  
**2021-771376** 8/5/2021 4:06 PM PAGE: 1 OF 19  
FEES: \$66.00 PK MORTGAGE  
EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK

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**RETURN TO:**

ALASKA GROWTH CAPITAL BIDCO, INC.  
3900 C STREET, SUITE 101  
ANCHORAGE, ALASKA 99503

**PREPARED BY:**

NAYDINE VARELA  
SBA LOAN DOCUMENTATION SERVICES LLC  
444 N. WELLS STREET, SUITE 205  
CHICAGO, IL 60654

STATE OF WYOMING  
COUNTY OF SHERIDAN

**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY  
AGREEMENT**

This Mortgage, Assignment of Leases and Rents and Security Agreement (this "Mortgage") is made and entered into on 8-4-21, by and between YELLOWSTONE TRACK SYSTEMS, LLC, A WYOMING LIMITED LIABILITY COMPANY (collectively, whether one or more, the "Mortgagor"), whose address is 1749 KROE LANE, SHERIDAN, WYOMING 82801 and ALASKA GROWTH CAPITAL BIDCO, INC. (the "Mortgagee"), AN ALASKAN LENDING INSTITUTION, whose address is 3900 C STREET, SUITE 101, ANCHORAGE, ALASKA 99503.

**RECITALS:**

MORTGAGE

1

YELLOWSTONE TRACK SYSTEMS, LLC, a Wyoming limited liability company has executed and delivered to Mortgagee that certain SBA Note (the "Note") dated on or about the date of this Mortgage, which evidences the indebtedness of Mortgagor to Mortgagee in the original principal amount of TWO MILLION FOUR HUNDRED THOUSAND AND NO/100 DOLLARS (\$2,400,000.00) (the "Loan"), which is due and payable on **August 1, 2046** unless accelerated or extended pursuant to the terms thereof. The term "Note" as used in this Mortgage shall be inclusive of any and all future replacements, renewals, extensions, increases, substitutions and other modifications thereof.

To secure Mortgagor's obligations to Mortgagee under the Note and any other documents, agreements or instruments of any kind made by Mortgagor in connection with the Loan (collectively, the "Loan Documents"), Mortgagor agrees to pledge the Property (as defined below) known as 1934, 1956 and 1978 DOUBLE EAGLE DRIVE, SHERIDAN, WYOMING 82801 as collateral to secure the Loan.

NOW, THEREFORE, for good and valuable consideration contained in this Mortgage, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree to be bound as follows:

*ARTICLE I*  
MORTGAGE OF PROPERTY

1.1 MORTGAGE OF PROPERTY. In order to secure payment of the principal indebtedness and interest due under the Note, the performance and observance of all of the covenants, agreements and provisions contained in this Mortgage and the Loan Documents and the payment of all Expenditures (as defined below) and payment of all other amounts which may be or become due or required to be paid to Mortgagee under the Note, this Mortgage, the Loan Documents or any other agreement between Mortgagor and Mortgagee (collectively, the "Indebtedness"), the Mortgagor does hereby MORTGAGE, WARRANT, GRANT AND CONVEY unto Mortgagee, its successors and assigns forever, the following described property, rights, proceeds, titles and interests located in the State of WYOMING, County of Sheridan: (i) the real property legally described in Exhibit "A" attached hereto and made a part hereof (the "Land"), together with (ii) all buildings, structures and improvements of every nature which may be or become located on the Land (collectively, the "Improvements"), together with (iii) all fixtures, trade fixtures, machinery, equipment, building supplies and personal property of every nature now or hereafter acquired which may be or become located upon or attached to the Land or Improvements, including all additions, renewals, substitutions, and replacements thereof (collectively, the "Fixtures"), together with (iv) the benefit of any income, security deposits, escrows, revenues, profits, rents, royalties, insurance proceeds, sale proceeds, condemnation proceeds and payments of every nature now or hereafter made or owed relating to the Land, the Improvements and the Fixtures (collectively, the "Rents"), together with (v) all claims, rights of first refusals, easements, rights-of-way, streets, alleys, sewer rights, water and mineral rights and powers relating to the Land, the Improvements and the Fixtures (collectively, the "Rights"), together with (vi) all leases, subleases, contracts, occupancy agreements, licenses and agreements of every nature relating to possession or use of the Land and Improvements and all renewals, modifications, extensions, and replacements thereof (collectively, the "Leases") (the Land, the Improvements, the Fixtures, the Rents, the Rights and the Leases shall collectively be referred to as the "Property"). The term "Expenditures" as used in this Mortgage shall mean all sums advanced by and costs paid or incurred by Mortgagee, including,

but not limited to, (i) reasonable attorney's fees and other legal expenses of Mortgagee in connection with the Note, this Mortgage and the Loan Documents, including, but not limited to fees and expenses of Mortgagee in connection with litigation, alternative dispute resolution proceeding, bankruptcy proceeding, appeals and judgment collection services; (ii) payment of Taxes by Mortgagee; (iii) payment of Premiums by Mortgagee; (iv) any and all costs of taking, preserving, insuring, repairing, holding and selling the Property, including, but not limited to, appraiser's fees, publication costs, title examinations and all other costs relating to the Property which Mortgagee deems reasonably necessary to proceed with a foreclosure of the Property and complete the subsequent sale of the Property. All Expenditures shall become part of the Indebtedness and be immediately payable from Mortgagor to Mortgagee without notice or demand.

*ARTICLE II*  
REPRESENTATIONS AND WARRANTIES OF MORTGAGOR

Mortgagor, understanding that Mortgagee is relying upon Mortgagor's representations and warranties set forth below in making the Loan, represents and warrants to Mortgagee as follows:

2.1 VALID MORTGAGE. Mortgagor has duly authorized the execution and delivery of this Mortgage which constitutes a legal, valid and binding security interest on the Property which is enforceable against the Mortgagor.

2.2 LITIGATION. There is no litigation, investigation, proceeding, claim, dispute or other similar action pending or threatened against the Property, including, but not limited to condemnation, rezoning or eminent domain proceedings.

