



AFTER RECORDING, RETURN TO:

Gallagher Evelius & Jones LLP  
218 North Charles Street, Suite 400  
Baltimore, MD 21201  
Attention: Matthew L. Pirnot, Esq.

Tax Account No.: R-3811-V3100-00400-000

2017-008685

Klamath County, Oregon

08/02/2017 02:29:01 PM

Fee: \$192.00

**LEASEHOLD DEED OF TRUST,  
SECURITY AGREEMENT AND FIXTURE FILING**

**LINE OF CREDIT INSTRUMENT**

The maximum principal amount to be advanced pursuant to the loan secured by this line of credit instrument is \$15,500,000.00. The maturity date of the loan secured by this line of credit instrument (exclusive of any extension or renewal options) is March 31, 2018. The maximum principal amount to be advanced pursuant to the loan secured by this line of credit instrument may be exceeded by advances to complete construction pursuant to ORS 86.155(2)(c). This Deed of Trust secures an obligation incurred for the construction of improvements on land and constitutes a construction mortgage as defined in ORS 79.0334.

**NOTICE TO RECORDER: THIS DOCUMENT CONSTITUTES A FIXTURE FILING IN ACCORDANCE WITH THE OREGON UNIFORM COMMERCIAL CODE.**

THIS LEASEHOLD DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING (as amended, supplemented or otherwise modified from time to time, this "**Deed of Trust**"), is made as of this 2<sup>nd</sup> day of August, 2017, by WOODLINE SOLAR, LLC, an Oregon limited liability company, having an address of 1111 Hawthorne Lane, Suite 201, Charlotte, North Carolina 28205, as trustor (the "**Grantor**"), to AmeriTitle, Inc., 300 Klamath Avenue, Klamath Falls, Oregon 97601, a Delaware corporation, as trustee (the "**Trustee**"), for the benefit of SOLAR DEVELOPMENT LENDING, LLC, a Delaware limited liability company, having an office at 3600 O'Donnell Street, Suite 600, Baltimore, Maryland 21224, Attention: Bob Hopper, as beneficiary (together with its successors and assigns, the "**Lender**" or the "**Beneficiary**").

**RECITALS:**

WHEREAS, Grantor is the legal owner and holder of the lessee's interest under that certain Land Lease and Solar Easement, dated as of November 27, 2013, as amended by the First Amendment thereto dated as of April 21, 2015, the Second Amendment thereto dated as of August 24, 2015, and the Third Amendment thereto dated June 15, 2017, and as evidenced by that certain Memorandum of Land Lease and Solar Easement recorded on September 17, 2015 at Instrument No. 2015-010306 with the Official Public Records of Klamath County, Oregon, as

amended and restated by that certain Amended and Restated Memorandum of Land Lease and Solar Easement recorded on the date of recording of this Deed of Trust with the Official Public Records of Klamath County, Oregon (as may be amended, supplemented, amended and restated or otherwise modified from time to time hereafter, unless not consented to by Lender to the extent required by this Deed of Trust, the "**Ground Lease**") among Peter and Malinda Nevin, individuals, as lessor (together with their successors and assigns, the "**Lessor**") and Grantor (assignee of OneEnergy Oregon Solar, LLC, an Oregon limited liability company), as lessee, which Ground Lease affects the real property described on **Exhibit A** hereto (the "**Real Property**").

WHEREAS, pursuant to the Construction Loan Agreement dated as of even date herewith (as the same may be amended, supplemented or otherwise modified from time to time, the "**Loan Agreement**"), between Grantor (in such capacity, the "**Borrower**") and the Lender, the Lender has agreed to make a loan in the original principal amount of up to Fifteen Million Five Hundred Thousand Dollars (\$15,500,000) (the "**Loan**") in order to finance a portion of the costs of the development and installation of a photovoltaic solar electric energy generating facility owned by Borrower and located on the Real Property. The Loan bears interest as provided in the Loan Agreement on the principal amount of the Note (as defined in the Loan Agreement) from time to time outstanding, and the interest rate applicable to the Loan varies from time to time in accordance with formula set forth in the Note.

WHEREAS, Borrower is executing this Deed of Trust pursuant to the Loan Agreement. All capitalized terms used but not otherwise defined herein have the meanings provided in the Loan Agreement.

### **GRANTING CLAUSE**

NOW THEREFORE, Grantor, for the purpose of securing all present and future debts, obligations and liabilities, whether such debts, obligations or liabilities be direct or indirect, primary or secondary, joint or several, fixed or contingent, of Grantor arising pursuant to, and/or on account of, the provisions of this Deed of Trust, the Loan Agreement or any of the other Loan Documents, including, without limitation, the obligations (1) to pay all Obligations (as defined in the Loan Agreement), including without limitation, all principal, interest, late charges, prepayment premiums (if any) and other amounts due at any time under the Loan Agreement or any of the other Loan Documents, (2) to pay all expenses, indemnification payments, fees and other amounts due at any time under this Deed of Trust, the Loan Agreement or any of the other Loan Documents, together with interest thereon as herein or therein provided, (3) to perform, observe and comply with all of the other terms, covenants and conditions, expressed or implied, which Grantor is required to perform, observe or comply with pursuant to this Deed of Trust, the Loan Agreement or any of the other Loan Documents, and (4) to pay and perform all future advances (including without limitation any expenditures for insurance, taxes and assessments or other necessary expenditures for the protection of the value of the Property (as hereinafter defined)) and other obligations that Grantor or any successor in ownership 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 (collectively, the "**Secured Obligations**"), and in consideration of the Recitals above stated, and for other good and valuable consideration, the receipt and sufficiency of which

are hereby acknowledged, hereby irrevocably mortgages, pledges, warrants, gives, grants, assigns, bargains, sells, releases, transfers, aliens, enfeoffs and conveys to Trustee, and Trustee's successors and assigns, in trust with power of sale for the benefit of Lender, all of the right, title and interest of Grantor in and to all of the following property (collectively, the "**Property**"):

(A) **Leasehold Estate**: Grantor's leasehold estate (the "**Leasehold Estate**") created, and owned by Grantor, by virtue of the Ground Lease, which Ground Lease demises the Real Property more particularly described in the Ground Lease and all of Grantor's right, title and interest in, to and under the Ground Lease, including without limitation, all credits, deposits, options, right to terminate, rights of first refusal or first offer and all privileges of Grantor thereunder;

(B) **Land**: The Real Property and all estates therein now owned or hereafter acquired by Grantor for use or development with the Real Property or any portion thereof, together with all and singular the tenements, rights, easements, hereditaments, rights of way, privileges, liberties, appendages and appurtenances now or hereafter belonging or in any way pertaining to the Real Property and estates therein; all development rights, air rights, water, water rights, water stock, gas, oil, minerals, coal and other substances of any kind or character underlying or relating to the Real Property; all estate, claim, demand, right, title or interest of Grantor in and to any street, road, highway, or alley adjoining the Real Property or any part thereof; all strips and gores belonging, adjacent or pertaining to the Real Property; and, any after-acquired title to any of the foregoing (herein collectively referred to as the "**Land**");

(C) **Improvements and Fixtures**: All buildings, structures and other improvements and any additions and alterations thereto or replacements thereof, now or hereafter built, constructed or located upon the Land, and all articles of property which are considered fixtures under applicable law (including the Solar Facility (as defined below), to the extent constituting fixtures) and a part of the real property encumbered hereby (such buildings, structures and other improvements and fixtures are herein collectively referred to as the "**Improvements**"). The Land, the Improvements and Grantor's Leasehold Estate in any other property constituting real estate under applicable law are herein collectively referred to as the "**Premises**";

(D) **Solar Equipment and Other Personal Property**: The photovoltaic solar electric energy generating facility owned by Borrower, including without limitation any and all photovoltaic equipment or property related to the support, operation, maintenance and connected in any way to that photovoltaic project installed or placed, or to be installed or placed on the Real Property, and any and all panels, inverters, meters, wiring, interconnection equipment, racking, foundation support for said photovoltaic equipment (collectively, the "**Solar Facility**"), and all other equipment and all other tangible property of any kind or character now or hereafter owned by Grantor, regardless of whether located on the Land or located elsewhere;

