

LINCOLN COUNTY, NV

2024-167269

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FIRST AMERICAN TITLE INSURANCE COMPANY \$28 AK

OFFICIAL RECORD

AMY ELMER, RECORDER

APN(s): 008-261-09  
008-261-23

NCS-1187261, 1180060, 1187261A  
Recording Requested by:

Ullico Infrastructure Estuary HoldCo, LLC  
c/o Ullico Infrastructure Management Company,  
LLC  
8304 Colesville Road  
Silver Spring, MD 20910  
Attention: Stephen Bellotti

The undersigned hereby affirms that this document, including any exhibits, submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)

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

**NOTE TO RECORDER: THIS INSTRUMENT IS TO BE INDEXED AS BOTH A DEED OF TRUST AND A FINANCING STATEMENT FILED AS A FIXTURE FILING. A REPRODUCTION OF THIS INSTRUMENT IS SUFFICIENT AS A FINANCING STATEMENT. THIS INSTRUMENT COVERS GOODS WHICH ARE OR ARE TO BECOME FIXTURES ON THE REAL/IMMOVABLE PROPERTY DESCRIBED HEREIN, AND IT IS TO BE FILED FOR RECORD AS A FINANCING STATEMENT FILED AS A FIXTURE FILING IN THE REAL ESTATE RECORDS OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.**

**THE FOLLOWING NOTICE IS MADE PURSUANT TO NRS 106.360(2): THIS DEED OF TRUST SECURES FUTURE ADVANCES. THE MAXIMUM AMOUNT OF PRINCIPAL (AS DEFINED IN NRS 106.345) TO BE SECURED BY THIS DEED OF TRUST IS THREE HUNDRED THIRTY FIVE MILLION DOLLARS.**

**THIS DEED OF TRUST SHALL BE GOVERNED BY THE PROVISIONS OF NRS 106.300 THROUGH 106.400, INCLUSIVE. FUNDS DISBURSED THAT, IN THE REASONABLE EXERCISE OF BENEFICIARY'S JUDGMENT, ARE NEEDED TO COMPLETE IMPROVEMENTS TO PROPERTY OR TO PROTECT BENEFICIARY'S SECURITY ARE TO BE DEEMED OBLIGATORY ADVANCES HEREUNDER AND WILL BE ADDED TO THE INDEBTEDNESS SECURED BY THIS DEED OF TRUST AND THE INDEBTEDNESS SHALL BE INCREASED ACCORDINGLY.**

This **DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING**, dated as of July 19, 2024 (as it may be amended, supplemented or otherwise modified, this "**Deed of Trust**"), by and from **ESCAPE SOLAR LLC**, a Delaware limited liability company, with an address at c/o Estuary Power LLC, 50 West Liberty Street, Suite 430, Reno, Nevada, 89501, Attention: Jill Daniel, as trustor, ("**Trustor**") to **FIRST AMERICAN TITLE INSURANCE COMPANY**, with an address at 8311 W Sunset Road, Suite 100, Las Vegas, NV 89113, as trustee, (together with its successors and assigns, in such capacity, "**Trustee**"), in favor of **ULLICO INFRASTRUCTURE ESTUARY HOLDCO, LLC**, a Delaware limited liability company, as beneficiary (together with its successors and assigns in such capacity, "**Beneficiary**"), with an address at c/o Ullico Infrastructure Management Company, LLC, 8304 Colesville Road, Silver Spring, MD, 20910, Attention: Stephen Bellotti.

#### **RECITALS:**

**WHEREAS**, reference is made to that certain Credit Agreement, dated as of July 19, 2024 (as amended, modified, supplemented, restated, amended and restated and in effect from time to time, the "**Credit Agreement**") by and between Escape Solar MM LLC, a Delaware limited liability company, as borrower ("**Borrower**") and Beneficiary, as lender, pursuant to which promissory notes may be issued evidencing the Loans (together with any additional notes issued under the Credit Agreement, the "**Notes**"). Capitalized terms not specifically defined in this Deed of Trust have the meanings ascribed to them in the Credit Agreement;

**WHEREAS**, Trustor is a wholly owned subsidiary of Borrower and is a direct or indirect beneficiary of the issuance of the Notes issued and Loans made under the Credit Agreement;

**WHEREAS**, it is a requirement of the Credit Agreement and a condition to the issuance of the Notes that Trustor executes and delivers this Deed of Trust;

**WHEREAS**, THE TRUSTOR IS PROVIDING COLLATERAL SECURITY SECURED BY THIS DEED OF TRUST FOR THE CREDIT IN THE INITIAL PRINCIPAL SUM OF SEVENTY FIVE MILLION DOLLARS WITH FUTURE ADVANCES OF UP TO THREE HUNDRED THIRTY FIVE MILLION DOLLARS BASED ON THE OBLIGATIONS UNDER THE CREDIT AGREEMENT.

**NOW, THEREFORE**, in consideration of the premises and the agreements, the receipt and sufficiency whereof are hereby acknowledged by Trustor in order to secure the Obligations, provisions and covenants herein contained, Beneficiary, Trustee, and Trustor agree as follows:

#### **AGREEMENT:**

##### **I. Grant in Trust and Secured Obligations**

1.1 **Grant in Trust.** For the purpose of securing payment and performance of the Secured Obligations defined and described in Section 1.2, Trustor hereby irrevocably and unconditionally grants, conveys, transfers and assigns to Trustee, in trust with power of sale for the benefit of the Beneficiary, with right of entry and possession, all estate, right, title and interest which Trustor now

has or may later acquire in and to the following property (all or any part of such property, or any interest in all or any part of it, as the context may require, the **"Property"**):

(a) The Trustor's fee, easement, and other interests in the real property located in the County of Lincoln, State of Nevada, as described in **Exhibit "A"** attached hereto and incorporated herein by this reference (together with all existing and future easements appurtenant to such property, the **"Land"**); together with

(b) All buildings, structures and improvements now located or later to be constructed on the Land (the **"Improvements"**); together with

(c) All existing and future easements, rights-of-way, rights of entry, appurtenances, privileges, franchises, and tenements of the Land, and any land lying in the streets, roads or avenues, open or proposed, in front of or adjoining the Land and Improvements and in any rights-of-way, rights of ingress or egress or other interests in such land; together with

(d) All existing and future leases, subleases, licenses, occupancy agreements and concessions (**"Leases"**), relating to the use and enjoyment of all or any part of the Land and Improvements, and any and all guaranties and other agreements relating to or made in connection with any of such leases; together with

(e) All real property and improvements on it, and all appurtenances and other property and interests of any kind or character, whether described in **Exhibit A** or not, hereafter acquired by Trustor which may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Land and Improvements; together with

(f) All Goods (as such term is defined in the Uniform Commercial Code), materials, supplies, chattels, furniture, Fixtures (as such term is defined in the Uniform Commercial Code), Equipment (as such term is defined in the Uniform Commercial Code) and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Land and Improvements, whether stored on the Land or elsewhere, including, without limitation, all solar energy generating facilities, solar arrays, energy storage systems, and other facilities related to the harnessing, generation, or storage of solar energy, together with associated structure and foundations; underground and/or overhead distribution, collection, generation-tie, and transmission lines; underground and/or overhead controls, communications and radio relay systems and telecommunications equipment; battery energy storage facilities; interconnection and/or switching facilities, circuit breakers, combiner and recombiner boxes, disconnects, meters, transformers; substations; utility lines and installations, cables, wires, fiber, conduit, footings, foundations, equipment pads, towers, poles, crossarms, guy lines and anchors; inverters; safety protection devices and facilities, including equipment grounding systems; solar monitoring devices and other weather measurement devices, monitoring and recording equipment and facilities; roads, fencing, and other buildings, structures, and any related or associated fixtures, improvements, facilities, machinery, equipment, appliances and other items, whether temporary or permanent, associated with or incidental to any of the foregoing or to the generation, conversion, storage, switching, metering, step-up, step-down, transmission, conducting, wheeling, monitoring, recording, measuring, sale or other use or conveyance of electricity, now or in the future located upon or within the Land, and related facilities, engines, pipes and ditches, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Deed of Trust; together with

