateral or any part thereof and prosecute the same with due diligence to its final disposition, and shall cause any awards or settlements to be paid over to Lender for disposition pursuant to the terms of this Deed of Trust. Lender may, at Lender’s option and in Lender’s sole discretion, as attorney-in-fact for Grantor, make proof of loss and adjust and compromise any Claims, appear in or prosecute any action or proceeding to enforce the Claims, or participate in any action or proceeding relating to condemnation or taking of all or part of the Collateral, and may join Grantor in adjusting any loss covered by insurance. Grantor shall deliver or cause to be delivered to Lender such instruments as may be requested by Lender from time to time to permit Lender to take any such actions.

**5.6.4. Application of Proceeds.** All proceeds of the Claims that Grantor may receive or be entitled to receive shall be paid to Lender. Lender shall apply any proceeds received by it hereunder first to the payment of the reasonable costs and expenses incurred in the collection of the proceeds. Lender shall then apply the remaining balance of such proceeds (the “**Net Claims Proceeds**”), in its absolute discretion and without regard to the adequacy of its security: (i) to any of the Secured Obligations, notwithstanding the fact that Secured Obligations may not be due according to the terms thereof; (ii) to reimburse Grantor for the costs of reconstructing the Improvements or otherwise repairing or restoring the Collateral; or (iii) to Grantor. Notwithstanding the foregoing, if there are no outstanding Events of Default or Potential Default under any of the Loan Documents and Grantor establishes, to Lender’s reasonable satisfaction, that Grantor has sufficient funds, including the Net Claims Proceeds, to fully rebuild or repair the Collateral at least six (6) months prior to the maturity date stated in the Loan Documents (“**Maturity Date**”) and without delaying the completion date of the Project, Lender shall make disbursements of the Net Claims Proceeds for purposes of repair or restoration of the



Collateral in accordance with disbursement procedures and subject to disbursement conditions acceptable to Lender. If, after applying the Net Claims Proceeds to the Secured Obligations, Lender reasonably determines the remaining Collateral to be inadequate to secure the remaining Secured Obligations, Grantor shall, upon written demand from Lender, repay an amount that will reduce the remaining Secured Obligations to a balance for which adequate security is present.

**5.6.5. Restoration.** Whether or not Net Claims Proceeds are disbursed for reconstruction, restoration, or repair of the Collateral, Grantor shall promptly and diligently restore the Collateral to the equivalent of its condition immediately prior to the casualty or condemnation in accordance with the Plans and Specifications or to such other condition as Lender may approve in writing.

**5.7. Reserves for Taxes and Insurance.** If required by Lender following an Event of Default, Grantor shall deposit with Lender, in monthly installments, an amount equal to one-twelfth of the estimated aggregate annual Impositions and insurance premiums for the Project. In such event, Grantor shall cause all bills, statements, or other documents relating to the Impositions and insurance premiums to be sent or mailed directly to Lender. Upon receipt of such bills, statements, or other documents, and provided Grantor has deposited sufficient funds with Lender pursuant to this Section, Lender shall pay such amounts as may be due thereunder out of the funds so deposited with Lender. If at any time and for any reason the funds deposited with Lender are or will be insufficient to pay such amounts as may then or subsequently be due, Lender shall notify Grantor and Grantor shall immediately deposit an amount equal to such deficiency with Lender. Notwithstanding the foregoing, nothing contained herein shall cause Lender to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Lender pursuant to this Section. Lender may commingle said reserve with its own funds and Grantor shall be entitled to no interest thereon.

**5.8. Maintenance and Preservation of the Collateral.** Grantor covenants: (a) to maintain and preserve the Collateral in good condition and repair and in a prudent businesslike manner; (b) not to remove, demolish, or structurally alter the Collateral or any part thereof, or alter, restore or add to the Collateral, or initiate or allow any change in any zoning or other land use classification that affects the Collateral or any part of it, except with Lender's express prior written consent, and except such alterations as may be required by laws, ordinances, rules, regulations, or orders of governmental authorities or by the terms hereof; (c) to comply with and not suffer violations of any existing or future subdivision laws, building codes, zoning laws and regulations, and other laws, regulations, ordinances, rules, codes, orders, directives, guidelines, building restrictions, and requirements of, and all agreements with and commitments to, all federal, state, county or municipal governmental, judicial or legal authorities or agencies having jurisdiction over Grantor or the Property, including those pertaining to the construction, sale, lease, or financing of the Improvements, and all recorded covenants and restrictions affecting the Property (the "**Requirements**"); (d) not to commit or permit any waste to or deterioration of the Collateral; (e) to perform all other acts that from the character or use of the Collateral may be reasonably necessary to maintain and preserve its value; (f) to perform all obligations required to be performed under the Loan Documents, and all other obligations of Grantor pertaining to the Collateral; and (g) to execute and, where appropriate, acknowledge and deliver such further instruments as Lender or Trustee may deem necessary or appropriate to preserve, continue, perfect and enjoy the security provided for herein.

**5.9. Defense and Notice of Actions; Costs.** Grantor shall, without liability, cost, or expense to Lender or Trustee, protect, preserve, and defend Grantor's fee interest in and to the Project and

Grantor's interest in the Collateral, the security of this Deed of Trust, any additional or other security for the Secured Obligations, and the rights or powers of Lender or Trustee hereunder against all adverse claims. Said protection, preservation, and defense shall include, but not be limited to, protection, preservation and defense against all adverse claimants to and encumbrancers of Grantor's interest in the Collateral, whether or not such claimants or encumbrancers assert an interest paramount to that of Lender. Grantor shall give Lender and Trustee prompt notice in writing of the filing of any such action or proceeding. Grantor shall pay all costs, fees, and expenses including, without limitation, costs of evidence of title, trustees' fees, and reasonable attorneys' fees paid or incurred in any action or proceeding in which Lender and/or Trustee may appear or be made a party, whether or not pursued to final judgment, and in any exercise of the power of sale or other remedy contained herein, whether or not such sale is actually consummated or such other remedy is actually prosecuted to completion.

