



201107280053
Skagit County Auditor

7/28/2011 Page 1 of 29 1:30PM

RECORDING REQUESTED BY
AND UPON RECORDATION
RETURN TO:

Cindy J.K. Davis, Esq.
Greenberg Traurig LLP
3290 Northside Parkway, Suite 400
Atlanta, Georgia 30327

CHICAGO TITLE

620012365

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

by and from

DRAPER VALLEY HOLDINGS LLC, "Grantor"

to

CHICAGO TITLE INSURANCE COMPANY, as Trustee, "Trustee"

for the benefit of

**COÖPERATIEVE CENTRALE RAIFFEISEN- BOERENLEENBANK B.A.,
"RABOBANK NEDERLAND", NEW YORK BRANCH,
in its capacity as collateral agent, "Beneficiary"**

Dated as of July 25, 2011

Location: 1000 Jason Lane
City: Mount Vernon
County: Skagit
State: Washington

**Legal Description (abbr.): Section 17, Township 34, Range 4; PTN. N 1/2 - SW
And Lots 67-70, 82A & 82-84, "Parker Business Center"**

FOR THE FULL LEGAL DESCRIPTION: SEE EXHIBIT "A" TO THIS DOCUMENT

Assessor's Tax Parcel ID Nos.: 4367-000-067-0009; 4367-000-068-0008; 4367-000-069-0007; 4367-000-070-0004; 4367-000-082-0000; 4367-000-082-0109; 4367-000-083-0009; 4367-000-084-0008; 4367-000-117-0108; 340417-3-022-0000; 340417-3-019-0000; and 340417-3-019-0200

After Recording Return To:
Commonwealth Land Title Insurance Co.
T. Vaillant 10-001968
1015 15th Street, NW, Suite 300
Washington, DC 20005

ATL 17,914,067v6 7-22-11

BE ADVISED THAT THE CREDIT AGREEMENT SECURED BY THIS DEED OF TRUST PROVIDES FOR A REVOLVING LINE OF CREDIT

**LEASEHOLD DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES,
SECURITY AGREEMENT AND FIXTURE FILING
(Mount Vernon, WA)**

THIS LEASEHOLD DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING (this "**Deed of Trust**"), is dated as of this 25th day of July, 2011, by and from DRAPER VALLEY HOLDINGS LLC, a Delaware limited liability company, having an address of P.O. Box 1537, Salisbury, Maryland 21802-1537, Attn: Thomas Mahn ("**Grantor**"), to CHICAGO TITLE INSURANCE COMPANY, a Nebraska corporation, as Trustee, having an office address of 3002 Colby Avenue, Suite 200, Everett, Washington 98201 ("**Trustee**"), for the benefit of COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A., "RABOBANK NEDERLAND", NEW YORK BRANCH ("**Rabobank**") in its capacity as collateral agent ("**Agent**") for the Secured Parties (as hereinafter defined) pursuant to the Credit Agreement (as hereinafter defined), the other Credit Documents (as defined in the Credit Agreement), and the other Transaction Documents (as hereinafter defined), having an office at 245 Park Avenue, 37th Floor, New York, New York 10167-0062, Attn: Loan Administration (together with its successors and assigns, "**Beneficiary**").

RECITALS:

WHEREAS, Grantor is the leasehold owner of the real property described in Exhibit A attached hereto.

WHEREAS, PERDUE FARMS INCORPORATED, a Maryland corporation, PERDUE AGRIBUSINESS INCORPORATED, a Maryland corporation, FPP BUSINESS SERVICES INC. (formerly known as "Perdue Business Services Inc."), a Maryland corporation, CNF HOLDINGS, LLC, a Delaware limited liability company (hereinafter collectively referred to as the "**Borrowers**"), FPP FAMILY INVESTMENTS, INC. (formerly known as "Perdue Incorporated"), a Maryland corporation ("**Parent**"), certain subsidiaries of Parent party thereto from time to time as a "Guarantor", Rabobank, in its capacity as administrative agent and collateral agent, and the various banks and lending institutions who are or may become a party thereto (the "**Banks**") have entered into that certain Amended and Restated Credit Agreement, dated December 23, 2010, as amended by First Amendment to Amended and Restated Credit Agreement, dated May 23, 2011 (collectively, and as the same may be amended, amended and restated, supplemented or otherwise modified from time to time, the "**Credit Agreement**"), providing for term loans, a revolving loan and other extensions of credit in the maximum principal amount of ONE BILLION DOLLARS (\$1,000,000,000.00). As a condition to the Banks' agreement to enter into the Credit Agreement and to make available to the Borrowers the financial accommodations provided therein, the Banks have required that Grantor, among other things, secure the "Obligations" of

ATL 17,914,067v6 7-22-11



201107280053

Skagit County Auditor

the Borrowers under the Credit Agreement and the other Credit Documents (as defined in the Credit Agreement) by delivery of this Deed of Trust.

WHEREAS, Borrowers, Parent, Perdue Transportation Incorporated, Perdue Holdings, Inc., Perdue Investment Company, Inc., Perdue Grain and Oilseed, LLC, Perdue Fats and Proteins, LLC, Heritage Breeders, LLC, Perdue Agricultural Commodities Marketing Association, Inc. and Citizens Bank of Pennsylvania ("**Citizens**") have entered into that certain Third Amended and Restated Credit Agreement, dated April 25, 2008 (as further amended, restated, supplemented or otherwise modified from time to time, the "**Citizens Agreement**");

WHEREAS, Perdue-AgriRecycle, LLC and SunTrust Bank ("**SunTrust**") have entered into that certain Letter of Credit Agreement, dated as of July 1, 2000 (as further amended, restated, supplemented or otherwise modified from time to time, collectively, the "**SunTrust Reimbursement Agreements**"), with respect to the letters of credit more fully described on Schedule A-1 attached to the Collateral Agency Agreement (as further amended, restated, supplemented or otherwise modified from time to time, collectively, the "**SunTrust Letters of Credit**", and together with the SunTrust Reimbursement Agreements, collectively, the "**SunTrust L/C Documents**");

WHEREAS, Perdue Farms Incorporated and Rabobank have entered into (i) that certain Letter of Credit and Reimbursement Agreement, dated April 1, 1992, (ii) that certain Letter of Credit Agreement, dated December 21, 1992, and (iii) that certain Letter of Credit Agreement, dated December 2, 2009 (as further amended, restated, supplemented or otherwise modified from time to time, collectively, the "**Rabobank Reimbursement Agreements**"), with respect to the letters of credit more fully described on Schedule A-2 attached to the Collateral Agency Agreement (as further amended, restated, supplemented or otherwise modified from time to time, collectively, the "**Rabobank Letters of Credit**", and together with the Rabobank Reimbursement Agreements, collectively, the "**Rabobank L/C Documents**");

WHEREAS, Coldstorage Holding Ltd. and Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A., "Rabobank International", New York Branch, have entered into that certain Loan Agreement, dated as of December 1, 2006 (as further amended, restated, supplemented or otherwise modified from time to time, the "**Russian JV Loan Agreement**", and together with the Credit Agreement, the other Credit Documents, the Citizens Agreement, the SunTrust L/C Documents, the Rabobank L/C Documents, each a "**Transaction Document**", and collectively, the "**Transaction Documents**"); and

WHEREAS, Grantor is a Subsidiary of the Parent, an Affiliate of the Borrowers, and a "Guarantor" under the Credit Agreement, and is receiving a good and valuable benefit, the sufficiency and receipt of which is hereby acknowledged, from Agent, the Banks, Rabobank, SunTrust and Citizens for entering into, and continuing to extend credit



and provide financial accommodations under, the Credit Agreement, the Citizens Agreement, the SunTrust L/C Documents, Rabobank L/C Documents, the Russian JV Loan Agreement and the other Transaction Documents with the Borrowers, the Parent and the other Subsidiaries of the Parent.

