



\*W3173987\*

**RECORDING REQUESTED BY AND  
UPON RECORDATION RETURN TO:**

E# 3173987 PG 1 OF 22  
Leann H. Kilts, WEBER COUNTY RECORDER  
06-Aug-21 0435 PM FEE \$40.00 DEP PC  
REC FOR: MOUNTAIN VIEW TITLE - OGDEN  
ELECTRONICALLY RECORDED

AMERICA FIRST FEDERAL CREDIT UNION  
Attn: Jill Ulm  
4051 South 1900 West  
Roy, Utah 84067  
Attention: Commercial Real Estate Dept

Tax ID No. 05-125-0092

189274

SPACE ABOVE THIS LINE FOR RECORDER'S USE

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

This DEED OF TRUST , SECURITY AGREEMENT, FIXTURE FILING AND ASSIGNMENT OF RENTS (this "**Trust Deed**") is made effective as of August 6, 2021, by YOUNG H2ORE, LLC, a Utah limited liability company (together with its respective permitted successors and assigns, individually or collectively as the context requires, "**Grantor**"), having an address at Mountain View Title and Escrow, Inc., to, as trustee, having an address at 5732 S. 1475 E., Ste. 100, South Ogden, Utah 84403 (together with its successors and assigns, "**Trustee**"), for the benefit of AMERICA FIRST FEDERAL CREDIT UNION, a Utah corporation, having an address to which notices may be mailed or delivered of 4051 South 1900 West, Roy, Utah 84067, Attn: Commercial Real Estate Dept ("**Beneficiary**").

**RECITALS:**

A. Grantor is the borrower under that certain Loan Agreement of even date herewith (as from time to time may be amended, modified, or restated, the "**Loan Agreement**"), by and among Grantor, as borrower, and Beneficiary, as lender. All capitalized terms used in this Trust Deed without definition shall have the respective meanings ascribed to them in the Loan Agreement.

B. Grantor has requested and Beneficiary has agreed to make available to Grantor a term loan in the amount of \$7,760,000.00 (the "**Loan**") for the benefit of Grantor related to their interests in the Secured Property (as such term is defined in Section 1.1 below) and improvements and personalty associated with the Secured Property.

C. The Loan is evidenced by that certain Promissory Note (together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for, collectively, the "**Note**") executed by Grantor and dated of even date herewith in connection with the Loan Agreement and in conjunction with the Loan.

D. Pursuant to the terms of the Loan Agreement, Grantor agreed to pledge its interest in the Collateral Property as collateral for Beneficiary (the "**Secured Property**") for the Secured Obligations (as such term is defined in Section 2.4 below) as set forth in this Trust Deed.

E. Grantor's obligations under the Loan shall be guaranteed by Young Automotive Group, LLC, a Utah limited liability company ("**Guarantor**"), through that certain Continuing Guaranty to be executed by Guarantor of even date herewith ("**Guaranty**").

F. The Loan shall be in the aggregate maximum amount of \$7,760,000.00, and it is the intention of Grantor and Beneficiary that this Trust Deed shall secure such amount together with all of the Secured Obligations.

G. This Trust Deed is given pursuant to the Loan Agreement, and payment, fulfillment, and performance of the Obligations are secured by and in accordance with the terms of this Trust Deed.

## ARTICLE 1 GRANTS OF SECURITY

IN CONSIDERATION of the principal sum of all advances made to Grantor under the Loan Agreement and the Note, including future advances as provided under the Loan Documents, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and for the purpose of securing when due, whether by stated maturity, demand, acceleration or otherwise, the Indebtedness (as defined below), which specifically excludes any guaranty of the Secured Obligations or any separate indemnity agreement executed in connection with this Trust Deed, Grantor hereby:

1.1 Secured Property. Grantor, for good and valuable consideration, irrevocably grants, bargains, sells, pledges, assigns, warrants, transfers, and conveys a security interest to Trustee, its successors and assigns IN TRUST, WITH THE POWER OF SALE AND RIGHT OF ENTRY, for the benefit of Beneficiary and its successors and assigns, all right, title, and interest of Grantor in and to the following property, rights, interests and estates, each to the extent now owned, leased, or hereafter acquired, by Grantor (collectively, "Secured Property"):

(a) Real Property. Grantor's right, title, and interest in and to that certain improved real property ("**Property**") located at the address commonly known as 3333 & 3375 Wall Avenue, Ogden, Utah 84401, and more particularly described on attached Exhibit A.

(b) Improvements. Grantor's right, title, and interest in any buildings, structures, fixtures, additions, alterations, appurtenances, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Property (collectively, the "**Improvements**"), provided that notwithstanding the foregoing, the Improvements shall not include the fee interest.

(c) Interest in Easements. Grantor's right, title, and interest in any easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Property and the Improvements, and the reversions and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Property, to the center line thereof and all the estates, rights, titles, interests, rights of dower, rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Grantor of, in and to the Property and the Improvements, and every part and parcel thereof, with the appurtenances thereto.

(d) Fixtures and Personal Property. All of Grantor's interest in all machinery, equipment, furniture, furnishings, appliances, goods, fixtures (including, but not limited to, all heating, air-conditioning, plumbing, lighting, communications and elevator fixtures, inventory and goods), inventory, articles of personal property and accessions and renewals, replacements and substitutions of such property (including, but not limited to, electric and electronic equipment, computer equipment, lighting and plumbing fixtures, fire prevention and extinguishing apparatus, cooling and air-conditioning systems, elevators, escalators, fittings, plants, apparatus, machinery, engines, motors, boilers, incinerators, conduits, compressors and any and all software embedded in or used in connection with any of the foregoing), other customary equipment and other tangible property of every kind and nature whatsoever owned by Grantor, or in which Grantor has or shall have an interest (to the extent Grantor is not prohibited from granting a security interest in such equipment or property), now or hereafter attached or affixed to the Property and the Improvements, or appurtenant thereto, or used in connection with the present or future planning, development, use, operation and occupancy of the Property and the Improvements, and all building equipment, materials and supplies of any nature whatsoever owned by Grantor, or in which Grantor has or shall have an interest (to the extent Grantor is not prohibited from granting a security interest in such equipment or property), located upon the Property and the Improvements, now or in the future, for use or installation in or on the Property or the Improvements, or appurtenant thereto, or used in connection with the present or future planning, development, use, operation and occupancy of the Property and the Improvements, including the right, title and interest of Grantor in and to any of such property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the "**Uniform Commercial Code**"), or equipment leases superior in lien to the lien of this Trust Deed and all proceeds and products of all of the above, provided that the foregoing items shall not include (except to the extent Beneficiary has any right, title or interest therein) (a) any property which any tenant (other than Grantor) is entitled to remove pursuant to the terms of their respective leases and/or (b) any property belonging to tenants (other than Grantor) under the terms of their respective leases (collectively the "**Personal Property**").

