



2018-014328

Klamath County, Oregon

11/28/2018 09:47:01 AM

Fee: \$212.00

**RECORDING COVER SHEET
PER ORS 205.234**

AFTER RECORDING RETURN TO:

**Gary M. Krasna, Esq.
Gary M. Krasna, P.A.
1900 NW Corporate Blvd.
Suite 301W
Boca Raton, FL 33431**

LINE OF CREDIT INSTRUMENT

1. Title(s) of the transaction(s):

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

2. Direct Party/ Grantor:

**SEVEN PEAKS LAND COMPANY LLC, a Florida limited liability company, 31 S. Airport
Road, Lake Wales, FL 33859**

3. Indirect Parties/ Grantees:

**FIRST AMERICAN TITLE COMPANY OF OREGON (Trustee under Deed of Trust) 200
SW Market Street, Suite 250, Portland, Oregon 97201**

**AEGIS BUSINESS CREDIT, LLC, a Florida limited liability company (Beneficiary under Deed
of Trust) 3401 W. Cypress Street, Suite 201, Tampa, FL 33607**

4. True and actual consideration: n/a—Instrument does not convey fee title.

5. Send tax statements to: n/a—Instrument does not convey fee title.

**The tax account numbers for the property subject to the lien or in which the interest is created are:
R-873614; R897465; and R873613**

**THE MATURITY DATE OF THE INDEBTEDNESS SECURED BY THIS DEED OF TRUST,
EXCLUSIVE OF ANY OPTION TO RENEW OR EXTEND SUCH MATURITY DATE, IS
OCTOBER 24, 2020.**

**THE AGGREGATE MAXIMUM PRINCIPAL AMOUNT TO BE ADVANCED PURSUANT TO
THE TERM LOAN AGREEMENT, FACTORING AGREEMENT AND PROMISSORY NOTE
SECURED BY THIS DEED OF TRUST IS ONE MILLION DOLLARS (\$1,000,000). THE
MAXIMUM PRINCIPAL AMOUNT SET FORTH IN THE IMMEDIATELY PRECEDING
SENTENCE MAY BE EXCEEDED BY ADVANCES TO COMPLETE CONSTRUCTION OR TO
PRESERVE AND PROTECT THE COLLATERAL AS SET FORTH IN ORS 86.155(2)(B) AND
(C).**

**THIS DOCUMENT IS A LINE OF CREDIT INSTRUMENT UNDER ORS 86.155 AND A TRUST
DEED UNDER ORS 86.705- 815**

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

THIS DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (“Deed of Trust”) is made and entered into as of the 24th day of October, 2018, by **SEVEN PEAKS LAND COMPANY LLC**, a Florida limited liability company, whose address is 31 S. Airport Road, Lake Wales, FL 33859, as grantor (“**Grantor**”) to **FIRST AMERICAN TITLE COMPANY OF OREGON**, whose address is 200 SW Market Street, Suite 250, Portland, Oregon 97201, as trustee (“**Trustee**”); for the benefit of **AEGIS BUSINESS CREDIT, LLC**, a Florida limited liability company, whose address is 3401 W. Cypress Street, Suite 201, Tampa, FL 33607, as beneficiary (“**Beneficiary**”).

Grantor hereby grants, bargains, sells and conveys to Trustee, in trust, with power of sale, all Grantor’s present and future right, title and interest in the real property located in Klamath County, Oregon described in **Exhibit A** attached to this Deed of Trust (the “**Land**”), together with all easements, water and mineral rights, rights in any streets or alleys adjoining the Land, and other rights or interests appurtenant to the Land; all buildings, structures, and improvements at any time situated thereon; all facilities, fixtures, machinery, apparatus, installations, goods, furniture, equipment, inventory, and other properties (including without limitation all heating, ventilating, air conditioning, plumbing and electrical equipment, all elevators and escalators, all sprinkler systems, all engines and motors, all lighting, laundry, cleaning, fire prevention and fire extinguishing equipment, all ducts and compressors, all refrigerators, stoves, and other appliances, attached cabinets, partitions, rugs, carpets and draperies, all building materials and supplies, and all construction forms, tools, and equipment) now or hereafter located in or used or procured for use in connection with the Land; together with all contracts, agreements, permits, plans, specifications, drawings, surveys, engineering reports, and other work products relating to the construction of the existing or any future improvements on the Land, and any and all rights of Grantor in, to, or under any architects’ contracts or construction contracts relating to the construction of the existing or any future improvements on the Property (as hereafter defined), and any performance and/or payment bonds issued in connection therewith; together with all trademarks, trade names, copyrights, computer software, and other intellectual property used by Grantor in connection with the Property, together with any and all rights of Grantor without limitation to make claim for, collect, receive, and receipt for any and all rents, income, revenues, issues, royalties, and profits, including mineral, oil, and gas rights and profits, insurance proceeds, condemnation awards, and other moneys payable or receivable from or on account of any of the Property, including interest thereon, or to enforce all other provisions of any agreement (including those referred to above) affecting or relating to any of the Property, together with any and all rights of Grantor in any and all accounts, rights to payment, contract rights, chattel paper, documents,