ARTICLE 1

DEFINITIONS

Section 1.1 Definitions. All capitalized terms used herein without definition shall have the respective meanings ascribed to them in the Credit Agreement. As used herein, the following terms shall have the following meanings:

(a) **“Collateral Agency Agreement”**: shall mean that certain Amended and Restated Collateral Agency Agreement, dated December 23, 2010, by and among the Borrowers, Rabobank, Citizens, SunTrust, the Guarantors and each Additional Guarantor from time to time signatory thereto, as the same may be amended, amended and restated, supplemented or otherwise modified from time to time.

(b) **“Event of Default”**: shall have the meaning ascribed to such term in Article 4 hereof.

(c) **“Insolvency Proceeding”**: Any judicial case or proceeding commenced by or against Parent, any Borrower, any Guarantor or any Subsidiary under the Bankruptcy Code or otherwise relating to receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment or composition.

(d) **“Lessor”**: shall mean NEPTUNE INVESTMENT LLC, a Washington limited liability company.

(e) **“Maturity Date”**: has the meaning ascribed to the term “Termination Date” in the Credit Agreement, or such earlier date on which the Obligations shall be due and payable in full, whether by acceleration, termination of the Credit Agreement or otherwise.

(f) **“Obligations”**: All obligations and liabilities of the Borrowers, Guarantors, the Parent and their respective Subsidiaries owing to the Secured Parties, including, without limitation, (1) the repayment of all amounts outstanding from time to time under the Credit Agreement and the other Credit Documents, with such indebtedness maturing on the Maturity Date, including principal, interest (including all interest that, but for the provisions of the Bankruptcy Code, would have accrued), and other amounts which may now or hereafter be advanced under the Credit Documents, (2) the full and prompt performance of any and all repayment, fee, and indemnification obligations with respect to any Letters of Credit, (3) fees, costs, expenses, charges and indemnification obligations accrued, incurred or arising in connection with any Credit Document, (4) any and all future



advances made pursuant to the terms of the Credit Agreement, (5) all other payment obligations, (6) all "Obligations" under and as defined in the Credit Agreement (including any Bank Product Obligations), (7) all of the present and future obligations of Borrowers, the Parent and their respective Subsidiaries arising under the Citizens Agreement, (8) all of the present and future obligations of Borrowers, the Parent and their respective Subsidiaries arising under the SunTrust L/C Documents, (9) all of the present and future obligations of Borrowers, the Parent and their respective Subsidiaries arising under the Rabobank L/C Documents, and (10) all of the present and future Russian JV Obligations (as defined in the Credit Agreement), including, in the case of each of clauses (1) through (10), reasonable attorneys fees and expenses and any interest, fees or expenses that accrue after the filing of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any Insolvency Proceeding. The Credit Agreement and the Citizens Agreement contain revolving credit facilities that permit the Borrowers to borrow certain principal amounts, repay all or a portion of such principal amounts, and reborrow the amounts previously paid to Agent, all upon satisfaction of certain conditions stated in the Credit Agreement or the Citizens Agreement, as the case may be. This Deed of Trust secures all Revolving Loans, Advances (as defined in the Citizens Agreement) and all other advances under the revolving credit features of the Credit Agreement and the Citizens Agreement.

(g) **"Permitted Liens"**: shall have the meaning ascribed to such term in the Credit Agreement.

(h) **"Secured Parties"**: shall have the meaning ascribed to such term in the Security Agreement.

(i) **"Security Agreement"**: shall mean that certain Amended and Restated Pledge and Security Agreement, dated December 23, 2010, as amended and supplemented by Pledge and Security Agreement Supplement No. 1, dated May 23, 2011, by and among the Borrowers, the Guarantors and each Additional Guarantor from time to time signatory thereto, in favor of the Agent, as the same may be amended, amended and restated, supplemented or otherwise modified from time to time.

(j) **"Subject Lease"**: shall mean that certain Lease Agreement, dated September 6, 2007, by and between Lessor and Grantor, as lessee, as amended by First Amendment to Lease dated December 1, 2008, with respect to the Land, as further amended, amended and restated, modified or supplemented from time to time. A memorandum of the Subject Lease was recorded under Auditor's Number 200709130045, Skagit County Records, Washington.

(k) **"Trust Property"**: All of Grantor's interest in (1) the leasehold interest 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 Grantor (the **"Land"**) created by the Subject Lease, together with all rights and interests of



Grantor in and to the Subject Lease and any greater estate in such real property as hereafter may be acquired by Grantor pursuant to the terms of the Subject Lease (including, without limitation, pursuant to Section 4 of the Subject Lease) or otherwise, (2) all improvements now owned or hereafter acquired by Grantor, now or at any time situated, placed or constructed upon the Land (the "**Improvements**"; the Land and Improvements are collectively referred to herein as the "**Premises**"), (3) all materials, supplies, equipment, apparatus and other items of personal property now owned or hereafter acquired by Grantor and now or hereafter attached to or installed in any of the Improvements or the Land, fixtures and goods that are or are to become fixtures, and water, gas, electrical, telephone, storm and sanitary sewer facilities and all other utilities whether or not situated in easements (the "**Fixtures**"), (4) all reserves, escrows or impounds required under the Credit Agreement and all deposit accounts maintained by Grantor with respect to the Trust Property (the "**Deposit Accounts**"), (5) all existing and future leases, subleases, 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 or occupy, all or any part of the Trust Property, whether made before or after the filing by or against Grantor of any petition for relief under the Bankruptcy Code, together with any extension, renewal or replacement of the same and together with all related security and other deposits (the "**Leases**"), (6) all of the rents, additional rents, revenues, royalties, income, proceeds, profits, early termination fees or payments, 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 Trust Property or any part thereof, whether paid or accruing before or after the filing by or against Grantor of any petition for relief under the Bankruptcy Code (the "**Rents**"), (7) all other agreements, such as construction contracts, architects' agreements, engineers' contracts, utility contracts, maintenance agreements, management agreements, service contracts, listing agreements, guaranties, warranties, permits, licenses, certificates and entitlements in any way relating to the construction, use, occupancy, operation, maintenance, enjoyment or ownership of the Trust Property (the "**Property Agreements**"), (8) all rights, privileges, tenements, hereditaments, rights-of-way, easements, appendages and appurtenances appertaining to the foregoing, (9) all property tax refunds, utility refunds and rebates, earned or received at any time and irrespective of the time period to which they relate (the "**Tax Refunds**"), (10) all accessions, replacements and substitutions for any of the foregoing and all proceeds thereof (the "**Proceeds**"), (11) all insurance policies, unearned premiums therefor and proceeds from such policies covering any of the above property now or hereafter acquired by Grantor (the "**Insurance**"), (12) all of Grantor's right, title and interest in and to any awards, damages, remunerations, reimbursements, settlements or compensation heretofore made or hereafter to be made by any governmental authority pertaining to the Land, Improvements or Fixtures (the "**Condemnation Awards**"), (13) all of Grantor's rights to appear and defend any action or proceeding brought with respect to the Trust Property and to commence any action or proceeding to protect the interest of Grantor in the Trust Property, (14) all options to purchase or lease the Trust Property, and any and all rights of first refusal and first offer with respect to the Trust Property or any portion thereof or interest therein, including, without limitation any such options or rights contained in the



201107280053

Skagit County Auditor

Subject Lease, and (15) all rights, powers, privileges, options and other benefits of Grantor as lessor under the Leases, including, without limitation, the immediate and continuing right to claim for, receive, collect and receive all Rents payable or receivable under the Leases or pursuant thereto (and to apply the same to the payment of the Obligations), and to do all other things which Grantor or any lessor is or may become entitled to do under the Leases. As used in this Deed of Trust, the term "Trust Property" shall mean all or, where the context permits or requires, any portion of the above or any interest therein. THE TERM "TRUST PROPERTY" SHALL NOT INCLUDE ANY ITEMS OF PERSONAL PROPERTY IN WHICH BENEFICIARY HAS OBTAINED AND/OR PERFECTED A SECURITY INTEREST UNDER SEPARATE INSTRUMENTS.