(e) Insurance Proceeds. To the extent assignable, all insurance proceeds in respect of the Secured Property under any insurance policies covering the Secured Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu of such proceeds, for damage to the Secured Property (collectively, the "**Insurance Proceeds**"); provided, however, and for purposes of clarification, such insurance proceeds being pledged shall relate only to Grantor's interest in the Property, and no insurance proceeds relating to the fee interest in the Property are being pledged to Beneficiary. Further, nothing by this Trust Deed shall constitute a release of any obligations of Grantor to Beneficiary.

(f) Condemnation Awards. To the extent assignable, all condemnation awards, including accrued interest on such awards, which may be made now or in the future with respect to the Secured Property by reason of any taking or condemnation, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Secured Property (collectively, the "**Awards**"); provided, however, and for purposes of clarification, such Awards being pledged shall relate only to Grantor's interest in the Property and no Awards relating to the fee interest in the Property are being pledged to Beneficiary. Further, nothing by this Trust Deed shall constitute a release of any obligations of Grantor to Beneficiary.

(g) Tax Certiorari. All refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Secured Property as a result of tax certiorari or any

applications or proceedings for reduction; provided, however, and for purposes of clarification, such refunds, rebates or credits being pledged shall relate only to Grantor's interest in the Property and no refunds, rebates or credits relating to the fee interest in the Property are being pledged to Beneficiary. Further, nothing by this Trust Deed shall constitute a release of any obligations of Grantor to Beneficiary.

(h) Agreements. To the extent assignable in accordance with their express terms, all agreements, contracts, certificates, instruments, franchises, permits, licenses, and other documents, now or hereafter entered into, and all rights in and to such documents, respecting or pertaining to the use, occupation, design, construction, development, management or operation of the Property and any part of thereof and any Improvements or any business or activity conducted on the Property and any part thereof (including, without limitation, all permits, licenses, variances and other rights and approvals issued by or obtained from any governmental authority or other Person in connection with the development of the Property or the construction or repair of the Improvements) and all right, title and interest of Grantor therein and thereunder, including, without limitation, the right, upon the occurrence or during the continuance of an Event of Default, to receive and collect any sums payable to Grantor thereunder;

(i) Intangibles. All trade names, trademarks, service marks, logos and copyrights, goodwill, books and records, advertising materials, telephone exchange numbers identified in such materials, and all other general intangibles and payment intangibles relating to or used in connection with the operation of the Property, the Improvements and the Personal Property;

(j) Miscellaneous. All: (i) plans and specifications (to the extent owned by Grantor) for the Improvements; (ii) Grantor's rights, but not liability for any breach by Grantor, under all insurance policies (or additional or supplemental coverage related thereto, including from an insurance provider meeting the requirements of the Loan Documents or from or through any state or federal government sponsored program or entity); (iii) to the extent assignable deposits and deposit accounts arising from or related to any transactions related to the Property or the Improvements (including but not limited to Grantor's rights in deposits with respect to utility services to the Property or the Improvements), rebates or refunds of impact fees or other taxes, assessments or charges, money, accounts (including deposit accounts), instruments, documents, promissory notes and chattel paper (whether tangible or electronic) arising from or by virtue of any transactions related to the Property or the Improvements, and any account or deposit account from which Grantor may from time to time authorize Beneficiary to debit and/or credit payments due with respect to the Loan; (iv) to the extent assignable permits, licenses, franchises, certificates, development rights, commitments and rights for utilities, and other rights and privileges obtained in connection with the Property or the Improvements; (v) subject to the rights of others therein, as-extracted collateral produced from or allocated to the Property including, without limitation, oil, gas and other hydrocarbons and other minerals and all products processed or obtained therefrom, and the proceeds thereof; and (vi) engineering, title, and other related data concerning the Secured Property which are in the possession of Grantor and in which Grantor can grant a security interest.

(k) Proceeds. All proceeds of any of the foregoing items set forth in Sections 1.1(a) through 1.1(o);

(l) Other Rights. To the extent assignable, any and all other rights of Grantor in and to the items set forth in Sections 1.1(a) through 1.1(n) above.

(m) For purposes of clarification, no part of this Trust Deed encumbers any fee interest in the Property, or any portion of the Secured Property that is owned by Beneficiary.

1.2 Assignment of Rents. As additional security for the payment of the Indebtedness, Grantor hereby assigns, transfers, and sets over to Beneficiary: (i) the rents, profits, and income derived from the Property including all prepaid rent and security deposits (the “**Rents**”); (ii) all leases, including any guaranties of any lessee’s obligations under such leases, and any modifications or renewals of the leases and such guaranties; (iii) any award or other payment to which Grantor may become entitled with respect to the leases as a result of or pursuant to any bankruptcy, insolvency or reorganization or similar proceedings involving the tenants under the leases; and (iv) all payments made by or on behalf of any tenant of any part of the Property in lieu of Rent. This Section is subject to the Utah Uniform Assignment of Rents Act, Utah Code Annotated § 57-26-101 et seq. (the “**Act**”), and in the event of any conflict or inconsistency between the provisions of this Section and the provisions of the Act, the provisions of the Act shall control and Beneficiary shall have all rights and remedies available under the Act which rights and remedies shall be cumulative with all rights and remedies hereunder.

1.3 Security Agreement. This Deed of Trust shall cover the Improvements and Personal Property affixed to the Property described herein, and all articles of personal property and all materials delivered to the Property for incorporation or use in any construction being conducted thereon and owned by Grantor, together with all proceeds thereof (which to the fullest extent permitted by law shall be deemed fixtures and a part of the real property.) If any Property covered by this Trust Deed consists of rights in action, accounts receivable or personal property covered by the Uniform Commercial Code, this Trust Deed constitutes a security agreement and financing statement and is intended when recorded to create a perfected security interest in such property in favor of Beneficiary. This Trust Deed shall be self-operative with respect to such property, but Grantor shall execute and deliver on demand such security agreements, financing statements, and other instruments as Beneficiary may request in order to impose the lien hereof more specifically upon any of such property and to pay all recording and/or filing fees associated therewith. If the lien of this Trust Deed on any property is subject to a prior security agreement covering such property, then if any Event of Default occurs, Borrower hereby assigns to Beneficiary all its right, title, and interest in and to all deposits thereon, together with the benefit of any payments now or hereafter made thereon. For purposes of treating this Trust Deed as a security agreement and financing statement, Beneficiary shall be deemed to be the secured party and Grantor shall be deemed to be the debtor. Upon the occurrence of any Event of Default under this Trust Deed, Beneficiary shall have all the rights and remedies of a secured party under the Uniform Commercial Code or otherwise provided by law or by this Trust Deed. “Uniform Commercial Code” means the Uniform Commercial Code, as amended or recodified from time to time, in effect in the State of Utah.

