

RECORDING REQUESTED BY,  
AND WHEN RECORDED MAIL TO:

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Rhonda Francis Summit County Recorder  
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**FIRST LIEN DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF RENTS  
AND LEASES AND FIXTURE FILING**

by and from

**TRIUMPH GEAR SYSTEMS, INC.,**  
a Delaware corporation,

*“Trustor”*

**COTTONWOOD TITLE INSURANCE AGENCY INC.,**  
a Utah corporation,

as trustee, *“Trustee”*

for the benefit of

**WILMINGTON TRUST, NATIONAL ASSOCIATION,**  
in its capacity as Collateral Trustee for the benefit of itself and the Secured Parties

*“Beneficiary”*

**Dated as of February 3, 2021, but effective February 12, 2021**

**County:**  
**State:**

Summit County  
Utah

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

(Summit County, Utah (the “State”))

THIS DEED OF TRUST CONSTITUTES A SECURITY AGREEMENT, AND IS FILED AS A FIXTURE FILING, WITH RESPECT TO ANY PORTION OF THE MORTGAGED PROPERTY IN WHICH A PERSONAL PROPERTY SECURITY INTEREST OR LIEN MAY BE GRANTED OR CREATED PURSUANT TO THE UNIFORM COMMERCIAL CODE OR UNDER COMMON LAW, AND AS TO ALL REPLACEMENTS, SUBSTITUTIONS, AND ADDITIONS TO SUCH PROPERTY AND THE PROCEEDS THEREOF. FOR PURPOSES OF THE SECURITY INTEREST OR LIEN CREATED HEREBY, BENEFICIARY IS THE “SECURED PARTY” AND TRUSTOR IS THE “DEBTOR.” TRUSTOR IS THE OWNER OF THE MORTGAGED PROPERTY DESCRIBED HEREIN.

This **FIRST LIEN DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING** (this “Deed of Trust”) dated as of February 3, 2021, but effective February 12, 2021 by and from **TRIUMPH GEAR SYSTEMS, INC.**, a Delaware corporation, as trustor, assignor and debtor (in such capacities and together with any successors in such capacities, “Trustor”), whose address is c/o Triumph Group, Inc. 899 Cassat Road, Suite 210, Berywn, PA 19312, Attention: General Counsel, to **COTTONWOOD TITLE INSURANCE AGENCY INC.**, a Utah corporation, as trustee (in such capacity and together with any successors in such capacity, “Trustee”), whose address is 1996 East 6400 South, Suite 120, Salt Lake City, UT 84121, for the benefit of Wilmington Trust, National Association, as collateral trustee for the benefit of the Secured Parties (in such capacity and together with its successors in such capacity, the “Collateral Trustee”) for the benefit of the Secured Parties, as beneficiary, assignee and secured party (in such capacities and, together with its successors and assigns in such capacities, “Beneficiary”) having an address at 50 South Sixth Street, Suite 1290, Minneapolis, MN 55402, Attention: Triumph Group Inc. Administrator.

WHEREAS, Triumph Group, Inc., a Delaware corporation (the “Company”) and each of the other guarantors party thereto have entered into (a) the Indenture dated as of August 17, 2020 (as amended, supplemented or otherwise modified from time to time, the “Indenture”) with U.S. Bank National Association as trustee (in such capacity, the “Indenture Trustee”), pursuant to which the Company issued, and may from time to time issue 8.875% Senior Secured First Lien Notes due 2024 (the “Notes”) upon the terms and subject to the conditions set forth therein and (b) the Security Agreement dated as of August 17, 2020 (as amended, amended and restated, supplemented or otherwise modified from time to time, the “Security Agreement”) with the Collateral Trustee for the benefit of the Secured Parties;

WHEREAS, the Company may, in accordance with the Indenture, incur Additional Secured Debt and, to permit such Additional Secured Debt to benefit from the terms of this Deed of Trust, the Company and each of the other Grantors (as defined in Collateral Trust Agreement) have entered into (a) the Collateral Trust Agreement dated as of August 17, 2020 (as amended, supplemented or otherwise modified from time to time, the “Collateral Trust Agreement”) with Collateral Trustee and the Indenture Trustee, pursuant to which the Collateral Trustee agrees to

serve as collateral trustee for the holders of the Notes and all other Secured Obligations now or in the future existing, and (b) the Amended and Restated Intercreditor Agreement dated as of August 17, 2020 (as amended, supplemented or otherwise modified from time to time, the "Intercreditor Agreement") with the Collateral Trustee, as first lien collateral trustee, and U.S. Bank National Association, as second lien collateral agent;

WHEREAS, the Company is a member of an affiliated group of companies that includes Trustor;

WHEREAS, the Company and Trustor are engaged in related businesses, and Trustor will derive substantial direct and indirect benefit from the issuance of the Notes and any Additional Secured Debt, and

NOW, THEREFORE, in consideration of the premises and to induce the holders to purchase the Notes or any Additional Secured Debt, Trustor hereby agrees with Beneficiary, for the ratable benefit of the Secured Parties, as follows:

## ARTICLE I DEFINITIONS

**Section 1.1. Definitions.** Capitalized terms used herein (including the recitals hereto) but not otherwise defined herein shall have the meanings ascribed thereto in the Collateral Trust Agreement. Section 1.2 of the Collateral Trust Agreement is incorporated herein by reference, *mutatis mutandis*. As used herein, the following terms shall have the following meanings:

**"Charges":** shall mean any and all present and future real estate, property and other taxes, assessments and special assessments, levies, fees, all water and sewer rents and charges and all other governmental charges imposed upon or assessed against, and all claims (including, without limitation, claims for landlords', carriers', mechanics', workmen's, repairmen's, laborer's, materialmen's, suppliers' and warehousemen's liens and other claims arising by operation of law), judgments or demands against, all or any portion of the Mortgaged Property or other amounts of any nature which, if unpaid, might result in or permit the creation of, a Lien on the Mortgaged Property or which might result in foreclosure of all or any portion of the Mortgaged Property except, in each case, Permitted Liens (as defined below).

**"Loan Documents":** shall mean collectively, the Security Documents and the Secured Debt Documents.

**"Mortgaged Property":** shall mean all of Trustor's rights, title, interests, and estate in the real property described in Exhibit A attached hereto and incorporated herein by this reference, together with any greater estate therein as hereafter may be acquired by Trustor and all of Trustor's right, title and interest in, to and under all rights, privileges, tenements, hereditaments, rights-of-way, easements, appendages and appurtenances appertaining to the foregoing in each case whether now owned or hereinafter ac-