(l) "UCC": The Uniform Commercial Code of the state in which the Land is located or, if the creation, perfection and enforcement of any security interest herein granted is governed by the laws of a state other than the state in which the Land is located, then, as to the matter in question, the Uniform Commercial Code in effect in that state.

ARTICLE 2

GRANT

Section 2.1 Grant. For and in consideration of good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, and in order to secure the indebtedness, and other obligations of Grantor herein set forth, to secure the full and timely payment and performance of the Obligations, Grantor has executed this Deed of Trust (together with the assignment of rents and leases, security agreement, and fixture filing contained herein), and Grantor GRANTS, BARGAINS, ASSIGNS, SELLS, CONVEYS, WARRANTS AND HYPOTHECATES, to Trustee, in trust for the benefit of Beneficiary and the Secured Parties, the Trust Property, subject, however, to the Permitted Liens, TO HAVE AND TO HOLD the Trust Property, together with all and singular the parts, rights, privileges, hereditaments, and appurtenances thereto in any ways belonging or appertaining, to the use, benefit, and behoof of Trustee, IN TRUST, WITH POWER OF SALE, and Grantor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND the title to the Trust Property unto Trustee, its successors and assigns. Notwithstanding anything to the contrary contained in the immediately preceding sentence, Grantor hereby agrees and acknowledges that the Obligations secured by this Deed of Trust include revolving loans and is intended to secure future advances; accordingly, this Deed of Trust shall not be canceled by the full and complete repayment of the Obligations, so long as the Credit Agreement or the other Transaction Documents remain in force and effect.

ARTICLE 3

WARRANTIES, REPRESENTATIONS AND COVENANTS



Grantor warrants, represents and covenants to Beneficiary as follows:

Section 3.1 Title to Trust Property and Lien of this Instrument. Grantor (i) has good and indefeasible leasehold title to the Trust Property (to the extent that the Trust Property constitutes real property), free and clear of any liens, claims or interests, except the Permitted Liens and (ii) has full power and lawful authority to encumber the Trust Property in the manner and form set forth in this Deed of Trust. This Deed of Trust creates valid, enforceable first priority liens and security interests against the Trust Property.

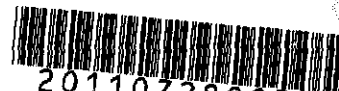
Section 3.2 First Lien Status. Grantor shall preserve and protect the first lien and security interest status of this Deed of Trust. If any lien or security interest other than the Permitted Liens is asserted against the Trust Property, Grantor shall promptly, and at its expense, (a) give Beneficiary a detailed written notice of such lien or security interest (including origin, amount and other terms), and (b) pay the underlying claim in full or take such other action so as to cause it to be released or contest the same in compliance with the requirements of the Credit Agreement (including the requirement of providing a bond or other security satisfactory to Beneficiary).

Section 3.3 Payment and Performance. Grantor shall pay the Obligations when due under the Transaction Documents and shall perform the Obligations in full when they are required to be performed.

Section 3.4 Replacement of Fixtures. Except as otherwise permitted under the Credit Agreement or any other Credit Document, Grantor shall not, without the prior written consent of Beneficiary, permit any of the Fixtures 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 obsolete and is replaced by an article of equal or better suitability and value, owned by Grantor subject to the liens and security interests of this Deed of Trust and the other Credit Documents, and free and clear of any other lien or security interest except such as may be permitted under the Credit Agreement or any other Credit Document or first approved in writing by Beneficiary.

Section 3.5 Inspection. Grantor shall permit Beneficiary and its agents, representatives and employees to inspect the Trust Property and all books and records of Grantor located thereon, and to conduct such environmental and engineering studies as Beneficiary may require. Provided that no Event of Default exists, all such testing and investigation shall be conducted at reasonable times and upon reasonable prior notice to Grantor. Beneficiary shall restore the Trust Property to the condition it was in immediately prior to such testing and investigation.

Section 3.6 Other Covenants. All of the covenants in the Credit Agreement are incorporated herein by reference and, together with covenants in this Article 3, shall, to the extent applicable, be covenants running with the land.



Section 3.7 Condemnation Awards and Insurance Proceeds.

(a) Condemnation Awards. Grantor, immediately upon obtaining knowledge of the institution of any proceedings for the condemnation of the Premises or any portion thereof, will notify Beneficiary of the pendency of such proceedings. Beneficiary may participate in any such proceedings and Grantor from time to time will deliver to Beneficiary all instruments requested by it to permit such participation. Subject to the terms of the Subject Lease, Grantor assigns all awards and compensation (to the extent Grantor is entitled thereto under the Subject Lease) to which it is entitled for any condemnation or other taking, or any purchase in lieu thereof, to Beneficiary and authorizes Beneficiary to collect and receive such awards and compensation and to give proper receipts and acquittances therefor, subject to the terms of the Credit Agreement. Grantor, upon request by Beneficiary, shall make, execute and deliver any and all instruments requested for the purpose of confirming the assignment of the aforesaid awards and compensation to Beneficiary free and clear of any liens, charges or encumbrances of any kind or nature whatsoever. Notwithstanding the foregoing, provided no Event of Default then exists, to the extent the Credit Agreement would allow Grantor to apply any condemnation proceeds to the repair or restoration of the Trust Property, Grantor may receive such proceeds and apply the same to such repair or restoration.

(b) Insurance Proceeds. Subject to the terms of the Subject Lease, Grantor assigns to Beneficiary all proceeds of any insurance policies insuring against loss or damage to the Trust Property. Grantor authorizes Beneficiary to collect and receive such proceeds (to the extent Grantor is entitled thereto under the Subject Lease) and authorizes and directs the issuer of each of such insurance policies to make payment for all such losses (to the extent Grantor is entitled thereto under the Subject Lease) directly to Beneficiary, instead of to Grantor and Beneficiary jointly, as more specifically described in the Credit Agreement. In the event that the issuer of such insurance policy fails to disburse directly or solely to the Beneficiary but disburses instead either solely to Grantor or to Grantor and Beneficiary, jointly, Grantor shall immediately endorse and transfer such proceeds to Beneficiary. Upon Grantor's failure to do so, Beneficiary may execute such endorsements or transfers from and in the name of Grantor, and Grantor hereby irrevocably appoints Beneficiary as Grantor's agent and attorney-in-fact so to do. Notwithstanding the foregoing, provided no Event of Default then exists, to the extent the Credit Agreement would allow Grantor to apply any insurance proceeds to the repair or restoration of the Trust Property, Grantor may receive such proceeds and apply the same to such repair or restoration.

Section 3.8 Costs of Defending and Upholding the Lien. If any action or proceeding is commenced to which action or proceeding Trustee or Beneficiary is made a party or in which it becomes necessary for Trustee or Beneficiary to defend or uphold the lien of this Deed of Trust, including any extensions, renewals, amendments or modifications thereof, Grantor shall, on demand, reimburse Beneficiary for all expenses (including, without limitation, reasonable attorneys' fees and reasonable appellate attorneys' fees) incurred by

Trustee or Beneficiary in any such action or proceeding and all such expenses shall be secured by this Deed of Trust. In any action or proceeding to foreclose this Deed of Trust or to recover or collect the Obligations, the provisions of law relating to the recovering of costs, disbursements and allowances shall prevail unaffected by this covenant.

