

<b>TRUST AGREEMENT OF</b>	
<b>Trust:</b>	<b>JACKSONVILLE SHIPYARDS DEFEASANCE TRUST, DST</b> , a Delaware statutory trust (the " <i>Trust</i> ")
<b>Effective Date:</b>	_____, 20__

This TRUST AGREEMENT (including the Trust Agreement Terms and Conditions and any and all exhibits and schedules attached hereto, collectively, as the same may be supplemented, amended, modified, replaced and/or restated from time to time in accordance with the terms hereof, this "**Agreement**" or "**Trust Agreement**") is made and entered into by and between Depositor, Manager and Trustee, and acknowledged by Lender and the Trust. The parties hereto, as more fully described below, acknowledge and agree that this Trust Agreement is governed by, the Trust Agreement Terms and Conditions attached hereto and incorporated herein by reference. In consideration of the covenants set forth in this Trust Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, Depositor, Manager, Trustee, Lender and Trust have each duly executed this Trust Agreement as of the Effective Date set forth above.

<b>Depositor:</b>	[ _____ ], a [ _____ ] limited liability company	<b>Depositor's Address:</b> [ _____ ]	[ _____ ], a [ _____ ] limited liability company  By: _____ [ _____ ]
<b>Manager:</b>	<b>JACKSONVILLE LOT J TRUST MANAGER, LLC</b> , a Delaware limited liability company (" <b>Breadbox Manager</b> "), as Manager	<b>Trust's Address:</b> Jacksonville Lot J Trust Manager, LLC 336 Via de la Paz Los Angeles, California 90272  <u>With copies to:</u> Dentons US LLP One Metropolitan Square, Suite 3000 St. Louis, Missouri 63102 Attn: Danette Davis.	<b>JACKSONVILLE LOT J TRUST MANAGER, LLC</b> , a Delaware limited liability company  By: _____ Alan Bornstein, President
<b>Trustee:</b>	<b>WILMINGTON SAVINGS FUND SOCIETY, FSB</b> , a federal savings bank (" <b>Trust Company</b> "), as Trustee	<b>Trustee's Address:</b> Wilmington Savings Fund Society, FSB 500 Delaware Avenue, 11th Floor Wilmington, Delaware 19801 Attn: Corporate Trust Administration	<b>WILMINGTON SAVINGS FUND SOCIETY, FSB</b> , a federal savings bank, as Trustee  By: _____ Name: _____ Title: _____

**ACKNOWLEDGED BY:**

<b>Lender:</b>	<b>CITY OF JACKSONVILLE</b>	<b>Lender's Address:</b> 117 W. Duval Street, Suite 300 Jacksonville, Florida 32202 Attn: Director of Finance  <u>With a copy to:</u>  Office of General Counsel 117 W. Duval St., Suite 480 Jacksonville, FL 32202 Attn: Corporation Secretary	<b>CITY OF JACKSONVILLE</b>  By: _____ Lenny Curry, Mayor  Attest:  By: _____ James R. McCain, Jr. Corporation Secretary  Form Approved:  _____ Office of General Counsel
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<p><i>Trust:</i></p>	<p><b>JACKSONVILLE LOT J DEFEASANCE TRUST, DST</b>, a Delaware statutory trust, under Trust Agreement dated [_____]</p>	<p><u>Trust's Address:</u>          Jacksonville Lot J Trust Manager, LLC          336 Via de la Paz          Los Angeles, California 90272</p> <p><u>With copies to:</u>          Dentons US LLP          One Metropolitan Square, Suite 3000          St. Louis, Missouri 63102          Attn: Danette Davis, Esq.</p>	<p><b>JACKSONVILLE LOT J DEFEASANCE TRUST, DST</b>, a Delaware statutory trust, under Trust Agreement dated [_____]</p> <p>By: Jacksonville Lot J Trust Manager, LLC, a Delaware limited liability company</p> <p>By: _____          Alan Bornstein, President</p>
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## TRUST AGREEMENT TERMS AND CONDITIONS

**WHEREAS**, Manager has formed the Trust in accordance with Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. § 3801, *et seq.* (the “**Statutory Trust Act**”) by filing the Certificate of Trust with the Secretary of State of the State of Delaware on even date herewith. Depositor will contribute the Defeasance Funds to the Trust to be held in trust for distribution pursuant to the terms of this Trust Agreement. Manager has been appointed as the manager of the Trust to undertake certain actions and perform certain duties that would otherwise be performed by the Trust or Trustee, including, but not limited to, investment of the Trust Estate (as such terms are hereinafter defined). Manager intends to hire outside professional investment advisors to provide guidance and direction with respect to the investment decisions of Manager.

### WITNESSETH:

#### 1. **GENERAL MATTERS.**

##### 1.1 **Organizational Matters.**

- (a) “**Trustee**” means the Person serving, at the time of determination, as the trustee under this Trust Agreement, in such Person’s capacity as Trustee and not in such Person’s individual capacity. Trust Company is hereby appointed to serve as Trustee of the Trust in the State of Delaware for the sole purpose of satisfying the requirements of Section 3807 of the Statutory Trust Act that the Trust have at least one trustee with a principal place of business in the State of Delaware, and Trust Company hereby accepts such appointment, pursuant and subject to this Trust Agreement. “**Manager**” means the Person serving, at the time of determination, as the manager under this Trust Agreement. Breadbox Manager is hereby appointed as Manager, and Breadbox Manager hereby accepts such appointment, pursuant and subject to this Trust Agreement. “**Person**” means a natural person, corporation, limited partnership, general partnership, joint stock company, joint venture, association, company, trust, bank trust company, land trust, business trust, statutory trust or other organization, whether or not a legal entity, and a government or agency or political subdivision thereof.
- (b) Depositor has authorized and directed Trustee to execute and Manager to file the certificate of trust of the Trust in substantially the form of **Exhibit B** (the “**Certificate of Trust**”) in the office of the Secretary of State of the State of Delaware (the “**Secretary of State**”), which filing has been duly made, and hereby authorizes Trustee and Manager to execute and file in the office of the Secretary of State such other certificates as may from time to time be required under the Statutory Trust Act or any other Delaware law.
- (c) The name of the Trust is set forth on the title page hereof. Pursuant to Section 3806(b)(7) of the Statutory Trust Act, Manager shall have full power and authority, and is hereby authorized, to conduct the activities of the Trust, execute and deliver all documents (including, without limitation, the Transaction Documents to which the Trust is or becomes a party from time to time) for or on behalf of the Trust, and cause the Trust to sue or be sued under its name. Any reference to the Trust shall be a reference to the statutory trust formed pursuant to the Certificate of Trust and this Trust Agreement and not to Trustee or Manager individually or to the officers, agents or employees of the Trust, Trustee, or Manager.
- (d) The principal office of the Trust, and such additional offices as Manager may determine to establish, shall be located at such places inside or outside of the State of Delaware as Manager shall designate from time to time. As of the Effective Date, the principal office of the Trust is located at 336 Via de la Paz, Los Angeles, California 90272, c/o Manager.
- (e) The “**Trust Estate**” shall mean all of the Trust’s right, title, and interest in and to the Defeasance Funds and any and all other property and assets (whether tangible or intangible) in which the Trust at any time has any right, title or interest. Legal title to the Trust Estate shall be vested in the Trust as a separate legal entity.
- (f) Capitalized terms used in this Trust Agreement and not otherwise defined herein shall have the meanings ascribed to such terms in the Financing Documents.

