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Skagit County Auditor

\$305.00

2/25/2015 Page

1 of 17 3:09PM

**AFTER RECORDING RETURN TO:**

Athy O'Keeffe, Esq.  
Cahill Gordon & Reindel LLP  
80 Pine Street  
New York, NY 10005  
(212) 701-3000

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet**  
(RCW65.04) **CHICAGO TITLE** 620021699

<b>Document Title(s)</b> (Or transactions contained therein): (all areas applicable to your document <b>must</b> be filled in) First Lien Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing
<b>Reference Number(s) of Documents assigned or released:</b>  Additional reference #'s on page _____ of document
<b>Grantor(s)</b> Safeway Inc., a Delaware corporation
<b>Trustee(s)</b> Fidelity National Title of Washington
<b>Grantee(s)</b> Credit Suisse AG, Cayman Islands Branch., as Agent
<b>Legal Description</b> (abbreviated: i.e. lot, block, plat or section, township, range) Tracts 9 and 12, Plate 10, Tide and Shore Lands of 19-35-02
<b>Assessor's Property Tax Parcels/Account Numbers</b> P32986/350219-0-073-0008; P32952/350219-0-044-0103
The Auditor/Recorder will reply on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.
<b>"I am signing below and paying an additional \$50 recording fee (as provided in RCW 36.18.010 and referred to as an emergency nonstandard document), because this document does not meet margin and formatting requirements. Furthermore, I hereby understand that the recording process may cover up or otherwise obscure some part of the text of the original document as a result of this request."</b>
_____ Signature of Requesting Party
<b>Note to submitter: Do not sign above nor pay additional \$50 fee if the document meets margin/formatting requirements</b>

This instrument prepared in consultation with counsel in the state in which the Trust Property is located by the attorney described below and after recording return to:

Athy O’Keeffe, Esq.  
Cahill Gordon & Reindel LLP  
80 Pine Street  
New York, NY 10005  
(212) 701-3000  
Store No.: 593

**FIRST LIEN DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING**  
(Skagit County, Washington (the “State”))

THIS FIRST LIEN DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (“**Deed of Trust**”), dated as of February 23, 2015, is made and executed by **SAFEWAY INC.**, a Delaware corporation successor in interest to Safeway Stores, Incorporated, a Delaware corporation (formerly a Maryland corporation) (“**Grantor**”), having its principal offices at c/o Albertson’s LLC, 250 Parkcenter Boulevard, Boise, ID 83706, in favor of **FIDELITY NATIONAL TITLE OF WASHINGTON** having an office at 3500 18<sup>th</sup> Street SW, Suite 300, Lynwood, WA 98037, as trustee under this Deed of Trust (together with any successors in such capacities, the “**Trustee**”) for the benefit of **CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH**, having an office at Eleven Madison Avenue, 23<sup>rd</sup> Floor, New York, NY, 10010 Attn: Loan Operations – Agency Manager, as Agent for the benefit of the Secured Parties (as each such term is defined in the Credit Agreement defined below).

**RECITALS**

A. Pursuant to that Second Amended and Restated Term Loan Agreement, dated as of August 25, 2014 and effective as of the Escrow Release Date (as defined therein) as supplemented by that certain Joinder and Assumption Agreement, dated as of the Escrow Release Date and otherwise supplemented as of the date hereof (as so supplemented and as further amended, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), among Albertson’s LLC, a Delaware limited liability company, as borrower (the “**Parent Borrower**”), Albertson’s Holdings LLC (“**Holdings**”), the parties thereto from time to time as Co-Borrowers, and the Guarantors from time to time party thereto (such term and each other capitalized term used and not defined herein having the meaning given to it in the Credit Agreement), the Lenders from time to time party thereto, and Credit Suisse AG, Cayman Islands Branch, as Agent, the Lenders have agreed to make to or for the account of the Borrowers certain Loans.



B. The Parent Borrower, the other grantors from time to time party thereto, and the Agent have also entered into that certain Second Amended and Restated Security Agreement dated as of the Escrow Release Date (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Security Agreement").

C. It is a condition to the obligations of the Lenders to make the Loans under the Credit Agreement that the Grantor execute and deliver the applicable Financing Agreements, including this Deed of Trust.

D. This Deed of Trust is made by the Grantor in favor of the Trustee for the benefit of Agent for its benefit and the benefit of the Secured Parties to secure the payment and performance of all of the Secured Obligations (as such term is defined in the Security Agreement).

