

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

AXOS BANK®  
4350 La Jolla Village Drive, Suite 140  
Mail Code CLO- 031  
San Diego, CA 92122

Tax Parcel(s)/APN: P62618/3867-000-049-0207,  
P62636/3867-000-049-2005 and  
P62643/3867-000-049-2807

Chicago Title  
500164064

(Space Above For Recorder's Use)

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

SKAGIT FLATS LIVING LLC

(Grantor)

to

CHICAGO TITLE INSURANCE COMPANY

(Trustee)

in favor of

AXOS BANK®

(Lender)

**DATED: December 22, 2025**

**Abbreviated Legal Description: A portion of the East half of Tract 49 of the Plat of Burlington  
Acreage Property  
The full legal description is set forth on Exhibit A.**

Washington Form (2019)

**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"), dated as of December 22, 2025 is entered into by SKAGIT FLATS LIVING LLC, a Washington limited liability company (collectively, referred to in the singular as, "Grantor"), as Grantor, having its principal place of business at 16559 Country Club Drive, Burlington, Washington 98233, in favor of Chicago Title Insurance Company ("Trustee"), as Trustee, having its address at 3002 Colby Avenue, Suite 200, Everett, Washington 98201, for the benefit of AXOS BANK®, a federally chartered savings association ("Lender"), as beneficiary, having its principal place of business at 4350 La Jolla Village Drive, Suite 100, San Diego, California, 92122.

**RECITALS:**

A. Lender is making a loan (the "Loan") to Grantor ("Borrower"), which is evidenced by a Secured Promissory Note (all extensions, modifications or renewals thereof (including, without limitation, any extension, modification, or renewal of the Note at a different rate of interest or on different terms), collectively, the "Note") in the principal amount of Twenty Million Five Hundred Thousand and No/100 Dollars (\$20,500,000.00), executed by Borrower in favor of Lender, dated the same date as this Deed of Trust, payable to the order of Lender.

B. The loan documents include this Deed of Trust, the Note and the other documents described in the Note as Loan Documents (the "Loan Documents").

**ARTICLE 1**

**DEED OF TRUST**

1.1. **Grant.** For the purposes of and upon the terms and conditions of this Deed of Trust, Grantor irrevocably grants, conveys and assigns to Trustee, in trust for the benefit of Lender, with power of sale and right of entry and possession, all estate, right, title and interest which Grantor now has or may hereafter acquire in, to, under or derived from any or all of the following:

(a) All right, title and interest which Grantor now has or may later acquire in any real property and all appurtenances, easements, covenants, rights of way, tenements, hereditaments and appurtenances, strips and gores of land, streets, ways, alleys, passages, thereunto belonging or in any way appertaining thereto now or hereafter, and all of the estate, right, title, interest, claim, demand, reversion or remainder whatsoever of Grantor therein or thereto, at law or in equity, now or hereafter in possession or expectancy, including, without limitation, all mineral, oil, and gas rights and royalties and profits therefrom, all water and water rights and shares of stock pertaining to water, water courses and water rights and powers, and all sewers and sewer rights, pipes, conduits, wires and other facilities furnishing utility or services to the real property, air rights and development rights and credits, pumps, pipes, flumes and ditches and ditch rights, water stock, ditch and/or reservoir stock or interests, rights to oil, gas, minerals, coal and other substances of any kind or character (the "Land") located in the County of Skagit, State of Washington and more particularly described on Exhibit A attached hereto;

(b) All right, title and interest which Grantor now has or may later acquire in and to all buildings, structures and improvements now or hereafter erected, used or placed on the Land, including, without limitation, all plant equipment, apparatus, machinery, appliances and fixtures of every

kind and nature whatsoever now or hereafter located on or forming part of said buildings, structures and improvements (collectively, the "**Improvements**");

(c) All right, title and interest which Grantor now has or may later acquire in and to the land lying in the bed of any street, road, highway or avenue now or hereafter in front of or adjoining the Property (hereinafter defined);

(d) All additions and accretions to the property described above;

(e) All licenses, authorizations, certificates, variances, consents, approvals and other permits now or hereafter pertaining to the Land and all estate, right, title and interest of Grantor in, to, under or derived from all trade names or business names relating to the Land or the present or future development, construction, operation or use of the Land;

(f) Any and all awards heretofore or hereafter made by any governmental authorities (federal, state, local or otherwise) to Grantor and all subsequent owners of the Property (hereinafter defined) which may be made with respect to the Property as a result of the exercise of the right of eminent domain, the alteration of the grade of any street or any other injury to or decrease of value of the Property, which said award or awards are hereby assigned to Lender;

(g) Any and all unearned premiums accrued, accruing or to accrue, and the proceeds of insurance now or hereafter in effect with respect to all or any portion of the Property;

(h) Any and all claims or demands which Grantor now has or may hereafter acquire against anyone with respect to any damage to all or any portion of the Property;

(i) Any and all claims under and proceeds of any insurance policies by reason of or related to a loss of any kind sustained to the Property, now or hereafter, whether or not such policies name Lender as an insured and whether or not such policies are required by Lender, and whether or not such claims thereunder are characterized as personal claims;

(j) All goods, equipment, machinery, furniture, furnishings, trade fixtures, appliances, inventory, building materials, apparatus, utensils, vehicles, wiring, pipes, conduits, elevators, escalators, heating and air conditioning equipment, chattels and articles of personal property, including, without limitation, any interest therein now or at any time hereafter affixed to, attached to or used in any way in connection with or to be incorporated at any time into the Property or placed on any part thereof wheresoever located, whether or not attached to or incorporated in the Property, together with any and all accessions, accessories, attachments and replacements thereof, appertaining and adapted to the complete and compatible use, enjoyment, occupancy, operation or improvement of the Property;

(k) All instruments, investment property, deposit accounts, accounts, contract rights, general intangibles, and other intangible property and rights now or hereafter relating to the foregoing property, or the operation thereof or used in connection therewith, including, without limitation, all options, letters of intent, and rights of first refusal of any nature whatsoever, covering all or any portion of such property, together with any modifications thereof, and deposits or other payments made in connection therewith, existing and future development rights, permits and approvals, air rights, density bonus rights and transferable development rights; all of Grantor's right, title and interest in and to any awards, remunerations, settlements or compensation heretofore made or hereafter made by any and all courts, boards, agencies, commissions, offices or authorities, of any nature whatsoever for any

governmental unit (federal, state, local or otherwise) to the present or any subsequent owner of the foregoing property, including those for any vacation of, or change of grade in, any streets affecting the foregoing property and any and all licenses and privileges obtained by Grantor from non-governmental sources;

(l) All leases of the Property, Personality (as defined below), Fixtures (as defined below), or any part thereof, now or hereafter entered into and all right, title and interest of Grantor thereunder, including, without limitation, cash or securities deposited thereunder to secure performance by the lessees of their obligations thereunder (whether such cash or securities are to be held until the expiration of the terms of such leases or applied to one or more of the installments of rent coming due immediately prior to the expiration of such terms); all other rights and easements of Grantor now or hereafter existing pertaining to the use and enjoyment of the Property; and all right, title and interest of Grantor in and to all declarations of covenants, conditions and restrictions as may affect or otherwise relate to the Property;

(m) All permits, plans, licenses, specifications, subdivision rights, security interests, contracts, contract rights, public utility deposits, prepaid sewer and water hook-up charges, or other rights as may affect or otherwise relate to the Property; and

(n) All rents, income, issues and profits (subject, however, to the rights given in this Deed of Trust to Lender to collect and apply same), including, without limitation, the accounts, revenues and proceeds of any business operation conducted by or on behalf of Grantor on or through the use of the Property, prepaid municipal and utility fees, bonds, revenues, income and other benefits to which Grantor may now or hereafter be entitled to, or which are derived from, the Property or any portion thereof or interest therein.

The foregoing listing is intended only to be descriptive of the property encumbered hereby, and not exclusive or all inclusive. It is the intent of Grantor to encumber hereby all property located or to be located upon the above-described real property. Said real property (or the leasehold estate if this Deed of Trust encumbers a leasehold estate), buildings, improvements, appurtenances, Fixtures, Personality, additions, accretions, and other property are herein referred to as the "Property." As used herein, the term "Fixtures" shall include all articles of personal property hereinabove described, now or hereafter attached to, placed upon for a definite term, or otherwise used in connection with the Property, and shall include trade fixtures and goods which are or are to become fixtures. As used herein, the term "Personality" shall include all furniture, furnishings, equipment, machinery, goods, contract rights, general intangibles, money, deposit accounts, instruments, accounts, leases, chattel paper and other personal property described in this Deed of Trust (other than Fixtures) of any kind or character now existing or hereafter arising or acquired, now or hereafter located upon, within or about the Property, or which otherwise pertains to the use, ownership, management, operation, construction, leasing and sale of the Property, and all products and proceeds thereof, and all of Grantor's right, title, and interest in and to all such property.

## ARTICLE 2

### OBLIGATIONS SECURED

2.1. **Obligations Secured.** Grantor makes the foregoing grant and assignment for the purpose of securing the following obligations (the "Secured Obligations"):

(a) Full and punctual payment to Lender of all sums at any time owing under the Note by Borrower;

(b) Payment and performance of all covenants and obligations of Grantor under this Deed of Trust including, without limitation, indemnification obligations and advances made to protect the Property;

(c) Payment and performance of all additional covenants and obligations of Grantor and Borrower, in each case, under the Loan Documents except for the Grantor's and/or Borrower's covenants and obligations under any Environmental Indemnity Agreement, executed in favor of Lender, as of the date hereof, including any riders and amendments thereto or replacements thereof (collectively, the "**Environmental Indemnity Agreement**"). For the avoidance of doubt, the Secured Obligations, notwithstanding anything to the contrary contained herein, shall not include, obligations or covenants, in each case, pursuant to: (i) any guarantee of the Loan, including, without limitation, any amendment thereto or replacement thereof (it being understood that the guarantor(s) under such guarantee/guarantees shall not be the Grantor); (ii) any environmental indemnity regarding the Property executed by, in each case, the Borrower, Grantor and/or any guarantor/additional indemnitor, including, without limitation, the Environmental Indemnity Agreement; and (iii) any similar guarantee or indemnity, including any rider(s) and amendments thereto or replacements thereof, by which a person guarantees or otherwise acts as a surety regarding the Grantor's obligations under the Loan Documents (it being understood that guarantee and guarantees, as used in this Section 2.1(c), shall not be construed to include this Deed of Trust, even if this Deed of Trust is executed by a Grantor that is not the Borrower). For the avoidance of doubt and without limiting the generality of the foregoing provisions of this Section 2.1(c), this Deed of Trust does not secure and shall not be construed to secure, in each case, the Environmental Indemnity Agreement and any guarantee of the Loan.

(d) Payment and performance of all covenants and obligations, if any, that any rider, attached as an exhibit to this Deed of Trust, recites are secured hereby;

(e) Payment and performance of all future advances and other obligations that the then record owner of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Lender when the obligation is evidenced by a writing that recites that it is secured by this Deed of Trust; however, any obligation secured by this Deed of Trust shall not be construed to be part of any guarantee or Environmental Indemnity Agreement (as the terms guarantee/guarantees and Environmental Indemnity Agreement are used in Section 2.1(c) hereof, including, in each case, any rider(s) or successor documents thereto);

(f) All interest and charges on all obligations secured hereby including, without limitation, prepayment charges, late charges and Loan-related fees; and

(g) All modifications, extensions and renewals of any of the obligations secured hereby, however evidenced, including, without limitation: (i) modifications of the required principal payment dates or interest payment dates or both, as the case may be, deferring or accelerating payment dates wholly or partly; and (ii) modifications, extensions or renewals at a different rate of interest whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes.

2.2. **Obligations.** The term "**obligations**" is used herein in its broadest and most comprehensive sense and shall be deemed to include, without limitation, all interest and charges,

prepayment charges, late charges, reimbursements for expenses, and Loan-related fees at any time accruing or assessed on any of the Secured Obligations.

2.3. Incorporation. All terms and conditions of the documents that evidence any of the Secured Obligations are incorporated herein by this reference. All persons who may have or acquire an interest in the Property shall be deemed to have notice of the terms of the Secured Obligations and to have notice that the rate of interest on one or more Secured Obligations may vary from time to time. As used in this Deed of Trust, "person" or "persons" shall refer to both a natural person and a legal person.

## ARTICLE 3

### ASSIGNMENT OF RENTS AND LEASES

3.1. Assignment. Grantor absolutely, irrevocably, and unconditionally grants, transfers and assigns to Lender all of Grantor's right, title and interest in, to and under: (a) all present and future leases of the Property or any portion thereof, all licenses and agreements relating to the management, leasing or operation of the Property or any portion thereof, and all other agreements of any kind relating to the use or occupancy of the Property or any portion thereof, whether such leases, licenses and agreements are now existing or entered into after the date hereof (collectively, the "**Leases**"); and (b) the rents, issues, deposits and profits of the Property, including, without limitation, all amounts payable and all rights and benefits accruing to Grantor under the Leases (the "**Payments**"). The term "**Leases**" shall also include all guarantees of and security for the tenants' performance thereunder, and all amendments, extensions, renewals or modifications thereto that are permitted hereunder. This is a present and absolute assignment, not an assignment for security purposes only, and Lender's right to the Leases and Payments is not contingent upon, and may be exercised without possession of, the Property.

3.2. Grant of License. Lender confers upon Grantor a revocable license (the "**License**") to collect and retain the Payments as they become due and payable, until the occurrence of an Event of Default (as hereinafter defined). Upon an Event of Default, the License shall be automatically revoked and Lender may collect and apply the Payments pursuant to the terms hereof without notice and without taking possession of the Property. All Payments thereafter collected by Grantor shall be held by Grantor as trustee under a constructive trust for the benefit of Lender. Grantor hereby irrevocably authorizes and directs the tenants under the Leases to rely upon and comply with any notice or demand by Lender for the payment to Lender of any rental or other sums which may at any time become due under the Leases, or for the performance of any of the tenants' undertakings under the Leases, and the tenants shall have no right or duty to inquire as to whether any Event of Default has actually occurred or is then existing. Grantor hereby relieves the tenants from any liability to Grantor by reason of relying upon and complying with any such notice or demand by Lender. Lender may apply, in its sole discretion, any Payments so collected by Lender against any Secured Obligation or any other obligation of Grantor or any other person or entity, under any document or instrument related to or executed in connection with the Loan Documents, whether existing on the date hereof or hereafter arising. Collection of any Payments by Lender shall not cure or waive any Event of Default or notice of an Event of Default or invalidate any acts done pursuant to such notice.

3.3. Effect of Assignment. The foregoing irrevocable assignment shall not cause Lender to be: (a) a mortgagee in possession; (b) responsible or liable for the control, care, management or repair of the Property or for performing any of the terms, agreements, undertakings, obligations, representations, warranties, covenants and conditions of the Leases; (c) responsible or liable for any

waste committed on the Property by the tenants under any of the Leases or by any other parties 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, invitee or other person; or (d) responsible for or impose upon Lender any duty to produce rents or profits. Lender shall not directly or indirectly be liable to Grantor or any other person as a consequence of: (e) the exercise or failure to exercise any of the rights, remedies or powers granted to Lender hereunder; or (f) the failure or refusal of Lender to perform or discharge any obligation, duty or liability of Grantor arising under the Leases.

3.4. Covenants.

(a) All Leases. Grantor shall, at Grantor's sole cost and expense:

- (i) perform all obligations of the landlord under the Leases and use reasonable efforts to enforce performance by the tenants of all obligations of the tenants under the Leases;
- (ii) use reasonable efforts to keep the Property leased at all times to tenants that Grantor in good faith believes are creditworthy, at rents not less than the fair market rental value (including, but not limited to, free or discounted rents to the extent the market so requires);
- (iii) promptly upon Lender's request, deliver to Lender a copy of each requested Lease and all amendments thereto and waivers thereof, as well as any landlord or tenant estoppel certificates requested by Lender;
- (iv) promptly upon Lender's request, execute and record any additional assignments of landlord's interest under any Lease to Lender and specific subordinations of any Lease to this Deed of Trust, in form and substance satisfactory to Lender; and
- (v) promptly upon Lender's request, but in any event by June 30<sup>th</sup> of each year, provide Lender a current rent roll, certified by Grantor as being true and correct, containing the names of all tenants with respect to the Property, the terms of their respective Leases, the spaces occupied and the rentals or fees payable thereunder and the amount of each tenant's security deposit.

Unless consented to in writing by Lender or otherwise permitted under any other provision of the Loan Documents, Grantor shall not:

- (vi) grant any tenant under any Lease any option, right of first refusal or other right to purchase all or any portion of the Property under any circumstances;
- (vii) grant any tenant under any Lease any right to prepay rent more than one (1) month in advance;

- (viii) except upon Lender's request, execute any assignment of landlord's interest in any Lease;
- (ix) except as set forth in Section 3.4(a)(vii), collect rent or other sums due under any Lease in advance, other than to collect rent one (1) month in advance of the time when it becomes due;
- (x) modify any Lease in a manner inconsistent with the Loan Documents; or
- (xi) execute any lease for a term of greater than five (5) years, which deviates materially from the standard form Lease approved by Lender in writing.

Any such attempted action in violation of the provisions of this Section 3.4(a) shall be null and void.

(b) **Major Leases.** Grantor shall, at Grantor's sole cost and expense, give Lender prompt written notice of any material default by landlord or tenant under any Major Lease (as defined below). Unless consented to in writing by Lender or otherwise permitted under any other provision of the Loan Documents, Grantor, in each case, shall not:

- (i) enter into any Major Lease that (aa) is not on fair market terms (which terms may include free or discounted rent to the extent the market so requires); (bb) does not contain a provision requiring the tenant to execute and deliver to the landlord an estoppel certificate in form and substance satisfactory to the landlord promptly upon the landlord's request; (cc) allows the tenant to assign or sublet the premises without the landlord's consent; does not provide for automatic self-operative subordination to this Deed of Trust;
- (ii) reduce any rent or other sums due from the tenant under any Major Lease;
- (iii) terminate or materially modify or amend any Major Lease; or
- (iv) release or discharge the tenant or any guarantor under any Major Lease from any material obligation thereunder.