instruments, licenses, contracts, agreements, and general intangibles relating to any of the Property, including, without limitation, income and profits derived from the operation of any business on the Property or attributable to services that occur or are provided on the Property or generated from the use and operation of the Property and together with all books and records of Grantor relating to the foregoing in any form and all computer software necessary or useful to reading such books and records; all of Grantor's rights as landlord in and to all existing and future leases and tenancies of all or any portion of the Property, whether written or oral, and whether for a definite term or month to month or otherwise, including all renewals and extensions thereof and guaranties thereof, and all rents, deposits and other amounts received thereunder; and all books and records of Grantor relating the foregoing (all of the foregoing rights and interests together with all proceeds of the foregoing being referred to herein as the **"Property"**). To the extent that the grant of a security interest in any part of the Property that is owned by Grantor as of the date hereof requires the consent of a third party, Grantor represents and warrants to Beneficiary that such consent has been obtained. To the extent that the grant of a security interest in any part of the Property that is acquired by Grantor subsequent to the date hereof (including, without limitation, plans and architectural drawings, permits, or construction contracts) requires the consent of a third party, Grantor will obtain such consent upon demand by Beneficiary.

IT IS MUTUALLY AGREED THAT:

1. **Obligation Secured.** This Deed of Trust is for the purpose of securing the following (collectively, the **"Obligations"**):

- (a) performance of each agreement of Grantor herein contained;
- (b) payment of all amounts owed to Beneficiary under a term loan facility (the **"Perlite Term Loan"**, or the **"Term Loan"**) in the maximum principal amount of **FIVE HUNDRED THOUSAND DOLLARS (\$500,000)**, made available by Beneficiary to Grantor and to **American Garden Perlite OR, LLC**, a Delaware limited liability company (**"Perlite"**) pursuant to a term loan agreement of even date herewith (the **"Term Loan Agreement"**) and a term loan promissory note of even date herewith in the face amount of \$500,000 (the **"Term Loan Note"**);
- (c) Grantor's guaranty, pursuant to a guaranty agreement of even date herewith (the **"Perlite Factoring Facility Guaranty"** or the **"Factoring Facility Guaranty"**) of payment of all amounts owed by Perlite under a factoring facility (the **"Perlite Factoring Facility"** or the **"Factoring Facility"**, and together with the Perlite Term Loan, the **"Perlite Credit Facilities"**) in the maximum principal amount of **FIVE HUNDRED THOUSAND DOLLARS (\$500,000)**, made

available by Beneficiary to Perlite pursuant to a factoring agreement of even date herewith (the “**Perlite Factoring Agreement**” or the “**Factoring Agreement**”); and

(d) repayment of any and all sums advanced or expenditures made by Beneficiary at any time for the maintenance or preservation of the Property or to protect the priority thereof, or to satisfy any obligation secured by a lien that is or may become senior to the lien hereof.

PROVIDED, HOWEVER, that in no event shall the Certificate and Indemnity Agreement Regarding Hazardous Substances of even date herewith executed by Grantor and the other indemnitors designated therein for the benefit of Beneficiary in connection with the Perlite Credit Facilities (the “**Environmental Indemnity**”) be secured by this Deed of Trust. Nor shall any guaranty of any portion of the Perlite Credit Facilities by a party other than Grantor be secured by this Deed of Trust.

2. Security Agreement. To the extent any of the Property is personal property, Grantor, as debtor, grants to Beneficiary, as secured party, a security interest therein together with a security interest in all other personal property of whatsoever nature that is located on, used, or to be used in connection with any of the Property, and any products or proceeds of any thereof, pursuant to the Uniform Commercial Code of the state of Oregon (the “**UCC**”), on the terms and conditions contained herein. Beneficiary hereby assigns such security interest to Trustee, in trust, for the benefit of Beneficiary to be dealt with as a portion of the “Property” except as otherwise specified herein. Grantor authorizes Beneficiary to file such Uniform Commercial Code Financing Statements listing Grantor as Debtor and Beneficiary as Secured Party as Beneficiary deems necessary or advisable to perfect the security interest herein granted.