##### 1.2 **Declaration of Trust and Statement of Intent.**

- (a) Trustee hereby declares that it shall hold the Trust Estate in trust, upon the terms set forth in this Trust Agreement, for the benefit of each Person (each such Person, a “**Beneficial Owner**”) who, at the time of determination, holds a beneficial interest in the Trust, as such term is used in the Statutory Trust Act (a “**Beneficial Interest**”) as reflected on the most recent Ownership Records. As used herein, “**Ownership Records**” means the records maintained by Manager, indicating from time to time the name, mailing address of each Beneficial Owner, and the percentage of the aggregate Beneficial Interest in the Trust held by each such Beneficial Owner (the “**Percentage Share**”), which records shall initially indicate Depositor as the sole Beneficial Owner and shall be revised by Manager contemporaneously to reflect any issuance of additional Beneficial Interests and Beneficial Ownership Certificates in accordance with this Trust Agreement, changes in mailing addresses, or other changes.
- (b) It is the intention of the parties that the Trust constitute a “statutory trust,” Trustee is a “trustee,” Manager is an “agent” of the Trust, Beneficial Owners are “beneficial owners,” and this Trust Agreement is the “governing instrument” of the Trust, each within the respective meaning provided in the Statutory Trust Act.

(c) The business and affairs of the Trust shall be managed and administered by Manager. Whenever this Trust Agreement provides for an action to be taken by the Trust, such action shall be taken on behalf of the Trust by Manager, except to the extent that Manager shall direct any other Person to take such action.

1.3 Purposes. The purposes of the Trust are, and the Trust has all requisite power, authority and authorization to engage in, the following activities: (i) to receive and hold in trust funds, the Defeasance Payments (as defined under the Financing Documents), contributed by or on behalf of Depositor to the Trust (collectively, the “*Defeasance Funds*”), (ii) to enter into, execute, deliver and perform the Financing Documents and the other Transaction Documents to which it is or becomes a party from time to time; (iii) to hold for investment and eventually distribute the Defeasance Funds in accordance with the terms of this Trust Agreement; and (iv) to take only such other actions as Manager deems necessary to carry out the foregoing.

## **2. PROVISIONS RELATING TO THE LOAN AND TAX TREATMENT.**

2.1 Article 2 Supersedes All Other Provisions of this Trust Agreement. To the extent of any inconsistency between this Article 2 and any other provision of this Trust Agreement (except those provisions of this Trust Agreement that relate to the duties, obligations, rights, protections, exculpations, or indemnification of Trustee and/or Manager), this Article 2 shall supersede and be controlling; provided, for the avoidance of doubt, that nothing in this Article 2 or elsewhere in this Trust Agreement shall limit or impair the Trust’s power, authority and authorization (or limit or impair Manager’s power, authority and authorization to cause the Trust) to enter into, execute, deliver, and perform its obligations under, the Transaction Documents to which it is or becomes a party from time to time, and to do so without the need for the consent or approval of any Beneficial Owner or other Person and further provided that the requirements of this Article 2 shall be enforceable to the maximum extent permissible under the Statutory Trust Act.

2.2 Provisions Relating to Loan. This Section 2.2 is intended to qualify the Trust as a “single purpose entity” for purposes of a certain loan from Lender to the Trust and Depositor, as co-borrowers (the “*Loan*”), as such Loan is evidenced and secured by certain agreements, instruments, certificates or other documents evidencing, securing or otherwise executed in connection with the Loan, and any and all assignments and other security instruments in or related to the Defeasance Funds or other collateral for the Loan (collectively, the “*Financing Documents*”).

(a) The Trust must remain a Single Purpose Entity. A “*Single Purpose Entity*” means an entity which at all times since its formation and thereafter shall not, without the prior written consent of Lender: (1) incur any additional debt or liabilities other than those set forth under the Financing Documents and other Transaction Documents and costs and expenses incurred in the normal course in connection with the administration of the Trust and the management of the assets thereof; engage in any business or activity other than as permitted pursuant to this Trust Agreement and activities incidental thereto; (2) merge into or consolidate with any Person or dissolve, terminate or liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure; (3) amend, modify, terminate or fail to comply in all material respects with the provisions of this Trust Agreement; commingle the Trust Estate with property of separate trusts or the assets of any other Person; or merge (and administer as a single trust) any trust under the Trust Agreement and any trust under any other instrument; divide the Trust into two or more separate trusts; (4) incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the Loan; (5) fail to maintain its records, books of account and bank accounts separate and apart from those of any other Person; (6) enter into any contract or agreement with any trust grantor, trust beneficiary, trustee, affiliate of the Trust, or affiliates of any member, partner, principal or shareholder of an affiliate of the Trust, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties, other than the Transaction Documents; (7) seek the dissolution or winding up, in whole or in part, of the Trust; (8) guarantee or become obligated for the debts of any other entity or person or hold itself out to be responsible for the debts of another entity or person, except as set forth in the Transaction Documents; (9) make any loans or advances to any third party, including any trust grantor, trust beneficiary, member, principal or affiliate of the Trust, or any member, principal or shareholder of an affiliate of the Trust, and shall not acquire obligations or securities of any member, principal or affiliate of the Trust, or any member, general partner, or member of an affiliate of the Trust; (10) fail to file its own tax returns (if required by law), or file a consolidated federal income tax return with any other entity; (11) fail either to hold itself out to the public as a legal entity separate and distinct from any other entity or person or to conduct its business solely in its own name in order not to (i) mislead others as to the identity with which such other party is transacting business, or (ii) suggest that the Trust is responsible for the debts of any third party (including any member, principal or affiliate of the Trust, or any member, partner, principal or member of an affiliate of the Trust); (12) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any applicable insolvency, bankruptcy, liquidation or reorganization statute, or make an assignment for the benefit of creditors; (13) fail to maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other Person; (14) have its assets listed on the financial statement of any other Person; or (15) appoint a replacement Manager of the Trust, except as set forth in Section 4.7 hereof.

(b) To the fullest extent permitted by law, no bankruptcy, reorganization arrangement, insolvency or liquidation proceeding, or other proceedings under any similar law, shall be instituted or joined in by the Trust unless so directed by the Manager.

2.3 Provisions Relating to Tax Treatment. It is the intention of Depositor that, for U.S. federal income tax purposes, the Trust be classified as a corporation. Manager, on behalf of the Trust, shall file such elections and/or take any other necessary actions and make any other necessary filings as may be required in order for the Trust to initially obtain and continue to maintain such tax classification as a corporation. Each Beneficial Owner agrees to bound by such characterization and to take no action inconsistent with such characterization unless and until otherwise required by an applicable taxing authority. All parties further agree that, unless and until otherwise required by an applicable tax authority, the Trust will file or cause to be filed only those annual and periodic tax returns, tax reports and other tax forms that are consistent with the foregoing characterization of the Trust.

### 3. CONCERNING TRUSTEE.

3.1 Custody. While Trust Company is serving as Trustee, Trust Company shall not hold custody of the Defeasance Funds. Trustee has no other powers or authorities.

#### 3.2 Duties.

- (a) The duties of Trustee shall be limited to (i) accepting legal process served on the Trust in the State of Delaware and (ii) the execution of any certificates required to be filed with the Delaware Secretary of State which the Trustee is required to execute under Section 3811 of the Statutory Trust Act. To the extent that, at law or in equity, Trustee has duties (including fiduciary duties) and liabilities relating thereto to Manager, the Trust or the Beneficial Owners, it is hereby understood and agreed by the other parties hereto that such duties and liabilities are, to the fullest extent permitted by law, replaced by the duties and liabilities of Trustee expressly set forth in this Trust Agreement. Trustee shall have no liability for the acts or omissions of Manager or the Beneficial Owners and shall have no duty to monitor or supervise such Persons.
- (b) To the fullest extent permitted by law and notwithstanding anything in this Trust Agreement to the contrary, Trustee shall not be personally liable for special, consequential or punitive damages, however styled, including, without limitation, lost profits.
- (c) Trustee shall have no obligation or duty to monitor the Trust's obligations and duties under the Financing Documents or to ensure its compliance with the terms thereof. In addition, Trustee shall not have any duty or obligation to manage, make any payment in respect of, register, record, sell, dispose of or otherwise deal with the Trust Estate, or to otherwise take or refrain from taking any action under, or in connection with, any document contemplated hereby to which the Trust is a party, except as expressly provided by the terms of this Trust Agreement.