(E) **Intangibles**: To the extent assignable, all goodwill, trademarks, trade names, option rights, purchase contracts, real and personal property tax refunds, books and records and general intangibles of Grantor relating to the Premises and the Solar Facility and all accounts, contract rights, instruments, chattel paper and other rights of Grantor for the payment of money

for property sold or lent, for services rendered, for money lent, or for advances or deposits made, and any other intangible property of Grantor relating to the Premises;

(F) Plans: To the extent assignable, all plans and specifications, designs, drawings and other information, materials and matters heretofore or hereafter prepared relating to the Improvements, the Solar Facility or any construction on the Land;

(G) Permits: To the extent assignable, all permits, franchises, licenses, approvals and other authorizations respecting the use, occupation and operation of the Premises, the Solar Facility and every part thereof and respecting any business or other activity conducted on or from the Premises, and any product or proceed thereof or therefrom, including, without limitation, all building permits and other licenses, permits and approvals issued by governmental authorities having jurisdiction;

(H) Contracts: To the extent assignable, all agreements, contracts, certificates, instruments, warranties, appraisals, engineering, environmental, soils, insurance and other reports and studies, books, records, correspondence, files and advertising materials, and other documents, now or hereafter obtained or entered into, as the case may be, pertaining to the construction, use, possession, operation, management, leasing, maintenance and/or ownership of the Premises;

(I) Rents: All rents, royalties, income, issues, profits, revenues and other benefits to which Grantor may now or hereafter be entitled from the property described in (A) through (H) above (collectively, the "Rents") to be applied against the Secured Obligations;

(J) Leases: All leases (other than the Ground Lease), subleases, underlettings, concession agreements, licenses and other occupancy agreements (collectively, the "Leases"), whether written or oral, which now or hereafter may affect the property described in (A) through (H) above, together with all security therefor and all monies payable thereunder, and all books and records which contain payments made under the Leases and all security therefor;

(K) Proceeds: Subject to Applicable Laws, all proceeds of the conversion, voluntary or involuntary of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards;

(L) Collateral: To the extent not otherwise described in (A) through (K) above, all the "Collateral", as such term is defined in the Loan Agreement; and

(M) Other Property: All other property and rights of Grantor of every kind and character relating to the Premises, all proceeds and products of any of the foregoing.

AND, without limiting any of the other provisions of this Deed of Trust, Grantor expressly grants to Lender, as secured party, a security interest in all of those portions of the Property which are or may be subject to the Uniform Commercial Code provisions applicable to secured transactions in the State of Oregon (the "State").

TO HAVE AND TO HOLD THE PROPERTY unto Trustee, its successors and assigns, in trust, forever until termination in accordance with Section 4.3 hereof, upon the trusts, terms and conditions and for the uses and purposes hereinafter set out.

## ARTICLE 1

### WARRANTIES, REPRESENTATIONS AND COVENANTS

Grantor warrants, represents, covenants and agrees with Lender and Trustee, as follows:

1.1 Payments. Grantor agrees that it will duly and punctually pay and perform, or cause to be paid and performed, each of the Secured Obligations at the time and in accordance with the terms of the Loan Agreement and the other Loan Documents.

1.2 Title to Property; Liens. (a) Grantor has a valid, enforceable Leasehold Estate and Grantor has lawful authority to encumber and convey the Property; (b) the Property is free and clear of all Liens except for Liens expressly permitted on the Property under the Loan Agreement and the encumbrances on the Premises set forth on Exhibit B attached hereto (collectively, "Permitted Exceptions") and Grantor shall at all times keep the Property free and clear of all Liens other than the Permitted Exceptions; (c) Grantor will maintain and preserve the lien of this Deed of Trust until termination in accordance with Section 4.3 hereof; (d) to the best of Grantor's knowledge, there are presently no leases (other than the Ground Lease and the Master Lease), subleases, underlettings, concession agreements, licenses or other occupancy agreements affecting the Property or any other parties in possession, other than Grantor, at the Premises; (e) Grantor fully warrants and will forever defend the title to the Property against the claims of all Persons whosoever claiming or to claim the same or any part thereof, other than those claims relating to Permitted Exceptions, and Grantor agrees that the foregoing covenant shall not be extinguished by any foreclosure of this Deed of Trust but shall run with the Leasehold Estate; and (f) Grantor will not, without the prior written consent of Lender, (i) initiate or support any zoning reclassification of the Land or use or permit the use of the Property in a manner which would result in such use becoming a nonconforming use under applicable zoning ordinances or the Ground Lease, (ii) impose or consent to the imposition of any public or private restrictive covenants upon the Land, (iii) execute, file or consent to any subdivision plat affecting the Land or consent to the annexation of the Land to any municipality, or (iv) knowingly permit or suffer the Land to be used by the public or any Person in such manner as might make possible a claim of adverse usage or possession or of any implied dedication or easement.

1.3 Status of Property. (a) Grantor has obtained or will obtain, and will maintain in full force and effect, in each case to the extent required by the Ground Lease, all certificates, licenses, permits and other approvals necessary for the operation and use of the Property, including without limitation all zoning, building code, land use and other similar permits or approvals; (b) to the best of Grantor's knowledge, the Premises and the present and contemplated use and occupancy thereof are in full compliance with all applicable zoning ordinances, building codes, land use laws and other similar laws and none of the Improvements or the Solar Facility lies outside of the boundaries of the Land or the applicable building restriction lines and no improvements on adjoining properties materially encroach upon the Land; (c) to the best of

Grantor's knowledge, the Premises are served by all utilities required for the current or contemplated use thereof; and (d) to the best of Grantor's knowledge, all public roads and streets necessary for service of and access to the Premises for the current or contemplated use thereof have been completed, are serviceable and are physically and legally open for use by the public.

1.4 Title Insurance. Concurrently with the execution and delivery of this Deed of Trust, Grantor, at its expense, has obtained and delivered to Lender a loan policy or policies of title insurance in the amount, and in form and substance, reasonably satisfactory to Lender naming Lender as the insured, insuring the title to and the first mortgage lien of this Deed of Trust on the Leasehold Estate, subject only to the Permitted Exceptions, with endorsements reasonably requested by Lender. Grantor has duly paid or caused to be paid in full all premiums and other charges due in connection with the issuance of such policy or policies of title insurance. All proceeds received by and payable to Lender for any loss under the loan policy or policies of title insurance delivered to Lender pursuant hereto, or under any policy or policies of title insurance delivered to Lender in substitution therefor or replacement thereof, shall be the property of Lender and shall be applied by Lender in accordance with the Loan Agreement without affecting the lien of this Deed of Trust for the full amount secured hereby before such payment took place.

1.5 Payment of Taxes. Grantor shall pay or cause to be paid all taxes, assessments and governmental charges which are or may become a lien on the Property or which are assessed against or imposed upon the Property in accordance with the terms and conditions of the Loan Agreement; except to the extent required to be paid by Lessor under the Lease.

1.6 Insurance; Casualty. Grantor shall at its sole expense obtain for, deliver to, and maintain for the benefit of Lender insurance in accordance with and to the extent required by Section 4.12 of the Loan Agreement insuring the Property; except to the extent required to be obtained and maintained by Lessor under the Lease. All proceeds of such insurance shall be applied in accordance with the Loan Agreement without affecting the lien of this Deed of Trust for the full amount secured hereby before such payment took place. Grantor promptly shall comply with, and shall cause the Property to comply with, (a) all of the provisions of each such insurance policy required under this Section 1.6, and (b) all of the requirements of the insurers thereunder applicable to Grantor or to any of the Property or to the use, manner of use, occupancy, possession, operation, maintenance, alteration, repair or restoration of any of the Property. In the event of foreclosure of this Deed of Trust or other transfer of title to the Leasehold Estate in extinguishment of the indebtedness secured hereby, all right, title and interest of Grantor in and to any insurance policies then in force shall pass to the purchaser or grantee. The following warning is provided in accordance with ORS 746.201(1):

**WARNING:**

Unless Grantor provides Lender with evidence of the insurance coverage as required by the Loan Agreement and this Deed of Trust, Lender may purchase insurance at Grantor's expense to protect Lender's interest. This insurance may, but need not, also protect Grantor's interest. If the Property becomes damaged, the coverage Lender purchases may not

pay any claim Grantor makes or any claim made against Grantor. Grantor may later cancel this coverage by providing evidence that Grantor has obtained property coverage elsewhere.

