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Gary W. Ott
Recorder, Salt Lake County, UT
BAY NATIONAL TITLE COMPANY
BY: eCASH, DEPUTY - EF 28 P.

AFTER RECORDING RETURN TO:

Broadmark Real Estate Management II, LLC
600 University Street, Suite 1800
One Union Square
Seattle, WA 98101

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

WPU-42171

GRANTOR: Millcreek Cove Apartments, LLC, a Utah limited liability company
BENEFICIARY: BRELF II, LLC, a Washington limited liability company
ASSESSOR'S TAX PARCEL NO.: 16-31-378-009, 16-31-378-010, 16-31-378-011
REFERENCE NO. FOR DOCUMENTS RELEASED OR ASSIGNED: N/A.

THIS DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING WITH ASSIGNMENT OF LEASES AND RENTS ("Deed of Trust") is made as of *August 31*, 2016 by Millcreek Cove Apartments, LLC, a Utah limited liability company, as "Grantor," whose address is 4873 S State Street, Salt Lake City, UT 84107 to BNTC of Utah, Inc, as "Trustee," whose address is 6955 S Union Park Center, Ste 170, Midvale, UT 84047 for the benefit of BRELF II, LLC, a Washington limited liability company or assigns, "Beneficiary," whose address is 600 University Street, Suite 1800, One Union Square, Seattle, WA 98101. The property is legally described as:

LEGAL DESCRIPTION: Real property in the County of Salt Lake, State of Utah, described as follows:

Parcel 1: Commencing at a point 469.2 feet South of the Northwest corner of Lot 9, Block 7, Ten Acre Plat "A", Big Field Survey, and running thence East 23 rods; thence South 50 feet; thence West 23 rods; thence North 50 feet to the place of beginning.
Parcel 2: Commencing at a point 34.8 rods South of the Northwest Corner of Lot 9, Block 7, Ten Acre Plat "A", Big Field Survey, and running thence East 23 rods; thence North 55 feet; thence West 23 rods; thence South 55 feet to the place of beginning.

Together with an easement across the two- 50 ft. tracts immediately North of the property described herein, for the purpose of maintaining not to exceed a Two (2) inch pipeline of conduit water from the artesian well located on the 5 foot strip owned by Grantor prior to Grantors herein, about 100 feet north of the property described herein.

Parcel 3: Beginning at the Northwest corner of Lot 8, Block 7, Ten Acre Plat "A", Big Field Survey, and running thence South 57.75 feet; thence South 89°58'59" East 233 feet; thence North 0°01'01" East 1.5 feet; thence South 89°58'59" East 22.73 feet; thence North 56.25 feet; thence West 255.75 feet to the point of beginning.

ASSESSOR'S TAX PARCEL NO.: 16-31-378-009, 16-31-378-010, 16-31-378-011

PHYSICAL ADDRESS: 3961, 3965, 3971 S 300 E, Salt Lake City, UT 84107

ARTICLE I

1. **Granting Clause.** As security for the Secured Obligations, Grantor hereby grants, bargains, sells and conveys to Trustee in trust, with power of sale and with right of entry and possession as provided herein for the use and benefit of Beneficiary, all Grantor's estate, right, title, interest, claim and demand, now owned or hereafter acquired, in and to the following (the "Property"):

a. The real property in Salt Lake County, State of Utah described above and any and all improvements now or hereafter located thereon ("Real Property").

b. All land lying in streets and roads adjoining the Real Property, and all access rights and easements pertaining to the Real Property.

c. All the lands, tenements, privileges, reversions, remainders, oil and gas rights, royalties, minerals and mineral rights, all development rights and credits, air rights, hereditaments and appurtenances belonging or in any way pertaining to the Real Property.

d. All (i) water and water rights (whether decreed or undecreed, tributary, nontributary or not nontributary, surface or underground, or appropriated or unappropriated); (ii) ditches and ditch rights; (iii) spring and spring rights; (iv) reservoir and reservoir rights; (v) well rights, whether adjudicated or evidenced by any well or other permit; (vi) decreed or pending plan or augmentation or water exchange plan; and (vii) shares of stock in water, ditch and canal companies and all other evidence of such rights, which are now owned or hereafter acquired by Grantor and which are appurtenant to or which have been used in connection with such tract or improvements, if any.

e. All buildings, structures, improvements, fixtures, equipment and machinery and property now or hereafter attached to or used in connection with the use, occupancy or operation of the Real Property including, but not limited to, heating and incinerating apparatus and equipment, boilers, engines, motors, generating equipment, telephone and other communication systems, piping and plumbing fixtures, ranges, cooking apparatus and mechanical kitchen equipment, refrigerators, cooling, ventilating, sprinkling and vacuum cleaning systems, fire extinguishing apparatus, gas and electric fixtures, irrigation equipment, carpeting, under padding, elevators, escalators, partitions, mantles, built-in mirrors, window shades, blinds, screens, storm sash, awnings, furnishings of public spaces, halls and lobbies, and shrubbery and plants. All property mentioned in this subsection (d) shall be deemed part of the realty and not severable wholly or in part without material injury to the Real Property.

f. All rents, issues and profits of the Real Property, all existing and future leases of the Real Property (including renewals, amendments, modifications, replacements, extensions and subleases), all agreements for use and occupancy of the Real Property (all such leases and agreements whether written or oral, are hereafter referred to as the "Leases"), and all guaranties of lessees' performance under the Leases, together with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues, profits and other income of any nature now or hereafter due (including any income of any nature coming due during any redemption period) under the Leases or from or arising out of the Real Property including minimum rents, additional rents, percentage rents, parking or common area maintenance contributions, tax and insurance contributions, deficiency rents, liquidated damages following default in any Lease, all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Real Property, all proceeds payable as a result of exercise of an option to purchase the Real Property, all proceeds derived from the termination or rejection of any Lease in a bankruptcy or other insolvency proceeding, all security deposits or other deposits for the performance of any lessee's obligations under the Leases, and all proceeds from any rights and claims of any kind which Grantor may have against any lessee under the Leases or any occupants of the Real Property (all of the above are hereafter collectively referred to as the "Rents"). This subsection (f) is subject to the right, power and authority given to the Beneficiary in the Loan Documents (as defined herein) to collect and apply the Rents.

g. All other and greater rights and interests of every nature in such Real Property and in the possession or use thereof and income therefrom, whether now owned or subsequently acquired by Grantor.

h. All furniture, furnishings, appliances, machinery, vehicles, equipment and all other property of any kind now or hereafter located on the Real Property, used or intended to be used on the Real Property wherever actually located, or purchased with the proceeds of

the Note (as defined herein), and all rights of Grantor as lessee of any property described in this Section 1(f) above.

i. All compensation, awards, damages, rights of action and proceeds (including insurance proceeds and any interest on any of the foregoing) arising out of or relating to a taking or damaging of the Property by reason of any public or private improvement, condemnation proceeding (including change of grade), fire, earthquake or other casualty, injury or decrease in the value of the Property.

j. All returned premiums or other payments on any insurance policies pertaining to the Property and any refunds or rebates of taxes or assessments on the Property.

k. All rights to the payment of money, accounts receivable, deferred payments, refunds, cost savings, payments and deposits, whether now or later to be received from third parties (including all utility deposits), architectural and engineering plans, specifications and drawings, contract rights, governmental permits and licenses, and agreements and purchase orders which pertain to or are incidental to the design or construction of any improvements on the Real Property, Grantor's rights under any payment, performance, or other bond in connection with construction of improvements on the Real Property, and all construction materials, supplies, and equipment delivered to the Real Property or intended to be used in connection with the construction of improvements on the Real Property wherever actually located.

l. All contracts and agreements pertaining to or affecting the Property including, but not limited to, management, operating and franchise agreements, licenses, trade names and trademarks.

m. All of Grantor's interest in and to the proceeds of the loan evidenced by the Note (the "Loan"), whether disbursed or not, any account into which Loan proceeds are deposited, and Grantor's own funds now or later held on deposit as equity funds or for payment of bills relating to the Property.

n. All loan commitments or other agreements, now or hereafter in existence, which will provide Grantor with proceeds to satisfy the Secured Obligations (defined below) and the right to receive the proceeds due under such commitments or agreements including refundable deposits and fees.

o. All books and records pertaining to any and all of the Property and the other collateral described above, including computer readable memory and any computer hardware or software necessary to access and process such memory.

p. All additions, accessions, replacements, substitutions, proceeds and products of the Property described in this Section 1 and of any of the Property which is personal property.