(g) All building materials, equipment, work in process or other personal property of any kind, whether stored on the Land or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Land or Improvements; together with

(h) All of Trustor's interest in and to any accounts, including, without limitation, any Deposit Accounts (as such term is defined in the Uniform Commercial Code), Financial Assets (as such term is defined in the Uniform Commercial Code), money, securities and other property now or hereafter held or established hereunder or under the Loan Documents or the Collateral Documents; together with

(i) All rights to the payment of money, Accounts (as such term is defined in the Uniform Commercial Code), reserves, deferred payments, refunds, discounts or other cost savings, payments and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) or deposited by Trustor with third parties (including all utility deposits), contract rights, General Intangibles (as such term is defined in the Uniform Commercial Code), development and use rights, governmental permits and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, Chattel Paper (as such term is defined in the Uniform Commercial Code), Electronic Chattel Paper (as such term is defined in the Uniform Commercial Code), Instruments (as such term is defined in the Uniform Commercial Code), Documents (as such term is defined in the Uniform Commercial Code), notes, drafts, letters of credit (other than letters of credit in favor of the Beneficiary), Letter-of-Credit Rights (as such term is defined in the Uniform Commercial Code) and Payment Intangibles (as such term is defined in the Uniform Commercial Code) which arise from or relate to construction on the Land or to any business now or later to be conducted on it, or to the Land and Improvements generally; together with

(j) All contracts, leases, consents or other agreements of every kind or nature affecting the use, occupancy or ownership of the Land, the Project, the Improvements, or any other of the Property, and as expressly provided herein or in NRS Chapter 107A, the Nevada Uniform Assignment of Rents Act, the right to receive and apply the rents, issues, profits, products, income and royalties of the Property to the payment of the Secured Obligations secured hereby; together with

(k) All proceeds, and all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, Improvements or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Land, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud or concealment of a material fact; together with

(l) All books and records pertaining to any and all of the property described above, including computer-readable memory and any computer hardware or software necessary to access and process such memory ("**Books and Records**"); together with

(m) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above; together with

(n) All advance payments of insurance premiums made by Trustor with respect to the Project or other Property and any claims of loss or demands of defense under any property or title insurance policy in which Trustor is named as an insured; together with

(o) All applicable approvals and permits of every kind or nature affecting the use, occupancy or ownership of the Land, the Project or the Improvements.

1.2 Secured Obligations.

(a) Trustor makes the grant, conveyance, transfer and assignment set forth in Section 1.1 and grants the security interest set forth in Article III for the purpose of securing the following obligations (the "**Secured Obligations**") in any order of priority that the Beneficiary may choose pursuant to the Credit Agreement:

(i) Payment to the Beneficiary of all indebtedness of Trustor to the Beneficiary and performance of all obligations of Trustor evidenced by or arising under the Loan Documents, including, without limitation, (1) modifications of the required principal and/or interest payment dates, deferring or accelerating said payment dates in whole or in part, (2) modifications, extensions or renewals at a different rate of interest, and/or (3) modifications or additional amounts advanced and/or re-advanced under the Credit Agreement and the other Loan Documents, whether or not any such modification, addition, extension or renewal is evidenced by amendments to such Credit Agreement and the other Loan Documents or by a new or additional promissory note or notes;

(ii) Payment of such further sums and/or performance of such further obligations as Trustor may undertake to pay and/or perform (whether as principal, surety or guarantor) for the benefit of the Beneficiary and its successors or assigns, when said borrowing and/or obligation is evidenced by a writing or writings signed by Trustor or the then record owner of the Property, as applicable, reciting that it or they are secured by this Deed of Trust;

(iii) Performance of each agreement of Trustor herein contained or incorporated herein by reference and payment of each fee, cost and expense by Trustor as herein set forth; and

(iv) The observance and performance by Trustor of each covenant and obligation on the part of Trustor to be observed or performed pursuant to all other documents now or hereafter executed by Trustor, if any, in connection with or to evidence or secure the Secured Obligations and any interest, costs and other charges associated therewith.

(b) All persons who may have or acquire an interest in all or any part of the Property will be considered to have notice of the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations. Such terms include any provisions in the Credit Agreement which permit borrowing, repayment and reborrowing, or which provide that the interest rate on one or more of the Secured Obligations may vary from time to time.

## **II. Assignment of Rents**

2.1 **Assignment.** Trustor hereby irrevocably, absolutely, presently and unconditionally assigns to the Beneficiary all of its interest in rents, royalties, issues, profits, revenue, income and proceeds of the Property, whether now due, past due or to become due, including all prepaid rents (collectively, as the context may require, “Rents”). This is an absolute assignment and an “Assignment of rents,” as defined in NRS 107A.040, for the purpose of NRS 107A.230 and not an assignment for security only.

2.2 **Grant of License.** The Beneficiary hereby confers upon Trustor a license (“License”) to collect and retain the Rents as they become due and payable, so long as no Event of Default, as defined in Section 6.1, shall exist and be continuing. If an Event of Default has occurred and is continuing, the Beneficiary shall have the right, which it may choose to exercise in its sole discretion, to terminate this License without notice to or demand upon Trustor, and without regard to the adequacy of the Beneficiary’s security under this Deed of Trust (any such notice being hereby expressly waived by Trustor to the extent permitted by applicable law).

2.3 **Collection and Application of Rents.** Subject to the License granted to Trustor under Section 2.2, the Beneficiary has the right, power and authority to collect any and all Rents. Trustor hereby appoints the Beneficiary its attorney-in-fact to perform any and all of the following acts, if and at the times when the Beneficiary in its sole discretion may so choose, but in each case, only to the extent that an Event of Default has occurred and is continuing:

- (a) Demand, receive and enforce payment of any and all Rents;
- (b) Give receipts, releases and satisfactions for any and all Rents; or
- (c) Sue either in the name of Trustor or in the name of the Beneficiary for any and all Rents.

The Beneficiary’s right to the Rents does not depend on whether or not the Beneficiary takes possession of the Property as permitted under Section 6.2(c). In the Beneficiary’s sole discretion, the Beneficiary may choose to collect Rents either with or without taking possession of the Property. The Beneficiary shall apply all Rents collected by it in the manner provided under Section 6.5. If an Event of Default occurs while the Beneficiary is in possession of all or part of the Property and is collecting and applying Rents as permitted under this Deed of Trust, the Beneficiary, Trustee and any receiver shall nevertheless be entitled during the continuance of such Event of Default to exercise and invoke every right and remedy afforded any of them under this Deed of Trust and at law or in equity, including the right to exercise the power of sale granted under Section 1.1 and Section 6.2(g), and the right to have a receiver appointed and any other rights and remedies under NRS Chapter 107A, including, without limitation, those specified in NRS 107A.260 (enforcement by appointment of receiver), NRS 107A.270 (enforcement by notification to assignor) and 107A.280 (enforcement by notification to tenant) or any other method sufficient to enforce the assignment under law of Nevada other than NRS Chapter 107A, (in all of the foregoing circumstances, as any relevant part of the NRS may be amended or recodified from time to time).

2.4 **Beneficiary Not Responsible.** Under no circumstances shall the Beneficiary have any duty to produce Rents from the Property. Regardless of whether or not the Beneficiary, in person or

by agent, takes actual possession of the Land and Improvements, the Beneficiary is not and shall not be deemed to be:

- (a) A “mortgagee in possession” for any purpose;
- (b) Responsible for performing any of the obligations of the lessor under any lease;
- (c) Responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair or control of the Property; or
- (d) Liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it.

2.5 **Bankruptcy Provisions.** Without limitation of the absolute nature of the assignment of the Rents hereunder, Trustor, 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 Trustor acquired before the commencement of a case in bankruptcy and to all amounts paid as Rents and (c) such security interest shall extend to all Rents acquired by the estate after the commencement of any case in bankruptcy.