Grantor is responsible for the cost of any insurance purchased by Lender. The cost of this insurance may be added to the Secured Obligations. If the cost is added to the Secured Obligations, the interest rate on the Loan will apply to this added amount. The effective date of coverage may be the date Grantor's prior coverage lapsed or the date Grantor failed to provide proof of coverage.

The coverage Lender purchases may be considerably more expensive than insurance Grantor can obtain on Grantor's own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

1.7 Condemnation. As of the date hereof, Grantor has not received any written notice of any proceeding for the condemnation or other taking of the Property or any part thereof and has no knowledge that any such proceeding is contemplated. Grantor shall, promptly upon learning of the institution of any such proceeding, notify Lender of the pendency of such proceeding, and agrees that Lender may participate in any such proceeding as permitted under the Loan Agreement and Grantor from time to time will deliver to Lender all instruments reasonably requested by Lender to permit such participation. Subject to Applicable Laws, (i) Lender is hereby authorized to collect any and all awards, payments or other proceeds of any such condemnation or taking payable to Grantor ("**Condemnation Proceeds**"), and (ii) Condemnation Proceeds shall be applied in accordance with the terms of the Loan Agreement without affecting the lien of this Deed of Trust for the full amount secured hereby before such award took place. Grantor agrees to execute such further assignments of any Condemnation Proceeds as Lender may require.

1.8 Care of the Property. Except as otherwise permitted under the Loan Agreement, Grantor (a) shall not abandon the Property, (b) shall preserve and maintain the Property in good condition and repair, ordinary wear and tear excepted, and (c) no part of the Property shall be disposed of, removed, replaced or demolished in any manner, without the prior written consent of Lender.

1.9 Transfer of the Property. Except as otherwise permitted under the Loan Agreement, there shall be no sale, conveyance, transfer, lease, assignment, sublease, pledge or further encumbrance or transfer of any interest in any part of the Property, without the prior written consent of Lender.

1.10 Leasehold Deed of Trust Provisions. Grantor further covenants, warrants and represents, as follows:

(a) Grantor represents and warrants that (i) subject to the terms of the Consent and Agreement between Lessor, Borrower, and Lender dated as of the date hereof (as may be amended, supplemented, amended and restated or otherwise modified from time to time hereafter, the "**Landlord Consent**"), there are no understandings, contracts, agreements or commitments of any kind whatsoever with respect to the Ground Lease, to which Grantor is a

party or (to the best of its knowledge) otherwise, except as expressly provided in the Ground Lease, and the Ground Lease constitutes the entire agreement between Lessor and Grantor with respect to the Real Property, (ii) the Ground Lease is in full force and effect, (iii) all rent and additional rent payable under the Ground Lease has been paid to the extent they were due and payable to the date hereof, and (iv) to the best of Grantor's knowledge, no default by Grantor under the Ground Lease exists and no event has occurred which, with the giving of notice, the passage of time, or both, would constitute a default by Grantor under the Ground Lease;

(b) Grantor shall promptly give to Lender copies of (i) all notices of default under the Ground Lease, and (ii) any other communications or notices with respect to events which relate to any reasonably foreseeable impairment of the security of this Deed of Trust which it shall give or receive under the Ground Lease;

(c) Grantor covenants and agrees that it will do or cause to be done all commercially reasonable things necessary to (i) preserve and keep in force the rights of Grantor as lessee under the Ground Lease, and (ii) prevent any termination, surrender, cancellation, forfeiture or impairment thereof. Grantor shall at all times fully perform and comply with all agreements, covenants, terms and conditions imposed upon or assumed by it as lessee under the Ground Lease prior to the expiration of any notice and/or cure period provided in the Ground Lease. Furthermore, Grantor shall exercise commercially reasonable efforts to enforce the obligations of Lessor, so that Grantor may enjoy all of the rights granted to it under the Ground Lease;

(d) Grantor shall not, without the prior written consent of Lender or otherwise permitted under the Loan Agreement, (i) modify, change, supplement, alter or amend the Ground Lease, either orally or in writing, if such modification, change, supplement, alteration or amendment could adversely affect (A) the value of the Premises (in a material manner), (B) the use of the Premises, or (C) Grantor's obligations or rights under the Ground Lease, or (ii) surrender the Leasehold Estate, nor terminate or cancel the Ground Lease prior to the expiration of its term. Any modification, change, supplement, alteration or amendment of the Ground Lease requiring the consent of Lender, any surrender of the Leasehold Estate, and any termination or cancellation of the Ground Lease, made without the prior written consent thereto by Lender shall be void and of no force and effect;

(e) No release or forbearance of any of Grantor's obligations under the Ground Lease, pursuant to the Ground Lease or otherwise, shall release Grantor from any of its obligations under this Deed of Trust, including, without limitation, its obligations with respect to the payment of rent as provided for in the Ground Lease and the performance of all of the terms, provisions, covenants, conditions and agreements contained in the Ground Lease, to be kept, performed and complied with by the lessee therein;

(f) Grantor and Lender agree that, unless Lender shall otherwise expressly consent in writing, the fee title to the Land, Grantor's interest in the Premises and the Leasehold Estate shall not merge and shall always remain separate and distinct, notwithstanding the union of said estates either in the lessor or in the lessee, or in a third party by purchase or otherwise. If, notwithstanding the foregoing, a merger of such fee and leasehold estate is deemed to have



occurred, then this Deed of Trust shall nonetheless remain in full force and effect in accordance with the terms hereof and shall encumber the entire merged fee and leasehold estate. If Grantor acquires fee simple title or any other estate, title or interest in the Land, Grantor shall promptly notify Lender of such acquisition and, upon written request by Lender, shall cause to be executed and recorded all such other and further assurances or other instruments in writing as may in the opinion of Lender be required or desirable to carry out the intent and meaning of this clause (f);

(g) Grantor shall not subordinate or consent to the subordination of the Ground Lease to any lien or other encumbrance, without the prior written consent of Lender;

(h) Within five (5) Business Days after Grantor's receipt of any notice of any motion, application or effort (A) to reject the Ground Lease by Lessor or any trustee arising from or in connection with any case, proceeding or other action commenced or pending by or against Lessor under Title 11 of the United States Code (as now constituted or hereafter amended, the "**Bankruptcy Code**") or any comparable provisions contained in any present or future Federal, state, local, foreign or other statute, law, rule or regulation ("**Comparable Provisions**"); (B) to sell, transfer, or assign the Premises or any portion thereof pursuant to section 363 or other applicable provision of the Bankruptcy Code; or (C) by the Lessor or any other party to an action under the Bankruptcy Code or any other Comparable Provisions to take any other action that in any way adversely affects the interest of Lessor, Grantor, Trustee, or Lender, Grantor shall give notice thereof to Lender. Additionally, Grantor shall give notice to Lender within five (5) Business Days after it discovers or otherwise becomes aware of the filing of any petition under the Bankruptcy Code or any other Comparable Provisions by or against the Lessor or any other party with an interest in the Premises superior to that of Grantor. Grantor hereby (W) assigns to Lender any and all of Grantor's rights as lessee under Section 365(h) of the Bankruptcy Code or any Comparable Provisions, including without limitation, the right to file an objection to (1) the rejection of the Ground Lease, (2) a sale of the Premises or any portion thereof, or (3) as to any other matter that affects the Premises (a "**Objection**"), and (X) covenants that it shall not elect to treat the Ground Lease as terminated pursuant to Section 365(h) of the Bankruptcy Code without first obtaining the prior written consent of Lender, and (Y) agrees that any such election by Grantor without such consent shall be null and void, and (Z) agrees to join and prosecute any Objection filed by Lender if any party asserts that Lender lacks standing to assert such Objection;

(i) Without limiting the generality of the foregoing, Grantor hereby unconditionally assigns, transfers and sets over to Lender all (up to the amount then due and owing from Grantor to Lender) of Grantor's claims and rights to the payment of damages arising from any rejection by Lessor under the Bankruptcy Code or any Comparable Provision. Lender shall have the right to proceed in its own name or in the name of Grantor in respect of any claim, suit, action or proceeding relating to the rejection of the Ground Lease, including, without limitation, the right to file and prosecute, to the exclusion of Grantor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessor thereunder under the Bankruptcy Code or any Comparable Provision. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the obligations of Grantor under the Loan Agreement and the other Loan Documents shall have been indefeasibly paid and performed;