2. **Security Agreement.** If any of the Property is determined to be personal property, Grantor, as Debtor, hereby grants to Beneficiary, as Secured Party, a security interest in all such personal property to secure payment and performance of the Secured Obligations. This Deed of Trust constitutes a security agreement between Grantor and Beneficiary pursuant to the Uniform Commercial Code as adopted in the State of Colorado, as now or hereafter amended (the "Uniform Commercial Code"), with respect to the Property, and any and all property affecting or related to the use and enjoyment of the Property, now or hereafter described in any Uniform Commercial Code Financing Statement naming Grantor as Debtor and Beneficiary as Secured Party. The remedies of Beneficiary for any violation of the covenants, terms and conditions of this Deed of Trust or any other Loan Document (defined below) shall include all remedies available to secured parties under the Uniform Commercial Code.

3. **Financing Statement.** This Deed of Trust shall also constitute a financing statement filed for record in the real estate records as a fixture filing pursuant to the Uniform Commercial Code. This Deed of Trust may be given to secure an obligation incurred for the construction of improvements on the Real Property, including the acquisition of the Real Property, or to secure an obligation incurred to refinance an obligation incurred for the construction of improvements on the Real Property.

4. **Obligations Secured.** The following obligations ("Secured Obligations") are secured by this Deed of Trust:

a. Payment of the sum of Eight Hundred Thousand Dollars (\$800,000.00) or so much thereof as may be advanced, with interest thereon according to the terms of a Promissory Note of even date in the original principal amount of Eight Hundred Thousand Dollars (\$800,000.00) payable to Beneficiary, as Lender, or order and made by Grantor, as Borrower, including all renewals, amendments, modifications, replacements or extensions thereof therefore (the "Note").

b. Payment of any further sums now or hereafter advanced or loaned by Beneficiary to Grantor, or any of its successors or assigns, and payment of every other present and future obligation owing by Grantor to Beneficiary of any kind, and all modifications thereof, including any interest, fees, costs, service charges, indemnifications and expenses connected with such obligations, regardless of whether such sums exceed the amount stated above in subparagraph (a), if (i) the promissory note or other written document evidencing the future advance or loan or other obligation specifically states that it is secured by this Deed of Trust, or (ii) the advance, including costs and expenses incurred by Beneficiary, is made

pursuant to the Note, this Deed of Trust or any other documents executed by Grantor evidencing, securing, or relating to the Loan, and/or the Property, whether executed prior to, contemporaneously with, or subsequent to this Deed of Trust (this Deed of Trust, the Note and all such other documents (but excluding the obligations under any personal guaranty), including any construction or other loan agreement or any agreement evidencing an existing or future "swap transaction" (as referred to below), and all renewals, amendments, modifications, replacements or extensions thereof, are hereafter collectively referred to as the "Loan Documents"), together with interest thereon at the rate or rates set forth in the Note, unless otherwise specified in the Loan Documents or agreed in writing.

c. Performance of each agreement, term and condition set forth or incorporated by reference in the Loan Documents.

d. Performance and payment of the obligations of Grantor (or any other obligor under the Note) under each and every existing or future "swap transaction" (i.e., any transactions governed by an ISDA master agreement), if any, to which Grantor (or the obligor under the Note) and Beneficiary are parties, if this Deed of Trust is referenced in such transaction as a credit support document.

e. For purposes of applying Colorado Revised Statute § 38-39-106(1), Grantor stipulates, acknowledges and agrees that this Deed of Trust secures a maximum stated principal amount at any time of \$800,000.00, but this stated maximum will not otherwise be construed to limited the amount or scope of the Secured Obligations. For purposes of the foregoing, the principal amount secured by this Deed of Trust will include all or any portions of the Secured Obligations as designated by Beneficiary (including without limitation, all advances pursuant to the Note, this Deed of Trust or any other Loan Document, whether made in connection with the execution and delivery of the Note, this Deed of Trust or any other Loan Document, and whether obligatory or optional).

ARTICLE II

1. **Assignment of Rents and Leases.** As further security for the Secured Obligations, Grantor hereby absolutely and irrevocably assigns to Beneficiary all Grantor's interest in the Rents and Leases. Grantor warrants it has made no prior assignment of the Rents or the Leases and will make no subsequent assignment (other than to Beneficiary) without the prior written consent of Beneficiary. At Beneficiary's request, Grantor shall execute and deliver to Beneficiary a separate assignment of rents containing such terms and conditions (not inconsistent with this Deed of Trust) as Beneficiary may reasonably require. The foregoing assignment is subject to the terms and conditions of any separate assignment of the Leases and/or Rents, whenever executed, in favor of Beneficiary and covering the Property, or any portion thereof.

a. Unless otherwise provided in any separate assignment of the Leases and/or the Rents, and so long as Grantor is not in default under this Deed of Trust or any other Loan Document, Grantor may collect the Rents as the Rents become due. Grantor shall use the Rents to pay normal operating expenses for the Property and sums due and payments required under this Deed of Trust or any other Loan Document. No Rents shall be collected for a period subsequent to the current one month rental period and first or last month's rent. Grantor's right to collect the Rents shall not constitute Beneficiary's consent to the use of cash collateral in any bankruptcy proceeding.

b. If Grantor is in default under this Deed of Trust or any other Loan Document, without notice to Grantor, Beneficiary or its agents, or a court appointed receiver, may collect the Rents. In doing so, Beneficiary may (i) evict lessees for nonpayment of rent, (ii) terminate in any lawful manner any tenancy or occupancy, (iii) lease the Real Property in the name of the then owner on such terms as it may deem best, (iv) institute proceedings against any lessee for past due rent, and (v) do all other acts and things as Beneficiary deems necessary or desirable, including, without limitation, the right to notify lessees that all Rent under such Leases are thereafter to be paid to Beneficiary. Each lessee shall be entitled to rely upon any notice from Beneficiary and shall be protected with respect to any payment of Rent made pursuant to such notice. The Rents received shall be applied to payment of the costs and expenses of collecting the Rents, including a reasonable fee to Beneficiary, a receiver or an agent, operating expenses for the Real Property and any sums due or payments required under this Deed of Trust or any other Loan Document, in such order as Beneficiary may determine in its sole discretion. Any excess shall be paid to Grantor, however, Beneficiary may withhold from any excess a reasonable amount to pay sums anticipated to become due which exceed the anticipated future Rents. Beneficiary's failure to collect or discontinuing collection at any time shall not in any manner affect the subsequent enforcement by Beneficiary of its rights to collect the Rents. The collection of the Rents by or for Beneficiary shall not cure or waive any default under this Deed of Trust or any other Loan Document. Any Rents paid to Beneficiary or a receiver shall be credited against the amount due from the lessees under the Leases. In the event any lessee under a Lease becomes the subject of any proceeding under the Bankruptcy Code or any other federal, state or local statute which provides for the possible termination or rejection of any Lease assigned hereby, Grantor covenants and agrees that in the event any of the Leases are so rejected, no damages settlement shall be made without the prior written consent of Beneficiary; any check in payment of damages for rejection or termination of any such Lease will be made payable both to the Grantor and Beneficiary; and Grantor hereby assigns any such payment to Beneficiary and further covenants and agrees that upon request of Beneficiary, it will duly endorse to the order of Beneficiary any such check, the proceeds of which will be applied to any portion of the indebtedness secured hereunder in such manner as Beneficiary may elect.

c. Regardless of whether or not Beneficiary, in person or by agent, takes actual possession of the Real Property or any part thereof, Beneficiary is not and shall not be deemed to be: (i) "a mortgagee in possession" for any purpose; (ii) responsible for performing any of the obligations of the lessor under any Lease; (iii) responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Real Property, or any negligence in the management, upkeep, repair or control of the Real Property; or (iv) liable in any manner for the Real Property or the use, occupancy, enjoyment or operation of all or any part of it. In exercising its rights under this Section 1 Beneficiary shall be liable only for the proper application of and accounting for the Rents collected by Beneficiary or its agents.

