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When Recorded, Return to:
Robert C. Hyde
Parsons Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111

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10/30/95 4:37 PM 54.00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
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REC BY: B GRAY , DEPUTY - WI

**DEED OF TRUST, SECURITY AGREEMENT AND
FINANCING STATEMENT**

THIS DEED OF TRUST, SECURITY AGREEMENT AND FINANCING STATEMENT (this "Deed of Trust") is made this 25th day of October, 1995, by and among Ninigret Park Development, L.C., a Utah limited liability company ("Borrower"), Allianz Life Insurance Company of North America, a Minnesota corporation ("Lender"), and First American Title Company of Utah ("Trustee").

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Borrower hereby irrevocably warrants, grants, bargains, sells, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Lender, subject to the terms and conditions of this Deed of Trust, all of the following-described estate, property and interest of Borrower, now owned or hereafter acquired, together with all cash and noncash proceeds thereof, all of which following-described estate shall be referred to in this Deed of Trust as the "Mortgaged Estate":

Land, Rents and Derivative Interests

The real property located in Salt Lake County, State of Utah, described in Exhibit "A" attached hereto and by this reference incorporated herein (the "Property"); all rents, issues, profits, royalties, income and other benefits derived from the Property (collectively the "rents"); all estate, right, title and interest of Borrower in and to all leases or subleases covering the Property or any portion thereof now or hereafter existing or entered into, and all tenant security deposits; all interests, estates or other claims, both in law and in equity, which Borrower now has or may hereafter acquire in the Property; all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto, and all water rights and shares of stock evidencing the same; all right, title and interest of Borrower, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Property, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Property;

Improvements

Any and all buildings and improvements now or hereafter erected on the Property, including, but not limited to, the fixtures, attachments, appliances, equipment, machinery, and other articles attached to such buildings and improvements (the "Improvements");

Personal Property

All right, title and interest of Borrower in and to all tangible personal property now owned or hereafter acquired by Borrower and now or at any time hereafter located on or at the Property and used in connection therewith, including, but not limited to: all building materials stored on the Property, goods, machinery, tools, equipment (including fire sprinklers and alarm systems, air conditioning, heating and refrigerating equipment, equipment for electronic monitoring, entertainment, recreation, window or structural cleaning, maintenance, exclusion of vermin or insects, removal of dust, refuse or garbage and all other equipment of every kind), lobby and all other indoor and outdoor furniture (including tables, chairs, beds, planters, desks, sofas, shelves, lockers and cabinets), wall beds, wall safes, furnishings, appliances (including dishwashers, garbage disposal units, refrigerators, fans, heaters, stoves, water heaters and incinerators), inventory related to the operation of the property (and not inventory of retail or wholesale business operations carried on upon the property), rugs, carpets and other floor coverings, draperies and drapery rods and brackets, awnings, window shades, venetian blinds, curtains, lamps, chandeliers and other lighting fixtures and maintenance and other supplies; other than such property owned by tenants of Borrower (or Borrower to the extent Borrower carries on a retail or wholesale business operation on the property where a stock in trade is maintained) and not acquired from Borrower subsequent to the date of this Deed of Trust (the "Personal Property");

Intangibles

All of Borrower's interest in all existing and future accounts, contract rights, general intangibles, files, books of account, agreements, permits, licenses and certificates necessary or desirable in connection with the acquisition, ownership, leasing, construction, operation, servicing or management of the Mortgaged Estate, whether now existing or entered into or obtained after the date hereof; and

Escrows

All of Borrower's interest in all existing and future escrow accounts established with respect to the Property including but not limited to escrows established for the payment of taxes, insurance, liens and encumbrances; and

Claims and Awards

All the estate, interest, right, title, other claim or demand, including claims or demands with respect to the proceeds of insurance and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Mortgaged Estate, and Borrower hereby authorizes, directs and empowers Lender, at its option, on Borrower's behalf, to adjust, compromise, claim, collect and receive such proceeds and to give proper receipts and acquittances therefor.

THIS DEED OF TRUST SHALL SECURE THE FOLLOWING INDEBTEDNESS AND OBLIGATIONS, INCLUDING ALL REPLACEMENTS, RENEWALS, AMENDMENTS, EXTENSIONS, SUBSTITUTIONS AND MODIFICATIONS:

(i) Payment of all indebtedness and performance of all obligations and covenants of Borrower under or pursuant to the following:

(a) That certain Promissory Note dated of even date herewith and executed by Borrower in favor of Lender in the aggregate principal amount of U.S. \$4,100,000.00 (the "Note");

(b) This Deed of Trust;

(c) That certain Assignment of Rents and Leases dated of even date herewith and recorded concurrently with this Deed of Trust, given by Borrower to Lender (the "Assignment of Rents");

(d) That certain Indemnity Agreement dated of even date herewith between Lender and Borrower ("Indemnity"); and

(e) All other Loan Documents (as defined herein);

(ii) Payment of all sums advanced by Lender to protect the Mortgaged Estate or otherwise pursuant to the terms of the Loan Documents, with interest on all of the foregoing at the Note Late Rate from the date of Lender's advance to the date of Borrower's payment.

The indebtedness and the obligations secured by this Deed of Trust which are described in (i) and (ii) above are referred to herein as the "Secured Obligations."

This Deed of Trust, the Note, the Assignment of Rents, the Indemnity, and any other writing given to evidence or further secure the payment and performance of any of the several Secured Obligations, are referred to herein as the "Loan Documents."