### GRANTING CLAUSES

To secure the payment and performance in full of all the Secured Obligations, Grantor does hereby convey, mortgage, warrant, grant, assign, transfer, pledge and deliver unto Trustee, its successors and assigns, in trust, for the use and benefit of Agent with statutory power of sale (subject to applicable law) for its benefit and for the benefit of the other Secured Parties, and does hereby grant to Agent for its benefit and for the benefit of the other Secured Parties a security interest in and lien upon, all of Grantor's right, title and interest in, to and under the following described property, whether now owned or held or hereafter acquired from time to time:

(A) The land legally described in attached **Exhibit A** ("Land");

(B) All the buildings, structures, improvements and fixtures of every kind or nature now or hereafter situated on the Land and all machinery, appliances, equipment, furniture and all other personal property of every kind or nature which constitute fixtures with respect to the Land, together with all extensions, additions, improvements, substitutions and replacements of the foregoing ("**Improvements**");

(C) All easements, tenements, rights-of-way, vaults, gores of land, streets, ways, alleys, passages, sewer rights, water courses, water rights and powers and appurtenances in any way belonging, relating or appertaining to any of the Land or Improvements, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired ("**Appurtenances**");

(D) (i) All judgments, insurance proceeds, awards of damages and settlements which may result from any damage to all or any portion of the Land, Improvements or Appurtenances or any part thereof or to any rights appurtenant thereto;

(ii) All compensation, awards, damages, claims, rights of action and proceeds of or on account of (a) any damage to or taking of all or any portion of the Land, Improvements or Appurtenances by reason of the taking, pursuant to the power of eminent domain, of all or any portion of the Land, Improvements, Appurtenances or of other property, or (b) the alteration of the grade of any street or



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highway on or about the Land, Improvements, Appurtenances or any part thereof; and, except as otherwise provided herein or in the Credit Agreement, Agent is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor and, except as otherwise provided herein or in the Credit Agreement, to apply the same toward the payment of the indebtedness and other sums secured hereby; and

(iii) All proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Land, Improvements or Appurtenances;

(E) All rents, issues, profits, income and other benefits now or hereafter arising from or in respect of the Land, Improvements or Appurtenances (the "**Rents**");

(F) Any and all leases, licenses and other occupancy agreements now or hereafter affecting the Land, Improvements or Appurtenances, together with all security therefor and guaranties thereof and all monies payable thereunder, and all books and records owned by Grantor which contain evidence of payments made under the leases and all security given therefor (collectively, the "**Leases**");

(G) Any and all after-acquired right, title or interest of Grantor in and to any of the property described in the preceding Granting Clauses; and

(H) The proceeds from the sale, transfer, pledge or other disposition of any or all of the property described in the preceding Granting Clauses.

All of the trust property described in the Granting Clauses is hereinafter referred to as the "**Trust Property**."

TO HAVE AND TO HOLD the Trust Property and all parts thereof unto Trustee, its successors and assigns forever, in trust, for the use and benefit of Agent, for its benefit and for the benefit of the other Secured Parties for purposes of securing the payment and performance in full of all the Secured Obligations.

## ARTICLE I. COVENANTS OF GRANTOR

Grantor covenants and agrees with Agent as follows:

SECTION 1.1. **Performance under Credit Agreement and Deed of Trust.** Grantor shall perform, observe and comply with or cause to be performed, observed and complied with in a complete and timely manner, so as not to cause an Event of Default (as defined herein), all provisions hereof, of the Credit Agreement, and every instrument evidencing or securing the Secured Obligations.

SECTION 1.2. **General Covenants and Representations.** Grantor covenants, represents and warrants that as of the date hereof and at all times thereafter during the term hereof: (a) Grantor owns in fee simple that portion of the Trust Property which is real property,



and has good and valid title thereto and the balance of the Trust Property free and clear of all liens, security interests, charges and encumbrances whatsoever, except for Liens permitted under Section 10.1 of the Credit Agreement (“**Permitted Liens**”); and (b) Grantor will maintain and preserve the lien of this Deed of Trust as a first lien on the Trust Property, subject only to the Permitted Liens or as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, until the Secured Obligations have been paid in full and this Deed of Trust has been released in whole pursuant to Section 4.11 hereof.

**SECTION 1.3. Compliance with Laws and Other Restrictions.** Grantor covenants and represents that the Land and the Improvements and the use thereof presently comply with all Laws in accordance with Section 9.2 of the Credit Agreement.

**SECTION 1.4. Taxes and Other Charges.** Except for failures that could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, Grantor shall pay promptly when due and payable all taxes, assessments, rates, dues, charges, fees, levies, fines, impositions, liabilities, obligations, liens and encumbrances of every kind and nature whatsoever now or hereafter imposed, levied or assessed upon or against the Trust Property or any part thereof, or in connection with this Deed of Trust (including any mortgage recording taxes) or the Credit Agreement; provided, however, that Grantor may in good faith contest the validity, applicability or amount of any tax, assessment or other charge, in accordance with the terms of the Credit Agreement.