Section 3.9 TRANSFER OF THE TRUST PROPERTY. EXCEPT AS EXPRESSLY PERMITTED PURSUANT TO THE TERMS OF THE CREDIT AGREEMENT, GRANTOR SHALL NOT SELL, TRANSFER, PLEDGE, ENCUMBER, CREATE A SECURITY INTEREST IN, GROUND LEASE, OR OTHERWISE HYPOTHECATE, ALL OR ANY PORTION OF THE TRUST PROPERTY WITHOUT THE PRIOR WRITTEN CONSENT OF BENEFICIARY. THE CONSENT BY BENEFICIARY TO ANY SALE, TRANSFER, PLEDGE, ENCUMBRANCE, CREATION OF A SECURITY INTEREST IN, GROUND LEASE, OR OTHER HYPOTHECATION OF, ANY PORTION OF THE TRUST PROPERTY SHALL NOT BE DEEMED TO CONSTITUTE A NOVATION OR A CONSENT TO ANY FURTHER SALE, TRANSFER, PLEDGE, ENCUMBRANCE, CREATION OF A SECURITY INTEREST IN, GROUND LEASE OR OTHER HYPOTHECATION, OR TO WAIVE THE RIGHT OF BENEFICIARY, AT ITS OPTION, TO DECLARE THE OBLIGATIONS SECURED HEREBY IMMEDIATELY DUE AND PAYABLE, WITHOUT NOTICE TO GRANTOR OR ANY OTHER PERSON OR ENTITY, UPON ANY SUCH SALE, TRANSFER, PLEDGE, ENCUMBRANCE, CREATION OF A SECURITY INTEREST, GROUND LEASE, OR OTHER HYPOTHECATION TO WHICH BENEFICIARY SHALL NOT HAVE CONSENTED.

Section 3.10 Security Deposits. To the extent required by law, or after an Event of Default has occurred and during its continuance, if required by Beneficiary, all security deposits of tenants of the Trust Property shall be treated as trust funds not to be commingled with any other funds of Grantor. Within twenty (20) days after request by Beneficiary, Grantor shall furnish satisfactory evidence of compliance with this Section 3.10, as necessary, together with a statement of all security deposits deposited by the tenants and copies of all Leases not theretofore delivered to Beneficiary, as requested thereby, certified by Grantor.

Section 3.11 Leasehold Representations; Warranties; Covenants. Grantor hereby represents, warrants and covenants that:

(a) (1) The Subject Lease is unmodified and in full force and effect, (2) all rent and other charges therein have been paid to the extent they are payable to the date hereof, (3) Grantor enjoys the quiet and peaceful possession of the Premises, (4) Grantor is not in default under any of the terms of the Subject Lease and there are no circumstances which, with the passage of time or the giving of notice or both, would constitute an event of default thereunder, (5) to the best of Grantor's knowledge, Lessor is not in default under any of the terms or provisions of the Subject Lease on the part of Lessor to be observed or



performed, and (6) Grantor has not previously subordinated its interest in the Trust Property to the lien or interests of any Beneficiary of Lessor's fee interest in the Premises;

(b) Grantor shall promptly pay, when due and payable, the rent and other charges payable pursuant to the Subject Lease;

(c) Grantor shall timely perform and observe all of the other terms, covenants and conditions required to be performed and observed by Grantor as lessee under the Subject Lease;

(d) Grantor shall notify Agent in writing of any default by Grantor in the performance or observance of any terms, covenants or conditions on the part of Grantor to be performed or observed under the Subject Lease within three (3) Business Days after Grantor obtains knowledge of such default. Grantor shall, immediately upon receipt thereof, deliver to Agent a copy of each notice given to Grantor by Lessor pursuant to the Subject Lease;

(e) Grantor shall promptly notify Agent in writing of any default by Lessor in the performance or observance of any of the terms, covenants or conditions on the part of Lessor to be performed or observed pursuant to the Subject Lease;

(f) Grantor shall not, without the prior written consent of Agent (which consent may be withheld or granted in Agent's sole and absolute discretion) terminate, modify or surrender the Subject Lease, and any such attempted termination, modification or surrender without Agent's written consent shall be void;

(g) Grantor shall, within twenty (20) days after written request from Agent, use its best efforts to obtain from Lessor and deliver to Agent a certificate setting forth the name of the tenant under the Subject Lease and stating that the Subject Lease is in full force and effect, is unmodified or, if the Subject Lease has been modified, the date of each modification (together with copies of each such modification), that no notice of termination thereof has been served on Grantor, stating that no default or event which with notice or lapse of time (or both) would become a default is existing under the Subject Lease (or if any such default or event is existing, specifying the nature of such default or event), stating the date to which rent has been paid, and containing such other statements and representations as may be requested by Agent;

(h) Grantor shall not at any time subordinate its interest in the Trust Property or any portion thereof to the lien or interests of any party holding a security title in Lessor's fee interest in the Premises;

(i) So long as any of the Obligations remain unpaid or unperformed, the fee title to and the leasehold estate in the Land subject to the Subject Lease shall not merge but shall always be kept separate and distinct notwithstanding the union of



such estates in Lessor or Grantor, or in a third party, by purchase or otherwise. If Grantor acquires the fee title or any other estate, title or interest in the Land, or any part thereof by the exercise of any purchase option or right under the Subject Lease or otherwise, the lien of this Deed of Trust shall attach to, cover and be a lien upon such acquired estate, title or interest and the same shall thereupon be and become a part of the Trust Property with the same force and effect as if specifically encumbered herein. Grantor agrees to execute all instruments and documents that Agent may reasonably require to ratify, confirm and further evidence the lien of this Deed of Trust on the acquired estate, title or interest. Furthermore, Grantor hereby appoints Agent as its true and lawful attorney-in-fact to execute and deliver, following an Event of Default, all such instruments and documents in the name and on behalf of Grantor. This power, being coupled with an interest, shall be irrevocable as long as any portion of the Obligations remain unpaid or unsatisfied;

(j) If the Subject Lease shall be terminated prior to the natural expiration of its term due to default by Grantor or any tenant thereunder, and if, pursuant to the provisions of the Subject Lease, Agent or its designee shall acquire from Lessor a new lease of the Premises, Grantor shall have no right, title or interest in or to such new lease or the leasehold estate created thereby, or renewal privileges therein contained; and

(k) Notwithstanding anything to the contrary contained herein, this Deed of Trust shall not constitute an assignment of the Subject Lease within the meaning of any provision thereof prohibiting its assignment and Agent shall have no liability or obligation thereunder by reason of its acceptance of this Deed of Trust. Agent shall be liable for the obligations of the tenant arising out of the Subject Lease for only that period of time for which Agent is in possession of the Land or has acquired, by foreclosure or otherwise, and is holding all of Grantor's right, title and interest therein.

ARTICLE 4

DEFAULT

Section 4.1 Events of Default. The occurrence of any of the following events shall constitute an event of default under this Deed of Trust (each an "Event of Default"):

(a) an "Event of Default" (as such term is defined in the Credit Agreement) shall have occurred;

(b) the breach or violation of any of the terms contained in Sections 3.5, 3.7, 3.8, 3.9, 3.10 or 3.11 of this Deed of Trust;

(c) Grantor's breach of any of the covenants set forth in this Deed of Trust and not referenced in clause (b) above, which breach or failure to comply continues for a period of thirty (30) days or more; provided, however, if such breach or failure to comply would otherwise result in an Event of Default under the Credit Agreement or any



other Transaction Document, such breach or failure to comply shall result in an Event of Default hereunder concurrently with the occurrence of an Event of Default under the Credit Agreement or such other Transaction Document; or

(d) if any statement or representation in any warranty or representation set forth in Article 3 hereof shall now or hereafter prove to be false or misleading in any material respect.