quired, including without limitation all water rights, mineral, oil and gas rights, easements and rights of way (collectively, the "Land"), and all of Trustor's right, title and interest now or hereafter acquired in, to and under (1) all buildings, structures and other improvements now owned or hereafter acquired by Trustor, now or at any time situated, placed or constructed upon the Land (the "Improvements"; the Land and Improvements are collectively referred to as the "Premises"), (2) all materials, supplies, equipment, apparatus and other items of personal property now owned or hereafter acquired by Trustor and now or hereafter attached to, installed in or used in connection with any of the Improvements or the Land, and water, gas, electrical, telephone, storm and sanitary sewer facilities and all other utilities whether or not situated in easements, and all equipment, inventory and other goods in which Trustor now has or hereafter acquires any rights or any power to transfer rights and that are or are to become fixtures (as defined in the UCC, defined below) related to the Land (the "Fixtures"), (3) all goods, accounts, raw materials, inventory, general intangibles, instruments, documents, contract rights and chattel paper, including all such items as defined in the UCC, now owned or hereafter acquired by Trustor and now or hereafter affixed to, placed upon, used in connection with, arising from or otherwise related to the Premises (the "Personalty"), (4) all reserves, escrows or impounds required under the Loan Documents and all of Trustor's right, title and interest in all reserves, deferred payments, deposits, refunds and claims of any nature relating to the Mortgaged Property (the "Deposit Accounts"), (5) all leases, licenses, concessions, occupancy agreements or other agreements (written or oral, now or at any time in effect) which grant to any Person a possessory interest in, or the right to use, all or any part of the Mortgaged Property, together with all related security and other deposits (the "Leases"), (6) all of the rents, "rents" as defined in the Utah Act, fees, revenues, royalties, income, proceeds, profits, accounts receivable, security and other types of deposits, and other benefits paid or payable by parties to the Leases for using, leasing, licensing, possessing, operating from, residing in, selling or otherwise enjoying the Mortgaged Property (the "Rents"), (7) to the extent transferable, all other agreements, such as construction contracts, architects' agreements, engineers' contracts, utility contracts, maintenance agreements, management agreements, service contracts, listing agreements, guaranties, indemnities, warranties, permits, licenses, certificates and entitlements in any way relating to the construction, use, occupancy, operation, maintenance, enjoyment or ownership of the Mortgaged Property (the "Property Agreements"), (8) all property tax refunds payable with respect to the Mortgaged Property (the "Tax Refunds"), (9) all accessions, replacements and substitutions for any of the foregoing and all proceeds thereof (the "Proceeds"), (10) all insurance policies, unearned premiums therefor and proceeds from such policies covering any of the above property now or hereafter acquired by Trustor (the "Insurance"), (11) all awards, damages, remunerations, reimbursements, settlements or compensation heretofore made or hereafter to be made by any governmental authority pertaining to any condemnation or other taking (or any purchase in lieu thereof) of all or any portion of the Land, Improvements, Fixtures or Personalty (the "Condemnation Awards") and (12) to the extent transferable, any and all right, title and interest of Trustor in and to any and all drawings, plans, specifications, file materials, operating and maintenance records, catalogues, tenant lists, correspondence, advertising materials, operating manuals, warranties, guarantees, appraisals, studies and data relating to the Mortgaged Property or the construction of any alteration relating to the Premises or the maintenance

of any Property Agreement (the “Records”). As used in this Deed of Trust, the term “Mortgaged Property” shall mean all or, where the context permits or requires, any portion of the above or any interest therein.

“Permitted Liens” shall be Liens permitted under the Secured Debt Documents.

“UCC”: The Uniform Commercial Code of the State or, if the creation, perfection, effect of perfection or non-perfection, enforcement of any security interest herein granted or the priority of any security interest herein granted is governed by the laws of a state other than the State, then, as to the matter in question, the Uniform Commercial Code as in effect from time to time in that state.

## ARTICLE II

### GRANT

**Section 2.1. Grant.** To secure the payment and performance of the Secured Obligations, Trustor hereby GRANTS, BARGAINS, ASSIGNS, TRANSFERS, SELLS and CONVEYS WITH POWER OF SALE (if available under State law) unto Trustee, in trust with power of sale, and with right of entry and possession, for the benefit of Beneficiary for the benefit of the Secured Parties the Mortgaged Property, TO HAVE AND TO HOLD the Mortgaged Property unto Trustee for the benefit of Beneficiary for the benefit of the Secured Parties, subject, however, to the Permitted Liens, and Trustor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND the title to the Mortgaged Property unto Trustee for the benefit of Beneficiary for the benefit of the Secured Parties for so long as any of the Secured Obligations remain outstanding, upon the trust, terms and conditions contained herein.

## ARTICLE III

### WARRANTIES, REPRESENTATIONS AND COVENANTS

Trustor warrants, represents and covenants to Beneficiary as follows:

**Section 3.1. Title to Mortgaged Property and Lien of this Instrument.** Trustor has good and marketable fee simple title to the Mortgaged Property (to the extent that the Mortgaged Property constitutes real property) free and clear of any liens, claims or interests, except the Permitted Liens. This Deed of Trust creates a valid, enforceable first priority lien and security interest in favor of Beneficiary against the Mortgaged Property, for the benefit of the Secured Parties securing the payment and performance of the Secured Obligations, subject only to Permitted Liens.

**Section 3.2. First Lien Status.** Subject to the other terms of the Loan Documents, Trustor shall preserve and protect the first lien and security interest status of this Deed of Trust. If any lien or security interest other than a Permitted Lien is asserted against the Mortgaged Property, Trustor shall, at its expense, promptly take such action as may be required pursuant to the Loan Documents so as to cause it to be released or contested.

**Section 3.3. Replacement of Fixtures and Personalty.** Except as otherwise permitted in the Loan Documents, Trustor shall not permit any of the Fixtures or Personalty to be removed at any time from the Land or Improvements, unless the removed item is removed temporarily for maintenance and repair or, if removed permanently, is immaterial, obsolete or otherwise removed for a legitimate business reason, and if obsolete, is replaced by an article of equal or better suitability and value, owned by Trustor subject to the liens and security interests of this Deed of Trust and the other Loan Documents, and free and clear of any other lien or security interest except such as may be permitted under the Loan Documents.

**Section 3.4. Inspection.** Pursuant to and in accordance with the Loan Documents, Trustor shall permit Beneficiary and its agents, representatives and employees to inspect the Mortgaged Property and all books and records of Trustor located thereon.

**Section 3.5. Insurance; Condemnation Awards and Insurance Proceeds.**

(a) **Insurance.** Trustor shall maintain or cause to be maintained the insurance required by the Loan Documents.

(b) **Condemnation Awards.** Trustor shall cause all Condemnation Awards to be applied in accordance with the Loan Documents.

(c) **Insurance Proceeds.** Trustor shall cause all proceeds of any insurance policies insuring against loss or damage to the Mortgaged Property to be applied in accordance with the Loan Documents.

(d) **Payment of Charges.** Except as otherwise permitted by the terms of the Loan Documents, Trustor shall pay and discharge, or cause to be paid and discharged, from time to time prior to same becoming delinquent, all Charges.

**Section 3.6. Trustor's Covenants.** In order to induce Beneficiary to enter into this Deed of Trust, and the other Loan Documents, Trustor agrees that the covenants of Trustor set forth in the Indenture and the other Loan Documents, solely to the extent applicable to the Mortgaged Property, this Deed of Trust and/or Trustor in its capacity as Trustor hereunder, are incorporated into this Deed of Trust by reference as if fully set forth herein and are of full force and effect as if made by Trustor herein.

**Section 3.7. Secured Obligations.** This Deed of Trust secures, and the Mortgaged Property is collateral security for, the payment and performance in full when due of the Secured Obligations.