1.4 Fixture Filing. This Trust Deed constitutes a financing statement filed as a fixture filing under the Utah Uniform Commercial Code, covering any Property which now is or later may become a fixture attached to the Property. Without in any manner limiting the generality of any of the other provisions of this Trust Deed: (a) some portions of the goods described or to which reference is made in this Trust Deed are or are to become fixtures on the Property described or to which reference is made herein or on Exhibit A attached to this Trust Deed; and (b) this Trust Deed is to be filed of record in the real estate records as a financing statement and shall constitute a “fixture filing” for purposes of the Uniform Commercial Code. Information concerning the security interest herein granted may be obtained at the addresses set forth on the first page of this Trust Deed.

1.5 Conditions to Grant. TO HAVE AND TO HOLD the above granted and described Secured Property unto Trustee and its successors and assigns for and on behalf of Beneficiary and to the use and benefit of Beneficiary; as described in this Trust Deed, and its successors and assigns, forever; IN TRUST, WITH POWER OF SALE, to secure payment to Beneficiary of the Secured Obligations; PROVIDED,

HOWEVER, these presents are upon the express condition that, if (i) Beneficiary shall be paid the Indebtedness at the time and in the manner provided in the Loan Agreement, the Note, and this Trust Deed, if Grantor shall perform the Other Obligations as set forth in this Trust Deed, or (ii) upon Grantor's satisfaction of all material conditions of the Loan Agreement, these presents and the estate hereby granted shall cease, terminate and be void, and Beneficiary shall promptly execute and deliver to Grantor for recording at Grantor's expense among the appropriate public records a release of this Trust Deed in recordable form.

1.6 Grants to Beneficiary. This Trust Deed and the grants, assignments and transfers made to Beneficiary in this Article 1 shall inure to Beneficiary.

## ARTICLE 2 DEBT AND OBLIGATIONS SECURED

2.1 Obligations. This Trust Deed and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Indebtedness.

2.2 Other Obligations. This Trust Deed and the grants, assignments and transfers made in Article 1 of this Trust Deed are also given for the purpose of securing the performance of the following (collectively, the "***Other Obligations***"): (a) all other obligations of Grantor contained this Trust Deed; (b) the obligations of Grantor contained in the Loan Agreement or any other Loan Document, and (c) the obligations of Grantor contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement, this Trust Deed or the other Loan Documents, subject to Section 2.3, whether now existing or hereafter arising, and whether joint or several, direct or indirect, primary or secondary, fixed or contingent, liquidated or unliquidated, and the cost of collection of all such amounts. This Trust Deed secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable. Such additional Indebtedness also includes debt, liabilities, or obligations, now existing or hereafter arising, due or to become due, absolute or contingent, of Grantor to the Lender and/or its affiliates permitted hereunder. Notwithstanding the foregoing, this Trust Deed does not secure a consumer purpose transaction or any leasing product between Grantor and Lender.

2.3 Guaranties and Unsecured Environmental Indemnities. Notwithstanding anything in this Trust Deed and the Loan Documents to the contrary, this Trust Deed shall not secure any obligations under the Guaranty, any other guaranty, or the Environmental Indemnity Agreement.

2.4 Obligations and Other Obligations. Grantor's obligations for the payment of the Indebtedness and the performance by Grantor of the Other Obligations shall be referred to collectively in this Trust Deed as, the "***Secured Obligations.***"

2.5 Payment of Obligations and Final Maturity Date. Grantor will pay the Indebtedness at the time and in the manner provided in the Note, the Loan Agreement and this Trust Deed.

### ARTICLE 3 PROPERTY COVENANTS

Grantor covenants and agrees that:

3.1 Insurance. Grantor shall obtain and maintain, or cause to be obtained and maintained, in full force and effect at all times insurance with respect to Grantor and the Secured Property as required pursuant to the Loan Agreement.

3.2 Taxes and Other Charges. Grantor shall pay all real estate and personal property taxes, assessments, water rates or sewer rents (collectively, "***Taxes***"), ground rents, maintenance charges, impositions (other than Taxes), and any other charges, including, without limitation, vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Secured Property (collectively, "***Other Charges***"), now or hereafter levied or assessed or imposed against the Secured Property or any part thereof in accordance with the Loan Agreement.

3.3 leases. Grantor shall not (and shall not permit any other applicable Person to) enter in any leases for all or any portion of the Secured Property without the prior written consent of the Beneficiary, except as otherwise set forth in the Loan Agreement.

3.4 Warranty of Title. Grantor shall forever warrant, defend and preserve the title and the validity and first position of the lien of this Trust Deed on the Property and shall forever warrant and defend the same to Beneficiary against the claims of all Persons whomsoever. Notwithstanding the above, Grantor may grant, without Beneficiary's consent, easements and other rights necessary or desirable for the operation and development of the Secured Property on the condition that the granting of such easements and other rights shall not, individually or in the aggregate, interfere with the benefits intended to be provided by this Trust Deed, adversely affect the marketability of the Secured Property, or impair the use or operation of the Secured Property, and any such easement or other right shall constitute a permitted encumbrance.

3.5 Additions to Security. All right, title and interest of Grantor in and to all Improvements hereafter constructed or placed on the Secured Property and in and to any Personal Property hereafter acquired shall, without any further pledge, conveyance, assignment or other act by Grantor, become subject to the lien of this Trust Deed as fully and completely, and with the same effect, as though now owned by Grantor and specifically described in the granting clauses of this Trust Deed. Grantor agrees, however, to execute and deliver to Beneficiary such further documents as may be required by the terms of the Loan Agreement and the other Loan Documents.

### ARTICLE 4 FURTHER ASSURANCES

4.1 Authorization to File Financing Statements; Power of Attorney. Grantor authorizes Beneficiary at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements as authorized by applicable law, as applicable to all or part of the Personal Property and as necessary or required in connection herewith. For purposes of such filings, Grantor agrees to furnish any information reasonably requested by Beneficiary promptly upon request by Beneficiary. Grantor irrevocably constitutes and appoints Beneficiary and any officer or agent of Beneficiary, with full power of substitution, as Grantor's true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of Grantor or in Grantor's own name to execute in Grantor's name any such

documents and otherwise to carry out the purposes of this Section 4.1, to the extent that Grantor's authorization above is not sufficient and Grantor fails or refuses to promptly execute such documents. This power of attorney is a power coupled with an interest and shall be irrevocable.

## ARTICLE 5 DUE ON SALE/ENCUMBRANCE

5.1 No Sale/Encumbrance. Except for a transfer permitted by written consent of Beneficiary or otherwise in accordance with the express terms and conditions contained in the Loan Agreement, Grantor shall not cause or permit a sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or grant of any options with respect to, or any other transfer or disposition (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) of a legal or beneficial interest in the Secured Property or any part thereof.

## ARTICLE 6 RELEASE OF PROPERTY

6.1 Release of Property. Grantor shall not be entitled to a release of any portion of the Secured Property from the lien of this Trust Deed except in accordance with Section 1.5 hereof, or otherwise in accordance with the terms and conditions of the Loan Agreement.