2. **Leases.** Grantor shall fully comply with all of the terms, conditions and provisions of the Leases so that the same shall not become in default and do all things necessary to preserve the Leases in force. Unless otherwise agreed in writing by Beneficiary, without Beneficiary's prior written consent, Grantor will not enter into any Lease (i) on a form of Lease not previously approved by Beneficiary, (ii) for a term of three (3) years or more, or (iii) containing an option or right to purchase all or any part of the Property in favor of any lessee. With respect to any Lease of the whole or any part of the Real Property involving an initial term of three (3) years or more, Grantor shall not, without the prior written consent of Beneficiary, (a) permit the assignment or subletting of all or part of the lessee's rights under the Lease unless the right to assign or sublet is expressly reserved by the lessee under the Lease, (b) modify or amend the Lease for a lesser rental or term, or (c) accept surrender of the Lease or terminate the Lease except in accordance with the terms of the Lease providing for termination in the event of a default. Any proceeds or damages resulting from a lessee's default under any Lease, at Beneficiary's option, shall be paid to Beneficiary and applied against sums owed under this Deed of Trust or any other Loan Document even though such sums may not be due and payable. Except for real estate taxes and assessments, without Beneficiary's prior written consent, Grantor shall not permit any lien to be created against the Real Property which may be or may become prior to any Lease. If the Real Property is partially condemned or suffers a casualty, Grantor shall promptly repair and restore the Real Property in order to comply with the Leases.

3. **Indemnification of Beneficiary.** Nothing herein contained shall be deemed to obligate Beneficiary to perform or discharge any obligation, duty or liability of lessor under any Lease, and Grantor shall and does hereby indemnify and hold Beneficiary harmless from any and all liability, loss or damage which Beneficiary may or might incur under any Lease or by reason of the assignment, with the exception of any liability, loss or damage which results solely from the actions of Beneficiary following the time Beneficiary or its agents or a receiver applied for by Beneficiary takes possession of the Real Property; and any and all such liability, loss or damage incurred by Beneficiary, together with the costs and expenses, including reasonable attorneys' fees, incurred by Beneficiary in defense of any such claims or demands therefor (whether successful or not), shall be additional Secured Obligations, and Grantor shall reimburse Beneficiary therefor on demand.

ARTICLE III

1. **Non-Agricultural Use.** Grantor represents and warrants to Beneficiary that the Property is not used principally or primarily for agricultural or farming purposes.

2. **Performance of Obligations.** Grantor shall promptly and timely pay all sums due pursuant to the Loan Documents, strictly comply with all the terms and conditions of the Loan Documents, and perform each Secured Obligation in accordance with its terms.

3. **Warranty of Title.** Grantor warrants that it has good and marketable title to an indefeasible fee simple estate in the Real Property (unless Grantor's present interest in the Real Property is described above as a leasehold interest, in which case Grantor warrants that it lawfully possesses and holds a valid leasehold interest in the Real Property as described above), and good marketable title to the personal property, subject to no liens, encumbrances, easements, assessments, security interests, claims or defects of any kind prior or subordinate to the lien of this Deed of Trust, except those listed in Beneficiary's title insurance policy or approved by Beneficiary in writing (the "Exceptions") and real estate taxes and assessments for the current year. Grantor warrants the Exceptions and the real estate taxes and assessments are not delinquent or in default, and Grantor has the right to convey the Real Property to Trustee for the benefit of Beneficiary, and the right to grant a security interest in the personal property. Grantor will warrant and defend title to the Property and will defend the validity and priority of the lien of this Deed of Trust and the security interests granted herein against any claims or demands.

4. **Waiver of Homestead Exemption.** Grantor hereby waives all rights to any homestead exemption to which Grantor would otherwise be entitled under any present or future constitutional, statutory, or other provision of applicable state or federal law.

5. **Prohibited Liens.**

a. Subject to Grantor's rights under subsection (b) below, Grantor shall not permit any governmental or statutory liens (including taxes, mechanic's or materialmen's liens) to be filed against the Property except for real estate taxes and assessments not yet due and liens permitted by the Loan Documents or approved by Beneficiary in writing.

b. Grantor will have the right to contest in good faith by appropriate legal or administrative proceeding the validity of any prohibited lien, encumbrance or charge so long as (i) no default exists under this Deed of Trust or any other Loan Document, (ii) Grantor first deposits with Beneficiary a bond or other security satisfactory to Beneficiary in the amount reasonably required by Beneficiary, but not more than the amounts required by applicable law, as now or hereafter amended; (iii) Grantor immediately commences its contest of such lien,

encumbrance or charge, applies to court for a show cause, as now or hereafter amended, and continuously pursues the contest in good faith and with due diligence; (iv) foreclosure of the lien, encumbrance or charge is stayed; and (v) Grantor pays any judgment rendered for the lien claimant or other third party within ten (10) days after the entry of the judgment. If the contested item is a mechanic's or material men's lien, Grantor will furnish Beneficiary with an endorsement to its title insurance policy which insures the priority of this Deed of Trust over the lien being contested. Grantor will discharge or elect to contest and post an appropriate bond or other security within twenty (20) days of written demand by Beneficiary.

6. **Payment of Taxes and Other Encumbrances.** Grantor shall pay the real estate taxes and any assessments or ground rents, if any, at least seven (7) days prior to delinquency unless otherwise provided for in the reserve account described in Section 17 below. All other encumbrances, charges and liens affecting the Property, including mortgages and deeds of trust, whether prior to or subordinate to the lien of this Deed of Trust, shall be paid when due and shall not be in default. On request, Grantor shall furnish evidence of payment of these items.

7. **Maintenance-No Waste.** Grantor shall protect and preserve the Property and maintain it in good condition and repair. Grantor shall do all acts and take all precautions, which from the character and use of the Property are reasonable, proper, or necessary to so maintain, protect and preserve the Property. Grantor shall not commit or permit any waste of the Property.

8. **Alterations, Removal and Demolition.** Unless otherwise agreed in writing by Beneficiary, Grantor shall not structurally alter, remove or demolish any building or improvement on the Real Property without Beneficiary's prior written consent. Grantor shall not remove any fixture or other item of property which is part of the Property without Beneficiary's prior written consent unless the fixture or item of property is replaced by an article of equal suitability, owned by Grantor free and clear of any lien or security interest.

9. **Completion, Repair and Restoration.** Grantor shall promptly complete or repair and restore in good workmanlike manner any building or improvement on the Real Property which may be constructed or damaged or destroyed and shall pay all costs incurred therefor. Prior to commencement of any construction requiring a building permit, Grantor shall submit the plans and specifications for Beneficiary's approval and furnish evidence of sufficient funds to complete the work.

10. **Compliance With Laws.** Grantor shall comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting the Property, including, without limitation, all applicable requirements of the Fair Housing Act of 1968 (as amended) and the Americans With Disabilities Act of 1990 (as the same may be amended from time to time), and shall not commit or permit any act upon or concerning the Property in violation of any such

laws, ordinances, regulations, covenants, conditions, and restrictions. Grantor shall defend, indemnify and hold Beneficiary harmless from and against all liability threatened against or suffered by Beneficiary by reason of a breach by Grantor of the foregoing representations, warranties, covenants and agreements. The foregoing indemnity shall include the cost of all alterations to the Property (including architectural, engineering, legal and accounting costs), all fines, fees and penalties, and all legal and other expenses (including attorneys' fees) incurred in connection with the Real Property being in violation of any such laws, ordinances, regulations, covenants, conditions and restrictions. If Beneficiary or its designee shall become the owner of or acquire an interest in or rights to the Property by foreclosure or deed in lieu of foreclosure of this Deed of Trust or by other means, the foregoing indemnification obligation shall survive such foreclosure or deed in lieu of foreclosure or other acquisition of the Property. Notwithstanding the preceding sentence, Grantor shall have no obligation to defend, indemnify or hold Beneficiary harmless from any liability arising from or out of the activities of Beneficiary or its agents with respect to the Property on or after the transfer of the Property to Beneficiary pursuant to foreclosure proceedings or in lieu thereof.