**5.10. Right of Inspection.** Subject to the rights of any tenants of the Property, Lender, its agents, employees and representatives shall have the right to enter the Property at any reasonable time with reasonable prior notice to Grantor, for the purpose of inspecting the Property and ascertaining Grantor's compliance with the terms hereof, and for such other purposes and in accordance with the terms specified in any of the other Loan Documents.

**5.11. Accounting.** Grantor shall keep and maintain or will cause to be kept and maintained, in accordance with sound accounting practice, accurate books and records relating to the Property. Grantor shall permit Lender to examine all books and other records of Grantor or related to the Property at such reasonable times and intervals as Lender may desire. Following an Event of Default, Lender may cause an audit to be made of Grantor's books and records, at Grantor's sole cost and expense.

**5.12. Actions of Trustee; Matters Concerning Trustee.** Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, becomes a public record as provided by law.

**5.12.1. Compensation.** Grantor agrees to pay fees in the maximum amounts legally permitted, or reasonable fees as may be charged by Lender and Trustee when the law provides no maximum limit, for any services that Lender or Trustee may render in connection with this Deed of Trust. Grantor further agrees to pay or reimburse Lender for all costs, expenses and other advances that may be incurred or made by Lender or Trustee in any efforts to enforce any terms of this Deed of Trust, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Deed of Trust, including attorneys' fees and other legal costs, costs of any Foreclosure Sale (defined below) or bankruptcy proceeding affecting the Grantor or the Collateral, and any cost of evidence of title.

**5.12.2. Exculpation.** Lender shall not be directly or indirectly liable to Grantor or any other person as a consequence of: (i) Lender's exercise of or failure to exercise any rights, remedies, or powers granted to it in this Deed of Trust or to perform or discharge any obligation or liability of Grantor under any agreement related to the Collateral or under this Deed of Trust; or (ii) any loss sustained by Grantor or any third party resulting from any act or omission of Lender in managing the Property, unless the loss is caused solely by the willful misconduct or gross negligence of Lender. Grantor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Lender.

**5.12.3. Indemnification.** Grantor agrees to indemnify Trustee and Lender against, defend with counsel selected by Trustee or Lender for their respective defenses, and hold each of them

and their respective officers, employees, agents, and representatives, harmless from and against any and all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees, and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses, that either may reasonably suffer or incur: (i) in performing any act required or permitted by this Deed of Trust or any of the other Loan Documents or by law; (ii) because of any Event of Default or other failure of Grantor to perform any of its Secured Obligations; or (iii) because of any alleged obligation of or undertaking by Lender to perform or discharge any of the representations, warranties, conditions, covenants or other obligations in any document relating to the Collateral other than the Loan Documents. This agreement by Grantor to indemnify Trustee and Lender shall survive the release and cancellation of any or all of the Secured Obligations and the full or partial release and/or reconveyance of this Deed of Trust.

**5.12.4. Payment by Grantor.** Grantor shall fulfill all obligations to pay money arising under this Section immediately upon demand by Trustee or Lender. Each such obligation shall be added to, and considered to be part of, the principal of the Note, and shall bear interest from the date the obligation arises at the rate applicable to the principal balance of the Note, as such rate may be adjusted.

### **5.13. Permitted Actions.**

**5.13.1. Releases, Extensions, Modification, and Additional Security.** From time to time, Lender may perform any of the following acts without incurring any liability or giving notice to any person: (i) release any person liable for payment of any Secured Obligation; (ii) extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligation; (iii) accept additional real or personal property of any kind as security for any Secured Obligation; or (iv) alter, substitute, or release all or any portion of the Collateral.

**5.13.2. Additional Actions.** From time to time Lender, or Trustee when requested to do so by Lender in writing, may perform any of the following acts without incurring any liability or giving notice to any person and without affecting the personal liability of any person for payment or performance of any of the Secured Obligations: (i) consent to the making of any plat or map of the Property or any part of it; (ii) join in granting any easement or creating any covenant or restriction affecting the Property; (iii) join in any extension, subordination, or other agreement affecting this Deed of Trust or the lien of it; or (iv) reconvey the Collateral or any part of it without any warranty.

### **5.14. Reconveyance.**

#### **5.14.1. Partial Releases.** Intentionally Omitted

**5.14.2. Full Reconveyance.** When all of the Secured Obligations have been paid and performed in full and there exists no default under the Loan, Lender shall request Trustee in writing to reconvey the Collateral, and shall surrender this Deed of Trust and all notes and instruments evidencing the Secured Obligations to Trustee. When Trustee receives Lender's written request for reconveyance and all reconveyance fees, recording fees, and other fees and expenses owing to it by Grantor hereunder, Trustee shall reconvey the Collateral, or so much of it as is then requested to be released, without warranty to the person or persons legally entitled to it. In the reconveyance, the grantee may be described as "the person or persons legally entitled thereto," and the recitals of any matters or facts shall be conclusive proof of their truthfulness. Neither Lender nor Trustee shall have any duty to determine the right of persons claiming to be rightful grantees of any reconveyance.

**5.15. Late Charge.** If Grantor fails to make any payment of an amount due and payable under this Deed of Trust, a late charge as specified in and measured by the Note may be charged by Lender for the purpose of defraying the extra administrative expenses incident to handling such delinquent payment and the loss of the use of funds resulting from Grantor's non-payment when due. Such late charge shall be paid without prejudice to the rights of the holder of the Note to collect any other amounts provided to be paid thereunder.