6.2 Satisfaction of Indebtedness. Upon payment in full of the Indebtedness, or such earlier time as may be permitted pursuant to the terms of the Loan Agreement, Beneficiary shall deliver a satisfaction or release of this Trust Deed.

## ARTICLE 7 DEFAULT

7.1 Event of Default. The term "***Event of Default***" as used in this Trust Deed shall mean an "***Event of Default***" as such term is defined in the Loan Agreement.

## ARTICLE 8 RIGHTS AND REMEDIES UPON DEFAULT

8.1 Remedies. Upon the occurrence and during the continuance of any Event of Default, Grantor agrees that Beneficiary may or acting by and through Trustee may take such action, upon such notice or demand required by applicable law, as it deems advisable to protect and enforce its rights against Grantor, any other Grantor (as applicable) and in and to the Secured Property, including, but not limited to, any one or more of the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Beneficiary may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Beneficiary:

- (a) declare the entire unpaid Indebtedness to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Trust Deed on the Property and the other Secured Property under any applicable Legal Requirements, in which case the Secured Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions in accordance with applicable Legal Requirements and in any



order or manner. Before any Trustee's Sale, Beneficiary shall give and record notice of default and election to sell as may be required by Utah Code Annotated § 57-1-24 through § 57-1-26 or other applicable laws;

(c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Trust Deed on the Property and the other Secured Property for the portion of the Indebtedness then due and payable, subject to the continuing lien and security interest of this Trust Deed for the balance of the Indebtedness not then due, unimpaired and without loss of priority;

(d) sell for cash or upon credit the Secured Property or any part thereof and all estate, claim, demand, right, title and interest of Grantor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by applicable Legal Requirements;

(e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained in this Trust Deed, in the Loan Agreement or in the other Loan Documents;

(f) recover judgment on the Indebtedness either before, during or after any proceedings for the enforcement of this Trust Deed or the other Loan Documents;

(g) apply to a court of competent jurisdiction for the appointment of a receiver, trustee, liquidator or conservator of the Secured Property, without notice and without regard for the adequacy of the security for the Secured Obligations and without regard for the solvency of Grantor or any other Grantor (as applicable) or any other Person liable for the payment of the Indebtedness;

(h) the license granted to Grantor under Article 1 hereof shall automatically be revoked (for so long as an Event of Default shall be continuing) and, to the extent permitted under applicable Legal Requirements, Beneficiary may enter into or upon the Secured Property, either personally or by its agents, nominees or attorneys and dispossess Grantor and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Grantor and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Grantor agrees to surrender possession of the Secured Property and of such books, records and accounts to Beneficiary upon demand, and thereupon Beneficiary may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Secured Property and conduct the business thereat; (ii) make alterations, additions, renewals, replacements and improvements to or on the Secured Property; (iii) exercise all rights and powers of Grantor with respect to the Secured Property, whether in the name of Grantor or otherwise, including, without limitation, the right to make, cancel, enforce or modify leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Secured Property and every part thereof; (iv) require Grantor to pay monthly in advance to Beneficiary, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Secured Property as may be occupied by Grantor; (v) require Grantor to vacate and surrender possession of the Secured Property to Beneficiary or to such receiver and, in default thereof, Grantor may be evicted by summary proceedings or otherwise; and (vi) apply the receipts from the Secured Property to the payment of the Indebtedness in accordance with the provisions of the Loan Agreement or any of the other Loan Documents after deducting therefrom all out-of-pocket expenses (including reasonable attorneys' fees) actually incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance premiums and other expenses in connection with the Secured Property;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, 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 Grantor at its expense to assemble the Personal Property and make it available to Beneficiary at a convenient place acceptable to Beneficiary. Subject to applicable Legal Requirements, any notice of sale, disposition or other intended action by Beneficiary or Trustee with respect to the Personal Property sent to Grantor in accordance with the provisions hereof at least ten (10) Business Days prior to such action shall constitute commercially reasonable notice to Grantor;

(j) apply any sums then deposited or held in escrow or otherwise by or on behalf of Beneficiary in accordance with the terms of the Note, Loan Agreement, this Trust Deed or any of the other Loan Documents;

(k) apply the undisbursed balance of any deposit made by Grantor with Beneficiary in connection with the restoration of the Secured Property, together with interest thereon, to the payment of the Indebtedness; or

(l) pursue such other remedies as Beneficiary may have under applicable law.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of the Secured Property, this Trust Deed shall continue as a lien and security interest on the remaining portion of the Secured Property unimpaired and without loss of priority.

8.2 Application of Proceeds. Upon the occurrence and during the continuance of an Event of Default, the purchase money, proceeds and avails of any disposition of the Secured Property, and or any part thereof, or any other sums collected by Beneficiary pursuant to the Note, Loan Agreement, this Trust Deed or the other Loan Documents, shall be applied by Beneficiary in accordance with the Loan Agreement.

8.3 Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default, Beneficiary may, but without any obligation to do so, and, without notice or demand (except as expressly required by the Loan Agreement), and without releasing Grantor from any obligation hereunder, make any payment or do any act required of Grantor hereunder in such manner and to such extent as Beneficiary may deem necessary to protect the security hereof. In connection with the foregoing, to the extent permitted by applicable Legal Requirements, Beneficiary is authorized to enter upon the Secured Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Secured Property or to foreclose this Trust Deed or collect the Indebtedness, and the cost and expense of any cure thereof (including reasonable attorneys' fees to the extent permitted by applicable Legal Requirements), with interest as provided in this Section 8.3, shall constitute a portion of the Indebtedness and shall be due and payable to Beneficiary ten (10) Business Days following receipt by Grantor of written demand along with a reasonably detailed invoice accompanying therewith. All such out of pocket costs and expenses incurred by Beneficiary in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at any default rate specified in the Loan Agreement, if any (the "**Default Rate**"), for the period following such ten (10) Business Day period referred to in the previous sentence to the date of payment to Beneficiary if not repaid within such time. All such costs and expenses actually incurred by Beneficiary or Trustee together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Indebtedness and be secured by this Trust Deed and the other Loan Documents and shall be due and payable ten (10)

Business Days following receipt by Grantor of written demand along with a reasonably detailed invoice accompanying therewith by Beneficiary.

8.4 Actions and Proceedings. Subject to the terms and conditions of the Loan Agreement, during the continuance of an Event of Default, Beneficiary has the right to appear in and defend any action or proceeding brought with respect to the Secured Property, and, after the occurrence and during the continuance of any Event of Default, to bring any action or proceeding, in the name and on behalf of Grantor, which Beneficiary, in its sole discretion, decides should be brought to protect its interest in the Secured Property.

8.5 Recovery of Sums Required to Be Paid. Upon the occurrence and during the continuance of an Event of Default, Beneficiary shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Indebtedness as the same become due, without regard to whether or not the balance of the Indebtedness shall be due, and without prejudice to the right of Beneficiary thereafter to bring an action of foreclosure, or any other action, for any Event of Default by Grantor existing at the time such earlier action was commenced.

