

2018-004673

Klamath County, Oregon

04/18/2018 10:17:00 AM

Fee: \$127.00

171503 Am

RECORDING REQUESTED BY:

Live Oak Banking Company

WHEN RECORDED MAIL TO:

Wielechowski & Fuller, PC
201 South Tryon Street, Suite 1210
Charlotte, North Carolina 28202

LEASEHOLD DEED OF TRUST AND ASSIGNMENT OF RENTS AND FIXTURE FILING

Real Property tax identification number(s): 016-109199.

Amount of Secured Obligations as of the date hereof: \$15,000,000.00.

This **LEASEHOLD DEED OF TRUST AND ASSIGNMENT OF RENTS AND FIXTURE FILING** (this "**Deed of Trust**") is dated April 17, 2018, among **OR SOLAR 3, LLC**, a Delaware limited liability company, whose address is 236 Third Street, Baton Rouge, Louisiana 70801 ("**Grantor**"); **LIVE OAK BANKING COMPANY**, a North Carolina banking corporation, with an address at 1741 Tiburon Drive, Wilmington, North Carolina 28403, as beneficiary ("**Beneficiary**"); and **AMERITITLE, INC.**, a Delaware corporation authorized to transact business in the State of Oregon, whose address is 300 Klamath Avenue, Klamath Falls, Oregon 97601 as deed of trust trustee ("**Trustee**").

This instrument is a trust deed, as that term is used in ORS 86.705-990, and other applicable provisions of Oregon law.

THIS DOCUMENT CONSTITUTES A FIXTURE FILING IN ACCORDANCE WITH ORS 79.4020(6).

Grantor and Beneficiary are parties to that certain loan agreement dated April 17, 2018 (as it may be amended, restated, supplemented or otherwise modified and in effect from time to time, the "**Loan Agreement**"), pursuant to which Beneficiary has agreed to make one or more loans to Grantor for the purpose of financing one of more solar power generation facility(ies) and related improvements and operations to be owned by Grantor (the "**Project**") on the Real Property, described below, subject to the terms and conditions of the Loan Agreement and other documents and agreements entered into, delivered or to be entered into or delivered pursuant thereto or in connection therewith, including without limitation, any promissory notes, credit agreements, loan commitments, agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Secured Obligations (the "**Loan Documents**"). Grantor is party to that certain Lease Agreement, dated as of November 9, 2017 (as such lease may further be amended, restated, supplemented or otherwise modified and in effect from time to time consistent with this Deed of Trust, the "**Lease**"), between the Grantor and Heelstone Properties, LLC ("**Landlord**"), a memorandum of which was recorded in the records of Klamath County, Oregon, at Doc. No. 2017-012973, whereby Landlord has leased to Grantor, and granted to Grantor certain other easements and rights with respect to, all or part of the Real Property described below.

CONVEYANCE AND GRANT. For valuable consideration, Grantor hereby conveys to Trustee, **IN TRUST AND WITH POWER OF SALE**, and with right of entry and possession, for the benefit of Beneficiary as beneficiary under this Deed of Trust, all of Grantor's right, title, and interest in and to the following described property, whether now or hereafter acquired:

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All of the property, rights, title, interest, privileges and franchises of Grantor (i) in and to the real property more particularly described on Exhibit A hereto and located in the City of Malin, Klamath County, Oregon, and in and to any minerals, oil and gas and other hydrocarbon substances (to the extent permitted under applicable law), water and water rights (whether riparian, appropriative, or otherwise and whether or not appurtenant) and water stock, timber and crops on or in the same (the "**Real Property**"), (ii) as lessee under the Lease, (iii) as grantee of any and all easements serving, appurtenant or otherwise beneficial to the Project or Real Property, granted in the Lease or any other instrument, whether in gross or appurtenant (the "**Easement Agreements**"), (iv) in and to all the other documents and agreements relating to the Project and/or Real Property or Improvements now or hereafter obtained by Grantor (the "**Ancillary Agreements**" and, with the Lease and the Easement Agreements, collectively, the "**Real Property Agreements**" and each individually a "**Real Property Agreement**"), which Real Property Agreements concern all or portions of the Real Property, and under any and all modifications, extensions and renewals of the Real Property Agreements and all options set forth therein, together with (a) all credits, deposits, privileges and rights of Grantor as lessee under the Lease or as grantee under the Easement Agreements, now or at any time existing, (b) the leasehold and the leasehold estate created by the Lease, (c) the easements and easement estates created by each of the Easement Agreements and (d) all of the estates, rights, titles, claims or demands whatsoever of Grantor, either in law or in equity, in possession or in expectancy, of, in and to the Real Property Agreements and the Real Property, together with (x) any and all other, further or additional title, estates, interests or rights which may at any time be acquired by Grantor in or to the Real Property, and Grantor expressly agrees that if Grantor shall, at any time prior to payment in full of all indebtedness secured hereby, acquire fee simple title or any other greater estate to the Real Property pursuant to the Real Property Agreements, or otherwise, the lien of this Deed of Trust shall attach, extend to, cover and be a lien upon such fee simple title or other greater estate and thereupon the lien of this Deed of Trust shall be prior to the lien of any mortgage or deed of trust placed on such acquired title, estate, interest or right subsequent to the date of this Deed of Trust (except as otherwise provided herein), and (y) any right to possession or statutory term of years derived from, or incident to, the Real Property Agreements pursuant to Section 365(h) of the U.S. Bankruptcy Code, as amended (the "**Bankruptcy Code**"), or any comparable provision contained in any present or future federal, state, local, foreign or other statute, law, rule or regulation (collectively, the "**Real Property Interest**");