3.3 Trustee May Request Instruction. Trustee must act in accordance with any written direction of Manager except under the circumstances identified in this Section. Trustee shall not be required to take or refrain from taking any action as directed by Manager if Trustee shall believe, or shall have been advised by counsel (which advice may be at the expense of the Trust), that such performance is likely to involve Trustee in personal liability or is contrary to the terms of this Trust Agreement or of any document contemplated hereby to which the Trust or Trustee is or becomes a party or is otherwise contrary to law. Manager agrees not to instruct Trustee to take any action that is contrary to the terms of this Trust Agreement, the Financing Documents or any document contemplated hereby to which the Trust or Trustee is or becomes party or that is otherwise contrary to law. Any direction by Manager to Trustee shall be deemed a certification by Manager that any action to be taken by Trustee will not be contrary to the terms of this Trust Agreement, the Financing Documents, or any document contemplated hereby to which the Trust is or becomes party and Trustee shall be entitled to conclusively rely without investigation on such deemed certification. Other than as expressly provided for in this Trust Agreement, Trustee shall have no duty to take any action for or on behalf of the Trust. If at any time Trustee determines that it requires or desires guidance regarding the application of any provision of this Trust Agreement or any other document, or regarding action that must or may be taken in connection herewith or therewith, or regarding compliance with any direction it received hereunder or otherwise in connection with the exercise or administration of the trusts hereunder and in the performance of its duties and obligations under this Trust Agreement, then, at the expense of the Trust, Trustee may engage legal counsel or consult with accountants or other skilled Persons, in each case to be selected in good faith, to advise it and/or to deliver a notice to Manager or to a court of applicable jurisdiction requesting written instructions as to the desired course of action, and such instructions from Manager or such court shall constitute full and complete authorization and protection for actions taken and other performance by Trustee in reliance thereon. Until Trustee has received such instructions after delivering such notice, it shall be fully protected in refraining from taking any action with respect to the matters described in such notice. Notwithstanding anything to the contrary herein, the Trustee shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the opinion or advice of any such legal counsel, accountants or other skilled Persons engaged or consulted with by Trustee pursuant to the terms of this Section 3.3.

3.4 Trustee's Capacity and Exoneration. In accepting the trust hereby created, Trust Company acts solely as Trustee hereunder and not in its individual capacity, and all Persons having any claim against Trustee by reason of the transactions contemplated by this Trust Agreement, the Transaction Documents, or any other document shall look only to the Trust Estate for payment or satisfaction thereof. Notwithstanding any provision of this Trust Agreement or any other document to the contrary, under no circumstances shall Trustee or any successor Trustee, in its individual capacity or in its capacity as Trustee, (i) have any duty to appoint Manager, nor shall it have any liability for the actions or inactions of, Manager or any officer, manager, employee, or other Person (other than Trustee and its own employees), nor for any loss resulting directly or indirectly from compliance with

any direction of Manager, (ii) be liable or responsible for, or obligated to perform, any contract, representation, warranty, obligation or liability of the Trust, Manager, or any officer, manager, employee, or other Person (other than Trustee and its own employees), or (iii) have any duty to act in the absence of a written direction from Manager. Further, Trustee and its successors shall have no liability (including no liability for breach of contract or breach of duty) to any Person other than the Trust and Beneficial Owners, and all such liability shall be restricted to those liabilities expressly set forth in this Trust Agreement; provided, however, that this limitation on liability shall not protect Trustee or any successor Trustee against any liability to Beneficial Owner to which it would otherwise be subject by reason of its willful misconduct, bad faith or fraud on the part of Trustee in the performance of its duties expressly set forth under Article 3, nor shall it limit or eliminate liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing. Trustee is not liable, individually or as a fiduciary, for any loss resulting directly or indirectly from any action taken by Manager in the exercise of any power it has the exclusive authority to exercise. Trustee has no duty to inquire into or monitor or question the prudence, or the conduct, of Manager, provide advice to Manager or consult with or request directions from Manager. Trustee is not required to give notice to any Beneficial Owner or third party of any action taken or not taken by Manager whether or not Trustee agrees with the result. Administrative actions taken by Trustee for the purpose of implementing directions of Manager, including confirming that the directions of Manager have been carried out, do not constitute monitoring of Manager nor do they constitute participation in decisions within the scope of Manager's authority. Trustee shall have no duty to insure any Trust assets.

3.5 Indemnification. The Trust hereby agrees to: (i) reimburse the Person serving as Trustee and/or any successor Trustee for all reasonable expenses (including reasonable fees and expenses of counsel and other professionals), incurred in connection with the negotiation, execution, delivery, or performance of, or exercise of rights or powers under, this Trust Agreement; (ii) to the fullest extent permitted by law, indemnify, defend and hold harmless the Person serving as Trustee and/or any successor Trustee, and the officers, directors, employees and agents of the Person serving as Trustee and/or any successor Trustee (collectively, including Trustee and/or any successor Trustee in its individual capacity, the "**Trustee Indemnified Persons**") from and against any and all losses, damages, liabilities, claims, actions, suits, costs, expenses, disbursements (including the reasonable fees and expenses of counsel and other professionals), taxes and penalties of any kind and nature whatsoever (collectively, "**Trustee Covered Expenses**"), to the extent that such Trustee Covered Expenses arise out of or are imposed upon or asserted at any time against any such Trustee Indemnified Persons, including without limitation on the basis of ordinary negligence on the part of any such Trustee Indemnified Persons, with respect to or in connection with this Trust Agreement, the Trust, or any transaction or document contemplated hereby; provided, however, that the Trust shall not be required to indemnify a Trustee Indemnified Person for Trustee Covered Expenses to the extent such Trustee Covered Expenses result from the willful misconduct, bad faith or fraud of such Trustee Indemnified Person; and (iii) to the fullest extent permitted by law, advance to each such Trustee Indemnified Person Trustee Covered Expenses incurred by such Trustee Indemnified Person in defending any claim, demand, action, suit or proceeding, in connection with this Trust Agreement, the Trust, or any transaction or document contemplated hereby, prior to the final disposition of such claim, demand, action, suit or proceeding, only upon receipt by the Trust of an undertaking, by or on behalf of such Trustee Indemnified Person, to repay such amount if a court of competent jurisdiction renders a final, nonappealable judgment that includes a specific finding of fact that such Trustee Indemnified Person is not entitled to be indemnified therefor under this Section 3.5. The obligations of the Trust under this Section 3.5 shall survive the resignation or removal of Trustee, shall survive the dissolution and termination of the Trust, and shall survive the termination, amendment, supplement, and/or restatement of this Trust Agreement. In connection with the repayment of the Loan, Beneficial Owners and Manager agrees to set aside a reserve in an amount reasonably determined by Trustee in order to hold funds reasonably necessary to satisfy Trustee Covered Expenses of the Trustee Indemnified Persons.

