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**When recorded return to:**

Thompson Coburn LLP  
One US Bank Plaza  
St. Louis, Missouri 63101  
Attention: James E. Dillon, Esq.

GUARDIAN NORTHWEST TITLE CO.

106868

TRUSTEE: STEWART TITLE

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

**Grantor:** CHEMTRADE SOLUTIONS LLC, a Delaware limited liability  
company f/k/a GENERAL CHEMICAL LLC, a Delaware limited liability  
company

**Grantee:** MANUFACTURERS AND TRADERS TRUST COMPANY, AS  
COLLATERAL TRUSTEE

**Abbreviated Legal:** Ptn. SW NE, 33-35-2  
See Exhibit A for additional legal.

**Reference Nos (if any):** N/A

**Tax Parcel No:** P33486 350233-D-002-0006

**CHEMTRADE SOLUTIONS LLC,**  
a Delaware limited liability company  
f/k/a GENERAL CHEMICAL LLC,  
a Delaware limited liability company, as grantor  
(Trustor)

to

**STEWART TITLE OF WESTERN WASHINGTON, INC.,** as trustee  
(Trustee)

for the benefit of

**MANUFACTURERS AND TRADERS TRUST COMPANY,**  
**AS COLLATERAL TRUSTEE,** as beneficiary  
(Beneficiary)

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

Dated: As of April 23, 2014

Location: Anacortes, Washington

County: Skagit County

PREPARED BY AND UPON  
RECORDATION RETURN TO:

Thompson Coburn LLP  
One US Bank Plaza  
St. Louis, Missouri 63101  
Attention: James E. Dillon, Esq.

THIS DEED OF TRUST SECURES OBLIGATIONS WHICH MAY PROVIDE FOR FUTURE  
ADVANCES, ADJUSTMENTS IN THE INTEREST RATE AND PAYMENT AMOUNTS  
AND A BALLOON PAYMENT.



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

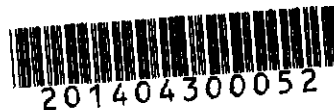
THIS DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "**Deed of Trust**") is made as of this 23<sup>rd</sup> day of April, 2014, by Chemtrade Solutions LLC, a Delaware limited liability company f/k/a General Chemical LLC, a Delaware limited liability company, having an address at c/o Chemtrade Logistics Inc., 814 Tyvola Road, Suite 126, Charlotte, North Carolina 28217, as grantor ("**Trustor**"), to Stewart Title of Western Washington, Inc., a Washington corporation, as trustee ("**Trustee**"), for the benefit of Manufacturers and Traders Trust Company, in its capacity as Collateral Trustee under the hereinafter defined Collateral Trust Agreement, having an address at One M&T Plaza, 7<sup>th</sup> Floor, Buffalo, New York 14203, as beneficiary ("**Beneficiary**").

**W I T N E S S E T H:**

A. Beneficiary is the Collateral Trustee under that certain Collateral Trust Agreement dated August 2, 2005 by and among Chemtrade Logistics (US), Inc., Chemtrade Sulphur Holdings LLC (formerly, Chemtrade Sulphur US Holdings Inc.), Chemtrade P2S5 Inc., Chemtrade Refinery Services, Inc. (formerly, Peak Sulfur, Inc.), Chemtrade Phosphorous Specialties, L.L.C. (formerly, Peak Chemical, L.L.C.), Chemtrade Performance Chemicals US, LLC, Chemtrade Holding Partnership, Chemtrade Refinery Solutions Limited Partnership, Sulex, Inc., Chemtrade Holdco US Inc. and Chemtrade Refinery Solutions GPCo LLC, among others, as grantors, and Beneficiary, as collateral trustee (as it may be amended, modified, extended, renewed, supplemented or restated from time to time, the "**Collateral Trust Agreement**"). Trustor, among others, entered into that certain Joinder to Collateral Trust Agreement dated as of January 23, 2014 which made it a party to said Collateral Trust Agreement. Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Collateral Trust Agreement.

B. Chemtrade Logistics (US), Inc., certain other borrowers, The Bank of Nova Scotia and BMO Capital Markets, as Co-Lead Arrangers and Joint Bookrunners, The Bank of Nova Scotia, as Administration Agent, and Bank of Montreal, as Syndication Agent, and various institutions identified as Lenders therein have entered into that certain Amended and Restated Credit Agreement dated as January 23, 2014 (as it may be further amended, modified, extended, renewed, supplemented or restated from time to time, the "**Credit Agreement**").

C. Chemtrade Logistics (US), Inc., Chemtrade Performance Chemicals US, LLC, Chemtrade Sulphur Holdings LLC (formerly, Chemtrade Sulphur US Holdings Inc.), Chemtrade Refinery Services, Inc., certain other guarantors named therein, and The Bank of Nova Scotia, as Administration Agent entered into that certain Guarantee dated as of June 24, 2011 (as it may be amended, modified, extended, renewed, supplemented or restated from time to time, the "**Guarantee**"). Trustor, among others, entered into that certain Joinder to Guarantee dated as of January 23, 2014 which made it a party to said Guarantee.



D. This Deed of Trust is given pursuant to the Collateral Trust Agreement, and each and every term and provision of the Collateral Trust Agreement, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Deed of Trust.

E. This Deed of Trust is given to secure only the obligations of Trustor under the Guarantee (the "**Guarantee Obligations**") and does not secure a stated or fixed amount of indebtedness.

NOW THEREFORE, in consideration of the making of the financial accommodations described in the Collateral Trust Agreement and the covenants, agreements, representations and warranties set forth in this Deed of Trust:

## **PART I - GENERAL PROVISIONS**

### **Article 1 - GRANTS OF SECURITY**

Section 1.1 **PROPERTY CONVEYED.** Trustor does hereby irrevocably grant, bargain, sell, pledge, assign, warrant, transfer and convey to Trustee and its successors and assigns, in trust, with POWER OF SALE AND RIGHT OF ENTRY AND POSSESSION for the benefit of Beneficiary as beneficiary in trust, the following property, rights, interests and estates now owned, or hereafter acquired by Trustor (collectively, the "**Property**"):

(a) **Land.** The real property described in Exhibit A attached hereto and made a part hereof (the "**Land**");

(b) **Additional Land.** All additional lands, estates and development rights hereafter acquired by Trustor for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental deeds of trust or otherwise be expressly made subject to the lien of this Deed of Trust;

(c) **Improvements.** The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the "**Improvements**");

(d) **Easements.** All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of



Trustor of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Equipment. All "equipment," as such term is defined in Article 9 of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired by Trustor, which is used at or in connection with the Improvements or the Land or is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office and manufacturing equipment now owned or hereafter acquired by Trustor and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "Equipment"). Notwithstanding the foregoing, Equipment shall not include any property belonging to tenants under leases except to the extent that Trustor shall have any right or interest therein;

(f) Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, by Trustor which is so related to the Land and Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, steam, ventilating, plumbing, processing, manufacturing, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, transportation systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Trustor's interest therein) and all other utilities whether or not situated in easements, all water tanks, pipes, water supply, water power sites, fuel stations, fuel tanks, fuel supply, boilers and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "Fixtures"). Notwithstanding the foregoing, "Fixtures" shall not include any property which tenants are entitled to remove pursuant to leases except to the extent that Trustor shall have any right or interest therein;

(g) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights, accounts, accounts receivable, franchises, licenses, certificates and permits, and all other personal property of any kind or character whatsoever (as defined in and subject to the provisions of the Uniform Commercial Code as hereinafter defined), other than Fixtures, which are now or hereafter owned by Trustor and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "Personal Property"), and the right, title and interest of Trustor in and to any



of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state where the Real Property is located (the "**Uniform Commercial Code**"), superior in lien to the lien of this Deed of Trust and all proceeds and products of the above;

(h) **Leases and Rents.** All leases and other agreements affecting the use, enjoyment or occupancy of the Land and the Improvements heretofore or hereafter entered into, whether before or after the filing by or against Trustor of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the "**Bankruptcy Code**") (collectively, the "**Leases**") and all right, title and interest of Trustor, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements whether paid or accruing before or after the filing by or against Trustor of any petition for relief under the Bankruptcy Code (collectively, the "**Rents**") and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Obligations;

(i) **Condemnation Awards.** All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(j) **Insurance Proceeds.** All proceeds in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

(k) **Tax Certiorari.** All refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(l) **Rights.** The right, in the name and on behalf of Trustor, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Beneficiary in the Property;

(m) **Agreements.** All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest of Trustor therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Trustor thereunder;



(n) Trademarks. All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

(o) Proceeds. All proceeds of any of the foregoing, including, without limitation, proceeds of insurance and condemnation awards, whether cash, liquidation or other claims or otherwise; and

(p) Other Rights. Any and all other rights of Trustor in and to the items set forth in Subsections (a) through (o) above.