TOGETHER WITH all estate, right, title and interest of Grantor, now owned or hereafter acquired, in and to any and all buildings and other improvements now or hereafter located on the Real Property and all building materials and building equipment now or hereafter delivered to and intended to be installed in or on the Real Property and other improvements now or hereafter attached to or placed, erected, constructed or developed on the Real Property or attached to, contained in or used in any such buildings and other improvements, and all appurtenances and additions thereto and betterments, substitutions and replacements thereon (all of the foregoing estate, right, title and interest being hereinafter collectively called the "**Improvements**");

TOGETHER WITH all estate, right, title and interest of Grantor in and to all machinery, apparatus, equipment, fixtures, furnishings, inventory, fittings and goods that are or are to become fixtures, and all other articles of personal property and tangible property, in each case now owned or hereafter acquired by Grantor and now or hereafter located on or at or attached to, installed in, or used in the Real Property or the Improvements or which are necessary or useful for the complete and comfortable use and occupancy of the Project, the Real Property or the Improvements for the purposes for which they were or are to be attached, placed, erected, constructed or developed, or which personal property is or may be used in the development of the Project or the Improvements, and all renewals of or replacements or substitutions for any of the foregoing, whether or not the same shall be attached to the Real Property or the Improvements such that a security interest in such tangible property can be perfected by an appropriate fixture filing under the Oregon Uniform Commercial Code, and any and all products and accessions to any such property which may exist at any time (all of the foregoing estate, right, title and interest, and products and accessions, regardless of whether or how affixed to the Real Property and without affecting the personal property character of any personal property, being hereinafter called "**Fixtures**");

TOGETHER WITH all interests, estates and other claims, both in law and in equity, that Grantor now has or may hereafter acquire in (i) the Real Property, (ii) all other easements, rights of way and rights used in connection with

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the Real Property, the Improvements or the Project, and (iii) all tenements, hereditaments and appurtenances in any manner belonging, relating or appertaining thereto;

TOGETHER WITH all estates, right, power, privilege, title and interest of Grantor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any streets, open or proposed, public or private, adjoining the Real Property, and any and all sidewalks, railroad tracks or rights of way, alleys and strips and gores of land adjacent to or used in connection therewith;

TOGETHER WITH Grantor's right, title and interest in all monetary deposits which Grantor has been or is hereafter required to give to any public or private utility with respect to utility services furnished to the Project, the Real Property or the Improvements;

TOGETHER WITH Grantor's right, title and interest in all rents, revenues, proceeds, issues, profits, royalties, income or other benefits of the Project, the Real Property, the Improvements or the Fixtures, including, without limitation, cash or securities deposited pursuant to leases arising or issuing from all insurance policies, sale agreements, licenses, options and other agreements regarding use, sale, transfer or occupancy now or hereafter entered into by Grantor covering all or any part of the Project, the Real Property, the Improvements or the Fixtures (all of the foregoing rents, revenues, proceeds, issues, profits, royalties, income and other benefits being hereinafter collectively called "**Rents**"); and Grantor will execute and deliver to Beneficiary, promptly following written demand, such separate, specific assignments and instruments as Beneficiary may reasonably require to implement, confirm, maintain and continue the assignment hereunder of all or any part of the Rents, subject to the right, power and authority hereinafter given to Grantor to collect and apply the same; and Grantor hereby appoints Beneficiary, and its designees and nominees, as Grantor's agents and attorneys-in-fact, coupled with an interest, to collect such Rents after the occurrence and during the continuation of an Event of Default;

TOGETHER WITH all estate, right, title and interest and other claim or demand that Grantor now has or may hereafter acquire with respect to any damage to the Project, the Real Property, the Improvements or the Fixtures and any and all proceeds of insurance (including premium refunds) in effect with respect to the Project, the Real Property, the Improvements or the Fixtures, and any and all proceeds from the taking of the Project, the Real Property, the Improvements, the Fixtures or any part thereof or any interest or right or estate appurtenant thereto by eminent domain or by purchase in lieu thereof, including, without limitation, any awards resulting from a change of grade of streets or as the result of any other damage to the Project, the Real Property, the Improvements or the Fixtures for which compensation shall be given or owed by any governmental authority or other person (all of the foregoing estate, right, title and interest and other claims or demand, and any such proceeds or awards, being hereinafter collectively called "**Damage Rights**"); and Grantor hereby appoints Beneficiary, and its designees and nominees, as Grantor's agents and attorneys-in-fact to collect any such Damage Rights after the occurrence and during the continuation of an Event of Default;

TOGETHER WITH all permits, agreements, and licenses, franchises, certificates and other rights and privileges now or hereafter obtained by Grantor in connection with the Project, the Real Property, the Improvements or the Fixtures;