All capitalized terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Note.

ARTICLE I

REPRESENTATIONS, WARRANTIES, COVENANTS
AND AGREEMENTS OF BORROWER

Borrower hereby represents, warrants, covenants and agrees:

Section 1.01. Payment of Secured Obligations. Borrower hereby grants this Deed of Trust to secure the payment and performance when due of the Secured Obligations.

Section 1.02. Title of Borrower. Borrower has and shall maintain, in its own right, good, marketable and indefeasible title in fee simple to the Mortgaged Estate, which is free from encumbrance; and Borrower has full right to make this conveyance.

Section 1.03. Capital Improvements. Borrower shall not make any expenditures for Improvements on the Property which, individually or in the aggregate, would both materially and adversely affect the value, utility or current use of the Mortgaged Estate.

Section 1.04. Maintenance, Repair, Alterations. Borrower shall: (i) keep the Mortgaged Estate in good condition and repair, subject to reasonable and ordinary wear and tear; (ii) not remove, demolish or substantially alter any of the Improvements (except for renovations and tenant improvements made in the ordinary course of business which comply with the provisions of Section 1.03 above); (iii) complete promptly and in good and workmanlike manner any improvement, construction or restoration on the Property and pay when due all claims for labor performed and materials furnished therefor; (iv) comply with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Mortgaged Estate or any part thereof; (v) keep and maintain grounds, sidewalks, roads, parking and landscaped areas in good and neat order and repair; and (vi) not commit, suffer or permit any act to be done in or upon the Mortgaged Estate in violation of any law, ordinance or regulation.

Section 1.05. Required Insurance. Borrower shall provide, maintain and keep at all times in force the following policies of insurance:

(a) Hazard insurance on an all-risks basis for the full replacement cost of the Improvements, including a replacement cost endorsement, subject to an Agreed Amount Endorsement;

(b) Rental insurance to provide loss of rental income coverage, including, but not limited to, tenant reimbursement for operating expenses, for one (1) year, in an amount that will cover debt service and all operating expenses on the Mortgaged Estate;

(c) Boiler insurance in an amount deemed adequate by Lender in view of the pressure and location of any boilers and the type of building construction, if any boilers exist;

(d) Comprehensive general public liability insurance against claims for bodily injury, death or property damage occurring on, in, or about the Mortgaged Estate, in the minimum amount of \$2,000,000, or such greater amount as may reasonably be required by Lender, and naming the Lender as an additional insured;

(e) Flood insurance in the same minimum amount as required for hazard insurance, or such other amount as expressly approved in writing by Lender, should the Property be located in a flood hazard area; and

(f) Such other forms of insurance and endorsements as are customarily required for the type and use of the Mortgaged Estate securing the Loan.

All policies and renewals thereof (i) are to be issued by companies having a most current Best's rating of A:X or better; (ii) are to be written for a term of not less than one (1) year with the premium prepaid; (iii) shall contain a standard mortgagee clause and lender's loss payable endorsement in favor of Lender or its designated trustee, (iv) shall contain a thirty (30) day cancellation notice to the Lender, and (v) shall be subject to approval by Lender as to form and content with policies (or certificates of coverage and certified copies of policies) delivered to Lender.

Section 1.06. Payment of Premiums. Thirty (30) days prior to the expiration of each such policy or policies described in Section 1.05 above, Borrower shall furnish Lender with satisfactory evidence of the reissuance of each such policies continuing insurance in force as required by this Deed of Trust. In all cases, Borrower shall immediately give notice to Lender of any notice received by Borrower of any expiration, cancellation or modification of, or material reduction of coverage under, any such policy.

In the event Borrower fails to provide, maintain, keep in force or deliver and furnish to Lender the policies of insurance required by this Deed of Trust or to make the deposits required hereunder, Lender may procure such insurance or single-interest insurance for such risks covering Lender's interest, and Borrower will pay all premiums thereon promptly upon demand by Lender. Until such payment is made by Borrower, the amount of all such premiums, together with interest thereon, shall be secured by this Deed of Trust.

Section 1.07. Insurance Proceeds. After the occurrence of any casualty to the Mortgaged Estate or any part thereof, Borrower shall give prompt written notice thereof to Lender and promptly submit a claim to the insurer for payment of insurance proceeds. Borrower shall provide Lender with a copy of such claim.

(a) All proceeds of insurance paid or payable under any insurance policy (the "Insurance Proceeds") with respect to the Mortgaged Estate shall be paid and disbursed as follows:

(1) All Insurance Proceeds shall be paid to Lender. Each insurer is hereby authorized and directed to make payment for any loss directly to Lender instead of payment to Borrower. Any Insurance Proceeds shall be applied first to payment of all costs and expenses incurred by Lender in

obtaining such proceeds. The balance of the proceeds ("Net Insurance Proceeds"), if any, may be applied at the option of Lender, (i) toward altering, restoring or rebuilding the Mortgaged Estate or such portion thereof that may have been altered, damaged or destroyed or (ii) against Secured Obligations in such order as Lender may in its absolute discretion elect.