### 3.6 Removal; Resignation; Succession.

(a) Trustee may resign at any time by giving at least sixty (60) days' prior written notice to Manager. Manager may at any time remove Trustee with or without cause by written notice to Trustee. Such resignation or removal shall be effective upon the acceptance of appointment by a successor Trustee as hereinafter provided. In case of the removal or resignation of a Trustee, Manager may appoint a successor by written instrument within sixty (60) days after delivery of such notice of resignation or removal. If a successor Trustee shall not have been appointed within such sixty (60) day period, Trustee or any Beneficial Owner may apply to any court of competent jurisdiction in the United States to appoint a successor Trustee to act until such time, if any, as a successor shall have been appointed as provided above. Any successor so appointed by such court shall immediately and without further act be superseded by any successor appointed as provided above within one (1) year from the date of the appointment by such court. Any successor, however appointed, shall execute and deliver to its predecessor trustee an instrument accepting such appointment, and thereupon such successor, without further act, shall become vested with all the estates, properties, rights, powers, duties and trusts of the predecessor trustee in the trusts hereunder with like effect as if originally named Trustee herein; but upon the written request of such successor, such predecessor shall execute and deliver an instrument transferring to such successor, upon the trusts herein expressed, all the estates, properties, rights, powers, duties and trusts of such predecessor, and such predecessor shall duly assign, transfer, deliver and pay over to such successor all monies or other property then held by such predecessor upon the trusts herein expressed. Any right of Beneficial Owners against a predecessor Trustee in its individual capacity shall survive the resignation or removal of such predecessor, shall survive the dissolution and termination of the Trust, and shall survive the termination, amendment, supplement, and/or

restatement of this Trust Agreement. Any successor Trustee, however appointed, shall be a bank or trust company satisfying the requirements of Section 3807(a) of the Statutory Trust Act. Any Person into which Trustee may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which such Trustee shall be a party, or any Person which succeeds to all or substantially all of the corporate trust business of the Trustee, shall, subject to the preceding sentence, be Trustee under this Trust Agreement without the execution, delivery or filing of any paper or instrument or further act to be done on the part of the parties hereto, except as may be required by applicable law. No successor Trustee shall be liable for the acts or omissions of any predecessor Trustee.

- (b) Upon the resignation, removal or cessation to serve as Trustee for any other reason (including on account of the termination and dissolution of the Trust) and prior to the transfer of the Defeasance Funds to its successor or to the beneficiaries described in Section 6.2 hereof, as the case may be, the former Trustee may hold back a reserve of the Defeasance Funds in such amount and for such period of time that the former Trustee, in its reasonable discretion, determines is necessary to defend any claims for which it may be indemnified under the terms of this Trust Agreement. Trustee hereby agrees that within ten (10) Business Days after the adjudication, settlement and/or other satisfaction of any claim that is the subject of the reserve contemplated hereunder, the then-former Trustee shall remit any remaining funds held in reserve to the Trust as a return of Defeasance Funds; provided, however, in the event any such required remittance pursuant to this Section 3.6(b) shall occur subsequent to the termination of the Trust pursuant to Section 8, the former Trustee shall pay such funds to Beneficial Owner. For purposes of this Agreement, “**Business Day**” means any day other than on Saturday, Sunday or legal holiday in the State of Delaware.

3.7 Fees and Expenses. So long as Trust Company is serving as Trustee hereunder, Trust Company shall be entitled to receive as compensation from the Trust Estate for its services hereunder such fees as have been separately agreed upon between Manager and Trustee, or as provided in its regularly published schedule of compensation in effect at the time such compensation is paid, including minimum fees and additional compensation for special investments, notwithstanding that such stipulated compensation shall be greater than that now in effect or than that otherwise provided from time to time under applicable law, and such compensation may be paid at any time without court approval; provided, however, that in the event that Trust Company and Manager shall have entered into a binding written agreement regarding the compensation paid to Trust Company as Trustee hereunder, Manager shall instead be entitled to compensation for such services as set forth in such written agreement, and such compensation may be changed at any time by mutual agreement in writing between Trust Company and Manager. Trustee shall not have any obligation by virtue of this Trust Agreement to spend any of its own funds, or to take any action that could result in its incurring any cost or expense.

#### 4. CONCERNING MANAGER.

4.1 Power and Authority. Manager shall have the power and authority, and is hereby authorized and empowered, to (i) execute any certificates that are required to be executed under the Statutory Trust Act and file such certificates in the office of the Secretary of State, (ii) certify the amount of the Defeasance Payments, and (iii) manage the Trust Estate and the investment activities and affairs of the Trust, subject to and in accordance with the terms and provisions of this Trust Agreement, provided that Manager shall have no power to engage on behalf of the Trust in any activities that the Trust could not engage in directly. With respect to the investment activities of the Trust, specifically, such investment activities shall be managed exclusively by Manager; provided Manager shall have the power and authority to hire outside professional investment advisors with respect to such investment activities. Manager shall have the power and authority, and is hereby authorized, empowered, and directed by the Trust, to enter into, execute and deliver, and to cause the Trust to perform its obligations under, each of this Trust Agreement, the Financing Documents, the Engagement Agreement, the License Agreement (as defined below) and any other documents necessary and advisable, in Manager’s discretion, in connection with the Loan or the Defeasance Funds or in furtherance of the investment activities of the Trust (as the same may be amended, modified, replaced and/or restated from time to time, collectively, the “**Transaction Documents**”) to which the Trust is or becomes a party or signatory. Notwithstanding the other provisions of this Section 4.1, Manager shall have the power and authority to cause the Trust to (i) accept, hold for investment and distribute the Defeasance Funds in accordance with the Investment Objective and the terms and conditions of this Trust Agreement and (ii) execute and deliver the Transaction Documents. For purposes of this Agreement, “**Investment Objective**” means to generate sufficient capital to satisfy all Debt due under the Loan during its term and upon its Maturity Date, to pay as and when due all costs and expenses required pursuant to the Transaction Documents to be paid from the Defeasance Funds, and to pay all other costs necessary for the proper administration of the Trust. For the avoidance of doubt, the Investment Objective of the Trust does not include taking on investment risk in an effort to generate capital in an amount materially greater than the amount required to repay the Debt, pay costs and expenses contemplated under the Transaction Documents and administer the Trust.

4.2 Manager’s Capacity. Manager acts solely as an agent of the Trust and not in its individual capacity, and all Persons having any claim against Manager by reason of the transactions contemplated by this Trust Agreement, the Transaction Documents, or any other document shall look only to the Trust Estate for payment or satisfaction thereof. Notwithstanding any provision of this Trust Agreement to the contrary, Manager shall not have any liability to any Person except for its own willful misconduct, bad faith, fraud or gross negligence.