AND without limiting any of the other provisions of this Deed of Trust, to the extent permitted by applicable law, Trustor expressly grants to Beneficiary, as secured party, a security interest in the portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Land (the Land, the Improvements and the Fixtures collectively referred to as the "Real Property") appropriated to the use thereof and, whether affixed or annexed to the Real Property or not, shall for the purposes of this Deed of Trust be deemed conclusively to be real estate and conveyed hereby.

#### Section 1.2 ASSIGNMENT OF LEASES AND RENTS.

(a) This Deed of Trust is intended to and hereby does create an absolute and present assignment to Beneficiary of the items of Property constituting Rents, and not merely the passing of a security interest; provided, however, that, Trustor shall have the right and license to collect Rents under the Leases as the same shall accrue until terminated during any Actionable Default Period as provided in this Deed of Trust.

(b) This Deed of Trust is intended to be and hereby is an assignment of Leases and the rights and interests arising thereunder, and Trustor hereby assigns, transfers and sets over to Beneficiary all the right, title and interest of Trustor in, under and by virtue of any and all Leases; provided, however, that Trustor is hereby granted a license to collect Rents under the Leases until terminated during any Actionable Default Period as provided in this Deed of Trust. Trustor represents that no Rents reserved in the Leases has been assigned or anticipated; and that no Rents for any period subsequent to the date hereof has been collected in advance of the time when the same became due under the terms of the Leases. Trustor covenants with Beneficiary to observe and perform in all material respects all the obligations imposed upon the landlord or lessor under the Leases, save for non-compliance that is Immaterial (as defined in the Credit Agreement); not to collect any of the Rents, arising or accruing under the Leases or from the Property in advance of the time when the same shall become due; and not to execute any other assignment of landlord's or lessor's interest in the Leases or assignment of Rents arising or accruing from the Leases or from the Property except as hereinafter set forth. Trustor will give prompt notice to Beneficiary of any written notice of Trustor's material default under any Lease received from any tenant or lessee under such Lease and furnish Beneficiary with complete copies of said notice.



Section 1.3 SECURITY AGREEMENT. This Deed of Trust is both a real property deed of trust and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Trustor in the Property. By executing and delivering this Deed of Trust, Trustor hereby grants to Beneficiary, as security for the Obligations (hereinafter defined), a security interest in the Fixtures, the Equipment, the Personal Property and other property constituting the Property to the full extent that the Fixtures, the Equipment, the Personal Property and such other property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the "Collateral"). During any Actionable Default Period, Beneficiary, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Beneficiary may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Beneficiary during any Actionable Default Period, Trustor shall, at its expense, assemble the Collateral and make it available to Beneficiary at a convenient place (at the Land if tangible property) reasonably acceptable to Beneficiary. Trustor shall pay to Beneficiary on demand any and all expenses, including reasonable legal expenses and attorneys' fees, incurred or paid by Beneficiary in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral during any Actionable Default Period. Any notice of sale, disposition or other intended action by Beneficiary with respect to the Collateral sent to Trustor in accordance with the provisions hereof at least ten (10) Business Days prior to such action, shall, except as otherwise provided by applicable law, constitute reasonable notice to Trustor. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Beneficiary to the payment of the Obligations in such priority and proportions as required under the Collateral Trust Agreement. The principal place of business of Trustor (Debtor) is as set forth on page one hereof and the address of Beneficiary (Secured Party) is as set forth on page one hereof.

Section 1.4 FIXTURE FILING. Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, described or referred to in this Deed of Trust, and this Deed of Trust, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of the Uniform Commercial Code upon such of the Property that is or may become fixtures.

Section 1.5 PLEDGES OF MONIES HELD. Trustor hereby pledges to Beneficiary any and all monies now or hereafter held by Beneficiary or on behalf of Beneficiary, as additional security for the Obligations until expended or applied as provided in this Deed of Trust.

#### CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Trustee and its successors and assigns, forever;

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Anacortes, Washington



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IN TRUST, WITH POWER OF SALE, to secure payment to Beneficiary of the Obligations at the time and in the manner provided for its payment in the Secured Debt Documents and in this Deed of Trust.

PROVIDED, HOWEVER, these presents are upon the express condition that, if Trustor shall pay and perform the Guarantee Obligations at the time and in the manner provided in the Guarantee and this Deed of Trust, shall perform the Other Obligations (as hereafter defined) as set forth in this Deed of Trust and shall abide by and comply with each and every covenant and condition set forth herein, and if this Deed of Trust or all of the Collateral has been released pursuant to the terms of the Collateral Trust Agreement, these presents and the estate hereby granted shall be void; provided, however, that Trustor's obligation to indemnify and hold harmless Beneficiary pursuant to the provisions hereof shall survive any such payment or release.

## Article 2 - OBLIGATIONS SECURED

Section 2.1 OBLIGATIONS SECURED. This Deed of Trust and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the Guarantee Obligations and the following (the "Other Obligations"):

(a) the performance of any Guarantee Obligations of Trustor contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of this Deed of Trust.

Section 2.2 OBLIGATIONS. Trustor's obligations for the payment and performance of the Guarantee Obligations and the Other Obligations may sometimes be referred to collectively herein as the "Obligations."

Section 2.3 Obligations Not Secured. This Deed of Trust solely secures the Obligations. This Deed of Trust does not secure any other obligations of Guarantor.

## Article 3 - TRUSTOR COVENANTS

Trustor covenants and agrees that:

Section 3.1 INCORPORATION BY REFERENCE. All the covenants, conditions and agreements contained in the Collateral Trust Agreement are hereby made a part of this Deed of Trust to the same extent and with the same force as if fully set forth herein.

Section 3.2 INSURANCE. Trustor shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Trustor and the Property as required pursuant to the Collateral Trust Agreement and the Secured Debt Documents (as defined in the Collateral Trust Agreement).



Section 3.3 MAINTENANCE OF PROPERTY. Trustor shall cause the Property to be maintained in a good and safe condition and repair. The Improvements, the Fixtures, the Equipment and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of the Fixtures, the Equipment or the Personal Property, tenant finish and refurbishment of the Improvements) without the consent of Beneficiary, except as otherwise permitted under the Collateral Trust Agreement. Trustor shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any Casualty or become damaged, worn or dilapidated or which may be affected by any Condemnation, and shall complete and pay for any structure at any time in the process of construction or repair on the Land.

Section 3.4 USE OF PROPERTY. Trustor shall not commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or allow the cancellation of any policy of insurance, or do or permit to be done thereon anything that may in any way materially impair the value of the Property or the security of this Deed of Trust. Trustor will not, without the prior written consent of Beneficiary, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof. Trustor shall not initiate, join in, acquiesce in or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the use which may be made of the Property. If under applicable zoning provisions the use of the Property is or shall become a nonconforming use, Trustor shall not cause or permit such nonconforming use to be discontinued or abandoned without the consent of Beneficiary. Except as expressly permitted by the Collateral Trust Agreement or the Secured Debt Documents, Trustor shall not change the use of the Property.