8.6 Other Rights, etc.

(a) The failure of Beneficiary to insist upon strict performance of any term in this Trust Deed shall not be deemed to be a waiver of any term of this Trust Deed. Grantor shall not be relieved of Grantor's obligations hereunder by reason of (i) the failure of Beneficiary to comply with any request of Grantor or Guarantor to take any action to foreclose this Trust Deed or otherwise enforce any of the provisions hereof or of the Loan Agreement, the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Secured Property, or of any Person liable for the Indebtedness or any portion of the Indebtedness, or (iii) any agreement or stipulation by Beneficiary extending the time of payment or otherwise modifying or supplementing the terms of the Loan Agreement, this Trust Deed or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Secured Property is on Grantor, and Beneficiary shall have no any liability whatsoever for decline in the value of the Secured Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Beneficiary shall not be deemed an election of judicial relief if any such possession is requested or obtained with respect to any Secured Property or any other Collateral not in Beneficiary's possession.

(c) Subject to applicable Legal Requirements, Beneficiary may resort for the payment of the Indebtedness to any other security held by Beneficiary in such order and manner as Beneficiary, in its sole discretion, may elect. Beneficiary may take action to recover the Indebtedness, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Beneficiary thereafter to foreclose this Trust Deed. The rights of Beneficiary and Trustee under this Trust Deed shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Beneficiary or Trustee shall be construed as an election to proceed under any one provision in this Trust Deed to the exclusion of any other provision. Neither Beneficiary nor Trustee shall be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

(d) In the event of a foreclosure sale the Personal Property and the Secured Property may, at the option of Beneficiary, be sold as a whole.

8.7 Right to Release Any Portion of the Property. Beneficiary may release any portion of the Secured Property for such consideration as Beneficiary may require without, as to the remainder of the Secured Property, in any way impairing or affecting the lien or priority of this Trust Deed, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Beneficiary for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Beneficiary may require without being accountable for so doing to any other lienholder. This Trust Deed shall continue as a lien and security interest in the remaining portion of the Secured Property.

8.8 Right of Entry. Upon reasonable notice to Grantor and subject to the rights of any tenants or other occupants then in occupancy of all or any part of the Secured Property, pursuant to the express terms of their leases and the terms of the Loan Agreement, Beneficiary and its agents shall have the right to enter and inspect the Secured Property.

8.9 Attorney Fees and Expenses. Grantor agrees to pay on demand all of Lender's costs and expenses, including Lender's attorney fees and legal expenses, incurred in connection with enforcement of this Trust Deed. Lender may hire or pay someone else to help enforce this Trust Deed. Lender may also use attorneys who are salaried employees of Lender to enforce this Agreement. The undersigned shall pay all costs and expenses of all such enforcement. In the event arbitration, suit, action or other legal proceeding is brought to interpret or enforce this Trust Deed, the undersigned agrees to pay all additional sums as the arbitrator or court may adjudge reasonable as Lender's costs, disbursements, and attorney fees at hearing, trial, and on any and all appeals. As used in this paragraph "**Agreement**" means the Loan Agreement, Promissory Note, Continuing Guaranty, Trust Deed, or other agreement, document, or instrument in which this paragraph is found, even if this document is also described by another name. Whether or not an arbitration or court action is filed, all reasonable attorney fees and expenses Lender incurs in protecting its interests and/or enforcing this Trust Deed shall become part of the Indebtedness evidenced or secured by this Trust Deed, shall bear interest at the highest applicable rate under the promissory note or credit agreement, and shall be paid to Lender by the other party or parties signing this Agreement within ten (10) Business Days following written demand. The attorney fees and expenses covered by this paragraph include without limitation all of Lender's attorney fees (including the fees charged by Lender's in-house attorneys, calculated at hourly rates charged by attorneys in private practice with comparable skill and experience), Lender's fees and expenses for bankruptcy proceedings (including efforts to modify, vacate, or obtain relief from any automatic stay), fees and expenses for Lender's post-judgment collection activities, Lender's cost of searching lien records, searching public record databases, on-line computer legal research, title reports, surveyor reports, appraisal reports, collateral inspection reports, title insurance, and bonds issued to protect Lender's collateral, all to the fullest extent allowed by law.

8.10 Bankruptcy.

(a) Upon the occurrence and during the continuance of an Event of Default, Beneficiary shall have the right to proceed in its own name or in the name of Grantor in respect of any claim, suit, action or proceeding relating to the rejection of any lease, including, without limitation, the right to file and prosecute, to the exclusion of Grantor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such lease under the Bankruptcy Code (defined below) or Debtor Relief Law (defined below).

(b) If there shall be filed by or against Grantor a petition under 11 U.S.C. §§ 101 et seq., as the same may be amended from time to time (the “**Bankruptcy Code**”), or under any other present or future state or federal law regarding bankruptcy, reorganization or other relief to debtors (collectively, “**Debtor Relief Law**”), and Grantor, as lessor under any lease, shall determine to reject such lease pursuant to Section 365(a) of the Bankruptcy Code or similar Debtor Relief Law, then Grantor shall give Beneficiary not less than ten (10) days’ prior notice of the date on which Grantor shall apply to the bankruptcy court for authority to reject the lease. Beneficiary shall have the right, but not the obligation, to serve upon Grantor within such ten day period a notice stating that: (i) Beneficiary demands that Grantor assume and assign the lease to Beneficiary pursuant to Section 365 of the Bankruptcy Code or similar Debtor Relief Law; and (ii) Beneficiary covenants to cure or provide adequate assurance of future performance under the lease. If Beneficiary serves upon Grantor the notice described in the preceding sentence, Grantor shall not seek to reject the lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Beneficiary of the covenant provided for in clause (ii) of the preceding sentence.

## ARTICLE 9 WAIVERS

9.1 Marshalling and Other Matters. Subject to the terms and provisions of the Loan Agreement, Grantor waives, to the extent permitted by applicable Legal Requirements, the benefit of all Legal Requirements now or hereafter in force regarding appraisal, valuation, stay, extension, reinstatement and redemption and all rights of marshalling in the event of any sale hereunder of the Secured Property or any part of or any interest in such property. Further, to the extent permitted by law, Grantor by this Trust Deed expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Trust Deed on behalf of Grantor, and on behalf of each and every Person acquiring any interest in or title to the Secured Property subsequent to the date of this Trust Deed and on behalf of all Persons to the extent permitted by applicable Legal Requirements.