(2) Notwithstanding anything to the contrary in this Section 1.07(a), if an Event of Default does not exist, Lender shall release, pay or apply the Net Insurance Proceeds to the cost of restoration, repair or alteration of the Mortgaged Estate in such order and proportion as it may determine if the loss or damage to the Mortgaged Estate amounts to less than fifty percent (50%) of the net rentable building space and Borrower desires to alter, restore or rebuild the Improvements, provided that the following conditions are true and satisfied, in Lender's sole and subjective judgment:

(A) restoration or repair and the continued operation of the Mortgaged Estate is economically feasible;

(B) the value of Lender's security is not reduced;

(C) no Lease has terminated as a result of the loss or damage and all Leases remain enforceable under their terms without modification;

(D) the loss does not occur in the six month period proceeding the stated maturity date of the Note, and Lender's independent consultant certifies that the restoration work of the Mortgaged Estate can be completed at least ninety days prior to the maturity date of the Note.

Assuming the foregoing conditions are satisfied, the release thereafter of the Net Insurance Proceeds for such restoration or rebuilding shall be subject to the following additional conditions:

(i) Lender shall approve the plans and specifications for the restoration;

(ii) Lender shall approve a written contract with the general contractor providing for such contractor to construct and complete the repair or restoration in accordance with the plans and specifications for an amount not in excess of the amount of the Net Insurance Proceeds available for such purpose, or, if the amount of such contract exceeds the amount of the Net Insurance Proceeds available, then Borrower shall also deliver to Lender a sum in cash sufficient to pay any such deficiency;

(iii) Borrower shall provide certified copies of all necessary building permits;

(iv) Borrower shall provide the commitment of a title insurance company reasonably satisfactory to Lender providing (i) for either the title company or Lender to hold and disburse the insurance proceeds and any excess cash contributions required of Borrower and (ii) for the title insurance company to issue to Lender upon the completion of such repair or restoration a new policy or an endorsement to the Lender's existing policy of title insurance insuring the priority of this Deed of Trust over any claim for a mechanic's or materialmen's lien by the general contractor or by any of its subcontractors or suppliers arising out of the aforesaid repair or restoration;

(v) Subject to a ten percent (10%) holdback at Lender's discretion, the amount of Net Insurance Proceeds released from time to time ("Disbursements") shall be commensurate with the amount of work completed and materials used;

(vi) Before each Disbursement, Borrower shall submit architect or construction manager certificates certifying the work completed and materials used, and provide mechanics and materialmen's lien waivers from all subcontractors who have worked on the restoration or have supplied materials;

(vii) Lender shall not be obligated to contribute any more money than the total amount of Net Insurance Proceeds received as a result of the loss or damage to the Mortgaged Estate; and

(viii) Borrower shall complete the restoration whether or not the Net Insurance Proceeds are sufficient to cover the total cost of the restoration. Any excess Net Insurance Proceeds remaining after restoration shall be applied by Lender to pay down the Secured Obligations in such manner as determined by Lender in its sole discretion. Any such reduction of the Secured Obligations shall not affect or reduce the amount of the Monthly Payment under the Note. If Borrower does not desire to rebuild, Lender shall have the right to apply the Net Insurance Proceeds to the Secured Obligations.

(3) If an Event of Default exists, Lender shall have the right to apply any or all Insurance Proceeds to the Secured Obligations. Any monies released to Borrower (or paid or applied on the cost of restoration, repair or alteration of the Mortgaged Estate) shall in no event be deemed a payment on the Secured Obligations. Lender shall not be responsible for any failure to collect the Insurance Proceeds under the terms of any policy.

(4) Any damage or destruction shall not affect the lien of this Deed of Trust or the obligations of Borrower hereunder, and Lender is authorized at Lender's option to compromise and settle all loss claims on said policies if not adjusted promptly by Borrower.

(b) Notwithstanding the application of Insurance Proceeds to the payment of a portion of the Secured Obligations, any unpaid portion of the Secured Obligations shall remain in full force and effect, and Borrower shall not be excused in the payment thereof.

(c) The application or release by Lender of any Insurance Proceeds shall not cure or waive any Event of Default or notice of default under this Deed of Trust or invalidate any act done pursuant to such notice. If Lender elects not to so apply the Insurance Proceeds to the restoration, rebuilding or repair of the Mortgaged Estate pursuant to Section 1.07(a) hereof, Borrower shall not be required to restore, rebuild or repair the portion of the Mortgaged Estate damaged or destroyed which is covered by such Insurance Proceeds, and the failure to do so shall not constitute an Event of Default under this Deed of Trust.

Section 1.08. Indemnification; Subrogation; Waiver of Offset.

(a) Borrower shall indemnify and hold Lender harmless from all liability arising in connection with any litigation concerning this Deed of Trust or the Mortgaged Estate, including all attorneys' fees and expenses incurred by Lender in any such litigation, unless such liability results from the negligence, gross negligence or intentional misconduct of Lender.

(b) Borrower waives any and all right to claim or recover against Lender, its officers, employces, agents and representatives, for loss of or damage to Borrower, the Mortgaged Estate, Borrower's property or the property of others under Borrower's control from any cause insured against or required to be insured against by the provisions of this Deed of Trust.

(c) All sums payable by Borrower hereunder shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the Secured Obligations of Borrower hereunder shall in no way be released, discharged or otherwise affected by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Mortgaged Estate or any part thereof; (ii) any restriction or prevention of or interference with any use of the Mortgaged Estate or any part thereof; (iii) any title defect or encumbrance or any eviction from the Property or the Improvements or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Borrower, or any action taken with respect to this Deed of Trust by any trustee or receiver of Borrower, or by any court, in any such proceeding; or (v) any other occurrence whatsoever, whether similar or dissimilar to the foregoing; whether or not Borrower shall have notice or knowledge of any of the

foregoing. To the extent permitted by law, Borrower waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any Secured Obligation.