#### 4.3 Duties.

- (a) Manager has primary responsibility for performing the administrative actions set forth in this Section 4.3. Manager shall have no duty or obligation to comply with any directive from any Beneficial Owner in such capacity with respect to the Trust Estate. Manager shall not have any duty or obligation under or in connection with this Trust Agreement, the Trust, or any transaction or document contemplated hereby, except as expressly provided by the terms of this Trust Agreement, and no implied duties or obligations shall be read into this Trust Agreement against Manager. The right of Manager to perform any discretionary act enumerated herein shall not be construed as a duty. To the fullest extent permitted by applicable law, including without limitation Section 3806 of the Statutory Trust Act, (i) Manager's duties and liabilities relating thereto to the Trust and Beneficial Owners shall be restricted to those duties expressly set forth in this Trust Agreement and liabilities relating thereto, and (ii) Manager has no fiduciary duties whatsoever to the Trust or to Beneficial Owners; provided, however, no provision of this Trust Agreement is intended to or shall eliminate Manager's implied contractual covenant of good faith and fair dealing.
- (b) Without limiting the generality of Section 4.2(a) above, Manager, for and on behalf of the Trust, is hereby authorized and directed to take each of the following actions necessary to conserve, protect, invest and manage the Trust Estate in a manner consistent with the Investment Objective: (1) accepting the contribution of the Defeasance Funds and entering into, executing, delivering and performing the Transaction Documents (including, without limitation, the Financing Documents the Engagement Agreement and the License Agreement); (2) complying with the terms of the Financing Documents and Transaction Documents; (3) holding and investing the Defeasance Funds in accordance with the Investment Objective; (4) engaging outside professional investment advisors to provide direction and guidance with respect to the investment of the Trust Estate in furtherance of the Investment Objective; (5) notifying the relevant parties of any default by them under the Transaction Documents; and (6) paying from the Trust Estate the liabilities, fees, costs, expenses and indemnities expressly contemplated to be paid with proceeds of the Defeasance Funds under the Transaction Documents, including, without limitation, pursuant to the Financing Documents, the Engagement Agreement and the License Agreement between UTW Fanfaire, LLC, as licensor, and Depositor, as licensee, and acknowledged by the Trust (as the same may be amended, modified, replaced and/or restated, the "**License Agreement**").
- (c) Manager shall keep customary and appropriate books and records relating to the Trust and the Trust Estate. Manager shall maintain appropriate books and records in order to provide reports of income and expenses to each Beneficial Owner as necessary for such Beneficial Owner to prepare his/her income tax returns regarding the Trust Estate.
- (d) Manager shall prepare (or cause to be prepared), sign and timely file (or cause to be filed) all federal, state, local and foreign tax and information returns and tax reports with respect to the Trust.
- (e) During the term of the Loan, Manager shall deliver or cause to be delivered to Lender and Depositor (x) within forty-five (45) days after the filing thereof, copies of the federal and state income tax returns for the Trust, together with all supporting schedules and the annual unaudited financial statements as of the end of the preceding calendar year, in each case certified by the Manager; and (y) within ninety (90) days after the end of each calendar year a written report summarizing management and investment activities and financial performance of the Trust.
- (f) Manager shall not be required to act or refrain from acting under this Trust Agreement or the Transaction Documents if Manager reasonably determines, or has been advised by counsel, that such actions or inactions may result in personal liability, unless Manager is indemnified by the Trust and Beneficial Owners against any liability and costs (including reasonable legal fees and expenses) which may result in a manner and form reasonably satisfactory to Manager.
- (g) Manager shall not, on its own behalf (in contrast to actions that Manager is required to perform on behalf of the Trust), have any duty to (i) file, record or deposit any document or to maintain any such filing, recording or deposit or to refile, rerecord or redeposit any such document, (ii) pay or discharge any tax levied against any part of the Trust Estate, or (iii) confirm, verify, investigate or inquire into the failure to receive any reports or financial statements from any party obligated under the Transaction Documents to provide such.
- (h) Manager shall manage, control, distribute or otherwise deal with the Trust Estate in its discretion, subject to any restrictions or obligations set forth in the Transaction Documents or in this Trust Agreement.
- (i) Upon written request, Manager shall provide to each Person who becomes a Beneficial Owner a copy of this Trust Agreement at or before the time such Person becomes a Beneficial Owner.
- (j) Manager shall provide to Trustee a copy of the Ownership Records contemporaneously with each revision thereto.

4.4 Indemnification. The Trust hereby agrees to (i) reimburse Manager for all reasonable expenses (including reasonable fees and expenses of counsel and other professionals), incurred in connection with the negotiation, execution, delivery, or performance of, or exercise of rights or powers under, this Trust Agreement, (ii) to the fullest extent permitted by law, indemnify, defend and hold harmless each of Manager, UTW Fanfaire, LLC, UTW Capital, LLC and their respective members, partners, shareholders, officers, directors, employees, agents and successors and assigns (collectively, the "**Manager Indemnified Persons**") from and against any and all losses, damages, liabilities, claims, actions, suits, costs, expenses, disbursements (including the reasonable fees and expenses of counsel and other professionals), taxes and penalties of any kind and nature whatsoever (collectively, "**Manager Covered Expenses**"), to the extent that such Manager Covered Expenses arise out of or are imposed upon or asserted at any time against such Manager Indemnified Persons, including without limitation on the basis of ordinary negligence on the part of any



such Manager Indemnified Persons, with respect to or in connection with this Trust Agreement, the Trust, or any transaction or document contemplated hereby, including any Financing Documents; provided, however, that Trust shall not be required to indemnify a Manager Indemnified Person for Manager Covered Expenses to the extent such Manager Covered Expenses result from the willful misconduct, bad faith or fraud of such Manager Indemnified Person, and (iii) to the fullest extent permitted by law, advance to each such Manager Indemnified Person any Manager Covered Expenses incurred by such Manager Indemnified Person in defending any claim, demand, action, suit or proceeding, in connection with this Trust Agreement, the Trust, or any transaction or document contemplated hereby, prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by any Beneficial Owner of an undertaking, by or on behalf of such Manager Indemnified Person, to repay such amount unless a court of competent jurisdiction renders a final, nonappealable judgment that includes a specific finding of fact that such Manager Indemnified Person is not entitled to be indemnified therefor under this Section 4.4. The obligations of the Trust under this Section 4.4 shall survive the resignation or removal of Manager, shall survive the dissolution and termination of the Trust, and shall survive the termination, amendment, supplement, and/or restatement of this Trust Agreement. Notwithstanding anything to the contrary in the above, in all cases, the indemnification provided under this Section 4.4 shall be limited to and only paid out of the Trust Estate.

- 4.5 Fees and Expenses. Manager will be compensated from the Trust Estate for its services in the manner and amount set forth in the Engagement Agreement among Depositor, Manager and the Trust (as the same may be amended, modified, replaced and/or restated, the “**Engagement Agreement**”). Manager shall not have any obligation by virtue of this Trust Agreement to spend any of its own funds, or to take any action that could result in its incurring any cost or expense.
- 4.6 Disposition of Trust Estate by Manager is Binding. Any distribution, disposition or other conveyance of the Trust Estate or any part thereof by Manager made for and on behalf of the Trust pursuant to the terms of this Trust Agreement shall bind the Trust and Beneficial Owners and be effective to transfer or convey all rights, title and interest of the Trust and Beneficial Owners in and to the Trust Estate.
- 4.7 Removal/Resignation; Succession. Manager may resign at any time by giving at least thirty (30) days’ prior written notice to Trustee and Depositor. Such resignation shall be effective upon the acceptance of appointment by a successor Manager as hereinafter provided. In case of the resignation of Manager, Manager may appoint a successor by written instrument. If a successor Manager shall not have been appointed within thirty (30) days after the giving of such notice of resignation by Manager, Manager, Trustee or any Beneficial Owner may apply to any court of competent jurisdiction in the United States to appoint a successor Manager to act until such time, if any, as a successor shall have been appointed as provided above. Any successor so appointed by such court shall immediately and without further act be superseded by a successor appointed as provided above within one (1) year from the date of the appointment by such court. Further, if a court of competent jurisdiction shall have determined by final and nonappealable judgment that Manager shall have committed a criminal act, fraud or gross negligence, any Beneficial Owner or Trustee may apply to any court of competent jurisdiction in the United States to remove Manager and appoint a successor Manager to act under this Agreement. Any successor, however appointed, shall execute and deliver to its predecessor Manager an instrument accepting such appointment, and thereupon such successor, without further act, shall become vested with all the rights, powers and duties of the predecessor Manager in the trusts hereunder with like effect as if originally named Manager herein; but upon the written request of such successor, such predecessor shall execute and deliver an instrument transferring to such successor, upon the trusts herein expressed, all the rights, powers and duties of such predecessor. Any right of Beneficial Owners against a predecessor Manager in its individual capacity shall survive the resignation or removal of such predecessor Manager, shall survive the dissolution and termination of the Trust, and shall survive the termination, amendment, supplement, and/or restatement of this Trust Agreement. No successor Manager shall be liable for the acts or omissions of any predecessor Manager.