Section 3.5 PAYMENT FOR LABOR AND MATERIALS. (a) Trustor will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials ("**Labor and Material Costs**") incurred in connection with the Property and never permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof except for the Permitted Liens.

(b) After prior written notice to Beneficiary, Trustor, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any of the Labor and Material Costs, provided that (i) no Actionable Default Period is continuing, (ii) Trustor is permitted to do so under the provisions of any other mortgage, deed of trust or deed to secure Obligations affecting the Property, (iii) such proceeding shall suspend the collection of the Labor and Material Costs from Trustor and from the Property or Trustor shall have paid all of the Labor and Material Costs under protest, (iv) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Trustor is subject and shall not constitute a default thereunder, (v) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost, and (vi) Trustor shall have



furnished the security as may be required in the proceeding, or as may be reasonably requested by Beneficiary to insure the payment of any contested Labor and Material Costs, together with all interest and penalties thereon.

**Section 3.6** PERFORMANCE OF OTHER AGREEMENTS. Trustor shall observe and perform each and every term, covenant and provision to be observed or performed by Trustor pursuant to the Collateral Trust Agreement, the Secured Debt Documents and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

**Section 3.7** TITLE. Trustor is the sole legal and beneficial owner of the fee simple interest in the Real Property, subject to no Lien or other encumbrance except Permitted Encumbrances.

#### Article 4 - OBLIGATIONS AND RELIANCES

**Section 4.1** RELATIONSHIP OF TRUSTOR AND BENEFICIARY. The relationship between Trustor and Beneficiary is solely that of guarantor and creditor, and Beneficiary has no fiduciary or other special relationship with Trustor, and no term or condition of the Collateral Trust Agreement, the Secured Debt Documents or this Deed of Trust shall be construed so as to deem the relationship between Trustor and Beneficiary to be other than that of guarantor and creditor.

**Section 4.2** NO RELIANCE ON BENEFICIARY. The general partners, members, principals and (if Trustor is a trust) beneficial owners of Trustor are experienced in the ownership and operation of properties similar to the Property, and Trustor and Beneficiary are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Trustor is not relying on Beneficiary's expertise, business acumen or advice in connection with the Property.

**Section 4.3** NO BENEFICIARY OBLIGATIONS. (a) Notwithstanding the provisions of Subsections 1.1(h) and (m) or Section 1.2, Beneficiary is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Beneficiary pursuant to this Deed of Trust or the Collateral Trust Agreement, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Beneficiary shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Beneficiary.

**Section 4.4** RELIANCE. Trustor recognizes and acknowledges that in accepting the Collateral Trust Agreement and this Deed of Trust, Beneficiary is expressly and primarily



relying on the truth and accuracy of the warranties and representations set forth in the Secured Debt Documents without any obligation to investigate the Property and notwithstanding any investigation of the Property by Beneficiary; that such reliance existed on the part of Beneficiary prior to the date hereof, that the warranties and representations are a material inducement to the Secured Parties to enter into the financial accommodations described in the Collateral Trust Agreement; and that the Secured Parties would not be willing to provide such accommodations and cause the Beneficiary to accept this Deed of Trust in the absence of the warranties and representations as set forth in the Secured Debt Documents.

## Article 5 - FURTHER ASSURANCES

**Section 5.1 RECORDING OF DEED OF TRUST, ETC.** Trustor forthwith upon the execution and delivery of this Deed of Trust and thereafter, from time to time, will cause this Deed of Trust and any of the other documents or instruments creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Beneficiary in, the Property. Trustor will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of this Deed of Trust and any other document or instrument executed in connection herewith, any note, document or instrument, deed of trust or mortgage supplemental hereto, any Deed of Trust with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Deed of Trust, any deed of trust or mortgage supplemental hereto, any Deed of Trust with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

**Section 5.2 FURTHER ACTS, ETC.** Trustor will, at the cost of Trustor, and without expense to Beneficiary, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, assignments, notices of assignments, transfers and assurances as Beneficiary shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Trustee and Beneficiary the property and rights hereby deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Trustor may be or may hereafter become bound to convey or assign to Trustee or Beneficiary, or for carrying out the intention or facilitating the performance of the terms of this Deed of Trust or for filing, registering or recording this Deed of Trust, or for complying with all requirements of applicable law. Trustor, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Beneficiary to execute in the name of Trustor or without the signature of Trustor to the extent Beneficiary may lawfully do so, one or more financing statements to evidence more effectively the security interest of Beneficiary in the Property. Trustor grants to Beneficiary an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Beneficiary at law and in

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Anacortes, Washington



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equity, including without limitation such rights and remedies available to Beneficiary pursuant to this Section 5.2.

**Section 5.3** CHANGES IN TAX, CREDIT AND DOCUMENTARY STAMP LAWS. (a) If any law is enacted or adopted or amended after the date of this Deed of Trust which imposes a tax, either directly or indirectly, on the Secured Parties' or Beneficiary's interest in the Property, Trustor will pay the tax, with interest and penalties thereon, if any, within ten (10) days after demand by Beneficiary.

(b) Trustor will not claim or demand or be entitled to any credit or credits on account of the Obligations for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Deed of Trust or the Obligations.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Collateral Trust Agreement, this Deed of Trust, or any of the other Secured Debt Documents or impose any other tax or charge on the same, Trustor will pay for the same, with interest and penalties thereon, if any.

**Section 5.4** SPLITTING OF DEED OF TRUST. This Deed of Trust and the Collateral Trust Agreement shall, at any time until the Obligations shall be fully paid and satisfied, at the sole election of Beneficiary, be split or divided into two or more trusts and two or more Deeds of Trust, each of which shall cover all or a portion of the Property to be more particularly described therein. To that end, Trustor, upon written request of Beneficiary, shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered by the then owner of the Property, to Beneficiary and/or its designee or designees substitute trust agreements, notes and deeds of trust in such principal amounts, aggregating not more than the Obligations, and containing terms, provisions and clauses similar to those contained herein and in the Collateral Trust Agreement, and such other documents and instruments as may be required by Beneficiary.

**Section 5.5** REPLACEMENT DOCUMENTS. Upon receipt of an affidavit of an officer of Beneficiary as to the loss, theft, destruction or mutilation of any Secured Debt Documents executed by Trustor or any document or instrument executed by Trustor in connection therewith which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Secured Debt Documents or other document or instrument, Trustor will issue, in lieu thereof, a replacement Secured Debt Document or other document or instrument, dated the date of such lost, stolen, destroyed or mutilated Secured Debt Document or other document or instrument executed by Trustor of like tenor.

## Article 6 - DUE ON SALE/ENCUMBRANCE

**Section 6.1** BENEFICIARY RELIANCE. Trustor acknowledges that Beneficiary, for the benefit of the Secured Parties, has a valid interest in maintaining the value of the Property so as

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to ensure that, during any Actionable Default Period, Beneficiary can recover a portion of the Obligations by a sale of the Property.

Section 6.2 NO TRANSFER. Trustor shall not permit or suffer any direct or indirect sale, transfer, lease, pledge, mortgage or other disposition of all or a portion of the Property except as permitted under the Secured Debt Documents.