**5.16. Subrogation.** Lender shall be subrogated to the liens of all encumbrances, whether released of record or not, that are discharged in whole or in part by Lender in accordance with this Deed of Trust or with the proceeds of the Loan.

**5.17. Notice of Change.** Grantor shall give Lender prior written notice of any change in: (a) the location of its place of business or its chief executive office if it has more than one place of business; (b) the location of any of the Collateral, including the Books and Records; and (c) Grantor's name or business structure. Unless approved by Lender in writing, all Collateral that consists of personal property (other than the Books and Records) will be located at the Project and all Books and Records will be located at Grantor's place of business, or chief executive office if Grantor has more than one place of business.

**5.18. Substitution of Trustee.** Lender may appoint a successor trustee by an instrument executed and acknowledged by Lender and recorded in the county in which this Deed of Trust is recorded, and upon such recordation, the successor trustee shall become vested with the same powers, rights, duties, and authority of the Trustee with the same effect as if originally made Trustee hereunder.

## **ARTICLE 6. DEFAULTS AND REMEDIES**

**6.1. Events of Default.** The occurrence of any one or more of the following shall constitute an "Event of Default":

**6.1.1. Payment Default.** Failure to make any payment when due under the Note or any of the other Loan Documents and such failure is not cured within five (5) days after written notice given by Lender to Grantor, except for obligations due on the Maturity Date, for which there shall be no grace period;

**6.1.2. Default at Maturity.** Grantor's failure to pay all remaining principal, accrued unpaid interest, or any other amounts outstanding under the Loan Documents in full on the Maturity Date.

**6.1.3. Non-Payment Defaults.** Grantor's failure to perform any other covenant, agreement or obligation to be performed by Grantor under this Deed of Trust or any of the other Loan Documents, and such failure is not cured within thirty (30) days after written notice thereof has been given by Lender to Grantor (or if the failure is such that the cure cannot be completed within said thirty (30) day period, failure by Grantor to commence the cure within said thirty (30) day period and thereafter continue the cure with diligence and complete the cure within ninety (90) days after such written notice).

**6.1.4. Unauthorized Transfer.** A transfer, purported transfer, or change of ownership or control of Grantor or any guarantor in violation of **Article 7**.



**6.1.5. Insolvency.** Grantor or any guarantor files a voluntary petition in bankruptcy or such a petition is filed against Grantor or any guarantor and not dismissed within sixty (60) days thereafter; or Grantor or any guarantor files any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or Grantor or any guarantor consents to or acquiesces in the appointment of any trustee, receiver or liquidator of Grantor, any guarantor, or of all or any part of the Property, or of any or all of the royalties, revenues, rents, issues or profits thereof, or makes any general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due.

**6.1.6. Appointment of Receiver.** A decree or order is entered for the appointment of a trustee, receiver, or liquidator for Grantor or any guarantor or any of the Collateral.

**6.1.7. Permitted Exceptions.** Grantor defaults under, violates, or fails to comply with the terms of any Permitted Exceptions;

**6.1.8. Money Judgment.** A final judgment, order or decree for the payment of money shall be rendered against Grantor or any guarantor, and Grantor or such guarantor shall not satisfy and pay the same or cause it to be discharged within thirty (30) days from the entry thereof, or shall not appeal therefrom and secure a stay of execution pending such appeal, or there is an attachment, execution, or other judicial seizure of any portion of the assets of Grantor or any guarantor and such seizure is not discharged or bonded against to Lender's reasonable satisfaction within thirty (30) days.

**6.1.9. Misrepresentation.** Any representation or disclosure made to Lender by Grantor or any guarantor proves to be materially false or misleading when made, whether or not that written representation or disclosure is contained herein or in any of the other Loan Documents.

**6.1.10. Security Impaired.** There is an uninsured casualty with respect to any material portion of the Collateral and Grantor fails to immediately repair such damage, Grantor fails to satisfy the conditions set forth in the Deed of Trust for the release of insurance proceeds or any condemnation award, or, whether or not Lender has received and applied insurance proceeds or any condemnation award to the Secured Obligations in accordance with the Deed of Trust, Lender reasonably determines that its security is impaired by such casualty or condemnation and Grantor fails to immediately deposit in Grantor's Account an amount determined by Lender as necessary to restore such security.

**6.1.11. Defaults under Agreements with Third Parties.** Grantor defaults in the performance of any material covenant under any permitted financing related to the Project, or under any sales agreement, lease, or other instrument assigned to Lender as security for the Loan.

**6.1.12. Other Defaults under Loan Documents.** Any other Event of Default occurs under the Loan Agreement or any of the other Loan Documents.

**6.2. Rights and Remedies.** At any time after the occurrence of an Event of Default hereunder, Lender and/or Trustee shall have all of the rights and remedies described below, in addition to any other rights and remedies of Lender under the Loan Agreement or the other Loan Documents. To the fullest extent permitted by law, all of such rights and remedies shall be cumulative and the exercise of any one or more of them shall not constitute an election of remedies:

**6.2.1. Receiver.** If an Event of Default shall have occurred and be continuing, Lender may, as a matter of right and without regard to the then-current value of the Collateral or the interest of Grantor therein or the sufficiency of the security for repayment and performance of the Secured Obligations, upon *ex parte* application and without notice to Grantor or anyone claiming under Grantor, and without any showing of insolvency, fraud or mismanagement on the part of Grantor, and without the necessity of filing any judicial or other proceeding other than the proceeding for appointment of a receiver, apply to any court having jurisdiction to appoint receivers for appointment of a custodial or general receiver (at Lender's sole election) for the Collateral or any portion thereof, and of the Rents, Issues and Profits. Grantor hereby irrevocably consents and agrees to the appointment of a custodial receiver or general receiver with power of sale upon any Event of Default. Any such receiver shall have the usual powers and duties of receivers in like or similar cases, all the powers and duties of Lender set forth in this Deed of Trust or any of the other Loan Documents, and, in the case of a general receiver, a right to sell the Property. Employment by Lender shall not disqualify a person from serving as receiver.