Any such attempted action in violation of the provisions of this Section 3.4(b) shall be null and void.

Without in any way limiting the requirement of Lender's consent hereunder, any sums received by Grantor in consideration of any termination or material modification or amendment of any Major Lease or any release or discharge of any tenant under any Major Lease from any material obligation thereunder shall be applied to reduce the outstanding Secured Obligations (without payment of a prepayment charge) and any such sums received by Grantor shall be held in trust by Grantor for such purpose; provided, however, so long as no Event of Default exists at the time, any sums received by Grantor in consideration of any termination (or the release or discharge of any tenant), modification or amendment of any Major Lease that: (A) total less than \$50,000 shall be payable to Grantor; and

(B) total \$50,000 or more shall be placed into an impound account and shall be released to Grantor from time to time upon delivery of an executed replacement tenant lease and satisfactory evidence as to the completion of re-tenanting work. Following the completion of such re-tenanting work, and provided no Default exists at such time, Lender shall release any excess funds received by Grantor with respect to the termination of any Major Lease to Grantor. **"Major Lease,"** as used herein, shall mean, in each case, (x) a Lease of more than twenty percent (20%) of the total rentable area of all buildings forming a part of the Property, (y) cell tower Leases, and (z) Leases of oil, gas and mineral rights. Grantor's obligations with respect to Major Leases shall be governed by the provisions of Section 3.4(a) hereof applicable to all Leases as well as by the provisions of this Section 3.4(b). Lender's failure to deny any written request by Grantor for consent as required by this Section 3.4(b) within twenty (20) Business Days after Lender's receipt of such request (and all documents and information reasonably related thereto) shall be deemed to constitute Lender's consent to such request. **"Business Day"** shall mean any day other than a Saturday, Sunday, legal holiday or other day on which commercial banks in New York, New York are authorized or required by law to close. All references in this Deed of Trust to a "day" or a "date" shall be to a calendar day unless specifically referenced as a Business Day.

3.5. **Estoppel Certificates.** Within thirty (30) days after request by Lender, Grantor shall deliver to Lender and to any party designated by Lender, estoppel certificates relating to the Leases (excluding Leases of storage units) executed by Grantor and by each of the tenants, in form and substance acceptable to Lender; provided, however, if any tenant fails or refuses to so execute and deliver any such estoppel certificate upon request, Grantor shall use reasonable efforts to cause such tenant to execute and deliver such estoppel certificate but such tenant's continued failure or refusal to do so, despite Grantor's reasonable efforts, shall not constitute a default by Grantor under this Section 3.5.

3.6. **Right of Subordination.** Lender may at any time and from time to time by specific written instrument intended for the purpose unilaterally subordinate the lien of this Deed of Trust to any Lease, without joinder or consent of, or notice to, Grantor, any tenant or any other person. Notice is hereby given to each tenant under a Lease of such right to subordinate. No subordination referred to in this Section 3.6 shall constitute a subordination to any lien or other encumbrance, whenever arising, or improve the right of any junior lienholder. Nothing herein shall be construed as subordinating this Deed of Trust to any Lease.

#### ARTICLE 4

##### SECURITY AGREEMENT AND FIXTURE FILING

4.1. **Security Interest.** This Deed of Trust shall also constitute and serve as a security agreement and financing statement for Personality, Fixtures, and any of the Property in which a security interest can be perfected under and within the meaning of RCW 62A-9A of the Washington Uniform Commercial Code (the "**Collateral**"), and shall grant to Lender, until the obligations secured hereby shall be satisfied, a first priority security interest, including but not limited to a fixture filing, pursuant to RCW 62A-9A of the Washington Uniform Commercial Code with respect to the Personality and Fixtures. To this end, Grantor shall and hereby does grant to Lender, a first priority security interest in, under and to the Collateral.

4.2. **Financing Statements.** Grantor authorizes Lender to file such financing statements and cause such financing statements and other assurances as Lender may from time to time require

to be recorded and filed at such times and places as may be required or permitted by law to create, perfect and preserve such security interest.

4.3. **Remedies on Default.** Upon an event of default, Lender may, at its option: (i) exercise any remedy permitted by law or in equity, including without limitation, all the rights and remedies of a secured party under the Washington Uniform Commercial Code in any jurisdiction where enforcement is sought, whether in Washington or elsewhere; (ii) notify any parties obligated on any of the Personality or Fixtures to make payment to Lender and enforce collection thereof; (iii) apply any sums received or collected from or on account of any Personality or Fixtures, including the proceeds of any sales thereof, to the payment of any indebtedness of Grantor to Lender in any order, including the costs and expenses incurred in preserving and enforcing the rights of Lender and attorneys' fees, in such order and manner as Lender in Lender's sole discretion determines. All of Lender's rights and remedies shall be cumulative and not exclusive.

4.4. **Fixture Filing.** This Deed of Trust shall constitute a fixture filing under the Washington Uniform Commercial Code.

4.5. **Additional Covenants of Grantor.** Grantor, at its sole cost and expense, (a) shall give Lender at least thirty (30) days' prior written notice of any change in Grantor's principal place of business and the acquisition or use of a trade name or style by Grantor; (b) shall promptly notify Lender in writing of any claim, lien, security interest, right, encumbrance or any other occurrence that may be adverse to Lender's security interest in the Collateral; (c) shall defend the Collateral from all claims, liens, security interests, rights, encumbrances and other matters that are adverse to Lender's security interest in the Collateral; (d) shall promptly pay all costs and expenses relating to the purchase, ownership, or use of the Collateral, including all liens, taxes, assessments and charges of any board, commission, department, agency, court, or other body of any governmental unit (e.g., without limitation, (i) the federal government and the departments thereof and (ii) applicable state governments and any cities, counties, or other political subdivisions or special districts organized thereunder) having jurisdiction over, in each case, the matter, thing, or person in question (collectively, "**Governmental Authorities**") levied, assessed or imposed on all or part of the Collateral; (e) shall not sell, transfer, pledge (including, without limitation, any assignment for the benefit of creditors other than Lender), hypothecate, lease or otherwise dispose of or abandon all or part of the Collateral without Lender's prior written consent, except for the sale of inventory in the ordinary course of Grantor's business or the disposition of any Collateral that is replaced with new Collateral of substantially comparable value and utility; (f) shall not remove any material part of the Collateral that consists of tangible personal property from its location on the Property without Lender's prior written consent; (g) shall, upon Lender's request, give notice, in form and substance acceptable to Lender, to any or all account debtors designated by Lender of Grantor's grant of a security interest in any Collateral that consists of accounts, contract rights, instruments, documents, or general intangibles (collectively, the "**Accounts**" and individually, an "**Account**"); (h) following the occurrence of any Event of Default, shall not compromise, settle, adjust, or grant any discount, credit, or allowance to any Account debtor without Lender's prior written consent; (i) shall undertake any and all other acts necessary or appropriate to maintain, preserve and protect the Collateral and Lender's security interest therein, including any actions requested by Lender; (j) shall not without Lender's prior written consent, given at Lender's sole discretion and signed by an officer of Lender holding the title of Executive Vice President or higher, make or acquiesce in Grantor making any changes to organizational documents of, in each case, Grantor or any affiliate thereof or interest holder therein (e.g., without limitation, articles of organization, articles of incorporation, operating agreement, bylaws, certificate of formation, partnership agreement) that, in each case, violate or are inconsistent with Grantor's obligations under the Loan Documents or materially alter Grantor's performance of its duties under the Loan Documents (each an "**Unauthorized**

**Amendment**"), and Grantor hereby agrees that Unauthorized Amendments shall not adversely affect Lender's rights and remedies against Grantor under the Loan Documents and that Grantor shall be estopped from using any Unauthorized Amendment as a defense to or to otherwise impair, delay, or undermine Lender's remedies against Grantor under the Loan Documents; and (k) shall execute and deliver to Lender such other documents as Lender may request in order to evidence, effectuate, perfect, maintain, preserve or protect Lender's security interest in the Collateral, including, without limitation, financing statements, continuation financing statements, financing statement amendments, security agreements, and assignments. If Grantor fails to execute and deliver to Lender any document requested by Lender pursuant to this Section 4.4 within ten (10) days after such request, then Grantor irrevocably appoints Lender, with full power of substitution, as Grantor's attorney-in-fact, coupled with an interest, with full power, in its own name or in the name of Grantor, to execute such document on behalf of Grantor. Grantor has set forth above its full and correct name, and Grantor does not presently use any other names or tradenames, except for those tradenames specifically disclosed in writing by Grantor to Lender prior to the recordation of this Deed of Trust. Nothing contained in this Article 4 may be construed to obligate Lender to act on behalf of Grantor as attorney-in-fact.

4.6. FOR PURPOSES OF THE UCC THE FOLLOWING INFORMATION IS FURNISHED:

Name, address of Debtor(s):	Skagit Flats Living LLC 16559 Country Club Dr. Burlington, WA 98233
Name and address of Secured Party	Axos Bank 4350 La Jolla Village Dr., Ste. 100 San Diego, CA 92122
Description of the type (or items) of property (constituting the Collateral):	See Section 4.1.
Description of real property to which the Collateral is attached or upon which it is or will be located:	See <u>Exhibit A</u> hereto.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES

5.1. Grantor's Representations and Warranties. Grantor represents and warrants to Lender that the following statements are true and correct as of the date set forth in the preamble, each and every date during the existence of the Loan, or any portion thereof, as the context admits or requires:

(a) Legal Status. Grantor is qualified or licensed to do business in all jurisdictions in which such license or qualification is required.

(b) No Conflicts. The execution, delivery and performance of the Loan Documents by Grantor and the transactions contemplated hereby will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien or encumbrance (other than pursuant to the Loan Documents) upon any of the property of Grantor pursuant to the terms of, any agreement or instrument to which Grantor is a party or by which its property is subject, nor will such action result in any violation of the provisions of any statute or any order, rule or regulation of any governmental authority having jurisdiction over Grantor or any of its properties. Any consent, approval, authorization, order, registration or qualification of or with any governmental authority required for the execution, delivery and performance by Grantor of the Loan Documents has been obtained and is in full force and effect.

(c) Permits. Grantor, or an affiliate thereof if permitted to do so under applicable law, possess all permits, franchises, licenses, entitlements, trade names and fictitious names, necessary for Grantor to undertake the business activities related to its possession of the Property.

(d) Authorization and Validity. The execution and delivery of this Deed of Trust have been duly authorized and this Deed of Trust constitutes a valid and binding obligation of Grantor, in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, moratorium or other laws affecting the enforcement of creditors' rights, or by the application of rules of equity.

(i) The person executing this Deed of Trust has all necessary power and authority to execute and deliver this Deed of Trust for, on behalf of, and in the name of such Grantor.

(ii) If Grantor is a trust or Grantor has caused any trust documents to be delivered to Lender in connection with its organizational structure, Grantor's trust documents or such other trust documents have not been amended or altered (except for such amendments as have been provided to Lender) and are in full force and effect as of the date hereof.

(iii) Grantor has had an adequate opportunity to consult with legal counsel of Grantor's choosing prior to executing and delivering this Deed of Trust.

(e) Non-Circumvention. The execution, delivery and performance by Grantor of this Deed of Trust do not violate any provision of any law or regulation, or result in any breach or default under any contract, obligation, indenture or other instrument to which Grantor is a party or by which Grantor is bound.

(f) Litigation. There are no pending or threatened actions, claims, investigations, suits or proceedings before any Governmental Authorities, court or administrative agency that may adversely affect the financial condition or operations of Grantor other than those previously disclosed in writing by Grantor to Lender.

(g) Financial Statements. The financial statements of Grantor, of each general partner (if Grantor is a partnership) and/or of each member (if Grantor is a limited liability company) previously delivered by Grantor to Lender: (i) are materially complete and correct; (ii) present fairly the financial condition of such party; and (iii) have been prepared in accordance with the same accounting standard used by Grantor to prepare the financial statements delivered to and approved by Lender in connection with the making of the Loan, or other accounting standards approved by Lender. Since the date of such financial statements, there has been no material adverse change in such financial condition, nor have any assets or properties reflected on such financial statements been sold,

transferred, assigned, mortgaged, pledged or encumbered except as previously disclosed in writing by Grantor to Lender, prior to Lender's issuing a final commitment letter, and approved in writing by Lender.

(h) Income Taxes. There are no pending assessments or adjustments of Grantor's income tax payable with respect to any year.

(i) Title. Grantor lawfully holds and possesses fee simple title to the Property, without limitation on the right to encumber same. This Deed of Trust is a first lien on the Property prior and superior to all other liens and encumbrances on the Property except: (i) liens for real estate taxes and assessments not yet due and payable; (ii) senior exceptions previously approved by Lender and shown in the title insurance policy insuring the lien of this Deed of Trust; and (iii) other matters, if any, previously disclosed to Lender by Grantor and approved by Lender in a writing specifically referring to this representation and warranty.

(j) Items Due and Payable. No Event of Default exists under this Deed of Trust, and all of the following items regarding this Deed of Trust which have become due and payable have been paid.

(k) Liens. There are no mechanics' or similar liens or claims that have been filed for work, labor or material (and no rights are outstanding that under law could give rise to any such liens) affecting the Property that are or may be prior to or equal to the lien of this Deed of Trust.

(l) Encroachments. To the best of Grantor's knowledge, except as shown in the survey, if any, previously delivered to Lender, none of the buildings or other improvements that were included for the purpose of determining the appraised value of the Property lies outside of the boundaries or building restriction lines of the Property, and no buildings or other improvements located on adjoining properties encroach upon the Property.

(m) Tax Returns. Grantor has provided true, correct and complete copies of the tax returns for Grantor, or of the person whose tax return contains the tax liabilities of Grantor if Grantor is a disregarded entity (collectively, the "**Tax Return**"), which Tax Return is the most recent tax return prepared for Grantor. The Tax Return gives a true, correct and complete statement of financial condition for Grantor as of the date hereof.

(n) Taxes Paid. Grantor has filed all federal, state, county and municipal tax returns required to have been filed by Grantor, and has paid all taxes which have become due pursuant to such returns or to any notice of assessment received by Grantor, and Grantor has no knowledge of any basis for additional assessment with respect to such taxes. To the best of Grantor's knowledge, there are not presently pending any special assessments against the Property or any part thereof.

(o) Leases. All existing Leases are in full force and effect and are enforceable in accordance with their respective terms. No material breach or default by any party, or event that would constitute a material breach or default by any party after notice or the passage of time, or both, exists under any existing Lease. None of the landlord's interests under any of the Leases, including, but not limited to, rents, additional rents, charges, issues or profits, has been transferred or assigned. No rent or other payment under any existing Lease has been paid by any tenant for more than one (1) month in advance.

(p) Collateral. Grantor has good title to the existing Collateral. Grantor has not previously assigned or encumbered Grantor's interest in any of the Collateral, and no financing

statement that remains in force covering any of the Collateral has been delivered to any other person or entity. Grantor's principal place of business is located at the address shown in Section 4.6.

(q) Condition and Use of Property. Except as shown in the property condition survey or other engineering reports, if any, previously delivered to or obtained by Lender, the Property is in good condition and repair and is free from any damage, waste or defect that would materially and adversely affect the value of the Property as security for the Loan or the intended use of the Property. The Property is and shall remain for the term of Loan exclusively used for the same commercial purpose as existing as of the date this Deed of Trust is entered into.

(r) Wetlands. No part of the Property consists of or is classified as wetlands, tidelands or swamp and overflow lands.

(s) Compliance with Laws; ERISA.

(i) The Property is used exclusively for multi-family residential use and other appurtenant and related uses. In the event that all or any part of the Improvements are destroyed or damaged, said Improvements shall be legally reconstructed to their condition prior to such damage or destruction, and thereafter exist for the same use without violating any zoning or other ordinances applicable thereto and without the necessity of obtaining any variances or special permits. No legal proceedings are pending or, to the knowledge of Grantor, threatened with respect to the zoning of the Property. Neither the zoning nor any other right to construct, use or operate the Property is in any way dependent upon or related to any property other than the Property. All certifications, permits, licenses and approvals, including certificates of completion and occupancy permits required for the legal use, occupancy and operation of the Property (collectively, the "Licenses"), have been obtained and are in full force and effect. The use being made of the Property is in conformity with the certificate of occupancy issued for the Property and all other restrictions, covenants and conditions affecting the Property.

(ii) Grantor shall not engage in any transaction that would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Lender of any of its rights under the Note, this Agreement and the other Loan Documents) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

(iii) Grantor (i) is not and shall not be an "employee benefit plan," as defined in Section 3(3) of ERISA, or a "plan," as defined in Section 4975 of the Code, (ii) none of the assets of Grantor constitutes or will constitute "plan assets" of one or more "benefit plan investors" (as those terms are defined in the Plan Asset Regulation), (iii) Grantor is not and shall not be a "governmental plan" within the meaning of Section 3(32) of ERISA, and (iv) transactions by or with Grantor are not and will not be subject to state statutes regulating investment of, and fiduciary obligations with respect to, governmental plans. As of the date hereof, neither Grantor, nor any ERISA affiliate maintains, sponsors or contributes to any Plan or any Welfare Plan that provides any benefits to any former employee (or the spouse or dependent of any such former employee) of the Grantor or any of its ERISA Affiliates after such employee's retirement or termination of employment (other than COBRA continuation coverage required to be provided pursuant to Sections 601 through 607 of ERISA or Section 4980B of the Code).

(t) Change in Business or Operation of Property. Borrower shall not cease to operate the Property as a multi-family residential.

(u) Property Taxes and Other Liabilities. All taxes, governmental assessments, insurance premiums, water, sewer and municipal charges, and ground rents, if any, that previously became due and owing in respect of the Property have been paid.

(v) Condemnation. There is no proceeding pending or threatened for the total or partial condemnation of the Property.

(w) Homestead. There is no homestead, dower, or other exemption available to Borrower that would materially interfere with the right to sell the Property at a trustee's sale or the right to foreclose this Deed of Trust.