Section 1.09. Taxes and Impositions.

(a) Borrower agrees to pay, prior to delinquency, all real property taxes and assessments, general and special, and all other fees, taxes and assessments of any kind or nature whatsoever, which are assessed or imposed upon the Mortgaged Estate, or become due and payable, and which create a lien upon any part of the Mortgaged Estate, or any part thereof, or which are imposed upon Lender's interest in the Mortgaged Estate (all of which taxes, assessments and other governmental and nongovernmental charges of like nature are hereinafter referred to as "Impositions").

(b) If at any time after the date hereof, there shall be assessed or imposed (i) a tax or assessment on the Mortgaged Estate in lieu of or in addition to the Impositions payable by Borrower pursuant to subparagraph (a) hereof, or (ii) a license fee, tax or assessment imposed on Lender and measured by or based in whole or in part upon the amounts of the outstanding Secured Obligations, then all such taxes, assessments or fees shall be deemed to be included within the term "Impositions" as defined in subparagraph (a) hereof, and Borrower shall pay and discharge the same as herein provided with respect to the payment of Impositions.

(c) Borrower covenants to furnish Lender within 30 days after the date upon which any such Imposition is due and payable by Borrower, official receipts of the appropriate taxing authority, or other proof satisfactory to Lender, evidencing the payment thereof.

(d) Borrower covenants and agrees to use its best efforts to prevent the joint assessment of the real and personal property, or any other procedure whereby the lien of the real property taxes and the lien of the personal property taxes shall be assessed, levied or charged to the Mortgaged Estate as a single lien.

Section 1.10. Escrows. If requested by Lender in writing, then on the first day of each calendar month, Borrower shall deposit with Lender a non-interest-bearing amount equal to one-twelfth of the estimated aggregate annual insurance premiums on all policies of insurance required by this Deed of Trust and one-twelfth of the annual Impositions estimated by Lender to be next due on the Mortgaged Estate. Such deposits are hereby pledged as additional security for the Secured Obligations. If requested by Lender in writing, Borrower further agrees to cause all bills, statements or other documents relating to the foregoing insurance premiums and Impositions to be sent or mailed directly to Lender. Upon receipt of such bills, statements or other documents, and provided Borrower has deposited sufficient funds pursuant to this Section 1.10, Lender shall pay such amounts as may be due out of the funds so deposited in satisfaction of Borrower's obligations under Sections 1.06 and 1.09 above. If at any time and for any reason the funds so deposited are or will be insufficient to pay such amounts as may then or subsequently be due, Lender shall

notify Borrower; and Borrower shall immediately deposit an amount equal to such deficiency with Lender. Notwithstanding the foregoing, nothing contained herein shall cause Lender to be deemed a trustee of such funds or to be obligated to expend any amounts in excess of the amount of funds so deposited, pursuant to this Section 1.10. If Borrower fails to deposit sufficient sums pursuant to this Section 1.10, Lender may, at Lender's election, but without any obligation so to do, advance any amounts required to make up the deficiency, which advances, if any, shall be secured hereby and shall be repayable to Lender upon demand, or at the option of Lender, Lender may, without making any advance whatever, apply any sums held by it upon any Secured Obligations.

Section 1.11. Utilities. Borrower shall pay when due all utility charges which are incurred for the benefit or otherwise affect the Mortgaged Estate for gas, electricity, water, telephone telecable or sewer services and all other assessments or charges of a similar nature, whether public or private, affecting the Mortgaged Estate or any portion thereof, whether or not such taxes, assessments or charges are liens thereon.

Section 1.12. Actions Affecting Mortgaged Estate. Borrower shall appear in and contest any action or proceeding purporting to affect the title of Borrower in the Mortgaged Estate, security hereof or the rights or powers of Lender or Trustee; and Borrower shall pay all costs and expenses, including cost of evidence of title and attorneys' fees incurred by Lender or Trustee, in any such action or proceeding in which Lender or Trustee may appear.

Section 1.13. Actions by Lender and/or Trustee To Preserve Mortgaged Estate. Should Borrower fail to make any payment or to do any act as and in the manner provided in this Deed of Trust, Lender, in its sole discretion, without obligation to do so and without notice to or demand upon Borrower and without releasing Borrower from any Secured Obligation, may make or do the same in such manner and to such extent as Lender may deem necessary to protect the security hereof. In connection therewith (without limiting its general powers), Lender shall have and is hereby given the right, but not the obligation: (i) to enter upon and take possession of the Mortgaged Estate; (ii) to direct Borrower to terminate any management agent and to employ such management agent as Lender may determine; (iii) to make additions, alterations, repairs and improvements to the Mortgaged Estate which Lender may consider necessary or proper to keep the Mortgaged Estate leased and in good condition and repair; (iv) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Lender or Trustee; (v) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of Lender may affect or appears to affect the security of this Deed of Trust or be prior or superior hereto; and (vi) in exercising such powers, to pay necessary expenses, including employment of counsel or other necessary or desirable consultants. All costs and expenses incurred by Lender in connection with the exercise by Lender of the foregoing rights, including without limitation costs of evidence of title, court costs, appraisals, surveys and attorneys' fees, shall be secured hereby; and upon demand by Lender, all such costs and expenses shall be repayable by Borrower to Lender.