### **III. Grant of Security Interest**

3.1 **Security Agreement.** The parties intend for this Deed of Trust to transfer title to that portion of the Property constituting real property under applicable law, and to create a lien on that portion of the Property constituting personal property or fixtures under applicable law and an absolute assignment of the Rents pursuant to the Nevada Uniform Assignment of Rents Act, NRS Chapter 107A, all in favor of the Beneficiary. The parties acknowledge that some of the Property and some or all of the Rents may be determined under applicable law to be personal property or fixtures. To the extent that any Property or Rents may be or be determined to be personal property (collectively, the “**Personal Property**”), for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and for the purpose of further securing payment and performance of the Secured Obligations, Trustor as debtor hereby grants the Beneficiary as secured party security interest and lien in all of Trustor’s right, title and interest in and to all such Personal Property, and all rights, titles, and interests now owned or hereafter acquired by Trustor in all Personal Property, Fixtures (as such term is defined in the Uniform Commercial Code) and other personal property collateral constituting a part of the Property. This Deed of Trust constitutes a “security agreement”, as defined in Section 9102 of the Uniform Commercial Code (NRS 104.9102(1)), covering all such Personal Property. Trustor represents and warrants that, except for the Permitted Liens and any financing statement filed by Beneficiary, no presently effective financing statement covering Trustor’s right, title or interest in the Personal Property or Fixtures (as such term is defined in the Uniform Commercial Code) or any part thereof, has been filed with any filing officer, and no other security interest has attached or has been perfected in Trustor’s right, title or interest in the Personal Property or Fixtures (as such term is defined in the Uniform Commercial Code) or any part thereof.

3.2 **Financing Statements.** Trustor shall execute such documents as the Beneficiary may from time to time reasonably require to perfect, extend, maintain, preserve or continue the perfection

of the Beneficiary's security interest in any Property or Rents. As provided in Section 5.10, Trustor shall pay all fees and costs that the Beneficiary may incur in filing such documents in public offices and in obtaining such record searches as the Beneficiary may reasonably require. In case Trustor fails to execute any such documents for the perfection or continuation of any security interest, Trustor hereby appoints the Beneficiary as its true and lawful attorney-in-fact to execute any such documents on its behalf. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall never be construed as in any way derogating from or impairing this Deed of Trust or the rights or obligations of the parties under it. Trustor hereby authorizes Beneficiary to file a Record or Records, including financing or continuation statements, intellectual property security agreements and amendments thereto, in any jurisdictions and with any filing offices as the Beneficiary may reasonably determine, are necessary or advisable to perfect the security interest granted to the Beneficiary herein.

#### **IV. Fixture Filing.**

This Deed of Trust constitutes a fixture filing under Sections 9334 and 9502 of the Uniform Commercial Code (NRS 104.9334 and 104.9502), as the same may be modified and recodified from time to time, covering any and all Property which now is or later may become fixtures attached to the Land or the Improvements. The filing shall remain in effect as a fixture filing until the date this Deed of Trust is released or satisfied of record or its effectiveness otherwise terminates as to the Property. Beneficiary shall have all the rights with respect to the Fixtures afforded to it by the Uniform Commercial Code, in addition to, but not in limitation of, the other rights afforded Beneficiary by the Loan Documents. The following information is included for purposes of meeting the requirements of a financing statement:

1. The name of the Debtor is: Escape Solar LLC
2. The mailing address of the Debtor is:  
  
50 West Liberty Street  
Suite 430  
Reno, Nevada 89501  
Attention: Jill Daniel
3. Debtor's organizational ID number is: 7456897
4. The name of the Secured Party is: Ullico Infrastructure Estuary HoldCo, LLC
5. The address of the Secured Party for the purposes of obtaining information is:  
  
c/o Ullico Infrastructure Management Company, LLC  
8304 Colesville Road  
Silver Spring, MD 20910  
Attention: Stephen Bellotti

This financing statement covers any and all Property which now is or later may become fixtures attached to the Land or the Improvements (whether now owned or hereafter acquired), including (i) goods which are or are to become Fixtures on the Land, (ii) minerals or the like



(including, without limitation, geothermal, oil, and gas) located on the Land, (iii) the Personal Property, and (iv) all proceeds and products of the Personal Property and Fixtures.

## **V. Rights and Duties of the Parties**

5.1 **Representations and Warranties.** Trustor represents and warrants that:

(a) Trustor holds a valid fee or easement interest in the Land, free and clear of all Liens, encumbrances, or other exceptions to title other than the Permitted Liens;

(b) Trustor has good title to all material Personal Property that Trustor purports to own (including the material Personal Property comprising the Project), free and clear of all Liens, encumbrances or other exceptions to title other than the Permitted Liens; and

(c) Trustor's place of business, or its chief executive office if it has more than one place of business, is located at the address set forth in Section 7.12 below.

5.2 **Taxes and Assessments.** Trustor shall perform its obligations with respect to the payment of taxes in accordance with the requirements of the Credit Agreement.

5.3 **Liens, Charges and Encumbrances.** Trustor shall take, or cause to be taken, all action required pursuant to the Credit Agreement with respect to the maintenance and preservation of the Liens created by this Deed of Trust and the priority of such Liens, and with respect to any discharge or removal of any Lien on the Property other than the Permitted Liens.

5.4 **Damages and Insurance and Condemnation Proceeds.** All proceeds of a casualty received by Trustor or any agent in respect of all or any part of the Project shall be handled and applied in accordance with the Credit Agreement.

5.5 **Maintenance and Preservation of Property.** Trustor shall insure and maintain the Property as required by the Credit Agreement.

5.6 **Trustee's Acceptance of Trust.** Trustee accepts this trust when this Deed of Trust is recorded in the Official Records of Clark County.

5.7 **Releases, Extensions, Modifications and Additional Security.**

(a) Subject to the Credit Agreement, from time to time, the Beneficiary may perform any or all of the following acts without incurring any liability or giving notice to any person:

(i) Release any person liable for payment of any Secured Obligation;

(ii) Extend the time for payment, or otherwise (at Trustor's request or with Trustor's consent) alter the terms of payment, of any Secured Obligation;

(iii) Accept additional real or personal property of any kind as security for any Secured Obligation, whether evidenced by deeds of trust, mortgages, security agreements or any other instruments of security; or

(iv) Alter or substitute (in each case at Trustor's request or with Trustor's consent), or release, any property securing the Secured Obligations.

(b) From time to time when requested to do so by the Beneficiary in writing, Trustee may perform any of the following acts without incurring any liability or giving notice to any person:

- (i) Consent to the making of any plat or map of the Property;
- (ii) At Trustor's request or with Trustor's consent, join in granting any easement or creating any restriction affecting the Property;
- (iii) Join in any subordination or other agreement affecting this Deed of Trust or the lien of it; or
- (iv) Reconvey the Property or any part of it without any warranty.

5.8 Reconveyance. Upon the date on which all applicable requirements under the Credit Agreement are met, the Beneficiary shall request Trustee in writing to reconvey the Property, and shall surrender this Deed of Trust, the Notes, and all other instruments evidencing the Secured Obligations to Trustor. Trustee shall also promptly execute and deliver to Trustor such instrument or instruments as Trustor shall reasonably request (including, without limitation, appropriate UCC termination statements) acknowledging the satisfaction and discharge of the liens and security interests created by this Deed of Trust. When Trustee receives the Beneficiary's written request for reconveyance and all fees and other sums owing to Trustee by Trustor under Section 5.9, Trustee shall reconvey the Property, or so much of it as is then held under this Deed of Trust, without warranty to the person or persons legally entitled to it. Such person or persons shall pay any costs of recordation. In the reconveyance, the grantee may be described as "the person or persons legally entitled thereto," and the recitals of any matters or facts shall be conclusive proof of their truthfulness. Neither the Beneficiary nor Trustee shall have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance.