(x) Property. Grantor owns (or will own, prior to the date set forth in the preamble) fee simple title to the Property. This Deed of Trust creates the lien and security it purports to create and is a valid and binding obligation of Grantor enforceable against Grantor and the Property in accordance with its terms.

(y) No Default. The execution, delivery and performance of the obligations imposed on Grantor under this Deed of Trust will not cause Grantor to be in default under the provisions of any agreement, judgment or order to which Grantor is a party or by which Grantor is bound.

(z) Items Due and Payable. No Event of Default exists under the Loan, and all of the following items regarding the Property which have become due and payable have been paid, or, with the approval of Lender, an escrow fund sufficient to pay them has been established: taxes; government assessments; insurance premiums; water, sewer and municipal charges; leasehold payments; ground rents; and any other charges affecting the Property.

(aa) Compliance with Applicable Laws and Regulations. All Improvements to the Property and the use of the Property comply with all applicable statutes, rules and regulations, including, without limitation, all applicable statutes, rules and regulations pertaining to requirements for equal opportunity, anti-discrimination, fair housing, environmental protection, zoning and land use. Improvements on the Property comply with applicable health, fire, and building codes and the Americans with Disabilities Act 42 U.S.C.A. Section 12101 et seq., as amended from time to time (the "ADA"), or, if exempt from the ADA, the Improvements are accessible to and useable by persons with disabilities and shall at all times during the term of the Loan be in compliance with applicable law and regulations. There is no evidence of any illegal activities relating to controlled substances on the Property. All required permits, licenses and certificates for the lawful use and operation of the Property, including, but limited to, certificates of occupancy, municipal licenses, or the equivalent, have been obtained and are current and in full force and effect.

(bb) Insurance Policies. Grantor has furnished to Lender all insurance policies and certificates required pursuant to the Loan Documents.

(cc) No Insolvency Proceeding or Judgment. Grantor is not currently (a) the subject of or a party to any completed or pending bankruptcy, reorganization or insolvency proceeding; or (b) the subject of any judgment unsatisfied of record or docketed in any court of the state in which the Property is located or in any court located in the United States.

(dd) **No Subordinate Financing.** Except as otherwise expressly approved by Lender in writing signed by an officer of Lender holding the title Executive Vice President or more senior, no part of the Property is, or will become, subject to a subordinate mortgage, deed of trust, security instrument (other than this Deed of Trust), or other type of subordinate lien.

(ee) **No Labor or Material Supplier Claims.** All parties furnishing labor and materials have been paid in full and, except for such liens or claims insured against by the policy of title insurance to be issued in connection with the Loan, there are no mechanics', laborers' or material supplier's liens or claims outstanding for work, labor or materials affecting the Property, whether prior to, equal with or subordinate to the lien of this Deed of Trust.

(ff) **No Other Interests.** No person has (a) any possessory interest in the Property or right to occupy the same except under and pursuant to the provisions of existing leases by and between tenant and Grantor, the material terms of all such leases having been previously disclosed to Lender, or (b) an option to purchase the Property or an interest therein (including, without limitation, any right of first offer or refusal).

(gg) **Property Characteristics.** No part of the Property is included or assessed under or as part of another tax lot or parcel, no part of any other property is included or assessed under or as part of the tax lot or parcels for the Property, other than as expressly disclosed to Lender in writing and accepted by Lender during its underwriting process prior to Lender issuing its final commitment letter.

(hh) **Operating Statements.** Grantor has provided Lender a true, correct and complete copy of its most recent operating statement (the "Operating Statement") prepared for the Property. The Operating Statement gives a true, correct and complete statement of financial conditions for the Property as of the date hereof.

(ii) **Service Contracts.** Grantor has provided Lender with a true, correct and complete list of all service contracts and service agreements relating to the Property and/or the ownership, maintenance and operation of the Improvements located on the Property (the "Service Contracts"). Each of the Service Contracts is in full force and effect in accordance with its terms; neither party is in default under any of the Service Contracts; true, correct and complete copies of each of the Service Contracts have been provided to Lender in connection with its underwriting of the Loan; and each of the Service Contracts is terminable on not more than thirty (30) days' notice without the payment of any fee, penalty, cost or expense.

(jj) **Furniture, Fixtures and Equipment.** Except for furniture and trade fixtures, equipment, and other personal property owned by any tenant of the Property, all furniture, fixtures and equipment used in connection with the ownership, management, operation and maintenance of the Property are free and clear of any right, title or interest of any other person or entity.

(kk) **Financial Statements.** The financial statements of Grantor reflect a positive net worth as of the date thereof.

(ll) **Insolvency.** Grantor is not presently insolvent, and the Loan will not render Grantor insolvent. The term "insolvent" means, either and in each case, that (i) the sum total of all of an a person's liabilities (whether secured or unsecured, contingent or fixed, or liquidated or unliquidated) is in excess of the value of all such entity's non-exempt assets, i.e., all of the assets of the entity that

are available to satisfy claims of creditors or (ii) a person will not be able to pay all creditors as obligations are become due.

(mm) Fraudulent Transfer. Grantor has not entered into the Loan or any Loan Document with the actual intent to hinder, delay, or defraud any creditor, and Grantor has received reasonably equivalent value in exchange for its obligations under the Loan Documents. Giving effect to the transactions contemplated by the Loan Documents, the fair saleable value of Grantor's assets exceeds and will, immediately following the execution and delivery of the Loan Documents, exceed Grantor's total probable liabilities, including subordinated, unliquidated, disputed or contingent liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and matured. Grantor's assets do not and, immediately following the execution and delivery of the Loan Documents will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. Grantor does not intend to, and does not believe that it will, incur debts and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of Grantor).

(nn) Working Capital. After the Loan is made, Grantor will have sufficient working capital, including cash flow from the Property or other assets, not only to adequately maintain the Property, but also to pay all of Grantor's outstanding debts as they come due.

(oo) No Material Change. There has been no material change in the occupancy of the Property or the business, financial condition or results of operations of Grantor, the Property or, to the best of Grantor's knowledge, any tenant of the Property, from the date of the application to Lender to make the Loan, other than in connection with the regular commencement and/or, expiration of short-term leases and rental agreements ordinarily occurring as part of the business conducted on the Property and as disclosed by Grantor to Lender in Lender's underwriting process for the Loan.

(pp) Investigation and Inquiry. Grantor makes the representations and warranties contained this Section 5.1 following Grantor's reasonable inquiry and investigation into the matters and facts to which Grantor is attesting, and Grantor's inquiry and investigation has confirmed the accuracy of Grantor's statements made in this Section 5.1.

(qq) Federal Reserve Regulations; Investment Company Act. No part of the proceeds of the Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose that would be inconsistent with such Regulation U or any other regulation of such Board of Governors, or for any purpose prohibited by Legal Requirements or any Loan Document. Grantor is not (i) an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended; or (ii) subject to any other federal or state law or regulation which purports to restrict or regulate its ability to borrow money.

## ARTICLE 6

### RIGHTS AND DUTIES OF THE PARTIES

6.1. Maintenance and Preservation of the Property. Grantor shall: (a) keep the Property in good condition and repair; (b) complete or restore promptly and in workmanlike manner the Property or any part thereof which may be damaged or destroyed (unless, if and to the extent permitted under Section 6.11 hereof, Lender elects to require that insurance proceeds be used to reduce the Secured

Obligations and after such repayment the ratio of Secured Obligations to the value of the Property, as reasonably determined by Lender is the same as or lower than it was immediately before the loss or taking occurred); (c) comply and cause the Property to comply with (i) all laws, ordinances, regulations and standards, (ii) all covenants, conditions, restrictions and equitable servitudes, whether public or private, of every kind and character and (iii) all requirements of insurance companies and any bureau or agency which establishes standards of insurability, which laws, covenants or requirements affect the Property and pertain to acts committed or conditions existing thereon, including, without limitation, any work of alteration, improvement or demolition as such laws, covenants or requirements mandate; (d) operate and manage the Property at all times in a professional manner and do all other acts that from the character or use of the Property may be reasonably necessary to maintain and preserve its value; (e) promptly after execution, deliver to Lender a copy of any management agreement concerning the Property and all amendments thereto and waivers thereof; and (f) execute and acknowledge all further documents, instruments and other papers as Lender or Trustee deems necessary or appropriate to preserve, continue, perfect and enjoy the benefits of this Deed of Trust and perform Grantor's obligations, including, without limitation, statements of the amount secured hereby then owing and statements of no offset. Grantor shall not: (g) remove or demolish all or any material part of the Property; (h) alter either (i) the exterior of the Property in a manner that materially and adversely affects the value of the Property or (ii) the roof or other structural elements of the Property in a manner that requires a building permit; (i) initiate or acquiesce in any change in any zoning or other land classification that affects the Property; (j) materially alter the type of occupancy or use of all or any part of the Property; or (k) commit or permit waste of the Property.

6.2. Compliance with Laws. Grantor shall comply with all federal, state and local laws, rules and regulations applicable to the Property, including, without limitation, all zoning and building requirements and all requirements of the ADA. Grantor shall possess and maintain in full force and effect at all times (a) all certificates of occupancy and other licenses, permits and authorizations required by applicable law for the existing use of the Property and (b) all permits, franchises and licenses and all rights to all trademarks, trade names, patents and fictitious names, if any, required by applicable law for Grantor to conduct the business(es) in which Grantor is now engaged.

6.3. Litigation. Grantor shall promptly notify Lender in writing of any litigation pending or threatened against either Grantor claiming damages in excess of \$50,000 and of all pending or threatened litigation against either Grantor if the aggregate damage claims against Grantor exceed \$100,000.00.

6.4. Business Structure Change. Alienation of Assets. Grantor shall not: (a) merge or consolidate with any other entity, except when authorized to do so with the prior written consent of Lender as expressly authorized pursuant to Section 6.14 hereof; (b) make any substantial change in the nature of Grantor's business or structure; (c) acquire all or substantially all of the assets of any other entity or permit Grantor to acquire all or substantially all of the assets of any other entity; or (d) sell, lease, assign, transfer or otherwise dispose of a material part of Grantor's assets except in the ordinary course of Grantor's business.

6.5. Accounting Records. Grantor shall maintain adequate books and records in accordance with the same accounting standard used by Grantor to prepare the financial statements delivered to and approved by Lender in connection with the making of the Loan or other accounting standards approved by Lender. Grantor shall permit any representative of Lender, at any reasonable time and from time to time, to inspect, audit and examine such books and records and make copies of same.

**6.6. Financial Statements and Accounts.**

**6.6.1. Statements Required.** During the term of the Loan or while any liabilities of Grantor to Lender under any of the Loan Documents remain outstanding and unless Lender otherwise consents in writing, Grantor shall provide to Lender or cause to be provided to Lender, each in a form acceptable to Lender, the following:

(a) **Leasing Schedule.** Not later than thirty (30) days after written request by Lender, a schedule, signed and dated by Grantor, showing the following lease information regarding each tenant: the name of the tenant, a description of the premises, monthly or other periodic rental amount, dates of commencement and expiration of the lease, and payment status;

(b) **Balance Sheet and Annual Financial Statements.** With respect to Grantor, not later than ninety (90) days after the close of the respective fiscal years of Grantor, any guarantor, and any indemnitor, balance sheet and financial statements, including, as applicable and without limitation: (i) balance sheet for the Property, signed and dated by Grantor; (ii) a schedule, signed and dated by Grantor, showing all revenues and expenses during such fiscal year, relating to the Property; (iii) financial statements showing all assets and liabilities of Grantor that shall be certified by a principal, managing member or general partner of Grantor as being true, correct and complete, or upon the request of Lender, audited by an independent certified public accountant; and (iv) financial statements showing all assets and liabilities of each indemnitor and guarantor under any indemnity or guarantee, which shall be certified by such guarantor or indemnitor or the principal, managing member or general partner of such indemnitor or guarantor, as being true, correct and complete, or upon the request of Lender, audited by an independent certified public accountant;

(c) **Tax Returns.** Not later than April 30<sup>th</sup> of each year, copies of all tax returns (with all schedules) or extensions filed by Grantor (or on Grantor's behalf, if Grantor is a disregarded entity), unless an extension has been obtained, but no event later than the earlier of (i) September 1<sup>st</sup> of each year or (ii) within twenty (20) days after filing;

(d) **Other Information.** From time to time, such other information with regard to Grantor or the Property as Lender may reasonably request in writing.

**6.6.2. Form; Warranty.** Grantor agrees that all financial statements to be delivered to Lender, pursuant to Section 6.6.1 hereof, regardless of whether they pertain to Grantor shall: (a) be complete and correct; (b) present fairly the financial condition of the party; (c) disclose all liabilities that are required to be reflected or reserved against; and (d) be prepared in accordance with the same accounting standard used by Grantor to prepare the financial statements delivered to and approved by Lender in connection with the making of the Loan or other accounting standards acceptable to Lender. By delivering any such financial statement, Grantor shall be deemed to warrant and represent that, as of the date of delivery of any such financial statement, there has been no material adverse change in financial condition, nor have any assets or properties been sold, transferred, assigned, mortgaged, pledged or encumbered since the date of such financial statement except as disclosed by Grantor in a writing delivered to Lender.

Grantor agrees that all leasing schedules and other information to be delivered to Lender pursuant to Section 6.6.1 hereof and this Section 6.6.2, in each case, shall not contain any misrepresentation or omission of a material fact.

6.6.3. Accounts and Primary Banking Relationships. Grantor shall establish its primary deposit and operating accounts with Lender.

6.7. Costs, Expenses and Fees. Grantor agrees to pay to Lender immediately and upon demand all costs and expenses incurred by Trustee and Lender in the enforcement of the terms and conditions of this Deed of Trust (including, without limitation, statutory trustee's fees, court costs and attorneys' fees, whether incurred in litigation or not) with interest from the date of expenditure until said sums have been paid at the rate of interest applicable to the principal balance of the Note as specified therein. Grantor shall pay to Lender the full amount of all costs and expenses, including, without limitation, attorneys' fees (i.e., outside counsel), incurred by Lender in connection with: (a) appraisals and inspections of the Property or Collateral required by Lender as a result of (i) a Transfer (as hereinafter defined) or proposed Transfer, or (ii) an Event of Default; (b) any acts performed or proposed to be performed by Lender at Grantor's request or wholly or partially for the benefit of Grantor (including, without limitation, the preparation or review of amendments, consents, authorizations, assumptions, waivers, releases, reconveyances, estoppel certificates or statements of amounts owing under any Secured Obligation); (c) when permissible pursuant to applicable law and without limitation to Lender's rights under sub-clauses (a), (b), and (d) of this Section 6.7, any out-of-pocket expenses or costs incurred by Lender in taking any action prudent or reasonably necessary, in each case, in Lender's judgment to protect or preserve the priority of, in each case, Lender's liens securing the Secured Obligations; and (d) when permissible pursuant to applicable law and without limitation to Lender's rights under the preceding sub-clauses (a), (b), and (c) of this Section 6.7, any out-of-pocket costs and expenses incurred by Lender and its agents in responding to third-party legal process, subpoenas, or similar legal demands received by Lender and its agents as a result of or in relation to, in each case, the Secured Obligations, the Loan Documents, or Grantor's business with Lender, including, without limitation charges, expenses, attorney's fees and costs upon any appeal, and in any bankruptcy proceedings and in any arbitration proceeding (including, without limitation, any adversary proceeding, contested matter or motion) or otherwise incurred by Lender as a result thereof. Grantor shall pay all costs and expenses arising under this Section 6.7 immediately upon demand by Lender. Any administrative fees owed to Lender pursuant to the Loan Documents, including, without limitation, those owed pursuant to Section 6.14 hereof (but excluding 6.14.4(a)) shall be due and payable immediately upon Grantor requesting the action from Lender and shall be non-refundable, irrespective of the disposition of the request by Lender. Grantor shall have no expectation that Lender commence review of any matter or request prior to Grantor paying the required fee pursuant to the Loan Documents. In addition and without limitation to Lender's right to recover all its out-of-pocket expenses from Grantor on demand as provided in this Section 6.7, Lender shall have the right to require Grantor to provide a legal deposit (i.e., payment in advance) before engaging outside counsel to do any legal work and to refresh that deposit, at Lender's request, over the pendency of the matter. Grantor shall have no expectation that Lender commence any legal work with outside counsel prior to Grantor paying any legal deposit requested by Lender. For the avoidance of doubt, any reference in the Loan Documents to out-of-pocket costs or expenses incurred by Lender shall be construed, without limitation to other kinds of costs and expenses incurred by Lender, to include attorneys' fees (i.e., outside counsel). For the further avoidance of doubt, no other provision regarding Lender's right to payment of fees, costs, and expenses from Grantor contained in either (i) this Deed of Trust or (ii) any other Loan Document, in each case, may be construed to limit Lender's rights pursuant to this Section 6.7, including, without limitation, Lender's right to require an advance deposit for legal fees (it being understood that any other provision of the Loan Documents pertaining to Lender's right to payment of fees, costs, and expenses,

from Grantor in each case, shall be construed consistent with this Section 6.7). Without limiting the generality of the immediately preceding sentence, no provision specifically requiring payment of a fee, cost, or expense to Lender by Grantor, by being so affirmatively and specifically stated in any Loan Document, may be construed to limit Lender's rights to payment pursuant to this Section 6.7 for any fee, cost, or expense, in each case, provided for by this Section 6.7, but not so specifically stated. In the event that any party brings any suit or other proceeding with respect to the subject matter or enforcement of this Deed of Trust, including without limitation, in appellate proceedings or in any action or participation in, or in connection with, any case or proceeding under Chapter 7, 11 or 13 of the Bankruptcy Code, 11 United States Code Sections 101 et seq., or any successor statutes, the prevailing party (as determined by the court, agency or other authority before which such suit or proceeding is commenced) shall, in addition to such other relief as may be awarded, be entitled to recover reasonable attorneys' fees, expenses and costs of investigation.