11. **Impairment of Collateral.** Grantor shall not, without Beneficiary's prior written consent, change the general nature of the occupancy of the Real Property, initiate, acquire or permit (within its control) any change in any public or private restrictions (including without limitation a zoning reclassification) limiting the uses which may be made of the Property, or take or permit (within its control) any action which would impair the Property or Beneficiary's lien or security interest in the Property.

12. **Inspection of Collateral.** Beneficiary and/or its representative may inspect the Property at reasonable times after reasonable notice.

13. **Grantor's Defense of Collateral.** Grantor shall appear in and defend any action or proceeding which may affect the Property or the rights or powers of Beneficiary or Trustee under this Deed of Trust.

14. **Beneficiary's Right to Protect Collateral.** Beneficiary may commence, appear in, and defend any action or proceeding which may affect the Property or the rights or powers of Beneficiary or Trustee under this Deed of Trust. Beneficiary may pay, purchase, contest or compromise any encumbrance, charge or lien not listed as an Exception which in its judgment appears to be prior or superior to the lien of this Deed of Trust. If Grantor fails to make any payment or do any act required under this Deed of Trust or any other Loan Document, Beneficiary, without any obligation to do so and without releasing Grantor from any obligations under this Deed of Trust or any other Loan Document, may make the payment or cause the act to be performed in such manner and to such extent as Beneficiary may deem necessary to protect the Property. Beneficiary is authorized to enter upon the Real Property for such purposes. In exercising any of these powers Beneficiary may incur such expenses, in its absolute discretion, it deems necessary.

15. **Environmental Matters.** Grantor is responsible for all obligations of compliance with any and all applicable federal, state, regional, county or local laws, statutes, rules, regulations or ordinances, concerning public health, safety or the environment, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental conditions or concerns as may now or at any time hereafter be in effect. Grantor covenants and agrees to comply with all obligations imposed by applicable law, rules, regulations or requirements of any governmental authority regarding the generation, storage and disposal of hazardous substances at the Real Property. Grantor further agrees to promptly notify Beneficiary of any violation as to any environmental matter and any spills or accidents involving a hazardous substance, and to permit reasonable entry onto the Real Property by Beneficiary for verification of Grantor's compliance with this covenant. Grantor agrees to indemnify and hold Beneficiary, and its successors and assigns, harmless against any and all loss, claim, damage, liability, fine, penalty, cost or expense resulting from a breach of this Section and Grantor will pay or reimburse Beneficiary for all costs and expenses (including, without limitation, expert opinions or investigations, clean-up expenses, third party claims and environmental impairment expenses, loss of rent, and attorneys' fees and expenses) incurred by Beneficiary in connection with Grantor's generation, storage or disposal of hazardous substances. This indemnification by Grantor shall survive the termination or expiration of this Deed of Trust and the repayment of the Loan.

16. **Prohibited Activities.** Grantor shall not use, occupy, or permit the use or occupancy of any portion of the Real Property by Grantor or any lessee, tenant, licensee, permittee, agent, or any other person in any manner that would be a violation of any applicable federal, state or local law or regulation, regardless of whether such use or occupancy is lawful under any conflicting law, including without limitation any law relating to the use, sale, possession, cultivation, manufacture, distribution or marketing of any controlled substances or other contraband (whether for commercial, medical, or personal purposes), or any law relating to the use or distribution of marijuana, nor shall Grantor or any guarantor of the Loan reside in the Real Property during the term of the Loan (collectively, "Prohibited Activities"). If Grantor becomes aware that any lessee is likely engaged in any Prohibited Activities, Grantor shall, in compliance with applicable law, terminate the applicable lease and take all actions permitted by law to discontinue such activities. Failure by Grantor to comply with this Section shall constitute a material non-curable default. In addition and not by way of limitation, Grantor shall indemnify, defend and hold Beneficiary, and its successors and assigns, harmless from and against any and all loss, claim, damage, liability, fine, penalty, cost or expense (including attorneys' fees and expenses) arising from, out of or related to any Prohibited Activities by Grantor or any lessee, tenant, licensee, permittee, agent, or any other person. This indemnity includes,

without limitation any claim by any governmental entity or agency, any lessee, or any third person, including any governmental action for seizure or forfeiture.

17. **Reserve Account.**

a. Subject to subsection (d) below, if Beneficiary so requires, Grantor shall pay to Beneficiary monthly, together with and in addition to any payments due under the Note, a sum, as estimated by Beneficiary, equal to the ground rents, if any, the real estate taxes and assessments next due on the Real Property and the premiums next due on insurance policies required under this Deed of Trust or any other Loan Document, less all sums already paid therefore, divided by the number of months to elapse before two (2) months prior to the date when the ground rents, if any, real estate taxes, assessments and insurance premiums will become delinquent. The monthly reserve accounts payments and any other payments due under the Note shall be paid in a single payment and applied by Beneficiary, at its option, and in the following order if Beneficiary does not elect a different order: (1) ground rents, if any, real estate taxes, assessments and insurance premiums, (2) expenditures made pursuant to the Loan Documents and interest thereon, (3) interest on the Note, and (4) principal due on the Note. Grantor shall promptly deliver to Beneficiary all bills and notices pertaining to the ground rents, if any, taxes, assessments and insurance premiums.

b. The reserve account is solely for the protection of Beneficiary. Beneficiary shall have no responsibility except to credit properly the sums actually received by it. No interest will be paid on the funds in the reserve account and Beneficiary shall have no obligation to deposit the funds in an interest-bearing account. Upon assignment of this Deed of Trust by Beneficiary, any funds in the reserve account shall be turned over to the assignee and any responsibility of Beneficiary with respect thereto shall terminate. Each transfer of the Property shall automatically transfer to the grantee all rights of Grantor to any funds in the reserve account.

c. If the total of the payments to the reserve account exceeds the amount of payments actually made by Beneficiary, plus such amounts as have been reasonably accumulated in the reserve account toward payments to become due, such excess may, at Beneficiary's election, be (1) credited by Beneficiary against sums then due and payable under this Deed of Trust or any other Loan Document, or (2) refunded to Grantor as its name appears on the records of Beneficiary. If, however, the reserve account does not have sufficient funds to make the payments when they become due, Grantor shall pay to Beneficiary the amount necessary to make up the deficiency within fifteen (15) days after written notice to Grantor. If this Deed of Trust is foreclosed or if Beneficiary otherwise acquires the Property, the Beneficiary shall, at the time of commencement of the proceedings or at the time the Property is otherwise acquired, apply the remaining funds in the reserve account, less such sums as will become due during the pendency of the proceedings, against the sums due under this Deed

of Trust or any other Loan Document and/or to make payments required under this Deed of Trust or any other Loan Document.

d. Grantor shall not be required to pay monthly reserve account payments so long as there has been no more than four (4) late payments due under the Note throughout the term of the Loan and there is no other default under this Deed of Trust or any other Loan Document and so long as Grantor remains in ownership of the Property, provided receipted bills evidencing the payment of all taxes and/or assessments and insurance premiums are exhibited to Beneficiary within fifteen (15) days after Beneficiary's request therefore. Upon any change in any of these conditions, Beneficiary may, at its option then or thereafter exercised, require the payment of reserves pursuant to this Section 17.

18. **Repayment of Beneficiary's Expenditures.** Grantor shall pay within ten (10) days after written notice from Beneficiary all sums expended by Beneficiary and all costs and expenses incurred by Beneficiary in taking any actions pursuant to the Loan Documents including attorneys' fees, accountants' fees, appraisal and inspection fees, and the costs for title reports. If any laws or regulations are passed subsequent to the date of this Deed of Trust which require Beneficiary to incur out-of-pocket expenses in order to maintain, modify, extend or foreclose this Deed of Trust, revise the terms of the Loan or consent to an Accelerating Transfer (as defined below), Grantor shall reimburse Beneficiary for such expenses within ten (10) days after written notice from Beneficiary. Expenditures by Beneficiary shall bear interest from the date of such advance or expenditure at the default interest rate in the Note, shall constitute advances made under this Deed of Trust and shall be secured by and have the same priority as the lien of this Deed of Trust. If Grantor fails to pay any such expenditures, costs and expenses and interest thereon, Beneficiary may, at its option, without foreclosing the lien of this Deed of Trust, commence an independent action against Grantor for the recovery of the expenditures and/or advance any undisbursed Loan proceeds to pay the expenditures.