**6.2.2. Cure; Protection of Security.** With or without notice, and without releasing Grantor from any obligation hereunder, Lender may (but shall not be obligated to) cure any breach or default of Grantor and, if it chooses to do so in its sole discretion, make such advances and do any and all other things that it may in its sole discretion consider necessary and appropriate to protect its Collateral and the security of this Deed of Trust. In addition to and without limitation of the foregoing, if Grantor has failed to keep or perform any covenant whatsoever contained in this Deed of Trust or the other Loan Documents, Lender may, but shall not be obligated to any person to do so, perform or attempt to perform said covenant, and any payment made or expense incurred in the performance or attempted performance of any such covenant shall be and become a part of the Secured Obligations, and Grantor promises, upon demand, to pay to Lender, at the place where the Note is payable, all sums so advanced or paid by Lender, with interest from the date when paid or incurred by Lender at the default rate of interest provided in the Note. No such payment by Lender shall constitute a waiver of any Event of Default. In addition to the liens and security interests hereof, Lender shall be subrogated to all rights, titles, liens, and security interests securing the payment of any debt, claim, tax, or assessment for the payment of which Lender may make an advance, or which Lender may pay.

**6.2.3. Entry.** Lender, in person, by agent, or by court-appointed receiver, with or without bringing any action or proceeding, may terminate Grantor's right and license to collect the Rents, Issues and Profits and to administer the Leases, and enter, take possession of, complete construction on, manage and operate, and lease or sell, all or any part of the Collateral, and may also do any and all other things in connection with those actions that Lender may in its sole discretion consider necessary or appropriate to protect the security of this Deed of Trust or that are otherwise permitted to be taken or conducted by Lender under the Loan Agreement. If Lender so requests, Grantor shall assemble any Collateral that has been removed from the Project and make all of it available to Lender at the Project site. The entering upon and taking possession of the Project, the collection of the Rents, Issues and Profits and the application thereof, or any of such acts, shall not cure or waive any default or notice of default hereunder or invalidate any other right or remedy that Lender may have in response to such default or pursuant to such notice and, notwithstanding the continued possession of the Project or the collection, receipt, and application of the Rents, Issues and Profits by Lender, Trustee, or Lender's receiver or agent, Trustee or Lender shall be entitled to exercise every right provided for in any of the Loan Documents or by law upon the occurrence of any Event of Default.

**6.2.4. Uniform Commercial Code Remedies.** With respect to all or any part of the Collateral that constitutes personal property, Lender shall have all of, and may exercise any or all of, the rights and remedies of a secured party under the Uniform Commercial Code in effect in the Project State.

**6.2.5. Judicial Action.** Lender may commence and maintain an action or actions, at law or in equity, in any court of competent jurisdiction, to enforce the payment and/or performance of the Secured Obligations (including, without limitation, to obtain specific enforcement of the covenants of Grantor hereunder, and Grantor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy), to foreclose the liens and security interests of this Deed of Trust as against all or any part of the Collateral, and to have all or any part of the Collateral sold under the judgment or decree of a court of competent jurisdiction. Grantor hereby waives the defense of laches and any applicable statute of limitations. If this Deed of Trust is foreclosed by judicial action, and the Collateral sold at a foreclosure sale, the purchaser may, during any redemption period allowed, make such repairs or alterations on the Land as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the lesser of the default rate under the Note, or the maximum rate permitted by law, shall be added to and become a part of the amount required to be paid for redemption from such sale. In addition, Lender will be entitled to a judgment providing that, if the foreclosure sale proceeds are insufficient to satisfy the judgment, execution may issue for the deficiency.

**6.2.6. Realization on Security.** Lender may resort to and realize upon or waive the security hereunder and any other security now or hereafter held by Lender in such order and manner as Trustee and Lender or either of them may, in their sole discretion, determine; which resort to such security may be taken concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both.

**6.2.7. Power of Sale.** Lender may execute a written notice of such Event of Default and of its election to invoke this power of sale to cause all or part of the Collateral to be sold to satisfy the Secured Obligations. Under this power of sale, Lender shall have the discretionary right to cause some or all of the Collateral, including any Collateral property that constitutes personal property, to be sold or otherwise disposed of in any combination and in any manner permitted by applicable law.

**6.2.7.1. Sales of Personal Property.** For purposes of this power of sale, Lender may elect to treat as personal property any Collateral property that is intangible or that can be severed from the Land or Improvements without causing structural damage. If it chooses to do so, Lender may dispose of any personal property separately from the sale of real property, in any manner permitted by the Uniform Commercial Code in effect in the Project State, including any public or private sale, or in any manner permitted by any other applicable law. Lender shall have no obligation to clean-up or otherwise prepare any such Collateral for sale. Any proceeds of any such disposition shall not cure any Event of Default or reinstate any Secured Obligation.

**6.2.7.2. Trustee's Sales of Real Property or Mixed Collateral.** Lender may also choose to dispose of some or all of the Collateral that consists solely of real property in any manner then permitted by applicable law. In its discretion, Lender may also or alternatively choose to dispose of some or all of the Collateral in any combination consisting of both real and personal property, together in one sale to be held in accordance with the law and procedures applicable to real property, if and as permitted in the Project State. Grantor agrees that such a sale of personal property constitutes a commercially reasonable sale of the personal property. For purposes of this power of sale, either a sale

of real property alone, or a sale of both real and personal property together, will sometimes be referred to as a **"Trustee's Sale"**.