**Section 3.8. Future Advances.** This Deed of Trust shall secure all Secured Obligations including, without limitation, future advances whenever hereafter made with respect to or under the Loan Documents and shall secure not only Secured Obligations with respect to presently existing indebtedness under the Indenture or the other Loan Documents, but also any and all other indebtedness which may hereafter be owing to the Secured Parties under the Indenture or the other Loan Documents, however incurred, whether interest, discount or otherwise, and whether the same shall be deferred, accrued or capitalized, including future advances and re-advances, pursuant to the Indenture or the other Loan Documents, whether such advances are obligatory or to be made at the option of the Secured Parties, or otherwise, and any extensions, refinancings,

modifications or renewals of all such Secured Obligations whether or not Trustor executes any extension agreement or renewal instrument and, in each case, to the same extent as if such future advances were made on the date of the execution of this Deed of Trust.

**Section 3.9. Maximum Amount of Indebtedness.** The maximum aggregate amount of all indebtedness that is, or under any contingency may be secured at the date hereof or at any time hereafter by this Deed of Trust is \$700,000,000.00, plus, to the extent permitted by applicable law, collection costs, sums advanced for the payment of taxes, assessments, maintenance and repair charges, insurance premiums and any other costs incurred to protect the security encumbered hereby or the lien hereof, expenses incurred by Beneficiary by reason of any default by Trustor under the terms hereof (including reasonable attorneys' fees and expenses), together with interest thereon, all of which amount shall be secured hereby.

**Section 3.10. Last Dollar Secured.** This Deed of Trust secures only a portion of the Secured Obligations owing or which may become owing by Trustor. The parties agree that any payments or repayments of such Secured Obligations by Trustor shall be and be deemed to be applied first to the portion of the Secured Obligations that is not secured hereby, it being the parties' intent that the portion of the Secured Obligations last remaining unpaid shall be secured hereby.

**Section 3.11. No Release.** Nothing set forth in this Deed of Trust shall relieve Trustor from the performance of any term, covenant, condition or agreement on Trustor's part to be performed or observed under or in respect of any of the Mortgaged Property or from any liability to any Person under or in respect of any of the Mortgaged Property or shall impose any obligation on Beneficiary or any other Secured Party to perform or observe any such term, covenant, condition or agreement on Trustor's part to be so performed or observed or shall impose any liability on Beneficiary or any other Secured Party for any act or omission on the part of Trustor relating thereto or for any breach of any representation or warranty on the part of Trustor contained in this Deed of Trust or any other Loan Document, or under or in respect of the Mortgaged Property or made in connection herewith or therewith. The obligations of Trustor contained in this Section shall survive the termination hereof and the discharge of Trustor's other obligations under this Deed of Trust or the other Loan Documents.

**Section 3.12. Change in Tax Law.** Upon the enactment of or change in (including, without limitation, a change in interpretation of) any applicable law (i) deducting or allowing Trustor to deduct from the value of the Mortgaged Property for the purpose of taxation any lien or security interest thereon or (ii) subjecting Beneficiary or any of the Secured Parties to any tax or changing the basis of taxation of mortgages, deeds of trust, or other liens or debts secured thereby, or the manner of collection of such taxes, in each such case, so as to affect this Deed of Trust, the Secured Obligations or Beneficiary, and the result is to increase the taxes imposed upon or the cost to Beneficiary of maintaining the Secured Obligations, or to reduce the amount of any payments receivable hereunder, then, and in any such event, Trustor shall, on demand, pay to Beneficiary and the Secured Parties additional amounts to compensate for such increased costs or reduced amounts, provided that if any such payment or reimbursement shall be unlawful, or taxable to Beneficiary, or would constitute usury or render the Secured Obligations wholly or partially usurious under applicable law, then Trustor shall pay or reimburse Beneficiary or the Secured Parties for payment of the lawful and non-usurious portion thereof.

**Section 3.13. Deed of Trust Tax.** Trustor shall (i) pay when due any tax imposed upon it or upon Beneficiary or any Secured Party pursuant to the tax law of the state in which the Mortgaged Property is located in connection with the execution, delivery and recordation of this Deed of Trust and any of the other Loan Documents, and (ii) prepare, execute and file any form required to be prepared, executed and filed in connection therewith.

**Section 3.14. Prohibited Transfers.** Except as expressly permitted by the Loan Documents, Trustor shall not sell, lease or convey all or any part of the Mortgaged Property.

**Section 3.15. Due Execution, Delivery and Enforceability.** Trustor represents and warrants to Beneficiary that this Deed of Trust has been duly executed and delivered by Trustor and constitutes a legal, valid and binding obligation of Trustor, enforceable in accordance with its terms.

## ARTICLE IV

### DEFAULT AND FORECLOSURE

**Section 4.1. Remedies.** Upon the occurrence and during the continuance of an Secured Debt Default, Beneficiary may, at Beneficiary's election, exercise, or cause Trustee to exercise, as applicable, any or all of the following rights, remedies and recourses:

(a) **Acceleration.** Subject to and in accordance with any provisions of the Loan Documents providing for the automatic acceleration of the Secured Obligations upon the occurrence of certain Secured Debt Defaults, declare the Secured Obligations to be immediately due and payable, without further notice, presentment, protest, notice of intent to accelerate, notice of acceleration, demand or action of any nature whatsoever (each of which hereby is expressly waived by Trustor), whereupon the same shall become immediately due and payable.

(b) **Entry on Mortgaged Property.** Subject to and in accordance with any provisions of the Loan Documents and applicable law, enter the Mortgaged Property and take exclusive possession thereof and of all books, records and accounts relating thereto or located thereon. If Trustor remains in possession of the Mortgaged Property following the occurrence and during the continuance of an Secured Debt Default and without Beneficiary's prior written consent, Beneficiary may invoke any legal remedies to dispossess Trustor.

(c) **Operation of Mortgaged Property.** Subject to and in accordance with any provisions of the Loan Documents, hold, lease, develop, manage, operate, carry on the business thereof or otherwise use the Mortgaged Property upon such terms and conditions as Beneficiary may deem reasonable under the circumstances (making such repairs, alterations, additions and improvements and taking other actions, from time to time, as Beneficiary deems necessary or desirable), and apply all Rents and other amounts collected by Beneficiary in connection therewith in accordance with the provisions of Section 4.7.