6.8. **No Other Liens, Encumbrances and Charges.** Without obtaining Lender's prior written consent pursuant to Section 6.14 (which consent shall be granted or withheld in Lender's sole and absolute discretion and at Grantor's sole cost and expense), Grantor shall not incur against the Property any debt, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than the Loan and trade debt incurred in the ordinary course of Grantor's business (with any such trade debt to be paid within sixty (60) days of the date such debt was incurred and, in any event, prior to delinquency). Grantor shall immediately discharge by bonding or otherwise any lien, charge or other encumbrance that attaches to the Property in violation of Section 6.14. Subject to Grantor's right to contest such matters under this Deed of Trust or as expressly permitted in the Loan Documents, Grantor shall pay when due all obligations secured by or reducible to liens and encumbrances that shall now or hereafter encumber or appear to encumber all or any part of the Property or any interest therein, whether senior or subordinate hereto, including, without limitation, all claims for work or labor performed, or materials or supplies furnished, in connection with any work of demolition, alteration, repair, improvement or construction of or upon the Property, except such as Grantor may in good faith contest or as to which a bona fide dispute may arise (provided that provision is made to the satisfaction of Lender for eventual payment thereof in the event that Grantor is obligated to make such payment and that any recorded claim of lien, charge or other encumbrance against the Property is immediately discharged by bonding or otherwise).

6.9. **Taxes and Other Liabilities.** Grantor shall pay and discharge when due any and all indebtedness, obligations, assessments and taxes, both real and personal and including federal and state income taxes and state and local property taxes and assessments by or before the due date. Grantor shall promptly provide to Lender copies of all tax and assessment notices pertaining to the Property. Grantor hereby authorizes Lender to obtain, at Grantor's expense, a tax service contract which shall provide tax information on the Property to Lender for the term of the Loan and any extensions or renewals of the Loan.

6.10. **Insurance Coverage.** Grantor shall insure the Property against loss or damage by fire and such other hazards as Lender shall from time to time require, however, not to exceed full replacement cost; provided, however, (a) Lender, at Lender's election, may only require flood insurance if all or any portion of the Improvements located on the Property is or becomes located in a special flood hazard area; and (b) Lender, at Lender's election, may only require earthquake insurance if all or any portion of the Property is or becomes located in an earthquake fault zone. Grantor shall also carry public liability insurance and such other insurance as Lender may require, including, without limitation, business interruption insurance or loss of rents insurance. Such policies shall contain a standard mortgage clause naming Lender and its successors and assigns as a loss payee or additional insured, as appropriate, and requiring at least thirty (30) days' prior notice to the holder at termination or

cancellation. Grantor shall maintain all required insurance at Grantor's expense, in companies, and in substance and form satisfactory to Lender, including, without limitation, an agreed amount endorsement. Neither Lender nor Trustee, by reason of accepting, rejecting, approving or obtaining insurance shall incur any liability for: (c) the existence, nonexistence, form or legal sufficiency of any insurances; (d) the solvency of any insurer; or (e) the payment of claims.

If Grantor fails to maintain and deliver to Lender the original policies or certificates of insurance required by this Deed of Trust, upon ten (10) days' prior notice to Grantor, Lender may procure such insurance at Grantor's sole cost and expense. Grantor agrees to deliver to Lender promptly upon receipt, but in any event no later than thirty (30) days' prior to the termination of any of such insurance policies, a renewal policy (or certificate of insurance evidencing the same) satisfying the requirements of this Deed of Trust.

6.11. Insurance and Condemnation Proceeds.

(a) Assignment of Claims. Grantor absolutely and irrevocably assigns to Lender all of the following rights, claims and amounts (collectively, the "Claims"), all of which shall be paid to Lender: (i) all awards of damages and all other compensation payable directly or indirectly by reason of a condemnation or proposed condemnation for public or private use affecting all or any part of, or any interest in, the Property; (ii) all other claims and awards for damages to or decrease in value of all or any part of, or any interest in, the Property; (iii) all proceeds of any insurance policies payable by reason of loss sustained to all or any part of the Property; and (iv) all interest which may accrue on any of the foregoing. Grantor shall give Lender prompt written notice of the occurrence of any casualty affecting, or the institution of any proceedings for eminent domain or for the condemnation of, the Property or any portion thereof. Lender may, in each case, commence, appear in, defend or prosecute any Claim, and may adjust, compromise, and settle all Claims, but shall not be responsible for any failure to commence, appear in, defend, prosecute or collect any such Claim regardless of the cause of the failure. All awards, proceeds, and other sums described herein shall be payable to Lender.

(b) Application of Proceeds: No Event of Default. (1) So long as no Event of Default has occurred and is continuing at the time of Lender's receipt of the proceeds of the Claims (the "Proceeds") and no Event of Default occurs thereafter, Lender shall apply the Proceeds in the following order of priority: First, to Lender's expenses in settling, prosecuting or defending the Claims; Second, to the repair or restoration of the Property; and Third, to Grantor if and only if the repair or restoration of the Property has been completed to the satisfaction of Lender, but otherwise, to the Secured Obligations, in any order, without suspending, extending or reducing any obligation of Grantor to make installment payments if the repair or restoration of the Property has not been completed. (2) Notwithstanding the foregoing, Lender shall not have any obligation to make any Proceeds available for the repair or restoration of the Property unless and until all the following conditions have been satisfied in Lender's sole and absolute discretion: (i) delivery to Lender of the Proceeds plus any additional amount that is needed to pay all costs of the repair or restoration (including, without limitation, taxes, financing charges, insurance and rent during the repair period); (ii) establishment of an arrangement for lien releases and disbursement of funds acceptable to Lender; and (iii) delivery to Lender in form and content acceptable to Lender of all of the following: (aa) plans and specifications for the work; (bb) a contract for the work, signed by a contractor acceptable to Lender; (cc) a cost breakdown for the work; (dd) if required by Lender, a payment and performance bond for the work; (ee) evidence of the continuation of all Leases unless consented to in writing by Lender; (ff) evidence that, upon completion of the work, the size, capacity, value, and income coverage ratios for the Property will be at least as great as those which existed immediately before the damage or condemnation occurred; and (gg) evidence of the satisfaction of any additional conditions that Lender may reasonably establish

to protect Lender's security. Grantor acknowledges that the specific conditions described above are reasonable.

(c) **Application of Proceeds; Event of Default.** If an Event of Default has occurred and is continuing at the time of Lender's receipt of the Proceeds or if an Event of Default occurs at any time thereafter, Lender may, at Lender's absolute discretion and regardless of any impairment of security or lack of impairment of security, but subject to applicable law governing use of the Proceeds, if any, apply all or any of the Proceeds to Lender's expenses in settling, prosecuting or defending the Claims and then apply the balance to the Secured Obligations in any order without suspending, extending or reducing any obligation of Grantor to make installment payments, and may release all or any part of the Proceeds to Grantor upon any conditions Lender chooses.

6.12. **Defense and Notice of Losses, Claims and Actions.** Grantor shall protect, preserve and defend the Property and title to and right of possession of the Property, the security and priority of this Deed of Trust, and the rights and powers of Lender and Trustee hereunder, in each case, at Grantor's sole expense against all adverse claims, whether the claim: (a) is against a possessory or non-possessory interest; (b) arose prior or subsequent to the date set forth in the preamble; or (c) is senior or junior to Grantor's or Lender's rights. Grantor shall provide Lender and Trustee prompt notice in writing of the assertion of any claim, of the filing of any action or proceeding, of the occurrence of any damage to the Property and of any condemnation offer or action.

6.13. **Right of Inspection.** Lender and its independent contractors, agents and employees may enter the Property from time to time at any reasonable time for the purpose of inspecting the Property and ascertaining Grantor's compliance with the terms of this Deed of Trust. Lender will use commercially reasonable efforts to assure that Lender's entry upon and inspection of the Property will not materially and unreasonably interfere with the business or operations of Grantor's tenants on the Property.

6.14. **Transfer of Property or Interests in Grantor.**

6.14.1. **Prohibition.** Grantor acknowledges that Lender has relied upon the principal(s) of Grantor and such principal's or principals' experience in owning and operating properties similar to the Property in connection with the closing of the Loan. Accordingly, except pursuant to the prior written consent of Lender, which Lender may withhold, delay, or condition in Lender's sole discretion (including, without limitation, pursuant to the terms of Section 6.14.4 hereof), Grantor shall not cause or permit any Transfer (as defined herein) of, in each case, itself (i.e., the Grantor), the Property, the Collateral (except for equipment and inventory in the ordinary course of its business, with respect to the Collateral only), or this Deed of Trust. "Transfer" means any: (a) sale or exchange; (b) mortgage, pledge, hypothecation, lien, or encumbrance; (c) assignment, including, without limitation, assignment by operation of law or for the benefit of creditors or the delegation of duties; (d) direct or indirect conveyance, transfer, or disposition, including, without limitation, any direct transfer, grant, or release of title or legal ownership and any indirect transfer through the use of a nominee, trustee, or receiver (other than a receiver appointed at Lender's request); (e) direct or indirect change of control of the Grantor through any means, including without limitation, serial transactions, contracts, or a change in the ultimate control or beneficial ownership of Grantor (including, without limitation, any transfer of or by, in each case, (i) a general or limited partnership interest; (ii) stock, shares, or other equity; (iii) issuance of new or treasury stock, shares, or other equity or changes in voting rights or the creation of a new class of stock, shares, or other equity interests, in each case, that, whether through one action or a series of actions, effects a direct or indirect change of control in an entity; (iv) a limited liability company or membership interest; (v) direct or indirect control of a trust; (vi) interest in a joint venture

contract; (vii) an Unauthorized Amendment made or permitted in violation of clause (j) of Section 4.4 hereof; or (viii) any other interest analogous or otherwise similar to items (i)-(vii) of this list, as well as changing of a key control person, whether legal or natural, relied upon by Lender as provided in this Section 6.14, such as, without limitation, the naming a new general partner of a partnership or manager or managing member of a limited liability company); and (f) any action, transfer, or event of similar effect to the preceding list of items (a)-(e), and the meaning of the meaning of Transfer shall include any of the foregoing circumstances listed in (a)-(f) whether occurring, in each case, voluntarily, involuntarily, by operation of law, through one action or event, or through a series of transactions, legal transfers, or other actions or events even if each individually would not constitute a change of (1) control in or (2) beneficial ownership of Grantor but as a series would constitute a Transfer. If a Transfer is made without the prior written consent of Lender (including, without limitation, any Transfer requiring Lender's prior written consent under Section 6.14.2 hereof), Lender shall have the absolute right at its option, without prior demand or notice, to declare all of the Secured Obligations immediately due and payable, except to the extent prohibited by applicable law, and to pursue its rights and remedies under Article 7 hereof. Lender's consent to one such Transfer shall apply only to the Transfer consented to in that instance and shall not be deemed to be a waiver of the right to require prior written consent to future or successive Transfers. Without limiting the generality of the foregoing provisions of this Section 6.14.1, the capitalized term "**Assignment**" refers to the subset of Transfers encompassing: (i) any assignment of Grantor's interest in this Deed of Trust, in each case, including, without limitation, an assignment by operation of law, and (ii) any delegation of duties by Grantor under this Deed of Trust. Unless Lender, in writing, subsequently ratifies an Assignment made contrary to this Section 6.14, any Assignment by Grantor, whether voluntarily or involuntarily, made contrary to this Section (including, without limitation, any Assignment requiring Lender's prior written consent under Section 6.14.2 hereof) shall be null and void *ab initio*. Lender's consent to or ratification of, in each case, one such Assignment shall apply only to the Assignment consented to or ratified in that instance and shall not be deemed to be a waiver of the right to require prior written consent to future or successive Assignments. With regard to any proposed Transfer or Assignment, or other assumption, substitution, or similar action provided for in this Section 6.14 or in Sections 7.1(m)-7.1(p) hereof, in each case, irrespective of whether Lender's consent is required for such action, Grantor shall (i) comply with the provisions of Section 7.1(o) hereof and (ii) provide to Lender or cause to be provided to Lender, in each case, at Lender's request, any information required by Section 6.14.4 hereof (it being understood that it is Lender's prerogative to review any proposed Transfer or Assignment, or other assumption, substitution, or similar action, unless exempt under the limited exception pursuant to Section 7.1(o) hereof applicable only to a Grantor that is a Public Company (as defined in Section 7.1(o)), to allow Lender to determine proper classification and disposition of the proposed action, as well as fees or reimbursements owed, if any, pursuant to, in each case this Section 6.14, Section 6.7 hereof, and Sections 7.1(m)-7.1(p) hereof.

6.14.2. Other Permitted Transfers. Notwithstanding and without limiting the generality of the foregoing Section 6.14.1, the following actions shall be permitted subject to the terms of (i) this Section 6.14.2 and (ii) the terms of Section 6.14.1 with respect to any action that requiring Lender's prior written consent that is taken without such consent (e.g., regarding (x) the definition of Transfer, (y) Assignments that are void, and (z) Lender's rights and remedies, including, without limitation, acceleration, payment of the prepayment fee). In the case of the actions described in clauses (a) and (c) of this Section 6.14.2, the actions described therein shall be permitted only with the prior written consent of Lender, which consent shall not be unreasonably withheld. In the case of actions described in clause (b) of this Section 6.14.2, Lender's consent shall not be necessary; however, Grantor shall comply with all applicable terms of this Deed of Trust, including, without limitation, the terms this Section 6.14, Section 6.7 hereof, and of Sections 7.1(m)-7.1(p) regarding Lender's rights to: (i) review the proposed action and determine its proper classification, (ii) request and receive any due diligence

information as provided by Section 6.14.4 hereof, and (iii) receive an advance deposit for or reimbursement from Grantor, in each case, of any out-of-pocket expenses Lender may incur. In addition, any Transfer contemplated pursuant to clauses (a), (b) and (c) of this Section 6.14.2, shall be permitted, subject to the provisions of this Section 6.14, only so long as Grantor remains as a legal person or, if required, e.g., in the case of a joint venture or general partnership, is reconstituted, following such Transfer, properly authorized hereunder, and so long as those persons responsible for the management of the Property and Grantor remain unchanged following such gift or that any replacement management is approved by Lender pursuant to the terms hereof.

(a) Without limiting the provisions of Sections 7.1(m)-7.1(p) hereof, the direct one-time transfer (i.e., of the interest itself, and not by a higher-level change in control) of up to forty-nine (49%) of: the (i) limited partnership interests in any Grantor that is a limited partnership; (ii) membership interests in any Grantor that is a limited liability company (other than the membership interests (x) of a member that is the manager or managing member of such Grantor or (y) that otherwise enables direct or indirect control of such Grantor, which, in each case, shall not be transferable without the prior written consent of Lender, which may be withheld, conditioned or delayed by Lender in its sole and absolute discretion); or (iii) voting stock in any Grantor that is a corporation (other than preferred, special, or similar stock that, despite holding less than 50% of the corporation's total stock allows for direct or indirect control of, in each case, the corporation or its board of directors or other governing body, which shall not be transferable without the prior written consent of Lender, which may be withheld, conditioned or delayed by Lender in its sole and absolute discretion).

(b) Without limiting the provisions of Sections 7.1(m)-7.1(p) hereof, any involuntary transfer caused by the death or court-adjudicated incapacity of any natural person that is (i) a general partner, shareholder, joint venturer or member of Grantor; (ii) any manager or managing member of Grantor if Grantor is a limited liability company; and (iii) a beneficial owner of a or other natural person that controls a trust. For the avoidance of doubt, (x) this Section 6.14.2(b) applies only to involuntary transfers and not to planned estate gifts, which are provided for by Section 6.14.2(c) hereof and (y) this Section 6.14.2(b) applies to involuntary transfers caused by death or court-adjudicated incapacity of natural persons in the roles specified in this Section 6.14.2(b) and not where Grantor is a natural person (i.e., one individual), which is provided for in Section 7.1(p) hereof.

(c) Without limiting the provisions of Sections 7.1(m)-7.1(p) hereof, gifts for estate planning purposes of any natural person's interests in Grantor or in any of Grantor's general partners, members or joint venturers to the spouse or any lineal descendant of such individual, or to a properly constituted trust for the benefit of any one or more of such individual, spouse or lineal descendant. Notwithstanding the foregoing provisions of this Section 6.14.2(c), nothing in this Section 6.14.2(c) authorizes title to the Property to be transferred without Lender's prior written consent that would be otherwise required, in each case, under Section 6.14.1 hereof or any other provision this Deed of Trust.

(d) Notwithstanding anything to the contrary contained herein, under no circumstances shall Trustor cause or permit any Transfer of the Trustor, the Property, the Collateral, this Deed of Trust or any interest therein to any of the following without the prior written consent of Lender, which Lender may withhold, delay, or condition in

Lender's sole discretion (including, without limitation, pursuant to the terms of Section 6.14.4 hereof), to any of the following: (i) any Person (1) that is listed in the Annex to, or is otherwise subject to the provisions of, Executive Order 13224 issued on September 24, 2001 ("EO13224"), (2) whose name appears on the United States Treasury Department's Office of Foreign Assets Control ("OFAC") most current list of "Specifically Designated National and Blocked Persons," (3) who commits, threatens to commit or supports "terrorism," as defined in EO13224, or (4) who is otherwise affiliated with any entity or Person listed above (any and all parties or Persons described in subparts (1) through (4) above are herein referred to as a "Prohibited Person"); (ii) any Person that has (1) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (2) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (3) failed to disclose fully any contribution made by Borrower or Guarantor (or made by any Person acting on its behalf of which Borrower or Guarantor is aware) which is in violation of law, or (4) violated in any material respect any provision of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. §§ 78dd-1, et seq.), as amended ("FCPA"); or (iii) any Person that has (1) committed any crime or any violation of applicable laws, ordinances, rules, regulations and requirements, (2) been indicted on or arraigned on charges that such Person has committed any crime or any violation of applicable laws, ordinances, rules, regulations and requirements, or (3) been convicted of crime.

**6.14.3. Lender's Written Consent or Ratification:** As used in this Section 6.14, any reference to Lender's written consent, approval, or ratification of a Transfer, in each case, requires a writing made by Lender executed by an officer of Lender holding the title Executive Vice President or higher.

**6.14.4. Transfer Costs:** In connection with any Transfer requiring Lender's consent:

(a) Grantor shall pay an assumption fee in the amount of one percent (1%) of the then unpaid principal balance of the Loan, which shall be due and payable at the closing of the Transfer transaction.