9.2 Waiver of Notice. Subject to the terms and provisions of the Loan Agreement, to the extent permitted by applicable Legal Requirements, Grantor shall not be entitled to any notices of any nature whatsoever from Beneficiary or Trustee except with respect to matters for which this Trust Deed, the Loan Agreement or any of the other Loan Documents specifically and expressly provides for the giving of notice by Beneficiary or Trustee to Grantor and except with respect to matters for which Grantor is not permitted by applicable Legal Requirements to waive its right to receive notice, and Grantor expressly waives the right to receive any notice from Beneficiary or Trustee with respect to any matter for which this Trust Deed, the Loan Agreement, or any of the other Loan Documents does not specifically and expressly provide for the giving of notice by Beneficiary or Trustee to Grantor.

9.3 Sole Discretion of Beneficiary. Whenever pursuant to this Trust Deed, Beneficiary exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Beneficiary, the decision of Beneficiary to approve or disapprove or to decide whether arrangements or terms are satisfactory or not satisfactory shall (except as is otherwise specifically provided in this Trust Deed) be in the sole (but reasonable) discretion of Beneficiary and shall be final and conclusive.

9.4 Waiver of Foreclosure Defense. To the extent permissible under applicable Legal Requirements, Grantor waives any defense Grantor might assert or have by reason of Beneficiary’s failure to make any tenant or lessee of the Secured Property a party defendant in any foreclosure proceeding or action instituted by Beneficiary.

9.5 Jury Trial Waiver. GRANTOR WAIVES FULLY ITS RESPECTIVE RIGHTS TO A TRIAL BY JURY IN EACH AND EVERY TRIAL OR OTHER PROCEEDING IN WHICH ONE OR MORE CAUSES OF ACTION OR ISSUES ARE RAISED WHICH RESULT FROM OR ARISE OUT OF THIS TRUST DEED OR ANY OF THE LOAN DOCUMENTS. GRANTOR REPRESENTS THAT THIS AGREEMENT IS EXECUTED, KNOWINGLY, FREELY, AND VOLUNTARILY AFTER HAVING BEEN FULLY AND COMPLETELY READ AND UNDERSTOOD BY GRANTOR OR ITS AUTHORIZED OFFICERS, AND THAT GRANTOR UNDERSTANDS THE NATURE OF THE RIGHT BEING WAIVED AND THAT IT HAS HAD THE ADEQUATE OPPORTUNITY TO DISCUSS THIS WAIVER WITH ITS COUNSEL.

9.6 Class Action Waiver. GRANTOR WAIVES THE RIGHT TO LITIGATE IN COURT ANY CLAIM OR DISPUTE AS A CLASS ACTION, EITHER AS A MEMBER OF A CLASS OR AS A REPRESENTATIVE, OR TO ACT AS A PRIVATE ATTORNEY GENERAL.

#### ARTICLE 10 BENEFICIARY AND NOTICES

10.1 Failure to Act. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, the failure of Beneficiary to take any action hereunder or under any of the other Loan Documents shall not (a) be deemed to be a waiver of any term or condition of this Trust Deed or any of the other Loan Documents, (b) materially adversely affect any rights of Beneficiary hereunder or under any of the other Loan Documents, or (c) relieve Grantor of any of Grantor's obligations hereunder or under any of the other Loan Documents.

10.2 Notices. Except as otherwise provided by applicable law, all notices or other written communications hereunder shall be delivered in accordance with the applicable terms and conditions of Section 9.3 of the Loan Agreement.

#### ARTICLE 11 APPLICABLE LAW

11.1 Governing Law and Venue. THIS TRUST DEED SHALL BE DEEMED TO BE A CONTRACT ENTERED INTO PURSUANT TO THE LAWS OF THE STATE OF UTAH AND SHALL IN ALL RESPECTS BE GOVERNED, CONSTRUED, APPLIED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF UTAH; PROVIDED; HOWEVER, THAT WITH RESPECT TO THE CREATION, PERFECTION, PRIORITY AND ENFORCEMENT OF THE LIEN OF THIS TRUST DEED, AND THE DETERMINATION OF DEFICIENCY JUDGMENTS, THE LAWS OF THE STATE WHERE THE SECURED PROPERTY IS LOCATED SHALL APPLY. THE PARTIES AGREE THAT THE STATE AND FEDERAL COURTS IN WEBER COUNTY, UTAH SHALL BE THE PROPER VENUE FOR ANY LITIGATION, SUIT, ARBITRATION OR OTHER PROCEEDING BROUGHT TO ENFORCE OR INTERPRET THIS TRUST DEED.

11.2 Provisions Subject to Applicable Legal Requirements. All rights, powers and remedies provided in this Trust Deed may be exercised only to the extent that the exercise thereof does not violate any applicable Legal Requirements and are intended to be limited to the extent necessary so that they will not render this Trust Deed invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable Legal Requirements.

## ARTICLE 12 DEFINITIONS

12.1 General Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided in this Trust Deed, words used in this Trust Deed may be used interchangeably in singular or plural form, and the masculine gender includes the feminine and/or neuter.

12.2 “**Grantor**” means each Grantor and any subsequent owner or owners (or lessees, as applicable) of the Secured Property or any part of such property or any interest in this Trust Deed.

12.3 “**Beneficiary**” means Beneficiary and any of Beneficiary’s successors and assigns.

12.4 “**Indebtedness**” means the indebtedness evidenced by the Note or Loan Documents (excluding any guaranty or unsecured environmental indemnity), and all modifications, renewals or extensions of any of foregoing, including all principal and interest together with all other indebtedness and costs and expenses for which Grantor is responsible under this Trust Deed or under any of the Loan Documents. Specifically, without limitation, indebtedness includes all amounts that may be indirectly secured by any cross-collateralization provision of this Trust Deed and any indebtedness, liabilities, or obligations, now existing or hereafter arising, due or to become due, absolute or contingent, of the Grantor to the Lender and/or its affiliates permitted hereunder.

12.5 “**Person**” means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture or other entity, or a government or any political subdivision or agency thereof.

12.6 “**Trustee**” means “Trustee and any substitute Trustee of the estates, properties, powers, trusts and rights conferred upon Trustee pursuant to this Trust Deed”.

12.7 “**Secured Property**” includes any portion of the Secured Property and any interest in such property.

12.8 “**Attorney fees**,” “**legal fees**,” and “**counsel fees**” include any and all attorneys’, paralegal, and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Beneficiary in protecting its interest in the Secured Property, the leases and the Rents and enforcing its rights hereunder.

## ARTICLE 13 MISCELLANEOUS PROVISIONS

13.1 No Oral Change. This Trust Deed, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Grantor or Beneficiary, but only by an agreement in writing signed by Grantor and Beneficiary in accordance with the Loan Agreement.

13.2 Successors and Assigns. This Trust Deed shall be binding upon and inure to the benefit of Grantor, Beneficiary, and Trustee and their respective successors and assigns forever.

13.3 Inapplicable Provisions. If any term, covenant or condition of the Loan Agreement, the Note or this Trust Deed is held to be invalid, illegal or unenforceable in any respect, the Loan Agreement, the Note and this Trust Deed shall be construed without such provision.