(j) If there shall be filed by or against Grantor a petition under the Bankruptcy Code or any Comparable Provision and Grantor, as lessee under the Ground Lease, shall determine to reject the Ground Lease, Grantor shall give Lender not less than ten (10) days prior notice of the date on which Grantor shall apply to the United States Bankruptcy Court or other judicial body with appropriate jurisdiction for authority to reject any Ground Lease; Lender shall have the right, but not the obligation, to serve upon Grantor within such ten (10) day period a notice stating that (A) Lender demands that Grantor assume and assign the Ground Lease to Lender pursuant to Section 365 of the Bankruptcy Code or any Comparable Provision and (B) Lender covenants to cure or provide adequate assurance of prompt cure of all defaults and provide adequate assurance of future performance under the Ground Lease. If Lender serves upon Grantor the notice described in the preceding sentence, Grantor shall not seek to reject the Ground Lease and shall comply with the demand provided for in item (A) of the preceding sentence within thirty (30) days after the notice shall have been given subject to the performance by Lender of the covenant provided for in item (B) of the preceding sentence. Effective upon the entry of an order for relief in respect of Grantor under Chapter 7 of the Bankruptcy Code or any Comparable Provision, Grantor hereby assigns and transfers to Lender a non-exclusive right to apply to the United States Bankruptcy Court or other judicial body with appropriate jurisdiction for an order extending the period during which the Ground Lease may be rejected or assumed;

(k) Grantor hereby acknowledges that if the Ground Lease shall be terminated prior to the natural expiration of its term due to default by the lessee thereunder, and if Lender or its designee shall acquire from the lessor thereunder a new lease of the Land or any portion thereof, Grantor shall have no right, title or interest in or to such lease or the leasehold estate created thereby, or the options therein contained, if any; and

(l) In addition to any other remedies or rights provided elsewhere in this Deed of Trust, Lender shall have and may exercise the following rights with respect to the Ground Lease:

(i) if Grantor shall fail, after the expiration of the applicable notice or grace period, if any, to: (A) pay any installment of rent reserved under the Ground Lease, (B) pay any real estate tax, assessment or other governmental levy or charge or any imposition, as provided in the Ground Lease, (C) make any other payment required to be made by it as lessee under the Ground Lease, at the time and in the manner provided in the Ground Lease, or (D) if Grantor shall fail to perform or observe any other term, covenant, condition or obligation required to be performed or observed by it as lessee under the Ground Lease, then without limiting the generality of any other provision of this Deed of Trust, and without waiving or releasing the Grantor from any of its obligations hereunder, Lender shall have the right, but shall be under no obligation, to pay any such installment of rent and/or any such tax, assessment, levy, charge, imposition or other payment, and may perform any other act or take any action it may deem necessary or desirable to cause such other term, covenant, condition or obligation to be promptly performed or observed on behalf of the lessee thereunder in order to keep Grantor's rights in, to and under the Ground Lease unimpaired and free from default;

(ii) Lender and its designees shall have, and are hereby granted, the right to enter upon the Premises at any time and from time to time for the purpose of taking any

such action described in the preceding clause (i). All monies reasonably expended by Lender in connection with any matter set forth in this Section (including, but not limited to, reasonable legal expenses and disbursements), together with interest thereon at an interest rate per annum equal to the Default Rate (as defined in the Loan Agreement) from the date of each such expenditure, shall be paid by Grantor to Lender forthwith upon demand by Lender, and shall be secured by this Deed of Trust. If the Lessor shall deliver to Lender a copy of any notice of default by Grantor in the Ground Lease, such notice shall constitute full protection to the Lender for any action taken or omitted to be taken by Lender, in good faith, in reliance thereon; provided, however, that before taking such action, so long as no Default exists, Lender shall use commercially reasonable efforts to notify Grantor thereof. Grantor acknowledges and agrees that any failure by Lender to so notify Grantor shall not entitle Grantor to challenge or otherwise affect the validity of Lender's action or entitle Grantor to any claim for damages or any other offsets or setoffs against Lender. The curing of any such default in the Ground Lease by Lender shall not be deemed to cure any default in this Deed of Trust created thereby, and Lender shall continue to have all rights granted under the Deed of Trust and the other Loan Documents upon any such default.

1.11 Covenants. All of the covenants in the Loan Agreement are incorporated herein by reference and, together with the covenants in this Article I, shall be covenants running with the Leasehold Estate.

1.12 Further Assurances. At any time and from time to time, upon Lender's reasonable request and at Grantor's sole expense, Grantor shall make, execute and deliver, or cause to be made, executed and delivered, to Lender and Trustee and where appropriate shall cause to be recorded or filed, and from time to time thereafter to be re-recorded and refiled at such time and in such offices and places as shall be reasonably deemed necessary by Lender and Trustee, any and all such further deeds of trust, instruments of further assurance, financing statements, certificates and other documents as Lender and Trustee may consider reasonably necessary in order to effectuate, complete, or perfect, or to continue and preserve the obligations of Grantor under this Deed of Trust, and the lien of this Deed of Trust on the Property subject only to Permitted Exceptions. Upon any failure by Grantor to do so, Lender or Trustee may make, execute, record, file, re-record or refile any and all such deeds of trust, instruments, financing statements, certificates and documents for and in the name of Grantor as Lender and Trustee may consider necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve the obligations of Grantor under this Deed of Trust, and the lien of this Deed of Trust on the Property subject only to Permitted Exceptions, and Grantor hereby irrevocably appoints Lender and Trustee as the Lender and attorney-in-fact of Grantor to do so.

1.13 Security Agreement and Financing Statements. This Deed of Trust constitutes not only a real property Deed of Trust, but also a "security agreement" and a "fixture filing" within the meaning of the Uniform Commercial Code of the State (the "UCC"). Grantor (as debtor) hereby grants, assigns, conveys, pledges, hypothecates and transfers to Lender (as creditor and secured party), for the benefit of Lender, as security for the prompt and complete payment and performance of the Secured Obligations a security interest and Lien in all of Grantor's right, title and interest in and to all fixtures, machinery, appliances, equipment, furniture and personal property of every nature whatsoever constituting part of the Property (collectively, the "Personal

**Property**”), subject only to Permitted Exceptions. Nothing in this Section 1.13 shall limit in any manner whatsoever any right Lender may have under any other Loan Document. This Deed of Trust shall be effective as a financing statement filed as a fixture filing covering goods which are or are to become fixtures included within the Property and is to be filed for record in the real estate records of the counties where the Property (including said fixtures) is situated. The real property to which the fixtures relate is described on Exhibit A attached hereto. The record owner of the real property described in Exhibit A attached hereto is Lessor. The name of the debtor for purposes of this financing statement is the name of Grantor set forth in the first paragraph on Page 1 hereof, and the name of the secured party for purposes of this financing statement is the name of the Lender set forth in the first paragraph on Page 1 hereof. The mailing address of Grantor/debtor is the address of Grantor set forth in the first paragraph on Page 1 of this Deed of Trust. The address of the Lender/secured party is the address of the Lender as set forth in the first paragraph on Page 1 of this Deed of Trust. Grantor is an organization that is a limited liability company organized under the laws of the State of Oregon. Grantor’s organizational identification number is 103920898. Upon the occurrence of a Default hereunder, Lender shall have the right to sell the Personal Property at a public or private sale pursuant to the provisions of the applicable laws of the State of Oregon.

1.14 Assignment of Rents. The assignment contained in Paragraph (I) of the Granting Clause shall be fully operative without any further action on the part of either party and, in addition thereto, Grantor does hereby assign and transfer any Leases and Rents to Lender, and specifically Lender and Trustee shall be entitled, at their option, if a Default exists, to all Rents from the Property whether or not Lender or Trustee takes possession of any of the Property.