#### Article 7 - RIGHTS AND REMEDIES UPON DEFAULT

Section 7.1 REMEDIES. During any Actionable Default Period, Trustor agrees that Beneficiary or Trustee, or both, may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Trustor and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Beneficiary or Trustee may determine, in their sole discretion, without impairing or otherwise affecting the other rights and remedies of Beneficiary or Trustee:

- (a) declare the entire unpaid Obligations to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Deed of Trust under any applicable provision of law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Deed of Trust for the portion of the Obligations then due and payable, subject to the continuing lien and security interest of this Deed of Trust for the balance of the Obligations not then due, unimpaired and without loss of priority;
- (d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Trustor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;
- (e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Collateral Trust Agreement, the Secured Debt Documents, this Deed of Trust or any other document or instrument executed in connection therewith;
- (f) recover judgment on the Obligations either before, during or after any proceedings for the enforcement of this Deed of Trust, the Collateral Trust Agreement, any Secured Debt Document or any other document or instrument executed in connection therewith;
- (g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Obligations

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and without regard for the solvency of Trustor, any guarantor, indemnitor or any Person liable for the payment of the Obligations;

(h) the license granted to Trustor under Section 1.2 hereof shall automatically be revoked and Beneficiary may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Trustor and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Trustor and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Trustor agrees to surrender possession of the Property and of such books, records and accounts to Beneficiary upon demand, and thereupon Beneficiary may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Beneficiary deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Trustor with respect to the Property, whether in the name of Trustor or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Trustor to pay monthly in advance to Beneficiary, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Trustor; (vi) require Trustor to vacate and surrender possession of the Property to Beneficiary or to such receiver and, in default thereof, Trustor may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Obligations, in such order, priority and proportions as required under the Collateral Trust Agreement after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Beneficiary, its counsel, agents and employees;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Fixtures, the Equipment and the Personal Property, or any part thereof, and to take such other measures as Beneficiary may deem necessary for the care, protection and preservation of the Fixtures, the Equipment and the Personal Property, and (ii) request Trustor at its expense to assemble the Fixtures, the Equipment and the Personal Property and make the same available to Beneficiary at a convenient place acceptable to Beneficiary. Any notice of sale, disposition or other intended action by Beneficiary with respect to the Fixtures, the Equipment and/or the Personal Property sent to Trustor in accordance with the provisions hereof at least ten (10) Business Days prior to such action, shall constitute commercially reasonable notice to Trustor;

(j) apply any sums then deposited or held in escrow or otherwise by or on behalf of Beneficiary in accordance with the terms of the Collateral Trust Agreement and this Deed of Trust; or

(k) pursue such other remedies as Beneficiary may have under applicable law.

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No remedy herein conferred upon or reserved to Trustee and Beneficiary is intended to be exclusive of any other remedy, but every remedy herein provided shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, or by statute; and every power and remedy given by this Deed of Trust to Trustee and Beneficiary may be exercised from time to time and as often as may be deemed expedient. No delay or omission by either Trustee or Beneficiary to exercise any right or power during any Actionable Default Period shall impair any such right or power or shall be construed to be a waiver of any event of default or an acquiescence therein. If either Trustee or Beneficiary shall have proceeded to enforce any right under this Deed of Trust by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned, or shall have been determined adversely, then, and in such and every such case, Trustor shall be restored to its former positions and rights hereunder in respect of the Property, and all rights, remedies and powers of both Trustee and Beneficiary shall continue as though no such proceedings had been taken. If any additional sum or sums shall become due and owing, by Trustor to Beneficiary, pursuant to the provisions hereof, the affidavit of either Trustee or Beneficiary shall be sufficient evidence of the fact that such additional sums are secured hereby in the amount set forth in such affidavit. No waiver of any breach or default hereunder shall constitute or be construed as a waiver by Trustee or Beneficiary of any subsequent breach or default or of any breach or default of any other provisions of this Deed of Trust. Any waiver by Beneficiary or Trustee must be in writing and will not be construed as a continuing waiver.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of Property, this Deed of Trust shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

**Section 7.2 APPLICATION OF PROCEEDS.** The purchase money, proceeds and avails of any disposition of the Property, and or any part thereof, or any other sums collected by Beneficiary pursuant to the Collateral Trust Agreement, this Deed of Trust or any other document or instrument executed in connection therewith shall be applied by Beneficiary to the payment of the Obligations in such priority and proportions as provided in the Collateral Trust Agreement.

**Section 7.3 RIGHT TO CURE DEFAULTS.** During any Actionable Default Period or if Trustor fails to make any payment or to do any act as herein provided, Beneficiary may, but without any obligation to do so and without notice to or demand on Trustor and without releasing Trustor from any obligation hereunder, make or do the same in such manner and to such extent as Beneficiary may deem necessary to protect the security hereof. Beneficiary is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Deed of Trust or collect the Rents, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 7.3, shall constitute a portion of the Obligations and shall be due and payable to Beneficiary upon demand. All such costs and expenses incurred by Beneficiary in remedying such failure to act or such failed payment or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period after notice from Beneficiary that such cost or expense was incurred

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to the date of payment to Beneficiary. All such costs and expenses incurred by Beneficiary together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Obligations and be secured by this Deed of Trust and the other Security Documents and shall be immediately due and payable upon demand by Beneficiary therefor.

Section 7.4 ACTIONS AND PROCEEDINGS. Trustee or Beneficiary has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Trustor, which Beneficiary, in its discretion, decides should be brought to protect its interest in the Property.

Section 7.5 RECOVERY OF SUMS REQUIRED TO BE PAID. Beneficiary shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Obligations as the same become due, without regard to whether or not the balance of the Obligations shall be due, and without prejudice to the right of Trustee or Beneficiary thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Trustor existing at the time such earlier action was commenced.

Section 7.6 EXAMINATION OF BOOKS AND RECORDS. At reasonable times and upon reasonable notice, Beneficiary, its agents, accountants and attorneys shall have the right to examine the records, books, and other papers of Trustor which reflect upon its financial condition, at the Property or at any office regularly maintained by Trustor where the books and records are located. Beneficiary and its agents shall have the right to make copies and extracts from the foregoing records and other papers. In addition, at reasonable times and upon reasonable notice, Beneficiary, its agents, accountants and attorneys shall have the right to examine and audit the books and records of Trustor pertaining to the income, expenses and operation of the Property during reasonable business hours at any office of Trustor where the books and records are located. This Section 7.6 shall apply until this Deed of Trust shall be terminated pursuant to the terms of the Collateral Trust Agreement and without regard to whether an Actionable Default Period is continuing.

Section 7.7 OTHER RIGHTS, ETC. (a) The failure of Beneficiary or Trustee to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Deed of Trust. Trustor shall not be relieved of Trustor's obligations hereunder by reason of (i) the failure of Beneficiary or Trustee to comply with any request of Trustor or any guarantor or indemnitor with respect to the foreclosure of this Deed of Trust or enforcement of any of the provisions hereof or of the Collateral Trust Agreement or the other documents and instruments executed in connection therewith, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Obligations or any portion thereof, or (iii) any agreement or stipulation by Beneficiary extending the time of payment or otherwise modifying or supplementing the terms of the Collateral Trust Agreement, this Deed of Trust or the other documents and instruments executed in connection therewith.

(b) It is agreed that the risk of loss or damage to the Property is on Trustor, and Beneficiary shall have no liability whatsoever for decline in value of the Property, for failure to maintain any policies of insurance, or for failure to determine whether insurance in force is



adequate as to the amount or risks insured. Possession by Beneficiary shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property or Collateral not in Beneficiary's possession.

(c) Beneficiary may resort for the payment of the Obligations to any other Collateral held by Beneficiary in such order and manner as Beneficiary, in its discretion, may elect. Beneficiary or Trustee may take action to recover the Obligations, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Beneficiary or Trustee thereafter to foreclose this Deed of Trust. The rights of Beneficiary or Trustee under this Deed of Trust shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Beneficiary or Trustee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Neither Beneficiary or Trustee shall be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

Section 7.8 RIGHT TO RELEASE ANY PORTION OF THE PROPERTY. Beneficiary may release any portion of the Property for such consideration as Beneficiary may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Deed of Trust, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Beneficiary for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Beneficiary may require without being accountable for so doing to any other lienholder. This Deed of Trust shall continue as a lien and security interest in the remaining portion of the Property.

Section 7.9 VIOLATION OF LAWS. If the Property is not in full compliance with all requirements of applicable law, Beneficiary may impose additional reasonable requirements upon Trustor in connection herewith including, without limitation, monetary reserves or financial equivalents.

Section 7.10 RIGHT OF ENTRY. Upon reasonable notice to Trustor, Beneficiary and its agents shall have the right to enter and inspect the Property at all reasonable times.