Section 1.14. Survival of Warranties. Borrower shall fully and faithfully satisfy and perform the Secured Obligations. All representations, warranties and covenants of

Borrower contained in any Loan Document or writing delivered in connection with the Loan shall remain continuing obligations, warranties and representations of Borrower during any time when any portion of the Secured Obligations remain outstanding.

Section 1.15. Eminent Domain.

(i) Borrower shall, within three business days of its receipt of notice thereof, notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Mortgaged Estate, or part thereof, and Borrower shall, after consultation with and subject to Lender's approval, appear in and prosecute any such action or proceeding. Upon Borrower's failure to act in accordance with Lender's prior approval, Borrower authorizes Lender, at Lender's option, as attorney-in-fact for Borrower (such appointment as attorney-in-fact is coupled with an interest), to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any condemnation or other taking of the Mortgaged Estate, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Mortgaged Estate, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender in accordance with the provisions of Section 1.15(ii) below. Lender is authorized (but is under no obligation) to collect any such proceeds.

(ii) Provided no Event of Default then exists and Borrower certifies as to same, the net condemnation award (after deduction of Lender's reasonable costs and expenses, if any, in collecting the same) shall be made available for the restoration or repair of the Mortgaged Estate if, in Lender's reasonable judgment: (a) restoration or repair and the continued operation of the Mortgaged Estate is economically feasible; (b) the value of Lender's security is not reduced; (c) no Lease has terminated as a result of the taking, loss or damage and all Leases remain enforceable under their terms without modification; (d) the condemnation award does not occur in the six month period preceding the stated maturity date of the Note and Lender's independent consultant certifies that the restoration of the Mortgaged Estate can be completed at least ninety days prior to such maturity date; and (e) the condemnation award is sufficient to complete the restoration or repair or Borrower has deposited with Lender an amount, in cash, which Lender, in its sole discretion, determines is necessary, in addition to the net condemnation award to pay in full the cost of the restoration or repair (Borrower's deposit shall be disbursed prior to any disbursement of the condemnation award held by Lender). In the event the foregoing conditions are satisfied, the condemnation proceeds shall be applied and disbursed in accordance with, and shall be subject to, the provisions of Section 1.07(a)(2), beginning with the second full paragraph therein, so that such condemnation proceeds shall be disbursed and applied in the same manner as Net Insurance Proceeds. If an Event of Default then exists, or any of the conditions set forth in clauses (a) through (e) of this Section 1.15(ii) have not been met or satisfied, the net condemnation award shall be applied to the Secured Obligations in such order and manner as Lender may elect, whether or not due and payable, with any excess paid to Borrower; provided that if no Event of Default then exists, the prepayment of the Secured Obligations resulting from the application of the condemnation award to the Secured Obligations shall not be subject to payment of the prepayment

premium described in the Note. Lender is authorized (but is under no obligation) to collect any such proceeds.

Section 1.16. Additional Security. In the event Lender at any time holds additional security for any of the Secured Obligations, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before, concurrently with or after any sale is made hereunder.

Section 1.17. Successors and Assigns. This Deed of Trust and all warranties and covenants of Borrower contained in the Loan Documents apply to, inure to the benefit of and bind all parties hereto, their heirs, successors and assigns.

Section 1.18. Inspections. Lender or its representatives are authorized to enter at any reasonable time, upon or in any part of the Mortgaged Estate for the purpose of inspecting the same and all books, records and documents relating thereto, and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Loan Documents.

Section 1.19. Liens. Borrower shall promptly pay, discharge and obtain the release of, at Borrower's cost and expense, all liens, encumbrances and charges upon the Mortgaged Estate, or any part thereof or interest therein, except Permitted Encumbrances.

So long as any Secured Obligation shall remain unpaid, Borrower shall execute, acknowledge, where appropriate, and deliver from time to time promptly at the request of Lender all such instruments and documents as in the opinion of Lender are necessary or desirable to preserve the first priority lien created by this Deed of Trust.

Section 1.20. No Event of Default Under Loan Documents. Borrower agrees to notify Lender immediately in writing of any Event of Default. Borrower shall also notify Lender in writing of any event or condition which with the lapse of time or the giving of notice would constitute an Event of Default.

Section 1.21. Appointment of Successor Trustee. Lender shall have full right and power at any time to appoint, by written instrument filed for record in the appropriate office where this Deed of Trust is recorded, a substitute Trustee, who shall succeed to all the estate, rights, powers and duties of the original Trustee named herein.

Section 1.22. Transfers of Interests in Borrower or Mortgaged Estate.

(a) Except for rental of space in the Mortgaged Estate in compliance with the terms of the Assignment of Rents and in the ordinary course of business, Borrower shall not, voluntarily, by operation of law or otherwise, sell, convey, alienate, transfer, mortgage, encumber, or assign (collectively "Transfer") ownership or control of all or any part of the Mortgaged Estate or any interest therein (including rents, issues or profits arising from the Mortgaged Estate), without the prior written consent of Lender, which consent may be withheld for any reason whatsoever in Lender's sole and unfettered discretion.

(b) It shall constitute an Event of Default under this Deed of Trust if, at any time while the Secured Obligations secured by this Deed of Trust remain outstanding, the members of Borrower, as they exist on the date of this Deed of Trust, Transfer any interest in Borrower.

Provided, however, that the forgoing restrictions and prohibitions described in paragraphs 1.22(a) and (b) shall not apply to:

- (i) Transfers occasioned by death;
- (ii) Transfers required by law (but specifically excepting a Transfer as a result of a foreclosure sale); and
- (iii) Transfers of interests in Borrower between and among existing members of Borrower, or Transfers by existing members of Borrower to relatives of such members for estate planning purposes, as long as the present members ("Principals") continue to own and maintain in the aggregate (A) voting control under Borrower's Operating Agreement and Articles of Organization, and (B) at least 51% of all interests in the profits and losses of Borrower.