2.3 OWNERSHIP OF PROPERTY. Mortgagor owns free and clear title to the Property, except for those items set forth on Exhibit "B" attached hereto and made a part hereof (the "Permitted Exceptions"). Except for this Mortgage and the Permitted Exceptions, Mortgagor has not entered into, granted or permitted the filing or attachment of any liens or security interests against the Property. Mortgagor further represents and warrants that title to Property is held in Mortgagor's exact legal name and is properly reflected in this Mortgage.

2.4 ACCURACY OF REPRESENTATIONS AND WARRANTIES. Any and all representations and warranties by Mortgagor contained in this Mortgage are true and correct. There is no material fact or circumstance that Mortgagor has knowledge of which has not been disclosed to Mortgagee.

*ARTICLE III*  
COVENANTS AND AGREEMENTS OF MORTGAGOR

Until all the obligations under the Loan as evidenced by this Mortgage, the Note and the Loan Documents have been performed and paid in full, Mortgagor covenants and agrees as follows:

3.1 ADVERSE CHANGES AND LITIGATION. Mortgagor shall immediately inform Mortgagee of (i) any material adverse change in the financial condition of Mortgagor or the Property; and (ii) any litigation, threatened litigation, investigation, proceeding, claim dispute or

other similar action pending or threatened against Mortgagor or the Property, including, but not limited to condemnation, rezoning or eminent domain proceedings.

3.2 TITLE TO PROPERTY. Mortgagor covenants and agrees that, except for this Mortgage and the Permitted Exceptions, Mortgagor shall not create, incur or permit any encumbrance, pledge or lien upon or against the Property. Mortgagor will provide written notice to Mortgagee of any encumbrance, pledge or lien upon the Property, regardless of whether such lien is superior or inferior to the lien of this Mortgage, within three (3) days after the Mortgagor obtains knowledge of same, actual or constructive. Mortgagor will forever defend title to the Property against and shall promptly pay, remove and discharge all claims, encumbrances, pledges and liens upon the Property, except for the lien of this Mortgage and the Permitted Exceptions, at Mortgagor's sole cost and expense. If Mortgagor fails to defend, pay, remove and discharge all claims, encumbrances, pledges and liens upon the Property as set forth herein, then Mortgagee may, in addition to any and all other rights and remedies of Mortgagee, elect to defend, pay, remove and discharge same.

3.3 EXAMINATION OF PROPERTY. Upon three (3) days written notice, Mortgagor shall permit any representative of Mortgagee to visit, examine, inspect, and test the Property as Mortgagee deems reasonably appropriate to ensure Mortgagor's compliance with this Mortgage, at Mortgagor's sole cost and expense.

3.4 PRESERVATION AND RESTORATION OF PROPERTY. Mortgagor agrees to (i) repair and maintain the Property in such conditions reasonably satisfactory to Mortgagee; (ii) comply with all statutes, orders, requirements, or laws relating to the Property; (iii) permit no changes in the zoning classification of the Property; and (iv) not permit or allow any demolition, relocation or other alteration of the Property without the prior written consent of Mortgagee. Mortgagor shall obtain the prior written consent of Mortgagee before commencing excavation, demolition, construction or any material alteration of any kind upon the Property, and all such construction or alterations shall be completed in strict compliance with plans and specifications approved in writing by Mortgagee. Mortgagor certifies that the Property complies with all provisions of the Americans with Disabilities Act, 42 U.S.C. 12101 et seq. (collectively, the "ADA"), and Mortgagor further agrees to take any and all future actions to ensure that the Property remains in compliance with the requirements of the ADA, at Mortgagor's sole cost and expense.

3.5 USE OF PROPERTY. Mortgagor covenants and agrees that the Property shall be exclusively used for commercial purposes. Mortgagor shall not allow or permit any other uses of the Property nor shall Mortgagor abandon the Property without the express prior written consent of Mortgagee.

3.6 MAINTENANCE AND EXISTENCE. Mortgagor shall remain in good standing under the laws of the State(s) in which they were formed and conduct business.

3.7 STRICT COMPLIANCE. Mortgagor shall (i) perform and comply, in a timely manner, with all terms, conditions, and provisions of this Mortgage and the Loan Documents; and (ii) immediately notify Mortgagee in writing of an Event of Default in connection with this Mortgage.

#### ARTICLE IV INSURANCE



4.1 INSURANCE. Mortgagor shall maintain insurance in the following amounts, types and against such hazards and liabilities upon the Property (collectively, the "Insurance Policies"): (i) hazard insurance against loss or damage by fire, lightning, windstorm, hail, explosion, water and smoke damage, demolition, earthquake and any casualty of any nature, in an amount equal to one hundred percent (100%) of the Full Replacement Cost; (ii) liability insurance for personal injury (including bodily injury and death) in an amount not less than One Million and No/100 Dollars (\$1,000,000.00) per occurrence and in an amount not less than Two Million and No/100 Dollars (\$2,000,000.00) in the aggregate; (iii) property insurance coverage against any loss or damage in an amount equal to one hundred percent (100%) of the Full Replacement Cost; (iv) business interruption, loss of income, and rental interruption insurance against all losses by reason of any hazard or liability covered herein; (v) if required under WYOMING law, workers compensation insurance in such amounts as required by applicable state or federal laws; (vi) such other insurance reasonably required by Mortgagee. The term "Full Replacement Cost" shall mean the cost of replacing the Improvements, the Fixtures or any other part of the Property as determined in Mortgagee's sole and absolute discretion. All Insurance Policies shall be in form and substance and with insurance companies reasonably satisfactory to Mortgagee, and Mortgagor shall immediately deliver evidence of same as Mortgagee may request. Mortgagee shall be designated as lender's loss payee, mortgagee, additional insured or such other designation as Mortgagee may elect under any such policies. Mortgagor shall (i) immediately inform Mortgagee of any fact, circumstance, loss, casualty or other damage to the Property which may give rise to a claim under any of the Insurance Policies; and (ii) not materially modify or substitute any Insurance Policies without first providing ten (10) days written notice to Mortgagee.