## 5. **BENEFICIAL INTERESTS AND DEPOSITOR.**

- 5.1 Issuance of Beneficial Ownership Certificates. Depositor shall convey, or cause the conveyance, of the Defeasance Funds to the Trust, and the Trust shall issue to Depositor in exchange for such contribution(s) a certificate, in substantially the form of Exhibit A, evidencing a Beneficial Interest in the Trust (each, a “**Beneficial Ownership Certificate**”). The Beneficial Ownership Certificate, with such appropriate insertions, omissions, substitutions, endorsements and other variations as are required by this Trust Agreement, and with such letters, numbers or other marks of identification and such legends and endorsements placed thereon as may, consistent herewith, be approved by Manager, shall be issued in registered form and delivered to, and registered in the name of, Beneficial Owners. Each Beneficial Ownership Certificate shall be printed and dated the date of its execution. Any portion of any Beneficial Ownership Certificate may be set forth on the reverse or subsequent pages thereof. The Beneficial Ownership Certificate shall be printed, lithographed, typewritten, mimeographed, photocopied or otherwise produced or may be produced in any other manner as may, consistently herewith, be determined by Manager. While the Beneficial Ownership Interests are held by a single Beneficial Owner such Beneficial Ownership Certificate shall represent ownership of the entire Percentage Share from time to time of the Beneficial Interests. If, at any time, Beneficial Ownership Interests are held by more than one Beneficial Owner, each Beneficial Certificate shall represent ownership of the Percentage Share of the Beneficial Interests to which it corresponds. A single Beneficial Ownership Certificate may be issued to each Beneficial Owner, and additional Beneficial Ownership Certificates need not be issued to existing Beneficial Owners and/or existing Beneficial

Ownership Certificates need not be amended to the extent any Beneficial Owner makes additional contribution(s) to the Trust Estate (or such contribution(s) are made on behalf of a Beneficial Owner) and such contribution(s) do not result in a change to the Beneficial Owners' respective Percentage Shares. For the avoidance of doubt, each Beneficial Owner's Percentage Share and contributions will be tracked in the Ownership Records. Manager is hereby authorized to execute each Beneficial Ownership Certificate for and on behalf of the Trust by the manual signature of any duly authorized officer of Manager, such execution to constitute the authentication thereof. Each Beneficial Ownership Certificate bearing the manual signature of any individual who at the time such Beneficial Ownership Certificate was executed was a duly authorized officer of Manager shall bind the Trust, notwithstanding that any such individual has ceased to hold such office or to be a duly authorized officer of Manager prior to the delivery of such Beneficial Ownership Certificate or at any time thereafter. No Beneficial Ownership Certificate shall be valid for any purpose unless it is executed on behalf of the Trust by Manager. The signature of a duly authorized officer of Manager on any Beneficial Ownership Certificate shall be conclusive evidence that such Beneficial Ownership Certificate has been duly executed and authenticated under this Trust Agreement. Any Beneficial Owner shall be deemed, by virtue of the acceptance of such Beneficial Ownership Certificate or beneficial interest therein, to have agreed, accepted and become bound by, and subject to, the provisions of this Trust Agreement. Each Beneficial Owner hereby acknowledges and agrees that, in its capacity as a Beneficial Owner, it has no ability either to (i) petition for a partition of the assets of the Trust, (ii) file a petition in bankruptcy on behalf of the Trust, or (iii) take any action that consents to, aids, supports, solicits or otherwise cooperates in the filing of an involuntary bankruptcy proceeding involving the Trust.

- 5.2 Ownership Records. Manager shall at all times be the Person at whose office a Beneficial Ownership Certificate may be presented or surrendered for registration of transfer or for exchange and where notices and demands to or upon the Trust in respect of a Beneficial Ownership Certificate may be served. Manager shall keep Ownership Records, which shall include records of the transfer and exchange of Beneficial Interests. Notwithstanding any provision of this Trust Agreement to the contrary, transfer of a Beneficial Interest, or of any right, title or interest therein, shall occur only upon and by virtue of the entry of such transfer in the Ownership Records. In the event of any transfer not prohibited under the terms of this Trust Agreement, Manager shall issue a new Beneficial Ownership Certificate setting forth the current percentage interest in the Trust held by such new Beneficial Owner, the transferring Beneficial Owner shall surrender its Beneficial Ownership Certificate for cancellation and, if applicable, Manager shall issue a new Beneficial Ownership Certificate setting forth the Beneficial Interest retained by any transferring Beneficial Owner. Beneficial Ownership Certificates may not be negotiated, endorsed or otherwise transferred to a holder in violation of Section 5.4 or Section 5.5.
- 5.3 Mutilated, Destroyed, Lost or Stolen Beneficial Ownership Certificates. If any Beneficial Ownership Certificate shall become mutilated, destroyed, lost or stolen, the Trust shall, upon the written request of the holder of such Beneficial Ownership Certificate and presentation of the Beneficial Ownership Certificate or satisfactory evidence of destruction, loss or theft thereof to Manager, issue and deliver in exchange therefor or in replacement thereof, a new Beneficial Ownership Certificate in the name of such Beneficial Owner evidencing the same Beneficial Interest and dated the date of its execution. If the Beneficial Ownership Certificate being replaced has become mutilated, such Beneficial Ownership Certificate shall be surrendered to Manager. If the Beneficial Ownership Certificate being replaced has been destroyed, lost or stolen, the Beneficial Owner thereof shall furnish to the Trust and Manager (i) a written indemnity by such Beneficial Owner to the Trust and Manager which provides for such Person to save the Trust and Manager harmless; and (ii) evidence satisfactory to the Trust and Manager of the destruction, loss or theft of such Beneficial Ownership Certificate and of the ownership thereof. The applicable Beneficial Owner shall pay any tax imposed in connection therewith.
- 5.4 Restrictions on Transfer. Subject to compliance with applicable securities laws and this Section 5.4 and Section 5.5 of this Trust Agreement, all or any portion of the Beneficial Interest of any Beneficial Owner may be assigned or transferred without the prior consent of any of Trustee, Manager, or the other Beneficial Owners. All expenses of any such transfer shall be paid by the assigning or transferring Beneficial Owner. Notwithstanding the foregoing, (i) no transfer of all or a portion of the Beneficial Interest of any Beneficial Owner shall be permitted while any default, or other event or condition which, with the giving of notice, the passage of time, or both would constitute a default, exists under the Transaction Documents; and (ii) any assignee or transferee of such Beneficial Interests shall affirmatively assume in writing Depositor's obligations under the Transaction Documents, failing which such assignment or transfer shall be void *ab initio*.
- 5.5 Conditions to Admission of New Beneficial Owners. Any assignee or transferee of a Beneficial Owner shall become a Beneficial Owner upon the transfer of such Beneficial Interests in accordance with Section 5.2 hereof and shall be deemed to have accepted and adopted the terms of this Trust Agreement upon the completion of such transfer.
- 5.6 Representations and Acknowledgments of Beneficial Owners. Each Beneficial Owner hereby represents and warrants that it (i) is not acquiring its Beneficial Interest with a view to any distribution thereof in a transaction that would violate the Securities Act of 1933, as amended (the "*Securities Act*") or the securities laws of any state of the United States; and (ii) is aware of the restrictions on transfer that are applicable to the Beneficial Interests and will not offer, sell, pledge or otherwise transfer its Beneficial Interest except in compliance with all terms and conditions of this Trust Agreement and applicable securities laws and regulations. Each Beneficial Owner hereby acknowledges that (y) no Beneficial Interest may be sold, transferred or otherwise disposed of unless expressly permitted hereunder and it is registered or qualified under the Securities Act and all other applicable laws of any

applicable jurisdiction or an exemption therefrom is available in accordance with all other laws of any applicable jurisdiction; and (z) no Beneficial Interest has been or is expected to be registered under the Securities Act, and accordingly, all Beneficial Interests are subject to restrictions on transfer.