**SECTION 1.5. Mechanic’s and Other Liens.** Except as otherwise may be provided by the Credit Agreement, Grantor shall not permit or suffer any mechanic’s, laborer’s, materialman’s, statutory or other lien or encumbrance (other than any lien for taxes and assessments not yet due or payable) to be created upon or against the Trust Property; provided, however, that Grantor may in good faith, by appropriate proceedings, contest the validity, applicability or amount of any asserted lien, in accordance with the terms of the Credit Agreement.

**SECTION 1.6. Insurance and Condemnation.**

(a) **Insurance Policies.** Grantor shall obtain and keep in full force and effect the policies of insurance required by Section 9.4 of the Credit Agreement pursuant to the terms thereof.

(b) **Adjustment of Loss; Application of Proceeds.** Except as otherwise may be provided by the Credit Agreement, Agent is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies covering the Trust Property and to collect and receive the proceeds from any such policy or policies. The entire amount of such proceeds, awards or compensation shall be applied in accordance with Section 2.3(b) of the Credit Agreement.

(c) **Condemnation Awards.** Except as otherwise may be provided by the Credit Agreement, Agent shall be entitled to all compensation, awards, damages, claims, rights of action and proceeds of, or on account of, (i) any damage or taking, pursuant to the power of eminent domain, of the Trust Property or any part thereof, (ii) damage to the Trust Property by reason of the taking, pursuant to the power of eminent domain of other property, or (iii) the al-



UNRECORDED  
TERMINAL

teration of the grade of any street or highway on or about the Trust Property. Except as may otherwise be provided by the Credit Agreement, Agent is hereby authorized, at its option, to commence, appear in and prosecute in its own or Grantor's name any action or proceeding relating to any such compensation, awards, damages, claims, rights of action and proceeds and to settle or compromise any claim in connection therewith. Grantor shall pay all out-of-pocket reasonable fees, costs and expenses, including reasonable and documented attorneys' fees, incurred by the Agent in connection therewith and in seeking and obtaining any award or payment on account thereof. The entire amount of such proceeds, awards or compensation shall be applied in accordance with Section 2.3(b) of the Credit Agreement.

(d) **Obligation to Repair.** In the event the Grantor is permitted or required to perform any restoration in accordance with the provisions of Section 2.3(b) of the Credit Agreement, the Grantor shall perform such restoration in accordance with the provisions thereof.

SECTION 1.7. **Inspection.** The Grantor shall permit the Agent, and its agents, representatives and employees to inspect the Trust Property in accordance with Section 9.15 of the Credit Agreement.

SECTION 1.8. **Intentionally Omitted.**

SECTION 1.9. **Care of the Trust Property.**

(i) Grantor shall preserve and maintain the Trust Property in the condition required by the Credit Agreement.

(ii) Grantor represents and warrants that no portion of the Land is located in an area identified by the Federal Emergency Management Agency or any successor thereto as an area having special flood hazards pursuant to the Flood Insurance Acts promulgated by the Federal Emergency Management Agency or any successor thereto or, if any portion of the Land is located within such area, the Grantor has obtained the flood insurance prescribed in the Credit Agreement.

SECTION 1.10. **Transfer or Encumbrance of the Trust Property.** Except as permitted by the Credit Agreement, Grantor shall not permit or suffer to occur any sale, assignment, conveyance, transfer, mortgage, lease or encumbrance of the Trust Property, any part thereof, or any interest therein, without the prior written consent of Agent, not to be unreasonably withheld, conditioned or delayed.

SECTION 1.11. **Further Assurances.** At any time and from time to time, upon Trustee's or Agent's reasonable request, Grantor shall make, execute and deliver, or cause to be made, executed and delivered, to Agent, and where appropriate shall cause to be recorded, registered or filed, and from time to time thereafter to be re-recorded, re-registered and refiled at such time and in such offices and places as shall be deemed desirable by Agent, any and all such further mortgages or deeds of trust, security agreements, financing statements, instruments of further assurance, certificates and other documents as Agent may reasonably require in order to effectuate or perfect, or to continue and preserve the obligations under, this Deed of Trust.



SECTION 1.12. **Assignment of Rents.** Grantor absolutely and unconditionally grants, bargains, sells and conveys the Rents to Agent to provide a source of payment of the Secured Obligations subject to the license granted to Grantor below. Grantor and Agent intend that this conveyance be presently and immediately effective without any further action on the part of either party, and, specifically, Agent shall be entitled, at its option, upon the occurrence and during the continuance of an Event of Default, to all Rents, whether or not Agent takes possession of the Trust Property. Such assignment and grant shall continue in effect during the continuance of an Event of Default until the Secured Obligations are paid in full and this Deed of Trust has been released in whole pursuant to Section 4.11 hereof, the execution of this Deed of Trust constituting and evidencing the irrevocable consent of Grantor during the continuance of an Event of Default to the entry by Agent upon and taking possession of the Trust Property by Agent pursuant to such grant, whether or not foreclosure proceedings have been instituted. Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, Grantor shall have the right and authority to continue to collect the Rents as they become due and payable in accordance with the provisions of the applicable Lease; provided, however, that no prepayment of Rent shall in any event result, individually or in the aggregate, in a Material Adverse Effect on the value of the Trust Property.