(b) Grantor shall pay to Lender both (i) an administrative fee of one thousand five hundred dollars (\$1,500.00) for Lender processing the Transfer request (irrespective of the disposition thereof) and (ii) all Lender's out-of-pocket costs (including, without limitation, any out-of-pocket legal expenses paid to outside counsel and the cost of any appraisal); and

(c) The cost of either (i) a "date down" endorsed to Lender's title insurance policy, including any additional endorsements required by Lender, or (ii) a new title insurance policy, satisfactory to Lender in its discretion, if a "date down" is not available.

In addition to the above-stated, Grantor shall comply with all Lender's policies and procedures in connection with providing its consent to a Transfer, including but not limited to (i) Grantor and its transferee entering an assumption agreement acceptable to Lender and providing, as determined by Lender in Lender's sole and absolute discretion, (x) a reaffirmation of guarantee by a then guarantor and/or (y) a substitute guarantor (acceptable to Lender in Lender's sole and absolute discretion) who shall sign a guarantee agreement acceptable to Lender (in Lender's sole and absolute

discretion) and (ii) compliance with the provisions of Sections 7.1(o) hereof. Without limiting the generality of the foregoing sentence of this paragraph of this Section 6.14.4, Grantor shall require, in each case, any prospective recipient of the Transfer, prospective new guarantor, prospective new member, partner, or shareholder of Grantor, or prospective new joint venturer to comply with any requests for due diligence information regarding such prospective new interest holder in, as applicable, Grantor or the Property. Nothing in this Section 6.14 may be construed to require Lender to accept any Transfer, Assignment, assumption or similar action where the prospective person receiving or becoming an interest holder in Grantor or the Property or assuming a role of guarantor is a person with which Lender may not conduct business pursuant to law applicable to Lender (a "Prohibited Person"), and Lender shall not be deemed to have breached its obligations under any of the Loan Documents for refusing to consent to, approve, or honor any action that requires or may foreseeably require Lender in the future to conduct business with a Prohibited Person.

Nothing in this Section 6.14.4 limits Lender's discretion to withhold, delay, or condition, in each case, its consent pursuant to the provisions of Sections 6.14.1 and 6.14.2 hereof, including, without limitation, Lender's right to: (i) require other conditions not provided for in this Section 6.14.4; (ii) make decisions regarding Lender's assessment of the creditworthiness of any prospective substitute guarantor or party assuming the obligations hereunder as a result of a proposed Transfer; (iii) require additional conditions related to its credit evaluation of any Transfer or party thereto; (iv) require execution of additional documentation; or (v) refer matters to outside counsel at Grantor's expense to assist with reviewing or consummating any proposed Transfer.

6.15. Acceptance of Trust; Powers and Duties of Trustee. Trustee accepts this trust when this Deed of Trust is recorded. From time to time upon written request of Lender and presentation of this Deed of Trust, or a certified copy thereof, for endorsement, and without affecting the personal liability of any person for payment of any indebtedness or performance of any Secured Obligation, Trustee may, if authorized by Lender, without liability therefor and without notice: (a) reconvey all or any part of the Property; (b) consent to the making of any map or plat of the Property; (c) join in granting any easement on the Property; (d) join in any declaration of covenants and restrictions; or (e) join in any extension agreement or any agreement subordinating the lien or charge of this Deed of Trust. Nothing contained in the immediately preceding sentence shall be construed to limit, impair or otherwise affect the rights of Grantor in any respect. Except as may otherwise be required by applicable law, Trustee or Lender may from time to time apply to any court of competent jurisdiction for aid and direction in the execution of the trusts hereunder and the enforcement of the rights and remedies available hereunder, and Trustee or Lender may obtain orders or decrees directing or confirming or approving acts in the execution of said trusts and the enforcement of said remedies. Trustee has no obligation to notify any party of any pending sale or any action or proceeding (including, without limitation, actions in which Grantor, Lender or Trustee shall be a party) unless held or commenced and maintained by Trustee under this Deed of Trust. Trustee shall not be obligated to perform any act required of it hereunder unless the performance of the act is requested in writing and Trustee is reasonably indemnified and held harmless against loss, cost, liability and expense.

6.16. Compensation of Trustee. Grantor shall pay to Trustee reasonable compensation and reimbursement for services and expenses in the administration of this trust, including, without limitation, reasonable attorneys' fees. Grantor shall pay all indebtedness arising under this Section 6.16 immediately upon demand by Trustee or Lender.

6.17. Exculpation. Lender shall not directly or indirectly, be liable to Grantor or any other person as a consequence of: (a) the exercise of the rights, remedies or powers granted to Lender in this Deed of Trust; (b) the failure or refusal of Lender to perform or discharge any obligation or liability

of Grantor under any agreement related to the Property or under this Deed of Trust; or (c) any loss sustained by Grantor or any third party resulting from Lender's failure to lease the Property after an Event of Default or from any other act or omission of Lender in managing the Property after an Event of Default unless the loss is caused by the willful misconduct and bad faith of Lender. No liability contrary to the terms of this Section 6.17 may be asserted or enforced against Lender, and Grantor expressly waives all such liability, and to the fullest extent permitted by applicable law, releases Lender therefrom.

6.18. **Indemnity.** (1) Without in any way limiting any other indemnity contained in this Deed of Trust, Grantor agrees to defend, indemnify and hold harmless Trustee and the Lender Group (hereinafter defined) from and against any claim, loss, damage, cost, expense or liability directly or indirectly arising out of: (a) the making of the Loan, except for violations of banking laws or regulations by the Lender Group, but subject to the terms of clause (g) of this Section 6.18; (b) this Deed of Trust; (c) the execution of this Deed of Trust or the performance of any act required or permitted hereunder or by law; (d) any failure of Grantor to perform its obligations under this Deed of Trust or the other Loan Documents; (e) any alleged obligation or undertaking on the Lender Group's part to perform or discharge any of the representations, warranties, conditions, covenants or other obligations contained in any other document related to the Property; (f) any act or omission by Grantor or any contractor, agent, employee or representative of Grantor with respect to the Property; or (g) any prohibited transaction, in the sale of a prohibited loan, or in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Lender's sole discretion (it being understood that the indemnification owed under this Section 6.18 shall not be limited by clause (a) of this Section 6.18 hereof to the extent a prohibited transaction, sale of a prohibited loan, or transaction with a Prohibited Person may otherwise fall within clause (a) of this Section 6.18; and (h) an Event of Default under Article 7 hereof, including, without limitation, Lender's exercise of rights and remedies provided pursuant to Article 7 hereof. (2) Notwithstanding the foregoing provisions of this Section 6.18(1), this indemnity shall not include any claim, loss, damage, cost, expense or liability directly or indirectly arising out of the gross negligence or willful misconduct of any member of the Lender Group or Trustee, or any claim, loss, damage, cost, expense or liability incurred by the Lender Group or Trustee arising from any act or incident on the Property occurring after the full reconveyance and release of the lien of this Deed of Trust on the Property; however, this indemnity shall include, without limitation: (aa) all consequential and incidental damages (including, without limitation, any third party tort claims or governmental claims, fines or penalties against Trustee or the Lender Group) and (bb) all court costs and attorneys' fees (including, without limitation, expert witness fees) paid or incurred by Trustee or the Lender Group. **Lender Group**, as used in this Deed of Trust, shall mean (i) Lender (including, without limitation, any participant in the Loan); (ii) any entity controlling, controlled by or under common control with Lender; (iii) the directors, officers, employees, and agents of Lender and such other entities of the Lender Group; and (iv) the successors, heirs and assigns of the entities and persons described in foregoing clauses (i) through (iii). Grantor shall pay immediately upon Trustee's or Lender's demand any amounts owing under this indemnity. Grantor agrees to use legal counsel acceptable to Trustee and the Lender Group in any action or proceeding arising under this indemnity. IF THE GRANTOR IS ALSO THE BORROWER, THE PROVISIONS OF THIS SECTION 6.18 SHALL SURVIVE THE TERMINATION AND RELEASE OF THIS DEED OF TRUST, BUT SUCH PROVISIONS SHALL REMAIN SUBJECT TO ANY LIMITATIONS SET FORTH IN THE NOTE.

6.19. **Substitution of Trustee.** From time to time, by a writing signed and acknowledged by Lender and recorded in the official records of the county in which the Property is located, Lender may appoint another trustee to act in the place and stead of Trustee or any successor. Such writing shall set forth any information required by applicable law. The execution of such instrument of substitution shall discharge Trustee herein named and shall appoint the new trustee as the trustee hereunder with

the same effect as if originally named trustee herein. A writing recorded pursuant to the provisions of this Section 6.19 shall be conclusive proof of the proper substitution of such new trustee.

6.20. Releases, Extensions, Modifications and Additional Security. Without notice to or the consent, approval or agreement of any persons or entities having any interest at any time in the Property or in any manner obligated under the Secured Obligations (the "**Interested Parties**"), Lender may, from time to time: (a) fully or partially release any person or entity from liability for the payment or performance of any Secured Obligation; (b) extend the maturity of any Secured Obligation; (c) make any agreement with Grantor increasing the amount or otherwise altering the terms of any Secured Obligation; (d) accept additional security for any Secured Obligation; or (e) release all or any portion of the Property, Collateral and other security for any Secured Obligation. None of the foregoing actions releases or reduces the personal liability of any of the Interested Parties, or releases or impairs the priority of the lien of this Deed of Trust upon the Property.

6.21. Reconveyance. Upon Lender's written request, and upon surrender of this Deed of Trust or certified copy thereof and any note, instrument or instruments setting forth all obligations secured hereby to Trustee for cancellation, Trustee shall reconvey, without warranty, the Property or that portion thereof then held hereunder. The recitals of any matters of fact or facts in any reconveyance executed hereunder shall be conclusive proof of the truthfulness thereof. To the extent permitted by law, the reconveyance may describe the grantees as "the person or persons legally entitled thereto." Neither Lender nor Trustee has any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance. When the Property has been fully released reconveyed, the last such reconveyance shall operate as a reassignment of all future rents, issues and profits of the Property to the person or persons legally entitled thereto.

6.22. Subrogation. If and in each case, (i) any or all of the proceeds of the Note have been used to pay, reduce, extinguish, extend or renew any indebtedness heretofore existing against the Property or (ii) if Lender pays or discharges any lien or encumbrance against or affecting the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property (collectively, "**Subrogated Interests**") heretofore held by, or in favor of, the holder of such indebtedness or other Subrogated Interest. If any Subrogated Interest exists, without adversely affecting the priority of this Deed of Trust and the Secured Obligations, any such Subrogated Interest shall be construed in favor of Lender, whether or not it is of record, or has been released, or has been paid in whole or in part. Nothing in this Section 6.22 may be construed to (x) limit the rights and remedies of Lender under, in each case, this Deed of Trust or any of the other Loan Documents or (y) make the Lender liable for any act or omission of any person previously entitled to enforce or collect amounts due in relation to any Subrogated Interest.

6.23. Sale or Participation of Loan. Grantor agrees that Lender may at any time sell, assign, participate or securitize all or any portion of Lender's rights and obligations under this Deed of Trust, and that any such sale, assignment, participation or securitization may be to one or more financial institutions or other entities, to private investors, and/or into the public securities market, in Lender's sole discretion. Grantor further agrees that Lender may disseminate to any such actual or potential purchaser(s), assignee(s) or participant(s) all documents and financial and other information heretofore or hereafter provided to or known to Lender with respect to: (a) the Property and its operation; and/or (b) any party connected with the Loan (including, without limitation, Grantor, any partner or member of Grantor, or any constituent partner or member of Grantor). In the event of any such sale, assignment, participation or securitization, Lender and the other parties to the same shall share in the rights and obligations of Lender set forth in this Deed of Trust as and to the extent they shall agree among themselves. In connection with any such sale, assignment, participation or securitization, Grantor

further agrees that this Deed of Trust shall be sufficient evidence of the obligations of Grantor to each purchaser, assignee or participant, and Grantor within fifteen (15) days after request by Lender, deliver an estoppel certificate verifying for the benefit of Lender and any other party designated by Lender the status and the terms and provisions of the Loan in form and substance acceptable to Lender, and enter into such amendments or modifications to this Deed of Trust as may be reasonably required in order to facilitate any such sale, assignment, participation or securitization without impairing Grantor's rights or increasing Grantor's obligations. The indemnity obligations of Grantor under this Deed of Trust shall also apply with respect to any purchaser, assignee or participant.

6.24. ERISA.

(a) Grantor shall not engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Lender of any of its rights under the Note, this Agreement or the other Loan Documents) to constitute a "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) for which there is no applicable statutory or administrative exemption.

(b) Grantor shall not (i) maintain, sponsor, contribute to or become obligated to contribute to, or suffer or permit any ERISA Affiliate of Grantor to, maintain, sponsor, contribute to or become obligated to contribute to, any Plan or any Welfare Plan that provides any benefits to any former employee (or the spouse or dependent of any such former employee) of the Grantor or any of its ERISA Affiliates after such employee's retirement or termination of employment (other than COBRA continuation coverage required to be provided pursuant to Sections 601 through 607 of ERISA or Section 4980B of the Code) or (ii) permit the assets of Grantor to become "plan assets" within the meaning of the Plan Asset Regulation.

(c) Grantor shall deliver to Lender such certifications or other evidence from time to time throughout the Term, as requested by Lender in its sole discretion, that (A) Grantor is not and does not maintain a Plan or a "governmental plan" within the meaning of Section 3(32) of ERISA; (B) Grantor is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; and (C) the assets of Grantor do not constitute "plan assets" within the meaning of the Plan Asset Regulation.

## ARTICLE 7

### DEFAULT AND REMEDIES

7.1. Event of Default. An "Event of Default" occurs automatically upon the occurrence of any one or more of the following events:

(a) Monetary. Borrower or Grantor (as applicable) fails to, in any case: (i) pay when due any sums that by their express terms require immediate payment without any grace period or sums that are payable on the Maturity Date hereunder or under any of the other Loan Documents secured by this Deed of Trust; or (ii) pay within five (5) days when due any other sums payable hereunder or under any of the other Loan Documents secured by this Deed of Trust, including, without limitation, any monthly payment due under the Note.

(b) Borrower's Performance of Non-Monetary Obligations Under Other Loan Documents. If Borrower fails to observe, perform or discharge any of its obligations, covenants, conditions or agreements to Lender or any third person, other than Borrower's payment obligations,

under any of the Loan Documents (excluding this Deed of Trust); provided that Borrower's breach or failure to perform obligations to a third person shall be a default hereunder only where such breach or failure may materially affect Borrower's assets or Borrower's ability to repay the Loan or perform its obligations under the Loan Documents.

(c) Grantor's Performance of Non-Monetary Obligations Under Deed of Trust.

Grantor fail to observe, perform or discharge any of Grantor's obligations, covenants, conditions or agreements, other than Grantor's payment obligations, under this Deed of Trust, other than as specifically provided in this Section 7.1, and (i) such failure shall remain uncured for thirty (30) days after written notice thereof shall have been given to Grantor, as the case may be, by Lender; or (ii) if such failure is of such a nature that it cannot be cured within such thirty (30) day period, Grantor shall fail to commence to cure such failure within such thirty (30) day period or shall fail to diligently prosecute such curative action thereafter or shall fail to cure such default within ninety (90) days after written notice thereof was first given to Grantor.

(d) Representations and Warranties. Any representation, warranty, certificate or other statement (financial or otherwise) made or furnished by or on behalf of Grantor, if any, to Lender or in connection with any of the Loan Documents, or as an inducement to Lender to make the Loan or to take any action for the benefit of Grantor, in each case, is false, incorrect, incomplete or misleading in any material respect when made or furnished. There shall be no cure period for any Event of Default arising from a breach of this Section 7.1(d).

(e) Condemnation, Attachment. The condemnation, seizure or appropriation of any material portion (as reasonably determined by Lender) of the Property, or the sequestration or attachment of, or levy or execution upon any of the Property, the Collateral or any other collateral provided by Grantor under any of the Loan Documents, or any material portion of the other assets of Grantor, which sequestration, attachment, levy or execution is not released or dismissed within forty-five (45) days after its occurrence, or the sale of any assets affected by any of the foregoing.

(f) Uninsured Casualty. The occurrence of an uninsured casualty with respect to any material portion (as determined by Lender) of the Property unless: (i) no other Event of Default has occurred and is continuing at the time of such casualty or occurs thereafter; (ii) Grantor promptly notifies Lender of the occurrence of such casualty; and (iii) not more than forty-five (45) days after the occurrence of such casualty, Grantor delivers to Lender immediately available funds ("Restoration Funds") in an amount sufficient, in Lender's reasonable opinion, to pay all costs of the repair or restoration (including, without limitation, taxes, financing charges, insurance and rent during the repair period). So long as no Event of Default has occurred and is continuing at the time of Lender's receipt of the Restoration Funds and no Event of Default occurs thereafter, Lender shall make the Restoration Funds available for the repair or restoration of the Property. Notwithstanding the foregoing, Lender shall have no obligation to make any Restoration Funds available for repair or restoration of the Property unless and until all the conditions set forth in clauses (ii) and (iii) Section 6.11(b)(2) of this Deed of Trust have been satisfied. Grantor acknowledges that the specific conditions described above are reasonable.

(g) Adverse Financial Change. Any adverse change in the financial condition of Grantor, or any of their partners, or members, or any guarantor, or any other person or entity from the condition shown on the financial statements submitted to Lender and relied upon by Lender in making the Loan, and which change Lender determines will have a material adverse effect on (i) the business, operations or condition of the Property; or (ii) the ability of Grantor to pay or perform Grantor's obligations in accordance with the terms of this Deed of Trust, and the other Loan Documents.