ARTICLE 5

REMEDIES AND FORECLOSURE

Section 5.1 Remedies. If an Event of Default exists, Beneficiary may, at Beneficiary's election and by or through Trustee or otherwise, exercise any or all of the following rights, remedies and recourses:

(a) To the extent permitted under the Credit Agreement, declare the 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 Grantor), whereupon the same shall become immediately due and payable.

(b) Notify all tenants of the Premises and all others obligated on leases of any part of the Premises that all rents and other sums owing on leases have been assigned to Beneficiary and are to be paid directly to Beneficiary, and to enforce payment of all obligations owing on leases, by suit, ejectment, cancellation, releasing, reletting or otherwise, whether or not Beneficiary has taken possession of the Premises, and to exercise whatever rights and remedies Beneficiary may have under any assignment of rents and leases.

(c) As and to the extent permitted by law, and subject to the terms of the Subject Lease, enter the Trust Property, either personally or by its agents, nominees or attorneys, and take exclusive possession thereof and thereupon, Beneficiary may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Premises and conduct business thereat; (ii) complete any construction on the Premises in such manner and form as Beneficiary deems advisable in the reasonable exercise of its judgment; (iii) exercise all rights and power of Grantor with respect to the Premises, 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 earnings, revenues, rents, issues, profits and other income of the Premises and every part thereof, which rights shall not be in limitation of Beneficiary's rights under any assignment of rents and leases securing the Obligations; and (iv) pursuant to the provisions of the Credit Agreement, apply the receipts from the Premises to the payment of the Obligations, after deducting therefrom all expenses (including attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the taxes, assessments, insurance



and other charges in connection with the Trust Property, as well as just and reasonable compensation for the services of Beneficiary, its counsel, agents and employees.

(d) Hold, lease, develop, manage, operate or otherwise use the Trust 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 5.7 hereof.

(e) Require Grantor to assemble any collateral under the UCC and make it available to Beneficiary, at Grantor's sole risk and expense, at a place or places to be designated by Beneficiary, in its sole discretion.

(f) To the fullest extent permitted by applicable law, institute proceedings for the complete foreclosure of this Deed of Trust by judicial action. By virtue of any judicial proceedings, 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, Grantor 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 Grantor, and against all other Persons claiming or to claim the property sold or any part thereof, by, through or under Grantor. Beneficiary or any of the Secured Parties may be a purchaser at such sale. If Beneficiary is the highest bidder, Beneficiary may credit the portion of the purchase price that would be distributed to Beneficiary against the Obligations in lieu of paying cash. In the event this Deed of Trust is foreclosed by judicial action, appraisal and valuation of the Trust Property is waived. In the event of any sale made under or by virtue of this Article 5 by virtue of judicial proceedings, all of the Obligations, if not previously due and payable, immediately thereupon shall become due and payable. The failure to make any such tenants of the Premises party to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by Grantor, a defense to any proceedings instituted by Beneficiary to collect the sums secured hereby.

(g) 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 Deed of Trust for the portion of the Obligations then due and payable (if Beneficiary shall have elected not to declare the entire Obligations to be immediately due and owing), subject to the continuing lien of this Deed of Trust for the balance of the Obligations not then due; or (1) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein or in any Credit Document; or (2) to the extent permitted by applicable law, recover judgment on the Credit Agreement or any other Transaction Document either before, during or after any proceedings for the enforcement of this Deed of Trust.



(h) Make application to a court of competent jurisdiction for, and obtain from such court as a matter of strict right and without notice to Grantor or regard to the adequacy of the Trust Property for the repayment of the Obligations, the appointment of a receiver of the Trust Property, and Grantor 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 Trust Property upon such terms as may be approved by the court, and in a manner consistent with the Subject Lease, and shall apply such Rents in accordance with the provisions of Section 5.7 hereof.

(i) Subject to the terms of the Subject Lease, exercise all other rights, remedies and recourses granted under the Credit Documents or otherwise available at law or in equity.

Section 5.2 Intentionally Omitted.

Section 5.3 Remedies Cumulative, Concurrent and Nonexclusive. Beneficiary and Trustee shall have all rights, remedies and recourses granted in the Credit Documents and available at law or equity (including the UCC), which rights (a) shall be cumulated and concurrent, (b) to the extent permitted by applicable law, may be pursued separately, successively or concurrently against Grantor or others obligated under the Transaction Documents, or against the Trust Property, or against any one or more of them, at the sole discretion of Beneficiary, as the case may be, (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 Trustee in the enforcement of any rights, remedies or recourses under the Credit Documents or otherwise at law or equity shall be deemed to cure any Event of Default.

Section 5.4 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 Trust Property, any part of the Trust 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 Credit Documents or their status as a first and prior lien and security interest in and to the Trust Property. For payment of the Obligations, Beneficiary may resort to any other security in such order and manner as Beneficiary may elect.

Section 5.5 Waiver of Redemption, Notice and Marshalling of Assets. To the fullest extent permitted by law, Grantor hereby irrevocably and unconditionally waives and releases (a) all benefit that might accrue to Grantor by virtue of any present or future statute of limitations or law or judicial decision exempting the Trust 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 Event of



Default or of any election by Trustee or Beneficiary to exercise or the actual exercise of any right, remedy or recourse provided for under the Credit Documents, except as otherwise specifically set forth in Section 4.1 hereof or elsewhere in this Deed of Trust or any other Transaction Document, and (c) any right to a marshalling of assets or a sale in inverse order of alienation.

Section 5.6 Discontinuance of Proceedings. If Trustee or Beneficiary shall have proceeded to invoke any right, remedy or recourse permitted under the Credit Documents and shall thereafter elect to discontinue or abandon it for any reason, Beneficiary or Trustee, as the case may be, shall have the unqualified right to do so and, in such an event, Grantor and Beneficiary shall be restored to their former positions with respect to the Obligations, the Transaction Documents, the Trust Property and otherwise, and the rights, remedies, recourses and powers of Beneficiary and Trustee, shall continue as if the right, remedy or recourse had never been invoked, but no such discontinuance or abandonment shall waive any Event of Default which may then exist or the right of Beneficiary or Trustee, thereafter to exercise any right, remedy or recourse under the Credit Documents for such Event of Default.

Section 5.7 Application of Proceeds. The proceeds of any sale made under or by virtue of this Article 5, together with any Rents and other amounts generated by the holding, leasing, management, operation or other use of the Trust Property, shall be applied by Beneficiary or Trustee (or the receiver, if one is appointed) in the following order unless otherwise required by applicable law:

(a) to the payment of the costs and expenses of taking possession of the Trust Property and of holding, using, leasing, repairing, improving and selling the same, including, without limitation (1) trustee's and receiver's fees and expenses, including the repayment of the amounts evidenced by any receiver's certificates, (2) court costs, (3) attorneys' and accountants' fees and expenses, (4) costs of advertisement, (5) all costs and expenses incurred by Beneficiary or Trustee to cure defaults of Grantor under this Deed of Trust and the other Credit Documents or Transaction Documents, (6) all costs and expenses incurred by Beneficiary or Trustee to protect or preserve the Trust Property, and (7) the payment of all rents and other charges under the Subject Lease;

(b) to the payment of the Obligations in such manner and order of preference as set forth in the Credit Agreement, the Collateral Agency Agreement (as defined in the Credit Agreement) and the other Transaction Documents; and

(c) the balance, if any, to the payment of the Persons legally entitled thereto.