3. Fixture Filing. This instrument shall be deemed to be a Fixture Filing within the meaning of the UCC to the extent any of the collateral described herein constitutes or will constitute fixtures. For such purpose, the name and address of Debtor and Secured Party, respectively, are the Grantor’s and the Beneficiary’s names and addresses, respectively, as specified in the introductory paragraph of this instrument. The description of the real estate to which the collateral is attached or upon which it is or will be located is as set forth on **Exhibit A** hereto. Grantor is the record owner of the real estate.

4. Warranty of Title. Grantor represents and warrants to Beneficiary that the Property is owned by Grantor and free and clear of all liens, charges and other encumbrances except for: (i) those additional encumbrances listed on attached **Exhibit B** as being prior to the lien of the Deed of Trust (collectively, the “**Prior Permitted**

Encumbrances”); and (ii) those encumbrances listed on **Exhibit C** as being subordinate to the lien of the Deed of Trust (the **“Subordinate Permitted Encumbrances”**, and together with the prior Permitted Encumbrances, the **“Permitted Encumbrances”**).

5. Covenants of Grantor. Grantor covenants and agrees as follows:

(a) Grantor shall keep the Property in good condition and repair; shall permit no waste thereof; shall not alter or demolish any of the existing improvements on the Property or allow new improvements to be constructed without Beneficiary’s prior written consent, which Beneficiary may grant or withhold in its sole discretion, and in the event such consent is granted shall complete any such alteration, demolition or construction in accordance with the plans approved by Beneficiary; shall restore promptly and in a workmanlike manner any building, structure or improvement thereon that may at any time be damaged or destroyed; shall pay when due all claims for labor performed and materials supplied therefor; shall comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Property and the ownership, maintenance, operation and use thereof; and shall do all other acts that from the character or use of the Property may be reasonably necessary from time to time for the continued operation of the Property in a safe and legal manner.

(b) Grantor shall comply in all material respects with the terms of all easements, licenses, covenants, leases and agreements relating to the Property and Grantor’s uses thereof.

(c) Grantor shall pay before delinquency all taxes and assessments upon the Property.

(d) Grantor shall keep the Property free and clear of all charges, liens or encumbrances other than this Deed of Trust and the Permitted Encumbrances. Grantor shall preserve and protect the priority of this Deed of Trust as a first lien on the property, subject only to the Prior Permitted Encumbrances. Grantor shall have the right to contest in good faith the validity of any lien or claim against the Property so long as the lien of this Deed of Trust is not jeopardized and if requested to do so by Beneficiary, Grantor posts a bond or other adequate security in an amount equal to one hundred twenty-five percent (125%) of the amount of the lien or claim being contested.

(e) Grantor shall keep all buildings now or hereafter erected on the Property continuously insured against loss by fire or other hazards pursuant to what is commonly referred to as “all-risk” coverage property insurance and otherwise as may be as required by Beneficiary from time to time in an amount not less than the total replacement value thereof, plus loss of rents coverage in an amount sufficient to cover 12

months historical income from the Property, and including a building upgrade and municipal ordinance endorsement. All such policies shall have a deductible not exceeding \$25,000, shall name Beneficiary as loss payee, subject only to the rights of the holder of any Prior Permitted Encumbrances, and shall contain a provision for 30 days' prior notice to Beneficiary before cancellation thereof. All policies shall be held by Beneficiary, and be issued by such companies as Beneficiary may approve in its discretion and have loss payable first to Beneficiary, as its interest may appear, subject only to the rights of the holder of any Prior Permitted Encumbrances, and then to Grantor. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured in such order as Beneficiary shall determine. Such application by Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale.

(f) Grantor shall maintain comprehensive general liability insurance covering the legal liability of Grantor against claims for bodily injury, personal injury, death, property damage or advertising injury occurring on, in, or about the Property with coverage of at least Five Million Dollars (\$5,000,000) combined single limit, and naming Beneficiary as an additional insured.

(g) Grantor shall defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and shall pay all costs and expenses (including costs of title reports and policies and fees of attorneys, paralegals, appraisers and environmental consultants retained by Beneficiary) in any such action or proceeding, and in any suit or other proceeding brought by Beneficiary to foreclose this Deed of Trust.

(h) Grantor shall take all actions necessary to preserve the existence and validity of all licenses, rights, permits, franchises, concessions and privileges necessary to any existing or contemplated use of the Property, including without limitation any zoning variances and nonconforming use permits.

(i) Grantor shall pay all costs, fees and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligations secured hereby and actually incurred by Beneficiary or Trustee.