5.9 Compensation, Exculpation, Indemnification, Waiver of Lien.

(a) Trustor agrees to pay reasonable expenses incurred by the Beneficiary and Trustee for any services that the Beneficiary or Trustee may render, either at the Trustor's request or during the continuance of an Event of Default, in connection with this Deed of Trust, including the Beneficiary's providing a statement or accounting of the Secured Obligations requested by Trustor or any other person entitled pursuant to NRS Sections 107.200 to NRS 107.311, inclusive, or any other provision of applicable law, for any other document furnished to Trustor by the Beneficiary, or Trustee's rendering of services in connection with a reconveyance. Trustor further agrees to pay or reimburse the Beneficiary for all costs, expenses and other advances which may be incurred or made by the Beneficiary or Trustee in any efforts to enforce any terms of this Deed of Trust, including any rights or remedies afforded to the Beneficiary or Trustee or both of them under Section 6.2, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Deed of Trust, including reasonable attorneys' fees and other legal costs, costs of any Foreclosure Sale (as defined in Section 6.2(h)) and any cost of evidence of title. If the Beneficiary chooses to dispose of Property through more than one Foreclosure Sale, Trustor shall pay all costs, expenses or other

advances that may be incurred or made by Trustee or the Beneficiary in each of such Foreclosure Sales.

(b) The Beneficiary shall not be directly or indirectly liable to Trustor or any other person as a consequence of any or all of the following:

(i) The Beneficiary's exercise of or failure to exercise any rights, remedies or powers granted to the Beneficiary in this Deed of Trust;

(ii) The Beneficiary's failure or refusal to perform or discharge any obligation or liability of Trustor under any agreement related to the Property or under this Deed of Trust; or

(iii) Any loss sustained by Trustor or any third party resulting from the Beneficiary's failure to lease the Property, or from any other act or omission of the Beneficiary in managing the Property, after an Event of Default, unless the loss is caused by the gross negligence, willful misconduct or bad faith of the Beneficiary.

Trustor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon the Beneficiary.

(c) To the extent not prohibited by applicable law, Trustor agrees to indemnify, defend and hold harmless the Beneficiary in accordance with the Credit Agreement.

(d) Trustor shall pay all obligations to pay money arising under this Section 5.10 in accordance with the Credit Agreement. Each such obligation shall be added to, and considered to be part of, the principal of the Loans issued under the Credit Agreement, shall bear interest in accordance with the Credit Agreement, and shall be secured by this Deed of Trust.

(e) Environmental Default and Remedies; Waiver of Lien.

(i) In accordance with NRS 40.512, Beneficiary may waive its lien against the Property constituting real collateral to the extent such property is found to be "environmentally impaired" (as defined in NRS 40.503), and may exercise any and all rights and remedies permitted by law of an unsecured creditor against Trustor. No such waiver shall be final or binding on Beneficiary unless and until a final money judgment is obtained against Trustor. As between Beneficiary and Trustor, Trustor shall have the burden of proving that Beneficiary obtained actual knowledge of the environmental impairment at the time the lien was created.

(ii) Without limitation of the foregoing, Beneficiary shall have the rights, privileges and remedies of a lender under NRS 40.507, 40.508 and 40.509 with respect to any "environmental provision" set forth herein or in any other Financing Document.

5.10 Substitution of Trustee. From time to time, the Beneficiary may substitute a successor to any Trustee named in or acting under this Deed of Trust in any manner now or later to be provided at law, or by a written instrument executed and acknowledged by the Beneficiary and recorded in the official records of Clark County. Any such instrument shall be conclusive proof of the proper substitution of the successor Trustee, who shall automatically upon recordation of the instrument

succeed to all estate, title, rights, powers and duties of the predecessor Trustee, without conveyance from it.

5.11 Subrogation. The Beneficiary shall be subrogated to the liens of all encumbrances, whether released of record or not, which are discharged in whole or in part by the Beneficiary in accordance with this Deed of Trust or with the proceeds of any loan secured by this Deed of Trust.

## **VI. Defaults and Remedies**

6.1 Events of Default. Trustor will be in default under this Deed of Trust upon the occurrence of any Event of Default under Section 7.01 of the Credit Agreement (collectively, “**Events of Default**” or individually, an “**Event of Default**”).

6.2 Remedies. At any time after the occurrence of and during the continuance of an Event of Default, the Beneficiary (and Trustee at the request and direction of the Beneficiary) shall be entitled to invoke any and all of the following rights and remedies:

(a) Acceleration. The Beneficiary may declare any or all of the Secured Obligations to be due and payable immediately in accordance with the terms of the Credit Agreement, without further notice, presentment, protest, notice of intent to accelerate, notice of acceleration, demand or action of any nature whatsoever (each of which hereby is expressly waived by Trustor), whereupon the same shall become immediately due and payable.

(b) Receiver. As a matter of right without regard to the adequacy of the security or solvency or insolvency of Trustor, and to the extent permitted by applicable law, the Beneficiary may apply to any court of competent jurisdiction for, and obtain appointment of, a receiver for the Property, and Trustor irrevocably consents to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Property upon such terms as may be approved by the court, and shall apply such Rents in accordance with the provisions of Section 6.5.

(c) Entry. The Beneficiary, in person, by agent or by court-appointed receiver, may enter, take exclusive possession of, manage and operate all or any part of the Property, and may also do any and all other things in connection with those actions that the Beneficiary may in its sole discretion consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include: taking and possessing all of Trustor’s or the then owner’s Books and Records; entering into, enforcing, modifying, or canceling the Leases or the Ground Leases on such terms and conditions as the Beneficiary may consider proper; obtaining and evicting tenants; fixing or modifying Rents; collecting and receiving any payment of money owing to Trustor; completing any unfinished construction; and/or contracting for and making repairs and alterations. If the Beneficiary so requests, Trustor shall assemble all of the Property that has been removed from the Land and make all of it available to the Beneficiary at the site of the Land. Trustor hereby irrevocably constitutes and appoints the Beneficiary as Trustor’s attorney-in-fact to perform such acts and execute such documents as the Beneficiary in its sole discretion may consider to be appropriate in connection with taking these measures, including endorsement of Trustor’s name on any instruments. Regardless of any provision of this Deed of Trust or the Credit Agreement, the Beneficiary shall not be considered to have accepted any property other than cash or immediately available funds in satisfaction of any obligation of Trustor to the Beneficiary, unless the Beneficiary has given express written notice of the

Beneficiary's election of that remedy in accordance with Uniform Commercial Code Section 9620 (NRS 104.9620). If Trustor remains in possession of the Property following the occurrence and during the continuance of an Event of Default and without Beneficiary's prior written consent, but subject to applicable law, Beneficiary may invoke any legal remedies to dispossess Trustor.

(d) Cure; Protection of Security. Either the Beneficiary or Trustee may cure any breach or default of Trustor, and if it chooses to do so in connection with any such cure, the Beneficiary or Trustee may also enter the Property and/or do any and all other things which it may in its sole discretion consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of the Beneficiary or Trustee under, this Deed of Trust; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien (in each case, other than Permitted Liens) which in the Beneficiary's or Trustee's sole judgment is or may be senior in priority to this Deed of Trust, such judgment of the Beneficiary or Trustee to be conclusive as among the parties to this Deed of Trust; obtaining insurance and/or paying any premiums or charges for insurance required to be carried under the Credit Agreement; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons, at reasonable rates, to assist the Beneficiary or Trustee in its performance of any of the foregoing. The Beneficiary and Trustee may take any of the actions permitted under this Section 6.2(d) either with or without giving notice to any person.

(e) Uniform Commercial Code Remedies. The Beneficiary may exercise any or all of the remedies granted to a secured party under the Uniform Commercial Code.

(f) Judicial Action. The Beneficiary may bring an action in any court of competent jurisdiction to foreclose this instrument or to obtain specific enforcement of any of the covenants or agreements of this Deed of Trust and/or the Credit Documents.

(g) Power of Sale. Under the power of sale granted in this Deed of Trust, the Beneficiary shall have the discretionary right to cause some or all of the Property, including any Property which constitutes Personal Property, to be sold or otherwise disposed of in any combination and in any manner permitted by applicable law;

(i) Sales of Personal Property.