TOGETHER WITH all estate, right, title and interest of Grantor in respect of any and all air rights, development rights or credits, zoning rights or other similar rights or interests which benefit or are appurtenant to the Project, the Real Property or the Improvements;

TOGETHER WITH all rights (but not, to the extent permitted under applicable law, obligations) of Grantor under all contracts, agreements, consents and other rights and privileges entered into, used or obtained in connection with the Project, the Real Property, the Improvements or the Fixtures or the management, possession, operation, protection and preservation thereof, including all procurement, transportation and interconnection agreements relating to the use or operation thereof as a solar energy production facility;

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TOGETHER WITH all estate, right, title and interest of Grantor in respect of any and all rights and appurtenances belonging, incident or appertaining to the Project, the Real Property or the Improvements (all of the foregoing estate, right, title and interest being hereinafter collectively called "**Appurtenances**");

TOGETHER WITH all other estates, easements, interests, licenses, tenements, hereditaments, rights, titles, powers or privileges of every kind and character which Grantor now has, or at any time hereafter acquires, including replacements or substitutions therefor, in and to any of the foregoing, including the proceeds from condemnation, or threatened condemnation, and the proceeds of any and all insurance covering, or other recovery, claim or right of recovery with respect to, any part of the foregoing from whatever source ("**Proceeds**"), and all related parts, accessions and accessories to any of the foregoing and all replacements or substitutions therefor;

All of the foregoing, now owned or hereinafter acquired, being sometimes hereinafter referred to collectively as the "**Property**."

Grantor hereby assigns as security to Beneficiary, all of Grantor's right, title, and interest in and to the Lease, and any subleases, other leases, rents, issues and profits of the Property. The lien created by this assignment is intended to be specific, perfected and choate upon the recording of this Deed of Trust. Beneficiary grants to Grantor a license to collect the rents, issues and profits, which license may be revoked at Beneficiary's option upon any Event of Default by Grantor.

The "**Secured Obligations**" are all amounts, costs and expenses payable to and all obligations otherwise owed to, Beneficiary under the Loan Agreement or Loan Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Loan Agreement or Loan Documents and any amounts expended or advanced by Beneficiary to discharge Grantor's obligations or expenses incurred by Trustee or Beneficiary to enforce Grantor's obligations under this Deed of Trust, together with interest on such amounts as provided in this Deed of Trust.

The term or maturity date, if any, of the indebtedness secured hereby is: April 5, 2043.

All capitalized terms that are used in this Deed of Trust without having been previously defined in this Deed of Trust will have the meaning stated in the Loan Agreement.

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS, IS GIVEN TO SECURE (A) PAYMENT OF THE SECURED OBLIGATIONS TO BENEFICIARY, AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS OWED TO BENEFICIARY UNDER ANY OF THE LOAN DOCUMENTS (AS DEFINED ABOVE), AND THIS DEED OF TRUST. ANY EVENT OF DEFAULT BY GRANTOR UNDER THE LOAN AGREEMENT, OR ANY OF THE OTHER LOAN DOCUMENTS, SHALL ALSO BE AN EVENT OF DEFAULT UNDER THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Deed of Trust, Grantor shall pay to Beneficiary all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Grantor's obligations under the Loan Agreement, this Deed of Trust, and the other Loan Documents.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use; Warranties by Grantor. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property (this privilege is a license from Beneficiary to Grantor automatically revoked upon an Event of Default). Grantor warrants that this Deed of Trust is not and will at all times continue not to be a residential trust deed (as that term is defined in ORS 86.705(3)). Grantor warrants that Grantor is engaging in this transaction exclusively for business, commercial or investment purposes.

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Beneficiary's Right to Enter. Beneficiary and Beneficiary's agents and representatives may enter upon the Real Property at all reasonable times to attend to Beneficiary's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Deed of Trust and/or any Loan Documents.

Compliance with Governmental Requirements. In accordance with the terms of the Loan Documents, Grantor shall promptly comply, and shall promptly cause compliance by all agents, tenants or other persons or entities of every nature whatsoever who rent, lease or otherwise use or occupy the Property in any manner, with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act.

Duty to Protect. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

Transfer. Until the Secured Obligations are satisfied and except as otherwise permitted under the Loan Agreement, Grantor shall not, without the prior written consent of Beneficiary, create, effect, consent to, attempt, contract for, agree to make, suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation of, any of the Lease or Property, or any interest in or portion thereof, or any interest in Grantor, which is effected directly, indirectly, voluntarily, involuntarily, or by operation of law or otherwise.

BENEFICIARY'S EXPENDITURES. If any action or proceeding is commenced that could materially affect Beneficiary's interest in the Property or if Grantor fails to comply with any provision of this Deed of Trust or any Loan Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Deed of Trust or any Loan Documents, Beneficiary on Grantor's behalf may (but shall not be obligated to) take any action that Beneficiary deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Beneficiary for such purposes will then bear interest at the rate charged under the Loan Documents from the date incurred or paid by Beneficiary to the date of repayment by Grantor. All such expenses will become a part of the Secured Obligations and, at Beneficiary's option, will (A) be payable on demand; (B) be added to the balance of the Loan Agreement and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Loan Agreement; or (C) be treated as a balloon payment which will be due and payable at the Loan Agreement's maturity. The Deed of Trust also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Beneficiary may be entitled upon an Event of Default.