(j) Grantor shall not enter into any lease affecting the Property without the prior written consent of Beneficiary, which Beneficiary may grant or deny in its sole discretion. Any lease to an entity affiliated with Grantor shall, at Beneficiary's option be made expressly subject and subordinate to this Deed of Trust. Grantor shall perform and comply with all terms and conditions of all leases and rental agreements

affecting the Property from time to time during the term hereof (the "**Leases**") and shall require the strict performance by all tenants of the obligations under such Leases. Grantor shall not receive or collect any rents from any present or future tenant of the Property more than one month in advance of their due date.

(k) Grantor shall not permit the filing or recordation against the Property of any short plat, subdivision, binding site plan, condominium, lot line adjustment, or segregation or consolidation of tax parcels, or take any action that would alter or reconfigure any lot boundaries or create new lots or building sites within the Property, without the prior written consent of Beneficiary, which Beneficiary may grant or withhold in its sole discretion.

(l) Grantor shall comply with the provisions of the Permitted Encumbrances, and all agreements secured thereby.

6. **Transfer or Encumbrance.** If Grantor shall sell, assign or transfer the Property or any portion thereof or any interest therein, further encumber the Property or any portion thereof or permit any change in the aggregate, of more than ten percent (10%) of the beneficial ownership of Grantor, without in each instance having obtained the prior written consent of Beneficiary, such action shall constitute a material default hereunder and shall entitle Beneficiary to exercise any and all of its remedies under this Deed of Trust and any other documents or instruments evidencing or securing the Obligations, including, at Beneficiary's option, the right to declare the Obligations (including any prepayment fees) immediately due and payable in full. Beneficiary may grant, deny or condition its consent to any matter described in this Section 6 in its sole and absolute discretion,

7. **Inspection.** Grantor shall permit Beneficiary or its agents at all reasonable times, to enter upon and inspect the Property.

8. **Condemnation.** In the event any portion of the Property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy the obligation secured hereby, shall be paid to Beneficiary to be applied to the indebtedness hereby secured.

9. **No Waiver.** By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

10. **Reconveyance.** The Trustee shall reconvey all or any part of the Property covered by this Deed of Trust to the person entitled thereto on written request of the

Grantor and the Beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance made by the Beneficiary or the person entitled thereto.

11. Events of Default. Any of the following shall constitute an “Event of Default” as that term is hereinafter used:

(a) Any representation or warranty made by or for the benefit of Grantor herein or elsewhere in connection with the loan secured hereby, including but not limited to any representations in connection with the security therefor, shall prove to have been incorrect or misleading in any material respect;

(b) Grantor or any other person or entity liable therefor shall fail to pay when due any indebtedness secured hereby;

(c) Grantor or any other signatory thereto shall default in the performance of any covenant or agreement contained in this Deed of Trust or any agreement executed in connection with the indebtedness secured hereby;

(d) Grantor or any other person or entity liable for the repayment of the indebtedness secured hereby shall become unable or admit in writing its inability to pay its debts as they mature, or file, or have filed against it, a voluntary or involuntary petition in bankruptcy, or make a general assignment for the benefit of creditors, or become the subject of any other receivership or insolvency proceeding;

(e) Grantor or any other signatory thereto shall default in the performance of any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantor’s property or ability to pay or perform Grantor’s obligations under this Deed of Trust or under any covenant or agreement contained in any of the Permitted Encumbrances or any agreement secured thereby;

(f) A tax, charge, or lien shall be placed upon or measured by the Obligations, this Deed of Trust, or any obligation secured hereby that Grantor does not or may not legally pay in addition to the payment of all principal and interest comprising the Obligations; or

(g) There shall occur any default under any of the Permitted Encumbrances or any of the Excluded Obligations or under the Factoring Agreement.

12. Beneficiary’s Right to Perform. Upon the occurrence of any Event of Default hereunder, including without limitation Grantor’s failure to pay when due any

taxes, assessments, insurance premiums, liens, encumbrances or other charges against the Property, but not including a default under one or more of the Excluded Obligations, Beneficiary may, but shall not be obligated to, pay the same, and the amount so paid, with interest at the default interest rate applicable under the Term Loan Agreement and Term Loan Note, shall be added to and become a part of the debt secured in this Deed of Trust. The payment of such sums by Beneficiary and addition of the amount thereof to the principal balance secured hereby shall not constitute a waiver of the default.