(A) For purposes of this power of sale, the Beneficiary may elect to treat as Personal Property any Property which is intangible or which can be severed from the Land or Improvements without causing structural damage. If it chooses to do so, the Beneficiary may dispose of any Personal Property separately from the sale of Land, in any manner permitted by Part 9 of Article 9 of the Uniform Commercial Code (NRS 104.9601 *et seq.*), including any public or private sale, or in any manner permitted by any other applicable law. Any proceeds of any such disposition shall not cure any Event of Default or reinstate any Secured Obligation;

(B) In connection with any sale or other disposition of such Personal Property, Trustor agrees that the following procedures constitute a commercially reasonable sale: The Beneficiary shall mail written notice of the sale to Trustor not later than forty-five (45) days prior to such sale. Once per week during the four weeks immediately preceding such sale, the Beneficiary will publish notice of the sale in a local daily newspaper of general circulation. Upon

receipt of any written request, the Beneficiary will make the Property available to any bona fide prospective purchaser for inspection during reasonable business hours. Notwithstanding the foregoing, the Beneficiary shall be under no obligation to consummate a sale if. Trustor agrees that the foregoing procedures do not constitute the only procedures that may be commercially reasonable.

(ii) Trustee's Sales of Real Property or Mixed Collateral.

(A) The Beneficiary may choose to dispose of some or all of the Property which consists solely of Land in any manner then permitted by applicable law. In its discretion, the Beneficiary may also or alternatively choose to dispose of some or all of the Property, in any combination consisting of both real and personal property, together in one sale to be held in accordance with the law and procedures applicable to real property, as permitted by Section 9604 of the Uniform Commercial Code (NRS 104.9604). Trustor agrees that such a sale of Personal Property together with real property constitutes a commercially reasonable sale of the Personal Property, but is not the only manner to conduct a commercially reasonable sale. For purposes of this power of sale, either a sale of Land alone, or a sale of both real and personal property together in accordance with Uniform Commercial Code Section 9604 (NRS 104.9604), will sometimes be referred to as a **"Trustee's Sale"**;

(B) Before any Trustee's Sale, the Beneficiary or Trustee shall give such notice of default and election to sell as may then be required by law. When all time periods then legally mandated have expired, and after such notice of sale as may then be legally required has been given, Trustee shall sell the property being sold at a public auction to be held at the time and place specified in the notice of sale. Neither Trustee nor the Beneficiary shall have any obligation to make demand on Trustor before any Trustee's Sale. From time to time in accordance with then applicable law, Trustee may, and in any event at the Beneficiary's request shall, postpone any Trustee's Sale by public announcement at the time and place noticed for that sale;

(C) At any Trustee's Sale, Trustee shall sell to the highest bidder at public auction for cash in lawful money of the United States subject to the provisions of Section 6.3 below. Trustee shall execute and deliver to the purchaser(s) a deed or deeds conveying the property being sold without any covenant or warranty whatsoever, express or implied. The recitals in any such deed of any matters or facts, including any facts bearing upon the regularity or validity of any Trustee's Sale, shall be conclusive proof of their truthfulness. Any such deed shall be conclusive against all persons as to the facts recited in it; and

(h) Single or Multiple Foreclosure Sales. If the Property consists of more than one lot, parcel or item of property, the Beneficiary may:

(i) Designate the order in which the lots, parcels and/or items shall be sold or disposed of or offered for sale or disposition; and

(ii) Except to the extent otherwise required by applicable law, elect to dispose of the lots, parcels and/or items through a single consolidated sale or disposition to be held or made under the power of sale granted in Section 6.2(g), or in connection with judicial proceedings, or by virtue of a judgment and decree of foreclosure and sale; or through two or more such sales or dispositions; or in any other manner the Beneficiary may deem to be in its best interests (any such sale or disposition, a **"Foreclosure Sale"**; any two or more being, **"Foreclosure Sales"**).

If the Beneficiary chooses to have more than one Foreclosure Sale, the Beneficiary at its election may cause the Foreclosure Sales to be held simultaneously or successively, on the same day, or on such different days and at such different times and in such order as the Beneficiary may deem to be in its best interests. No Foreclosure Sale shall terminate or affect the liens of this Deed of Trust on any part of the Property which has not been sold, until all of the Secured Obligations have been paid or satisfied in full. All of the foregoing rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

6.3 Credit Bids. At any Foreclosure Sale, any person, including Trustor, Trustee or the Beneficiary, may bid for and acquire the Property or any part of it to the extent permitted by then applicable law. Instead of paying cash for such property at such Foreclosure Sale, the Beneficiary may settle for the purchase price by crediting the sales price of such property against the Secured Obligations in the same manner as set forth in Section 6.4 below.

6.4 Application of Foreclosure Sale Proceeds. Subject to NRS 40.462, the Beneficiary and Trustee shall apply the proceeds of any Foreclosure Sale in accordance with the terms and conditions of the Credit Agreement.

6.5 Application of Rents and Other Sums. The Beneficiary shall apply any and all Rents collected by it, and any and all sums other than proceeds of a Foreclosure Sale, in accordance with the terms and conditions of the Credit Agreement.

## **VII. Miscellaneous Provisions**

7.1 Additional Provisions. The Credit Agreement provides other terms and conditions of the Borrower and Beneficiary's agreement regarding the matters mentioned in or incidental to this Deed of Trust. The Credit Agreement also grants further rights to the Beneficiary and contains further agreements and affirmative and negative covenants which apply to this Deed of Trust and to the Property.

### 7.2 No Waiver or Cure.

(a) Any waiver by the Beneficiary or Trustee must be in writing to be enforceable, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by the Beneficiary or Trustee to take action on account of any default of Trustor. Consent by the Beneficiary or Trustee to any act or omission by Trustor shall not be construed as a consent to any other or subsequent act or omission or to waive the requirement for the Beneficiary's or Trustee's consent to be obtained in any future or other instance.

(b) If any of the events described below occurs, that event alone shall not: cure or waive any breach, Event of Default or notice of default under this Deed of Trust or invalidate any act performed pursuant to any such default or notice; or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed); or impair the security of this Deed of Trust; or prejudice the Beneficiary, Trustee or any receiver in the exercise of any right or remedy afforded any of them under this Deed of Trust; or be construed as an affirmation by the Beneficiary of any tenancy, lease or option, or a subordination of the lien of this Deed of Trust.

(i) The Beneficiary, its agent or a receiver takes possession of all or any part of the Property in the manner provided in Section 6.2(c).

(ii) The Beneficiary collects and applies Rents as permitted under Sections 2.3 and 6.5, either with or without taking possession of all or any part of the Property.

(iii) The Beneficiary receives and applies to any Secured Obligation any proceeds of any Property, including any proceeds of insurance policies, condemnation awards, or other claims, property or rights assigned to the Beneficiary under Section 5.5.

(iv) The Beneficiary receives any sums under this Deed of Trust or any proceeds of any collateral held for any of the Secured Obligations, and applies them to one or more Secured Obligations.

(v) The Beneficiary, Trustee or any receiver invokes any right or remedy provided under this Deed of Trust.

### 7.3 Powers of the Beneficiary and Trustee.

(a) Trustee shall have no obligation to perform any act which it is empowered to perform under this Deed of Trust unless it is requested to do so in writing and is reasonably indemnified against loss, cost, liability and expense.

(b) If either the Beneficiary or Trustee performs any act which it is empowered or authorized to perform under this Deed of Trust including, without limitation, any act permitted by Section 5.8 or Section 6.2(d), that act alone shall not release or change the personal liability of any person for the payment and performance of the Secured Obligations then outstanding, or the lien of this Deed of Trust on all or the remainder of the Property for full payment and performance of all outstanding Secured Obligations. The liability of the original Trustor shall not be released or changed if the Beneficiary grants any successor in interest to Trustor any extension of time for payment, or modification of the terms of payment, of any Secured Obligation. The Beneficiary shall not be required to comply with any demand by the original Trustor that the Beneficiary refuse to grant such an extension or modification to, or commence proceedings against, any such successor in interest.