Pursuant to Oregon law (ORS 746.201), Beneficiary hereby gives Grantor the following notice:

WARNING

UNLESS YOU PROVIDE US WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY OUR CONTRACT OR AGREEMENT, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM YOU MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED PROPERTY COVERAGE ELSEWHERE.

YOU ARE RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY US. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR CONTRACT OR LOAN

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BALANCE. IF THE COST IS ADDED TO YOUR CONTRACT OR LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING CONTRACT OR LOAN WILL APPLY TO THIS ADDED AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR PRIOR COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF OF COVERAGE.

THE COVERAGE WE PURCHASE MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE YOU CAN OBTAIN ON YOUR OWN AND MAY NOT SATISFY ANY NEED FOR PROPERTY DAMAGE COVERAGE OR ANY MANDATORY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.

WARRANTY; DEFENSE OF TITLE; LEASE. The following provisions relating to ownership of the Lease and other Collateral under this Deed of Trust:

Title. Grantor warrants that: (a) Grantor holds good and marketable title of record to the leasehold estate under the Lease of the Real Property and the grantee's estate in each easement granted to Grantee in or pursuant to the Lease or any other Real Property Agreement, (b) Grantor has the full right, power, and authority to execute and deliver this Deed of Trust to Beneficiary, (c) Grantor is the sole and absolute owner of the leasehold estate created by each Lease and the grantee's estate in each easement granted to Grantee in or pursuant to the Lease or any other Real Property Agreement, and (d) the Lease and each Real Property Agreement is in full force and effect without modification except as described in this Deed of Trust, whether by the lessor or the lessee, nor to Grantor's knowledge has any event or condition occurred which, with notice or the passage of time or both, would be a default hereunder.

Defense of Title. Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Trustee or Beneficiary under this Deed of Trust, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Beneficiary shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Beneficiary's own choice and Grantor will deliver, or cause to be delivered, to Beneficiary such instruments as Beneficiary may request from time to time to permit such participation.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Grantor in this Deed of Trust shall survive the execution and delivery of this Deed of Trust, shall be continuing in nature, and shall remain in full force and effect until such time as the Secured Obligations are satisfied.

Leases. With respect to the Lease, Grantor covenants and agrees as follows:

- (a) except as may be otherwise provided in the Master Lease dated December 5, 2017 between Grantor, as lessor, and PV Project Lessee IX, LLC, as lessee, Grantor will not assign, pledge or otherwise encumber any of its right, title or interest under, in or to the Lease except for the assignment to the Beneficiary and its successors or assigns;
- (b) it will not take or omit to take any action, the taking or omission of which might result in any material alteration or impairment of the Lease or the Beneficiary's rights under this Deed of Trust;
- (c) it will not enter into any agreement amending, modifying, supplementing or terminating the Lease without the Beneficiary's consent;
- (d) it will keep the Beneficiary informed of all material circumstances known to it bearing upon the rights and remedies of Grantor under the Lease and any other Real Property Agreement;

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- (e) it will not grant any consents or waivers under the Lease or any other Real Property Agreement;
- (f) consistent with reasonable and prudent business practice and consistent with the Loan Agreement and Loan Documents or where otherwise required by the Loan Agreement or other Loan Documents, it will exercise any option to renew or extend the Lease if at the time that option becomes exercisable. Grantor will confirm exercise of that option to Beneficiary in writing not later than sixty (60) days prior to expiration of the then current lease term. Grantor hereby irrevocably appoints Beneficiary as its attorney-in-fact, with full power of substitution, to exercise any such option on behalf of Grantor if Grantor for any reason fails or refuses to exercise that option at least twenty (20) days prior to the expiration of the period of time for its exercise; and
- (g) promptly upon request by Beneficiary and at no cost to Beneficiary use its best efforts to obtain and deliver to Beneficiary from the lessor under the Lease any lessor's estoppel certificate requested by Beneficiary.

Prohibition on Rejection of the Leases in Bankruptcy. Grantor shall not, without the Beneficiary's prior written consent, elect to treat any of the Lease or Real Property Agreements or the leasehold or other estates created thereby as terminated under Subsection 365(h)(1) of the Bankruptcy Code after rejection or disaffirmance the lessor or counterparty thereunder or by any trustee of such party, and any such election made without such consent shall be void and ineffective.