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

1.16 Environmental Warranties, Indemnities And Agreements. Grantor, for itself, its successors and assigns represents, warrants and agrees that (a) neither Grantor nor, to Grantor’s knowledge, any other person has generated, manufactured, stored, treated, processed, released, discharged or disposed of any Hazardous Materials on the Property or received any notice from any Governmental Authority (hereinafter defined) or other person with regard to a release of Hazardous Materials on, from or otherwise affecting the Property; (b) neither Grantor nor, to Grantor’s knowledge, any other person has violated any applicable Environmental Laws (hereinafter defined) relating to or affecting the Property; (c) the Property is presently being operated in compliance with all Environmental Laws; there are no circumstances presently existing upon or under the Property, or relating to the Property which may violate any applicable Environmental Laws, and there is not now pending, or threatened, any action, suit, investigation or proceeding against Grantor relating to the Property (or, to Grantor’s knowledge) against any other party relating to the Property) seeking to enforce any right or remedy under any of the Environmental Laws; (d) except in strict compliance with Environmental Laws, the Property shall be kept free of Hazardous Materials and shall not be used to generate, manufacture, transport, treat, store, handle, dispose, process or release Hazard Materials; (e) Grantor shall at all times comply with and ensure compliance by all other parties with all applicable

Environmental Laws and shall keep the Property free and clear of any liens imposed pursuant to any applicable Environmental Laws; (f) Grantor has obtained and will at all times continue to obtain and/or maintain all licenses, permits and other directives from any Governmental Authority necessary to comply with Environmental Laws; Grantor is in full compliance with the terms and provisions of the Environmental Requirements (hereinafter defined) and will continue to comply with the terms and provisions of the Environmental Requirements; (g) Grantor shall immediately give Beneficiary oral and written notice in the event that Grantor receives any notice from any Governmental Authority or any other party with regard to any release or storage of Hazardous Materials on, from or affecting the Property and shall conduct and complete all investigations, sampling, and testing, and all remedial, removal, and other actions necessary or required to clean up and remove all Hazardous Materials on, from or affecting the Property in accordance with all applicable Environmental Laws. Grantor hereby agrees to indemnify Beneficiary and hold Beneficiary harmless from and against any and all losses, liabilities, damages, injuries (including, without limitation, reasonable attorneys' fees) and claims of any and every kind whatsoever paid, incurred or suffered by or asserted against Beneficiary for, with respect to, or as a direct or indirect result of (i) the presence on, or under, or the escape, spillage, emission or release on or from the Property of any Hazardous Material regardless of whether or not caused by or within the control of Grantor; (ii) the violation of any Environmental Laws or Environmental Requirements relating to or affecting the Property, whether or not caused by or within the control of Grantor; (iii) the failure by Grantor to comply fully with the terms and provisions of this paragraph; or (iv) any warranty or representation made by Grantor in this paragraph being false or untrue in any material respect. The obligations and liabilities of Grantor under this paragraph shall survive the foreclosure of the Deed of Trust, the delivery of a deed in lieu of foreclosure, the cancellation of the Notes; or if otherwise expressly permitted in writing by the Lender, the sale or alienation of any part of the Property.

In the event that any of the Grantor's representations or warranties shall prove to be materially false or Grantor fails to satisfy any Environmental Requirement, Beneficiary, in its sole discretion, may (i) choose to assume compliance with governmental directives and the Grantor agrees to reimburse Beneficiary for all costs, expenses (including all reasonable attorneys' fees, whether in-house or independent), fines, penalties, judgments, suits, or liabilities whatsoever associated with such compliance; or (ii) seek all legal and equitable remedies available to it including, but not limited to, injunctive relief compelling Grantor to comply with all Environmental Requirements relating to the Property. Beneficiary's rights hereunder shall be in addition to all rights granted under the Notes or other Loan Document and payments by Grantor under this provision shall not reduce Grantor's obligations and liabilities thereunder. In the event Beneficiary undertakes compliance with Environmental Requirements which Grantor failed to perform or which Beneficiary determines is necessary to sell all or any part of the Property, Grantor authorizes Beneficiary and/or Beneficiary's agents to prepare and execute on Grantor's behalf, any manifest or other documentation relating to the removal and/or disposal of any Hazardous Materials, from, at or on the Property. Grantor acknowledges that Beneficiary does not own, or have a security interest in, any Hazardous Materials which exist on, originate from or affect the Property. All amounts expended by the Beneficiary in connection with the exercise of its rights hereunder (including reasonable attorneys' fees and the fees of any environmental consultants) shall become part of the indebtedness secured by this Deed of Trust.

For purposes of this Deed of Trust, "Environmental Laws" means the Comprehensive Environmental Response, and Liability Act, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, and any "Super Fund" or "Super Lien" law, or any other federal, state or local law, regulation or decree regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Materials. "Environmental Requirement" means any administrative orders, directives, judgments, consent orders, permits, licenses, authorizations, consents, settlements, agreements or other formal or informal directions or guidance issued by or entered into with any Governmental Authority or private party, including the provisions of any Environmental Law, which obligate or commit Grantor to investigate, remediate, treat, monitor, dispose or remove Hazardous Materials. "Governmental Authority" means any federal, state or local agency, department, court or other administrative, legislative or regulatory federal, state or local governmental body, or any private individual or entity acting in place of such entities. "Hazardous Materials" means and includes petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material defined as such in the Environmental Laws.

1.17 Flood Hazard. Grantor hereby represents that, to the best of Grantor's knowledge, the Land does not comprise property identified by the Secretary of Housing and Urban Development as an area having special flood hazards. If the Land at any time is so identified by the Secretary of Housing and Urban Development as having special flood hazards, Grantor will cause the Land to be insured against loss by flood hazards in an amount at least equal to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973.

## **ARTICLE 2**

### **DEFAULTS**

2.1 Default. The term Default, wherever used in this Deed of Trust, shall mean any Event of Default under and as defined in the Loan Agreement.

## **ARTICLE 3**

### **REMEDIES**

3.1 Acceleration of Maturity. If a Default exists, Grantor agrees that Lender or Trustee may declare, in accordance with and pursuant to the terms of the Loan Agreement, all Secured Obligations to be due and payable immediately, and upon such declaration all Secured Obligations shall immediately become and be due and payable without demand or notice.

3.2 Lender's and Trustee's Right to Enter and Take Possession, Operate and Apply Income.

(a) If a Default exists, Grantor, upon demand of Lender or Trustee, shall forthwith surrender to Lender or Trustee the actual possession and, if and to the extent permitted by law, Lender itself, or by such officers or Lenders as it may appoint, may enter upon and take possession of the Property and may exclude Grantor and its agents and employees wholly therefrom, and may have joint access with Grantor to the books, papers and accounts of Grantor.

(b) If a Default exists and Grantor shall for any reason fail to surrender or deliver the Property or any part thereof after Lender's or Trustee's demand, Lender or Trustee may obtain a judgment or decree conferring on Lender the right to immediate possession or requiring Grantor to deliver immediate possession of all or part of the Property to Lender and Trustee, and Grantor hereby specifically consents to the entry of such judgment or decree. Grantor shall pay to Lender and Trustee, upon demand, all costs and expenses of obtaining such judgment or decree and reasonable compensation to Lender, its attorneys and Lenders, and all such costs, expenses and compensation shall, until paid, be secured by the lien of this Deed of Trust.

(c) Upon every such entering upon or taking of possession, Lender or Trustee may hold, store, use, operate, manage and control the Property and conduct the business thereof, and, from time to time may:

(i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property;

(ii) insure or keep the Property insured;

(iii) manage and operate the Property and exercise all the rights and powers of Grantor in its name or otherwise with respect to the same; and

(iv) enter into agreements with others to exercise the powers herein granted Lender and Trustee, all as Lender or Trustee from time to time may determine; and Lender and Trustee may collect and receive all the rents, income and other benefits thereof, including those past due as well as those accruing thereafter; and shall apply the monies so received by Lender or Trustee to the Secured Obligations in accordance with the Loan Agreement. All costs, expenses and liabilities of every character incurred by Lender and Trustee in managing, operating and maintaining the Property shall constitute a portion of the Secured Obligations. While in possession of the Property, Lender, Trustee or the receiver shall be liable to account only for the rents, issues and profits actually received. The taking of possession and collection of rents by Lender shall not be construed to be an affirmation of any lease or acceptance of attornment with respect to any lease of all or any portion of the Property. Lender or Trustee shall surrender possession of the Property to Grantor only in accordance with Section 4.3.

3.3 Lender's and Trustee's Power of Enforcement. If a Default exists, Lender may direct the Trustee (and the Trustee shall, if so directed), either with or without entry or taking possession by Lender as hereinabove provided or otherwise, (a) to sell the Property or any part

thereof to the extent permitted and pursuant to the procedures provided by the law of the state where the Property is located, and all estate, right, title and interest, claim and demand therein, at one or more sales, as an entirety or in parcels, and at such time and place upon such terms and after such notice thereof as may be required or permitted by law; or (b) to proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy: (i) to enforce payment under the Loan Documents or the performance of any term hereof or any other right; (ii) to foreclose this Deed of Trust and to sell, as an entirety or in separate lots or parcels, the Property, under the judgment or decree of a court or courts of competent jurisdiction; and (iii) to pursue any other remedy available to it, including without limitation as provided in Section 1.14 hereof. Lender or Trustee shall take action either by such proceedings or by the exercise of its powers with respect to sale or entry or taking possession, or any of them, as it may determine.