(c) The Beneficiary may take any of the actions permitted under Sections 6.2(b) and/or 6.2(c) regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Deed of Trust.

(d) From time to time, the Beneficiary or Trustee may apply to any court of competent jurisdiction for aid and direction in executing the trust and enforcing the rights and remedies created under this Deed of Trust. The Beneficiary or Trustee may from time to time obtain orders or decrees directing, confirming or approving acts in executing this trust and enforcing such rights and remedies.

7.4 Merger. No merger shall occur as a result of the Beneficiary's acquiring any other estate in or any other lien on the Property unless the Beneficiary consents to a merger in writing. Notwithstanding the generality of the foregoing, unless the Beneficiary otherwise consents in writing,



so long as any Secured Obligation remains outstanding, neither the fee title to, nor any other estate or interest in, the Land shall merge notwithstanding the union of such estates in the landlord and the tenant unless the Beneficiary consents to such merger in writing.

7.5 Applicable Law. This Deed of Trust shall be governed by the laws of the State of Nevada without regard to the conflict of laws provisions thereof.

7.6 Successors in Interest. The terms, covenants and conditions of this Deed of Trust shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties.

7.7 Interpretation.

(a) Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the sections of this Deed of Trust are for convenience only and do not define or limit any terms or provisions. The word "include(s)" means "include(s), without limitation," and the word "including" means "including, but not limited to."

(b) The word "obligations" is used in its broadest and most comprehensive sense, and includes all primary, secondary, direct, indirect, fixed and contingent obligations. It further includes all principal, interest, prepayment charges, late charges, loan fees and any other fees and charges accruing or assessed at any time, as well as all obligations to perform acts or satisfy conditions.

(c) No listing of specific instances, items or matters in any way limits the scope or generality of any language of this Deed of Trust.

7.8 Waiver of Marshalling. Trustor waives all rights, legal and equitable, it may now or hereafter have to require marshalling of assets or to require upon foreclosure sales of assets in a particular order, including any rights provided by NRS 100.040 and 100.050, as such Sections may be amended or recodified from time to time. Each successor and assign of Trustor, including any holder of a lien subordinate to this Deed of Trust, by acceptance of its interest or lien agrees that it shall be bound by the above waiver, as if it had given the waiver itself.

7.9 Additional Waivers. Except to the extent not permitted by law, Trustor hereby expressly waives the following:

(a) any right to require the Beneficiary or Trustee to (i) proceed against any person or entity, (ii) proceed against or exhaust any Property, or (iii) pursue any other remedy in its power;

(b) any rights or defenses it may now or hereafter have by reason of or that relate to any Secured Obligation or other obligation being secured by Land or an estate for years; these rights or defenses include, but are not limited to, any rights, defenses or benefits that are based upon, directly or indirectly, any possible application of NRS 107.025, as modified or recodified from time to time; and

(c) any and all rights of subrogation, reimbursement, indemnification, and contribution and any other rights and defenses that are or may become available to Trustor whether at law or in equity.

7.10 Severability. In case any one or more of the provisions contained in this Deed of Trust should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and the parties hereto shall enter into good faith negotiations to replace the invalid, illegal or unenforceable provision.

7.11 Notices. Trustor hereby requests that a copy of notice of default and notice of sale be mailed by certified mail to it at the address set forth below. That address is also the mailing address of Trustor as debtor under the Uniform Commercial Code. The Beneficiary's address given below is the address for the Beneficiary as secured party under the Uniform Commercial Code.

If to the Beneficiary: Ullico Infrastructure Estuary Holdco, LLC  
c/o Ullico Infrastructure Management Company, LLC  
8304 Colesville Road  
Silver Spring, MD 20910  
Attention: Stephen Bellotti

If to Trustor: Escape Solar LLC  
c/o Escape Power LLC  
50 West Liberty Street, Suite 430  
Reno, Nevada 89501  
Attention: Jill Daniel

If to Trustee: First American Title Insurance Company  
8311 W Sunset Road, Suite 100  
Las Vegas, NV 89113  
Attn: Julie Skinner

7.12 Amendment. Any termination, amendment, supplement, waiver or modification of any term hereof shall be in writing, executed by Trustor and the Beneficiary.

7.13 Third-party Beneficiaries. The parties to this Deed of Trust do not intend to, and this Deed of Trust shall not, confer any benefit hereunder on any party other than the parties hereto and their permitted successors and assigns.

7.14 Effectiveness of this Deed of Trust. This Deed of Trust shall become effective upon the execution and delivery hereof by the parties hereto.

7.15 Waiver of Rights to Trial by Jury. THE PARTIES TO THIS DEED OF TRUST HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS DEED OF TRUST, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF THE PARTIES WITH RESPECT

THERE TO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS DEED OF TRUST.

7.16 Maximum Indebtedness; Future Advances. This Deed of Trust shall secure not only existing indebtedness of Trustor, but also such future advances, whether such advances are obligatory or are to be made at the option of the Beneficiary or otherwise related to or in connection with the Loan Documents, including in connection with any amendment, supplementation, amendment and restatement or other modification to the Loan Documents, as are made by the Beneficiary to Trustor, to the same extent as if such future advances were made on the date of the execution of this Deed of Trust, including (a) any and all additional advances made by the Beneficiary to protect or preserve the Property or the Lien hereof on the Property, or to pay taxes, to pay premiums on insurance on the Property, or to complete the Improvements (whether or not the original Trustor remains the owner of the Property at the time of such advances and whether or not the original Beneficiary and Beneficiary remains the owner of the Loans and this instrument); (b) any and all expenses incident to the collection of the Loans and the foreclosure hereof by action in any court or by exercise of the power of sale herein contained; (c) any and all Loans now owing or which may hereafter be owing by Trustor to the Beneficiary pursuant to the Loan Documents, however and whenever incurred or evidenced, whether direct or indirect, absolute or contingent, due or to become due, together with any and all renewal or renewals and extension or extensions of the Loans; and (d) the full and prompt payment and performance of any and all obligations or covenants of Trustor to the Beneficiary and Beneficiary under the terms of any other agreements, assignments or other instruments now or hereafter evidencing, securing or otherwise relating to the Loans and the Loan Documents.

#### **VIII. Deed of Trust Provisions Applicable to Easement and Leasehold Estates**

The provisions of this Article VIII shall apply so long as, any portion of the Property consists of Trustor's interests as a lessee or an easement holder. Unless otherwise expressly provided, the lien of this Deed of Trust shall encumber all of Trustor's rights and interests under and in connection with any Lease, easement, or similar possessory interest, including, without limitation, renewal and extension rights, options to expand, and purchase options. Trustor hereby agrees, with respect to each Lease or easement, as follows:

8.1 If Trustor acquires fee simple title to any portion of the Land currently subject to a Lease or comprised of an easement interest, this Deed of Trust shall automatically be a lien on such fee simple title.

8.2 Subject to any automatic or required subordination provisions in the applicable Lease or easement instrument, Trustor shall not subordinate any such Lease or easement to any mortgage, deed of trust or other encumbrance of, or lien on, any interest in the Land subject to such easement without the prior written consent of the Beneficiary. Any such subordination without such consent shall, at the Beneficiary's option, be void.

8.3 Trustor shall exercise any option or right to renew or extend the term of any Lease or easement at least six months prior to the date of termination of any such option or right (subject to requirements or limitations set forth in the applicable easement instrument regarding the timing of delivery of election notices relating to such option or right), shall give prompt written notice thereof to the Beneficiary, and shall execute, deliver and record any documents reasonably requested by the Beneficiary to evidence the lien of this Deed of Trust on such extended or renewed term. If Trustor

fails to exercise any such option or right as required herein, the Beneficiary may exercise the option or right as Trustor's agent and attorney-in-fact pursuant to this Deed of Trust, or in the Beneficiary's own name or in the name of and on behalf of a nominee of the Beneficiary, as the Beneficiary chooses in its absolute discretion.