(h) **Voluntary Bankruptcy, Insolvency, Dissolution.** (i) Grantor's filing a petition for relief under the Bankruptcy Reform Act of 1978, as amended or recodified ("Bankruptcy Code"), or under any other present or future state or federal law regarding bankruptcy, reorganization or other relief to debtors (collectively, "Debtor Relief Law"); or (ii) Grantor's filing any pleading in any involuntary proceeding under the Bankruptcy Code or other Debtor Relief Law that admits the jurisdiction of a court to regulate Grantor or the Property or the petition's material allegations regarding Grantor's insolvency; or (iii) Grantor's making a general assignment for the benefit of creditors; or (iv) Grantor's applying for, or the appointment of, a receiver, trustee, custodian or liquidator of Grantor or any of its property; or (v) the filing by or against Grantor of a petition seeking the liquidation or dissolution of Grantor or the commencement of any other procedure to liquidate or dissolve Grantor. There shall be no cure period for any Event of Default arising from a breach of this Section 7.1(h).

(i) **Involuntary Bankruptcy.** Grantor's failure to effect a full dismissal of any involuntary petition under the Bankruptcy Code or other Debtor Relief Law that is filed against Grantor or in any way restrains or limits Grantor or Lender regarding the Loan or the Property, prior to the earlier of the entry of any order granting relief sought in the involuntary petition or forty-five (45) days after the date of filing of the petition.

(j) **Shareholders, Members and Partners.**

- (1) If an event specified in Sections 7(h) or 7(i) hereof occurs as to Grantor or any general partner, shareholder or member of Grantor, there shall be no cure period for any Event of Default arising from a breach of this Section 7.1(j)(1).
- (2) If all or any material part of the assets of Grantor, or any shareholder, director, general partner or manager of Grantor are attached, seized, subjected to a writ or levied upon by any court process and Grantor fails to cause such attachment, seizure, writ or levy to be fully released or removed within sixty (60) days after the occurrence of such event. The cure provision contained in this Section 7.1(j)(2) shall be in lieu of, and not in addition to, any and all other cure periods contained in the Loan Documents.
- (3) For the avoidance of doubt, the provisions of this Section 7.1(j) shall not be limited because a shareholder, member or general partner of Grantor, in each case, may also be a guarantor of the Loan; rather, in that instance, an Event of Default under this Section 7.1(j) shall exist regarding the condition of such shareholder, member or general partner of Grantor, and the provisions of Section 7.1(k) hereof shall apply regarding Grantor's duty to obtain an acceptable substitute guarantor. The cure provisions contained in this Section 7.1(j) shall be in lieu of, and not in addition to, any and all other cure periods contained in the Loan Documents.

(k) **Guarantors.**

- (1) If any an event specified in Sections 7(h) or 7(i) hereof as to any guarantor of the Loan, remains uncured for at least forty-five (45) days, and Grantor fails to provide a substitute guarantor acceptable to

Lender within sixty (60) days after the occurrence an event specified in Sections 7(h) or 7(i) hereof as to any guarantor of the Loan.

- (2) If all or any material part of the assets of any guarantor of the Loan are attached, seized, subjected to a writ or levied upon by any court process and Grantor fails to either (i) cause such attachment, seizure, writ or levy to be fully released or removed within sixty (60) days after the occurrence of such event or (ii) provide a substitute guarantor acceptable to Lender within sixty (60) days after all or any material part of the assets of any guarantor of the Loan are attached, seized, subjected to a writ or levied upon by any court process.
- (3) If any guarantor of the Loan dies and Grantor fails to provide a substitute guarantor of the Loan acceptable to Lender within sixty (60) days after the death of such guarantor; however, nothing in this Section 7.1(k)(3) may be construed to reduce or limit any rights and remedies Lender may have against the estate of or successors in interest to such guarantor of the Loan who has died, including, without limitation, any right to enforce a guarantee of the Loan against the estate of a guarantor of the Loan who has died.
- (4) For the avoidance of doubt, Grantor acknowledges that, in consideration of the Loan, Borrower and Grantor (as applicable) are required to provide a guarantor of the Loan acceptable to Lender, in Lender's sole discretion, and this Section 7.1(k) shall be construed consistent with such obligation of Grantor. Nothing in this Section 7.1(k) may be construed to suggest that this Deed of Trust secures any obligations under any guarantee of the Loan (it being understood that this Deed of Trust does not secure any guarantee of the Loan). The cure provisions contained in this Section 7.1(k) shall be in lieu of, and not in addition to, any and all other cure periods contained in the Loan Documents.

(l) Injunctions. If a court order is entered against Grantor or any shareholder, general partner, member or manager of Grantor enjoining the conduct of all or part of such person's business and Grantor fails to cause such injunction to be fully stayed, dissolved or removed within sixty (60) days after such order is entered. The cure provision contained in this Section 7.1(l) shall be in lieu of, and not in addition to, any and all other cure periods contained in the Loan Documents.

(m) Dissolution. If Grantor or any shareholder, general partner, member or manager of Grantor is a corporation, partnership, limited liability company or trust, the dissolution, liquidation, or termination of existence of such person. There shall be no cure period for any Event of Default arising from a breach of this Section 7.1(m).

(n) Unauthorized Transfers and Assignments. Any Transfer made or attempted, in each case, in violation of to Section 6.14 hereof (For the avoidance of doubt, the term Transfer includes any Assignment, as defined in Section 6.14 hereof). There shall be no cure period for any Event of Default arising from a breach of this Section 7.1(n).

(o) Admission of New Partners, Members, or Shareholders. If applicable, unless Grantor is a publicly traded company listed on a nationally recognized stock exchange (a "Public Company") and the trading of shares in such Public Company or other transaction affecting such Public Company does not constitute a Transfer pursuant to Section 6.14 hereof, the admission to Grantor of any new member, partner, shareholder, or joint venturer, in each case, without having first having (i) informed Lender of the proposed admission of a new member, partner, shareholder, or joint venturer, in each case, and (ii) Grantor having received a written response from Lender regarding Lender's review and disposition of the request pursuant to this Section 7.1(o) and Section 6.14 hereof. Any admission of a new member, partner, joint venturer contrary to this Section 7.1(o) shall be deemed a Transfer in violation of Section 6.14 hereof (For the avoidance of doubt, this Section 7.1(o) does not provide and shall not be construed to provide any Grantor that is a Public Company any right to make or participate in a Transfer in violation of Section 6.14 hereof). There shall be no cure period for any Event of Default arising from a breach of this Section 7.1(o).

(p) Death; Incompetency. If Grantor or any general partner, manager, or managing member of Grantor is an individual (i.e., a natural person), the death or incompetency of such person, except (i) where applicable law limits or prohibits Lender's declaration of a default based on such occurrences and (ii) in the case of the death or mental incompetence of a general partner, manager, or managing member, Grantor causes a substitute general partner, manager or managing member, as applicable, to be admitted to Grantor or appointed to such role and Lender, pursuant to Section 6.14 hereof, in good faith determines that the financial condition, credit history, character, experience, ability and expertise of such substitute general partner, manager, or managing member are comparable to the affected general partner or manager and that such substitute general partner or manager is otherwise acceptable to Lender (For the avoidance of doubt, any substitutions or Transfers contemplated by this Section 7.1(p) shall be made consistent with the terms of both Section 7.1(o) hereof and Section 6.14 hereof).

(q) Impairment of Priority. If (i) the priority of this Deed of Trust or Lender's security interest under any of the other agreements securing any or all of the Secured Obligations is impaired for any reason; or (ii) the value of the Property has deteriorated, declined or depreciated as a result of any intentional tortious act or omission by Grantor. There shall be no cure period for any Event of Default arising from a breach of this Section 7.1(q).

(r) Condemnation. If all or any material part of the Property is transferred to any Governmental Authorities as a result of any condemnation proceeding or action with respect to all or any material part of the Property. There shall be no cure period for any Event of Default arising from a breach of this Section 7.1(r).

(s) Failure to Repair Casualty. If there is an uninsured casualty with respect to the Property, and Grantor (i) fails to commence repairs and reconstruction of the Property within ninety (90) days after such damage or (ii) thereafter fails to diligently prosecute such repairs and reconstruction to completion. The cure provisions contained in this Section 7.1(s) shall be in lieu of, and not in addition to, any and all other cure periods contained in the Loan Documents.

(t) Licenses. Grantor fails to do any act or execute any document at any time requested by Lender to provide it an assignment of all licenses necessary to operate the business for its intended use. There shall be no cure period for any Event of Default arising from a breach of this Section 7.1(t).

7.2. Acceleration. Upon the occurrence of an Event of Default, Lender may, at its option, declare all sums owing to Lender under the Note and the other Loan Documents immediately due and payable.

7.3. Rights and Remedies. In addition to the rights and remedies in Section 7.2 above and as otherwise provided to Lender in this Deed of Trust, at any time after an Event of Default, Lender and Trustee shall each have all of the following rights and remedies:

(a) Entry on Property. With or without notice, and without releasing Grantor from any Secured Obligation, and without becoming a mortgagee in possession, to enter upon the Property from time to time and to do such acts and things as Lender or Trustee deem necessary or desirable in order to inspect, investigate, assess and protect the security hereof or to cure any Event of Default, including, without limitation: (i) to take and possess all documents, books, records, papers and accounts of Grantor or the then owner of the Property that relate to the Property; (ii) to make, terminate, enforce or modify leases of the Property upon such terms and conditions as Lender deems proper; (iii) to make repairs, alterations and improvements to the Property necessary, in Trustee's or Lender's sole judgment, to protect or enhance the security hereof; (iv) to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Lender or Trustee hereunder; (v) to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the sole judgment of either Lender or Trustee, is or may be senior in priority hereto, the judgment of Lender or Trustee being conclusive, as between the parties hereto; (vi) to obtain insurance; (vii) to pay any premiums or charges with respect to insurance required to be carried hereunder; and/or (viii) to employ legal counsel, accountants, engineers, consultants, contractors and other appropriate persons to assist them;

(b) Appointment of Receiver. To apply to a court of competent jurisdiction for and obtain appointment of a receiver of the Property as a matter of strict right and without regard to: (i) the adequacy of the security for the repayment of the Secured Obligations; (ii) the existence of a declaration that the Secured Obligations are immediately due and payable; or (iii) the filing of a notice of default; and Grantor consents to such appointment;

(c) Judicial Foreclosure, Injunction. To commence and maintain an action or actions in any court of competent jurisdiction to foreclose this instrument as a mortgage or to obtain specific enforcement of the covenants of Grantor hereunder, and Grantor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy and that for the purposes of any suit brought under this subparagraph, Grantor waives the defense of laches and any applicable statute of limitations and shall not require Lender to post a point to seek an injunction or any other kind of specific performance;

(d) Nonjudicial Foreclosure. To execute a written notice of such an Event of Default and of the election to cause the Property to be sold to satisfy the Secured Obligations. Trustee shall give and record such notice as applicable law then requires as a condition precedent to a trustee's sale. When the minimum period of time required by law after such notice has elapsed, Trustee, without notice to or demand upon Grantor except as required by applicable law, shall sell the Property at the time and place of sale fixed by it in the notice of sale, at one or several sales, either as a whole or in separate parcels and in such manner and order, all as Lender in its sole discretion may determine, at public auction to the highest bidder for cash, in lawful money of the United States, payable at time of sale. Neither Grantor nor any other person other than Lender has the right to direct the order in which the Property is sold. Subject to requirements and limits imposed by applicable law, Trustee may, from time to time postpone sale of all or any portion of the Property by public announcement at such time

and place of sale previously stated, and from time to time, may also postpone the sale by public announcement at the time and place fixed by the preceding postponement. A sale of less than the whole of the Property or any defective or irregular sale made hereunder shall not exhaust the power of sale provided for herein. Trustee shall deliver to the purchaser at such sale a deed conveying the Property or portion thereof so sold, but without any covenant or warranty, express or implied from Lender. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustee, Grantor or Lender may purchase at the sale;

Upon sale of the Property at any judicial or nonjudicial foreclosure, Lender may credit bid (as determined by Lender in its sole and absolute discretion) all or any portion of the Secured Obligations. In determining such credit bid, Lender may, but is not obligated to, take into account all or any of the following: (i) appraisals of the Property as such appraisals may be discounted or adjusted by Lender in its sole and absolute underwriting discretion; (ii) expenses and costs incurred by Lender with respect to the Property prior to foreclosure; (iii) expenses and costs that Lender anticipates will be incurred with respect to the Property after foreclosure, but prior to resale, including, without limitation, costs of structural reports and other due diligence, costs to carry the Property prior to resale, costs of resale (e.g., commissions, attorneys' fees, and taxes), costs of deferred maintenance, repair, refurbishment and retrofit, costs of defending or settling litigation affecting the Property, and lost opportunity costs (if any), including the time value of money during any anticipated holding period by Lender; (iv) declining trends in real property values generally and with respect to properties similar to the Property; (v) anticipated discounts upon resale of the Property as a distressed or foreclosed property; (vi) the existence of additional collateral (if any), for the Secured Obligations; and (vii) such other factors or matters that Lender (in its sole and absolute discretion) deems appropriate. In regard to the above, Grantor acknowledges and agrees that: (viii) Lender is not required to use any or all of the foregoing factors to determine the amount of its credit bid; (ix) this paragraph does not impose upon Lender any additional obligations that are not imposed by law at the time the credit bid is made; (x) the amount of Lender's credit bid need not have any relation to any loan-to-value ratios specified in the Loan Documents or previously discussed between Grantor and Lender; (xi) Lender's credit bid may be (at Lender's sole and absolute discretion) higher or lower than any appraised value of the Property; and (xii) Grantor acknowledges and understands that Lender has no duty to act in Grantor's best interest and expects that Lender will act in Lender's best interest, as determined by Lender, in Lender's sole discretion;

(e) Multiple Foreclosures. To resort to and realize upon the security hereunder and any other security now or later held by Lender concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken nonjudicial proceedings, or both, and to apply the proceeds received upon the Secured Obligations all in such order and manner as Trustee and Lender or either of them determine in their sole discretion;

(f) Rights to Collateral. To exercise all rights Trustee or Lender may have with respect to the Collateral under this Deed of Trust, the UCC or otherwise at law; and

(g) Other Rights. To exercise such other rights as Trustee or Lender may have at law or in equity or pursuant to the terms and conditions of this Deed of Trust or any of the other Loan Documents.

In connection with any sale or sales hereunder, Lender may elect to treat any of the Property that consists of a right in action or that is property that can be severed from the Property (including, without limitation, any Improvements) without causing structural damage thereto as if the same were personal property or a fixture, as the case may be, and dispose of the same in accordance with

applicable law, separate and apart from the sale of the Property. Any sale of Collateral hereunder shall be conducted in any manner permitted by the UCC.

No specific right or remedy provided in this Section 7.3 may be construed, in each case, to create a duty for Lender to act or exercise any specific right or remedy or make Lender liable for any failure to exercise such right or remedy. Without limiting the generality of the immediately preceding sentence, nothing in this Section 7.3 may be construed to make Lender responsible for the Property; its operation, maintenance, or condition; or any circumstances occurring on the Land, in each case, prior to Lender taking title to the Land. No failure to exercise any right or remedy provided by this Section 7.3 may be construed as a waiver of such right or remedy by Lender or as any limitation on Lender's ability to exercise such right or remedy. The provisions of this Article 7 are intended to benefit Lender and Lender's interests preserving and enforcing its security interest in the Property and obtaining full and timely repayment of the Secured Obligations, and thus, the parties hereto intend that such provisions are interpreted consistent with the best interests of Lender, in Lender's determination thereof, to the fullest extent permitted by applicable law.

7.4. Application of Foreclosure Sale Proceeds. If any foreclosure sale is effected, Trustee shall apply the proceeds of such sale in the following order of priority: First, to the costs, fees and expenses of exercising the power of sale and of the sale, including, without limitation, the payment of the Trustee's fees and attorneys' fees; Second to the payment of the Secured Obligations that are secured by this Deed of Trust, in such order as Lender shall determine in its sole discretion; Third, to satisfy the outstanding balance of obligations secured by any junior liens or encumbrances in the order of their priority; and Fourth, to the Grantor or the Grantor's successor in interest, or in the event the Property has been sold or transferred to another, to the vested owner of record at the time of the Trustee's sale.

7.5. Waiver of Marshaling Rights. Grantor, for itself and for all parties claiming through or under Grantor, and for all parties who may acquire a lien on or interest in the Property, hereby waives all rights to have the Property and/or any other property, including, without limitation, the Collateral, which is now or later may be security for any Secured Obligation, marshaled upon any foreclosure of this Deed of Trust or on a foreclosure of any other security for any of the Secured Obligations.

7.6. No Cure or Waiver. Neither Lender's nor Trustee's nor any receiver's entry upon and taking possession of all or any part of the Property, nor any collection of rents, issues, profits, insurance proceeds, condemnation proceeds or damages, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Secured Obligation, nor the exercise of any other right or remedy by Lender or Trustee or any receives cures or waives any Event of Default or notice of default under this Deed of Trust, or nullifies the effect of any notice of default or sale (unless all Secured Obligations then due have been paid or performed and Grantor has cured all other Events of Default hereunder, in each case, as determined by Lender), or impairs the status of the security, or prejudices Lender or Trustee in the exercise of any right or remedy, or may be construed as an affirmation by Lender of any tenancy, lease or option or a subordination of the lien of this Deed of Trust.

7.7. Power to File Notices and Cure Events of Default. Grantor hereby irrevocably appoints Lender and its successors and assigns, as its attorney-in-fact, which power of attorney is coupled with an interest, to perform any obligation of Grantor hereunder upon the occurrence of an event, act or omission that, with notice or passage of time or both, would constitute an Event of Default; provided, however, (a) Lender as such attorney-in-fact shall only be accountable for such funds as are actually received by Lender; and (b) Lender shall not be liable to Grantor or any other person or entity for any failure to act under this Section 7.8.

7.8. **Remedies Cumulative.** All rights and remedies of Lender and Trustee provided hereunder are cumulative and are in addition to all rights and remedies provided by applicable law (including specifically, and without limitation, that of foreclosure of this Deed of Trust as though it were a mortgage) or in any other agreements between Grantor and Lender. Lender may enforce any one or more remedies or rights hereunder successively or concurrently.