13.4 Headings, etc. The headings and captions of various Sections of this Trust Deed are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

13.5 Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

13.6 Entire Agreement. This Trust Deed, the Loan Agreement and the other Loan Documents contain the entire agreement of the parties hereto and thereto in respect of the transactions contemplated hereby and thereby, and all prior agreements among or between such parties, whether oral or written, are superseded by the terms of this Trust Deed, the Loan Agreement and the other Loan Documents.

13.7 Joint and Several Liability. The liability of all persons and entities obligated in any manner under this Trust Deed and under any of the Loan Documents shall be joint and several.

13.8 Limitation on Beneficiary's Responsibility. No provision of this Trust Deed shall operate to place any obligation or liability for the control, care, management or repair of the Secured Property upon Beneficiary, nor shall it operate to make Beneficiary responsible or liable for any waste committed on the Secured Property by the tenants or any other Person, or for any dangerous or defective condition of the Secured Property, or for any negligence in the management, upkeep, repair or control of the Secured Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Beneficiary a "mortgagee in possession."

13.9 Agreement of the Parties. GRANTOR SPECIFICALLY ACKNOWLEDGES AND AGREES (a) THAT IT HAS A DUTY TO READ THIS TRUST DEED AND THAT IT IS CHARGED WITH NOTICE AND KNOWLEDGE OF THE TERMS OF THIS LEASHOLD DEED OF TRUST, (b) THAT IT HAS IN FACT READ THIS TRUST DEED AND IS FULLY INFORMED AND HAS FULL NOTICE AND KNOWLEDGE OF THE TERMS, CONDITIONS AND EFFECTS OF THIS TRUST DEED, (c) THAT IT HAS BEEN REPRESENTED BY LEGAL COUNSEL OF ITS CHOICE THROUGHOUT THE NEGOTIATIONS PRECEDING ITS EXECUTION OF THIS TRUST DEED AND HAS RECEIVED THE ADVICE OF SUCH COUNSEL IN CONNECTION WITH ENTERING INTO THIS TRUST DEED, AND (d) THAT IT RECOGNIZES THAT CERTAIN OF THE TERMS OF THIS TRUST DEED PROVIDE FOR (i) CERTAIN WAIVERS AND FOR (ii) THE ASSUMPTION BY ONE PARTY OF, AND/OR RELEASE OF THE OTHER PARTY FROM, CERTAIN LIABILITIES THAT SUCH PARTY MIGHT OTHERWISE BE RESPONSIBLE FOR UNDER THE LAW. GRANTOR FURTHER AGREES AND COVENANTS THAT IT WILL NOT CONTEST THE VALIDITY OR ENFORCEABILITY OF ANY SUCH PROVISIONS OF THIS TRUST DEED ON THE BASIS THAT THE PARTY HAD NO NOTICE OR KNOWLEDGE OF SUCH PROVISION OR THAT SUCH PROVISIONS ARE NOT "CONSPICUOUS."

13.10 Conflict. In the event of any inconsistencies between the terms and conditions of this Trust Deed and the terms and conditions of the Loan Agreement, the terms and conditions of the Loan Agreement shall control and be binding.



13.11 Incorporation. Grantor hereby acknowledges and agrees that all of the covenants, conditions and agreements of Grantor set forth in the Loan Agreement are hereby incorporated herein by reference.

13.12 Assignments of Rents Act. Without in any way limiting or restricting any of Beneficiary's other rights, benefits or privileges hereunder, Grantor hereby expressly agrees that Beneficiary shall be entitled to all rights, benefits or privileges provided for in the Uniform Assignment of Rents Act found at Utah Code Annotated § 57-26-101 *et seq.*

13.13 Time is of the Essence. Time is of the essence of each and every term in this Trust Deed.

#### ARTICLE 14 STATUS OF GRANTOR

14.1 Status of Grantor. Grantor's exact legal name is correctly set forth in the first paragraph of this Trust Deed and the signature block at the end of this Trust Deed. Grantor is an organization of the type specified in the first paragraph of this Trust Deed. Grantor is incorporated in or organized under the laws of the State of Utah. Grantor's principal place of business and chief executive office, and the place where Grantor kept its principal books and records, including recorded data of any kind or nature, regardless of the medium or recording, including software, and writings, has been for the preceding four (4) months (or, if less, the entire period of the existence of Grantor) the address shown on the first page of this Trust Deed. Grantor will not change or permit to be changed (a) Grantor's name, (b) the corporate, partnership or other organizational structure of Grantor, (c) Grantor's state of organization or (d) Grantor's organizational number, in each case, without notifying Beneficiary of such change in writing at least fifteen (15) days prior to the effective date of such change and, in the case of a change in Grantor's structure, without first obtaining the prior written consent of Beneficiary. If Grantor does not now have an organizational identification number and later obtains one, Grantor promptly shall notify the Beneficiary of such organizational identification number.

#### ARTICLE 15 DEED OF TRUST PROVISIONS

15.1 Concerning the Trustee. Trustee shall be under no duty to take any action hereunder except as expressly required hereunder or by law, or to perform any act which would involve Trustee in any expense or liability or to institute or defend any suit in respect hereof, unless properly indemnified to Trustee's reasonable satisfaction. Trustee, by acceptance of this Trust Deed, covenants to perform and fulfill the trusts created in this Trust Deed, being liable, however, only for gross negligence or willful misconduct, and waives any statutory fee and agrees to accept reasonable compensation, in lieu thereof, for any services rendered by Trustee in accordance with the terms of this Trust Deed. Trustee may resign at any time upon giving thirty (30) days' prior notice to Grantor and to Beneficiary. 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, or inability to act of Trustee, or in its sole discretion for any reason whatsoever Beneficiary may, without notice and without specifying any reason therefor and without applying to any court, select and appoint a successor trustee, by an instrument recorded wherever this Trust Deed is recorded and all powers, rights, duties and authority of Trustee, as aforesaid, shall thereupon become vested in such successor. Such substitute trustee shall not be required to give bond for the faithful performance of the duties of Trustee hereunder unless required by Beneficiary. The procedure provided for in this paragraph

for substitution of Trustee shall be in addition to and not in exclusion of any other provisions for substitution, by law or otherwise.

15.2 Trustee's Fees. Grantor shall pay all reasonable out of pocket costs, fees and expenses incurred by Trustee and Trustee's agents and counsel in connection with the performance by Trustee of Trustee's duties hereunder and all such reasonable out of pocket costs, fees and expenses shall be secured by this Trust Deed.