Assignment of Rejection Rights. As security for the Secured Obligations, Grantor hereby unconditionally assigns, transfers and sets over to the Beneficiary all of Grantor's claims and rights to the payment of damages that may hereafter arise as a result of any rejection or disaffirmance of the Lease and any Real Estate Agreement by the lessor or counterparty thereunder or by any trustee of the lessor or counterparty under the Bankruptcy Code. The Beneficiary shall have and is hereby granted the right to proceed in its own name or in the name of Grantor with respect to any claim, suit, action or proceeding relating to the rejection or disaffirmance of any of the Lease or other Real Property Agreements (including, without limitation, the right to file and prosecute, to the exclusion of Grantor, any proofs of claim, complaints, motions, application, notices and other documents) in any case with respect to the lessor or counterparty under the Bankruptcy Code. This assignment constitutes an irrevocable and unconditional assignment of the foregoing claims, rights and remedies. Any amounts received by the Beneficiary as damages arising out of any such rejection of any of the Lease or other Real Property Agreements shall be applied first, to all reasonable costs and expenses of the Beneficiary (including, without limitation, reasonable legal fees) in connection with the exercise of its rights under this paragraph, and then, in such manner as the Beneficiary shall determine, to the reduction of Secured Obligations, and thereafter any balance shall be remitted to Grantor.

Offset of Rejection Damages against Rent and Royalty. If, pursuant to Subsection 365(h)(1)(B) of the Bankruptcy Code, Grantor seeks to offset against the rents or royalties due under any of the Lease or other Real Property Agreements the amount of any damages caused by the nonperformance by the lessor or counterparty of its obligations under any such Lease or agreement after rejection or disaffirmance thereof under the Bankruptcy Code, Grantor shall, prior to effecting such offset, notify the Beneficiary of Grantor's intent to do so, setting forth the amounts proposed to be so offset and the basis therefor. The Beneficiary shall have the right to object to all or any part of such offset and, in the event of such objection, Grantor shall not effect any offset of the amounts so objected to by the Beneficiary. If the Beneficiary shall have failed to object within ten (10) days after such notice, Grantor may proceed to effect such offset in the amounts set forth in such notice. The Beneficiary's failure to object to such offset shall not constitute an approval by the Beneficiary of any such offset. Grantor shall defend, indemnify and hold the Beneficiary harmless from and against any and all claims, demands, actions, suits, proceedings, damages, losses, costs and expenses of every nature whatsoever (including, without limitation, reasonable legal fees) arising from

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or relating to any such offset by Grantor, except and to the extent the same are caused by the gross negligence or willful misconduct of the Beneficiary.

Notice of Lessor/Counterparty Bankruptcy. Grantor shall, promptly after obtaining knowledge thereof, give written notice to the Beneficiary of any actual or contemplated filing by or against a lessor or counterparty under any of the Lease or any other Real Property Agreements of a petition under the Bankruptcy Code, and use its best efforts to give prompt oral notice to the Beneficiary of such actual or contemplated filing. The aforesaid written notice shall set forth any information available to Grantor concerning the date or anticipated date of such filing, the court in which such petition was filed or is expected to be filed, and the relief sought therein. Grantor shall, promptly after receipt thereof, deliver to the Beneficiary any and all notices, summonses, pleadings, applications and other documents received by Grantor in connection with any such petition and any proceedings related thereto.

Right to Assume Lease/Real Property Agreements Prior to Grantor's Rejection. If a petition under the Bankruptcy Code is filed by or against Grantor, and Grantor or any trustee of Grantor shall decide to reject any of the Lease or other Real Property Agreements pursuant to Section 365 of the Bankruptcy Code, Grantor shall give the Beneficiary at least ten (10) days prior written notice of the date on which application shall be made to the court for authority to reject any such Lease or agreement. The Beneficiary shall have the right, but not the obligation, to serve upon Grantor or such trustee within such ten (10) day period a notice stating that (A) the Beneficiary demands that Grantor or such trustee assume and assign any such Lease and/or agreement to the Beneficiary pursuant to Section 365 of the Bankruptcy Code, and (B) the Beneficiary covenants to cure, or provide adequate assurance of prompt cure of, all defaults and to provide adequate assurance of future performance under such Lease or agreement. If the Beneficiary serves such notice upon Grantor or such trustee, neither Grantor nor such trustee shall seek to reject such Lease or agreement, and Grantor and such trustee shall comply with such demand within thirty (30) days after such notice is given.

Right to Assume Lease/Agreements if Grantor Fails to Act. If a petition under the Bankruptcy Code is filed by or against Grantor, and if within thirty (30) days after the date of filing of such petition neither Grantor nor any trustee of Grantor takes any action to assume or reject any of the Lease or other Real Property Agreements pursuant to Subsection 365(a) of the Bankruptcy Code, the Beneficiary shall have the right, but not the obligation, to serve upon Grantor or such trustee a notice stating that (A) the Beneficiary demands that Grantor or such trustee assume and assign any such Lease to the Beneficiary pursuant to Section 365 of the Bankruptcy Code, and (B) the Beneficiary covenants to cure, or provide adequate assurance of prompt cure of, all defaults and to provide adequate assurance of future performance under any such Lease or agreement. If the Beneficiary serves such notice upon Grantor or such trustee, neither Grantor nor such trustee will seek to reject any such Lease or agreement, and Grantor and such trustee shall comply with such demand within fifteen (15) days after such notice is given.

Assignment of Certain Extension Rights. Grantor hereby assigns, transfers and sets over to the Beneficiary a nonexclusive right to apply to the Bankruptcy Court under Subsection 365(d)(4) of the Bankruptcy Code for an order extending the period during which any of the Lease or other Real Property Agreements may be rejected or assumed after the entry of any order for relief in respect to Grantor under Chapter 7 or Chapter 11 of the Bankruptcy Code.