(c) Any consent by Lender permitting a transaction otherwise prohibited under this Section 1.22 shall not constitute a consent to or waiver of any right, remedy or power of Lender to withhold its consent on a subsequent occasion to a transaction not otherwise permitted by the provisions of this Section.

Section 1.23. Subordinate Financing. As long as any of the Secured Obligations remain owing to Lender, Borrower shall not grant or enter into any lien, security interest, mortgage, deed of trust, assignment or other encumbrance covering any interest in the Mortgaged Estate.

ARTICLE II

LENDER'S POWERS

At any time, or from time to time, without liability therefor, Lender without affecting the personal liability, if any, of any person for payment of the Secured Obligations or the effect of this Deed of Trust upon the remainder of the Mortgaged Estate, may without notice (i) release any part of the Mortgaged Estate, (ii) consent in writing to the making of any map or plat thereof, (iii) join in granting any easement thereon, (iv) join in any extension agreement or any agreement subordinating the lien or charge hereof, (v) release any person so liable, (vi) extend the maturity of the Secured Obligations, (vii) grant other indulgences, (viii) release any security for any obligation herein mentioned, (ix) make compositions or other arrangements with debtors in relation thereto, or (x) advance additional funds to protect the security hereof and pay or discharge the Secured Obligations of Borrower hereunder, and all amounts so advanced shall be secured hereby and shall be due and payable upon demand by Lender.

ARTICLE III

ASSIGNMENT OF RENTS

Borrower hereby assigns and transfers to Lender all of the rents, issues and profits of the Mortgaged Estate. The terms of such assignment are more specifically set forth in the Assignment of Rents of even date herewith, which terms, by this reference, are incorporated herein.

ARTICLE IV

SECURITY AGREEMENT

Section 4.01. Creation of Security Interest. With respect to any portion of the Mortgaged Estate which constitutes Personal Property, fixtures or other property governed by the Uniform Commercial Code of the state in which the Property is located ("UCC"), this Deed of Trust shall constitute a security agreement between Borrower as the debtor and Lender as the secured party, and Borrower hereby grants to Lender a security interest in such portion of the Mortgaged Estate. Cumulative of all other rights of Lender hereunder, Lender shall have all of the rights conferred upon secured parties by the UCC. Borrower will execute and deliver to Lender all financing and continuation statements and other information that are from time to time required or appropriate to establish and maintain the validity and priority of the security interest of Lender, or any modification thereof, and pay all costs and expenses of any searches required by Lender. Lender may exercise any or all of the remedies of a secured party available to it under the UCC with respect to such property, and it is expressly agreed that if upon an Event of Default Lender should proceed to dispose of such property in accordance with the provisions of the UCC, ten (10) days' notice by Lender to Borrower shall be deemed to be reasonable notice under any provision of the UCC requiring such notice; provided, however, that Lender may at its option dispose of such property in accordance with Lender's rights and remedies with respect to the real property pursuant to the provisions of this Deed of Trust, in lieu of proceeding under the UCC.

Borrower shall give advance notice in writing to Lender of any proposed change in Borrower's name, identity, address, or business form or structure and will execute and deliver to Lender, prior to our concurrently with the occurrence of any such change, all additional financing statements that Lender may require to establish and maintain the validity and priority of Lender's security interest with respect to any of the Mortgaged Estate described or referred to herein.

Some of the items of the Mortgaged Estate described herein are goods that are or are to become fixtures related to the Property, and it is intended that as to those goods, this Deed of Trust shall be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the county in which the Mortgaged Estate is situated. Information concerning the security interest created by this instrument may be obtained from Lender, as secured party, and from Borrower, as debtor, at the addresses stated in Section 6.04 of this Deed of Trust. Borrower is the record owner of the

real estate set forth in Exhibit A attached hereto. For purposes of recording this instrument as a financing statement, Borrower is the debtor and Lender is the secured party.

Section 4.02. Warranties, Representations and Covenants of Borrower. Borrower hereby warrants, represents and covenants, with respect to the Personal Property, that all covenants and obligations of Borrower contained herein relating to the Mortgaged Estate shall be deemed to apply to the Personal Property whether or not expressly referred to herein.

ARTICLE V

EVENTS OF DEFAULT AND REMEDIES UPON DEFAULT

Section 5.01. Events of Default. Any one or more of the following events shall be deemed an Event of Default hereunder:

(a) failure by Borrower to pay when due and payable (calculated by including the due date), (i) any payment of principal of or interest on the Note, or (ii) any other sum secured hereby or due hereunder or under any other Loan Document, together with interest at the Late Rate, within 10 days after written notice from Lender;

(b) failure by Borrower to punctually perform or observe any covenant or agreement contained in this Deed of Trust (other than the monetary obligations described in paragraph (a) above) and such failure shall not have been cured within 30 days after written notice from Lender of such failure;

(c) except as described in (a) or (b) above, the occurrence of any default or any event of default under any Loan Document;

(d) Borrower or any guarantor shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Borrower or any guarantor or of all or any part of the Mortgaged Estate, or of any or all of the royalties, revenues, rents, issues or profits thereof, or shall make any general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due;