13. Remedies on Default. Upon the occurrence of any Event of Default, all sums secured hereby shall become immediately due and payable, without notice or demand, at the option of Beneficiary and Beneficiary may also:

(a) Have a receiver appointed as a matter of right, without regard to the sufficiency of the Property or any other security for the indebtedness secured hereby and, without the necessity of posting any bond or other security, such receiver shall take possession and control of the Property and shall collect and receive all of the rents, issues, and profits thereof;

(b) Foreclose this Deed of Trust as a mortgage or otherwise realize upon the Property;

(c) Cause Trustee to exercise its power of sale;

(d) Sue on the Obligations according to law; or

(e) to the extent permitted by law, seek and obtain a deficiency judgment following the completion of a judicial foreclosure or a trustee's sale of all or a portion of the security for the obligations secured by this Deed of Trust.

The rights and remedies accorded by this Deed of Trust shall be in addition to, and not in substitution of, any rights or remedies available under applicable law. All remedies provided herein and under applicable law are cumulative and may be exercised concurrently or successively.

14. Application of Rents. Grantor hereby grants to Beneficiary the right and authority during the continuance of this Deed of Trust to collect the rents and profits of the Property, reserving to Grantor the right, prior to any default in payment of any indebtedness secured hereby to collect and retain such rents and profits as they become due and payable. Upon any such default, Grantor's right to spend or retain any rents or profits of the Property shall cease immediately and without notice or demand and Beneficiary may at any time and without notice, either in person, by agent, or by a

receiver to be appointed by a court, without regard to the adequacy of any security for the indebtedness hereby secured and without the necessity for posting any bond or other security, enter upon and take possession of the Property or any part thereof, or in its own name sue for or otherwise collect such rents and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of the Property, the collection of such rents and profits and the application thereof as provided herein shall not cure or waive any default hereunder or invalidate any act done pursuant to such notice. Nothing in this Section shall be deemed to limit or impair Beneficiary's right to review and approve proposed leases of the Property pursuant to Section 5(j) above.

15. Trustee's Power of Sale. The procedure for exercise of the Trustee's power of sale under this Deed of Trust shall be as follows: Upon receipt of notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Grantor such Notice of Default and Election to Sell as shall then be required by law and by this Deed of Trust. Trustee shall, without demand on Grantor, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Property at the time and place of sale fixed by Trustee in said Notice of Sale, either as a whole, or in separate lots or parcels or items as Trustee shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. To the extent permitted by law, any person, including, without limitation, Grantor or Beneficiary, may purchase at such sale and Perlite hereby covenants to warrant and defend the title of such purchaser or purchasers. After deducting all costs, fees and expenses of Trustee and of this Deed of Trust, including costs of evidence of title in connection with sale, Trustee shall apply the proceeds of sale in accordance with the provisions of this Deed of Trust. In accordance with applicable law, Trustee may postpone sale of all or any portion of the Premises by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement or subsequently noticed sale, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale. Grantor agrees that such sale (or a sheriff's sale pursuant to judicial foreclosure) of all the Property as real estate constitutes a commercially reasonable disposition thereof, but that with respect to all or any part of the Property which may be personal property, Trustee shall have and exercise, at the sole election of Beneficiary, all the rights and remedies of a secured party under the UCC.

Whatever notice is permitted or required hereunder or under the UCC, ten (10) days shall be deemed reasonable.

16. Successor Trustee. In the event of the death, incapacity, disability, or resignation of Trustee, or at Beneficiary's election, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Grantor, Trustee or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.

17. Successors. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their heirs, devisees, legatees, administrators, executors and assigns.

18. Commercial Trust Deed. This Deed of Trust is a commercial trust deed and is not a residential trust deed, as the phrase "residential trust deed" is defined in ORS 86.705(6), and the provisions of ORS 86.705 through 86.815 applicable to the foreclosure of commercial trust deeds shall apply to this Deed of Trust at the option of Beneficiary. The loan secured hereby is primarily for commercial, industrial or business purposes, and is not primarily for personal, family, or household purposes.

19. Notices. All notices under this Deed of Trust shall be given by personal delivery or by reputable overnight courier service to the addresses of each party which are set forth on the cover page to this Deed of Trust, or to such other address as a party has designated to all other parties by written notice in the manner aforesaid. Notices shall be deemed given when actually received or rejected by the intended recipient.

20. Governing Law. This Deed of Trust shall be governed by and construed in accordance with the laws of the State of Oregon.

21. Attorneys Fees. The prevailing party shall be entitled to its reasonable attorneys fees and all other costs and expenses in any action to enforce or interpret this Deed of Trust.

22. Accommodation Deed of Trust.

22.1 Accommodation Encumbrance. Grantor is executing this Deed of Trust and becoming liable on the Obligations for the purpose of encumbering its interest in the Property as an accommodation to and at the request of Perlite.