Section 5.8 Occupancy After Foreclosure. Except as otherwise required by applicable law, any sale of the Trust Property or any part thereof in accordance with Section 5.1(f) or Section 5.1(g) hereof will divest all right, title and interest of Grantor in and



to the property sold. Subject to applicable law and the Subject Lease, any purchaser at a foreclosure sale will receive immediate possession of the property purchased. If Grantor retains possession of such property or any part thereof subsequent to such sale, Grantor will be considered a tenant at sufferance of the purchaser, and will, if Grantor remains in possession after demand to remove, be subject to eviction and removal, forcible or otherwise, with or without process of law.

Section 5.9 Additional Advances and Disbursements; Costs of Enforcement.

(a) If any Event of Default exists, Beneficiary shall have the right, but not the obligation, to cure such Event of Default in the name and on behalf of Grantor. All sums advanced and expenses incurred at any time by Beneficiary under this Section 5.9, or otherwise under this Deed of Trust or any of the other Transaction Documents 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 rate or rates at which interest is then computed on the Obligations, and all such sums, together with interest thereon, shall be secured by this Deed of Trust.

(b) Grantor shall pay all expenses (including reasonable attorneys' fees and expenses and all costs and expenses related to legal work, research and litigation) of or incidental to the perfection and enforcement of this Deed of Trust and the other Transaction Documents, or the enforcement, compromise or settlement of the Obligations or any claim under this Deed of Trust and the other Transaction Documents, and for the curing thereof, or for defending or asserting the rights and claims of Beneficiary in respect thereof, by litigation or otherwise.

Section 5.10 No Beneficiary in Possession. Neither the enforcement of any of the remedies under this Article 5, the assignment of the Rents and Leases under Article 6, the security interests under Article 7, nor any other remedies afforded to Beneficiary under the Transaction Documents, at law or in equity shall cause Beneficiary or Trustee to be deemed or construed to be a mortgagee in possession of the Trust Property, to obligate Beneficiary or Trustee to lease the Trust 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.

Section 5.11 WAIVER OF GRANTOR'S RIGHTS. BY EXECUTION OF THIS DEED OF TRUST, GRANTOR EXPRESSLY: (A) ACKNOWLEDGES THE RIGHT OF BENEFICIARY, RABOBANK, CITIZENS OR SUNTRUST TO ACCELERATE THE APPLICABLE INDEBTEDNESS EVIDENCED BY THE CREDIT AGREEMENT OR OTHER CREDIT DOCUMENTS, SUNTRUST L/C DOCUMENTS, THE RABOBANK L/C DOCUMENTS, THE CITIZENS AGREEMENT, OR THE RUSSIAN JV LOAN AGREEMENT, AS THE CASE MAY



BE, UPON THE OCCURRENCE OF AN EVENT OF DEFAULT; (B) TO THE EXTENT ALLOWED BY APPLICABLE LAW, AND EXCEPT AS EXPRESSLY SET FORTH IN SECTION 4.1 HEREOF OR ELSEWHERE IN THIS DEED OF TRUST OR ANY OTHER TRANSACTION DOCUMENT, WAIVES ANY AND ALL RIGHTS WHICH GRANTOR MAY HAVE UNDER THE CONSTITUTION OF THE UNITED STATES, THE VARIOUS PROVISIONS OF THE CONSTITUTIONS FOR THE SEVERAL STATES, OR BY REASON OF ANY OTHER APPLICABLE LAW, TO NOTICE AND TO JUDICIAL HEARING PRIOR TO THE EXERCISE BY BENEFICIARY OF ANY RIGHT OR REMEDY HEREIN PROVIDED TO BENEFICIARY OR TRUSTEE; (C) ACKNOWLEDGES THAT GRANTOR HAS READ THIS DEED OF TRUST AND ITS PROVISIONS HAVE BEEN EXPLAINED FULLY TO GRANTOR AND GRANTOR HAS CONSULTED WITH LEGAL COUNSEL OF GRANTOR'S CHOICE PRIOR TO EXECUTING THIS DEED OF TRUST; AND (D) ACKNOWLEDGES THAT ALL WAIVERS OF THE AFORESAID RIGHTS OF GRANTOR HAVE BEEN MADE KNOWINGLY, INTENTIONALLY AND WILLINGLY BY GRANTOR AS PART OF A BARGAINED FOR LOAN TRANSACTION.

ARTICLE 6

ASSIGNMENT OF RENTS AND LEASES

Section 6.1 Assignment. In furtherance of and in addition to the assignment made by Grantor in Section 2.1 of this Deed of Trust, Grantor hereby absolutely and unconditionally assigns, sells, transfers and conveys to Trustee (for the benefit of Beneficiary) and to Beneficiary all of its right, title and interest in and to all Leases, whether now existing or hereafter entered into, and all of its right, title and interest in and to all Rents. This assignment is an absolute assignment and not an assignment for additional security only. So long as no Event of Default shall have occurred and be continuing and to the extent not prohibited by the Credit Agreement, Grantor shall have a revocable license from Trustee and 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 Obligations and to otherwise use the same. The foregoing license is granted subject to the conditional limitation that no Event of Default shall have occurred and be continuing. Upon the occurrence and during the continuance of an Event of Default, whether or not legal proceedings have commenced, and without regard to waste, adequacy of security for the Obligations or solvency of Grantor, the license herein granted shall automatically expire and terminate, without notice by Trustee or Beneficiary (any such notice being hereby expressly waived by Grantor).

Section 6.2 Perfection Upon Recordation. Grantor acknowledges that Beneficiary and Trustee have taken all actions necessary to obtain, and that upon recordation of this Deed of Trust, Beneficiary and Trustee shall have, to the extent permitted under applicable law, a valid and fully perfected, first priority, present assignment of the Rents



arising out of the Leases and all security for such Leases. Grantor acknowledges and agrees that upon recordation of this Deed of Trust, Trustee's and Beneficiary's interest in the Rents shall be deemed to be fully perfected, "choate" and enforced as to Grantor and all third parties, including, without limitation, any subsequently appointed trustee in any case under Title 11 of the United States Code (the "**Bankruptcy Code**"), 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 6.3 Bankruptcy Provisions. Without limitation of the absolute nature of the assignment of the Rents hereunder, Grantor, Trustee and Beneficiary agree that (a) this Deed of Trust shall constitute a "security agreement" for purposes of Section 552(b) of the Bankruptcy Code, (b) the security interest created by this Deed of Trust extends to property of Grantor 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.

ARTICLE 7

SECURITY AGREEMENT

Section 7.1 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 Fixtures, Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance and Condemnation Awards. To this end, Grantor grants to Beneficiary a first and prior security interest in the Fixtures, Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance and Condemnation Awards and all other Trust Property which is personal property to secure the payment and performance of the 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 Fixtures, Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance and Condemnation Awards sent to Grantor at least ten (10) days prior to any action under the UCC shall constitute reasonable notice to Grantor. THE TERM "TRUST PROPERTY" SHALL NOT INCLUDE ANY ITEMS OF PERSONAL PROPERTY IN WHICH BENEFICIARY HAS OBTAINED AND/OR PERFECTED A SECURITY INTEREST UNDER SEPARATE INSTRUMENTS.

Section 7.2 Financing Statements. Grantor shall deliver to Beneficiary, in form and substance satisfactory to Beneficiary, such financing statements and such further assurances as Beneficiary may, from time to time, reasonably consider necessary to create, perfect and preserve Beneficiary's security interest hereunder and Beneficiary may cause such statements and assurances to be recorded and filed, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest. Grantor's state of organization is the State of Delaware.