19. **Accelerating Transfers.**

a. "Accelerating Transfer" means any sale, contract to sell, conveyance, encumbrance, transfer of full possessory rights, or other transfer of all or any material part of the Property or any interest in it, whether voluntary, involuntary, by operation of law or otherwise, and whether or not for record or for consideration. If Grantor is a corporation, "Accelerating Transfer" also means any transfer or transfers of shares possessing, in the aggregate, more than fifty percent (50%) of the voting power. If Grantor is a partnership, "Accelerating Transfer" also means withdrawal or removal of any general partner, dissolution of the partnership under applicable law, or any transfer or any transfers of, in the aggregate, more than fifty percent (50%) of the partnership interests. If Grantor is a limited liability company or other form of limited liability entity, "Accelerating Transfer" also means any transfer or transfers of membership or management units, shares or other forms of interest in such entity, possessing, in the aggregate, more than fifty percent (50%) of the voting power. If

Grantor is the majority owner of a business, either through ownership of shares of a corporation or interest in a partnership, limited liability company or other entity, which occupies seventy-five percent (75%) or more of the improvements on the Real Property, "Accelerating Transfer" also means any sale, contract to sell, or other transfer of the business or substantial assets of the business, other than in the ordinary course, or the failure of the business to continue to occupy the Real Property.

b. Grantor acknowledges Beneficiary is taking actions in reliance on the expertise, skill, experience and reliability of Grantor, and the obligations secured hereby include material elements similar in nature to a personal service contract or ownership interest. In consideration of Beneficiary's reliance, Grantor agrees that Grantor shall not make any Accelerating Transfer without Beneficiary's prior written consent, which Beneficiary may withhold in its sole discretion. If Beneficiary consents, it may charge the Grantor a fee as consideration for such consent and condition its consent on such changes to the terms and conditions of the Note and other Loan Documents as Beneficiary may require, including without limitation increasing the interest rate on the Note. Grantor shall pay Beneficiary's actual costs incurred in making its decision to consent to an Accelerating Transfer, including but not limited to the cost of credit reports, an updated appraisal of the Real Property, an updated environmental assessment and documentation. If any Accelerating Transfer occurs without Beneficiary's prior written consent, Beneficiary in its sole discretion may declare an immediate default and all sums secured by this Deed of Trust to be immediately due and payable, and Beneficiary may invoke any rights and remedies provided herein. This provision shall apply to each and every Accelerating Transfer regardless of whether or not Beneficiary has consented or waived its rights, whether by action or nonaction, in connection with any previous Accelerating Transfer(s).

c. If all or any part of this Section 19 relevant to a particular Accelerating Transfer is unenforceable according to the law in effect at the time of the Accelerating Transfer, then Grantor shall reimburse Beneficiary for its actual costs incurred in processing the Accelerating Transfer on its records, including but not limited to the cost of modifications of Loan Documents, an appraisal, and obtaining relevant credit and financial information.

20. **Release of Parties or Collateral.** Without affecting the obligations of any party under this Deed of Trust or any other Loan Document, and without affecting the lien of this Deed of Trust and Beneficiary's security interest in the Property, Beneficiary and/or Trustee may, without notice (a) release all or any Grantor and/or any other party now or hereafter liable for any of the Secured Obligations (including guarantors), (b) release all or any part of the Property, (c) subordinate the lien of this Deed of Trust or Beneficiary's security interest in the Property, (d) take and/or release any other security for or guarantees of the Secured Obligations, (e) grant an extension of time for performance of the Secured Obligations, (f) modify, waive, forbear, delay or fail to enforce any of the Secured Obligations, (g) sell or otherwise realize on any other security or guaranty prior to, contemporaneously with or

subsequent to a sale of all or any part of the Property, (h) make advances pursuant to the Loan Documents including advances in excess of the Note amount, (i) consent to the making of any map or plat of the Real Property, and (j) join in the grant of any easement on the Real Property. Any subordinate lienholder shall be subject to all such releases, extensions or modifications without notice to or consent from the subordinate lienholder. Grantor shall pay any Trustee's, attorneys', title insurance, recording, inspection or other fees or expenses incurred in connection with release of Property, the making of a map, plat or the grant of an easement.

ARTICLE IV

1. Insurance.

a. Grantor shall maintain such insurance on the Property as may be required from time to time by Beneficiary, with premiums prepaid, providing replacement cost coverage and insuring against loss by fire and such other risks covered by extended coverage insurance, and such other perils and risks as Beneficiary may require from time to time, including loss of rents and business interruption. Grantor also shall maintain continuous coverage of comprehensive general public liability insurance, naming Beneficiary or assigns as additional insured's, and if the Real Property is located in a designated flood hazard area, flood insurance. All insurance shall be with companies satisfactory to Beneficiary and in such amounts and with such coverage's as Beneficiary may require from time to time, with lender's loss payable clauses in favor of and in form satisfactory to Beneficiary. At least thirty (30) days prior to the expiration of the term of any insurance policy, Grantor shall furnish Beneficiary with written evidence of renewal or issuance of a satisfactory replacement policy. If requested, Grantor shall deliver copies of all polices to Beneficiary. Each policy of insurance shall provide Beneficiary with no less than forty-five (45) days prior written notice of any cancellation, expiration, non-renewal or modification.

b. In the event of foreclosure of this Deed of Trust all interest of Grantor in any insurance policies pertaining to the Property and in any claims against the policies and in any proceeds due under the policies shall pass to Beneficiary.

c. If under the terms of any Lease the lessee is required to maintain insurance of the type required by the Loan Documents and if the insurance is maintained for the benefit of both the lessor and Beneficiary, Beneficiary will accept such policies provided all of the requirements of Beneficiary and the Loan Documents are met. In the event the lessee fails to maintain such insurance, Grantor shall promptly obtain such policies as are required by the Loan Documents.

d. If Grantor fails to maintain any insurance required of it by Beneficiary, or fails to pay any premiums with respect to such insurance, Beneficiary may obtain such replacement insurance as it deems necessary or desirable, or pay the necessary premium on

benefit of Grantor, and any sums expended by Beneficiary in so doing shall be added to the principal balance of the Note and bear interest at the default interest rate set forth in the Note.

2. **Damages and Condemnation and Insurance Proceeds.**

a. Grantor hereby absolutely and irrevocably assigns to Beneficiary, and authorizes the payer to pay to Beneficiary, the following claims, causes of action, awards, payments and rights to payment: (i) all awards of damages and all other compensation payable directly or indirectly because of a condemnation, proposed condemnation or taking for public or private use which affects all or part of the Property or any interest in it; (ii) all other awards, claims and causes of action, arising out of any warranty affecting all or any part of the Property, or for damage or injury to or decrease in value of all or part of the Property or any interest in it; (iii) all proceeds of any insurance policies payable because of loss sustained to all or part of the Property; and (iv) all interest which may accrue on any of the foregoing.

b. Grantor shall immediately notify Beneficiary in writing if: (i) any damage occurs or any injury or loss is sustained in the amount of \$25,000 or more to all or part of the Property, or any action or proceeding relating to any such damage, injury or loss is commenced; or (ii) any offer is made, or any action or proceeding is commenced, which relates to any actual or proposed condemnation or taking of all or part of the Property. If Beneficiary chooses to do so, it may in its own name appear in or prosecute any action or proceeding to enforce any cause of action based on warranty, or for damage, injury or loss to all or part of the Property, and it may make any compromise or settlement of the action or proceeding. Beneficiary, if it so chooses, may participate in any action or proceeding relating to condemnation or taking of all or part of the Property, and may join Grantor in adjusting any loss covered by insurance.