CONDEMNATION. The following provisions relating to condemnation proceedings are a part of this Deed of Trust:

Proceedings. If any proceeding in condemnation is filed affecting any or all of the Property, Grantor shall promptly notify Beneficiary in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Beneficiary shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice all at Grantor's expense, and Grantor will deliver or cause to be delivered to

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Beneficiary such instruments and documentation as may be requested by Beneficiary from time to time to permit such participation.

Application of Net Proceeds. If all or any part of the Property is condemned by eminent domain proceedings, by inverse condemnation or by any proceeding or purchase in lieu of condemnation, Beneficiary may at its election require that all or any portion of the net proceeds of the award be paid to Beneficiary to be applied to the Secured Obligations or be held and applied to the repair or restoration of the Property on such terms and conditions as Beneficiary may direct. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Trustee or Beneficiary in connection with the condemnation.

IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES. The following provisions relating to governmental taxes, fees and charges are a part of this Deed of Trust:

Current Taxes, Fees and Charges. Upon request by Beneficiary, Grantor shall execute such documents in addition to this Deed of Trust and take whatever other action is requested by Beneficiary to perfect and continue Beneficiary's lien on Grantor's interest in the Property. Grantor shall reimburse Beneficiary for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Deed of Trust, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Deed of Trust.

Taxes. The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Deed of Trust or upon all or any part of the Secured Obligations secured by this Deed of Trust; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the Secured Obligations secured by this type of Deed of Trust; (3) a tax on this type of Deed of Trust chargeable against the Beneficiary or the holder of the Loan Agreement; and (4) a specific tax on all or any portion of the Secured Obligations or on payments of principal and interest made by Grantor.

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Deed of Trust, this event shall have the same effect as an Event of Default, and Beneficiary may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section (which contest must stay the enforcement of the tax) and deposits with Beneficiary cash or a sufficient corporate surety bond or other security satisfactory to Beneficiary.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Deed of Trust:

Further Assurances. At any time, and from time to time, upon request of Beneficiary, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Beneficiary or to Beneficiary's designee, and when requested by Beneficiary, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Beneficiary may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Beneficiary, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Loan Agreement, this Deed of Trust, and the Loan Documents, and (2) the liens and security interests created by this Deed of Trust as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Beneficiary agrees to the contrary in writing, Grantor shall reimburse Beneficiary for all costs and expenses incurred in connection with the matters referred to in this paragraph.

Attorney-in-Fact. If Grantor fails to do any of the things referred to in the preceding paragraph, Beneficiary may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Beneficiary as Grantor's attorney-in-fact for the purpose of making,

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executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Beneficiary's sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. If the Secured Obligations are satisfied, and Grantor otherwise performs all the obligations imposed upon Grantor under or otherwise secured by this Deed of Trust, Beneficiary shall execute and deliver to Trustee a request for full reconveyance. Any reconveyance fee shall be paid by Grantor, if permitted by applicable law. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto", and the recitals in the reconveyance of any matters or facts shall be conclusive proof of the truthfulness of any such matters or facts.

EVENTS OF DEFAULT. Any Event of Default under the Loan Agreement or any other Loan Document, at Beneficiary's option, shall constitute an Event of Default under this Deed of Trust.

RIGHTS AND REMEDIES ON DEFAULT. If an Event of Default occurs under this Deed of Trust, at any time thereafter, to the extent allowable under applicable law, Trustee or Beneficiary may exercise any one or more of the rights and remedies set forth in the Loan Documents, including, without limitation, the following:

Election of Remedies. Election by Beneficiary to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Deed of Trust, after Grantor's failure to perform, shall not affect Beneficiary's right to declare a default and exercise its remedies.

Foreclosure. With respect to all or any part of the Real Property, the Trustee shall have the right to exercise its power of sale and to foreclose by notice and sale, and Beneficiary shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

Collect Rents. Beneficiary shall have the right, without notice to Grantor to take possession of and manage the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Beneficiary's costs, against the Secured Obligations. In furtherance of this right, Beneficiary may require any tenant or other user of the Property to make payments of rent or use fees directly to Beneficiary. If the Rents are collected by Beneficiary, then Grantor irrevocably designates Beneficiary as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Beneficiary in response to Beneficiary's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Beneficiary may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

Appoint Receiver. Beneficiary shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Project and Property preceding or pending foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Secured Obligations. The receiver may serve without bond if permitted by law. Beneficiary's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Secured Obligations by a substantial amount. Employment by Beneficiary shall not disqualify a person from serving as a receiver.

Other Remedies. Trustee or Beneficiary shall have any other right or remedy provided in this Deed of Trust or the Loan Agreement or other Loan Documents or by law.

Sale of the Property. To the extent permitted by applicable law, Grantor hereby waives any and all rights to have the Property marshalled. In exercising its rights and remedies, the Trustee or Beneficiary shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Beneficiary shall be entitled to bid at any public sale on all or any portion of the Property.