- 5.7 Status of Relationship. This Trust Agreement shall not be interpreted to impose a partnership or joint venture relationship on Beneficial Owners either at law or in equity. Accordingly, no Beneficial Owner shall have any liability for the debts or obligations incurred by any other Beneficial Owner, with respect to the Trust Estate, or otherwise, and no Beneficial Owner shall have any authority, other than as specifically provided herein, to act on behalf of any other Beneficial Owner or to impose any obligation on any other Beneficial Owner with respect to the Trust Estate. Neither the power to give direction to Trustee, Manager, or any other Person nor the exercise thereof by any Beneficial Owner shall cause such Beneficial Owner to have duties (including fiduciary duties) or liabilities relating thereto to the Trust or to any Beneficial Owner. For the avoidance of doubt, no Beneficial Owner shall have any fiduciary duties to any other Beneficial Owner.
- 5.8 No Legal Title to Trust Estate. Beneficial Owners shall not have legal title to the Trust Estate. The death, incapacity, dissolution, termination or bankruptcy of any Beneficial Owner, Manager or Trustee shall not result in the termination or dissolution of the Trust.
- 5.9 In-Kind Distribution. No Beneficial Owner (i) has an interest in specific Trust property or (ii) shall have any right to demand and receive from the Trust an in-kind distribution of the Trust Estate or any portion thereof. In addition, each Beneficial Owner expressly waives any right, if any, under the Statutory Trust Act to seek a judicial dissolution of the Trust, to terminate the Trust, or, to the fullest extent permit by law, to partition the Trust Estate.
- 5.10 Rights and Powers of Beneficial Owner. Beneficial Owners shall have the right, power and obligation to contribute additional Defeasance Funds to the Trust during the term of the Trust and the right and power to receive distributions from the Trust pursuant to, and subject to the limitations set forth in, the terms and conditions of this Trust Agreement. Unless otherwise expressly provided in this Trust Agreement, Beneficial Owners shall not have the right or power to direct in any manner the Trust or Manager in connection with the operation of the Trust or the actions of Trustee or Manager.
- 5.11 Concerning Depositor. Depositor shall have the right, at any time and in its sole discretion, to appoint a successor Depositor effective upon Depositor's death or dissolution.

## **6. DISTRIBUTIONS AND REPORTS.**

- 6.1 Payments From Trust Estate Only. All payments to be made by Manager under this Trust Agreement shall be from the Trust Estate.
- 6.2 Distributions. Except as provided herein, generally there shall be no distributions from the Trust to Beneficial Owners. Upon the Maturity Date, Manager shall distribute the Trust Estate as follows: (i) first, paying, reserving or reimbursing Trustee and then Manager, respectively, for any claims subject to indemnification (including as provided in Section 3.5 and Section 4.4, respectively) and for their respective reasonable fees and/or expenses actually incurred on behalf of the Trust, (ii) second, paying any fees or expenses, including without limitation administration fees and license fees, required to be paid from the Trust Estate pursuant to the Engagement Agreement and License Agreement, (iii) third, transferring to Lender (or to such other entity as Lender shall direct in writing) in satisfaction of the Trust's and Depositor's obligations as co-borrowers under the Loan, an aggregate amount equal to the Loan Amount, (iv) fourth, paying to Lender (or to such other entity as Lender shall direct in writing) any other amounts due and owing under the Financing Documents, including, without limitation, interest, late charges, costs, expenses and/or other amounts due thereunder, if any, and (v) fifth, distributing to Lender (or to such other entity as Lender shall direct in writing) the remaining Trust Estate.
- 6.3 Information. Upon written demand of Manager made by a Beneficial Owner, which written demand may not be made more than once per calendar quarter, a Beneficial Owner shall have the right to receive a copy of this Trust Agreement and the Certificate of Trust, and any amendments to either of them, provided that such copy shall not contain any identifying information with regard to any other Beneficial Owner. Except as specifically set forth in this Section 6.3, or elsewhere in this Trust Agreement, no Beneficial Owner or group of Beneficial Owners shall have any right to demand or receive any information, report, or document from Manager or Trustee. Without limiting the foregoing, no Beneficial Owner shall have the right under this Trust Agreement to receive, review, copy or inspect any list of Beneficial Owners or any identifying information with regard to Beneficial Owners, whether or not requested, and Manager shall not have any obligation to provide such information. Notwithstanding anything to the contrary contained herein or the Statutory Trust Act, a Beneficial Owner or group of Beneficial Owners shall not have any of the rights to information or other rights set forth in Section 3819 of the Statutory Trust Act.

## **7. DISTRIBUTIONS AND REPORTS.**

7.1 **Good Faith Reliance.** Neither Trustee nor Manager shall incur any liability to anyone in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper reasonably and in good faith believed by such Person to be genuine and signed by the proper party or parties thereto. As to any fact or matter, the manner of ascertainment of which is not specifically described herein, Trustee and Manager may for all purposes hereof rely on a certificate, signed by or on behalf of the Person executing such certificate, as to such fact or matter, and such certificate shall constitute full protection of Trustee and Manager for any action taken or omitted to be taken by them in good faith in reliance thereon, and Trustee and Manager may conclusively rely upon any certificate furnished to such Person that on its face conforms to the requirements of this Trust Agreement. Trustee, Beneficial Owner and Manager shall not be liable to the Trust or to another trustee or Beneficial Owner or to another person that is a party to or is otherwise bound by the Trust Agreement for breach of fiduciary duty for Trustee's or Beneficial Owner's or Manager's good faith reliance on the provisions of the Trust Agreement. For all purposes of this Trust Agreement, Trustee shall be fully protected in relying upon the most recent Ownership Records delivered to it by Manager.

7.2 **No Representations or Warranties as to Certain Matters.** Neither Trustee nor Manager makes any representation or warranty as to the validity or enforceability of Transaction Documents or as to the correctness of any statement contained in any thereof, except as expressly made by Trustee or Manager in its individual capacity. Each of Trustee and Manager represents and warrants to Beneficial Owners that it has authorized, executed and delivered the Trust Agreement.

### **7.3 Agents and Counsel.**

(a) Each of Trustee and Manager may (i) exercise its powers and perform its duties by or through such attorneys and agents as it shall appoint with due care, and it shall not be liable for the acts or omissions of such attorneys and agents; and (ii) consult with counsel, accountants and other experts, at the expense of the Trust, and shall be entitled to rely upon the advice of counsel, accountants and other experts selected by it in good faith and shall be protected by the advice of such counsel and other experts in anything done or omitted to be done by it in accordance with such advice. In particular, no provision of this Trust Agreement shall be deemed to impose any duty on Trustee or Manager to take any action if such Person shall have been advised by counsel that such action may involve it in personal liability or is contrary to the terms hereof or to applicable law. Any agent so appointed by Trustee or Manager shall comply with the scope and terms of the delegation but shall not be deemed to act in a fiduciary capacity on behalf of the Trust.

(b) Conflicts of interest may arise by virtue of the power to hire agents granted to Trustee and Manager in this Trust Agreement. Trustee and Manager are therefore expressly exempted from the adverse operation of any rule of law that might otherwise apply to Trustee or Manager in the performance of its duties by reason of conflict of interest. Notwithstanding any duty otherwise existing hereunder or at law or in equity, neither Trustee nor Manager shall have any greater burden to justify its acts by reason of conflict of interest than it would have in the absence of any conflict. For avoidance of doubt, each of Trustee and Manager is authorized to enter into transactions with, and to retain the services of, any entity affiliated with Trustee or Manager, as the case may be, upon such terms and conditions as Trustee or Manager, as the case may be, deems advisable. In such instances, the affiliated entity shall be entitled to receive fees or other compensation from the Trust Estate or any trust without any reduction of the fees which Trustee or Manager shall be otherwise entitled to receive from the Trust Estate or any trust.