(d) **Foreclosure and Sale.** Institute proceedings for the complete foreclosure of this Deed of Trust by judicial action or by power of sale, in which case the Mortgaged Property may be sold for cash or credit in one or more parcels. Such sale shall be made in accordance with the applicable law, including but not limited to *Utah Code Annotated* § 57-1-1, et seq., or, if and to the extent any such statute is not then in force, with the applicable requirements, at the time of the sale, of the successor statute or statutes, if any, governing sales of real property under powers of sale conferred by mortgages or deeds of trust relating to the sale of real estate or by the UCC relating to the sale of collateral after default by a debtor (as such laws now exist or may be hereafter amended or succeeded), or by any other present or subsequent articles or enactments relating to same. With respect to any notices required or permitted under the UCC, Trustor agrees that ten (10) days' prior written notice shall be deemed commercially reasonable. At any such sale by virtue of any judicial proceedings, power of sale, or any other legal right, remedy or recourse, the title to and right of possession of any such property shall pass to the purchaser thereof, and to the fullest extent permitted by law, Trustor shall be completely and irrevocably divested of all of its right, title, interest, claim, equity, equity of redemption, and demand whatsoever, either at law or in equity, in and to the property sold and such sale shall be a perpetual bar both at law and in equity against Trustor, and against all other Persons claiming or to claim the property sold or any part thereof, by, through or under Trustor. Beneficiary or any of the other Secured Parties may be a purchaser at such sale. If Beneficiary or such other Secured Party is the highest bidder, Beneficiary or such other Secured Party may credit the portion of the purchase price that would be distributed to Beneficiary or such other Secured Party against the Secured Obligations in lieu of paying cash to the maximum extent permitted by applicable law. In the event this Deed of Trust is foreclosed by judicial action, appraisal of the Mortgaged Property is waived to the maximum extent permitted by applicable law. In the event that the power of sale granted under this Deed of Trust is exercised by Trustee, Trustee may adjourn from time to time any sale by it to be made under or by virtue hereof by announcement at the time and place appointed for such sale or for such adjourned sale or sales, and Trustee, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned, *provided*, if the sale is postponed for longer than forty-five (45) days beyond the date designated in the notice of sale, notice of the time, date, and place of sale shall be given in the same manner as the original notice of sale as required by *Utah Code Annotated* § 57-1-27 or other applicable law.

(e) **Receiver.** Make application to a court of competent jurisdiction for, and obtain from such court as a matter of strict right and without notice to Trustor or regard to the adequacy of the Mortgaged Property for the repayment of the Secured Obligations, the appointment of a receiver of the Mortgaged Property, and Trustor irrevocably consents to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Mortgaged Property upon such terms as may be approved by the court, and shall apply such Rents in accordance with the provisions of Section 4.7; *provided, however*, notwithstanding the appointment of any receiver, Beneficiary shall be entitled as pledgee to the possession and control of any cash, deposits or instruments at the time held by or payable or deliverable under the terms of the Loan Documents to Beneficiary.

(f) UCC. Exercise any and all rights and remedies granted to a secured party upon default under the UCC, including, without limiting the generality of the foregoing: (i) the right to take possession of the personal property or any part thereof, and to take such other measures as Beneficiary may deem necessary for the care, protection and preservation of the personal property, and (ii) request Trustor at its expense to assemble the personal property and make it available to Beneficiary at a convenient place acceptable to Beneficiary. Any notice of sale, disposition or other intended action by Beneficiary with respect to the personal property sent to Trustor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Trustor.

(g) Other. Exercise all other rights, remedies and recourses granted under the Loan Documents or otherwise available at law or in equity.

**Section 4.2. Separate Sales.** Upon the occurrence and during the continuance of a Secured Debt Default, the Mortgaged Property may be sold in accordance with applicable law in one or more parcels and in such manner and order as Beneficiary in its sole discretion may elect (subject to Trustor's right under *Utah Code Annotated* § 57-1-27 to direct the other in which the trust property shall be sold if the property consists of several known lots or parcels which can be sold separately. To the maximum extent permitted by applicable law).

**Section 4.3. Remedies Cumulative, Concurrent and Nonexclusive.** Beneficiary and the other Secured Parties shall have all rights, remedies and recourses granted in the Loan Documents and available at law or equity (including the UCC), which rights, to the maximum extent permitted by applicable law, (a) shall be cumulative and concurrent, (b) may be pursued separately, successively or concurrently against Trustor or others obligated under the Loan Documents or against the Mortgaged Property, or against any one or more of them, at the sole discretion of Beneficiary, (c) may be exercised as often as occasion therefor shall arise, and the exercise or failure to exercise any of them shall not be construed as a waiver or release thereof or of any other right, remedy or recourse, and (d) are intended to be, and shall be, nonexclusive. No action by Beneficiary or any other Secured Party in the enforcement of any rights, remedies or recourses under the Loan Documents or otherwise at law or equity shall be deemed to cure any Secured Debt Default.

**Section 4.4. Release of and Resort to Collateral.** Beneficiary may release, regardless of consideration and without the necessity for any notice to or consent by the holder of any subordinate lien on the Mortgaged Property, any part of the Mortgaged Property without, as to the remainder, in any way impairing, affecting, subordinating or releasing the lien or security interest created in or evidenced by the Loan Documents or their status as a first priority lien and security interest in and to the Mortgaged Property. For payment of the Secured Obligations, to the maximum extent permitted by applicable law, Beneficiary may resort to any other security in such order and manner as Beneficiary may elect.

**Section 4.5. Appearance, Waivers, Notice and Marshalling of Assets.** After the occurrence and during the continuance of any Secured Debt Default and immediately upon the commencement of any action, suit or legal proceedings to obtain judgment for the payment or performance

of the Secured Obligations or any part thereof, or of any proceedings to foreclose the lien and security interest created and evidenced hereby or otherwise enforce the provisions hereof or of any other proceedings in aid of the enforcement hereof, Trustor shall enter its voluntary appearance in such action, suit or proceeding. To the fullest extent permitted by law, Trustor hereby irrevocably and unconditionally waives and releases (a) all benefit that might accrue to Trustor by virtue of any present or future statute of limitations or law or judicial decision exempting the Mortgaged Property from attachment, levy or sale on execution or providing for any stay of execution, exemption from civil process, redemption or extension of time for payment, (b) all notices of any Secured Debt Default or of Beneficiary's election to exercise or the actual exercise of any right, remedy or recourse provided for under the Loan Documents, and (c) any right to a marshalling of assets or a sale in inverse order of alienation. To the maximum extent permitted by applicable law, Trustor shall not claim, take or insist on any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Property, or any part thereof, prior to any sale or sales of the Mortgaged Property which may be made pursuant to this Deed of Trust, or pursuant to any decree, judgment or order of any court of competent jurisdiction.

**Section 4.6. Discontinuance of Proceedings.** If Beneficiary or any other Secured Party shall have proceeded to invoke any right, remedy or recourse permitted under the Loan Documents and shall thereafter elect to discontinue or abandon it for any reason, Beneficiary or such other Secured Party, as the case may be, shall have the unqualified right to do so and, in such an event, Trustor, Beneficiary and the other Secured Parties shall be restored to their former positions with respect to the Secured Obligations, the Loan Documents, the Mortgaged Property and otherwise, and the rights, remedies, recourses and powers of Beneficiary and the other Secured Parties shall continue as if the right, remedy or recourse had never been invoked, but no such discontinuance or abandonment shall waive any Secured Debt Default which may then exist or the right of Beneficiary or any other Secured Party thereafter to exercise any right, remedy or recourse under the Loan Documents for such Secured Debt Default.

**Section 4.7. Application of Proceeds.** Section 3.4 of the Collateral Trust Agreement is hereby incorporated *mutatis mutandis*.