SECTION 1.13. **After-Acquired Property.** To the extent permitted by, and subject to, applicable law, the lien of this Deed of Trust shall automatically attach, without further act, to all property hereafter acquired by Grantor and located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Trust Property or any part thereof.

SECTION 1.14. **Leases Affecting Trust Property.** Grantor shall comply with and perform in a complete and timely manner in all material respects all of its obligations as landlord under all Leases affecting the Trust Property or any part thereof. The assignment contained in Section 1.12 shall not be deemed to impose upon Agent any of the obligations or duties of the landlord or Grantor provided in any Lease.

SECTION 1.15. **Execution of Leases.** Except as permitted by the Credit Agreement, Grantor shall not permit any Leases to be made of the Trust Property, or to be modified, terminated, extended or renewed, without the prior written consent of Agent.

SECTION 1.16. **Security Agreement and Fixture Filing.** This Deed of Trust is both a real property deed of trust and a security agreement (as "security agreement" is defined in the Uniform Commercial Code as enacted and in effect in the State (the "UCC")). The information contained in this Section 1.16 is provided in order that this Deed of Trust shall comply with the requirements of the UCC for a deed of trust to be effective as a financing statement filed as a fixture filing. Capitalized terms not otherwise defined in this Section 1.16 shall have the meaning ascribed to them in the UCC. The Debtor is Grantor, the Secured Party is Agent, Grantor is the record owner of the Land, and the mailing addresses of Grantor/Debtor and Agent/Secured Party are as set forth in the preamble to this Deed of Trust. The types, or the items, of collateral covered hereby include goods that are or are to become fixtures with respect to the Land and Improvements located thereon. The filing of this Deed of Trust in the real estate records of the county in which the Land is located shall operate from the time of filing as a "fix-



ture filing” within the meaning of Section 9.102(a)(40) and under Section 9.502(c) of the UCC with respect to all portions of the Trust Property that are or are to become fixtures related to the Land and Improvements located thereon.

SECTION 1.17. The Trust Property is not used principally or primarily for agricultural or farming purposes.

## ARTICLE II. DEFAULTS

SECTION 2.1. **Event of Default.** The term “**Event of Default**,” wherever used in this Deed of Trust, shall mean the occurrence of an “Event of Default” under and as defined in the Credit Agreement.

## ARTICLE III. REMEDIES

SECTION 3.1. **Acceleration of Maturity.** If an Event of Default shall have occurred and be continuing, then the entire principal amount of the indebtedness secured hereby with interest accrued thereon in accordance with clause (b) of the definition of Interest Rate in the Credit Agreement, and all other Secured Obligations (or such parts as Agent may elect) shall, at the option of Agent, become due and payable without notice or demand, time being of the essence.

SECTION 3.2. **Right of Agent to Enter and Take Possession.** If an Event of Default shall have occurred and be continuing, Grantor, upon demand of Agent, shall forthwith surrender to Agent the actual possession of the Trust Property, and if and to the extent permitted by law, Agent may enter and take possession of all the Trust Property, and may exclude Grantor and its agents and employees wholly therefrom. Upon every such entering upon or taking of possession, Agent may hold, store, use, operate, manage and control the Trust Property and conduct the business thereof, and Agent may collect and receive all the income, revenues, rents, issues and profits of the Trust Property, including those past due as well as those accruing thereafter, and, after deducting (i) all reasonable expenses of taking, holding, managing, and operating the Trust Property (including compensation for the services of all persons employed for such purposes); (ii) the cost of all maintenance, repairs, renewals, replacements, additions, betterments, improvements and purchases and acquisitions reasonably necessary; (iii) the cost of insurance; (iv) such taxes, assessments and other charges prior to the lien of this Deed of Trust as Agent may determine to pay; (v) other proper charges upon the Trust Property or any part thereof; and (vi) the reasonable compensation and documented out-of-pocket expenses and disbursements of the attorneys and agents of Agent, shall apply the remainder of the monies so received by Agent in accordance with the provisions of the Credit Agreement.

SECTION 3.3. **Receiver.** If an Event of Default shall have occurred and be continuing, upon application to a court of competent jurisdiction, Agent shall be entitled, without notice and without regard to the adequacy of any security for the indebtedness hereby secured or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Trust Property and to collect the



thereof. Grantor will pay to Agent upon demand all reasonable and documented out-of-pocket expenses incurred by Agent, including receiver's fees, attorneys' fees, costs and agents' compensation, incurred pursuant to the provisions contained in this Section 3.3; and all such expenses shall be secured by this Deed of Trust.