**6.2.7.3. Trustee's Sale Procedures.** Before any Trustee's Sale, Lender or Trustee shall give and record such notice of default and election to sell as may then be required by law. When all legally mandated time periods have elapsed, Trustee shall sell the property being sold at a public auction to be held at the time and place specified in the notice of sale, and Lender may impose such terms and conditions of sale as are permitted or allowed by applicable law. From time to time in accordance with then applicable law, Trustee may, and in any event at Lender's request shall, continue any Trustee's Sale by public announcement at the time and place scheduled for that sale, or may, in its discretion, give a new notice of sale. Also, Lender may from time to time discontinue or rescind any notice of default or notice of sale before any Trustee's Sale as provided above, by executing and delivering to Trustee a written notice of such discontinuance or rescission. The exercise by Lender of such right of rescission shall not constitute a waiver of any Event of Default then existing or subsequently occurring, or impair the right of Lender to execute and deliver to Trustee, as above provided, other declarations or notices of default to satisfy the Secured Obligations, nor otherwise affect any provision, covenant, or condition of any Loan Document, or any of the rights, obligations, or remedies of Trustee or Lender hereunder or thereunder.

**6.2.7.4. Bidding at Trustee's Sale.** At any Trustee's Sale, Trustee shall sell to the highest bidder at public auction for cash in lawful money of the United States, unless other terms and conditions of sale are prescribed by Lender in accordance with and as permitted by applicable law. Any person, including, without limitation, Grantor or Lender, may purchase at such sale. Trustee shall execute and deliver to the purchaser(s) at such sale a deed or deeds conveying the property being sold without any covenant or warranty whatsoever, express or implied. The recitals in any such deed of any matters or facts, including any facts bearing upon the regularity or validity of any Trustee's Sale, shall be conclusive proof of their truthfulness.

**6.2.8. Single or Multiple Foreclosure Sales.** If the Collateral consists of more than one lot, parcel or item of property, Lender may: (i) designate the order in which the lots, parcels and/or items shall be sold or disposed of or offered for sale or disposition; and (ii) elect to dispose of the lots, parcels and/or items through a single consolidated sale or disposition to be held or made under the power of sale granted herein, or in connection with judicial proceedings, or by virtue of a judgment and decree of foreclosure and sale; or through two or more such sales or dispositions, each of which may be separately noticed if so elected by Lender and permitted by applicable law; or in any other manner Lender may deem to be in its best interests (any such sale or disposition, a **"Foreclosure Sale"**). If it chooses to have more than one Foreclosure Sale, Lender at its option may cause the Foreclosure Sales to be held simultaneously or successively, on the same day, or on such different days and at such different times and places and in such order as it may deem to be in its best interests, all as may be permitted under applicable law. No Foreclosure Sale shall terminate or affect the lien of this Deed of Trust on any part of the Collateral that has not been sold until all of the Secured Obligations have been paid in full.

**6.2.9. Releases, Extensions, Modification and Additional Security.** Without affecting the liability of any person for payment of any of the Secured Obligations, Lender may make any agreement or take any action extending the maturity or otherwise altering the terms or increasing the amount of any of the Secured Obligations, and accept additional security or release all or a portion of the Collateral and/or other security for the Secured Obligations.



**6.2.10. Acceleration Not Required.** Lender may take any of the actions permitted under Sections 6.2.1 through 6.2.3 regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Deed of Trust.

**6.2.11. Other Remedies.** In addition to the foregoing, upon the occurrence of an Event of Default, Lender and/or Trustee shall have and may exercise any and all other rights and remedies available to them at law or in equity. The exercise or failure to exercise any right or remedy available to Lender or Trustee shall in no event be deemed or construed to be a waiver or release of any rights or remedies of Lender or Trustee under the Loan Documents, or at law or in equity.

**6.3. Payment of Costs, Expenses, and Attorneys' Fees.** All costs and expenses reasonably incurred by Trustee and Lender in enforcing the remedies available to them hereunder or otherwise protecting the Collateral or other rights or interests of Lender (including, without limitation, court costs and reasonable attorneys' fees, whether incurred in litigation or not, expenses for evidence of title, appraisals and surveys and trustees' fees, and costs and fees relating to any bankruptcy, reorganization, or insolvency proceeding) shall constitute an additional obligation of Grantor to Lender. Grantor shall immediately reimburse Lender and Trustee for all costs and expenses that Lender or Trustee may incur by reason of, or arising out of, or in connection with: (a) any Default; (b) any action or proceeding in which Lender or Trustee may appear or commence to protect, preserve, exercise or enforce their rights, remedies or security interests under this Deed of Trust, or under any document or instrument evidencing the Secured Obligations secured by this Deed of Trust, or which otherwise relates to the Project, including all appeals therefrom; (c) the performance of any act authorized or permitted hereunder; and (d) the exercise of any other rights or remedies under this Deed of Trust, or under any document or instrument evidencing the Secured Obligations secured hereby, whether or not a suit or proceeding is instituted. Such costs and expenses shall include without limitation the fees, charges and expenses of attorneys, engineers, accountants, appraisers, expert witnesses, consultants and other professional assistants and advisors, costs and expenses of searching records, examining title and determining rights in, title to, or the value of, the Project, or the boundaries thereof, including but not limited to title company charges, title insurance premiums, survey costs, publication costs, and other charges incident thereto, all whether or not a suit or proceeding is instituted. Grantor agrees to and shall pay, immediately and without demand, all sums so expended by Lender or Trustee, together with interest from the date of expenditure, at the highest legal interest rate then payable under the Loan Documents, all of which sums plus interest shall constitute additional Secured Obligations secured by this Deed of Trust.