**Section 4.8. Occupancy After Foreclosure.** Except as otherwise required by applicable law, any sale of the Mortgaged Property or any part thereof in accordance with this Deed of Trust will divest all right, title and interest of Trustor in and to the property sold. Subject to applicable law, any purchaser at a foreclosure sale will receive immediate possession of the property purchased. If Trustor retains possession of such property or any part thereof subsequent to such sale, Trustor will be considered a tenant at sufferance of the purchaser, and will, if Trustor remains in possession after demand to remove, be subject to eviction and removal, forcible or otherwise, with or without process of law.

**Section 4.9. Additional Advances and Disbursements; Costs of Enforcement.**

Upon the occurrence and during the continuance of any Secured Debt Default, Beneficiary and each of the other Secured Parties shall have the right, but not the obligation, to cure such Secured Debt Default in the name and on behalf of Trustor. All reasonable sums advanced and expenses incurred at any time by Beneficiary or any other Secured Party, or otherwise under this Deed of

Trust or applicable law, shall bear interest from the date that such sum is advanced or expense incurred, to and including the date of reimbursement, computed at the defaulted interest rate then computed on any portion of the Secured Obligations, and all such sums, together with interest thereon, shall be secured by this Deed of Trust.

Trustor shall pay all out-of-pocket expenses (including reasonable attorneys' fees and expenses) of or incidental to the perfection and enforcement of this Deed of Trust or the enforcement, compromise or settlement of the Secured Obligations or any claim under this Deed of Trust, and for the curing thereof, or for defending or asserting the rights and claims of Beneficiary in respect thereof, by litigation or otherwise.

**Section 4.10. No Beneficiary in Possession.** Neither the enforcement of any of the remedies under this Article 4, the assignment of the Rents and Leases under Article 5, the security interests under Article 6, nor any other remedies afforded to Beneficiary under the Loan Documents, at law or in equity shall cause Beneficiary or any other Secured Party to be deemed or construed to be a mortgagee in possession of the Mortgaged Property, to obligate Beneficiary or any other Secured Party to lease the Mortgaged Property or attempt to do so, or to take any action, incur any expense, or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

## ARTICLE V

### **ASSIGNMENT OF RENTS AND LEASES**

**Section 5.1. Assignment.** In furtherance of and in addition to the assignment made by Trustor in this Deed of Trust and as additional security for the payment and performance of the Secured Obligations, Trustor hereby collaterally assigns to and grants Beneficiary a security interest in all of its right, title and interest in and to all Leases (but only to the extent permitted under the existing Leases), whether now existing or hereafter entered into, and all of its right, title and interest in and to all Rents. This assignment is a collateral assignment. So long as no Secured Debt Default shall have occurred and be continuing, Trustor shall have the right from Beneficiary to exercise all rights extended to the landlord under the Leases, including the right to receive and collect all Rents and to hold the Rents in trust for use in the payment and performance of the Secured Obligations and to otherwise use the same. The foregoing right is granted subject to the conditional limitation that no Secured Debt Default shall have occurred and be continuing. Upon the occurrence and during the continuance of an Secured Debt Default, whether or not legal proceedings have commenced, and without regard to waste, adequacy of security for the Secured Obligations or solvency of Trustor, the right herein granted shall, at the election of Beneficiary, expire and terminate, upon written notice to Trustor by Beneficiary.

**Section 5.2. Perfection Upon Recordation.** Trustor acknowledges that all actions necessary to obtain have been taken, and that upon recordation of this Deed of Trust, Beneficiary shall have, to the extent permitted under applicable law, a valid and fully perfected, first priority, security interest in the Rents arising out of the Leases and all security for such Leases. Trustor acknowledges and agrees that upon recordation of this Deed of Trust, Beneficiary's security interest in the Rents shall be deemed to be fully perfected, "choate" and enforced as to Trustor and to the extent permitted under applicable law, all third parties, including, without limitation, any

subsequently appointed trustee in any case under the Bankruptcy Law (as defined in the Indenture), without the necessity of commencing a foreclosure action with respect to this Deed of Trust, making formal demand for the Rents, obtaining the appointment of a receiver or taking any other affirmative action.

**Section 5.3. Bankruptcy Provisions.** Without limitation of the absolute nature of the assignment of the Rents hereunder, Trustor and Beneficiary agree that (a) this Deed of Trust shall constitute a “security agreement” for purposes of Section 552(b) of the Bankruptcy Law, (b) the security interest created by this Deed of Trust extends to property of Trustor acquired before the commencement of a case in bankruptcy and to all amounts paid as Rents and (c) such security interest shall extend to all Rents acquired by the estate after the commencement of any case in bankruptcy.

**Section 5.4. No Merger of Estates.** The rights and estate created by this Deed of Trust shall not, under any circumstances, be held to have merged into any other estate or interest now owned or hereafter acquired by Beneficiary unless Beneficiary shall have consented to such merger in writing.

**Section 5.5. Utah Act.** This Article 5 is subject to the Utah Uniform Assignment of Rents Act, *Utah Code Annotated* § 57-26-101 et seq. (the “Utah Act”), and in the event of any conflict or inconsistency between the provisions of this Article 5 and the provisions of the Utah Act, the provisions of the Utah Act shall control and Beneficiary shall have all rights and remedies available under the Utah Act which rights and remedies shall be cumulative with all rights and remedies hereunder.

## ARTICLE VI

### SECURITY AGREEMENT

**Section 6.1. Security Interest.** This Deed of Trust constitutes a “security agreement” on personal property within the meaning of the UCC and other applicable law and with respect to the Personalty, Fixtures, Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance, Condemnation Awards and Records. To this end, Trustor grants to Beneficiary a first priority security interest in the Personalty, Fixtures, Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance, Condemnation Awards, Records and all other Mortgaged Property which is personal property to secure the payment and performance of the Secured Obligations, and agrees that Beneficiary shall have all the rights and remedies of a secured party under the UCC with respect to such property. Any notice of sale, disposition or other intended action by Beneficiary with respect to the Personalty, Fixtures, Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance, Condemnation Awards and Records sent to Trustor at least ten (10) days prior to any action under the UCC shall constitute reasonable notice to Trustor.

**Section 6.2. Financing Statements.** (a) Trustor shall prepare and deliver to Beneficiary such financing statements, will do or cause to be done all acts and things that may be required, or that

Beneficiary from time to time may reasonably request, to assure and confirm that Beneficiary holds, for the benefit of the Secured Parties, duly created and enforceable and perfected Liens upon the Mortgaged Property (including any property or assets that are acquired or otherwise become, or are required by any Secured Debt Document to become, Mortgaged Property after the date hereof), in each case as contemplated by, and with the Lien priority required under, the Secured Debt Documents.

(b) As required or upon the reasonable request of Beneficiary at any time and from time to time, Trustor will promptly execute, acknowledge and deliver such security documents, instruments, certificates, notices and other documents, and take such other actions as may be reasonably required, or that Beneficiary may reasonably request, to create, perfect, protect, assure or enforce the Liens and benefits intended to be conferred, in each case as contemplated by the Loan Documents for the benefit of the Secured Parties.