## ARTICLE 8

### INTENTIONALLY OMITTED

## ARTICLE 9

### GENERAL PROVISIONS

9.1. **Integration and Additional Provisions.** The Loan Documents contain the complete and entire agreement of the parties with respect to matters contemplated by the Loan Documents, and the Loan Documents supersede all prior and contemporaneous agreements, negotiations, communications, understandings, and discussions, in each case, whether written or oral. The Loan Documents grant further rights to Lender and contain further agreements and affirmative and negative covenants by Grantor that apply to this Deed of Trust and to the Property and such further rights and agreements are incorporated herein by this reference. Without limiting the generality of the preceding provisions of this Section 9.1. IF THE GRANTOR IS ALSO THE BORROWER, THE PROVISIONS OF THIS SECTION 9.1 SHALL SURVIVE THE TERMINATION AND RELEASE OF THIS DEED OF TRUST, BUT SUCH PROVISIONS SHALL REMAIN SUBJECT TO ANY LIMITATIONS SET FORTH IN THE NOTE.

9.2. **Non-Waiver.** By accepting payment of any amount secured hereby after its due date or late performance of any other Secured Obligation, Lender shall not waive its right against any person obligated directly or indirectly hereunder or on any Secured Obligation, either to require prompt payment or performance when due of all other sums and obligations so secured or to declare default for failure to make such prompt payment or performance. No exercise of any right or remedy by Lender or Trustee hereunder constitutes a waiver of any other right or remedy herein contained or provided by applicable law. No failure by Lender or Trustee to exercise any right or remedy hereunder arising upon any Event of Default may be construed to prejudice Lender's or Trustee's rights or remedies upon, in each case, the continued existence of such Event of Default or occurrence of any other or subsequent Event of Default. No delay by Lender or Trustee in exercising any such right or remedy may be construed to preclude Lender or Trustee from the exercise thereof at any time while that Event of Default is continuing. No notice to or demand on Grantor shall by itself or the fact that was provided, in each case, entitle Grantor to any other or further notice or demand in similar or other circumstances.

9.3. **Consents and Approvals.** Wherever Lender's consent, approval, acceptance or satisfaction is required under any provision of this Deed of Trust or any of the other Loan Documents, unless either applicable law or a specific provision of one of the Loan Documents requires a different standard of Lender, such consent, approval, acceptance or satisfaction shall be in Lender's sole and absolute discretion.

9.4. **Permitted Contests.** After prior written notice to Lender, Grantor may contest, by appropriate legal or other proceedings conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of any lien, levy, tax or assessment, or any lien of any laborer, mechanic, materialman, supplier or vendor, or the application to Grantor or the Property of any law or the validity thereof, the assertion or imposition of which, or the failure to pay when due, would constitute

an Event of Default, subject to the requirements that: (a) Grantor pursues the contest diligently, in a manner that Lender determines is not prejudicial to Lender, and that does not impair the lien of this Deed of Trust; (b) the Property, or any part hereof or estate or interest therein, shall not be in any danger of being sold, forfeited, damaged, or lost by reason of such proceedings; (c) in the case of the contest of any law or other legal requirement, Lender shall not be in any danger of any civil or criminal liability; and (d) if required by Lender, Grantor deposits with Lender any funds or other forms of assurance (including a bond or letter of credit) satisfactory to Lender to protect Lender from the consequences of the contest being unsuccessful. Grantor's right to contest pursuant to the terms of this provision shall not relieve Grantor of its obligations under the Loan or to make payments to Lender as and when due.

9.5. Further Assurances. Grantor shall, upon demand by Lender or Trustee, execute, acknowledge (if appropriate) and deliver any and all documents and instruments and do or cause to be done all further acts reasonably necessary or appropriate to effectuate the provisions hereof.

9.6. Attorneys' Fees. In the event it is necessary for Lender to retain the services of an attorney or any other party to enforce or to commence any legal action to enforce the terms of this Deed of Trust, or any of the other Loan Documents, or any portion hereof or thereof, Grantor agrees to pay to Lender, in addition to damages or other relief, any and all costs and expenses, including, without limitation, expert witness fees and reasonable attorney's fees incurred by Lender as a result thereof.

9.7. Grantor and Lender Defined. The term "**Grantor**" includes both the original Grantor including all persons executing this Deed of Trust as a trustor and any subsequent owner or owners of any of the Property; however, while any subsequent owner may have duties under this Deed of Trust by having taken title subject to this Deed of Trust, this Security Agreement does not affirmatively grant any rights against Lender to a subsequent owner who did not take title to the Property through a Transfer that fully complies with the terms of this Deed of Trust. The term "**Lender**" includes the original Lender and any future owner or holder, including assignees, pledgees and participants, of the Note or any interest therein. Nothing in this Section 9.7 may be construed to authorize Grantor to make or participate in a Transfer prohibited by the terms of this Deed of Trust, including, without limitation, the provisions of Section 6.14 hereof.

9.8. Disclaimers.

(a) Relationship. The relationship of Grantor and Lender under this Deed of Trust and the other Loan Documents is, and shall at all times remain, solely that of Grantor and Lender; and Lender neither undertakes nor assumes any responsibility or duty to Grantor or to any third party with respect to the Property. Notwithstanding any other provisions of this Deed of Trust and the other Loan Documents: (i) Lender is not, and shall not be construed to be, a partner, joint venturer, member, alter ego, manager, controlling person or other business associate or participant of any kind of Grantor, and Lender does not intend to ever assume such status; (ii) Intentionally Omitted; and (iii) Lender shall not be deemed responsible for or a participant in any acts, omissions or decisions of Grantor; and

(b) No Liability. Lender shall not be directly or indirectly liable or responsible for any loss, claim, cause of action, liability, indebtedness, damage or injury of any kind or character to any person or property arising from any construction on, or occupancy or use of, the Property, whether caused by or arising from: (i) any defect in any building, structure, grading, fill, landscaping or other improvements thereon or in any on-site or off-site improvement or other facility therein or thereon; (ii) any act or omission of Grantor or any of Grantor's agents, employees, independent contractors, licensees or invitees; (iii) any accident in or on the Property or any fire, flood or other casualty or hazard

thereon; (iv) the failure of Grantor or any of Grantor's licensees, employees, invitees, agents, independent contractors or other representatives to maintain the Property in a safe condition; or (v) any nuisance made or suffered on any part of the Property.

9.9. **Severability.** Each representation, warranty, promise, covenant, or similar statement by the Grantor contained herein (in each case a "Statement") shall constitute a separate Statement upon which the Lender may rely. Wherever possible, each Statement shall be interpreted in such manner as to be effective and valid under applicable law, but if any Statement of this Deed of Trust shall be prohibited by or invalid under applicable law, such Statement shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such Statement or the remaining Statements of this Deed of Trust. If and only if a Statement cannot be interpreted in a manner to be valid under applicable law, such Statement deemed to be prohibited or invalid may be reformed to have the meaning as close as possible to the meaning provided in this Deed of Trust, as long as such reformed meaning is consistent with the intent and purpose of this Deed of Trust to benefit Lender's interests regarding (i) full and timely payment and performance of the Secured Obligations and (ii) Lender's protection of its interests in the Property and the Collateral. Without limiting the preceding provisions of this Section 9.9, if any provision (for the avoidance of doubt, including not only Statements, but other terms of this Deed of Trust that would not be defined as "Statements") of this Deed of Trust is deemed, in a final non-appealable decision, by a competent court with jurisdiction over the parties and the subject matter to be prohibited or unenforceable under applicable law, the particular provision of this Deed of Trust shall be deemed modified so as to constitute a provision conforming as nearly as possible to the void or unenforceable provision while still remaining valid and enforceable under applicable law, and the remaining terms or provisions of this Deed of Trust shall not be affected thereby; however, if and only if, a provision is prohibited by or unenforceable under applicable law and cannot be reformed as contemplated by the preceding clauses of this Section 9.9, such void or unenforceable provision shall be ineffective to the extent it is void or unenforceable and be severed from the rest of this Deed of Trust without, in each case, invalidating this Deed of Trust; adversely affecting the other terms of this Deed of Trust; or limiting the enforceability of this Deed of Trust.

9.10. **Relationship of Articles.** The rights, remedies and interests of Lender under this Deed of Trust established by Article 1 and the security agreement established by Article 4 are independent and cumulative, and there shall not be a merger of any lien created by this Deed of Trust with any security interest created by any other pledge or security agreement, if any exists among the Loan Documents. Lender may elect to exercise or enforce any of its rights, remedies or interests under either or both this Deed of Trust and any other security agreement, if any, as Lender may from time to time deem appropriate. The Assignment of Rents and Leases established by Article 3 is similarly independent of and separate from this Deed of Trust and the Security Agreement and may be enforced separately without adversely affecting the priority or enforceability, in each case, of this Deed of Trust and the lien on the Property it creates.

9.11. **Merger.** No merger shall occur as a result of Lender's acquiring any other estate in, or any other lien on, the Property unless Lender consents to a merger in writing (signed by an officer of Lender holding the title of Executive Vice President or higher).

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

9.13. **Separate and Community Property.** Any married person who executes this Deed of Trust as a Grantor agrees that any money judgment that Lender or Trustee obtains pursuant to the

terms of this Deed of Trust or any other obligation of that married person secured by this Deed of Trust may be collected by execution upon any separate property or community property of that person.

9.14. Interpretation and Amendment. The Loan Documents shall not be modified except by written instrument executed by all parties, and in the case of Lender, to be binding upon Lender, such written instrument must be signed by an officer of Lender holding the title of Executive Vice President or higher. With respect to this Deed of Trust, in addition to complying with the immediately foregoing sentence, to be valid, such amendment must also be recorded in the official records of the county in which the Land is situated, with Lender having expressly authorized such recording in writing. Any reference in any of the Loan Documents to the Property or Collateral shall include all or any part of the Property or Collateral. Any reference to the Loan Documents includes any amendments, renewals or extensions now or hereafter approved by Lender in writing pursuant to the terms hereof. When the identity of the parties or other circumstances make it appropriate, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. Article, section, and subsection headings used herein are for convenience of reference only, are not part of this Agreement, and are not to affect the construction of or to be taken into consideration in interpreting this Agreement. This Agreement shall be construed without regard to which party drafted this Agreement (it being understood that the parties reject any rule of construction favoring a presumption against the drafter).

9.15. Capitalized Terms. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Loan Documents.

9.16. Successors in Interest. The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto. The foregoing sentence shall not be construed to permit Grantor to Transfer the Loan, the Property, or any interest it has in either the Loan or the Property, in each case, except as otherwise permitted under this Deed of Trust or the other Loan Documents, including, without limitation, the terms of Section 6.14 hereof.

9.17. Governing Law. This Deed of Trust and the other Loan Documents and the obligations arising hereunder and thereunder shall be governed by, and construed in accordance with, the laws of the State of Washington applicable to contracts made and performed in Washington and any applicable federal law, including, to the extent, with respect to Lender's rights and obligations, that federal law preempts the laws of the State of Washington. Except as provided in the immediately preceding sentence, Grantor hereby unconditionally and irrevocably waives, to the fullest extent permitted by law, any claim to assert that the law of any jurisdiction other than Washington governs this Deed of Trust and other Loan Documents.

9.18. Consent to Jurisdiction. Grantor irrevocably submits to the Jurisdiction of: (a) any state or federal court sitting in the State of Washington over any suit, action, or proceeding, brought by Grantor against Lender, arising out of or relating to this Deed of Trust or the Loan; (b) any state or federal court sitting in the state where the Property is located or the state in which Grantor's principal place of business is located over any suit, action or proceeding, brought by Lender against Grantor, arising out of or relating to this Deed of Trust or the Loan; and (c) any state court sitting in the county of the state where the Property is located over any suit, action, or proceeding, brought by Lender to exercise its STATUTORY POWER OF SALE under this Deed of Trust or any action brought by Lender to enforce its rights with respect to the Collateral. Grantor irrevocably waives, to the fullest extent permitted by law, any objection that Grantor may now or hereafter have to the laying of venue of any such suit, action, or proceeding brought in any such court and any claim that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

9.19. **Exhibits.** Any and all Exhibits are incorporated into this Deed of Trust by this reference.

9.20. **Addresses; Request for Notice.** All notices and other communications that are required or permitted to be given to a party under this Deed of Trust shall be in writing, refer to the Loan number, and shall be sent to such party, either by personal delivery, by overnight delivery service, or by certified first-class mail, return receipt requested to the addressee below. All such notices and communications shall be effective upon receipt of such delivery, or if refused or deemed undeliverable, in each case, on the date the first delivery was attempted. The addresses of the parties are set forth on page 1 of this Deed of Trust. Grantor's principal place of business is at the address set forth on page 1 of this Deed of Trust.

Any Grantor whose address is set forth on page 1 of this Deed of Trust hereby requests that a copy of notice of default and notice of sale be delivered to it at that address. Failure to insert an address shall constitute a designation of Grantor's last known address as the address for such notice. Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by giving thirty (30) days' notice to the other parties in the manner set forth above.

9.21. **Counterparts.** This Deed of Trust may be executed in any number of counterparts, each of which, when executed and delivered, will be deemed an original and all of which taken together, will be deemed to be one and the same instrument.

9.22. **Time is of the Essence.** Time is of the essence with respect to all of Grantor's obligations and agreements hereunder regarding, in each case, (i) the payment of money; (ii) where any deadline or period for performance is provided; and (iii) where notice, reports, financial statements, information concerning the Property and its operation, or other information is required to be delivered to Lender.

9.23. **Customer Identification - USA Patriot Act Notice.** Lender hereby notifies Grantor that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56, signed into law October 26, 2001), as amended (the "Act"), and Lender's policies and practices, Lender is required to obtain, verify and record certain information and documentation that identifies Grantor, which information includes the name and address of Grantor and such other information that will allow Lender to identify Grantor in accordance with the Act.

9.24. **Waiver of Jury Trial and Dispute Resolution.**

(a) TO THE FULLEST EXTENT PERMITTED BY LAW, TRUSTOR HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OR CLASS ACTION OF ANY ISSUE TRIABLE BY JURY OR CLASS ACTION AND WAIVES ANY RIGHT TO TRIAL BY JURY WITH REGARD TO THIS DEED OF TRUST OR ANY OTHER LOAN DOCUMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY TRUSTOR, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. BENEFICIARY IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY TRUSTOR.

(b) With respect to any Dispute (as defined below) which arises under the terms of this Deed of Trust, the following paragraphs ("Dispute Resolution Provision") concern the

resolution of any and all controversies or claims between Trustor (including any persons claiming by or through Trustor) and Lender, whether arising in contract or tort or by statute, that arise out of or relate to (i) this Deed of Trust (including any renewals, extensions or modifications) or (ii) any of the other Loan Documents (collectively, a "Dispute"); provided, however, in no event may any Collection Action (as defined herein) by Lender be within the meaning of a Dispute.

(i) As used herein, (i) the "Act" means the Federal Arbitration Act (Title 9, U.S. Code), and (ii) "JAMS" means JAMS (a/k/a JAMS Mediation, Arbitration, ADR Services) or any successor thereto.

(ii) This Subsection (iii) of this Section 9.24(b) is itemized by paragraphs with numerals, as follows:

(1) If and only if both Trustor and Lender so consent, any Dispute shall be resolved by binding arbitration in accordance with the Act. The Act shall apply even though this Deed of Trust provides that it is governed by the law of a specified state; however, the decision of the arbitrators shall be consistent with applicable law, to the extent not preempted by the Act (whether by law or by this Deed of Trust's election of the Act). Arbitration proceedings will be determined in accordance with the Act, the rules and procedures for the arbitration of financial services disputes of JAMS, and the terms of this Dispute Resolution Provision. In the event of any inconsistency, the terms of this Dispute Resolution Provision shall control.

(2) The arbitration shall be administered by JAMS and conducted in any U.S. state where real or tangible personal property collateral for the Loan is located or, if there is no such collateral and to the extent permitted by applicable law, in California. All Disputes shall be determined by one arbitrator; however, if any Dispute exceeds FIVE MILLION AND 00/100 DOLLARS (\$5,000,000.00), or if more than one Dispute is made at the same time and cumulatively the Disputes exceed FIVE MILLION AND 00/100 DOLLARS (\$5,000,000.00), upon the request of any party, the Disputes shall be decided by three (3) arbitrators. All arbitration hearings shall commence within ninety (90) days of the demand for arbitration and close within ninety (90) days of commencement, and the award of the arbitrator(s) shall be issued within thirty (30) days of the close of the hearing. However, the arbitrator(s), upon a showing of good cause, may extend the commencement of the hearing for up to an additional sixty (60) days. The arbitrator(s) shall provide a concise written statement of reasons for the award. The arbitration award may be submitted to any court having jurisdiction to be confirmed and enforced.

(3) The arbitrator(s) will have the authority to decide whether any Dispute is barred by the statute of limitations and, if so, to dismiss the arbitration on that basis. For purposes of the application of the statute of limitations, the service on JAMS under applicable JAMS rules of a notice of Dispute is the equivalent of the filing of a lawsuit. Any dispute concerning this arbitration provision or whether a Dispute is arbitrable shall be determined by the arbitrator(s). The arbitrator(s) shall have the power to award legal fees pursuant to the terms of this Deed of Trust.

(4) THE ARBITRATOR MAY AWARD RELIEF (INCLUDING DAMAGES, RESTITUTION, AND DECLARATORY OR INJUNCTIVE RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF WARRANTED BY THAT PARTY'S INDIVIDUAL CLAIM. TRUSTOR AND LENDER AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN TRUSTOR'S OR LENDER'S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, REPRESENTATIVE, OR PRIVATE ATTORNEY GENERAL PROCEEDING. FURTHER, UNLESS BOTH TRUSTOR AND LENDER AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE THE CLAIMS OF MORE THAN ONE PERSON (EXCEPT FOR THE CLAIMS OF CO- OR JOINT ACCOUNT OWNERS PERTAINING TO THAT ACCOUNT), AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE, CLASS, OR PRIVATE ATTORNEY GENERAL PROCEEDING. IF, AFTER EXHAUSTION OF ALL APPEALS, ANY OF THESE PROHIBITIONS ON NON-INDIVIDUALIZED RELIEF AND PROCEEDINGS OR ON CONSOLIDATION ARE FOUND TO BE UNENFORCEABLE, THEN ALL OTHER ASPECTS OF THE CASE MUST BE ARBITRATED FIRST. AFTER COMPLETING ARBITRATION, THE REMAINING (NON-ARBITRABLE) ASPECTS OF THE CASE WILL THEN BE DECIDED BY A COURT.