## Article 8 – INDEMNIFICATION

Section 8.1 GENERAL INDEMNIFICATION. Trustor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, punitive damages, foreseeable and unforeseeable consequential damages, of whatever kind or nature (including but not limited to reasonable attorneys' fees and other costs of defense) (collectively, the "Losses") imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) ownership of this Deed of Trust, the Property or any interest therein or receipt of any Rents; (b)

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any amendment to, or restructuring of, the Obligations, the Secured Debt Documents, the Collateral Trust Agreement, this Deed of Trust, or any other document or instrument executed in connection therewith; (c) any and all lawful action that may be taken by Beneficiary in connection with the enforcement of the provisions of this Deed of Trust, the Secured Debt Documents, the Collateral Trust Agreement or any of the other documents or instruments executed in connection therewith, whether or not suit is filed in connection with same, or in connection with Trustor, any guarantor or indemnitor and/or any partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (e) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (f) any failure on the part of Trustor to perform or be in compliance with any of the terms of this Deed of Trust, the Collateral Trust Agreement or any Secured Debt Documents; (g) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (h) the failure of any Person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with this Deed of Trust, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Deed of Trust is made; (i) any failure of the Property to be in compliance with any requirements of applicable law; (j) the enforcement by any Indemnified Party of the provisions of this Article 8; (k) any and all claims and demands whatsoever which may be asserted against any Indemnified Party by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (l) the payment of any commission, charge or brokerage fee to anyone claiming through Trustor which may be payable in connection with the Property or the Obligations; or (m) any misrepresentation made by Trustor in this Deed of Trust, the Secured Debt Documents, the Collateral Trust Agreement or any document or instrument executed in connection therewith. Any amounts payable to Beneficiary by reason of the application of this Section 8.1 shall become immediately due and payable and shall bear interest at the Default Rate provided in the Collateral Trust Agreement from the date loss or damage is sustained by Beneficiary until paid. For purposes of this Article 8, the term "**Indemnified Parties**" means Beneficiary, the Secured Parties under and as defined in the Collateral Trust Agreement and any Person who is or will have been involved in the origination of any of the Obligations, any Person who is or will have been involved in the assignment, syndication or servicing of any of the Obligations, any Person in whose name the encumbrance created by this Deed of Trust is or will have been recorded, Persons and entities who may hold or acquire or will have held a full or partial interest in any of the Obligations (including, but not limited to, investors or prospective investors in any securities, as well as custodians, trustees and other fiduciaries who hold or have held a full or partial interest in the Obligations secured hereby for the benefit of third parties) as well as the respective directors, officers, shareholders, partners, employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of any and all of the foregoing (including but not limited to any other Person who holds or acquires or will have held a participation or other full or partial interest in any of the

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Obligations, whether during the term of the Obligations or as a part of or following a foreclosure of this Deed of Trust and including, but not limited to, any successors by merger, consolidation or acquisition of all or a substantial portion of Beneficiary's or a Secured Party's assets and business).

Section 8.2 DEED OF TRUST AND/OR INTANGIBLE TAX. Trustor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Deed of Trust, or any of the other documents and instruments executed in connection therewith, but excluding any income, franchise or other similar taxes.

Section 8.3 DUTY TO DEFEND; ATTORNEYS' FEES AND OTHER FEES AND EXPENSES. Upon written request by any Indemnified Party, Trustor shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals approved by such Indemnified Party, in the reasonable discretion of such Indemnified Party. Notwithstanding the foregoing, if the defendants in any such claim or proceeding include both Trustor and any Indemnified Party and Trustor and such Indemnified Party shall have reasonably concluded that there are any legal defenses available to it and/or other Indemnified Parties that are different from or additional to those available to Trustor, such Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Indemnified Party, provided that no compromise or settlement shall be entered without the consent of the Trustor, which consent shall not be unreasonably withheld. Upon demand, Trustor shall pay or, in the sole and absolute discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

## Article 9 - WAIVERS

Section 9.1 WAIVER OF COUNTERCLAIM. To the extent permitted by applicable law, Trustor hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Beneficiary arising out of or in any way connected with this Deed of Trust, any Secured Debt Document, the Collateral Trust Agreement or any of the other documents and instruments executed in connection therewith, or the Obligations.

Section 9.2 MARSHALLING AND OTHER MATTERS. To the extent permitted by applicable law, Trustor hereby waives the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Trustor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Deed of Trust on behalf of Trustor, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Deed of Trust and on behalf of all Persons to the extent permitted by applicable law. The lien of this

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Deed of Trust shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Beneficiary or Trustee and, without limiting the generality of the foregoing, the lien hereof shall not be impaired by (i) any acceptance by Beneficiary of any other security for any portion of the Obligations, (ii) any failure, neglect or omission on the part of Beneficiary to realize upon or protect any portion of the Obligations or any Collateral therefor or (iii) any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition of any portion of the Obligations or of any of the Collateral therefor; and Beneficiary may foreclose, or exercise any other remedy available to Beneficiary under the Collateral Trust or any other Security Documents without first exercising or enforcing any of its remedies under this Deed of Trust, and any exercise of the rights and remedies of Beneficiary hereunder shall not in any manner impair the Obligations or the liens of any other mortgages or Security Documents or any of Beneficiary's rights and remedies thereunder.

Section 9.3 WAIVER OF NOTICE. To the extent permitted by applicable law, Trustor shall not be entitled to any notices of any nature whatsoever from Beneficiary or Trustee except with respect to matters for which this Deed of Trust, the Secured Debt Documents or the Collateral Trust Agreement specifically and expressly provide for the giving of notice by Beneficiary or Trustee to Trustor and except with respect to matters for which Beneficiary or Trustee is required by applicable law to give notice, and Trustor hereby expressly waives the right to receive any notice from Beneficiary or Trustee with respect to any matter for which this Deed of Trust, the Secured Debt Documents or the Collateral Trust Agreement does not specifically and expressly provide for the giving of notice by Beneficiary or Trustee to Trustor.

Section 9.4 WAIVER OF STATUTE OF LIMITATIONS. To the extent permitted by applicable law, Trustor hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Obligations or the Other Obligations.

#### Article 10 - NOTICES

All notices, consents, approvals and requests required or permitted hereunder shall be in writing, and shall be sent, and shall be deemed effective, as provided in the Collateral Trust Agreement.

#### Article 11 - APPLICABLE LAW

Section 11.1 GOVERNING LAW. (A) **THIS DEED OF TRUST WAS NEGOTIATED IN THE STATE OF NEW YORK, AND MADE BY TRUSTOR AND ACCEPTED BY BENEFICIARY IN THE STATE OF NEW YORK, AND THE PROCEEDS OF THE OBLIGATIONS SECURED HEREBY WERE DISBURSED FROM THE STATE OF NEW YORK, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF**

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CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS DEED OF TRUST AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS CREATED PURSUANT HERETO AND PURSUANT TO ANY OTHER SECURED DEBT DOCUMENT WITH RESPECT TO THE PROPERTY SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE CONSTRUCTION, VALIDITY AND ENFORCEABILITY OF THIS DEED OF TRUST AND THE COLLATERAL TRUST AGREEMENT AND ALL OF THE OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. TO THE FULLEST EXTENT PERMITTED BY LAW, TRUSTOR HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS DEED OF TRUST, OR THE OTHER SECURED DEBT DOCUMENTS, AND THIS DEED OF TRUST AND THE COLLATERAL TRUST AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

(B) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST BENEFICIARY OR TRUSTOR ARISING OUT OF OR RELATING TO THIS DEED OF TRUST MAY AT BENEFICIARY'S OPTION BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, COUNTY OF NEW YORK, PURSUANT TO SECTION 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW, AND TRUSTOR WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND TRUSTOR HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING. TRUSTOR DOES HEREBY DESIGNATE AND APPOINT:

CT CORPORATION SYSTEM  
111 Eighth Avenue  
13th Floor  
New York, NY 10011  
Phone: 212-894-8940  
Fax: 212-894-8581

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

Section 11.2 USURY LAWS. Notwithstanding anything to the contrary, (a) all agreements and communications between Trustor and Beneficiary are hereby and shall automatically be limited so that, after taking into account all amounts deemed interest, the interest contracted for, charged or received by Beneficiary shall never exceed the maximum lawful rate or amount, (b) in calculating whether any interest exceeds the lawful maximum, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal of the Obligations, and (c) if through any contingency or event, Beneficiary receives or is deemed to receive interest in excess of the lawful maximum, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding Obligations, or if there is no such Obligations, shall immediately be returned to Trustor.