**LEASEHOLD DEED OF TRUST
(Continued)**

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Attorneys' Fees; Expenses. If Beneficiary institutes any suit or action to enforce any of the terms of this Deed of Trust, Beneficiary shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal or petition for review. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Beneficiary incurs that in Beneficiary's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Secured Obligations payable on demand and shall bear interest at the Loan Agreement rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Beneficiary's attorneys' fees and Beneficiary's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

Rights of Trustee. Trustee shall have all of the rights and duties of Beneficiary as set forth in this section.

POWERS AND OBLIGATIONS OF TRUSTEE. The following provisions relating to the powers and obligations of Trustee (pursuant to Beneficiary's instructions) are part of this Deed of Trust:

Powers of Trustee. In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Property upon the written request of Beneficiary and Grantor: (a) join in preparing and filing a map or plat of the Real Property, including the dedication of streets or other rights to the public; (b) join in granting any easement or creating any restriction on the Real Property; and (c) join in any subordination or other agreement affecting this Deed of Trust or the interest of Beneficiary under this Deed of Trust.

Obligations to Notify. Trustee shall not be obligated to notify any other party of a pending sale under any other trust deed or lien, or of any action or proceeding in which Grantor, Beneficiary, or Trustee shall be a party, unless required by applicable law, or unless the action or proceeding is brought by Trustee.

Trustee. Trustee shall meet all qualifications required for Trustee under applicable law. In addition to the rights and remedies set forth above, with respect to all or any part of the Property, the Trustee shall have the right to foreclose by notice and sale, and Beneficiary shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

Successor Trustee. Beneficiary, at Beneficiary's option, may from time to time appoint a successor Trustee to any Trustee appointed under this Deed of Trust by an instrument executed and acknowledged by Beneficiary and recorded in the office of the recorder of Klamath County, Oregon. The instrument shall contain, in addition to all other matters required by state law, the names of the original Beneficiary, Trustee, and Grantor, the book and page or the Recording/Microfilm Number where this Deed of Trust is recorded, and the name and address of the successor trustee, and the instrument shall be executed and acknowledged by Beneficiary or its successors in interest. The successor trustee, without conveyance of the Property, shall succeed to all the title, power, and duties conferred upon the Trustee in this Deed of Trust and by applicable law. This procedure for substitution of Trustee shall govern to the exclusion of all other provisions for substitution.

NOTICES. Subject to applicable law, and except for notice required or allowed by law to be given in another manner, any notice required to be given under this Deed of Trust, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Deed of Trust. All copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust shall be sent to Beneficiary's

**LEASEHOLD DEED OF TRUST
(Continued)**

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address, as shown near the beginning of this Deed of Trust. Any party may change its address for notices under this Deed of Trust by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Beneficiary informed at all times of Grantor's current address. Subject to applicable law, and except for notice required or allowed by law to be given in another manner, if there is more than one Grantor, any notice given by Beneficiary to any Grantor is deemed to be notice given to all Grantors.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Deed of Trust:

Amendments. This Deed of Trust, together with any Loan Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Deed of Trust. No alteration of or amendment to this Deed of Trust shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Caption Headings. Caption headings in this Deed of Trust are for convenience purposes only and are not to be used to interpret or define the provisions of this Deed of Trust.

Merger. There shall be no merger of the interest or estate created by this Deed of Trust with any other interest or estate in the Property at any time held by or for the benefit of Beneficiary in any capacity, without the written consent of Beneficiary.

Governing Law. GRANTOR AGREES THAT ITS AND BENEFICIARY'S AND TRUSTEE'S RIGHTS AND OBLIGATIONS UNDER THIS DEED OF TRUST SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH CAROLINA, WITHOUT GIVING EFFECT TO THE CONFLICTS-OF-LAW RULES AND PRINCIPLES THEREOF. NOTWITHSTANDING THE FOREGOING, GRANTOR AGREES THAT:

- (a) THE PROCEDURES GOVERNING THE ENFORCEMENT BY BENEFICIARY AND TRUSTEE OF THE PROVISIONAL REMEDIES AGAINST GRANTOR, INCLUDING BY WAY OF ILLUSTRATION BUT NOT LIMITATION, ACTIONS FOR REPLEVIN, FOR CLAIM AND DELIVERY OF PROPERTY, FOR INJUNCTIVE RELIEF OR FOR THE APPOINTMENT OF A RECEIVER AND THE REQUIREMENTS NECESSARY TO CREATE OR GRANT, PERFECT OR FORECLOSE ON, OR DETERMINE THE PRIORITY OF, THE LIEN AND SECURITY INTEREST OF THIS DEED OF TRUST, SHALL BE GOVERNED BY THE LAWS OF THE STATE OF OREGON; AND
- (b) BENEFICIARY AND TRUSTEE SHALL COMPLY WITH THE APPLICABLE LAW OF THE STATE OF OREGON, TO THE EXTENT REQUIRED IN CONNECTION WITH THE FORECLOSURE OF THE SECURITY INTERESTS AND LIENS CREATED HEREBY; PROVIDED, HOWEVER, THIS SUBSECTION SHALL IN NO EVENT BE CONSTRUED TO PROVIDE THAT THE SUBSTANTIVE LAW OF THE STATE OF OREGON SHALL APPLY TO THE OBLIGATIONS SECURED BY THIS DEED OF TRUST WHICH ARE AND SHALL CONTINUE TO BE GOVERNED BY THE SUBSTANTIVE LAW OF THE STATE OF NORTH CAROLINA. THE PARTIES FURTHER AGREE, EXCEPT AS OTHERWISE PROVIDED HEREIN, THAT EACH OF BENEFICIARY AND TRUSTEE MAY ENFORCE ITS RIGHTS UNDER THIS DEED OF TRUST AND THE LOAN DOCUMENTS IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH CAROLINA.