22.2 Beneficiary's Rights. Grantor acknowledges that Beneficiary at its sole discretion, with or without notice to Grantor and without affecting this encumbrance, from time to time may: (i) change the time of payment of the Obligations by renewal, extension, acceleration or otherwise; (ii) alter, change or modify any other provision of the Obligations; (iii) release, substitute or add one or more endorser, cosigners or guarantors for or of the Obligations; (iv) obtain any other collateral for the performance of the Obligations or the and/or any guaranty of the Obligations; (v) release existing or after-acquired collateral on such terms as Beneficiary in its sole discretion shall determine; (vi) apply any sums received from Perlite, any guarantor, endorser or co-signer or from collateral or its proceeds to any indebtedness which is secured hereby, regardless whether such indebtedness is secured by any such collateral or is due and payable; (vii) apply any sums received from the sale of the Property encumbered hereby to any Obligation secured hereby in any order regardless of whether such Obligation is secured by any other collateral or property or is due and payable; and (viii) exercise any right or remedy it may have with respect to any Obligation secured hereby or any collateral securing any Obligation, or with regard to the Perlite Credit Facilities, including, but not limited to, judicial foreclosure, exercise of the power of sale or taking a deed or assignment in lieu of foreclosure as to any collateral even though any rights which Grantor may have against others might be thereby diminished or destroyed.

22.3 Waivers. Upon default of Perlite with respect to any Obligation secured hereby or default of Grantor in connection with this Deed of Trust, Beneficiary may, at its option, proceed directly against the Property secured by this Deed of Trust to collect and recover the full amount of the Obligations secured hereby, or any portion thereof, and Grantor waives any and all rights, including but not limited to, any right to require Beneficiary to (i) proceed against Perlite or any other person; (ii) proceed against collateral granted by Perlite or others before proceeding against collateral granted by Grantor; (iii) first apply the property of Perlite to the discharge of such Obligation before applying any property of Grantor thereto; (iv) pursue any other remedy in Beneficiary's power whatsoever; or (v) disclose any information with respect to the financial condition or character of Perlite, any collateral, any guaranty, or any action or non-action on the part of Beneficiary, Perlite or any person connected with such Obligation or collateral therefor. Grantor assumes full responsibility for being and keeping itself informed of the financial condition of Perlite, or any guarantor and of all other circumstances bearing upon the risk of nonpayment of the Perlite Credit Facilities.

Grantor waives any defense arising by reason of any disability or other defense of Perlite, or Perlite's successor or endorser or co-maker or guarantor or by reason of the cessation from any cause whatsoever of the liability of Perlite or endorser or co-maker, or any guarantor. Until the Obligations secured hereby have been paid in full, even though it may be in excess of the value of the Property encumbered hereby, Grantor shall not have

any right of subrogation under the Perlite Credit Facilities, and Grantor waives any benefit of and any right to participate in any collateral for the Perlite Credit Facilities. Grantor waives physical presentation of any notes secured hereby to Perlite upon any default, and further waives any protest upon any default, notice of protest upon any default and/or notice of acceptance of this accommodation. Grantor further waives notice of acceptance of any guaranty or this Deed of Trust, diligence, and all demands, presentments, protests, notice of protests, notice of nonperformance, notice of dishonor, and all other notices of every kind and nature, including notice of the existence, creation or incurring of any new or additional indebtedness.

Without limiting the generality of the foregoing or any other provisions hereof, Grantor hereby expressly waives any and all benefits that might otherwise be available to Grantor under California Civil Code Sections 2809, 2810, 2819, 2839, 2845, 2849, 2850, 2899 and 3433 (as such sections may be amended or recodified from time to time), UCC Section 9112 (as such section may be amended or recodified from time to time) and California Code of Civil Procedure Sections 580a, 580b, 580d and 726 (as such sections may be amended or recodified from time to time). Grantor hereby acknowledges and understands that except as otherwise expressly provided in Paragraph 1 of this Addendum above, Beneficiary may obtain a judgment against Grantor for the entire obligation secured hereby or any deficiency balance thereof upon foreclosure of any portion of the Property without regard to the fair market value of the Property, the method of foreclosure or the fact that the obligation arises from a purchase money transaction.