8.4 As security for the Secured Obligations, Trustor hereby assigns to the Beneficiary a security interest in all prepaid rents, performance or reclamation bonds, and security deposits and all other security which an easement grantor holds for the performance of Trustor's obligations under a Lease or an easement.

8.5 To the extent permitted by law, the price payable by Trustor or any other party in the exercise of the right of redemption, if any, from any sale under, or decree of foreclosure of, this Deed of Trust shall include all rents and other amounts paid and other sums advanced by the Beneficiary on behalf of Trustor as the lessee under a Lease or the holder of an easement.

8.6 As used in this Deed of Trust, the "**Bankruptcy Code**" shall mean 11 U.S.C. §§ 101 et seq., as modified and/or recodified from time to time. Notwithstanding anything to the contrary contained herein with respect to any Lease:

(a) The lien of this Deed of Trust attaches to all of Trustor's rights under Subsection 365(h) of the Bankruptcy Code, including without limitation any and all elections to be made thereunder, any and all rights under any Lease or easement which Trustor is entitled to retain pursuant to 11 U.S.C. § 365(h)(1)(A)(ii) in the event of a rejection under the Bankruptcy Code of such Lease by the landlord thereunder (or any trustee thereof), and any and all rights of offset under or as described in 11 U.S.C. § 365(h)(1)(B).

(b) Trustor acknowledges and agrees that the Beneficiary, as the beneficiary under this Deed of Trust and by operation of 11 U.S.C. § 365(h)(1)(D), whether before or after any default under any of the Secured Obligations or the taking of any action to enforce any of the Beneficiary's rights and remedies under this Deed of Trust, shall have the right, in its sole and absolute discretion, to elect (the "**365(h) Election**") whether (i) any Lease or easement that has been rejected under the Bankruptcy Code by the landlord thereunder (or any trustee therefor) shall be treated as terminated under 11 U.S.C. § 365(h)(1)(A)(i), or (ii) the rights as described in 11 U.S.C. § 365(h)(1)(A)(ii) should be retained pursuant to that subsection. To the extent that, notwithstanding the preceding sentence and 11 U.S.C. § 365(h)(1)(D), Trustor now or at any time in the future has any right to make, or to participate in or otherwise in any manner affect the making of, the 365(h) Election with respect to any Lease or easement, Trustor hereby assigns and conveys to the Beneficiary any and all such rights, and all of Trustor's right, title, and interest therein, which may be used and exercised by the Beneficiary completely, and without any restriction whatsoever, in the Beneficiary's sole and absolute discretion. Trustor hereby unconditionally and irrevocably appoints the Beneficiary as its attorney-in-fact to exercise Trustor's right, if any, to make, or participate in or otherwise in any matter affect the making of, the 365(h) Election with respect to any Lease or easement. Trustor shall not in any manner impede or interfere with any such action taken by the Beneficiary and, in such case, at the request of the Beneficiary, Trustor shall take or join in the taking of any action to make, or participate in or otherwise in any manner affect the making of the 365(h) Election with respect to any Lease or easement, in such manner as the Beneficiary determines in its sole and absolute discretion. Trustor shall not, unless and until instructed to do so by the Beneficiary (as determined by the Beneficiary in its sole and absolute discretion), take any action to make, or participate in or otherwise in any manner

affect the making of the 365(h) Election to treat any Lease or easement as terminated. Notwithstanding the foregoing or any other provision of this Deed of Trust to the contrary, (i) Trustor may, and shall have the right to, make a 365(h) Election to retain its rights under a Lease or easement pursuant to Section 365(h)(1)(A)(ii) on or prior to the date which is ten (10) days after the filing of a motion to reject the Lease or easement, and (ii) Beneficiary may only make a 365(h) Election if (A) an Event of Default shall have occurred and be continuing, or (B) Trustor fails to make a 365(h) Election to retain its rights under a Lease or easement pursuant to Section 365(h)(1)(A)(ii) on or prior to the last day on which Trustor has the right to do so pursuant to clause (i). Trustor may only make a 365(h) Election to treat a Lease or easement as terminated after first obtaining the written consent of the Beneficiary. The Beneficiary shall have no obligation whatsoever to Trustor or any other person or entity in connection with the making of the 365(h) Election with respect to a Lease or easement or any instruction by the Beneficiary to Trustor given, withheld or delayed in respect thereof, nor shall the Beneficiary have any liability to Trustor or any other person or entity arising from any of the same.

(c) As security for the Secured Obligations, Trustor hereby collaterally assigns to the Beneficiary, to secure payment and performance of the Secured Obligations, all of Trustor's rights to damages arising from any rejection by any landlord (or any trustee thereof) of any Lease or easement under the Bankruptcy Code. The Beneficiary and Trustor shall proceed jointly or in the name of Trustor in respect of any claim or proceeding relating to the rejection of any Lease or easement, including, without limitation, the right to file and prosecute any proofs of claim, complaints, motions and other documents in any case in respect of such landlord under the Bankruptcy Code. Any amounts received by the Beneficiary or Trustor as damages arising from the rejection of any Lease or easement as aforesaid shall be applied in accordance the Credit Agreement.

(d) If, pursuant to the Bankruptcy Code, Trustor seeks to offset against the rent reserved in any Lease or easement the amount of any damages caused by the nonperformance of the landlord's obligations after the rejection by the landlord (or any trustee thereof) of such Lease or easement, Trustor shall, prior to effecting such offset, notify the Beneficiary in writing of its intent to do so, setting forth the amounts proposed to be offset and, in the event that the Beneficiary objects, Trustor shall not effect any offset of the amounts to which the Beneficiary objects. If the Beneficiary fails to object within 10 days following receipt of such notice, Trustor may offset the amounts set forth in Trustor's notice.

(e) If any legal proceeding is commenced with respect to any Lease or easement in connection with any case under the Bankruptcy Code, the Beneficiary and Trustor shall cooperatively conduct any such proceeding with counsel selected by the Beneficiary. Trustor shall, upon demand, pay to the Beneficiary all costs (including attorneys' fees) reasonably incurred by the Beneficiary in connection with any such proceeding.

(f) Trustor shall promptly notify the Beneficiary orally upon learning of any filing by or against any landlord of a petition under the Bankruptcy Code. Trustor shall thereafter promptly give written notice of such filing to the Beneficiary, setting forth any information available to Trustor with respect to the date of such filing, the court in which such petition was filed, and the relief sought therein. Trustor shall promptly deliver to the Beneficiary all notices, pleadings and other documents received by Trustor in connection with any such proceeding.

8.7 The generality of the provisions of this Deed of Trust shall not be limited by any provision of this Article VIII that sets forth particular obligations of Trustor as the tenant under a Lease or the holder of an easement interest.

#### **IX. Miscellaneous Nevada Law Provisions**

Notwithstanding anything to the contrary elsewhere in this Deed of Trust:

(a) Proceeds of a Foreclosure Sale. If any foreclosure sale or Trustee's sale of Land is effected, the proceeds of such sale shall be applied in the order of priority as required by NRS 40.462, as modified and/or recodified from time to time.

(b) Incorporation by Reference of Certain Covenants. To the extent not inconsistent with the provisions hereof, covenants 6, 7 (a reasonable percentage), 8 and 9 of NRS 107.030, are hereby adopted and made a part of this Deed of Trust. To the extent permitted by applicable law, upon any Event of Default by Trustor hereunder, Beneficiary may have a receiver appointed as a matter of right without regard to the sufficiency of the Property or any other security or guaranty and without any showing as required by NRS 107.100. A sale of the Property conducted pursuant to covenants 6, 7, and 8 of NRS 107.030 may be conducted either as to the whole of the Property or in separate parcels and in such order as Trustee or Beneficiary may determine.

(c) Uniform Assignment of Rents Act. This Deed of Trust is subject to the Uniform Assignment of Rents Act, NRS Chapter 107A.