**SECTION 3.4. Agent's Power of Enforcement.** If an Event of Default shall have occurred and be continuing, Agent may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or any other appropriate proceeding or remedy (a) to enforce payment of the Secured Obligations; (b) to foreclose this Deed of Trust and to sell, as an entirety or in separate lots or parcels, the Trust Property, as provided by law; and (c) to pursue any other remedy available to it, all as Agent shall deem most effectual for such purposes.

**SECTION 3.5. Power of Sale.** If an Event of Default shall have occurred and be continuing, to the extent allowed by State law, Trustee or Agent may sell the Trust Property to the highest bidder at public auction in front of the Courthouse door in the county where the Trust Property is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale, together with a description of the property to be sold all according to the laws of the State governing sales of land under mortgages, and, upon payment of the purchase money, Trustee or Agent or any person conducting the sale for Agent is authorized to execute to the purchaser at said sale a deed to the Trust Property so purchased. Trustee or Agent may bid at said sale and purchase the Trust Property, or any part thereof, if Trustee or Agent is the highest bidder therefor. At the foreclosure sale the Trust Property may be offered for sale and sold as a whole without first offering it in any other manner or may be offered for sale and sold in any manner Agent may elect.

**SECTION 3.6. Application of Foreclosure Proceeds.** Subject to the terms of the ABL Intercreditor Agreement, the proceeds received by the Agent in respect of any sale of, collection from or other realization upon all or any part of the Trust Property pursuant to the exercise by the Agent of its remedies shall be applied, together with any other sums then held by the Agent pursuant to this Deed of Trust, in accordance with and as set forth in Section 11.3 of the Credit Agreement.

**SECTION 3.7. Agent's Option on Foreclosure.** Upon the occurrence and during the continuance of an Event of Default, at the option of Agent, this Deed of Trust may be foreclosed as provided by law or in equity, in which event reasonable attorneys' fees shall, among other costs and expenses, be allowed and paid out of the proceeds of the sale. In the event Agent exercises its option to foreclose this Deed of Trust in equity, Agent may at its option, foreclose this Deed of Trust subject to or prior to the rights of any tenants of the Trust Property, and the failure to make any such tenants parties to any such foreclosure proceeding and to foreclose their rights will not be, nor be asserted to be by Grantor, a defense to any proceedings instituted by Agent to collect the sums secured hereby, or any deficiency remaining unpaid after the foreclosure sale of the Trust Property.

**SECTION 3.8. Waiver of Exemption and Redemption.** Upon the occurrence and during the continuance of an Event of Default, Grantor waives all rights of exemption



pertaining to real or personal property as to any indebtedness secured by or that may be secured by this Deed of Trust, and Grantor waives the benefit of any statute regulating the obtaining of a deficiency judgment or requiring that the value of the Trust Property be set off against any part of the indebtedness secured hereby. Grantor hereby waives all rights of appraisal, sale and redemption allowed under any law or laws of the State, or the laws of any other state or jurisdiction.

**SECTION 3.9. Remedies Cumulative.** No right, power or remedy conferred upon or reserved to Trustee or Agent by the Credit Agreement, this Deed of Trust or any other instrument evidencing or securing the Secured Obligations is exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Credit Agreement or any instrument evidencing or securing the Secured Obligations, or now or hereafter existing at law, in equity or by statute.

**SECTION 3.10. Intentionally Omitted.**

**ARTICLE IV.  
MISCELLANEOUS PROVISIONS**

**SECTION 4.1. Successors and Assigns Included in Parties.** Whenever Trustee, Grantor or Agent are named or referred to herein, successors and assigns of such person or entity shall be included, and all covenants and agreements contained in this Deed of Trust shall bind the successors and assigns of Grantor, including any subsequent owner of all or any part of the Trust Property, and inure to the benefit of the successors and assigns of Agent for the benefit of the Secured Parties.

**SECTION 4.2. Notices.** Unless otherwise provided herein or in the Credit Agreement, any notice or other communication herein required or permitted to be given shall be given in the manner and become effective as set forth in the Credit Agreement, as to the Grantor, addressed to it at the address of the Parent Borrower set forth in the Credit Agreement and as to the Agent, addressed to it at the address set forth in the Credit Agreement, or in each case at such other address as shall be designated by such party in a written notice to the other parties hereto complying as to delivery with the terms of this Section 4.2. All notices to the Trustee shall be addressed at its offices set forth in the preamble hereto.

**SECTION 4.3. Headings.** The headings of the articles, sections, paragraphs and subdivisions of this Deed of Trust are for convenience only, are not to be considered a part hereof, and shall not limit, expand or otherwise affect any of the terms hereof.