c. All proceeds of these assigned claims, other property and rights which Grantor may receive or be entitled to shall be paid to Beneficiary. In each instance, Beneficiary shall apply those proceeds first toward reimbursement of all of Beneficiary's costs and expenses of recovering the proceeds, including attorneys' fees.

d. If, in any instance, each and all of the following conditions are satisfied in Beneficiary's reasonable judgment, Beneficiary shall permit Grantor to use the balance of the proceeds ("Net Claims Proceeds") to pay costs of repairing or reconstructing the Property in the manner described below: (i) the plans and specifications, cost breakdown, construction contract, construction schedule, contractor, and if reasonably required by Beneficiary (following its review of the financial condition of the contractor) payment and performance bond for the work of repair or reconstruction must all be acceptable to Beneficiary; (ii) Beneficiary must receive evidence satisfactory to it that after repair or reconstruction, the Property will be at least as valuable as it was immediately before the damage or condemnation occurred; (iii) the Net Claims Proceeds must be sufficient in Beneficiary's determination to pay for the total cost

of repair or reconstruction, including all associated development costs and interest projected to be payable on the Note until the repair or reconstruction is complete; or Grantor must provide its own funds in an amount equal to the difference between the Net Claims Proceeds and a reasonable estimate, made by Grantor and found acceptable by Beneficiary, of the total cost of repair or reconstruction; (iv) Beneficiary must receive evidence satisfactory to it that all Leases will continue after the repair or reconstruction is complete; (v) Beneficiary has received evidence satisfactory to it, that reconstruction and/or repair can be completed at least three (3) months prior to the date the Note secured by this Deed of Trust is due and payable; and (vi) no default under this Deed of Trust or any other Loan Document shall have occurred and be continuing. If the foregoing conditions are met to Beneficiary's satisfaction, Beneficiary shall hold the Net Claims Proceeds and any funds which Grantor is required to provide and shall disburse them to Grantor to pay costs of repair or reconstruction upon presentation of evidence reasonably satisfactory to Beneficiary that repair or reconstruction has been completed satisfactorily and lien-free. However, if Beneficiary finds that one or more of the conditions are not satisfied, it may apply the Net Claims Proceeds to pay or prepay some or all of the Note.

ARTICLE V

1. Default.

a. Grantor will be in default ("Default") under this Deed of Trust if (i) Grantor fails to make any payment when due under the Note, this Deed of Trust or any other Loan Document within ten (10) days of the due date, regardless of how such amount may have become due; (ii) there is a default under, a breach of, or failure to perform any other covenant, agreement or obligation to be performed under this Deed of Trust or any other Loan Document or under any guaranty of all or any part of the Secured Obligations beyond any applicable notice and cure period; (iii) any representation or warranty contained in this Deed of Trust or any other Loan Document, or any financial information furnished by Grantor or its agents to Beneficiary in connection with the Loan, proves to be false or misleading in any material respect; (iv) Grantor defaults under any lease or other contract or agreement relating to the Property, and such default is not cured within the applicable cure period, if any; (v) the occurrence of a default or an event of default under any other agreement between Grantor and Beneficiary or between Beneficiary and any guarantor of the Loan; (vi) Grantor or any guarantor of the Loan fails to pay his, her or its debts generally as they become due, or files a petition or action for relief under any bankruptcy, reorganization or insolvency laws or makes an assignment for the benefit of creditor; (vii) an involuntary petition is filed against Grantor or any guarantor of the Loan under any bankruptcy, reorganization or other insolvency laws, or a custodian, receiver or trustee is appointed to take possession, custody or control of the Property or any other properties of Grantor, or the assets of any guarantor of the Loan, and such petition or appointment is not set aside, withdrawn or dismissed within thirty (30) days

from the date of filing or appointment; or Goods, Inventory; or (viii) the death, dissolution or liquidation of Grantor or any guarantor.

b. Notwithstanding any other provision of this Deed of Trust, Beneficiary shall not accelerate the maturity of one or more of the Secured Obligations (a) because of a monetary default (defined below) by Grantor unless Grantor fails to cure the default within ten (10) days of the date on which Beneficiary mails or delivers written notice of the default to Grantor, or (b) because of a nonmonetary default (defined below) by Grantor unless Grantor fails to cure the default within thirty (30) days of the date on which Beneficiary mails or delivers written notice of the default to Grantor. For purposes of this Deed of Trust, the term "monetary default" means a failure by Grantor to make any payment required of it pursuant to the Note or any other Loan Document, and the term "nonmonetary default" means a failure by Grantor or any other person or entity to perform any obligation contained in the Note or any other Loan Document, other than the obligation to make payments provided for in the Note or any other Loan Document. If a nonmonetary default is capable of being cured and the cure cannot reasonably be completed within the thirty (30) day cure period, the cure period shall be extended up to sixty (60) days so long as Grantor has commenced action to cure within the thirty (30) day cure period, and in Beneficiary's reasonable opinion, Grantor is proceeding to cure the default with due diligence. None of the foregoing shall be construed to obligate Beneficiary to forebear in any other manner from exercising its remedies and Beneficiary may pursue any other rights or remedies which Beneficiary may have because of a default.

2. **Remedies.** Immediately upon or any time after the occurrence and during the continuance of any Default hereunder, Beneficiary may exercise any remedy available at law or in equity, including but not limited to those listed below and those listed in the other Loan Documents, in such sequence or combination as Beneficiary may determine in Beneficiary's sole discretion:

a. Performance of Defaulted Obligations. Beneficiary may make any payment or perform any other obligation under the Loan Documents which Grantor has failed to make or perform, and Grantor hereby irrevocably appoints Beneficiary as the true and lawful attorney-in-fact for Grantor to make any such payment and perform any such obligation in the name of Grantor. All reasonable payments made and expenses (including attorneys' fees) incurred by Beneficiary in this connection, together with interest thereon at the Past Due Rate, as defined in the Note, from the date paid or incurred until repaid, will be part of the Secured Obligations and will be immediately due and payable by Grantor to Beneficiary. In lieu of advancing Beneficiary's own funds for such purposes, Beneficiary may use any funds of Grantor which may be in Beneficiary's possession, including but not limited to insurance or condemnation proceeds and amounts deposited for taxes, insurance premiums, or other purposes.

b. Specific Performance and Injunctive Relief. Notwithstanding the availability of legal remedies, Beneficiary will be entitled to obtain specific performance, mandatory or prohibitory injunctive relief, or other equitable relief requiring Grantor to cure or refrain from repeating any Default.

c. Acceleration of Loan Documents. Beneficiary may, without notice or demand, declare the Loan, the Note, or any other Secured Obligations or Loan Document to which Grantor is or may become primarily obligated immediately due and payable in full.

d. Suit for Monetary Relief. With or without accelerating the maturity of Note, Beneficiary may sue from time to time for any amount due under any of the Loan Documents.

e. Possession of Real Property. Beneficiary may enter and take possession of the Real Property without seeking or obtaining the appointment of a receiver, may employ a managing agent for the Real Property, and may lease or rent all or any part of the Real Property, either in Beneficiary's name or in the name of Grantor, and may collect the rents, issues, and profits of the Real Property. Any revenues collected by Beneficiary under this section, at Beneficiary's option, shall be paid to Beneficiary and applied against sums owed under this Deed of Trust or any other Loan Document even though such sums may not be due and payable.

f. Enforcement of Security Interests. Beneficiary may exercise all rights of a secured party under the Uniform Commercial Code with respect to Grantor's personal property, including but not limited to taking possession of, holding, and selling such personal property. Any requirement for reasonable notice of the time and place of any public sale, or of the time after which any private sale or other disposition is to be made, will be satisfied by Beneficiary's giving of such notice to Grantor at least ten (10) days prior to the time of any public sale or the time after which any private sale or other intended disposition is to be made.