**6.4. Remedies Not Exclusive.** Trustee and/or Lender shall be entitled to enforce the payment and performance of any Secured Obligations and to exercise any and all rights, powers, and remedies under this Deed of Trust, any other Loan Document, notwithstanding the fact that some or all of the Secured Obligations may now or hereafter be otherwise secured. Trustee and/or Lender shall be entitled to enforce all such rights concurrently or separately, in such order and manner as they or either of them may in their absolute discretion determine. No remedy is intended to be exclusive of any other remedy, but each shall be cumulative and in addition to the others, to the fullest extent permitted by law.

## **6.5. Miscellaneous.**

**6.5.1.** Lender may release, regardless of consideration, any part of the Collateral without, as to the remainder, in any way impairing, affecting, subordinating, or releasing the lien or security interests evidenced by this Deed of Trust or the other Loan Documents or affecting the obligations of Grantor or any other party to pay and perform the Secured Obligations. For payment of the Secured Obligations, Lender may resort to any of the collateral therefor in such order and manner as Lender may elect. No collateral heretofore, herewith, or hereafter taken by Lender shall in any manner impair or affect the collateral given pursuant to the Loan Documents, and all collateral shall be taken, considered, and held as cumulative.

**6.5.2.** Grantor hereby irrevocably and unconditionally waives and releases: (i) all benefits that might accrue to Grantor by virtue of any present or future law exempting the Collateral from attachment, levy or sale on execution or providing for any appraisal, valuation, stay of execution, exemption from civil process, redemption, or extension of time for payment; (ii) notices of any Event of Default or of the exercise of any right, remedy, or recourse not explicitly required under the Loan Documents; and (iii) any right to a marshaling of assets or a sale in inverse order of alienation.

## **ARTICLE 7. ASSIGNMENT**

**7.1. No Assignment or Encumbrance without Lender's Consent.** Grantor acknowledges and agrees that the Secured Obligations are personal to Grantor and that the identity of Grantor and its members, shareholders, partners and employees, and of any guarantors, and the relationship between Grantor and Lender, Grantor's creditworthiness, business expertise, financial condition, and continued control of the Collateral were material inducements upon which Lender relied in arranging the Secured Obligations. Accordingly, Grantor shall not, without Lender's prior written consent or as otherwise expressly permitted in the Loan Documents: (i) sell, convey, assign, encumber, or otherwise transfer any of its right, title, or interest in and to the Collateral or any other Project asset, whether such transfer or encumbrance is voluntary or by operation of law, (ii) sell, assign, or transfer its interest as Grantor under the Secured Obligations, or (iii) transfer any stock or other ownership interest that would cause a material change in the control of Grantor. Any attempted assignment without such prior written consent shall be null and void, and of no effect, and shall also constitute an Event of Default.

**7.2. Conditions to Approval of Assignment.** As a condition of approving any assignment, Lender may impose such requirements and conditions as it determines are appropriate in its sole discretion, including, without limitation, the requirement that Grantor and the assuming party pay, in advance, any and all reasonable costs and expenses, including reasonable attorney's and accountant's fees incurred by Lender in connection therewith. No approval of any assignment will release Grantor from any liability under the Loan Documents without Lender's prior written consent, which consent may be freely withheld.

**7.3. Loan Due upon Prohibited Transfer or Encumbrance.** Upon any transfer, assignment, or encumbrance for which Lender's written approval is required but has not been obtained, the entire outstanding balance owing under the Note, including principal, accrued interest, and any other amounts owing under the Loan Documents shall become due and payable at Lender's option, without any requirement for notice or demand, and Lender may pursue any remedies granted to it under this Deed of Trust or any of the other Loan Documents.

**7.4. Assignment and Participation by Lender.** Lender shall have the right, at any time and from time to time and upon notice to Grantor, to assign or sell the Secured Obligations, and/or any one or more participations in the Secured Obligations, or to include such obligations in a securitized pool of indebtedness, accompanied by an assignment and/or delegation of any or all related rights or obligations of Lender under the Loan Documents, without the need for any form of consent from Grantor.

## **ARTICLE 8. MISCELLANEOUS PROVISIONS**

**8.1. Additional Provisions.** The Loan Documents fully state all of the terms and conditions of the parties' agreement regarding the matters mentioned in or incidental to this Deed of Trust. The Loan Documents also grant further rights to Lender and contain further agreements and affirmative and negative covenants by Grantor that apply to this Deed of Trust and to the Collateral.

**8.2. Re-Appraisal.** Lender shall have the right to re-appraise the Collateral as provided in the Loan Agreement.

**8.3. Limitation on Interest and Charges.** Grantor agrees to an effective rate of interest that is the rate provided for in the Note, plus any additional rate of interest resulting from any other charges in the nature of interest paid or to be paid by or on behalf of Grantor, or any benefit received or to be received by Lender, in connection with the Secured Obligations. The interest, fees and charges under the Loan Documents shall not exceed the maximum amounts permitted by any applicable law. If any such interest, fee or charge exceeds the maximum, the interest, fee or charge shall be reduced by the excess and any excess amounts already collected from Grantor shall be refunded. Lender may refund such excess either by treating the excess as a prepayment of principal under the Note or by making a direct payment to Grantor. The provisions of this paragraph shall control over any inconsistent provision in the Loan Documents.