(e) a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against Borrower or any guarantor seeking any reorganization, dissolution or similar relief under any present or future federal state or other statute, law or regulation relating to bankruptcy, insolvency or other relief

for debtors, and such order, judgment or decree shall remain unvacated and unstayed for an aggregate of 60 days (whether or not consecutive) from the first date of entry thereof; or any trustee, receiver or liquidator of Borrower or of all or any part of the Mortgaged Estate, or of any or all of the royalties, revenues, rents, issues or profits thereof, shall be appointed without the consent or acquiescence of Borrower and such appointment shall remain unvacated and unstayed for an aggregate of 60 days (whether or not consecutive);

(f) a writ of execution or attachment or any similar process shall be issued or levied against all or any part of or interest in the Mortgaged Estate, or any judgment involving monetary damages shall be entered against Borrower which shall become a lien on the Mortgaged Estate or any portion thereof or interest therein and such execution, attachment or similar process or judgment is not released, bonded, satisfied, vacated or stayed within 60 days after its entry or levy;

(g) at any time any representation, warranty or statement made by Borrower in any Loan Document or certificate delivered by Borrower shall be or become incorrect or misleading in any material respect, or any material misrepresentation shall at any time be made to Lender by Borrower; and

h) a default under any other agreement, instrument or document in which Borrower has agreed that a default thereunder shall constitute a default under the Loan Documents.

Section 5.02. Acceleration Upon Default; Additional Remedies. Upon the occurrence of an Event of Default, Lender may:

(i) Declare all Secured Obligations to be due and payable, and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind except as otherwise provided herein, and Borrower hereby waives notice of intent to accelerate the Secured Obligations;

(ii) Either in person or by agent, and without regard to the adequacy of its security, enter upon and take possession of the Mortgaged Estate or any part thereof and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Mortgaged Estate, or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Mortgaged Estate, take any action described in Article II, III or IV hereof, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including reasonable attorneys' fees, upon any Secured Obligations, all in such order as Lender may determine. The entering upon and taking possession of the Mortgaged Estate, the taking of any action described in Article II, III or IV hereof, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the

Mortgaged Estate or the collection, receipt and application of rents, issues or profits, Lender shall be entitled to exercise every right provided for in any of the Loan Documents or by law upon occurrence of any Event of Default, including the right to exercise the power of sale herein conferred;

(iii) Commence an action to foreclose this Deed of Trust, appoint a receiver, specifically enforce any of the covenants hereof, or sell the Mortgaged Estate pursuant to the power of sale herein conferred;

(iv) Exercise any or all of the remedies available to a secured party under the UCC; and

(v) Apply any sums or amounts received pursuant hereto to Section 1.06, or as rents or income of the Mortgaged Estate or otherwise, upon any Secured Obligation in such manner and order as Lender may elect. The receipt, use or application of any such sums by Lender hereunder shall not be construed to affect the maturity of any Secured Obligation or any of the rights or powers of Lender under the terms of the Loan Documents or any of the obligations of Borrower or any guarantor under the Loan Documents.

Section 5.03. Exercise of Power of Sale. If Lender elects to sell Borrower's interest in the Mortgaged Estate by exercise of the power of sale herein contained, Lender shall notify Trustee in the manner then required by law.

(a) Upon receipt of such notice from Lender and at the direction of Lender, Trustee shall cause to be recorded, published and delivered such notices of default and notices of sale as may then be required by law and by this Deed of Trust. Trustee shall, only at the direction of Lender and without demand on Borrower, after such time as may then be required by law and after recordation of such notice of default and after notice of sale having been given as required by law, sell the Mortgaged Estate at the time and place of sale fixed by it in such notice of sale, either as a whole, or in separate lots or parcels or items as Lender shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale, or as otherwise may then be required by law. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Borrower, Trustee or Lender, may purchase at such sale.

(b) As may be permitted by law, after deducting all costs, fees and expenses of Trustee and of this Trust, including costs of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of (i) first, to payment of all costs, fees and expenses, including attorneys' fees and expenses incurred by the Lender in exercising the power of sale or foreclosing this Deed of Trust, and (ii) second, as directed by Lender or as may be required by law.

(c) Trustee may in the manner provided by law postpone sale of all or any portion of the Mortgaged Estate.

Section 5.04. Appointment of Receiver. If an Event of Default shall have occurred, Lender, as a matter of right and without regard to the then value of the Mortgaged Estate or the interest of Borrower therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Mortgaged Estate and Borrower hereby irrevocably consents to such appointment. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Lender in case of entry as provided in Section 5.02(ii) and shall continue as such and exercise all such powers until the date of confirmation of sale of the Mortgaged Estate unless such receivership is sooner terminated.

Section 5.05. Remedies Not Exclusive. Lender shall be entitled to enforce payment and performance of any Secured Obligations hereby and to exercise all rights and powers under this Deed of Trust or under any Loan Documents or other agreement or any laws now or hereafter in force, notwithstanding some or all of the Secured Obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. To the extent allowed under Utah law, every power or remedy given by any of the Loan Documents to Lender, or to which Lender may be otherwise entitled, may be exercised without prejudice to any other power or remedy, concurrently, independently, in any order and in any manner from time to time and as often as may be deemed expedient by Lender. No remedy or power is intended to be exclusive of any other power or remedy and Lender may pursue inconsistent remedies.