**Section 6.3. Fixture Filing.** This Deed of Trust shall also constitute a “fixture filing” for the purposes of the UCC against all of the Mortgaged Property which is or is to become fixtures. The information provided in this Section 6.3 is provided so that this Deed of Trust shall comply with the requirements of the UCC for a deed of trust or mortgage instrument to be filed as a financing statement. Trustor is the “Debtor” and its name and mailing address are set forth in the preamble of this Deed of Trust preceding Article 1. Beneficiary is the “Secured Party” and its name and mailing address from which information concerning the security interest granted herein may be obtained are also set forth in the preamble of this Deed of Trust preceding Article 1. A statement describing the portion of the Mortgaged Property comprising the fixtures hereby secured is set forth in the definition of “Mortgaged Property” in Section 1.1 of this Deed of Trust. Trustor represents and warrants to Beneficiary that Trustor is the record owner of the Mortgaged Property. Trustor represents and warrants to Beneficiary that Trustor’s jurisdiction of organization is the state of Delaware.

## ARTICLE VII

### MISCELLANEOUS

**Section 7.1. Notices.** All notices, requests and demands pursuant hereto shall be made in accordance with Section 7.6 of the Collateral Trust Agreement.

**Section 7.2. Covenants Running with the Land.** All grants, covenants, terms, provisions and conditions contained in this Deed of Trust, including all Secured Obligations, are intended by Trustor and Beneficiary to be, and shall be construed as, covenants running with the Land to the maximum extent permitted by applicable law. As used herein, “Trustor” shall refer to the party named in the first paragraph of this Deed of Trust and to any subsequent owner of all or any portion of the Mortgaged Property. All Persons who may have or acquire an interest in the Mortgaged Property shall be deemed to have notice of, and be bound by, the terms of the Loan Documents; provided, however, that no such party shall be entitled to any rights thereunder without the prior written consent of Beneficiary.

**Section 7.3. Attorney-in-Fact.**

(a) Trustor hereby irrevocably constitutes and appoints Beneficiary and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of Trustor and in the name of Trustor or in its own name, for the purpose of carrying out the terms of this Deed of Trust, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Deed of Trust, and, without limiting the generality of the foregoing, Trustor hereby gives Beneficiary the power and right, on behalf of Trustor, without notice to or assent by Trustor, to do any or all of the following:

(i) in the name of Trustor or its own name, or otherwise, take possession of and indorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due under any receivable or with respect to any Mortgaged Property and file any claim or take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by Beneficiary for the purpose of collecting any and all such moneys due under any receivable or with respect to any Mortgaged Property whenever payable;

(ii) pay or discharge taxes and Liens levied or placed on or threatened against the Mortgaged Property, effect any repairs or any insurance called for by the terms of this Deed of Trust and pay all or any part of the premiums therefor and the costs thereof; and

(iii) (1) direct any party liable for any payment under any of the Mortgaged Property to make payment of any and all moneys due or to become due thereunder directly to Beneficiary or as Beneficiary shall direct; (2) ask or demand for, collect, and receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Mortgaged Property; (3) sign and indorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Mortgaged Property; (4) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Mortgaged Property or any portion thereof and to enforce any other right in respect of any Mortgaged Property; (5) defend any suit, action or proceeding brought against Trustor with respect to any Mortgaged Property; (6) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as Beneficiary may deem appropriate; (7) and (8) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Mortgaged Property as fully and completely as though Beneficiary were the absolute owner thereof for all purposes, and do, at Beneficiary's option and Trustor's expense, at any time, or from time to time, all acts and things which Beneficiary deems necessary to protect, preserve or realize upon the Mortgaged Property and Beneficiary's and the Secured Parties' security interests therein and to effect the intent of this Deed of Trust, all as fully and effectively as Trustor might do.

Anything in this Section 7.3(a) to the contrary notwithstanding, Beneficiary agrees that it will not exercise any rights under the power of attorney provided for in this Section 7.3(a) unless a Secured Debt Default shall have occurred and be continuing.

(b) If Trustor fails to perform or comply with any of its agreements contained herein, Beneficiary, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement.

(c) In accordance with Section 6.1(c) of the Security Agreement, the expenses of Beneficiary incurred in connection with actions undertaken as provided in this Section 7.3, together with interest thereon at a rate per annum equal to the highest rate per annum at which interest would then be payable on any category of past due Notes or other Secured Obligations under the Secured Debt Documents, from the date of payment by Beneficiary to the date reimbursed by Trustor, shall be payable by Trustor to Beneficiary on demand.

Trustor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. All powers, authorizations and agencies contained in this Deed of Trust are coupled with an interest and are irrevocable until this Deed of Trust is terminated and the security interests created hereby are released.

**Section 7.4. Successors and Assigns.**

The provisions of this Deed of Trust shall be binding upon the successors and assigns of Trustor and shall inure to the benefit of Beneficiary and its successors and assigns; provided that Trustor may not assign, transfer or delegate any of its rights or obligations under this Deed of Trust without the prior written consent of Beneficiary.

**Section 7.5. Waivers; Amendments; Extensions, etc.** None of the terms or provisions of this Deed of Trust may be waived, amended, supplemented or otherwise modified except in accordance with Section 7.1 of the Collateral Trust Agreement.

**Section 7.6. Waiver of Jury Trial; Consent to Service of Process.** Section 7.15 and Section 7.16 of the Collateral Trust Agreement is hereby incorporated *mutatis mutandis*.

**Section 7.7. Termination or Release.**

The Liens created hereby shall be released only to the extent and in the manner provided for in Article IV of the Collateral Trust Agreement. Upon the release of all such Liens from the Mortgaged Property, this Deed of Trust and all obligations (other than those expressly stated to survive such termination) of Beneficiary and Trustor hereunder shall terminate, all without delivery of any instrument or performance of any act by any party, and all rights to the Mortgaged Property described herein shall revert to Trustor. At the request and sole expense of Trustor following any such termination, Beneficiary shall deliver to Trustor any Mortgaged Property held by Beneficiary hereunder, and execute and deliver to Trustor such documents as Trustor shall reasonably request to evidence such termination.

**Section 7.8. Waiver of Stay, Moratorium and Similar Rights.** Trustor agrees, to the full extent that it may lawfully do so, that it will not at any time insist upon or plead or in any way take advantage of any stay, marshalling of assets, extension, redemption or moratorium law now or hereafter in force and effect so as to prevent or hinder the enforcement of the provisions of this



Deed of Trust or the Secured Obligations secured hereby, or any agreement between Trustor and Beneficiary or any rights or remedies of Beneficiary or any other Secured Party.

**Section 7.9. Applicable Law.** WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW, THIS DEED OF TRUST SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE.

**Section 7.10. Headings.** The Article, Section and Subsection titles hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such Articles, Sections or Subsections.