Grantor acknowledges that Beneficiary's nonjudicial foreclosure on any security securing Perlite's obligations may preclude Beneficiary from obtaining a deficiency judgment against Perlite pursuant to applicable law and may destroy any subrogation rights which Grantor has against Perlite, thus creating a defense to any action maintained by Beneficiary against Grantor for the balance of any of Perlite's obligations remaining due. Grantor hereby waives any defense arising by reason of any claim or defense based upon an election of remedies by Beneficiary which in any manner impairs, reduces, releases, destroys, and/or extinguishes Grantor's subrogation rights, rights to proceed against Perlite for reimbursement, and/or any other rights of the Grantor to proceed against Perlite or any other person or security, including, but not limited to, any defense arising out of a nonjudicial foreclosure by Beneficiary upon any security securing Perlite's obligations which would destroy Grantor's subrogation rights against Perlite and otherwise prevent Beneficiary from proceeding against Grantor for the balance of the obligations due. In addition, Grantor waives any rights it may have under applicable law to a judicial determination of the fair value of any property that at any time secures all or any portion of the obligation secured hereby.

Without limiting the generality of the foregoing or any other provisions hereof, Grantor waives all rights and defenses that Grantor may have because the Obligations secured by

this Deed of Trust or any of the Perlite Credit Facilities are secured by real property other than the real property included in the Property. This means, among other things, that:

(a) Beneficiary may exercise its rights and remedies under this Deed of Trust with respect to the Property without first foreclosing on any real or personal property collateral pledged by Perlite.

(b) If Beneficiary forecloses on any real property collateral pledged by Perlite:

(i) The Amount of the obligations secured by this Deed of Trust may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.

(ii) Beneficiary may exercise its rights and remedies under this Deed of Trust with respect to the Property even if Beneficiary, by foreclosing on the real property collateral, has destroyed any right Grantor may have to collect from the Perlite.

The foregoing is an unconditional and irrevocable waiver of any rights and defenses Grantor may have because the obligations secured by this Deed of Trust are secured by real property.

22.4 Failure to Perfect. Grantor agrees that the failure of Beneficiary to perfect any lien on or security interest in any property given by Perlite or any guarantor or any other person to secure payment of any note secured hereby or performance of the obligations under the Perlite Credit Facilities or the failure to record or file any document relating thereto, shall not terminate, diminish or otherwise affect Beneficiary's rights under this Deed of Trust.

22.5 Effect of Other Agreements. Notwithstanding that Grantor and Perlite may have entered into separate agreement relating to their rights and duties with each other, no right, remedy or provision thereof shall be binding upon or affect or delay Beneficiary's rights hereunder.

22.6 Acknowledgments.

Grantor understands and agrees:

(i) That this Deed of Trust securing the Obligations in favor of Beneficiary, and any renewals, extensions or modifications thereof, shall unconditionally be and remain at all times a lien or charge on the Property herein described, prior and superior to the fee title interest of Grantor.

(ii) That Beneficiary would not extend the Perlite Credit Facilities to Perlite without this Deed of Trust.

(iii) That the Deed of Trust shall be the whole and only agreement with regard to the matters herein set forth; and the Deed of Trust shall supersede and cancel any prior agreement(s) with regard to the matters herein set forth between Grantor and Beneficiary.

(c) Grantor declares, agrees and acknowledges as follows:

(i) Grantor consents to and approves (A) all provisions of Perlite Credit Facilities; and (B) any other agreements between Perlite and Beneficiary relating to the Perlite Credit Facilities, including the amount, method and purpose of disbursement of the Perlite Credit Facilities.

(ii) Beneficiary, in making disbursements on account of the Perlite Credit Facilities to Perlite, is under no obligation or duty to, nor has Beneficiary represented that it will, see to the application of such proceeds by the person or persons to whom Beneficiary disburses such proceeds; and any application or use of such proceeds for purposes other than those provided for in the documents pertaining to the Perlite Credit Facilities shall not defeat the provisions of this Deed of Trust.

(iii) Grantor intentionally and unconditionally waives, relinquishes, subordinates and encumbers Grantor's fee title interest in favor of the lien or charge upon the Property described in this Deed of Trust in favor of Beneficiary; and Grantor understands that in reliance upon and in consideration of this waiver, relinquishment, subordination and encumbrance, the notes secured hereby have been or are being accepted by Beneficiary, the Perlite Credit Facilities will be extended, and specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment, subordination and encumbrance.

(iv) No failure or delay by Beneficiary in exercising any right, power or privilege under law, this Deed of Trust, or the Obligations shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise of such right, power or privilege or any other right, power or privilege. All rights and remedies of Beneficiary under this Deed of Trust, the Obligations or the Perlite Credit Facilities shall be cumulative and may be exercised singly or concurrently, and are not exclusive of any other right or remedy permitted by law or in equity.