Section 11.3 PROVISIONS SUBJECT TO APPLICABLE LAW. All rights, powers and remedies provided in this Deed of Trust may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Deed of Trust invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Deed of Trust or any application thereof shall be invalid or unenforceable, the remainder of this Deed of Trust and any other application of the term shall not be affected thereby.

## Article 12 - DEFINITIONS

Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Deed of Trust may be used interchangeably in singular or plural form and the word "Trustor" shall mean "each Trustor and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Beneficiary" shall mean "Beneficiary and any subsequent Collateral Trustee under the Collateral Trust Agreement,"

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the word "**Collateral Trust Agreement**" shall mean "the Collateral Trust Agreement and any other evidence of the Obligations secured by this Deed of Trust," the word "**Property**" shall include any portion of the Property and any interest therein, and the phrases "**attorneys' fees**", "**legal fees**" and "**counsel fees**" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Beneficiary in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

#### Article 13 - MISCELLANEOUS PROVISIONS

Section 13.1 **NO ORAL CHANGE.** This Deed of Trust, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Trustor or Beneficiary, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 13.2 **SUCCESSORS AND ASSIGNS.** This Deed of Trust shall be binding upon and inure to the benefit of Trustor and Beneficiary and their respective successors and assigns forever.

Section 13.3 **INAPPLICABLE PROVISIONS.** If any term, covenant or condition of the Collateral Trust Agreement or this Deed of Trust is held to be invalid, illegal or unenforceable in any respect, the Collateral Trust Agreement and this Deed of Trust shall be construed without such provision.

Section 13.4 **HEADINGS, ETC.** The headings and captions of various Sections of this Deed of Trust are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 13.5 **NUMBER AND GENDER.** Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 13.6 **SUBROGATION.** If any or all of the proceeds of the Obligations have been used to extinguish, extend or renew any indebtedness heretofore secured by the Property, then, to the extent of the funds so used, Beneficiary shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Beneficiary and are merged with the lien and security interest created herein as cumulative security for the repayment of the Obligations, the performance and discharge of Trustor's obligations hereunder and under the Collateral Trust Agreement and the performance and discharge of the Other Obligations.

Section 13.7 **LIMITATION ON BENEFICIARY'S RESPONSIBILITY.** No provision of this Deed of Trust shall operate to place any obligation or liability for the control, care, management

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or repair of the Property upon Beneficiary, nor shall it operate to make Beneficiary responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Beneficiary a "mortgagee in possession."

**Section 13.8 OTHER MORTGAGES; NO ELECTION OF REMEDIES.**

(a) The Obligations is now or may hereafter be secured by one or more other mortgages, deeds of trust and other security agreements (collectively, as the same may be amended and in effect from time to time, are herein collectively called the "**Other Mortgages**"), which cover or will hereafter cover other properties that are or may be located in various states (the "**Other Collateral**"). The Other Mortgages will secure the payment and performance of the Obligations. During any Actionable Default Period, Beneficiary may proceed under this Deed of Trust and/or any or all of the Other Mortgages against either the Property and/or any or all of the Other Collateral in one or more parcels and in such manner and order as Beneficiary shall elect. Trustor hereby irrevocably waives and releases, to the extent permitted by law, and whether now or hereafter in force, any right to have the Property and/or the Other Collateral marshaled upon any foreclosure of this Deed of Trust or any Other Mortgage.

(b) Without limiting the generality of the foregoing, and without limitation as to any other right or remedy provided to Beneficiary in this Deed of Trust, the Other Mortgages or the Collateral Trust Agreement, during any Actionable Default Period, (i) Beneficiary shall have the right to pursue all of its rights and remedies under this Deed of Trust, the Other Mortgages or the Collateral Trust Agreement, at law and/or in equity, in one proceeding, or separately and independently in separate proceedings from time to time, as Beneficiary, in its sole and absolute discretion, shall determine from time to time, (ii) Beneficiary shall not be required to either marshal assets, sell the Property and/or any Other Collateral in any particular order of alienation (and may sell the same simultaneously and together or separately), or be subject to any "one action" or "election of remedies" law or rule with respect to the Property and/or any Other Collateral, (iii) the exercise by Beneficiary of any remedies against any one item of Property and/or any Other Collateral will not impede Beneficiary from subsequently or simultaneously exercising remedies against any other item of Property and/or Other Collateral, (iv) all liens and other rights, remedies or privileges provided to Beneficiary herein shall remain in full force and effect until Beneficiary has exhausted all of its remedies against the Property and all Property has been foreclosed, sold and/or otherwise realized upon in satisfaction of the Obligations, and (v) Beneficiary may resort for the payment of the Obligations to any security held by Beneficiary in such order and manner as Beneficiary, in its discretion, may elect and Beneficiary may take action to recover the Obligations, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Beneficiary thereafter to foreclose this Deed of Trust.

(c) Without notice to or consent of Trustor and without impairment of the lien and rights created by this Deed of Trust, Beneficiary may, at any time (in its sole and absolute discretion, but Beneficiary shall have no obligation to), execute and deliver to Trustor a written



instrument releasing all or a portion of the lien of this Deed of Trust as security for any or all of the obligations of Trustor now existing or hereafter arising under or in respect of the Obligations, whereupon following the execution and delivery by Beneficiary to Trustor of any such written instrument of release, this Deed of Trust shall no longer secure such obligations of Trustor so released.

Section 13.9 VARIABLE INTEREST RATE. Some or all of the Obligations may provide for a variable interest as more particularly set forth in the Secured Debt Documents.

#### Article 14 – DEED OF TRUST PROVISIONS

Section 14.1 CONCERNING THE TRUSTEE. Trustee shall be under no duty to take any action hereunder except as expressly required hereunder or by law, or to perform any act which would involve Trustee in any expense or liability or to institute or defend any suit in respect hereof, unless properly indemnified to Trustee's reasonable satisfaction. Trustee, by acceptance of this Deed of Trust, covenants to perform and fulfill the trusts herein created, being liable, however, only for willful negligence or misconduct, and hereby waives any statutory fee and agrees to accept reasonable compensation, in lieu thereof, for any services rendered by Trustee in accordance with the terms hereof. Trustee may resign at any time upon giving thirty (30) days' notice to Trustor and to Beneficiary. Beneficiary may remove trustee at any time or from time to time and select a successor trustee. In the event of the death, removal, resignation, refusal to act, or inability to act of Trustee, or in its sole discretion for any reason whatsoever Beneficiary may, without notice and without specifying any reason therefor and without applying to any court, select and appoint a successor trustee, by an instrument recorded wherever this Deed of Trust is recorded and all powers, rights, duties and authority of Trustee, as aforesaid, shall thereupon become vested in such successor. Such substitute trustee shall not be required to give bond for the faithful performance of the duties of Trustee hereunder unless required by Beneficiary. The procedure provided for in this paragraph for substitution of Trustee shall be in addition to and not in exclusion of any other provisions for substitution, by law or otherwise.

Section 14.2 TRUSTEE'S FEES. Trustor shall pay all reasonable costs, fees and expenses incurred by Trustee and Trustee's agents and counsel in connection with the performance by Trustee of Trustee's duties hereunder and all such costs, fees and expenses shall be secured by this Deed of Trust.