The remedies conferred upon Trustee shall include the powers of sale Trustee may have under applicable Oregon law. If a Default exists, it shall be lawful and the duty of Trustee, upon request of Lender, to sell the Leasehold Estate in the Real Property, or such parts thereof or interests therein as Lender may select, at public auction for cash, after first having given such notice of hearing as to commencement of foreclosure proceedings and obtained such findings or leave of court as then may be required by law and then having given such notice and advertised the time and place of such sale in such manner as then may be provided by law, and upon such sale and any resales and upon compliance with the law then relating to foreclosure proceedings under power of sale, to convey title to the purchaser in as full and ample manner as Trustee is empowered.

### 3.4 Foreclosure Sale.

(a) At the direction of Lender, Trustee may adjourn from time to time any sale to be made by it under or by virtue of this Deed of Trust by announcement at the time and place appointed for such sale or for such adjourned sale or sales and, except as otherwise provided by any applicable provision of law, Trustee, without further notice or publication, may conduct such sale at the time and place to which the same shall be so adjourned.

(b) Upon the completion of any sale or sales made by Trustee under or by virtue of this Article III, Trustee shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument or instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. Lender and Trustee are hereby irrevocably appointed the true and lawful attorney-in-fact of Grantor, in its name and stead, to make all necessary conveyances, assignments, transfers and deliveries of any part of the Property and rights so sold. Lender and Trustee may, for such purpose, execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, Grantor hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, Grantor, if so requested by Lender or Trustee, shall ratify and confirm any such sale or sales by executing and delivering to Lender, Trustee or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Lender or Trustee, for the purpose, and as may be designated in such request. Any such sale or sales made under or by virtue of this Article III, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of



foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Grantor in and to the properties, interests and rights so sold, and shall be a perpetual bar both at law and in equity against Grantor and against any and all persons claiming or who may claim the same, or any part thereof from, through or under Grantor.

(c) At any foreclosure sale of the Leasehold Estate in the Real Property, any receiver or public officer, or Lender, may bid for and purchase the Property and, upon compliance with the terms of sale, may hold, retain and possess and dispose of such property in their own absolute right without further accountability.

(d) The proceeds of any sale held by Trustee in foreclosure of the lien evidenced hereby shall be applied in accordance with the requirements of applicable laws and to the extent consistent therewith, FIRST, to the payment of all necessary costs and expenses incident to such foreclosure sale, including but not limited to all reasonable attorneys' fees and legal expenses, advertising costs, auctioneer's fees, costs of title rundowns and lien searches, inspection fees, appraisal costs, fees for professional services, environmental assessment and remediation fees, all court costs and charges of every character, and Trustee's fees not to exceed the amount prescribed by ORS 86.809; provided however, that in the event no sale is held then Trustee shall be entitled to fees not to exceed the amount prescribed by ORS 86.809 and to the payment of the other Secured Obligations, including specifically without limitation the principal, accrued interest and reasonable attorneys' fees due and unpaid on any Note and the amounts due and unpaid and owed to Lender under this Deed of Trust, the order and manner of application to the items in this clause FIRST to be in Lender's sole discretion; and SECOND, the remainder, if any, shall be paid to Grantor, or to Grantor's heirs, devisees, representatives, successors or assigns, or such other persons (including the holder or beneficiary of any inferior lien) as may be entitled thereto by law; provided, however, that if Lender is uncertain which person or persons are so entitled, Lender may interplead such remainder in any court of competent jurisdiction, and the amount of any reasonable attorneys' fees, court costs and expenses incurred in such action shall be a part of the secured indebtedness and shall be reimbursable (without limitation) from such remainder.

3.5 Leases. Lender, at its option, is authorized to instruct Trustee to foreclose this Deed of Trust subject to the rights of any tenants of the Property. The failure to make any such tenants parties defendant to any such foreclosure proceedings and to foreclose their rights will not be asserted by Grantor to be, a defense to any proceedings instituted by Lender to collect the sums secured hereby or to collect any deficiency remaining unpaid after the foreclosure sale of the Property.

3.6 Application of Indebtedness Toward Purchase Price. Upon any such sale, Lender may, if permitted by law, and after allowing for costs and expenses of the sale, compensation and other charges, in paying the purchase price, apply all or any portion of the Secured Obligations, in lieu of cash, to the amount which shall, upon distribution of the net proceeds of such sale, be payable thereon, to the extent of the purchase price.

3.7 Waiver by Grantor. To the fullest extent permitted under applicable law, Grantor hereby waives all errors and imperfections in any proceedings instituted by Lender or Trustee under this Deed of Trust or any other Loan Document and all benefit of any present or future statute of limitations or any other present or future statute, law, stay, moratorium, appraisal or valuation law, regulation or judicial decision, and Grantor shall not at any time insist upon or plead, or in any manner whatsoever, claim or take any benefit or advantage of any such statute, law, stay, moratorium, regulation or judicial decision which (i) provides for the valuation or appraisal of the Property prior to any sale or sales thereof which may be made pursuant to any provision herein or pursuant to any decree, judgment or order of any court of competent jurisdiction, (ii) exempts any of the Property or any other property, real or personal, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale under execution, (iii) provides for any stay of execution, moratorium, marshalling of assets, exemption from civil process, redemption or extension of time for payment, (iv) requires Lender to institute proceedings in mortgage foreclosure against the Property before exercising any other remedy afforded Lender hereunder with respect to any Default, (v) affects any of the terms, covenants, conditions or provisions of this Deed of Trust, or (vi) conflicts with or may affect, in a manner which may be adverse to Lender or Trustee, any provision, covenant, condition or term of this Deed of Trust or any other Loan Document, nor shall Grantor at any time after any sale or sales of the Property pursuant to any provision herein, including, but without limiting the generality of the foregoing, after any sale pursuant to a judgment of foreclosure, claim or exercise any right under any present or future statute, law, stay, moratorium, regulation or judicial decision to redeem the Property or the portion thereof so sold.

(a) Grantor hereby waives the right, if any, to require any sale to be made in parcels, or the right, if any, to select parcels to be sold, and there shall be no requirement for marshalling of assets with respect to either the Property or any other collateral.

(b) Grantor hereby consents to service in the manner provided for notices as set forth in Section 8.3 of the Loan Agreement.

3.8 Receiver. If a Default exists, Lender or Trustee, to the extent permitted by law and without notice to Grantor or regard to the value of the Property or the adequacy of the security or occupancy of the Property, shall be entitled as a matter of right if it so elects to the appointment of a receiver to enter upon and take possession of the Property and to collect all rents, revenues, issues, income, product and profits thereof and apply the same as the court may direct. The receiver shall have all rights and powers permitted under the laws of the jurisdiction where the Property is located and such other powers as the court making such appointment shall confer. The expenses, including receiver's fees, attorneys' fees, costs and Lender's compensation, incurred pursuant to the powers herein contained shall be secured by this Deed of Trust. The right to enter and take possession of and to manage and operate the Property, and to collect the rents, issues and profits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. Lender and Trustee shall be liable to account only for such rents, issues and profits actually received by Lender and Trustee, respectively. Notwithstanding the appointment of any receiver or other custodian, Lender and Trustee shall be

entitled as pledgee to the possession and control of any cash, deposits, or instruments at the time held by, or payable or deliverable under the terms of this Deed of Trust to, Lender and Trustee.

3.9 Suits to Protect the Property. Lender and Trustee shall have the power and authority to institute and maintain any suits and proceedings as Lender or Trustee may deem advisable to (i) prevent any impairment of the Property by any acts which may be unlawful or any violation of this Deed of Trust, (ii) preserve or protect Lender's and Trustee's interest in the Property, and (iii) restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order might impair the security hereunder or be prejudicial to Lender's and Trustee's interest.