**SECTION 4.4. Invalid Provisions.** In the event that any of the covenants, agreements, terms or provisions contained in this Deed of Trust shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein (or the application of the covenant, agreement, term or provision held to be invalid, illegal or unenforceable, to persons or circumstances other than those in respect of which it is invalid, illegal or unenforceable) shall be in no way affected, prejudiced or disturbed thereby.



**SECTION 4.5. Changes.** No amendment, modification, supplement, termination or waiver of or to any provision hereof, nor consent to any departure by the Grantor therefrom, shall be effective unless the same shall be made in accordance with the terms of the Credit Agreement. Any amendment, modification or supplement of or to any provision hereof, any waiver of any provision hereof and any consent to any departure by the Grantor from the terms of any provision hereof shall be effective only in the specific instance and for the specific purpose for which made or given. Except where notice is specifically required by this Deed of Trust or any other document evidencing the Secured Obligations, no notice to or demand on the Grantor in any case shall entitle the Grantor to any other or further notice or demand in similar or other circumstances.

**SECTION 4.6. Governing Law.** Except with respect to the creation, perfection, priority and enforcement of the lien and security interest created hereunder, all of which shall be construed, interpreted, enforced and governed by the laws of the State, the validity and interpretation of this Deed of Trust shall be governed by and in accordance with the internal laws of the State of New York, without giving effect to any conflict of law principles that would result in the application of the laws of any other state (but giving effect to federal laws relating to national banks).

**SECTION 4.7. Limitation of Interest.** The provisions of the Credit Agreement regarding the payment of lawful interest are hereby incorporated herein by reference.

**SECTION 4.8. Future Advances.** This Deed of Trust shall secure all of the Secured Obligations including, without limitation, future advances whenever hereafter made with respect to or under the Credit Agreement and shall secure not only Secured Obligations with respect to presently existing indebtedness under the Credit Agreement, but also any and all other indebtedness which may hereafter be owing by the Grantor to the Secured Parties under the Credit Agreement and other Collateral Documents, however incurred, whether interest, discount or otherwise, and whether the same shall be deferred, accrued or capitalized, including future advances and re-advances, pursuant to the Credit Agreement or the other Collateral Documents, whether such advances are obligatory or to be made at the option of the Secured Parties, or otherwise, and any extensions, refinancings, modifications or renewals of all such Secured Obligations whether or not the Grantor executes any extension agreement or renewal instrument and, in each case, to the same extent as if such future advances were made on the date of the execution of this Deed of Trust.

**SECTION 4.9. Maximum Amount of Indebtedness.** The maximum aggregate amount of all indebtedness that is, or under any contingency may be secured at the date hereof or at any time hereafter by this Deed of Trust is \$7,046,032,166.71, plus, to the extent permitted by applicable law, collection costs, sums advanced for the payment of taxes, assessments, maintenance and repair charges, insurance premiums and any other costs incurred to protect the security encumbered hereby or the lien hereof, expenses incurred by the Agent by reason of any default by the Grantor under the terms hereof, together with interest thereon, all of which amount shall be secured hereby.



SECTION 4.10. **Last Dollar.** The lien of this Deed of Trust shall remain in effect until the last dollar of the Secured Obligations is paid in full and this Deed of Trust has been released in whole pursuant to Section 4.11 hereof.

SECTION 4.11. **Release; Reconveyance by Trustee.**

(a) This Deed of Trust, the security interest and lien in favor of the Trustee (for the benefit of itself and the other Secured Parties) and all other security interests granted hereby shall terminate with respect to all Secured Obligations when (i) the Commitments shall have expired or been terminated and (ii) the principal of and interest on each Loan and all fees and other Secured Obligations (other than contingent obligations not yet due) shall have been paid in full in cash; provided, however, that in connection with the termination of this Deed of Trust, the Agent may require such indemnities as it shall reasonably deem necessary or appropriate to protect the Secured Parties against (x) loss on account of credits previously applied to the Secured Obligations that may subsequently be reversed or revoked, (y) any obligations that may thereafter arise with respect to the Cash Management Obligations or Bank Products, and (z) any Secured Obligations that may thereafter arise under Section 12.5 or 12.6 of the Credit Agreement.

(b) Provided that no Event of Default is then occurring, the Grantor shall automatically be released from its obligations hereunder and the lien and security interest in favor of the Trustee and Agent on the Trust Property shall be automatically released if (i) the Grantor ceases to be a Restricted Subsidiary as a result of a transaction permitted under the Credit Agreement or becomes an Excluded Subsidiary or (ii) is the parent holding company of a Real Estate Subsidiary party to a Qualified Real Estate Financing Facility if such Deed of Trust is prohibited by the terms of such Qualified Real Estate Financing Facility; provided that no such release shall occur if the Grantor continues to be a guarantor in respect of any ABL Facility Indebtedness or any Additional Pari Term Debt (as defined in the ABL Intercreditor Agreement) or any Permitted Refinancing thereof (as defined in and incurred in compliance with the terms of the ABL Credit Agreement as in effect on the date hereof).