**Section 7.11. Severability.** In the event any one or more of the provisions contained in this Deed of Trust should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. Trustor and Beneficiary shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

**Section 7.12. Entire Agreement.** This Deed of Trust and the other Loan Documents embody the entire agreement and understanding between Trustor and Beneficiary relating to the subject matter hereof and thereof and supersede all prior agreements and understandings between such parties relating to the subject matter hereof and thereof. Accordingly, the Loan Documents may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

**Section 7.13. Beneficiary as Collateral Trustee.** Beneficiary has been appointed to act as Collateral Trustee under the terms of the Collateral Trust Agreement. Notwithstanding anything herein to the contrary, the lien and security interest granted to Beneficiary pursuant to this Deed of Trust and the exercise of any right or remedy by Beneficiary hereunder are subject to the provisions of the Collateral Trust Agreement. In the event of a conflict between the terms of this Deed of Trust, on the one hand, and the Collateral Trust Agreement, on the other hand, the terms of the Collateral Trust Agreement shall govern. The terms of the Collateral Trust Agreement relating to the Collateral Trustee, including, without limitation, the provisions relating to resignation or removal of the Collateral Trustee and the protections, rights, indemnities, powers and immunities of the Collateral Trustee apply to the Collateral Trustee in taking any action hereunder (including the execution and delivery hereof). In connection with exercising any right or discretionary duty under this Deed of Trust (including, without limitation, the exercise of any rights following the occurrence of a Secured Debt Default), Collateral Trustee shall be entitled to request and rely upon the direction of Secured Parties as provided in the Collateral Trust Agreement to direct the Collateral Trustee in connection therewith, and the Collateral Trustee shall not have any liability for its failure to take any action pending the receipt of such direction. The Collateral Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Deed of Trust, and it shall not be responsible for any statement or recital in this Deed of Trust. Neither the Collateral Trustee nor any of its affiliates, directors, officers, agents or employees shall be responsible for or have any duty to ascertain, inquire into or (in the case of the following clauses (a) and (b)) verify: (a) any statement, warranty or representation made in connection with this Deed of Trust, (b) the performance or observance of any of the covenants or

agreements of Trustor herein; or (c) the receipt of items required to be delivered to the Collateral Trustee hereunder (it being understood that the Collateral Trustee shall acknowledge receipt upon request). In no event shall the Collateral Trustee be required to execute and deliver any instruction or direction letter that the Collateral Trustee determines adversely affects it or otherwise subjects it to personal liability).

**Section 7.14. Recording Documentation To Assure Security.** Trustor shall, forthwith after the execution and delivery hereof and thereafter, from time to time, cause this Deed of Trust and any financing statement, continuation statement or similar instrument relating to any of the Mortgaged Property or to any property intended to be subject to the lien hereof or the security interests created hereby to be filed, registered and recorded in such manner and in such places as may be required by any present or future law and shall take such actions as Beneficiary shall reasonably deem necessary in order to publish notice of and fully to protect the validity and priority of the liens, assignment, and security interests purported to be created upon the Mortgaged Property and the interest and rights of Beneficiary therein. Trustor shall pay or cause to be paid all taxes and fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment thereof (including reasonable attorneys' fees and expenses), and of any instrument of further assurance, and all Federal, state or local stamp taxes or other taxes, duties and charges arising out of or in connection with the execution and delivery of such instruments. In the event Beneficiary advances any sums to pay the amounts set forth in the preceding sentence, such advances shall be secured by this Deed of Trust.

**Section 7.15. Further Acts.** The Trustor shall, at the sole cost and expense of Trustor, do, execute, acknowledge and deliver such further acts, deeds, conveyances, Deed of Trusts, assignments, notices of assignment, transfers, financing statements, continuation statements, instruments and assurances as reasonably necessary or as Beneficiary shall from time to time reasonably request, which may be necessary in the reasonable judgment of Beneficiary from time to time to assure, perfect, convey, assign, mortgage, transfer and confirm unto Beneficiary, the property and rights hereby conveyed or assigned or which Trustor may be or may hereafter become bound to convey or assign to Beneficiary or for carrying out the intention or facilitating the performance of the terms hereof or the filing, registering or recording hereof. Without limiting the generality of the foregoing, in the event that Beneficiary desires to exercise any remedies, consensual rights or attorney-in-fact powers set forth in this Deed of Trust or under any Loan Document and determines it necessary to obtain any approvals or consents of any Governmental Authority or any other person therefor, then, upon the request of Beneficiary, Trustor agrees to use commercially reasonable efforts to assist and aid Beneficiary to obtain as soon as practicable any necessary approvals or consents for the exercise of any such remedies, rights and powers. In the event Trustor shall fail after demand to execute any instrument or take any action required to be executed or taken by Trustor under this Section 7.15, Beneficiary may, subject to Section 7.3 hereof, execute or take the same as the attorney-in-fact for Trustor, such power of attorney being coupled with an interest and is irrevocable.

**Section 7.16. Additions to Mortgaged Property.** All right, title and interest of Trustor in and to all extensions, amendments, relocations, restakings, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, the Mortgaged Property hereafter acquired by or released to Trustor or constructed, assembled or placed by Trustor upon

the Land, and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assembling, placement or conversion upon the Land, as the case may be, and in each such case without any further mortgage, conveyance, assignment or other act by Trustor, shall become subject to the Lien and security interest of this Deed of Trust as fully and completely and with the same effect as though now owned by Trustor and specifically described in the grant of the Mortgaged Property above, but at any and all times Trustor will execute and deliver to Beneficiary any and all such further assurances, mortgages, conveyances or assignments thereof as are reasonably necessary or as Beneficiary may reasonably require for the purpose of expressly and specifically subjecting the same to the Lien and security interest of this Deed of Trust.

**Section 7.17. Relationship.** Nothing contained in the Loan Documents, this Deed of Trust or any other document or instrument now existing and delivered in connection therewith or otherwise in connection with the Secured Obligations is intended to create, or shall in any event or under any circumstance be construed as creating a partnership, joint venture, tenancy-in-common, joint tenancy or other relationship of any nature whatsoever between Beneficiary and Trustor other than as Trustor and beneficiary.

**Section 7.18. No Claims Against Beneficiary.** Nothing contained in this Deed of Trust shall constitute any consent or request by Beneficiary, express or implied, for the performance of any labor or services or the furnishing of any materials or other property in respect of the Mortgaged Property or any part thereof, nor as giving Trustor any right, power or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would permit the making of any claim against Beneficiary in respect thereof or any claim that any lien based on the performance of such labor or services or the furnishing of any such materials or other property is prior to the lien hereof.

**Section 7.19. Beneficiary's Fees and Expenses; Indemnity.**

Section 7.9 and Section 7.10 of the Collateral Trust Agreement is hereby incorporated *mutatis mutandis*.

**Section 7.20. Duty of Beneficiary.** Beneficiary's sole duty with respect to the custody, safekeeping and physical preservation of the Mortgaged Property in its possession shall be to deal with it in the same manner as Beneficiary deals with similar property for its own account. Neither Beneficiary, any Secured Party nor any of their respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Mortgaged Property or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Mortgaged Property upon the request of Trustor or any other Person or to take any other action whatsoever with regard to the Mortgaged Property or any part thereof. The powers conferred on Beneficiary and the Secured Parties hereunder are solely to protect Beneficiary's and the Secured Parties' interests in the Mortgaged Property and shall not impose any duty upon Beneficiary or any Secured Party to exercise any such powers. Beneficiary and the Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to Trustor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

**Section 7.23. Authority of Beneficiary.** Trustor acknowledges that the rights and responsibilities of Beneficiary under this Deed of Trust with respect to any action taken by Beneficiary or the exercise or non-exercise by Beneficiary of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Deed of Trust shall, as between Beneficiary and the Secured Parties, be governed by the Collateral Trust Agreement and by such other agreements with respect thereto as may exist from time to time among them, but, as between Beneficiary and Trustor, Beneficiary shall be conclusively presumed to be acting as agent for the Secured Parties with full and valid authority so to act or refrain from acting, and Trustor shall not be under any obligation, or entitlement, to make any inquiry respecting such authority.