Grantor agrees that if any action or proceeding be commenced, excepting an action to foreclose this Deed of Trust or to collect the indebtedness hereby secured, to which action or proceeding Lender or Trustee is a party by reason of the execution of this Deed of Trust or the other Loan Documents, or in which it becomes necessary to defend or uphold the lien of this Deed of Trust, all sums paid by Lender and Trustee for the expense of any litigation to prosecute or defend the transaction and the rights and lien created hereby (including, without limitation, reasonable attorneys' fees) shall be paid by Grantor together with interest thereon from the date of payment by Lender or Trustee at the rate applicable to the respective Loans under the Loan Agreement. All such sums paid and the interest thereon shall be a lien upon the Property, and shall be secured hereby.

3.10 Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings affecting Grantor or any guarantor, co-maker or endorser of any of Grantor's obligations, its creditors or its property, Lender and Trustee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have Lender's and Trustee's claims allowed in such proceedings for the entire amount due and payable by Grantor under this Deed of Trust and any other Loan Document, at the date of the institution of such proceedings, and for any additional amounts which may become due and payable by Grantor after such date.

3.11 Grantor to Pay the Indebtedness on Any Default in Payment; Application of Monies by Lender and Trustee.

(a) If a Default exists, then, upon demand by Lender or Trustee, Grantor shall pay to Lender or Trustee the whole amount which then shall have become due and payable under the Loan Documents. If Grantor shall fail to pay such amounts forthwith upon such demand, Lender or Trustee shall be entitled to sue for and to recover judgment against Grantor for the whole amount so due and unpaid together with costs and expenses, including without limitation the reasonable compensation, expenses and disbursements of Lender's or Trustee's attorneys and other representatives, either before, after or during the pendency of any proceedings for the enforcement of this Deed of Trust. The right of Lender and Trustee to recover such judgment shall not be affected by any taking possession or foreclosure sale hereunder, or by the exercise of

any other right, power or remedy for the enforcement of the terms of this Deed of Trust, or the foreclosure of the lien hereof.

(b) In case of a foreclosure sale of all or any part of the Property and of the application of the proceeds of sale to the payment of the sums secured hereby, Lender and Trustee shall be entitled to enforce payment from Grantor of all amounts then remaining due and unpaid and to recover judgment against Grantor for any portion thereof remaining unpaid, with interest.

(c) Grantor hereby agrees, to the extent permitted by law, that no recovery of any such judgment by Lender or Trustee and no attachment or levy of any execution upon any of the Property or any other property shall in any way affect the lien of this Deed of Trust upon the Property or any part thereof or any lien, rights, powers or remedies of Lender or Trustee hereunder, but such lien, rights, powers and remedies shall continue unimpaired as before.

(d) Any monies collected or received by Lender or Trustee under this Section 3.11 shall be applied to the payment of compensation, expenses and disbursements of the attorneys and other representatives of Lender or Trustee, and the balance remaining shall be applied to the Secured Obligations in accordance with the Loan Agreement.

(e) The provisions of this paragraph shall not be deemed to limit or otherwise modify the provisions of any guaranty of the Secured Obligations.

3.12 Discontinuance of Proceedings; Position of Parties Restored. If Lender or Trustee shall have proceeded to enforce any right or remedy under this Deed of Trust by foreclosure, entry or otherwise and such proceedings shall have been discontinued or abandoned for any reason, or such proceedings shall have resulted in a final determination adverse to Lender, then and in every such case, to the extent permitted by law, Grantor and Lender and Trustee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Lender and Trustee shall continue as if no such proceedings had occurred or had been taken and no such proceedings or actions shall be deemed to be a cure by Grantor or a waiver by Lender or Trustee of any default hereunder or under any other Loan Document.

3.13 Limitation on Lender's Duty in Respect of Property. Trustee and Lender shall use reasonable care with respect to the Property in its possession or under its control. Neither Trustee nor Lender shall have any other duty as to any Property in its possession or control or in the possession or control of any agent or nominee of Trustee or Lender, or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto.

3.14 Reinstatement. This Deed of Trust shall remain in full force and effect and continue to be effective should any petition be filed by or against Grantor for liquidation or reorganization, should Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of Grantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Secured Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any

obligee of the Secured Obligations, whether as a “voidable preference,” “fraudulent conveyance,” or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Secured Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

3.15 No Waiver; Cumulative Remedies. Neither Trustee nor Lender shall by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder, and no waiver shall be valid unless in writing, signed by Lender and Trustee and then only to the extent therein set forth. A waiver by Lender and Trustee of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which Lender or Trustee would otherwise have had on any future occasion. No failure to exercise nor any delay in exercising on the part of Trustee or Lender, any right, power or privilege hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or future exercise thereof or the exercise of any other right, power or privilege. The rights and remedies hereunder provided are cumulative and may be exercised singly or concurrently, and are not exclusive of any rights and remedies provided by law. None of the terms or provisions of this Deed of Trust may be waived, altered, modified or amended except by an instrument in writing, duly executed by Lender, Trustee and Grantor.

3.16 Limitation by Law. All rights, remedies and powers provided in this Deed of Trust may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Deed of Trust are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they shall not render this Deed of Trust invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered or filed under the provisions of any applicable law.

3.17 Payment of Costs and Expenses. Grantor further agrees to pay or reimburse Lender for all costs, expenses and other advances which may be incurred or made by Lender or Trustee to protect or preserve the Property or to enforce any terms of this Deed of Trust, including the exercise of any rights or remedies afforded to Lender or Trustee or both of them under this Article III, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Deed of Trust, including reasonable attorneys’ fees and other legal costs, costs of any sale of the Property and any cost of evidence of title. Notwithstanding anything to the contrary herein, any attorneys’ fees payable or awarded under this Deed of Trust shall be based on actual time worked and the regular billing rates of such attorneys.

## **ARTICLE 4**

### **MISCELLANEOUS PROVISIONS**

4.1 Addresses for Notices, Etc. Except as otherwise provided herein, whenever it is provided herein that any notice, demand, request, consent, approval, declaration or other communication shall or may be given to or served upon any of the parties by any other party, or whenever any of the parties desires to give and serve upon any other party any communication

with respect to this Deed of Trust, each such notice, demand, request, consent, approval, declaration or other communication shall be in writing and shall be given in the manner, and deemed received, as provided for in the Loan Agreement.

4.2 Severability. Whenever possible, each provision of this Deed of Trust shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision of this Deed of Trust shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Deed of Trust. This Deed of Trust is to be read, construed and applied together with the Loan Agreement and the other Loan Documents which, taken together, set forth the complete understanding and agreement of Trustee, Lender, and Grantor with respect to the matters referred to herein and therein.

4.3 Termination. Subject to Section 3.14 hereof, when all of the Secured Obligations have been paid in full in cash and all commitments to make any loans have terminated, in accordance with the Loan Agreement, this Deed of Trust shall automatically terminate, and Trustee shall promptly reconvey the Property, or so much of it as is then held under this Deed of Trust, without warranty to Grantor or the person or persons legally entitled to it. Neither Lender nor Trustee shall have any duty to determine the rights of persons claiming to be rightful grantees of any such reconveyance. When the Property has been fully released, the last release will operate, as applicable, as a reassignment of all future Rents of the Property to the person legally entitled.

4.4 Successors and Assigns. This Deed of Trust and all obligations of Grantor hereunder shall be binding upon the successors and assigns of Grantor (including any debtor-in-possession on behalf of Grantor) and shall, together with the rights and remedies of Lender and Trustee, for the benefit of Lender, hereunder, inure to the benefit of Lender, Trustee, all future holders of any instrument evidencing any of the Secured Obligations and their respective successors and assigns. No sales of participations, other sales, assignments, transfers or other dispositions of any agreement governing or instrument evidencing the Secured Obligations or any portion thereof or interest therein shall in any manner affect the Lien granted to Lender, and/or Trustee, for the benefit of Lender, hereunder. Grantor may not assign, sell, hypothecate or otherwise transfer any interest in or obligation under this Deed of Trust.

4.5 Counterparts. This Deed of Trust may be executed in any number of separate counterparts, each of which shall collectively and separately constitute one and the same agreement.

4.6 GOVERNING LAW. THIS DEED OF TRUST, AND ITS VALIDITY, ENFORCEMENT AND INTERPRETATION, SHALL BE GOVERNED BY AND CONSTRUED, INTERPRETED AND ENFORCED IN ACCORDANCE WITH AND PURSUANT TO THE LAWS OF THE STATE OF OREGON (WITHOUT REGARD TO ANY CONFLICT OF LAWS PRINCIPLES) AND APPLICABLE UNITED STATES FEDERAL LAW.