15.3 Certain Rights. With the approval of Beneficiary, Trustee shall have the right to take any and all of the following actions: (i) to select, employ, and advise with counsel (who may be, but need not be, counsel for Beneficiary) upon any matters arising hereunder, including the preparation, execution, and interpretation of the Note, this Trust Deed or the other Loan Documents, and shall be fully protected in relying as to legal matters on the advice of counsel, (ii) to execute any of the trusts and powers of this Trust Deed and to perform any duty hereunder either directly or through its agents or attorneys, (iii) to select and employ, in and about the execution of its duties hereunder, suitable accountants, engineers and other experts, agents and attorneys-in-fact, either corporate or individual, not regularly in the employ of Trustee, and Trustee shall not be answerable for any act, default, negligence, or misconduct of any such accountant, engineer or other expert, agent or attorney-in-fact, if selected with reasonable care, or for any error of judgment or act done by Trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever, except for Trustee's gross negligence or bad faith, and (iv) any and all other lawful action as Beneficiary may instruct Trustee to take to protect or enforce Beneficiary's rights hereunder. Trustee shall not be personally liable in case of entry by Trustee, or anyone entering by virtue of the powers in this Trust Deed granted to Trustee, upon the Secured Property for debts contracted for or liability or damages incurred in the management or operation of the Secured Property. Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting an action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. Trustee shall be entitled to reimbursement for reasonable actual expenses incurred by Trustee in the performance of Trustee's duties hereunder and to reasonable compensation for such of Trustee's services hereunder as shall be rendered.

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

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

15.6 Succession Instruments. Any substitute trustee appointed pursuant to any of the provisions of this Trust Deed shall, without any further act, deed, or conveyance, become vested with all the estates, properties, rights, powers, and trusts of its or its predecessor in the rights hereunder with like effect as if originally named as Trustee in this Trust Deed; but nevertheless, upon the written request of Beneficiary or of the substitute trustee, Trustee ceasing to act shall execute and deliver any instrument transferring to such substitute trustee, upon the trusts expressed in this Trust Deed, all the estates, properties, rights, powers,

and trusts of Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such Trustee to the substitute trustee so appointed in Trustee's place.

ARTICLE 16  
MERGER

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

ARTICLE 17  
ENVIRONMENTAL MATTERS

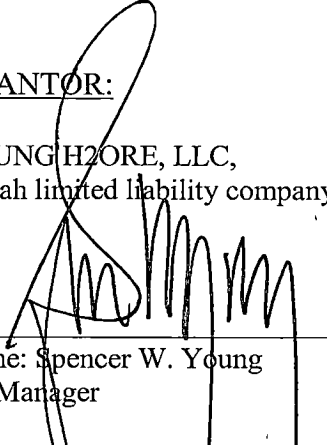
17.1 Environmental Representations and Warranties. Grantor, shall comply at all times with the obligations set forth in the Environmental Indemnity Agreement, entered into by Grantor and Guarantor pursuant to the Loan Agreement.

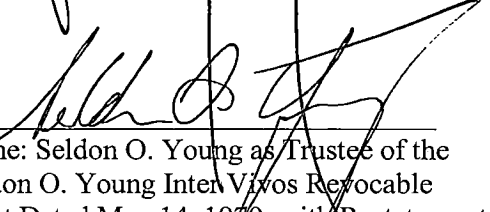
*[Signature Page Follows]*

This Trust Deed has been executed by the undersigned as of the effective date written on the first page.

GRANTOR:

YOUNG H2ORE, LLC,  
a Utah limited liability company

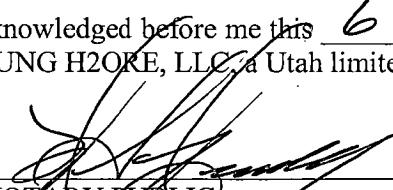
By:   
Name: Spencer W. Young  
Its: Manager

By:   
Name: Seldon O. Young as Trustee of the  
Seldon O. Young Inter Vivos Revocable  
Trust Dated May 14, 1979, with Restatement  
Dated February 20, 2015  
Its: Manager

**ACKNOWLEDGMENTS**

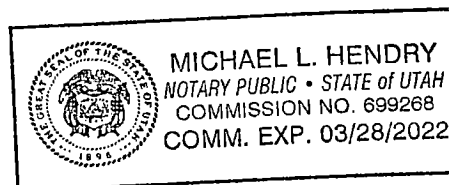
STATE OF UTAH §  
COUNTY OF WEBER §

The foregoing instrument was acknowledged before me this 6 day of August, 2021,  
by Spencer W. Young, who is the Manager of YOUNG H2ORE, LLC, a Utah limited liability company.

  
NOTARY PUBLIC  
Residing at LARSON, UTAH

My Commission Expires:

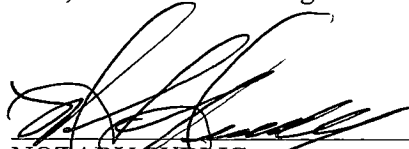
3-28-22



Signature page to Deed of Trust

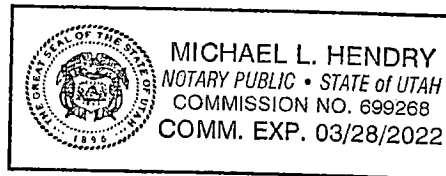
STATE OF UTAH §  
COUNTY OF WEBER §  
§

The foregoing instrument was acknowledged before me this 6 day of August, 2021, by Seldon O. Young, who is the Trustee of the Seldon O. Young Inter Vivos Revocable Trust Dated May 14, 1979, with Restatement Dated February 20, 2015, which is the Manager of YOUNG H2ORE, LLC, a Utah limited liability company.

  
\_\_\_\_\_  
NOTARY PUBLIC  
Residing at CARSON, UTAH

My Commission Expires:

3-28-22



Signature page to Deed of Trust

**EXHIBIT A**

**(PROPERTY DESCRIPTION)**

The land referred to herein below is situated in the County of Weber, State of Utah, and described as follows:

PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY. BEGINNING AT A POINT ON THE WEST RIGHT OF WAY LINE OF WALL AVENUE, SAID POINT BEING 33.56 FEET SOUTH 00D58'00" WEST AND 50.00 FEET NORTH 89D02'00" WEST FROM THE OGDEN CITY SURVEY MONUMENT AT THE INTERSECTION OF 33RD STREET AND WALL AVENUE; AND RUNNING THENCE SOUTH 00D59'09" WEST 490.85 FEET; THENCE NORTH 89D02'00" WEST [323.80] FEET; THENCE NORTH 00D58'00" WEST 170.59 FEET; THENCE NORTH 89D59'03" EAST 0.46 FEET; THENCE NORTH 00D52'00" WEST 73.39 FEET; THENCE NORTH 89D02'01" WEST 85.25 FEET; THENCE NORTH 00D36'13" EAST 98.21 FEET; THENCE SOUTH 89D23'47" EAST 20.00 FEET; THENCE NORTH 00D36'13" EAST 145.76 FEET; THENCE SOUTH 89D27'04" EAST 398.41 FEET TO THE POINT OF BEGINNING. CONTAINING APPROXIMATELY 4.12 ACRES E#3118150

Tax Parcel No.: 05-125-0092

Exhibit A

Deed of Trust