**8.4. Permitted Contests.** Grantor may contest or object in good faith to the amount or validity of any tax, assessment, claim, demand, levy, lien, encumbrance, charge or notice of noncompliance asserted by a third party (collectively, a "**Claim**"), but only in accordance with the following conditions: (i) Grantor shall first give written notice to Lender and deposit with Lender a bond or other security satisfactory to Lender in such amount as Lender shall reasonably require, up to 150% of the amount of the Claim or other sum in controversy, and shall have demonstrated to Lender's reasonable satisfaction that no portion of the Collateral will be sold to satisfy the Claim prior to final resolution; (ii) Grantor shall promptly and diligently proceed to cause the Claim to be settled and discharged in a manner not prejudicial to Lender or its rights hereunder; (iii) if Grantor shall fail to proceed diligently to discharge the Claim, then, in addition to any other right or remedy of Lender, Lender may, but shall not be obligated to, discharge the same, by paying the amount claimed to be due, or by depositing in court a bond or the amount claimed or otherwise giving security for such Claim, or in such manner as is or may be prescribed by law, at Grantor's expense; (iv) Lender may employ an attorney or attorneys to protect its rights hereunder, and in such event, Grantor shall pay Lender the reasonable attorneys' fees and expenses incurred by Lender, whether or not an action is actually commenced against Grantor by reason of any default hereunder; and (v) Grantor shall have provided such good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any legal proceedings then pending in connection with the Claim.

**8.5. Cooperation.** Grantor shall, upon request, cooperate with Lender or Trustee to correct any defect, error or omission that may be discovered in the contents of this Deed of Trust or in the execution or acknowledgment hereof, and will execute, acknowledge, and deliver such further instruments and take such further actions as may be reasonably requested by Lender or Trustee to carry out more effectively the purposes of this Deed of Trust.

**8.6. Obligations of Grantor, Joint and Several.** If more than one person has executed this Deed of Trust as Grantor, the obligations of all such persons hereunder shall be joint and several.

**8.7. Severability.** If any term of this Deed of Trust, or the application thereof to any person or circumstances, shall, to any extent, be invalid, void or unenforceable, the remainder of this Deed of Trust, or the application of such term to persons or circumstances other than those as to which it is invalid, void or unenforceable, shall not be affected thereby, and each term of this Deed of Trust shall be valid and enforceable to the fullest extent permitted by law. If the lien of this Deed of Trust is invalid, void or unenforceable as to any part of the Secured Obligations, or if the lien is invalid, void or unenforceable as to any part of the Collateral, the unsecured or partially secured portion of such indebtedness shall be completely paid prior to the payment of the remaining and secured or partially secured portion of such Secured Obligations, and all payments made on such Secured Obligations shall be considered to have been first paid on and applied to the full payment of that portion of such indebtedness that is not secured or fully secured by the lien of this Deed of Trust.

**8.8. No Waiver or Cure.** No waiver or delay or omission in the exercise or enforcement by Lender of any of its rights or remedies hereunder or under any of the other Loan Documents shall be considered a waiver of any subsequent application of, or right to enforce, such right or remedy, or of the right to enforce any other right or remedy of Lender in another instance. Furthermore, no waiver of Lender's rights or remedies in one or more instances shall establish a course of dealing or other agreement that will bind Lender or prohibit Lender from enforcing the terms of this Deed of Trust or any other Loan Document in another instance.

**8.9. Additional Security.** If Lender at any time holds additional security for any of the Secured Obligations, all such security shall be taken, considered, and held cumulatively, and Lender may enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently with the exercise of any of its rights or remedies hereunder or after a sale is made hereunder. The taking of additional security, the execution of partial releases of the security, or any extension of the time of payment of the Secured Obligations shall not diminish the force, effect, or lien of this Deed of Trust and shall not affect or impair the liability of any maker, surety, or endorser for the payment of any such indebtedness.

**8.10. Imposition of Tax.** For purposes of this Section, "Tax" means: (a) a specific tax on deeds of trust or on all or any part of the indebtedness secured by a deed of trust; or (b) a specific tax on the owner of the Collateral covered by a deed of trust which the taxpayer is authorized or required to deduct from payments on debt secured by the deed of trust; or (c) a tax on property covered by a deed of trust chargeable against a beneficiary or trustee under the deed of trust or the holder of the note secured by the deed of trust; or (d) a specific tax (other than an income tax or a gross receipts tax) on all or any portion of the obligations secured hereby or on payments of principal and interest made by a grantor under a deed of trust. If any Tax is enacted subsequent to the date of this Deed of Trust, Grantor shall pay the Tax (including any tax on the payment made) within thirty (30) days after notice from Lender that the tax law has been enacted.



**8.11. No Offset.** Grantor's obligation to timely pay and perform all obligations under the Note, this Deed of Trust, and the other Loan Documents shall be absolute and unconditional and shall not be affected by any event or circumstance; including without limitation any setoff, counterclaim, abatement, suspension, recoupment, deduction, defense or any other right that Grantor or any guarantor may have or claim against Lender or any other person or entity. The foregoing shall not constitute a waiver of any claim or demand which Grantor or any guarantor may have in damages or otherwise against Lender or any other person or entity; provided that Grantor shall maintain a separate action thereon.

**8.12. Accommodations to Successors.** The liability of the original Grantor shall not be released or changed if Lender grants any successor in interest to Grantor any extension of time for payment, or modification of the terms of payment, of any Secured Obligation. Lender shall not be required to comply with any demand by the original Grantor that Lender refuse to grant such an extension or modification to, or commence proceedings against, any such successor in interest.

**8.13. Amendments.** This Deed of Trust cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by Grantor and Lender.

**8.14. Successors in Interest.** Subject to the limitations on transfer contained in the Loan Documents, the terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the heirs, legatees, devisees, administrators, executors, successors and assigns of the parties hereto.