(c) The Trust Property shall be released from the lien of this Deed of Trust in accordance with the provisions of this Deed of Trust, the ABL Intercreditor Agreement and the Credit Agreement. Upon termination hereof or any release of Trust Property in accordance with the provisions of this Deed of Trust, the ABL Intercreditor Agreement or the Credit Agreement, the Agent shall, upon the request and at the sole cost and expense of the Grantor, assign, transfer and deliver to the Grantor, against receipt and without recourse to or warranty by the Agent, such portion of the Trust Property to be released (in the case of a release) or all of the Trust Property (in the case of termination of this Deed of Trust) as may be in possession of the Agent and as shall not have been sold or otherwise applied pursuant to the terms hereof, and, with respect to any other Trust Property to be released, proper documents and instruments (including UCC-3 termination statements or releases) acknowledging the termination hereof or the release of such Trust Property, as the case may be.

(d) At any time that the Grantor desires that the Agent take any action described in clause (c) of this Section 4.11, the Grantor shall, upon request of the Agent, deliver to



the Agent an officer's certificate certifying that the release of the respective Trust Property is permitted pursuant to this Section 4.11. The Agent shall have no liability whatsoever to any other Secured Party as the result of any release of the Trust Property by it as permitted (or which the Agent in good faith believes to be permitted) by this Section 4.11.

The Trustee shall, upon request by the Agent, release and reconvey (or, as the case may be, assign) all or any portion of the Trust Property whenever requested to do so by the Agent and shall not require as a condition to any such release, reconveyance or assignment, that the Agent certify or demonstrate that all or any portion of the Secured Obligations shall have been paid in full.

**SECTION 4.12. Agent May Perform; Agent Appointed Attorney-in-Fact.**

If the Grantor shall fail to perform any covenants contained in this Deed of Trust after giving effect to applicable notice and cure periods (including, without limitation, the Grantor's covenants to (i) pay the premiums in respect of all required insurance policies, (ii) pay charges, (iii) make repairs, (iv) discharge Liens or (v) pay or perform any obligations of the Grantor under any Trust Property) or if any representation or warranty on the part of the Grantor contained herein shall be breached, the Agent may (but shall not be obligated to), during the continuance of such breach, do the same or cause it to be done or remedy any such breach, and may expend funds for such purpose; provided, however, that the Agent shall in no event be bound to inquire into the validity of any tax, Lien, imposition or other obligation which the Grantor fails to pay or perform as and when required hereby and which the Grantor does not contest in accordance with the provisions of the Credit Agreement. Any and all amounts so expended by the Agent shall be paid by the Grantor in accordance with the provisions of the Credit Agreement and repayment shall be secured by this Deed of Trust. Neither the provisions of this Section 4.12 nor any action taken by the Agent pursuant to the provisions of this Section 4.12 shall prevent any such failure to observe any covenant contained in this Deed of Trust nor any breach of warranty from constituting an Event of Default. Upon the occurrence and during the continuance of an Event of Default, the Grantor hereby appoints the Agent its attorney-in-fact, with full power and authority in the place and stead of the Grantor and in the name of the Grantor, or otherwise, from time to time in the Agent's discretion to take any action and to execute any instrument consistent with the terms hereof and the terms of the other Collateral Documents which the Agent may deem necessary or advisable to accomplish the purposes hereof (but the Agent shall not be obligated to and shall have no liability to the Grantor or any third party for failure to so do or take action). The foregoing grant of authority is a power of attorney coupled with an interest and such appointment shall be irrevocable for the term hereof in accordance with the terms hereof. The Grantor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof.

**SECTION 4.13. Credit Agreement.** In the event of any conflict between the terms of this Deed of Trust and the terms of the Credit Agreement, the terms of the Credit Agreement shall control.

**SECTION 4.14. Intercreditor Agreement.** Notwithstanding anything to the contrary herein, this Deed of Trust and each other Financing Agreement are subject to the terms and conditions set forth in the ABL Intercreditor Agreement in all respects and, in the event of any conflict between the terms of the ABL Intercreditor Agreement and this Deed of Trust, the terms of the ABL Intercreditor Agreement shall govern. Notwithstanding anything herein to the



contrary, the priority of the Lien and security interest granted to the Agent pursuant to any Financing Agreement and the exercise of any right or remedy in respect of the Trust Property by the Agent hereunder or under any other Financing Agreement is subject to the provisions of the ABL Intercreditor Agreement.