4.2 INSURANCE DURING AN EVENT OF DEFAULT. Mortgagor shall promptly pay, when due, all insurance premiums (the "Premiums") for the Insurance Policies. Following an Event of Default, Mortgagee may require Mortgagor to escrow funds for payment of the Premiums for the Insurance Policies (collectively, the "Insurance Escrow"). If Mortgagee elects to require an Insurance Escrow, Mortgagor shall (i) deposit funds in such amounts deemed necessary by Mortgagee to fully fund the Insurance Escrow for the payment of up to twelve (12) months of future Premiums; and (ii) on the 1<sup>st</sup> day of each month during the occurrence and continuation of any Event of Default, an amount equal to 1/12 of the annual Premiums for any and all Insurance Policies. All contributions from Mortgagor into the Insurance Escrow shall be based on reasonable estimates determined by Mortgagee and made by direct deposit, electronic transfer, or by any other method designated by Mortgagee. Mortgagee shall pay, when due, all Premiums from the Insurance Escrow in such order and priority as determined in Mortgagee's sole and absolute discretion. In the event of a deficiency in the Insurance Escrow, (i) Mortgagor shall immediately remit such delinquent amounts to Mortgagee; and (ii) Mortgagee may elect to advance funds to pay the Premiums which shall become part of the Indebtedness and be immediately payable from Mortgagor to Mortgagee. When the Indebtedness has been fully paid, any remaining funds in the Insurance Escrow shall be refunded to Mortgagor. Further, if at any time during the Loan, Mortgagor fails to procure or maintain adequate Insurance Policies upon the Property, Mortgagee may procure, substitute and force place any and all such Insurance Policies, the costs and expenses of which shall become part of the Indebtedness and Mortgagor shall immediately reimburse Mortgagee for same. The Insurance Escrow shall be held by Mortgagee in a non-interest-bearing account. In the event of a foreclosure of the Property by Mortgagee, the Insurance Escrow shall become property of Mortgagee, who shall apply such funds in such order and priority as determined in Mortgagee's sole and absolute discretion.

4.3 PROCEEDS OF INSURANCE. Any claim, payment, reimbursement or other compensation paid under any Insurance Policies (collectively, the "Insurance Proceeds") shall be used to restore, repair, replace or rebuild the Property to of at least equal value and of substantially the same character prior to such loss or damage in accordance with plans, specifications and procedures submitted to and approved in writing by Mortgagee. Any surplus which may remain out of the Insurance Proceeds after payment of such costs of restoration, repair, replacement or rebuilding shall be applied to the Indebtedness. In the event that the Insurance Proceeds are insufficient to restore, repair, replace or rebuild the Property as set forth herein, Mortgagor shall immediately deposit such amounts deemed reasonably necessary by Mortgagee to cover such deficiencies. Mortgagor shall not accept any payment or claim upon any Insurance Policies without providing thirty (30) days written notice to Mortgagee. Notwithstanding the foregoing, if an Event of Default has occurred and is continuing at any time when a claim, payment, reimbursement or other compensation related to Insurance Proceeds are filed or paid, then Mortgagee shall be authorized and empowered to (i) disburse the Insurance Proceeds in any order or priority determined in Mortgagee's sole and absolute discretion, including, but not limited to, applying such funds to the Indebtedness; and (ii) settle and adjust any claim under such Insurance Policies without the consent of Mortgagor. The Expenditures of Mortgagee in connection with the adjustment and collection of Insurance Proceeds shall add to and become part of the Indebtedness and shall be reimbursed to Mortgagee upon demand. If applicable, the Insurance Proceeds shall be held by Mortgagee in a non-interest-bearing account. In the event of a foreclosure of the Property by Mortgagee, the Insurance Proceeds shall become property of Mortgagee, who shall apply such funds in such order and priority and as determined in Mortgagee's sole and absolute discretion.

*ARTICLE V*  
TAXES

5.1 PAYMENT OF TAXES. Mortgagor shall pay or cause to be paid when due, all general and special taxes, personal property taxes, water, sewer and utility charges, levies, fees and assessments of every nature against or relating to the Property (collectively, the "Taxes"). All Taxes shall be paid prior to incurring any late penalty, fee or charge and shall be paid within the period provided by applicable law for the maximum allowable discount. Mortgagor shall immediately provide Mortgagee with evidence of such payment of Taxes upon demand. Notwithstanding the foregoing, Mortgagor may, in good faith and with reasonable diligence, appeal, contest or cause to be contested the validity or amount of any such Taxes, provided that Mortgagor: (i) notifies Mortgagee in writing prior to initiating any appeal of Taxes; (ii) has made and will continue to make payments of Taxes as required by applicable law; and (iii) has deposited with Mortgagee sufficient funds in an amount determined in Mortgagee's reasonable judgment to pay in full such contested Taxes and all penalties and interest that might become due thereon.

5.2 TAXES DURING AN EVENT OF DEFAULT. Following an Event of Default, Mortgagee may require Mortgagor to escrow funds for the payment of Taxes (the "Tax Escrow"). If Mortgagee elects to require a Tax Escrow, Mortgagor shall (i) deposit funds in such amounts deemed necessary by Mortgagee to fully fund the Tax Escrow for the payment of up to twelve (12) months of future Taxes upon the Property; and (ii) on the 1st day of each month during the occurrence and continuation of any Event of Default, an amount equal to 1/12 of the annual Taxes upon the Property. All contributions from Mortgagor to the Tax Escrow shall be based upon the most recent tax bill for the Property and shall be made by direct deposit, electronic transfer, or by

any other method required by Mortgagee. Mortgagee shall pay, when due, all Taxes from the Tax Escrow in such order and priority as determined in Mortgagee's sole and absolute discretion. In the event of a deficiency in the Tax Escrow, (i) Mortgagor shall immediately remit such delinquent amounts to Mortgagee; and (ii) Mortgagee may elect to advance funds to pay the Taxes which shall become part of the Indebtedness and be immediately payable from Mortgagor to Mortgagee. When the Indebtedness has been fully paid, any remaining funds in the Tax Escrow shall be refunded to Mortgagor. Further, if at any time during the Loan, Mortgagor fails to pay Taxes upon the Property, Mortgagee may pay such Taxes, the costs and expenses of which shall become part of the Indebtedness and Mortgagor shall immediately reimburse Mortgagee for same. The Tax Escrow shall be held by Mortgagee in a non-interest-bearing account. In the event of a foreclosure of the Property by Mortgagee, the Tax Escrow shall become property of Mortgagee, who shall apply such funds in such order and priority as determined in Mortgagee's sole and absolute discretion.