**8.15. Modification and Extensions.** References to the Note, the Loan Agreement, the Loan Documents in this Deed of Trust shall be deemed to include all modifications, extensions, and renewals thereof.

**8.16. Applicable Law.** The provisions of this Deed of Trust shall be governed by and construed in accordance with the laws of the State of Washington, without regard to the choice of law rules of the State of Washington and except to the extent that federal laws preempt the laws of the State of Washington.

**8.17. Merger.** No merger shall occur as a result of Lender's acquiring any other estate in or any other lien on the Collateral unless Lender consents to a merger in writing.

**8.18. Waiver of Marshaling.** Grantor waives all rights, legal and equitable, it may now or hereafter have to require marshaling of assets or to require upon foreclosure sales of assets in a particular order. Each successor and assign of Grantor, including any holder of a lien subordinate to this Deed of Trust, by acceptance of its interest or lien agrees that it shall be bound by the above waiver, as if it had given the waiver itself.

**8.19. Notices.** Unless otherwise required by applicable law, all notices given by Grantor or Lender pursuant to this Deed of Trust shall be given in accordance with the terms of the Loan Agreement.

**8.20. Waiver of Jury Trial.** GRANTOR AND LENDER HEREBY JOINTLY AND SEVERALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS INSTRUMENT AND TO ANY OF THE LOAN

DOCUMENTS, THE OBLIGATIONS HEREUNDER OR THEREUNDER, ANY COLLATERAL SECURING THE OBLIGATIONS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. GRANTOR AND LENDER EACH REPRESENTS TO THE OTHER THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN

**8.21. Notice of Indemnification. GRANTOR HEREBY ACKNOWLEDGES AND AGREES THAT THIS DEED OF TRUST CONTAINS CERTAIN INDEMNIFICATION PROVISIONS WHICH, IN CERTAIN CIRCUMSTANCES, COULD INCLUDE AN INDEMNIFICATION BY GRANTOR OF LENDER FROM CLAIMS OR LOSSES ARISING AS A RESULT OF LENDER'S OWN NEGLIGENCE.**

*Signatures are on the following page.*

Deed of Trust signature page.

**ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

Executed as of the day and year first written above.

**GRANTOR:**

**NAUTICAL STRUCTURES REAL ESTATE HOLDINGS LLC**

**By:** Nautical Structures Industries Inc.,

its Manager

By: Robert Bolline Pres  
Name: Robert Bolline, its President

Address for Notices:

7301 114th Ave

Largo, FL 33773

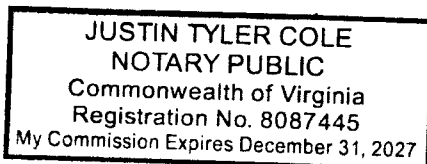
Email: [BBolline@nautical-structures.com](mailto:BBolline@nautical-structures.com)

STATE OF VIRGINIA )  
COUNTY OF ARLINGTON ) ss.

On this 2 day of NOVEMBER, 2023, before me, the undersigned, a Notary Public in and for the State of VIRGINIA, duly commissioned and sworn personally appeared **Robert Bolline**, known to me to be the **President of the Manager of NAUTICAL STRUCTURES REAL ESTATE HOLDINGS LLC**, a Florida limited liability company, the entity that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.



Justin Cole  
Signature

JUSTIN COLE  
Print Name  
NOTARY PUBLIC in and for the State of  
VIRGINIA, residing at THE UPS STORE.  
My commission expires 12/31/2027.

**EXHIBIT A**

**LEGAL DESCRIPTION OF LAND**

**PARCEL 1 (03-75-01-0-0-0301-00)**

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 3 NORTH, RANGE 7 1/2 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF SKAMANIA, STATE OF WASHINGTON, DESCRIBED AS FOLLOWS: LOT 1 OF THE PORT OF SKAMANIA COUNTY SHORT PLAT, RECORDED IN BOOK "3" OF SHORT PLATS, PAGE 130, RECORDS OF SKAMANIA COUNTY, WASHINGTON.

EXCEPTING THEREFROM, THE EASTERLY 30.00 FEET OF THE NORTHERLY MOST 76.00 FEET OF LOT 1, PORT OF SKAMANIA SHORT PLAT, AS CONVEYED IN AGREEMENT TO ADJUST BOUNDARY LINES, RECORDED MARCH 12, 2014, UN AUDITOR'S FILE NO. 2014000418, SKAMANIA COUNTY RECORDS.

**PARCEL 2 (03-75-01-0--0300-00)**

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 3 NORTH, RANGE 7 1/2 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF SKAMANIA, STATE OF WASHINGTON, DESCRIBED AS FOLLOWS:

LOT 2 OF THE PORT OF SKAMANIA COUNTY SHORT PLAT, RECORDED IN BOOK "3" OF SHORT PLATS, PAGE 130, RECORDS OF SKAMANIA COUNTY, WASHINGTON.

TOGETHER WITH THE EAST 30 FEET OF LOT 4, PORT OF SKAMANIA SHORT PLAT, RECORDED IN BOOK 3, OF SHORT PLATS, PAGE 130, AS SHOWN IN AGREEMENT TO ADJUST BOUNDARY LINES, RECORDED MARCH 12, 2014, IN AUDITOR'S FILE NO. 2014000418, SKAMANIA COUNTY RECORDS.

**PARCEL 3 (03-75-01-0-0-0302-00)**

LOT 3 OF THE PORT OF SKAMANIA COUNTY SHORT PLAT, RECORDED IN BOOK "3" OF SHORT PLATS, PAGE 130, RECORDS OF SKAMANIA COUNTY, WASHINGTON.

*End of Exhibit A*