**ARTICLE V.  
INTENTIONALLY OMITTED**

**ARTICLE VI.  
THE TRUSTEE**

**SECTION 6.1. Acceptance by Trustee.** The Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

**SECTION 6.2. Compensation.** The Trustee waives any statutory fee and shall accept reasonable compensation from the Agent in lieu thereof for any services rendered by it in accordance with the terms hereof.

**SECTION 6.3. Action in Accordance With Instructions.** Upon receipt by the Trustee of lawful instructions from the Agent at any time or from time to time, the Trustee shall (a) give any notice or direction or exercise any right, remedy or power hereunder or in respect of any part or all of the Trust Property as shall be specified in such instructions and (b) approve as satisfactory all matters required by the terms hereof to be satisfactory to the Trustee or to the Agent. The Trustee may, but need not, take any of such actions in the absence of such instructions. In addition, at any time or from time to time, upon request of the Agent, and without affecting the liability of any person for payment of the Secured Obligations, the Trustee may, upon such request, reconvey all or any part of the Trust Property, consent to the making of any map or plat thereof, join in granting any easement thereon, or join in any extension agreement or any agreement subordinating the lien and estate hereof.

**SECTION 6.4. Resignation.** The Trustee may resign at any time upon giving not less than 60 days' prior notice to the Agent but shall continue to act as trustee until its successor shall have been qualified and appointed pursuant to Section 6.5.

**SECTION 6.5. Successor Trustee.** In the event of the death, removal, resignation or refusal or inability of the Trustee to act, for any reason, at any time, the Agent shall have the irrevocable power, with or without cause, without notice of any kind and without applying to any court, to select and appoint a successor trustee. Each such appointment and substitution shall be made by notice to the Trustor, the Trustee and successor trustee and by recording notice of such in each office in which this Deed of Trust is recorded. Such notice shall be executed and acknowledged by the Agent and shall contain reference to this Deed of Trust and when so recorded shall be conclusive proof of proper appointment of the successor trustee. Such successor shall not be required to give bond for the faithful performance of its duties unless required by the Agent.



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UNOFFICIAL DOCUMENT



201502250096

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed by its duly authorized officer as of the day and year first above written.

**GRANTOR:**

SAFEWAY INC., a Delaware corporation

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

Name: Thomas L. Hanavan  
Its: Vice President

**ACKNOWLEDGMENT**

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

STATE OF CALIFORNIA )

COUNTY OF ALAMEDA )

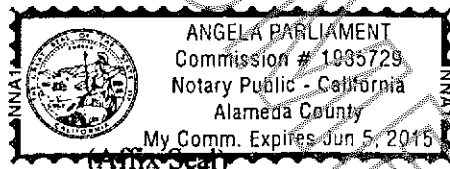
ss:

On February 13<sup>th</sup>, 2015 before me, Angela Parliament (insert name and title of the officer), personally appeared Thomas L. Hanavan, Vice President, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Angela Parliament  
(Signature)



Signature Page to Deed of Trust (Skagit County, Washington, Store 593)



201502250096

**EXHIBIT A**

**Legal Description**

**PARCEL A:**

Tract 9, EXCEPT the North 20 feet thereof, and all of Tract 12, PLATE NO. 10, Tide and Shore Lands of Section 19, Township 35 North, Range 2 East of the Willamette Meridian, of Anacortes Harbor, according to the official map thereof on file in the office of the State Land Commissioner at Olympia, Washington.

TOGETHER WITH that portion of vacated 12<sup>th</sup> Street lying between the East line of Commercial Avenue and the West line of "Q" Avenue as shown on the face of said PLATE NO. 10, Tide and Shore Lands of Section 19, Township 35 North, Range 2 East of the Willamette Meridian, of Anacortes Harbor, according to the official map thereof on file in the office of the State Land Commissioner at Olympia, Washington as per Ordinance No. 1702, recorded November 1, 1978 under Auditor's File No. 890492, records of Skagit County, Washington.

AND TOGETHER WITH the North 20 feet of that portion of 13<sup>th</sup> Street lying Westerly of the Westerly right-of-way of "Q" Avenue and Easterly of the East right-of-way of Commercial Avenue as shown on the map of the City of Anacortes, Skagit County, Washington as vacated per Ordinance No. 2452, recorded July 2, 2001 under Auditor's File No. 200107020139, records of Skagit County, Washington.

Situate in Skagit County, Washington.

**PARCEL B:**

The North 20 feet of Tract 9, PLATE NO. 10, Tide and Shore Lands of Section 19, Township 35 North, Range 2 East of the Willamette Meridian, of Anacortes Harbor, according to the official map thereof on file in the office of the State Land Commissioner at Olympia, Washington.

Situate in Skagit County, Washington.

Site: WA 593



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Skagit County Auditor

2/25/2015 Page

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