**Section 7.24. Security Interest Absolute.** All rights of Beneficiary hereunder, the Lien and security interest and all obligations of Trustor hereunder shall be absolute and unconditional.

**Section 7.25. No Waiver by Course of Conduct; Cumulative Remedies.** Neither Beneficiary nor any Secured Party shall by any act (except by a written instrument pursuant to Section 7.5), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Secured Debt Default. No failure to exercise, nor any delay in exercising, on the part of Beneficiary or any other Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by Beneficiary or any other Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy that Beneficiary or such other Secured Party would otherwise have on any future occasion. The rights, remedies, powers and privileges herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

## ARTICLE VIII

### PROVISIONS CONCERNING TRUSTEE

**Section 8.1. Trustee's Powers and Liabilities.**

(a) Trustee, by acceptance hereof, covenants faithfully to perform and fulfill the trusts herein created, being liable, however, only for gross negligence, bad faith or willful misconduct, and hereby waives any statutory fee and agrees to accept reasonable compensation, in lieu thereof, for any services rendered by it in accordance with the terms thereof. To the maximum extent permitted by applicable law, all authorities, powers and discretions given in this Deed of Trust to Trustee and/or Beneficiary may be exercised by either, without the other, with the same effect as if exercised jointly.

(b) Beneficiary may remove Trustee at any time or from time to time and select a successor trustee. In the event of the death, removal, resignation, refusal to act, inability to act or absence of Trustee from the state in which the Premises are located, or in its sole discretion for any reason whatsoever. Beneficiary may, upon notice to Trustor and without specifying the rea-

son therefore and without applying to any court, select and appoint a successor trustee in accordance with *Utah Code Annotated* § 57-1-22, and all powers, rights, duties and authority of the former trustee, as aforesaid, shall thereupon become vested in such successor. Such substitute trustee shall not be required to give bond for the faithful performance of his duties unless required by Beneficiary. Such substitute trustee shall be appointed by written instrument duly recorded in the county or other jurisdiction where the Land is located. Trustor hereby agrees, on behalf of itself and its heirs, executors, administrators and assigns, that the recitals contained in any deed or deeds executed in due form by any Trustee or substitute trustee, acting under the provisions of this instrument, shall be prima facie evidence of the facts recited, and that it shall not be necessary to prove in any court, otherwise than by such recitals, the existence of the facts essential to authorize the execution and delivery of such deed or deeds and the passing of title thereby.

(c) Trustee (in its capacity as Trustee) shall not be required to see that this Deed of Trust is recorded nor liable for its validity or its priority as a first deed of trust, or otherwise, nor shall Trustee be answerable or responsible for performance or observance of the covenants and agreements imposed upon Trustor or Beneficiary by this Deed of Trust or any other agreement. Trustee, as well as Beneficiary, shall have authority in their respective discretion to employ agents and attorneys in the execution of this trust and to protect the interest of Beneficiary hereunder, and to the fullest extent permitted by law they shall be compensated and all expenses relating to the employment of such agents and/or attorneys, including expenses of litigation, shall be paid out of the proceeds of the sale of the Mortgaged Property conveyed hereby should a sale be had, but if no such sale be had, all sums so paid out shall be recoverable to the fullest extent permitted by law by all remedies at law or in equity; and

(d) At any time, or from time to time, without liability therefore and with ten (10) day's prior written notice to Trustor, upon written request of Beneficiary and without affecting the effect of this Deed of Trust upon the remainder of the Mortgaged Property, Trustee may (i) reconvey any part of the Mortgaged Property, (ii) consent in writing to the making of any map or plat thereof, so long as Trustor has consented thereto, (iii) join in granting any easement thereon, so long as Trustor has consented thereto, or (iv) join in any extension agreement so long as Trustor has consented thereto or any agreement subordinating the lien or charge hereof.

#### **Section 8.2 Resignation and Removal of Trustee.**

(a) Trustee may resign at any time upon giving thirty (30) days' notice in writing to Trustor and Beneficiary and otherwise complying with the requirements of applicable law, including but not limited to *Utah Code Annotated* § 57-1-22.

(b) Beneficiary may remove Trustee at any time or from time to time and select a successor trustee. In the event of the death, removal, resignation, refusal to act, inability to act or absence of Trustee from the state in which the Premises are located, or in its sole discretion for any reason whatsoever. Beneficiary may, upon notice to Trustor and without specifying the reason therefore and without applying to any court, select and appoint a successor trustee in accordance with *Utah Code Annotated* § 57-1-22, and all powers, rights, duties and authority of the former trustee, as aforesaid, shall thereupon become vested in such successor. Such substitute trustee shall not be required to give bond for the faithful performance of his duties unless required by Beneficiary. Such substitute trustee shall be appointed by written instrument duly recorded in

the county where the Land is located. Trustor hereby agrees, on behalf of itself and its heirs, executors, administrators and assigns, that the recitals contained in any deed or deeds executed in due form by any Trustee or substitute trustee, acting under the provisions of this instrument, shall be prima facie evidence of the facts recited, and that it shall not be necessary to prove in any court, otherwise than by such recitals, the existence of the facts essential to authorize the execution and delivery of such deed or deeds and the passing of title thereby.

*[The remainder of this page has been intentionally left blank]*

**IN WITNESS WHEREOF**, Trustor has on the date set forth in the acknowledgement hereto, effective as of the date first above written, caused this instrument to be duly EXECUTED AND DELIVERED by authority duly given.

**TRUSTOR:**

**TRIUMPH GEAR SYSTEMS, INC.,** a Delaware corporation

By: 

Name: Jennifer H. Allen

Title: Authorized Officer

Commonwealth of Pennsylvania

ss.

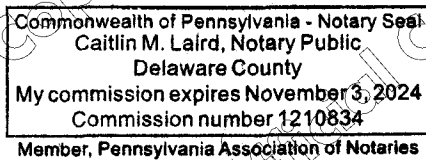
County of Chester

On this 3 day of February, in the year 2021, personally appeared before me Jennifer H. Allen, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that she is the Authorized Officer of Triumph Gear Systems, Inc. and that said document was signed by her in behalf of said Corporation by Authority of its Bylaws, or (Resolution of its Board of Directors), and said Jennifer H. Allen acknowledged to me that said Corporation executed the same. Witness my hand and official seal.

(Notary Seal)

  
\_\_\_\_\_

Notary Signature



*Signature Page to First Lien Deed of Trust, Security Agreement, Assignment of Rents and Leases*

*and Fixture Filing* 01155735 Page 23 of 24 Summit County

**EXHIBIT A**  
**LEGAL DESCRIPTION**

All of Lot 2a, PLAT "A", SILVER CREEK COMMERCE CENTER, AMENDED PLAT OF LOTS 2 AND 3, a subdivision, according to the official plat thereof on file and of record in the Summit County Recorder's office, recorded November 28, 1995 as Entry No. 443185.

Exhibit A-1