Section 7.3 Fixture Filing. Grantor and Beneficiary agree, to the extent permitted by law, that: (i) all of the goods subject to the foregoing grant of security interest, or are to become, fixtures on the land described in Exhibit A; (ii) to the extent permitted under the UCC of the state in which the Land is located, this Deed of Trust shall, upon recording in the real estate records of the proper office, constitute a "fixture filing" for the purposes of the UCC against all of the Trust Property which is or is to become fixtures; (iii) Grantor is a record owner of the Premises; (iv) the addresses of Grantor (Debtor) and Beneficiary (Secured Party) are as set forth in the first paragraph of this Deed of Trust; (v) Grantor's state organizational number is 4393958; and (vi) a carbon, photographic, or other reproduction of this instrument, or of any financing statement relating hereto, shall be sufficient for filing purposes.

ARTICLE 8 CONCERNING THE TRUSTEE

Section 8.1 Certain Rights. With the approval of Beneficiary, Trustee shall have the right to select, employ and consult with counsel. Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by it hereunder, believed by it in good faith to be genuine. Trustee shall be entitled to reimbursement for actual, reasonable expenses incurred by it in the performance of its duties and to reasonable compensation for Trustee's services hereunder as shall be rendered. Grantor shall, from time to time, pay the compensation due to Trustee hereunder and reimburse Trustee for, and indemnify, defend and save Trustee harmless against, all liability and reasonable expenses which may be incurred by it in the performance of its duties, including those arising from joint, concurrent, or comparative negligence of Trustee; however, Grantor shall not be liable under such indemnification to the extent such liability or expenses result solely from Trustee's or Beneficiary's gross negligence or willful misconduct. Grantor's obligations under this Section 8.1 shall not be reduced or impaired by principles of comparative or contributory negligence.

Section 8.2 Retention of Money. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by law), and Trustee shall be under no liability for interest on any moneys received by him hereunder.

Section 8.3 Successor Trustees. If Trustee or any successor Trustee shall die, resign or become disqualified from acting in the execution of this trust, or Beneficiary shall desire to appoint a substitute Trustee, Beneficiary shall have full power to appoint one or more substitute Trustees and, if preferred, several substitute Trustees in succession who shall succeed to all the estates, rights, powers and duties of Trustee. Such appointment may be executed by any authorized agent of Beneficiary and as so executed, acknowledged and recorded in the office of the Register of Deeds for each county (or counties) in which the



Land is located, such appointment shall be conclusively presumed to be executed with authority, valid and sufficient, without further proof of any action and without the necessity of any conveying instrument whatsoever.

Section 8.4 Perfection of Appointment. Should any deed, conveyance or instrument of any nature be required from Grantor by any successor Trustee to more fully and certainly vest in and confirm to such successor Trustee such estates, rights, powers and duties, then, upon request by such Trustee, 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.

Section 8.5 Trustee Liability. In no event or circumstance shall Trustee or any substitute Trustee hereunder be personally liable under or as a result of this Deed of Trust, either as a result of any action by Trustee (or any substitute Trustee) in the exercise of the powers hereby granted or otherwise.

ARTICLE 9 MISCELLANEOUS

Section 9.1 Notices. Any notice required or permitted to be given under this Deed of Trust shall be given in accordance with Section 11.1 of the Credit Agreement.

Section 9.2 Covenants Running with the Land. All Obligations contained in this Deed of Trust are intended by Grantor and Beneficiary to be, and shall be construed as, covenants running with the Trust Property. As used herein, "Grantor" 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 Trust Property. All Persons who may have or acquire an interest in the Trust Property shall be deemed to have notice of, and be bound by, the terms of the Credit Agreement, the other Credit Documents, and the other Transaction Documents; however, no such party shall be entitled to any rights thereunder without the prior written consent of Beneficiary.

Section 9.3 Attorney-in-Fact. Grantor hereby irrevocably appoints Beneficiary and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest and with full power of substitution, (a) to execute and/or record any notices of completion, cessation of labor or any other notices that Beneficiary deems appropriate to protect Beneficiary's interest, if Grantor shall fail to do so within ten (10) days after written request by Beneficiary, (b) upon the issuance of a deed pursuant to the foreclosure of this Deed of Trust or the delivery of a deed in lieu of foreclosure, to execute all instruments of assignment, conveyance or further assurance with respect to the Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance and Condemnation Awards in favor of the grantee of any such deed and as may be necessary or desirable for such purpose, (c) to prepare, execute and file or record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or



201107280053
Skagit County Auditor

preserve Beneficiary's security interests and rights in or to any of the Trust Property, and (d) while any Event of Default exists, to perform any obligation of Grantor hereunder, however: (1) Beneficiary shall not under any circumstances be obligated to perform any obligation of Grantor; (2) any sums advanced by Beneficiary in such performance shall be added to and included in the Obligations and shall bear interest at the rate or rates at which interest is then computed on the Obligations; (3) Beneficiary as such attorney-in-fact shall only be accountable for such funds as are actually received by Beneficiary; and (4) Beneficiary shall not be liable to Grantor or any other person or entity for any failure to take any action which it is empowered to take under this Section 8.3. Notwithstanding the foregoing, Beneficiary shall be liable for its gross negligence, willful misconduct, and bad faith in connection with exercising its rights hereunder to the extent determined by a court of competent jurisdiction in a final, non-appealable judgment.

Section 9.4 Successors and Assigns. This Deed of Trust shall be binding upon and inure to the benefit of Beneficiary, Trustee and Grantor and their respective successors and assigns. Grantor shall not, without the prior written consent of Beneficiary, assign any rights, duties or obligations hereunder.

Section 9.5 No Waiver. Any failure by Beneficiary or Trustee to insist upon strict performance of any of the terms, provisions or conditions of the Transaction Documents shall not be deemed to be a waiver of same, and Beneficiary or Trustee shall have the right at any time to insist upon strict performance of all such terms, provisions and conditions.

Section 9.6 Credit Agreement. If any conflict or inconsistency exists between this Deed of Trust and the Credit Agreement, the Credit Agreement shall govern.

Section 9.7 Release or Reconveyance. Upon payment and performance in full of the Obligations and termination of the Credit Agreement and the other Transaction Documents, Beneficiary, at Grantor's request and expense, shall release the liens and security interests created by this Deed of Trust or reconvey the Trust Property to Grantor.

Section 9.8 Waiver of Stay, Moratorium and Similar Rights. Grantor 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 Obligations secured hereby, or any agreement between Grantor and Beneficiary or any rights or remedies of Beneficiary or Trustee.

Section 9.9 Applicable Law. The provisions of this Deed of Trust regarding the creation, perfection and enforcement of the liens and security interests herein granted shall be governed by and construed under the laws of the state in which the Trust Property is located. All other provisions of this Deed of Trust shall be governed by the laws



201107280053

Skagit County Auditor

of the State of New York (including, without limitation, Section 5-1401 of the General Obligations Law of the State of New York).

Section 9.10 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 9.11 Entire Agreement. This Deed of Trust and the other Transaction Documents embody the entire agreement and understanding between Grantor and Beneficiary and supersede all prior agreements and understandings between such parties relating to the subject matter hereof and thereof. Accordingly, the Transaction 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 9.12 Multisite Real Estate Transaction. Grantor acknowledges that this Deed of Trust is one of a number of other mortgages, deeds of trusts and security documents that secure the Obligations. Grantor agrees that the lien of this Deed of Trust shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Agent and without limiting the generality of the foregoing, the lien hereof shall not be impaired by any acceptance by Agent of any security for or guarantees of any of the Obligations hereby secured, or by any failure, neglect or omission on the part of the Agent to realize upon or protect any Obligations or any collateral security therefor including the other mortgages, deeds of trust and security documents. The lien hereof shall not in any manner be impaired or affected by any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition of any of the Obligations or any of the collateral security therefor, including the other mortgages, deeds of trust and security documents or of any guarantee thereof, and Agent may at its discretion foreclose, exercise any power of sale, or exercise any other remedy available to it under any or all of the other mortgages, deeds of trust and other security documents without first exercising or enforcing any of its rights and remedies hereunder. Such exercise of Agent's rights and remedies under any or all of the other mortgages, deeds of trust and other security documents shall not in any manner impair the indebtedness hereby secured or the lien of this Deed of Trust and any exercise of the rights or remedies of Agent shall not impair the lien of any other mortgages, deeds of trust and other security documents or any of Agent's rights and remedies thereunder. Grantor specifically consents and agrees that Agent may exercise its rights and remedies hereunder and under the other mortgages, deeds of trust and other security documents separately or concurrently and in any order that it may deem appropriate and Grantor waives any rights of subrogation.