No Waiver by Beneficiary. Beneficiary shall not be deemed to have waived any rights under this Deed of Trust unless such waiver is given in writing and signed by Beneficiary. No delay or omission on the part of Beneficiary in exercising any right shall operate as a waiver of such right or any other right. A waiver by Beneficiary of a provision of this Deed of Trust shall not prejudice or constitute a waiver of Beneficiary's

**LEASEHOLD DEED OF TRUST
(Continued)**

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right otherwise to demand strict compliance with that provision or any other provision of this Deed of Trust. No prior waiver by Beneficiary, nor any course of dealing between Beneficiary and Grantor, shall constitute a waiver of any of Beneficiary's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Beneficiary is required under this Deed of Trust, the granting of such consent by Beneficiary in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Beneficiary.

Severability. If a court of competent jurisdiction finds any provision of this Deed of Trust to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Deed of Trust. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Deed of Trust shall not affect the legality, validity or enforceability of any other provision of this Deed of Trust.

Successors and Assigns. Subject to any limitations stated in this Deed of Trust on transfer of Grantor's interest, this Deed of Trust shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Beneficiary, without notice to Grantor, may deal with Grantor's successors with reference to this Deed of Trust and the Secured Obligations by way of forbearance or extension without releasing Grantor from the obligations of this Deed of Trust or liability under the Secured Obligations.

Time is of the Essence. Time is of the essence in the performance of this Deed of Trust.

Waive Jury Trial. All parties to this Deed of Trust hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Oregon as to all Secured Obligations secured by this Deed of Trust.

ORS 41.580 NOTICE TO GRANTOR: Under Oregon law, most agreements, promises and commitments made by Beneficiary concerning loans and other credit extensions which are not for personal, family or household purposes or secured solely by the borrower's residence must be in writing, express consideration and be signed by Beneficiary to be enforceable.

Fixture Filing. To the extent any of the Property constitutes fixtures subject to the Oregon Uniform Commercial Code, this Deed of Trust shall be effective as a financing statement filed as a fixture filing pursuant to ORS 79.0502 between Trustor, as the debtor, and Beneficiary, as the secured party. This Deed of Trust is to be recorded in the Official Records, and encumbers all items which are, or may hereafter become, fixtures.

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LEASEHOLD DEED OF TRUST
(Continued)

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GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS DEED OF TRUST,
AND GRANTOR AGREES TO ITS TERMS.

GRANTOR:

OR SOLAR 3, LLC

By: 

Name: William B. Owens, Jr.

Its: Vice President

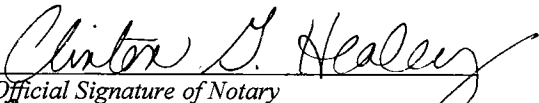
ACKNOWLEDGEMENT

STATE OF Louisiana
Parish
COUNTY OF East Baton Rouge
(Place of Acknowledgement)

The foregoing instrument was acknowledged before me this 16th day of March, 2018, by William B. Owens, Jr. as Vice President of OR SOLAR 3, LLC on behalf such entity.

Clinton G. Healey
Notary Public, ID #146950
East Baton Rouge Parish
State of Louisiana
My commission is for life.

(Official Seal)


Official Signature of Notary

Clinton G. Healey
Notary's printed or typed name, Notary Public

My commission expires: at death

REQUEST FOR FULL RECONVEYANCE

To: _____, Trustee

The undersigned is the legal owner and holder of all Secured Obligations secured by this Deed of Trust. You are hereby requested, upon payment of all sums owing to you, to reconvey without warranty, to the persons entitled thereto, the right, title and interest now held by you under the Deed of Trust.

Date: _____

Beneficiary: _____

By: _____

Its: _____

EXHIBIT A
TO
LEASEHOLD DEED OF TRUST AND ASSIGNMENT OF RENTS

Being all of that real property lying and being situate in Klamath County in the State of Oregon, and being more particularly described as follows:

**The S1/2 SW1/4, Section 9, Township 41 South, Range 12 East of the Willamette Meridian,
Klamath County, Oregon.**

**SAVING AND EXCEPTING THEREFROM that portion thereof conveyed to the United States of
America by deed recorded August 4, 1930 in Book 91 at page 553, deed records of Klamath County,
Oregon.**

EXCEPTING that portion lying within the boundaries of USBR 10-D-1 Drain.

**ALSO SAVING AND EXCEPTING THEREFROM that portion lying within the boundaries of
Demerritt County Road 1168 and Turkey Hill County Road 1167.**