g. Foreclosure Against the Real Property. Beneficiary may foreclose this Deed of Trust, insofar as it encumbers the Real Property, either by judicial action or through Trustee and power of sale. Foreclosure through Trustee will be initiated by Beneficiary's filing of its notice of election and demand for sale with Trustee. Upon the filing of such notice of election and demand for sale, Trustee shall promptly comply with all notice and other requirements of the laws of Colorado then in force with respect to such sales, and shall give public notice of the time and place of such sale by advertisement weekly in some newspaper of general circulation then published in the County in which the Real Property is located. All reasonable fees, costs and expenses of any kind incurred by Beneficiary in connection with foreclosure of this Deed of Trust, including, without limitation, the reasonable costs of any appraisals of the Real Property obtained by Beneficiary, all

reasonable costs of any receivership for the Real Property advanced by Beneficiary, all environmental audit and clean-up costs and all attorneys' and consultants' fees incurred by Beneficiary, shall constitute a part of the Secured Obligations and may be included as part of the amount owing from Grantor to Beneficiary at any foreclosure sale. The proceeds of any sale under this section shall be applied first to the fees and expenses of the officer conducting the sale, and then to the reduction or discharge of the Secured Obligations; any surplus remaining shall be paid over to Grantor or to such other person or persons as may be lawfully entitled to such surplus. After the expiration of all applicable periods of redemption, unless the property sold has been redeemed as permitted by applicable law, the officer who conducted such sale shall, upon request, execute and deliver an appropriate deed to the holder of the certificate of purchase or the last certificate of redemption, as the case may be. Nothing in this Section dealing with foreclosure procedures or specifying particular actions to be taken by Beneficiary or by Trustee or any similar officer shall be deemed to contradict or add to the requirements and procedures now or hereafter specified by Colorado law, and any such inconsistency shall be resolved in favor of Colorado law applicable at the time of foreclosure.

In the event that, upon foreclosure of the Real Property pursuant to this Deed of Trust, the purchaser at the foreclosure sale has bid an amount less than the full indebtedness owed by Grantor and secured by this Deed of Trust, then the full amount bid and the full amount of the deficiency shall bear interest thereon at the Past Due Rate, as defined in the Note. Thereafter, the deficiency shall be a continuing obligation of Grantor for which Beneficiary shall be entitled to monetary judgment. At all times after Default, Beneficiary shall be entitled to interest at the Past Due Rate, as defined in the Note, which survive the entry of judgment.

If Beneficiary initiates a foreclosure proceeding, Beneficiary may order an environmental inspection. In the event that the environmental auditor recommends additional tests or inspections, Beneficiary may instruct the environmental auditor to conduct those additional measures. In the event that such inspections or tests identify that any hazardous waste or substance is located at the Real Property, even those previously disclosed to Beneficiary in environmental reports, Beneficiary may take any action necessary to abate, remediate or remove any hazardous waste or substance, as determined by Beneficiary in Beneficiary's reasonable discretion. (Without limiting the generality of the appropriate factual basis upon which such a decision would be reasonable, Beneficiary's decision to take such remedial measures shall conclusively be considered reasonable if they are recommended by an environmental consultant engaged by Beneficiary.) Such activities may be conducted through a receiver at the election of Beneficiary and may be taken before, during or after the completion of foreclosure proceedings. All costs and expenses of such actions shall be the responsibility of Grantor and at the Beneficiary's election may be capture costs from the foreclosure sales proceeds. It is the intent of this section that, if Beneficiary should obtain title to the Real Property through foreclosure, the Real Property

should be free of contamination or possible contamination of any hazardous waste or substance on or about the Real Property.

h. No Waiver of Remedies. Nothing contained in this Deed of Trust or any exercise by Beneficiary of any right or remedy pursuant to this Deed of Trust or any of the other Loan Documents, shall modify or limit any obligations or liabilities the Grantor under any of the other Loan Documents. Grantor hereby agrees and acknowledges that Beneficiary may seek to enforce any rights and remedies set forth in this Deed of Trust and any other of the Loan Documents.

i. Appointment of Receiver. Beneficiary shall be entitled, as a matter of absolute right and without regard to the value of any security for the Secured Obligations, or the solvency of any person liable therefor, to the appointment of a receiver for the Real Property upon ex-parte application to any court of competent jurisdiction. Grantor waives any right to any hearing or notice of hearing prior to the appointment of a receiver. Such receiver and his agents shall be empowered; (a) to take possession of the Real Property and any businesses conducted by Grantor or any other person thereon and any business assets used in connection therewith; (b) to exclude Grantor and Grantor's agents, servants, and employees from the Real Property; (c) to collect the rents, issues, profits, and income therefrom; (d) to complete any construction which may be in progress; (e) to do such maintenance and make such repairs and alterations as the receiver reasonably deems necessary; (f) to use all stores of materials, supplies, and maintenance equipment on the Real Property, as necessary to maintain the Real Property and replace such items at the expense of the receivership estate; (g) to pay all taxes and assessments against the Real Property and the chattels, all premiums for insurance thereon, all utility and other operating expenses, and all sums due under any prior or subsequent encumbrance; and (h) generally to do anything which Grantor could legally do if Grantor was in possession of the Real Property. All expenses incurred by the receiver or his agents shall constitute a part of the Secured Obligations. Any revenues collected by the receiver shall be applied first to the expenses of the receivership, including attorneys' fees incurred by the receiver and by Beneficiary, together with interest thereon at the Past Due Rate, as defined in the Note, from the date incurred until repaid, and the balance shall be applied toward the Secured Obligations or in such other manner as the court may direct. Unless sooner terminated with the express consent of Beneficiary, any such receivership will continue until the Secured Obligations have been discharged in full, or until title to the Real Property has passed after foreclosure sale and all applicable periods of redemption have expired.

j. Right to Make Repairs, Improvements. Should any part of the Real Property come into the possession of Beneficiary, after the occurrence and during the continuance of any Default, Beneficiary may (but shall not be required to) use, operate, and/or make repairs, alterations, additions and improvements to the Real Property for the purpose of preserving it or its value. Grantor covenants to promptly reimburse and pay to

Beneficiary, at the place where the Note is payable, or at such other place as may be designated by Beneficiary in writing, the amount of all reasonable expenses (including the cost of any insurance, taxes, or other charges) incurred by Beneficiary in connection with its custody, preservation, use or operation of the Real Property, after the occurrence and during the continuance of any Default, together with interest thereon from the date incurred by Beneficiary at the Past Due Rate, as defined in the Note, and all such expenses, costs, taxes, interest, and other charges shall be a part of the Secured Obligations. It is agreed, however, that the risk of accidental loss or damage to the Real Property is undertaken by Grantor and, except for Beneficiary's willful misconduct or gross negligence, Beneficiary shall have no liability whatsoever for decline in value of the Real Property, for failure to obtain or maintain insurance, or for failure to determine whether any insurance ever in force is adequate as to amount or as to the risks insured.

k. Surrender of Insurance. Beneficiary may surrender the insurance policies maintained pursuant to the terms hereof, or any part thereof, and receive and apply any unearned premiums as a credit on the Secured Obligations and, in connection therewith, Grantor hereby appoints Beneficiary (or any officer of Beneficiary) as the true and lawful agent and attorney-in-fact for Grantor (with full powers of substitution), which power of attorney shall be deemed to be a power coupled with an interest and therefore irrevocable, to collect such premiums.

l. Costs in Enforcing Performance. Grantor shall pay all costs and expenses including, without limitation, costs of title searches and title policy commitments, Uniform Commercial Code searches, appraisals, environmental audits, court costs and reasonable in-house and outside attorneys' fees, incurred by Beneficiary in enforcing payment and performance of the Obligations or in exercising the rights and remedies of Beneficiary hereunder. All such costs and expenses shall be secured by this Deed of Trust and by all other lien and security documents securing the Secured Obligations. In the event of any court proceedings, court costs and attorney fees shall be set by the court and not by jury and shall be included in any judgment obtained by Beneficiary.

m. Cumulative Remedies. To the fullest extent allowed by law, all Beneficiary's and Trustee's rights and remedies specified in the Loan Documents (including this Deed of Trust) are cumulative, not mutually exclusive and not in substitution for any rights or remedies available at law or in equity. Without waiving its rights in the Property, Beneficiary may proceed against Grantor or may proceed against any other security or guaranty for the Secured Obligations, in such order and manner as Beneficiary may elect. The commencement of proceedings to enforce a particular remedy shall not preclude the discontinuance of the proceedings and the commencement of proceedings to enforce a different remedy.