5.3 TAX LAWS. Mortgagor shall be responsible for the payment of any Taxes payable in connection with the execution and recording of this Mortgage. If any Taxes are imposed or become due upon the filing of this Mortgage, the execution of the Note or any other action taken with respect to the Loan Documents under the laws of the United States of America, or of any other state, county or municipality having jurisdiction over Mortgagee, Mortgagor or the Property, then Mortgagor shall immediately pay such tax in the manner required by such law. Mortgagor is a non-foreign entity under Section 1445 of the Internal Revenue Code of 1986, as amended, and that no withholding tax is required in connection with the recording of this Mortgage.

#### *ARTICLE VI* CONDEMNATION AND EMINENT DOMAIN

6.1 CONDEMNATION AND EMINENT DOMAIN. In the event the Property or any part thereof is condemned or taken for public use under powers of eminent domain (collectively, a "Taking"), then Mortgagee shall have the right to demand and immediately receive all funds, awards and amounts awarded for the appropriation or damage thereof, which shall be applied in any order or priority determined in Mortgagee's sole and absolute discretion, including, but not limited to, the Indebtedness. Mortgagor shall give Mortgagee immediate notice of any actual or threatened commencement of any such proceedings related to a Taking and further agrees to execute and deliver to Mortgagee all further assignments and/or instruments deemed necessary by Mortgagee for the purpose of assigning all funds, awards and other compensation under such proceeding. Mortgagee shall be authorized and empowered to settle and adjust any awards, payment or other compensation relating to a Taking of the Property, and the Expenditures of Mortgagee in connection therewith shall add to and become part of the Indebtedness and shall be reimbursed to Mortgagee upon demand.

#### *ARTICLE VII* TRANSFER OF PROPERTY

7.1 DUE ON SALES CLAUSE. Except as set forth in this Mortgage, Mortgagor shall not sell, convey or otherwise transfer any ownership interests or right in any part or all of the Property, whether voluntary or involuntary, without first fully paying and satisfying the Indebtedness (collectively, a "Prohibited Transfer"). A Prohibited Transfer shall expressly include the transfer, sale or conveyance of any ownership interests (whether membership interests, partnership interest,

stock or otherwise) of Mortgagor without the express written consent of Mortgagee. Any Prohibited Transfer shall be an Event of Default and the Indebtedness shall be accelerated and immediately due and payable without prior demand or notice.

*ARTICLE VIII*  
SECURITY AGREEMENT

8.1 SECURITY AGREEMENT. Mortgagor hereby grants Mortgagee a continuing security interest in all Fixtures located on or attached to the Property, whether now owned or hereafter acquired. This Mortgage shall constitute a security agreement under the WYOMING Uniform Commercial Code (the "UCC"), and a security interest in the Fixtures are hereby granted from Mortgagor, as debtor, to Mortgagee, as secured party, to secure payment of the Indebtedness. Mortgagor covenants and agrees that (i) Mortgagor, as debtor, will remain the true and lawful owner of the Fixtures, free and clear of any liens or encumbrances except for the Permitted Exceptions; (ii) Mortgagor shall immediately execute such further documentation required by Mortgagee to evidence and perfect Mortgagee's security interest in the Fixtures; (iii) Mortgagee shall have all rights and remedies of a secured party under the UCC, including, but not limited to, the right to take immediate and exclusive possession of the Property and file UCC financing statements evidencing Mortgagee's lien and security interest in the Fixtures; and (iv) following an Event of Default, Mortgagee shall have the right to hold, maintain, preserve, sell or otherwise dispose of the Fixtures by public or private sale, the proceeds of which shall be applied in such order or manner as Mortgagee shall select, including, but not limited to, applying such funds to the Indebtedness. This Mortgage is intended to be a financing statement as set forth in the WYOMING UCC with respect to the Fixtures.

*ARTICLE IX*  
EVENT OF DEFAULT

9.1 EVENT OF DEFAULT. An event of default (an "Event of Default") shall be deemed to have occurred hereunder upon any of the following: (i) the occurrence of any event or condition which constitutes a default under the terms of the Note or the Loan Documents; (i) any representation or warranty made or furnished to Mortgagee by or on behalf of Mortgagor under this Mortgage is false or misleading in any material respect; (iii) the failure or violation of Mortgagor to keep, perform, observe, or comply with any covenant, agreement, term, or condition required of this Mortgage.

*ARTICLE X*  
REMEDIES ON EVENT OF DEFAULT

10.1 ACCELERATE INDEBTEDNESS. Upon the occurrence of an Event of Default as defined in this Mortgage, Mortgagee may declare the Indebtedness to be immediately due and payable without presentment, protest or further demand or notice of any kind, all of which are hereby expressly waived by Mortgagor.

10.2. FORECLOSURE. Mortgagee may, in addition to declaring the Indebtedness immediately due and payable, foreclose upon Mortgagee's security interest in the Property following an Event of Default. Mortgagee, in its sole and absolute discretion, may (i) accept any form of consideration in exchange for the Property; and (ii) purchase all or any part of the Property at public or, if

permitted by law, private sale. Prior to any sale of the Property, Mortgagee will provide Mortgagor at least five (5) days' business notice prior to such proposed action, which shall constitute fair and reasonable notice. Proceeds from any disposition or foreclosure of the Property shall be applied in such order as Mortgagee may determine against the following: (i) towards the Expenditures; (ii) towards the expenses of satisfying any liens, security interest or encumbrances on or upon the Property which may be prior to the lien or security interest of Mortgagee; and (iii) to the Indebtedness owed to Mortgagee.