Section 9.13 Beneficiary as Agent; Successor Agents.

(a) Agent has been appointed to act as Agent hereunder by the Secured Parties. Agent shall have the right hereunder to make demands, to give notices, to



exercise or refrain from exercising any rights, and to take or refrain from taking any action (including, without limitation, the release or substitution of the Trust Property) in accordance with the terms of the Credit Agreement, the Collateral Agency Agreement (as defined in the Credit Agreement), any related agency agreement among Agent and the Secured Parties (collectively, as amended, supplemented or otherwise modified or replaced from time to time, the "Agency Documents") and this Deed of Trust. Grantor and all other persons shall be entitled to rely on releases, waivers, consents, approvals, notifications and other acts of Agent, without inquiry into the existence of required consents or approvals of the Secured Parties therefor.

(b) Beneficiary shall at all times be the same Person that is Agent under the Agency Documents. Written notice of resignation by Agent pursuant to the Agency Documents shall also constitute notice of resignation as Agent under this Deed of Trust. Removal of Agent pursuant to any provision of the Agency Documents shall also constitute removal as Agent under this Deed of Trust. Appointment of a successor Agent pursuant to the Agency Documents shall also constitute appointment of a successor Agent under this Deed of Trust. Upon the acceptance of any appointment as Agent by a successor Agent under the Agency Documents, that successor Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Agent as the Beneficiary under this Deed of Trust, and the retiring or removed Agent shall promptly, at the expense of Grantor (i) assign and transfer to such successor Agent all of its right, title and interest in and to this Deed of Trust and the Trust Property, and (ii) execute and deliver to such successor Agent such assignments and amendments and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Agent of the liens and security interests created hereunder, whereupon such retiring or removed Agent shall be discharged from its duties and obligations under this Deed of Trust. After any retiring or removed Agent's resignation or removal hereunder as Agent, the provisions of this Deed of Trust and the Agency Documents shall inure to its benefit as to any actions taken or omitted to be taken by it under this Deed of Trust while it was the Agent hereunder.

(c) Each reference herein to any right granted to, benefit conferred upon or power exercisable, exercised or action taken by the "Beneficiary" shall be deemed to be a reference to or be deemed to have been so taken, as the case may be, by Beneficiary in its capacity as Agent pursuant to the Credit Agreement and the Collateral Agency Agreement for the benefit of the Secured Parties all as more fully set forth in the Credit Agreement and the Collateral Agency Agreement.

ARTICLE 10

LOCAL LAW PROVISIONS

Section 10.1 Inconsistencies. In the event of any inconsistencies between the terms and conditions of this Article 10 and the other provisions of this Deed of Trust, the terms and conditions of this Article 10 shall control and be binding.



Section 10.2 Fixture Filing. The information in the subsections below this paragraph is provided in connection with the filing of this Deed of Trust as a financing statement as referred to above, and the Grantor hereby represents and warrants such information to be true and complete as of the date of this Deed of Trust.

(a) Grantor is the leasehold owner of the Trust Property, which includes the Land and the Improvements as these terms are defined herein. The Grantor's exact legal name is that indicated in the preamble to this Deed of Trust and on the signature page hereof.

(b) Grantor is a limited liability company and validly formed and existing under the laws of the state of Delaware.

(c) Grantor's Delaware organizational identification number is 4393958.

(d) For purposes of the Uniform Commercial Code, Grantor is the debtor. The name, mailing address, type of organization and state of formation of the debtor (Grantor) is set forth below:

Draper Valley Holdings LLC, a Delaware limited liability company
31149 Old Ocean City Road
Salisbury, Maryland 21804

(e) For purposes of the Uniform Commercial Code, the Beneficiary is the secured party. The name and mailing address of the secured party (Beneficiary) is:

Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.,
"Rabobank Nederland", New York Branch, as Collateral Agent
245 Park Avenue, 37th Floor
New York, New York 10167

(f) This document covers goods which are or are to become fixtures.

NOTICE: ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

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



201107280053

Skagit County Auditor

UNOFFICIAL DOCUMENT

IN WITNESS WHEREOF, Grantor 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.

GRANTOR:

DRAPER VALLEY HOLDINGS LLC, a
Delaware limited liability company

By: Thomas E. Mahn
Name: Thomas E. Mahn
Its: Treasurer



Acknowledgment

STATE OF MARYLAND)

ss.

COUNTY OF WICOMICO)

On this day personally appeared before me Thomas E. Mahn to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that Thomas E. Mahn signed the same as Treasurer of DRAPER VALLEY HOLDINGS LLC, a Delaware limited liability company, free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 21 day of July, 2011.

Kaye Wilgus, Notary Public in and for the State of Maryland, residing at 31149 Old Ocean City Rd, Salisbury Md 21804

My appointment expires 3-18-15.

Kaye M. Wilgus



EXHIBIT A

Legal Description

PARCEL A:

The Northerly 417 feet of the portion of the South Half of the Northwest Quarter of the Southwest Quarter, lying Easterly of the Great Northern Railway Company's right-of-way, in Section 17, Township 34 North, Range 4 East of the Willamette Meridian;

EXCEPT the North 30 feet thereof as conveyed to the City of Mount Vernon for street purposes, by deed recorded June 25, 1958, under Auditor's File No. 567041, records of Skagit County, Washington;

TOGETHER WITH that portion of the West Half of adjoining vacated 9th Street, City of Mount Vernon Ordinance No. 2882, as recorded March 2, 1999, under Auditor's File No. 9903020125, records of Skagit County, Washington.

Situated in Skagit County, Washington

PARCEL B:

Lots 67 through 70, inclusive, Parker Business Center, according to the plat thereof, recorded in Volume 11 of Plats, pages 91 through 96, inclusive, records of Skagit County, Washington;

TOGETHER WITH those portions of private roads adjoining to the centerline thereof, as delineated on the face of said Plat;

AND TOGETHER WITH that portion of the East Half of adjoining vacated 9th Street, City of Mount Vernon Ordinance No. 2882, recorded March 2, 1999, under Skagit County Auditor's File No. 9903020125, records of Skagit County, Washington.

Situated in Skagit County, Washington

PARCEL C:

Lots 82A, 82, 83 and 84 and the South Half of private road known as William Way adjoining thereto of Parker Business Center, according to the plat thereof, recorded in Volume 11 of Plats, pages 91 through 96, inclusive, records of Skagit County, Washington;



TOGETHER WITH that portion of the East Half of adjoining vacated 9th Street, City of Mount Vernon Ordinance No. 2882, as recorded March 2, 1999 under Skagit County Auditor's File No. 9903020125, records of Skagit County, Washington.

Situated in Skagit County, Washington

PARCEL D:

Lot 2, and the South 33 feet of Lot 1, CITY OF MOUNT VERNON SHORT PLAT NO. MV-06-95, approved October 11, 1995, recorded October 11, 1995, in Volume 12 of Short Plats, pages 34 and 35, under Auditor's File No. 9510110093, records of Skagit County, Washington; and being a portion of the Southwest Quarter of Section 17, Township 34 North, Range 4 East of the Willamette Meridian.

Situated in Skagit County, Washington