(v) It is not necessary for Beneficiary to inquire into the power of Grantor or the officers, directors, partners or agents acting or purporting to act on behalf of Grantor, and all obligations made, created or accepted in reliance upon the professed exercise of such power shall be secured hereby.

(vi) If any payments of money or transfers of property made to Beneficiary, by Perlite, any guarantor, any maker or any endorser, should, for any reason, subsequently be declared to be, or in Beneficiary's counsel's good faith opinion be determined to be, fraudulent (within the meaning of any state or federal law relating to fraudulent conveyances), preferential or otherwise voidable or recoverable in whole or in part for any reason (hereinafter collectively called "voidable transfer") or any amount repaid or restored to Perlite or any guarantor together with all costs and expenses (including attorney's fees) of Beneficiary related thereto, the lien and priority of this Deed of Trust shall automatically be revived, reinstated and restored and shall exist as though such voidable transfer had never been made to Beneficiary. In the event Beneficiary shall have caused its interest herein to be reconveyed and subsequently be required or advised by counsel to restore or repay any such voidable transfer, the amount thereof, or any portion thereof, the Grantor shall remain liable, as provided herein, to the same extent as if the Deed of Trust had not been conveyed to the Grantor.

(vii) Grantor warrants and agrees that each of the waivers set forth above are made with Grantor's full knowledge of their significance and consequences, with the understanding that events giving rise to any defense waived may diminish, destroy or otherwise adversely affect rights which Grantor otherwise may have against Perlite, Beneficiary or others, or against collateral, and that, under the circumstances the waivers are reasonable and not contrary to public policy or law. If any of the waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective to the maximum extent permitted by law.

23. Statutory Notices.

23.1 WRITING REQUIREMENTS. UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY A LENDER 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 LENDER TO BE ENFORCEABLE.

23.2 LAND USE LAWS AND REGULATIONS. 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, AND 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, SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

23.3 FORCE-PLACED INSURANCE WARNING.

A. UNLESS GRANTOR PROVIDES BENEFICIARY WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY THIS DEED OF TRUST, BENEFICIARY MAY PURCHASE INSURANCE AT GRANTOR'S EXPENSE TO PROTECT BENEFICIARY'S INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT GRANTOR'S INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE BENEFICIARY 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.


B. GRANTOR IS RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY BENEFICIARY. THE COST OF THIS INSURANCE MAY BE ADDED TO GRANTOR'S LOAN BALANCE. IF THE COST IS ADDED TO GRANTOR'S LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING 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.

C. THE COVERAGE BENEFICIARY 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.

DATED as of the day and year first above written.

GRANTOR:

SEVEN PEAKS LAND COMPANY LLC, a
Florida limited liability company

By: 
Name: Erik Addington
Title: Manager

STATE OF KY |
COUNTY OF Fayette | ss.

I certify that I know or have satisfactory evidence that Frik Bruce Addington is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument as the Manager of **SEVEN PEAKS LAND COMPANY LLC**, a Florida limited liability company and the grantor under this instrument, and acknowledged it to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this 1st day of November, 2018.

Mark A. Parrott

(Signature of Notary)

Mark A. Parrott

(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of KY, residing at Fayette County.
My appointment expires 11-27-20

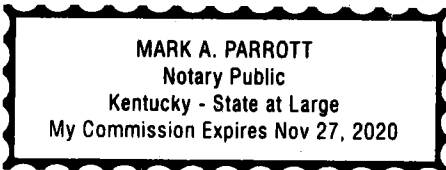


EXHIBIT A

Legal Description

Parcel 1 of Land Partition 52-92, located in the SW1/4 of Section 15 and NW1/4 of Section 22, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon. Affidavit of correction recorded April 2, 2002 in Volume M02 at page 19198.

Exhibit A

EXHIBIT B
PRIOR PERMITTED ENCUMBRANCES

The Property described on Exhibit A is subject to the following encumbrances which are prior to the lien of this Deed of Trust:

1. Deed of Trust dated September 21, 2018 and recorded on September 25, 2018 in the official records of Klamath County, Oregon under Recording No. 2018-011-704 from Seven Peaks Land Company LLC, as grantor, to AmeriTitle, as trustee, for the benefit of Masco Corporation as beneficiary, securing repayment of a promissory note in the amount of One Million Fifty Thousand Dollars (1,050,000).

Exhibit B

EXHIBIT C
SUBORDINATE PERMITTED ENCUMBRANCES

The Property described on Exhibit A is also subject to the following encumbrances which are subordinate to the lien of the Deed of Trust:

None of a monetary nature or which restrict the use or occupancy of the Property.

Exhibit C