**10.3 RIGHT OF POSSESSION.** If the Indebtedness becomes due and payable following an Event of Default, by acceleration or otherwise, Mortgagee may, at its option, take actual possession of the Property. Mortgagor shall immediately surrender the Property to Mortgagee upon three (3) days written demand, and Mortgagee shall be authorized to (i) hold, operate, manage, and control all or any part of the Property; (ii) cancel or terminate any Lease or sublease of all or any part of the Property; (iii) elect, extend, modify, disaffirm and make new Leases of all or any part of the Property, which extensions, modifications, cancellations and new Leases may provide for terms to expire, or for options to which may extend beyond the maturity date of the Loan, it being understood and agreed that such actions shall be binding upon Mortgagor and subordinate to this Mortgage; (iii) make all necessary or proper repairs, replacements, alterations, additions, and improvements in connection with the Property, the costs of which shall become part of the Indebtedness; (iv) insure the Property against all risks incidental to the possession, operation, and management thereof of the property, the costs of which shall become part of the Indebtedness; (v) receive all Rents, issues, deposits, profits and revenues related to the Property and apply same against the Indebtedness in such order determined in the sole and absolute discretion of Mortgagee; and (vi) perform any act in the form and manner deemed necessary by Mortgagee.

**10.4 RECEIVER.** If the Indebtedness becomes due and payable following an Event of Default, by acceleration or otherwise, Mortgagee may, at its sole and absolute option, upon the filing of a complaint to foreclose upon the Property or at any time before or thereafter, request that the court appoint a receiver of the Property (the "Receiver"), who shall preserve, protect, maintain, operate, improve, manage and control the Property. Such appointment may be made either before or after a sale of the Property and Mortgagee and its affiliates, employees and agents shall not be disqualified as a Receiver and may be appointed as such without restriction. The Receiver shall have the power to collect Rents derived from the Property and may apply them against the Indebtedness in such order and priority as determined in the sole and absolute discretion of Mortgagee.

**10.5 WAIVER OF MORTGAGOR RIGHTS.** To the full extent permitted by law, in connection with any proceeding under this Mortgage, including, without limitation, any action by Mortgagee in foreclosure, repossession or other court process, Mortgagor covenants and agrees that it will not at any time assert, plead or claim or take any advantage of, and hereby waives, any stay, right, exemption or extension law now or at any time hereafter in force, including, not limited to, (i) right or claims to valuation or appraisal of the Property, or any part thereof, prior to any foreclosure or sale contemplated by this Mortgage; (ii) any and all rights of redemption from a foreclosure or sale of the Property; (iii) all benefits under any present or future laws exempting the Property, or any part of any proceeds thereof from attachment, levy or sale under execution; (iv) presentment for payment, demand, notice of demand, notice of non-payment, and protest of the Note or the Loan Documents; (v) any demand for possession of Property prior to commencement of any suit; (vi) any and all marshalling laws; and (vii) all rights to claim or recover attorney's fees and costs

in the event that Mortgagor is successful in any action to remove, suspend or prevent the enforcement of a judgment, including those entered by confession. Further, if the Note or any of the Loan Documents are modified, extended or changed in any manner, Mortgagor agrees and acknowledges that such action shall not affect the validity of this Mortgage which shall continue in full force and effect. It is the intent of the Mortgagor and Mortgagee that all rights of Mortgagor are and deemed to be waived to the full extent permitted by applicable law.

10.6 WAIVER OF HOMESTEAD RIGHTS. Mortgagor hereby (i) represents and warrants that the Property is not the homestead of Mortgagor; and (ii) releases and waives any and all homestead rights under WYOMING law.

10.7 REMEDIES NOT CUMULATIVE. The rights, remedies, powers and privileges provided to Mortgagee in this Mortgage shall not be deemed exclusive but shall be cumulative and shall be in addition to all other rights, remedies, powers and privileges in Mortgagee's favor at law or in equity in this Mortgage, the Note and the Loan Documents. Neither the failure nor delay on the part of Mortgagee to exercise any right, remedy, power or privilege under this Mortgage upon the occurrence of any Event of Default or otherwise shall operate as a waiver thereof or impair any such right, remedy, power or privilege of Mortgagee. No single, partial or full exercise of any rights, remedies, powers and privileges by the Mortgagee shall preclude further or other exercise thereof. No course of dealing between Mortgagee and Mortgagor shall operate as or be deemed to constitute a waiver of Mortgagee's rights under this Mortgage or affect the duties or obligations of Mortgagor hereunder. Further, Mortgagor waives any rights or defenses relating to laws requiring Mortgagor to exercise or exhaust rights or remedies against any other entity or person or collateral securing the Loan prior to enforcing Mortgagee's rights under this Mortgage.

#### *ARTICLE XI* ASSIGNMENT OF LEASES AND RENTS

11.1 ASSIGNMENT OF LEASES AND RENTS. Mortgagor hereby absolutely and presently assigns and transfers to Mortgagee all of Mortgagor's right, title and interest in and to the Leases and Rents, along with all awards and payments of any kind derived from or relating to the Leases and Rents, including, without limitation (i) proceeds of any insurance policy upon or relating to the Leases; (ii) claims for damages under the Leases, including, but not limited to, lump sum payments for the cancellation or termination of the Leases; and (iii) the proceeds of any rental insurance carried by Mortgagor on the Property. This Mortgage is intended to be and shall constitute an unconditional, absolute and present assignment from Mortgagor to Mortgagee of all of Mortgagor's right, title and interest in and to the Leases and Rents, and not an assignment in the nature of a pledge of such Leases and Rents or the mere grant of a security interest therein. So long as no Event of Default exists under this Mortgage, Mortgagor shall have the privilege under a revocable license to collect Rents from the Property as they become due, but not prior to accrual, and to receive and hold the same. Mortgagor shall receive and hold such Rents in trust to be applied to the payment of Taxes, Premiums and the Indebtedness. Notwithstanding the automatic applicability of this Mortgage to all future Leases, Mortgagor agrees to formally assign all future Leases to Mortgagee. Upon the occurrence of any Event of Default, Mortgagee may collect the Rents and any other sums due under the Leases and apply the same in such order and priority as Mortgagee in its sole discretion may elect.