4.7 Inconsistent Provisions. To the extent that any of the provisions of this Deed of Trust is inconsistent with the provisions of the Loan Agreement covering the same subject matter, the provisions of the Loan Agreement shall control.

4.8 Section Titles. The Section titles contained in this Deed of Trust are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

4.9 No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Deed of Trust. In the event an ambiguity or question of intent or interpretation arises, this Deed of Trust shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions hereof.

4.10 Advice of Counsel. Each of the parties represents to each other party hereto that it has discussed this Deed of Trust with its counsel.

4.11 Benefit of Secured Parties. All Liens granted or contemplated hereby shall be for the benefit of Trustee and Lender, and all proceeds or payments realized from the Property in accordance herewith shall be applied to the Secured Obligations in accordance with the terms of the Loan Agreement.

4.12 Commercial Loan. The Property does not now and Grantor covenants that during the term of this Deed of Trust the Property will not contain any residential structure or unit so that at no time will this Deed of Trust be a residential trust deed as defined in ORS 86.705(6). This Deed of Trust secures an obligation incurred exclusively for commercial, business or investment purposes. Grantor warrants to Lender that the Loan proceeds shall be used exclusively for commercial, business or investment purposes.

4.13 Land Use Disclaimer. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11,

CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

4.14 Statute of Frauds Notice. UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY LENDER CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY GRANTOR'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY LENDER TO BE ENFORCEABLE.

## ARTICLE 5

### DEED OF TRUST PROVISIONS

5.1 Concerning the Trustee. Trustee shall be under no duty to take any action hereunder except as expressly required hereunder or by law or to perform any act which would involve Trustee in any expense or liability or to institute or defend any suit in respect hereof, unless properly indemnified to Trustee's reasonable satisfaction. Trustee, by acceptance of this Deed of Trust, covenants to perform and fulfill the trusts herein created. Trustee shall not be answerable or accountable hereunder except for its own willful misconduct or gross negligence, and Grantor agrees to indemnify, defend and hold Trustee harmless from and against any cost, loss, damage, liability or expense (including, without limitation, reasonable attorneys' fees and disbursements) which Trustee may incur or sustain in the exercise or performance of its powers and duties hereunder. Trustee hereby waives any statutory fee and agrees to accept reasonable compensation, in lieu thereof, for any services rendered by Trustee in accordance with the terms hereof. Trustee may resign at any time upon giving at least thirty (30) days' written notice to Grantor and Lender. In the event of the death, removal, resignation, refusal or inability to act of Trustee, or in its sole discretion for any reason whatsoever or for no reason, Lender may, without notice and without specifying any reason therefor and without applying to any court, select and appoint a successor trustee, by an instrument recorded wherever this Deed of Trust is recorded, and all powers, rights, duties and authority of Trustee, as aforesaid, shall thereupon become vested in such successor. Such substitute trustee shall not be required to give bond for the faithful performance of the duties of Trustee hereunder unless required by Lender. The procedure provided for in this paragraph for substitution of Trustee shall be in addition to and not in exclusion of any other provisions for substitution, by law or otherwise.

5.2 Trustee's Fees. Grantor shall pay all reasonable, documented costs, customary fees and expenses incurred by Trustee (including, with respect to a foreclosure sale, Trustee's reasonable fees not to exceed the amount prescribed by ORS 86.809) and Trustee's counsel in connection with the performance by Trustee of Trustee's duties hereunder, and all such costs, fees and expenses shall be secured by this Deed of Trust. Notwithstanding anything to the contrary herein, any attorneys' fees payable or awarded under this Deed of Trust shall be based on actual time worked and the regular billing rates of such attorneys.

5.3 Certain Rights. Trustee shall not be personally liable in case of entry by Trustee, or anyone entering by virtue of the powers herein granted to Trustee, upon the Property for debts



contracted for or liability or damages incurred in the management or operation of the Property. Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting an action taken or proposed to be taken by Trustee hereunder, which is believed by Trustee in good faith to be genuine.

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

5.5 Perfection of Appointment. Should any deed, conveyance or other instrument of any nature be required from Grantor by Trustee or any substitute trustee to more fully and certainly vest in and confirm to Trustee or such substitute trustee the estates, rights, powers, and duties conferred hereunder unto Trustee, then, upon request by Trustee or such substitute trustee, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged, and delivered and shall be caused to be recorded and/or filed by Grantor at its sole expense.

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

## ARTICLE 6

### FUTURE ADVANCES

6.1 Future Advances. All terms and conditions under which future advances may be made are set forth in the Loan Agreement, which is incorporated herein by reference. This Deed of Trust secures payment of Secured Obligations including present and future advances. No execution of a written instrument or notation shall be necessary to evidence or secure any future advances made hereunder. This Deed of Trust secures all present and future credit extensions made by the Lender under the Loan Documents, and all other sums from time to time owing to the Lender by Grantor and/or the other Loan Parties under the Loan Documents. The maximum principal that may be secured by this instrument at any one time is Fifteen Million Five Hundred Thousand Dollars (\$15,500,000.00). The maturity date of the Loan secured by this line of credit instrument (exclusive of any extension or renewal options) is March 31, 2018. The maximum principal amount to be advanced pursuant to the Loan secured by this line of credit instrument may be exceeded by advances to complete construction pursuant to ORS 86.155(2)(c). This Deed of Trust secures an obligation incurred for the construction of improvements on land and constitutes a construction mortgage as defined in ORS 79.0334.

IN WITNESS WHEREOF, Grantor has executed this Deed of Trust as of the date first above written.

**WITNESS:**

**WOODLINE SOLAR, LLC,**  
an Oregon limited liability company

By: PGR MANAGER D, LLC,  
a North Carolina limited liability company,  
its Manager

By: PINE GATE ASSETS, LLC,  
a North Carolina limited liability company,  
its Manager

By: PINE GATE RENEWABLES, LLC,  
a North Carolina limited liability company,  
its Manager

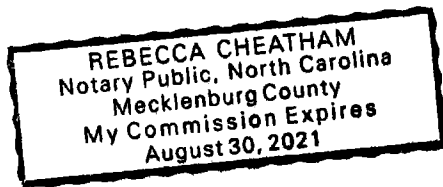
By: \_\_\_\_\_

  
Name: Zoë Gamble Hanes  
Its: Manager

[Signature Page to Leasehold Deed of Trust (Woodline Solar, LLC)]

STATE OF NORTH CAROLINA  
COUNTY OF Mecklenburg

This instrument was acknowledged before me on July 31<sup>st</sup>, 2017 by Zoë Gamble Hanes, as a Manager of Pine Gate Renewables, LLC, a North Carolina limited liability company, the manager of Pine Gate Assets, LLC, a North Carolina limited liability company, the manager of PGR Manager D, LLC, a North Carolina limited liability company, the manager of Woodline Solar, LLC, an Oregon limited liability company.



By: [Signature]  
Print Name: Rebecca Cheatham  
Notary Public for North Carolina  
My commission expires: 8/30/21

[Signature Page to Leasehold Deed of Trust (Woodline Solar, LLC)]

**EXHIBIT A**

**LEGAL DESCRIPTION**

Real property situated in the N1/2 of Section 31, Township 38 South, Range 11 1/2 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

That portion of Parcel 2 of Land Partition 6-03 that lies within Section 31 of said Township 38 South, Range 11 1/2 East of the Willamette Meridian, Klamath County, Oregon.

BEING the same property for which a leasehold interest was conveyed to the Mortgagor pursuant to that certain Land Lease and Solar Easement dated November 27, 2013 (as amended, assigned, and otherwise modified), by and between Landlord and Mortgagor, as evidenced by that certain Memorandum of Lease, recorded on September 17, 2015, 2015, in Book 2015, Page 010306 Klamath County Public Registry, as amended and restated by that certain Amended and Restated Memorandum of Ground Lease Agreement, recorded on the date of recording of this Deed of Trust with the Klamath County Public Registry.

**EXHIBIT B**

**PERMITTED EXCEPTIONS**

The exceptions set forth in the title policy, dated as of the date of recording of this Deed of Trust, for the Property issued by Chicago Title Insurance Company.