(c) This Dispute Resolution Provision shall not limit the right of Lender, in each case, to (v) exercise self-help remedies, when permitted by applicable law, including, without limitation, setoff or acting as an attorney-in-fact to receive Accounts; (w) initiate judicial or non-judicial foreclosure against any real or personal property (e.g., without limitation, the Property and the Collateral, in each case); (x) exercise any judicial or power of sale rights, (y) act in a court of law to obtain an interim remedy, including, without limitation and in each case, injunctive relief, writ of possession or appointment of a receiver, or additional or supplementary remedies, or (z) bring any action for payment. Each of the actions described in the foregoing subclauses (v) through (z) of this Section 9.24(d) shall constitute a "Collection Action."

(d) The filing of a court action is not intended to constitute a waiver of the right of Lender, including, without limitation, on behalf of the suing party, to require thereafter submission of the Dispute to a referee.

#### ARTICLE 10

INTENTIONALLY DELETED.

#### ARTICLE 11

##### STATE-SPECIFIC PROVISIONS

11.1. Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Article 11 and the other terms and conditions of this Deed of Trust, the terms and conditions of this Article 11 will control and be binding.

11.2. Nonagricultural Use; Commercial Loan. Borrower represents, warrants, and covenants to Lender that (a) the Property is not, and will not be, used principally for agricultural

purposes, and (b) the Loan is made exclusively for commercial, investment, or business purposes and no portion thereof will be used for any consumer, personal, family or household purpose.

11.3. Expenses During Redemption Period. If this Deed of Trust is foreclosed as a mortgage and the Property sold at a foreclosure sale, the purchaser may during any redemption period allowed, make such repairs or alterations on the Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the lesser of the default rate set forth in the Note or the maximum rate permitted by law, will be added to and become a part of the amount required to be paid for redemption from such sale.

11.4. Foreclosure Subject To Tenancies. Lender will have the right at its option to foreclose, or cause the nonjudicial foreclosure of, this Deed of Trust subject to the rights of any tenant or tenants of the Property.

11.5. Lender's And Trustee's Expenses. Borrower will pay all of Lender's and Trustee's expenses incurred in any efforts to enforce any terms of this Deed of Trust, whether or not any suit is filed, including, without limitation, legal fees and disbursements, foreclosure costs, title charges, and expenses incurred in any bankruptcy, reorganization, liquidation, receivership or similar proceeding. All such sums, with interest thereon, will be additional indebtedness of Borrower secured by this Deed of Trust. Such sums will be immediately due and payable and will bear interest from the date of disbursement at the lesser of the default rate set forth in the Note or the maximum rate permitted by law.

11.6. Successor Trustee. In accordance with applicable law, Lender may from time to time appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee will succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

11.7. Lender's Powers. Without affecting the liability of any person for payment or performance of the Secured Obligations or any of Lender's rights or remedies, Lender, at its option, may extend the time for payment of the Secured Obligations or any part thereof, reduce payment thereon, release anyone liable thereon, accept a renewal note or notes therefor, modify the terms and time of payment thereof, release the lien of this Deed of Trust on any part of the Property, take or release other or additional security, release or reconvey or cause to be released or reconveyed all or any part of the Property, or consent and/or cause Trustee to consent to the making of any map or plat of the Property, consent or cause Trustee to consent to the granting of any easement or creating any restriction on the Property, or join or cause Trustee to join in any subordination or other agreement affecting this Deed of Trust or the lien or charge hereof. Borrower will pay Lender a reasonable service charge, together with such title insurance premiums and attorneys' fees as may be incurred at Lender's option, for any such action if taken at Borrower's request.

11.8. Subdivision. Borrower hereby consents to a subdivision of the Property, if Lender, in its sole discretion, determines that a subdivision of the Property is necessary or desirable to preserve the lien of this Deed of Trust, or to permit Lender to foreclose on only a portion of the Property.

11.9. Agents. In exercising any rights hereunder or taking actions provided for herein, Lender and Trustee may act through their respective employees, agents or independent contractors as authorized by Lender and Trustee.

**11.10. Protection Of Lender's Security.** Borrower will give notice to Lender of and will appear in and defend any action or proceeding that may affect the Property, the interests of Lender or Trustee therein, or the rights or remedies of Lender or Trustee under the Loan Documents. If any such action or proceeding is commenced and there is an uncured Event of Default, or Borrower fails to perform any of the Secured Obligations, Lender or Trustee may, at their option, make any appearances, disburse any sums, pay or settle any claims that have resulted in or may result in a lien of any portion of the property, make any entries upon the Property and take any actions as may be necessary or desirable to (i) protect or enforce the security of this Deed of Trust, (ii) remedy Borrower's failure to perform the Secured Obligations (without waiving such default by Borrower), or (iii) otherwise protect Lender's or Trustee's interests. Borrower will pay all losses, damages, fees, costs and expenses incurred by Lender and Trustee in taking such actions; including, without limitation, reasonable legal fees.

**11.11. Reimbursement Of Lender's And Trustee's Expenses.** All amounts disbursed by Lender and Trustee pursuant to Sections 11.5 and 11.10 or any other provision of this Deed of Trust or the other Loan Documents, with interest thereon at the default rate set forth in the Note from the date of disbursement until repaid, will constitute Secured Obligations secured by this Deed of Trust. All such amounts will be immediately due and payable and bear interest from the date of disbursement at the lesser of the default rate set forth in the Note or the maximum rate permitted by law.

**11.12. Compliance With Laws.** Borrower agrees that it will not use, and will not allow any tenants or subtenants to use, the Property for any activity that violates any federal or state law. Borrower covenants and agrees that all future leases and modifications of existing leases will include a provision that prohibits the use of the Property for any activity that violates any federal or state law.

**11.13. Foreclosure.** Lender may immediately commence an action to foreclose this Deed of Trust or to specifically enforce its provisions or any of the indebtedness secured hereby pursuant to the statutes in such case made and provided and sell the Property or cause the Property to be sold in accordance with the requirements and procedures provided by said statutes in a single parcel or in several parcels at the option of Lender. In the event foreclosure proceedings are filed by Lender, all out of pocket expenses incident to such proceeding, including, but not limited to, reasonable attorneys' fees and costs, shall be paid by Borrower and secured by this Deed of Trust and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note. The secured indebtedness and all other obligations secured by this Deed of Trust, including, without limitation, interest at the Default Interest Rate (as defined in the Note) any prepayment charge, fee or premium required to be paid under the Note in order to prepay principal (to the extent permitted by applicable law), reasonable attorneys' fees and any other amounts due and unpaid to Lender under the Loan Documents, may be bid by Lender in the event of a foreclosure sale hereunder. In the event of a judicial or nonjudicial foreclosure sale, it is understood and agreed that Lender or its assigns may become the purchaser of the Property or any part thereof. This Deed of Trust shall continue and remain in full force and effect during any period of foreclosure or any redemption period with respect to the Property. Following a sale pursuant to the exercise of the Trustee's power of sale, as provided herein, Borrower and any indemnitor or guarantor of the loan secured hereby shall remain personally liable to the full extent provided by applicable law.

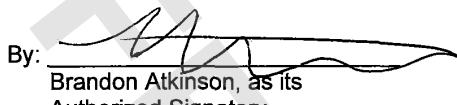
**11.14. Statutory Notice. ORAL AGREEMENTS OR ORAL COMMITMENTS TO LEND MONEY, EXTEND CREDIT, OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

[Signature page follows]

IN WITNESS WHEREOF, Grantor has executed this Deed of Trust as of the day and year set forth above.

GRANTOR:

SKAGIT FLATS LIVING LLC, a  
Washington limited liability company

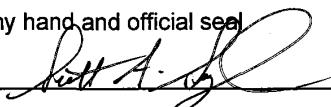
By:   
Brandon Atkinson, as its  
Authorized Signatory

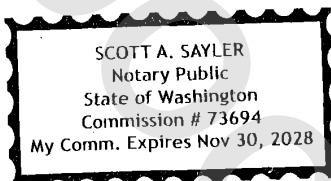
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Washington  
County of Skagit

On 23RD December, 2025 before me,  
Scott A. Sayler Notary Public, personally appeared Brandon Atkinson 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 Washington that the foregoing paragraph is true and correct.

WITNESS my hand and official seal  
Signature 



## LEGAL DESCRIPTION

Order No.: 500164064

For APN/Parcel ID(s): P62618/3867-000-049-0207, P62636/3867-000-049-2005 and  
P62643/3867-000-049-2807

### PARCEL A:

THAT PORTION OF THE EAST HALF OF TRACT 49, "PLAT OF THE BURLINGTON ACREAGE PROPERTY" AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 49, EXCEPT THE SOUTH 162.00 FEET OF THE WEST 100.00 FEET AND EXCEPT TRACT 2 OF SKAGIT COUNTY SHORT PLAT NO. 40-77, APPROVED JULY 20, 1977, RECORDED JULY 21, 1977, IN BOOK 2 OF SHORT PLATS, PAGE 88, UNDER AUDITOR'S FILE NO. 861106 IN RECORDS OF SKAGIT COUNTY, WASHINGTON, ALL LYING WEST OF STATE HIGHWAY RIGHT OF WAY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID EAST HALF;  
THENCE SOUTH 87°59'01" EAST ALONG THE NORTH RIGHT OF WAY OF PETERSON ROAD 135.46 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING SOUTH 87°59'01" EAST ALONG THE NORTH RIGHT OF WAY OF PETERSON ROAD TO THE WESTERLY RIGHT OF WAY OF STATE HIGHWAY 103. 73 FEET;  
THENCE NORTH 5°25' 43" EAST ALONG SAID WEST RIGHT OF WAY 110.50 FEET;  
THENCE NORTH 84°34'17" WEST 110.00 FEET;  
THENCE SOUTH 02°15'33" WEST 116.85 FEET TO THE POINT OF BEGINNING.

(ALSO KNOWN AS "LOT A AFTER" OF BOUNDARY LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NO. 202508120056, RECORDS OF SKAGIT COUNTY, WASHINGTON.)

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

### PARCEL B:

THAT PORTION OF THE EAST HALF OF TRACT 49, "PLAT OF THE BURLINGTON ACREAGE PROPERTY" AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 49, EXCEPT THE SOUTH 162.00 FEET OF THE WEST 100.00 FEET AND EXCEPT TRACT 2 OF SKAGIT COUNTY SHORT PLAT NO. 40-77, APPROVED JULY 20, 1977, RECORDED JULY 21, 1977, IN BOOK 2 OF SHORT PLATS, PAGE 88, UNDER AUDITOR'S FILE NO. 861106 IN RECORDS OF SKAGIT COUNTY, WASHINGTON, ALL LYING WEST OF STATE HIGHWAY RIGHT OF WAY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID EAST HALF;  
THENCE SOUTH 87°59'01" EAST ALONG THE NORTH RIGHT OF WAY OF PETERSON ROAD TO THE WESTERLY RIGHT OF WAY OF STATE HIGHWAY 239.18 FEET;  
THENCE NORTH 5°25'43" EAST ALONG SAID WEST RIGHT OF WAY 110.50 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING ALONG WESTERLY RIGHT OF WAY NORTH 5°25'43" EAST 379.37 FEET;  
THENCE CONTINUING ALONG WESTERLY RIGHT OF WAY NORTH 01°41'39" WEST TO THE NORTH LINE OF SAID TRACT 49 A DISTANCE OF 127.80 FEET;  
THENCE ALONG SAID NORTH LINE OF TRACT 49 NORTH 88°09'43 WEST 138.71 FEET;  
THENCE SOUTH 06°48'16" EAST 144.59 FEET;

**LEGAL DESCRIPTION**  
(continued)

AN UNDIVIDED 2/3 INTEREST IN THE FOLLOWING DESCRIBED TRACT:

THAT PORTION OF THE EAST HALF OF TRACT 49, "PLAT OF THE BURLINGTON ACREAGE PROPERTY" AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 49, EXCEPT THE SOUTH 162.00 FEET OF THE WEST 100.00 FEET AND EXCEPT TRACT 2 OF SKAGIT COUNTY SHORT PLAT NO. 40-77, APPROVED JULY 20, 1977, RECORDED JULY 21, 1977, IN BOOK 2 OF SHORT PLATS, PAGE 88, UNDER AUDITOR'S FILE NO. 861106 IN RECORDS OF SKAGIT COUNTY, WASHINGTON, ALL LYING WEST OF STATE HIGHWAY RIGHT OF WAY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID EAST HALF OF TRACT 49;  
THENCE SOUTH 87°59'01" EAST 110.46 FEET ALONG THE NORTH RIGHT OF WAY OF  
PETERSON ROAD TO THE TRUE POINT OF BEGINNING;  
THENCE NORTH 02°15'33" EAST 168.99 FEET;  
THENCE NORTH 05°34'30" EAST 163.65 FEET;  
THENCE SOUTH 87°59'01" EAST 12.12 FEET;  
THENCE SOUTH 87°59'01" EAST 12.93 FEET;  
THENCE SOUTH 05°34'30" WEST 164.48 FEET;  
THENCE SOUTH 02°15'33" WEST 168.16 FEET TO THE NORTH LINE OF SAID PETERSON ROAD  
RIGHT OF WAY;  
THENCE CONTINUING NORTH 87°59'01" WEST ALONG THE NORTH RIGHT OF WAY OF  
PETERSON ROAD 25.00 FEET TO THE TRUE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

**PARCEL E:**

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS, INSTALLATION AND MAINTENANCE OF UTILITIES AND EMERGENCY VEHICLE, AS DESCRIBED IN AND CREATED BY DECLARATION OF PRIVATE ROAD EASEMENTS, UTILITY EASEMENTS, AND MAINTENANCE AGREEMENT, UPON AND SUBJECT TO THE PROVISIONS THEREIN CONTAINED, DATED AUGUST 7, 2025, RECORDED ON AUGUST 13, 2025, UNDER AUDITOR'S FILE NO. 202508130012, RECORDS OF SKAGIT COUNTY, WASHINGTON, EXCEPT ANY PORTION THEREOF LYING WITHIN PARCELS A-C, INCLUSIVE.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

**PARCEL F:**

A NON-EXCLUSIVE EASEMENT FOR ACCESS AND VEHICULAR PARKING, AS DESCRIBED IN AND CREATED BY NON-EXCLUSIVE ACCESS AND PARKING EASEMENT AGREEMENT, UPON AND SUBJECT TO THE PROVISIONS THEREIN CONTAINED, DATED AUGUST 11, 2025, RECORDED ON AUGUST 13, 2025, UNDER AUDITOR'S FILE NO. 202508130013, RECORDS OF SKAGIT COUNTY, WASHINGTON, EXCEPT ANY PORTION THEREOF LYING WITHIN PARCELS A-C, INCLUSIVE.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

**LEGAL DESCRIPTION**  
(continued)

THENCE SOUTH 46°20'20" WEST 46.78 FEET;  
THENCE SOUTH 84°34'17" EAST 28.96 FEET;  
THENCE SOUTH 05°25'43" WEST 105.90 FEET;  
THENCE SOUTH 87°59'01" EAST 12.93 FEET;  
THENCE SOUTH 05°34'30" WEST 164.48 FEET;  
THENCE SOUTH 02°15'33" WEST 51.31 FEET;  
THENCE SOUTH 84°34'17" EAST TO THE WESTERLY RIGHT OF WAY OF SAID STATE HIGHWAY  
110.00 FEET, TO THE TRUE POINT OF BEGINNING.

(ALSO KNOWN AS "LOT B AFTER" OF BOUNDARY LINE ADJUSTMENT RECORDED UNDER  
AUDITOR'S FILE NO. 202508120056, RECORDS OF SKAGIT COUNTY, WASHINGTON.)

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

**PARCEL C:**

THAT PORTION OF THE EAST HALF OF TRACT 49, "PLAT OF THE BURLINGTON ACREAGE PROPERTY" AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 49, EXCEPT THE SOUTH 162.00 FEET OF THE WEST 100.00 FEET AND EXCEPT TRACT 2 OF SKAGIT COUNTY SHORT PLAT NO. 40-77, APPROVED JULY 20, 1977, RECORDED JULY 21, 1977, IN BOOK 2 OF SHORT PLATS, PAGE 88, UNDER AUDITOR'S FILE NO. 861106 IN RECORDS OF SKAGIT COUNTY, WASHINGTON, ALL LYING WEST OF STATE HIGHWAY RIGHT OF WAY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID EAST HALF OF TRACT 49;  
THENCE SOUTH 87°59'01" EAST 110.46 FEET ALONG THE NORTH RIGHT OF WAY OF  
PETERSON ROAD TO THE TRUE POINT OF BEGINNING;  
THENCE NORTH 02°15'33" EAST 168.99 FEET;  
THENCE NORTH 05°34'30" EAST 163.65 FEET;  
THENCE SOUTH 87°59'01" EAST 12.12 FEET;  
THENCE NORTH 05°25'43" EAST 105.90 FEET;  
THENCE NORTH 84°34'17" WEST 28.96 FEET;  
THENCE SOUTH 46°20'20" WEST 150.62 FEET;  
THENCE NORTH 87°59'01" WEST 4.87 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 2  
OF SHORT PLAT NO. 40-77;  
THENCE SOUTH 02°08'35" WEST 170.00 FEET;  
THENCE SOUTH 87°59'01" EAST 100.00 FEET;  
THENCE SOUTH 02°08'35" WEST TO THE NORTH LINE OF PETERSON ROAD RIGHT OF WAY  
162.00 FEET;  
THENCE SOUTH 87°59'01" EAST ALONG THE NORTH RIGHT OF WAY OF PETERSON ROAD  
10.46 FEET TO THE TRUE POINT OF BEGINNING.

(ALSO KNOWN AS "LOT C AFTER" OF BOUNDARY LINE ADJUSTMENT RECORDED UNDER  
AUDITOR'S FILE NO. 202508120056, RECORDS OF SKAGIT COUNTY, WASHINGTON.)

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

**PARCEL D:**