11.2 COVENANTS AND AGREEMENTS REGARDING LEASES AND RENTS. Mortgagor covenants and agrees that from the date of this Mortgage and until final payment of all of the Indebtedness, Mortgagor will: (i) perform all of the obligations imposed upon Mortgagor under the Leases; (ii) not collect any of the Rents in advance of the time when the same become due; (iii) not discount any future accruing Rents; (iv) not execute any other assignment of Leases or Rents; (v) not change the terms of or terminate the Leases; (vi) not subordinate the Leases to any mortgage or other encumbrance except in favor of Mortgagee; (vii) not consent to any assignment of or subletting under the Leases; and (viii) not enter into any Leases subsequent to the date of this Mortgage without the prior written consent of Mortgagee. Any attempted amendment, cancellation or other modification of the Leases without the prior written consent of Mortgagee shall be null and void. Mortgagor further covenants and agrees to furnish to Mortgagee, on demand, certified true copies and/or originals of all existing Leases and any subsequent Leases, and any modifications or amendments thereto. Mortgagee shall not be obligated or liable by reason of this Mortgage to perform any obligation of Mortgagor under any of the Leases, and Mortgagee shall not, prior to entry upon and actually taking physical possession of the Property, be deemed a mortgagee in possession. This Mortgage shall not operate to place responsibility upon Mortgagee for the control, care, management or repair of the Property or for the carrying out of any of the terms and conditions of the Leases. Mortgagee assumes no liability for any security deposit or rent prepaid under Leases to Mortgagor, unless and until such deposits or prepaid rents are delivered to Mortgagee.

11.3 FURTHER DOCUMENTATION. Mortgagor shall promptly deliver to Mortgagee (i) tenant subordination agreements; (ii) subordination, non-disturbance, and attornment agreements; (iii) estoppel letters; and (iv) any other such documents requested by Mortgagee. All documentation requested by Mortgagee hereunder shall be provided by Mortgagor within ten (10) days of such request and shall include such statements and certifications deemed necessary or desirable in Mortgagee's sole and absolute discretion, including, but not limited to: (i) that the Leases are unmodified and in full force and effect; (ii) the amount of Rents (including a breakdown thereof) payable under the Leases and the dates to which the Rents and other charges under the Leases have been paid in advance; (iii) the termination dates of all Leases, including any and all extensions or renewal options; and (iv) whether there are any uncured defaults by Mortgagor or tenant or any setoffs or defenses against enforcement of any terms or conditions under any Leases.

11.4 ABSOLUTE ASSIGNMENT OF LEASES AND RENTS. The terms and conditions of that certain Absolute Assignment of Leases and Rents from Mortgagor to Mortgagee (the "Assignment") are hereby incorporated herein and made a part hereof. In the event of a conflict between this Mortgage and the Assignment, the terms and conditions of the Assignment shall control.

*ARTICLE XII*  
HAZARDOUS SUBSTANCES

12.1 HAZARDOUS SUBSTANCES. Mortgagor shall comply with all Environmental Laws and ensure that the Property remains free of Hazardous Substances. Except as disclosed and consented to by Mortgagee in writing, (i) there has been no use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any Hazardous Substance by, on, under, about or from the Property in violation of applicable Environmental Laws; (ii) there is no threatened or pending claim, action, investigation, or proceeding seeking to enforce any right or remedy against

Mortgagor or the Property under any Environmental Laws. As used in this Mortgage, "Hazardous Substances" shall mean (i) any "Hazardous Waste," as defined by the Resource Conservation and Recovery Act of 1976, as amended; (ii) any "Hazardous Substance" as defined under WYOMING law, as amended; (iii) any "Hazardous Substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1989, as amended; (iv) any material or substance, the presence of which is prohibited by any federal, state or local law, statute, ordinance or regulation, or court administrative order or decree, or requires special handling in collection, storage, treatment or disposal; and (v) any other materials that, because of their quantity, concentration, or physical, chemical, or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported, or otherwise handled. The term "Environmental Laws" shall mean (i) any and all state, federal, and local statutes, regulations, and ordinances relating to the protection of human health or the environment; (ii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), as amended; (iii) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), as amended; (iv) the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., as amended; (v) the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., as amended; and (vi) other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**12.2 REPRESENTATIONS AND WARRANTIES REGARDING HAZARDOUS SUBSTANCES.** Mortgagor represents and warrants that (i) there has been no use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any Hazardous Substance by, on, under, about or from the Property in violation of applicable Environmental Laws; (ii) there is no threatened or pending claim, action, investigation, or proceeding seeking to enforce any right or remedy against Mortgagor or the Property under any Environmental Laws. Mortgagor has not filed any notice under any federal or state law indicating past or present treatment, storage or disposal of Hazardous Substances and none of the operations of Mortgagor or any tenant occupying the Property are the subject of federal or state litigation or proceedings, or of any investigation evaluating whether any remedial action involving a material expenditure is needed to respond to any improper treatment, storage, recycling, disposal or release into the environment of any Hazardous Substance. All notices, permits, licenses or similar authorizations, if any, required to be obtained or filed in connection with the use of the Property, including, without limitation, past or present treatment, storage, disposal or release of a Hazardous Substance or solid waste into the environment, have been duly obtained or filed. The representations and warranties contained herein are based on Mortgagor's due diligence in investigating the Property for Hazardous Substances based upon Environmental Laws.