(d) Assignments of Beneficiary's Interest. Any assignment of the Beneficiary's interest in and to this Deed of Trust shall be permitted without Trustee's or Trustor's consent to any entity to whom the other Loan Documents are assigned; provided, that, any assignment of Beneficiary's interest in and to this Deed of Trust shall be made in compliance with the requirements of NRS 106.210. Any assignment of this Deed of Trust shall also be considered an assignment of the Loan Documents.

(e) Relationship of Borrower and Trustor. Trustor is not the counterparty to the Credit Agreement but is a wholly-owned subsidiary of Borrower under common control and ownership with Borrower. Trustor is executing this Deed of Trust for the purpose of encumbering all of Trustor's interest in the Property as security for the prompt payment and performance of Borrower under the Credit Agreement. In executing and delivering this Deed of Trust to Beneficiary, Trustor expressly represents, acknowledges and agrees that (i) this Deed of Trust is executed at Borrower's request, and Trustor has received adequate consideration therefore; (ii) Trustor hereby waives any claim that its interest in the Property is not encumbered by this Deed of Trust or is not subject to foreclosure and sale under this Deed of Trust in the event of Borrower's failure to timely pay and/or perform in accordance with the terms and conditions of the Credit Agreement; (iii) this Deed of Trust complies with any and all agreements between Borrower and Trustor regarding Trustor's execution hereof; (iv) Beneficiary has made no representation to Trustor as to the creditworthiness of Borrower; (v) Borrower is an affiliate of Trustor; (vi) Trustor is a subsidiary of Borrower; and (vii) Trustor has established adequate means of obtaining, and will obtain from Borrower on a continuing basis, financial and other information pertaining to Borrower's financial condition and any facts or circumstances that might in any way affect Trustor's obligations under this Deed of Trust.

*[SIGNATURE PAGE FOLLOWS; REMAINDER OF PAGE INTENTIONALLY LEFT  
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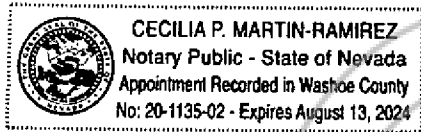
IN WITNESS WHEREOF, Trustor has caused this Deed of Trust to be duly executed by its authorized representative as of the date of notarization, but to be effective as of the Effective Date.

ESCAPE SOLAR LLC,  
a Nevada limited liability company

By: *Jill M. Daniel*  
Name: Jill M. Daniel  
Title: Chief Executive Office

STATE OF NEVADA            )  
  )  
COUNTY OF WASHOE        )

This instrument was acknowledged before me on July 17, 2024, by Jill M. Daniel, as President of Escape Solar LLC.



*Cecilia P. Martin-Ramirez*  
Notary Public  
My Commission Expires: August 13, 2024



**Exhibit "A"**

**Legal Description of the Land**

[see attached]

32411740\_v1





**EXHIBIT 'A'**

**PARCEL 1:**

**PARCEL 2 OF THAT CERTAIN MAP OF DIVISION INTO LARGE PARCELS RECORDED NOVEMBER 8, 2023 AS INSTRUMENT NO. 2023-166158 OF OFFICIAL RECORDS, LINCOLN COUNTY, NEVADA.**

**PARCEL 2:**

**NON-EXCLUSIVE EASEMENT FOR VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS AS CREATED BY THAT GRANT OF ACCESS EASEMENT RECORDED July 22, 2024, AS DOCUMENT NO. 2024-167262, OFFICIAL RECORDS, LINCOLN COUNTY RECORDS.**

**PARCEL 3:**

**NON-EXCLUSIVE EASEMENT FOR VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS AS CREATED BY THAT GRANT OF ACCESS EASEMENT RECORDED July 22, 2024, AS DOCUMENT NO. 2024-167263, OFFICIAL RECORDS, LINCOLN COUNTY RECORDS.**

**PARCELS 2 AND 3 ARE APPURTENANT TO PARCEL 1**

**PARCEL 4:**

**GOVERNMENT LOTS 5, 6, 7 AND 8 IN SECTION 15, GOVERNMENT LOT 1 AND THE NORTH HALF (N 1/2) OF THE NORTHWEST QUARTER (NW 1/4), THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) AND THE NORTHEAST QUARTER (NE 1/4) OF SECTION 16, GOVERNMENT LOT 1 AND THE EAST HALF (E 1/2) OF THE NORTHEAST QUARTER (NE 1/4), THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) SECTION 17, TOWNSHIP 12 SOUTH, RANGE 71 EAST, M.D.B.&M.**

**WALLACE MORRIS KLINE SURVEYING, LLC**  
Land Survey Consulting

**APN: 008-261-09**  
**OWNER: SHARLET HOLDINGS II, LLC**

**EXHIBIT "A"**

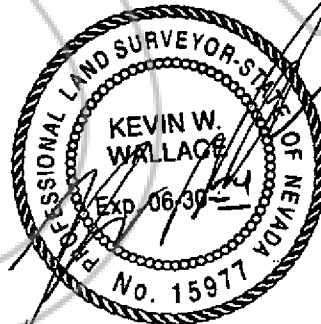
**EXPLANATION:** THIS DESCRIPTION REPRESENTS A PARCEL OF LAND IN SUPPORT OF THE ESCAPE SOLAR PROJECT.

**DESCRIPTION**

THAT CERTAIN PARCEL OF LAND AS CONVEYED TO SHARLET HOLDINGS II, LLC BY "GRANT, BARGAIN, SALE DEED" RECORDED MAY 9, 2017 ON FILE IN DOCUMENT 2017-151741 OF OFFICIAL RECORDS IN THE LINCOLN COUNTY RECORDER'S OFFICE, NEVADA. LYING WITHIN SECTIONS 15,16, AND 17, TOWNSHIP 12 SOUTH, RANGE 71 EAST, M.D.M., LINCOLN COUNTY, NEVADA, DESCRIBED AS FOLLOWS:

GOVERNMENT LOTS 5, 6, 7 AND 8 IN SECTION 15, GOVERNMENT LOT 1 AND THE NORTH HALF (N 1/2) OF THE NORTHWEST QUARTER (NW 1/4), THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) AND THE NORTHEAST QUARTER (NE 1/4) OF SECTION 16, GOVERNMENT LOT 1 AND THE EAST HALF (E 1/2) OF THE NORTHEAST QUARTER (NE 1/4), THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) SECTION 17, TOWNSHIP 12 SOUTH, RANGE 71 EAST, M.D.B.&M.

KEVIN W. WALLACE, P.L.S.  
NEVADA LICENSE NO. 15977



3/1/24

**WALLACE MORRIS KLINE SURVEYING, LLC.**  
**Land Survey Consulting**

**APN# 008-261-23**  
**OWNER: C & O HOLDINGS, L.L.C.**

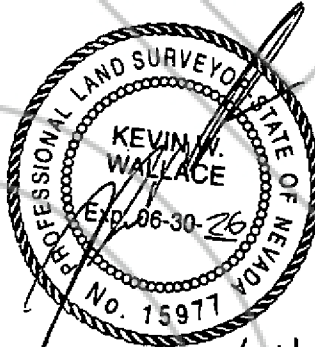
**EXHIBIT "A"**

**EXPLANATION:** THIS DESCRIPTION REPRESENTS A PARCEL OF LAND IN SUPPORT OF THE ESCAPE SOLAR PROJECT.

**DESCRIPTION**

**PARCEL 2 AS SHOWN BY DIVISION OF LARGE PARCELS RECORDED NOVEMBER 8, 2023, ON FILE IN DOCUMENT 2023-166158 OF OFFICIAL RECORDS IN THE LINCOLN COUNTY RECORDER'S OFFICE, NEVADA, LYING WITHIN SECTIONS 16, 17, 18, 19, 20, AND 21, TOWNSHIP 12 SOUTH, RANGE 71 EAST, M.D.M., LINCOLN COUNTY, NEVADA.**

**KEVIN W. WALLACE, P.L.S.**  
**NEVADA LICENSE NO. 15977**



7/9/24