Section 14.3 CERTAIN RIGHTS. With the approval of Beneficiary, Trustee shall have the right to take any and all of the following actions: (i) to select, employ, and advise with counsel (who may be, but need not be, counsel for Beneficiary) upon any matters arising hereunder, including the preparation, execution, and interpretation of the Secured Debt Documents and shall be fully protected in relying as to legal matters on the advice of counsel, (ii) to execute any of the trusts and powers hereof and to perform any duty hereunder either directly or through his agents or attorneys, (iii) to select and employ, in and about the execution of his duties hereunder, suitable accountants, engineers and other experts, agents and attorneys-in-fact, either corporate or individual, not regularly in the employ of Trustee, and Trustee shall not be answerable for any act, default, negligence, or misconduct of any such accountant, engineer or other expert, agent or

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attorney-in-fact, if selected with reasonable care, or for any error of judgment or act done by Trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever, except for Trustee's gross negligence or bad faith, and (iv) any and all other lawful action as Beneficiary may instruct Trustee to take to protect or enforce Beneficiary's rights hereunder. Trustee shall not be personally liable in case of entry by Trustee, or anyone entering by virtue of the powers herein granted to Trustee, upon the Property for debts contracted for or liability or damages incurred in the management or operation of the Property. Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting an action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. Trustee shall be entitled to reimbursement for actual expenses incurred by Trustee in the performance of Trustee's duties hereunder and to reasonable compensation for such of Trustee's services hereunder as shall be rendered.

Section 14.4 RETENTION OF MONEY. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by applicable law) and Trustee shall be under no liability for interest on any moneys received by Trustee hereunder.

Section 14.5 PERFECTION OF APPOINTMENT. Should any deed, conveyance, or instrument of any nature be required from Trustor by any Trustee or substitute trustee to more fully and certainly vest in and confirm to the Trustee or substitute trustee such estates, rights, powers, and duties, then, upon request by the Trustee or substitute trustee, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged, and delivered and shall be caused to be recorded and/or filed by Trustor.

Section 14.6 SUCCESSION INSTRUMENTS. Any substitute trustee appointed pursuant to any of the provisions hereof shall, without any further act, deed, or conveyance, become vested with all the estates, properties, rights, powers, and trusts of its or his predecessor in the rights hereunder with like effect as if originally named as Trustee herein; but nevertheless, upon the written request of Beneficiary or of the substitute trustee, the Trustee ceasing to act shall execute and deliver any instrument transferring to such substitute trustee, upon the trusts herein expressed, all the estates, properties, rights, powers, and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such Trustee to the substitute trustee so appointed in the Trustee's place.



## PART II

### Article 15 - STATE-SPECIFIC PROVISIONS

Section 15.1 PRINCIPLES OF CONSTRUCTION. In the event of any inconsistencies between the terms and conditions of this Article 15 and the other terms and conditions of this Deed of Trust, the terms and conditions of this Article 15 shall control and be binding.

Section 15.2 NO "MORTGAGEE-IN-POSSESSION" STATUS. Neither the assignment of Leases and Rents contained in this Deed of Trust, nor the exercise by Beneficiary of any of its rights or remedies under this Deed of Trust shall be deemed to make Beneficiary a "mortgagee-in-possession" or otherwise liable in any manner with respect to the Property, unless Beneficiary, in person or by agent, assumes actual possession thereof. Nor shall appointment of a receiver for the Property by any court at the request of Beneficiary or by agreement with Trustor, or the entering into possession of the Property by such receiver, be deemed to make Beneficiary a "mortgagee-in-possession" or otherwise liable in any manner with respect to the Property.

Section 15.3 POWER OF SALE. The sale or sales of less than the whole of the Property shall not exhaust the power of sale herein granted, and Trustee is specifically empowered to make successive sales under such power until the whole of the Property shall be sold. Should Beneficiary elect to sell the Property, or any part thereof, which is real property as provided above, Beneficiary or Trustee shall give such notice of default and election to sell as may then be required by law, including, without limitation, as provided by R.C.W. 61.24.030 et seq. and R.C.W. 61.24.040, as then amended. Thereafter, upon the expiration of such time and the giving of such notice of sale as may then be required by law, and without the necessity of any demand on Trustor, Trustee, at the time and place specified in the notice of sale, shall sell the Property or any part thereof at public auction to the highest bidder for cash in lawful money of the United States, or cash equivalent acceptable to Trustee and Beneficiary, payable at time of sale. Trustee may, and upon request of Beneficiary shall, from time to time, postpone any sale hereunder by public announcement thereof at the time and place noticed therefor or by giving notice of the time and place of the postponed sale in the manner required by law. If the Property consists of several lots, parcels or items of property, Beneficiary may designate the order in which such lots, parcels or items shall be offered for sale or sold. Should Beneficiary desire that more than one sale or other disposition of the Property be conducted, Beneficiary may, at its option, cause the same to be conducted simultaneously, or successively, on the same day, or at such different times and in such order as Beneficiary may deem to be in its best interests, and no such sale shall terminate or otherwise affect the lien of this Deed of Trust on any part of the Property not sold until all indebtedness secured hereby has been fully paid. In the event of default of any purchaser, Trustee shall have the right to resell the Property as set forth above.

Section 15.4 TRUSTEE'S DEED RECITALS. The recitals of facts in any instrument delivered upon completion of any sales, as described in Section 7.1(d), such as the existence of a default, the giving of notice of default and notice of sale, and other facts affecting the regularity or validity of such sale or disposition, shall be conclusive proof of the trust of such facts and any such instruments shall be conclusive against all persons as to such fact recited therein.

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Section 15.5 OBLIGATIONS NOT PERSONAL. The obligations evidenced hereby were not incurred primarily for personal, family or household purposes.

Section 15.6 NO AGRICULTURAL PURPOSE. No portion of the Property is or will be used principally for agricultural or farming purposes.

Section 15.7 RIGHTS AND REMEDIES. All rights and remedies of Beneficiary and Trustee herein contained shall be subject to the provisions of R.C.W. 61.12.010 et seq. and R.C.W. 61.24.010 et seq. including without limitation R.C.W. 61.24.030 and R.C.W. 61.24.100.

Section 15.8 OPEN-END DEED OF TRUST. This Deed of Trust secures the unpaid balance of loan advances and other financial accommodations which may be made after this Deed of Trust is delivered for recording. The making of such advances and other accommodations is obligatory on the part of the Beneficiary subject to the terms and conditions of the Secured Debt Documents. The maximum amount of the unpaid balance of all loan advances and other financial accommodations (in the aggregate and exclusive of interest thereon and advances made pursuant hereto for the payment of taxes, insurance premiums, and for protection of the Property) which may be outstanding at any time as secured by this Deed of Trust is ONE BILLION FIVE HUNDRED MILLION AND NO/100 US DOLLARS (US\$1,500,000,000). In addition to any other debt or obligation secured hereby, this Deed of Trust shall also secure unpaid balances of advances made with respect to the Property for the payment of taxes, assessments, insurance premiums, and costs incurred for maintaining the Improvements on, or for the protection of, the Property.

Section 15.9 MECHANICS' LIEN LAW. The Trustee and Beneficiary shall be and hereby are authorized and empowered to do all things provided to be done in the mechanics' lien laws of the State of Washington.

Section 15.10 COMPLIANCE WITH DEED OF TRUST FORECLOSURE LAW.

(a) If any provision of this Deed of Trust is inconsistent with any applicable provision of the Revised Code of Washington, as amended (the "Act"), the provisions of the Act shall take precedence over the provisions of this Deed of Trust, but shall not invalidate or render unenforceable any other provision of this Deed of Trust that can fairly be construed in a manner consistent with the Act.