**12.3 COVENANTS AND AGREEMENTS REGARDING HAZARDOUS SUBSTANCES.** Mortgagor will take and continue to take prompt action to remedy all environmental pollution and contamination, Hazardous Waste disposal and other environmental clean-up problems related to the Property. Mortgagor shall, at its sole cost and expense, conduct and complete all investigations, sampling, and testing required by Mortgagee and all remedial, removal, and other actions necessary to clean up and remove all such Hazardous Substances on, under, about, or affecting the Property in compliance with all applicable Environmental Laws. Mortgagor shall give Mortgagee prompt written and oral notice if Mortgagor receives any notice with regard to Hazardous Substances on, under, about, or affecting the Property. Mortgagor will indemnify and hold Mortgagee, its officers, directors, employees, representatives, agents, and affiliates harmless



against, and promptly pay on demand or reimburse each of them with respect to, any and all claims, demands, causes of action, loss, damage, liabilities, costs and expenses of any and every kind or nature whatsoever asserted against or incurred by any of them by reason of or arising out of or in any way related to (i) the breach of any representation or warranty as set forth herein regarding Environmental Laws, or (b) the failure of Mortgagor to perform any obligation herein required to be performed pursuant to Environmental Laws. The provisions of this Section 12.3 shall survive the final payment of the Loan and the foreclosure or other cancellation of this Mortgage and shall continue thereafter in full force and effect. Notwithstanding anything contained in this Mortgage to the contrary, any covenants and agreements of Mortgagor concerning Hazardous Substances and Environmental Laws addressed herein shall not be applicable to any condition which is first created or introduced after a foreclosure, conveyance or other transfer of title of the Property. Medical service providers occupying the Property may use, store, and dispose of Hazardous Substances only if such use, storage, and disposal is (i) undertaken in the ordinary course of their respective medical practices, and (ii) performed in strict conformity with applicable Environmental Laws.

12.4 REMOVAL OF HAZARDOUS SUBSTANCES BY MORTGAGEE. Mortgagee may, in its sole and absolute discretion, elect to remedy all environmental pollution and contamination, Hazardous Waste disposal and other environmental clean-up problems related to the Property. Mortgagor shall reimburse Mortgagee within five (5) days of Mortgagee's demand for payment of any and all clean up and removal costs and expenses related thereto, including but not limited to any fines and penalties. All sums expended by Mortgagee in connection with any remedial or clean up action related to the Property shall become part of the Indebtedness.

12.5 INDEMNITY AGREEMENT. The terms and conditions of that certain Indemnity Agreement by and between Mortgagor and Mortgagee (the "Indemnity") are hereby incorporated herein and made a part hereof. In the event of a conflict between this Mortgage and the Indemnity, the terms and conditions of the Indemnity shall control.

#### ARTICLE XIII ADDITIONAL TERMS AND CONDITIONS

13.1 AMENDMENTS AND APPROVALS. No amendment, modification, or any other change to the provisions of this Mortgage shall be effective unless in writing and signed by Mortgagee and Mortgagor.

13.2 FINANCIAL STATEMENTS. Mortgagor shall, upon three (3) days written request from Mortgagee, furnish to Mortgagee such certified tax statements, operating statements and other reports or documentation related to the operation, use or ownership Property as reasonably requested by Mortgagee.

13.3 NOTICES. Any and all notices, elections or demands permitted or required to be given under this Mortgage shall be in writing, signed by or on behalf of the party giving such notice, election or demand, and shall be deemed to have been properly given and shall be effective upon being personally delivered, or upon being deposited in the United States mail, postage prepaid, certified with return receipt required, and shall be deemed to have been received on the earlier of the date shown on the receipt or three (3) business days after the postmarked date thereof, to the other party at the address of such other party set forth below or such other address within the

continental United States as such other party may designate by specifically designating as a notice of change of address and given in accordance herewith. No notice of change of address shall be effective until the date of receipt thereof. Personal delivery to a partner or any officer, partnership, agent or employee of such party at said address shall constitute receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been given shall also constitute receipt. Any such notice, election, demand, request or response shall be addressed as follows:

If given to Mortgagee:

ALASKA GROWTH CAPITAL BIDCO,  
INC.  
3900 C STREET, SUITE 101  
ANCHORAGE, ALASKA 99503

Copy (*does not constitute notice*) to:

SBA LOAN DOCUMENTATION  
SERVICES LLC  
444 N. WELLS STREET, SUITE 205  
CHICAGO, IL 60654  
ATTN: LEGAL DEPARTMENT

If given to Mortgagor:

YELLOWSTONE TRACK SYSTEMS, LLC  
1749 KROE LANE  
SHERIDAN, WYOMING 82801

13.4 GOVERNING LAW. This Mortgage shall be governed by and construed in accordance with the laws of the State of Wyoming, except and only to the extent of procedural matters related to the perfection and enforcement of Mortgagee's rights and remedies against the Property, which matters shall be governed by the laws of Sheridan County, WYOMING. However, in the event that the enforceability or validity of any provision of this Mortgage is challenged or questioned, such provision shall be governed by which whichever applicable state or federal law would uphold or would enforce such challenged or questioned provision. If any provision of applicable law requires that Mortgagor be granted a longer notice period or a greater opportunity to cure and Event of Default, that provision of law shall control.

13.5 SEVERABILITY. In the event that any clause or provisions of this Mortgage is held to be invalid, illegal or unenforceable by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect the validity, legality or enforceability any of the remaining portions or provisions of this Mortgage. If feasible, the offending provision shall be considered modified so that it becomes legal, valid, and enforceable, and if the offending provision cannot be so modified, it shall be considered deleted from this Mortgage.

13.6 NO ASSIGNMENT BY MORTGAGOR. Neither this Mortgage nor any of Mortgagor's rights under this Mortgage shall be assignable by Mortgagor without the express prior written consent of Mortgagee in its sole and absolute discretion.

13.7 COUNTERPARTS. This Mortgage may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument.

13.8 INTERPRETATION. This Mortgage is the result of negotiations between Mortgagor and Mortgagee and their respective counsel. This Mortgage shall not be applied, interpreted, or construed more strictly against a party because that party or their counsel drafted this Mortgage.

13.9 SUBROGATION. If any part of the Indebtedness is used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any prior lien or encumbrance upon the Property, then Mortgagee shall be subrogated and made senior to the rights of the holder thereof.