8. **TERMINATION.** The Trust shall not have perpetual existence and instead shall be dissolved and wound up by the Manager in accordance with Section 3808 of the Statutory Trust Act as soon as practicable following the first to occur of (i) the repayment in full of the Loan and payment in full of all other obligations under the Transaction Documents or (ii) Maturity Date. Upon the completion of the dissolution and winding up of the Trust, the Certificate of Trust shall be cancelled by Trustee who, upon direction by Manager, and at the expense of the Trust, shall execute and cause a certificate of cancellation to be filed in the office of the Secretary of State.

## **9. MISCELLANEOUS.**

9.1 **Limitations on Rights of Others; Third-Party Beneficiaries.** Nothing in this Trust Agreement, whether express or implied, shall give to any Person other than Depositor, Trustee, Manager, Beneficial Owners, and the Trust any legal or equitable right, remedy or claim hereunder, and this Trust Agreement shall not confer any rights or remedies on any individual other than the parties hereto and their respective successors and permitted assigns.

9.2 **Successors and Assigns.** All covenants and agreements contained herein shall be binding upon and inure to the benefit of Depositor, Trustee, Manager, Beneficial Owners, the Trust, and their heirs, personal representatives, successors and assigns, all as herein provided. Any request, notice, direction, consent, waiver or other writing or action by any such Person shall bind its heirs, personal representatives, successors and assigns.

9.3 **Usage of Terms; Headings.** With respect to all terms in this Trust Agreement, the singular includes the plural and the plural includes the singular; words importing any gender include the other gender; references to "writing" include printing, typing, lithography and other means of reproducing words in a visible form; references to agreements and other contractual instruments

include all subsequent amendments thereto or changes therein entered into in accordance with their respective terms and not prohibited by this Trust Agreement; references to Persons include their successors and permitted assigns; the term “*including*” means including without limitation; and the terms “*Article*” or “*Section*” mean an article or section, respectively, of this Trust Agreement, unless otherwise specified; and the term “*Exhibit*” means an exhibit attached to this Trust Agreement, unless otherwise specified. The headings of the various Articles and Sections herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

- 9.4 Amendments. This Trust Agreement may be supplemented or amended by Manager as determined solely by Manager and will not require the consent of Beneficial Owners; provided, however, that without the written consent of Trustee in its individual capacity, no such supplement or amendment shall be enforceable against Trustee in its individual capacity to the extent such supplement or amendment affects Trustee in its individual capacity.
- 9.5 Notices. All notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof shall be in writing, and given by (i) overnight courier, or (ii) hand delivery and shall be deemed to have been duly given when received. Notices shall be provided to the parties at the addresses specified on the first page of this Trust Agreement; provided, however, if such notice is to a Beneficial Owner, it shall be provided at such Person’s address as specified in the most recent Ownership Records. From time to time Depositor, Trustee, or Manager may designate a new address for purposes of notice hereunder by notice to the others, and any Beneficial Owner may designate a new address for purposes of notice hereunder by notice to Manager.
- 9.6 Governing Law; Venue; Jury Trial Waiver. This Trust Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware (without regard to conflict of law principles). The laws of the State of Delaware pertaining to trusts (other than the Statutory Trust Act) shall not apply to this Trust Agreement. Any legal proceeding concerning interpretation or enforcement of any provision of this Trust Agreement shall be venued exclusively in the State of Delaware. Depositor, Beneficial Owners, Manager and Trustee each hereby waive trial by jury in any action, proceeding or counterclaim brought by any of the parties hereto on any matters whatsoever arising out of or in any way connected with this Trust Agreement, or in connection with any emergency statutory or any other statutory remedy.
- 9.7 Counterparts. This Trust Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.
- 9.8 Severability. Any provision of this Trust Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction only, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, each of the parties hereby waives any provision of applicable law that renders any such provision prohibited or unenforceable in any respect.

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**EXHIBIT A**

**FORM OF BENEFICIAL OWNERSHIP CERTIFICATE**

THIS BENEFICIAL OWNERSHIP CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR WITH ANY SECURITIES REGULATORY AUTHORITY IN ANY JURISDICTION. THIS BENEFICIAL OWNERSHIP CERTIFICATE MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF UNLESS REGISTERED, OTHER THAN PURSUANT TO AN EXEMPTION FROM OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND APPLICABLE SECURITIES LAWS. TRANSFER OF A BENEFICIAL INTEREST IN THE TRUST, OR OF ANY RIGHT, TITLE OR INTEREST THEREIN, SHALL OCCUR IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE TRUST AGREEMENT AND ONLY UPON AND BY VIRTUE OF THE ENTRY OF SUCH TRANSFER IN THE OWNERSHIP RECORDS OF THE TRUST. THIS BENEFICIAL OWNERSHIP CERTIFICATE IS NON-TRANSFERABLE AND MAY NOT BE NEGOTIATED, ENDORSED OR OTHERWISE TRANSFERRED TO A HOLDER.

**JACKSONVILLE SHIPYARDS DEFEASANCE TRUST, DST  
BENEFICIAL OWNERSHIP CERTIFICATE**

No. [\_\_\_\_\_]

Jacksonville Shipyards Defeasance Trust, DST, a statutory trust organized under the laws of the State of Delaware (the "Issuer"), certifies that [\_\_\_\_\_] is the owner of a Beneficial Interest equal to [\_\_\_\_\_] % ([\_\_\_\_\_] percent) of the interest in the Issuer, issued pursuant to the Trust Agreement dated as of [\_\_\_\_\_] , 20[\_\_\_] (as may be amended or supplemented from time to time, the "Trust Agreement") by and among [\_\_\_\_\_], as Depositor, Jacksonville Shipyards Trust Manager, LLC, as Manager, and [\_\_\_\_\_], as Trustee.

All capitalized terms used in this Beneficial Ownership Certificate and not defined herein shall have the meanings assigned to such terms in the Trust Agreement. Reference is made to the Trust Agreement and any agreements supplemental thereto for a statement of the respective rights and obligations thereunder of Depositor, Manager, Trustee, and Beneficial Owners. This Beneficial Ownership Certificate is subject to all terms of the Trust Agreement.

This Beneficial Ownership Certificate shall in all respects be governed by, and construed in accordance with, the laws of the State of Delaware.

By accepting this Beneficial Ownership Certificate, the holder hereof hereby acknowledges and agrees that in its capacity as a Beneficial Owner it lacks the ability to (i) seek a partition of the Trust's assets, (ii) file a voluntary bankruptcy petition on behalf of the Trust, (iii) institute against, or join any other Person in instituting against, the Trust, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding or other proceedings under any applicable insolvency law, or (iv) transfer its Beneficial Interests except as expressly permitted under the terms of the Trust Agreement.

IN WITNESS WHEREOF, the Issuer has caused this Beneficial Ownership Certificate to be signed manually by Manager in accordance with the terms of the Trust Agreement.

Date:

**JACKSONVILLE SHIPYARDS DEFEASANCE TRUST, DST**  
a Delaware statutory trust

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[SEE REVERSE SIDE]

**EXHIBIT B**  
**CERTIFICATE OF TRUST**  
**OF**  
**JACKSONVILLE SHIPYARDS DEFEASANCE TRUST, DST**

(COPY TO BE ATTACHED)