ARTICLE VI

1. **Additional Security Documents.** Grantor shall within fifteen (15) days after request by Beneficiary execute and deliver any financing statement, renewal, affidavit, certificate, continuation statement, or other document Beneficiary may request in order to perfect, preserve, continue, extend, or maintain security interests or liens granted herein to Beneficiary and the priority of such security interests or liens. Grantor shall pay all costs and expenses incurred by Beneficiary in connection with the preparation, execution, recording, filing, and refilling of any such document.

2. **Release of Deed of Trust.** Upon payment and performance in full of all Secured Obligations, Beneficiary agrees to request Trustee to release this Deed of Trust. Grantor shall pay the costs of preparation and recordation of the release, together with any Trustee fees.

3. **Nonwaiver of Terms and Conditions.** Time is of the essence with respect to performance of the obligations under this Deed of Trust or any other Loan Document. Beneficiary's failure to require prompt enforcement of any such obligation shall not constitute a waiver of the obligation or any subsequent required performance of the obligation. No term or condition of this Deed of Trust or any other Loan Documents may be waived, modified or amended except by a written agreement signed by Grantor and Beneficiary. Any waiver of any term or condition shall apply only to the time and occasion specified in the waiver and shall not constitute a waiver of the term or condition at any subsequent time or occasion.

4. **Waivers by Grantor.** Without affecting any of Grantor's obligations under this Deed of Trust or any other Loan Document, Grantor waives the following: (a) any right to require Beneficiary to marshal its assets and remedies or to proceed against any specific party liable for sums due under this Deed of Trust or any other Loan Document or to proceed against or exhaust any specific security for sums due under this Deed of Trust or any other Loan Document; (b) notice of new or additional indebtedness of any Grantor or any other party liable for sums due under this Deed of Trust or any other Loan Document to Beneficiary; (c) any defense arising out of Beneficiary entering into additional financing or other arrangements with any Grantor or any other party liable for sums due under this Deed of Trust or any other Loan Document and any action taken by Beneficiary in connection with any such financing or other arrangements or any pending financing or other arrangements; (d) any defense arising out of the absence, impairment, or loss of any or all rights of recourse, reimbursement, contribution or subrogation or any other rights or remedies of Beneficiary against any Grantor or any other party liable for sums due under this Deed of Trust or any other Loan Document or any Property; and (e) any obligation of Beneficiary to see to the proper use and application of any proceeds advanced pursuant to this Deed of Trust or any other Loan Document.

5. **Right of Subrogation.** Beneficiary is subrogated to the rights, whether legal or equitable, of all beneficiaries, mortgagees, lienholders and owners directly or indirectly paid

off or satisfied in whole or in part by any proceeds advanced by Beneficiary under this Deed of Trust or any other Loan Document, regardless of whether such parties assigned or released of record their rights or liens upon payment.

6. **Joint and Several Liability.** If there is more than one Grantor of this Deed of Trust, their obligations shall be joint and several.

7. **Statement of Amount Owed.** Grantor, within fifteen (15) days after request by Beneficiary will furnish Beneficiary a written statement of the amount due under this Deed of Trust or any other Loan Document, any offsets or defenses against the amount claimed by Grantor, and such other factual matters as Beneficiary may reasonably request.

8. **Appraisals.** In the event of a Default, or at Beneficiary's election under Section 1(e) of the Note, Beneficiary may obtain a current regulatory conforming appraisal of the Property. In addition, appraisals may be commissioned by Beneficiary when required by laws and regulations which govern Beneficiary's lending practices. The cost of all such appraisals (and related internal review fees and costs) will be paid by Grantor within fifteen (15) days after request by Beneficiary.

9. **Payment of New Taxes.** If any federal, state or local law is passed subsequent to the date of this Deed of Trust which requires Beneficiary to pay any tax because of this Deed of Trust or the sums due under this Deed of Trust or any other Loan Document (excluding income taxes), then Grantor shall pay to Beneficiary on demand any such taxes if it is lawful for Grantor to pay them, or, in the alternative Grantor may repay all sums due under this Deed of Trust or any other Loan Document plus any prepayment fee within thirty (30) days of such demand. If it is not lawful for Grantor to pay such taxes, then at its option Beneficiary may declare a default under this Deed of Trust or any other Loan Document.

10. **Notices.** Any notice required or desired to be given hereunder shall be in writing and shall be considered effective, if by personal delivery, when delivered, if by nationally recognized overnight carrier, when delivered if prior to 5:00 p.m. local time of the recipient on a business day, or if not, at 9:00 a.m., local time on the next business day, if mailed by certified mail, return receipt requested, postage prepaid, upon the earlier of (i) first attempted delivery by the U.S. Postal Service after mailing or (ii) the second (2nd) business day following the date of mailing, addressed to the party at the address set forth above (or such other address as a party may specify by written notice given pursuant to this paragraph), or with respect to the Grantor, to the address at which Beneficiary customarily or last communicated with Grantor. Notwithstanding the foregoing, no notice of change of address shall be effective except upon actual receipt.

11. **Controlling Document.** In the event of a conflict or inconsistency between the terms and conditions of this Deed of Trust and the terms and conditions of any other of the

Loan Documents (except for any separate assignment of the Rents and/or the Leases and any loan agreement which shall prevail over this Deed of Trust), the terms and conditions of this Deed of Trust shall prevail.

12. **Invalidity of Terms and Conditions.** If any term or condition of this Deed of Trust is found to be invalid, the invalidity shall not affect any other term or condition of the Deed of Trust and the Deed of Trust shall be construed as if not containing the invalid term or condition.

13. **Legislation Affecting Beneficiary's Rights.** If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Deed of Trust unenforceable according to its terms, Beneficiary, at its option, may require immediate payment in full of all sums secured by this Deed of Trust and may invoke any remedies permitted herein.

14. **Rules of Construction.** This Deed of Trust shall be construed so that, whenever applicable, the use of the singular shall include the plural, the use of the plural shall include the singular, and the use of any gender shall be applicable to all genders and shall include corporations, partnerships, limited partnerships, limited liability companies and other forms of entities. This Deed of Trust inures to the benefit of, and binds all parties named herein and their successors and assigns. The headings to the various sections have been inserted for convenience of reference only and shall not be used to construe this Deed of Trust.

15. **Applicable Law.** The Loan Documents shall be governed by and construed in accordance with the laws of the State of Colorado.

16. **Waiver of Jury Trial:** GRANTOR WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH GRANTOR AND BENEFICIARY MAY BE PARTIES, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY PERTAINING TO, THIS DEED OF TRUST OR ANY OF THE OTHER LOAN DOCUMENTS. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTION OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS DEED OF TRUST. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY GRANTOR, AND GRANTOR HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. GRANTOR FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS DEED OF TRUST AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

Signed and delivered as of the date first mentioned above.

GRANTOR:

Millcreek Cove Apartments, LLC, a Utah limited liability company

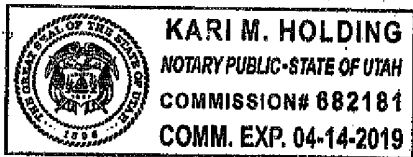
By: Randy Krantz
Randy Krantz, Manager

STATE OF Utah
COUNTY OF Salt Lake)^s

I certify that I know or have satisfactory evidence that Randy Krantz is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as Manager of Millcreek Cove Apartments, LLC, a Utah limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 4/30/16

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Kari M. Holding
Print Name: Kari Holding
NOTARY PUBLIC in and for the State of Utah, residing at: Salt Lake
My appointment expires: 4/14/19

Signed and delivered as of the date first mentioned above.

GRANTOR:

Millcreek Cove Apartments, LLC, a Utah limited liability company

By: [Signature]
Corey Jones, Manager

STATE OF Utah
COUNTY OF Salt Lake)^s

I certify that I know or have satisfactory evidence that Corey Jones is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as Manager of Millcreek Cove Apartments, LLC, a Utah limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 8/31/14

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

[Signature]
Print Name: Kari Holding
NOTARY PUBLIC in and for the State of Utah, residing at: Salt Lake
My appointment expires: 4/14/19