13.10 LIMITATION OF MORTGAGEE'S RESPONSIBILITY. Each survey, inspection, appraisal or other report requested or required by Mortgagee under this Mortgage or in connection with the Loan shall be solely for Mortgagee's own use and protection and not for the benefit or the protection of Mortgagor or any other person or entity. Mortgagor acknowledges and agrees that Mortgagee makes no warranty or representation as to the accuracy, completeness, or sufficiency of any such survey, inspection, appraisal or other report and neither Mortgagor nor any other person or entity may rely upon any such survey, inspection, appraisal or other report.

13.11 DEFINED TERMS. Capitalized words and terms have the meanings given to them in this Mortgage. All references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and words and terms used in the plural shall include the singular, as the context may require. The captions and headings of this Mortgage are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions of this Mortgage.

13.12 SURVIVAL. All covenants, agreements, representations and warranties made by Mortgagor herein shall survive the execution and delivery of this Mortgage.

13.13 SUCCESSORS AND ASSIGNS. All representations, warranties, covenants, and agreements by or on behalf of Mortgagor contained in this Mortgage shall (i) bind Mortgagor's successors and assigns (including every subsequent record owner of the Property); (ii) shall inure to the benefit of Mortgagee and its successors and assigns; and (iii) shall run with the Land and be binding on any successor owners of the Land so long as the Indebtedness remains outstanding.

13.14 INDEMNIFICATION OF MORTGAGEE. Mortgagor agrees to indemnify, defend, and hold Mortgagee and its officers, directors, employees, and agents harmless from and against any and all claims, suits, obligations, damages, losses, costs, expenses (including, without limitation, reasonable attorneys' fees), demands, liabilities, penalties, fines and forfeitures of any nature whatsoever and whenever made that may be asserted against or incurred by Mortgagee or its officers, directors, employees, and agents arising out of, relating to, or in any manner occasioned by: (i) this Mortgage and the Loan Documents; (ii) a breach by Mortgagor of this Mortgage or the Loan Documents; (iii) the exercise of the rights and remedies granted to Mortgagee under this Mortgage and the Loan Documents; and (iv) the use, generation, manufacture, storage, disposal, release, or threatened release of a Hazardous Substance on, under, about, or from the Property. Mortgagor releases and waives any future claims against Mortgagee and its officers, directors, employees, and agents for indemnity or contribution in the event Mortgagee becomes liable for cleanup or other costs under any Environmental Law for the use, generation, manufacture, storage, disposal, release, or threatened release of a Hazardous Substance on, under, about, or from the Property. The provisions of this Section 13.14 shall survive the payment of the Note and the expiration, cancellation, or termination of this Mortgage, and shall not be affected by Mortgagee's

acquisition of any interest in any of the Property, whether by foreclosure or otherwise, and shall not apply against Mortgagee's own gross negligence or willful misconduct, in which case Mortgagee's liability shall be limited to only direct damages suffered and shall not extend to consequential or incidental damages.

13.15 ATTORNEY'S FEES. In connection with any legal action or other proceeding, whether at law or in equity, arising out of this Mortgage or otherwise relating to the Property, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses in addition to any other relief to which such party or parties may be entitled.

13.16 FURTHER ASSURANCES. Upon written request from Mortgagee, Mortgagor shall execute and deliver to Mortgagee such documents, agreements, instruments and certificates reasonably required by Mortgagee to confirm and evidence Mortgagee's lien upon the Property and rights set forth in this Mortgage.

13.17 SBA STIPULATIONS. The Loan secured by this Mortgage was made under a United States Small Business Administration (SBA) nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under SBA regulations:


- (a) When SBA is the holder of the Note, this Mortgage and all documents evidencing or securing the Loan will be construed in accordance with federal law.
- (b) Mortgagee or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No Mortgagor may claim or assert against SBA any local or state law to deny any obligation of Mortgagor or defeat any claim of SBA with respect to this Loan.
- (c) Any clause in this Mortgage requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.

13.18 WAIVER OF RIGHTS UNDER WYOMING STATUTES ANNOTATED. Mortgagor hereby waives, releases and relinquishes any and all homestead rights pursuant to Wisconsin Statutes Annotated §§ 1-20-101 and 1-20-102.

*Remainder of page intentionally left blank. Signature page follows.*

Mortgagor has executed and delivered this Mortgage as of 8/4/21.

YELLOWSTONE TRACK SYSTEMS,  
LLC,  
A Wyoming limited liability company

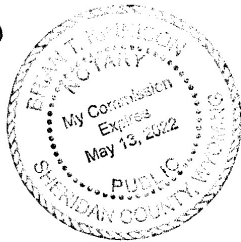
BY:   
DAVID WAYNE HAILE


TITLE: Member


STATE OF WYOMING  
COUNTY OF Sheridan

This instrument was acknowledged before me on 8-4-21 by DAVID WAYNE HAILE  
as Member of YELLOWSTONE TRACK SYSTEMS, LLC, a Wyoming limited liability  
company.

(SEAL)



  
Signature of Notary Public  
Print Name: Brian T. Kinnison

  
**2021-771376** 8/5/2021 4:06 PM PAGE: 18 OF 19  
FEES: \$66.00 PK MORTGAGE  
EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK


**EXHIBIT A**

**LEGAL DESCRIPTION**

Lots 7, 8 and 9, Double Eagle Tech Park. A subdivision in Sheridan County, Wyoming filed as Plat D, No. 18 in the Office of the Sheridan County, Clerk.

Common Address: 1934, 1956 and 1978 DOUBLE EAGLE DRIVE, SHERIDAN, WYOMING 82801

Parcel Identification Numbers: 0000030015 and 0000030117

  
**2021-771376** 8/5/2021 4:06 PM PAGE: 19 OF 19  
FEES: \$66.00 PK MORTGAGE  
EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK

**EXHIBIT B**

**PERMITTED EXCEPTIONS**

None.

*MORTGAGE*

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**NO. 2021-771376 MORTGAGE**  
EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK  
WILCOX AGENCY  
SHERIDAN WY 82801