(b) Without in any way limiting or restricting any of the Trustee or Beneficiary's rights, remedies, powers and authorities under this Deed of Trust, and in addition to all of such rights, remedies, powers, and authorities, the Trustee and Beneficiary shall also have and may exercise any and all rights, remedies, powers and authorities which the holder of a Deed of Trust is permitted to have or exercise under the provisions of the Act, as the same may be amended from time to time. If any provision of this Deed of Trust shall grant to the Trustee or Beneficiary any rights, remedies, powers or authorities upon default of Trustor which are more limited than the rights that would otherwise be vested in the Trustee or Beneficiary under the Act in the absence of said provision, the Trustee or Beneficiary shall be vested with all of the rights, remedies, powers and authorities granted in the Act to the fullest extent permitted by law

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(c) Without limiting the generality of the foregoing, all expenses incurred by the Trustee or Beneficiary, to the extent reimbursable, under R.C.W. 61.24.040, or any other provision of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in any other provision of this Deed of Trust, shall be added to the indebtedness secured by this Deed of Trust and by the judgment of foreclosure.

(d) Trustor waives, to the extent permitted by law, (a) the benefit of all laws now existing or that may hereafter be enacted providing for any appraisal before sale of any portion of the Property, (b) all rights of reinstatement, redemption under R.C.W. 61.24.090 and R.C.W. 6.23.010 et seq., valuation, appraisal, homestead, moratorium, exemption, extension, stay of execution, notice of election to mature or declare due the whole of the Obligations in the event of foreclosure of the liens hereby created, (c) all rights and remedies which Trustor may have or be able to assert by reason of the laws of the State of Washington pertaining to the rights and remedies of sureties, (d) the right to assert any statute of limitations as a bar to the enforcement of the lien of this Deed of Trust or to any action brought to enforce the Secured Debt Documents or any other Obligation, and (e) any rights, legal or equitable, to require marshaling of assets or to require foreclosure sales in a particular order. Without limiting the generality of the preceding sentence, Trustor, on its own behalf and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Deed of Trust, hereby irrevocably waives any and all rights of reinstatement or redemption from sale or from or under any order, judgment or decree of foreclosure of this Deed of Trust or under any power contained herein or under any sale pursuant to any statute, order, decree or judgment of any court. Trustor, for itself and for all persons hereafter claiming through or under it or who may at any time hereafter become holders of liens junior to the lien of this Deed of Trust, hereby expressly waives and releases all rights to direct the order in which any of the Property shall be sold in the event of any sale or sales pursuant hereto and to have any of the Property and/or any other property now or hereafter constituting security for any of the indebtedness secured hereby marshaled upon any foreclosure of this Deed of Trust or of any other security for any of said indebtedness. The Trustee and Beneficiary shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. The Trustee and Beneficiary shall have the right to determine the order in which any or all portions of the Obligations are satisfied from the proceeds realized upon the exercise of the remedies provided herein.

Section 15.11 FIXTURE FILING. This Deed of Trust constitutes a financing statement filed as a fixture filing in the Official Records of the County in which the Property is situated with respect to any and all fixtures included within the term "Property" as used herein, and with respect to any goods or other personal property that may now be or hereafter become such fixtures. For purposes of such financing statement, Trustor is the "debtor" and the Beneficiary is the "secured party", and their respective mailing addresses are those set out in this Deed of Trust. Trustor grants to the Beneficiary a security interest in all existing and future goods which are now or in the future become fixtures relating to the Property and the proceeds thereof. Trustor covenants and agrees that the filing of this Deed of Trust in the Official Records of the County where the Property is located shall also operate from the date of such filing as a fixture filing in accordance with R.C.W. 62A.9A-502. Trustor is the record owner of the Property.

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Section 15.12 NO PROPERTY MANAGER LIEN. Any property management agreement for or relating to all or any part of the Property, whether now in effect or entered into hereafter by Trustor or on behalf of Trustor, shall contain a subordination provision whereby the property manager forever and unconditionally subordinates to the lien of this Deed of Trust and the other Secured Debt Documents any and all mechanic's lien rights and claims that it or anyone claiming through or under it may have at any time pursuant to any statute or law, including, without limitation, R.C.W. 60.04.011 et seq. Such property management agreement or a short form thereof, including such subordination, shall, at the Beneficiary's request, be recorded with the office of the recorder of deeds for the county in which the Property are located. Trustor's failure to cause any of the foregoing to occur shall constitute an Actionable Default.

Section 15.13 ENVIRONMENTAL STATUTE. Trustor represents and warrants that, except as disclosed in the Secured Debt Documents, to its knowledge, (a) there are no underground storage tanks at, on or under the Property which require notification under Section 9002 of the Solid Waste Solid Disposal Act, as now or hereafter amended (42 U.S.C. 6991) and R.C.W. Chapter 90.42 and (b) there are no "facilities" at the Property which are subject to reporting under Section 312 of the Federal Emergency Planning Community Right-to-Know Act of 1986, and federal regulations promulgated thereunder.

Section 15.14 MATURITY DATE. The maturity date of the Obligations secured hereby is August 2, 2035, as such date may be extended or amended from time to time under the Secured Debt Documents.

Section 15.15 RATE OF INTEREST. Interest shall accrue from time to time on the Obligations at the rate or rates set forth in the Secured Debt Documents.

Section 15.16 COMMERCIAL LOAN. The Obligations secured by this Deed of Trust is a "commercial loan" as that term is defined in RCW 61.24.005.

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

[NO FURTHER TEXT ON THIS PAGE]



IN WITNESS WHEREOF, THIS DEED OF TRUST has been executed by Trustor to be effective as of the day and year first above written.

CHEMTRADE SOLUTIONS LLC, a  
Delaware limited liability company f/k/a  
GENERAL CHEMICAL LLC, a Delaware  
limited liability company.

By: \_\_\_\_\_

Dan Dietz, Vice President

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**ACKNOWLEDGMENT**

STATE OF NEW JERSEY )  
 ) ss.  
COUNTY OF MORRIS )

I certify that I know or have satisfactory evidence that Dan Dietz is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as a Vice President of CHEMTRADE SOLUTIONS LLC, a Delaware limited liability company f/k/a General Chemical LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: APRIL 14, 2014

Mary F. Culver  
Notary Public  
State of NJ  
My Comm. Exp. 10-21-16  
(Signature of Notary) Mary F. Culver  
(Name legibly printed or stamped)  
Notary Public in and for the State of NJ  
residing at \_\_\_\_\_  
My appointment expires on \_\_\_\_\_



**EXHIBIT A**

**LEGAL DESCRIPTION**

A TRACT OF LAND IN THE NORTH ONE-HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 35 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF THE NORTH TEXAS ROAD (ALSO KNOWN AS COUNTY ROAD NO. 591), WHICH POINT IS DISTANT 15.68 FEET NORTH AND 194.49 FEET EAST OF THE SOUTHWEST CORNER OF SAID SUBDIVISION (THE WESTERLY LINE OF SAID SUBDIVISION BEARS NORTH 1°12'30" EAST); THENCE NORTH 1°34' EAST A DISTANCE OF 639.7 FEET ALONG THE BOUNDARY OF THE PROPERTY OF SHELL OIL COMPANY TO A POINT ON THE NORTH LINE OF SAID SUBDIVISION;

THENCE SOUTH 88°49'15" EAST ALONG THE NORTH LINE OF SAID SUBDIVISION AND THE BOUNDARY OF THE PROPERTY OF SHELL OIL COMPANY A DISTANCE OF 1116.68 FEET TO A POINT (NOW MARKED BY A PIPE) ON THE WESTERLY RIGHT-OF-WAY OF BETTERTON EXTENSION ROAD;

THENCE SOUTH 0°57' WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 641.5 FEET TO A POINT (NOW MARKED BY A PIPE) ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID NORTH TEXAS ROAD;

THENCE NORTH 88°43'37" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 1123.58 FEET TO THE POINT OR PLACE OF BEGINNING.

EXCEPT ANY PORTION LYING WITHIN THE EAST 20 FEET OF THE SOUTH 20 FEET OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 33.

SITUATED IN SKAGIT COUNTY, WASHINGTON.