The acceptance by Lender of any sum after the same is due shall not constitute a waiver of the right either to require prompt payment, when due, of all other sums hereby secured or to declare a default as herein provided, except as to the amount accepted. The acceptance by Lender of any sum in an amount less than the sum then due shall be deemed an acceptance on account only and upon condition that it shall not constitute a waiver of the obligation of Borrower to pay the entire sum then due, and failure of Borrower to pay such entire sum then due shall be and continue to be an Event of Default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by Lender to any action or inaction of Borrower which is subject to consent or approval of Lender hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions or inactions. Nothing contained in this Deed of Trust shall be construed to constitute Lender as a "mortgagee in possession" in the absence of its taking actual possession of the Mortgaged Estate pursuant to the powers granted herein.

Section 5.06. Marshalling. Notwithstanding the existence of any other security interest in the Mortgaged Estate held by Lender or by any other party, Lender shall have the right to determine the order in which any of the Mortgaged Estate or any part thereof shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the Secured Obligations are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower and any party who now or hereafter acquires a security interest in any of the Mortgaged Estate and who has actual or constructive notice hereof hereby waives, to the extent

permitted by law, any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Governing Law. This Deed of Trust shall be governed by the laws of the State of Utah. In the event that any provision or clause of this Deed of Trust conflicts with applicable laws, such conflicts shall not affect other provisions of this Deed of Trust which can be given effect without the conflicting provision, and to this end the provisions of this Deed of Trust are declared to be severable. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

Section 6.02. Waiver of Rights. To the extent permitted by law, Borrower waives the benefit of all laws now existing or that hereafter may be enacted (i) providing for any appraisal before sale of any portion of the Mortgaged Estate, or (ii) in any way extending the time for the enforcement of the collection of the Secured Obligations or creating or extending a period of redemption from any sale made in collecting the Secured Obligations. To the extent permitted by law, Borrower agrees that Borrower will not at any time insist upon, plea, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisal, valuation, stay, extension, redemption or homestead exemption, and Borrower, for Borrower, Borrower's representatives, heirs, successors and assigns, and for any and all persons ever claiming any interest in the Mortgaged Estate, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisal, stay of execution, homestead exemption, notice of election to mature or declare due the whole of the Secured Obligations and marshalling in the event of foreclosure of the liens hereby created.

Section 6.03. Statements by Borrower. Borrower, within 10 days after being given notice, will furnish, or cause to be furnished, to Lender a written statement stating the unpaid principal of and interest on the Note and any other amounts secured by this Deed of Trust and stating that no offset or defense exists against such amounts. Within 90 days after the close of Borrower's fiscal year, which is December 31, Borrower shall submit to Lender (i) annual financial statements for Borrower, Ninigret Investment Company, L.C., a Utah limited liability company ("Ninigret"), and Randolph G. Abood ("Abood"), executed and certified to by each such person or entity and each of Borrower's and Ninigret's controlling members, which financial statements shall be prepared in accordance with generally accepted accounting principles and shall be in form and substance satisfactory to Lender, (ii) current leasing summaries and (iii) upon request by Lender, such other reports and statements which are prepared by Borrower and its representatives and agents in the ordinary course of business. The leasing summaries shall include the name of each tenant, unit type and size occupied and vacant, monthly rental and other payments, lease term, and shall detail any free rent periods or other tenant inducements, shall indicate whether any rental payments are in default, shall provide the details of annual rental increases, if any, and shall detail the status of any vacant space. The rent roll shall be supported by an

affidavit, with a true, complete, and correct sample lease attached thereto, sworn to by Borrower and its members and confirmed by an inspection of the Mortgaged Estate by Lender or its agent, all to be satisfactory in form and content to Lender and its legal counsel. Upon an Event of Default, Lender may require that the financial statements described above be (i) provided within ten (10) days of any written notice therefor from Lender, and (ii) audited by a recognized accounting firm acceptable to Lender.

Section 6.04. Notices. Whenever Lender or Borrower shall desire to give or serve any notice, demand, request or other communication with respect to this Deed of Trust, each such notice, demand, request or other communication shall be in writing and shall be deemed to have been given if sent by hand delivery, overnight courier or certified mail, postage prepaid, addressed to the following addresses:

If to Borrower: Ninigret Park Development, L.C.
10 Rockefeller Plaza, Suite 1120
New York, New York 10020

If to Lender: Allianz Life Insurance Company of North America
c/o Allianz Investment Corporation
55 Greens Farms Road
P.O. Box 5160
Westport, Connecticut 06881-5160
Attention: Real Estate Department

If to Trustee: First American Title Company of Utah
333 East 400 South
Salt Lake City, Utah 84111

Any party may at any time change its address for such notices by delivering to the other parties hereto, as aforesaid, a notice of such change.

Section 6.05. Captions. The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

Section 6.06. Conflicting Provisions. To the extent any conflict exists between the terms of the Commitment Letter and the terms of the other Loan Documents, the terms of the other Loan Documents will govern.

Section 6.07. Subrogation. To the extent that proceeds of the Note or advances under this Deed of Trust are used to pay any outstanding lien, charge or prior encumbrance against the Mortgaged Estate, such proceeds or advances have been or will be advanced by Lender at Borrower's request, and Lender shall be subrogated to any and all rights and liens held by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released of record.

Section 6.08. Change in Ownership. If the ownership of the Mortgaged Estate or any part thereof or interest therein becomes vested in a person other than Borrower owning

the same on the date hereof, Lender may, without notice to Borrower, deal with such successor or successors in interest with reference to this Deed of Trust and the Secured Obligations in the same manner as with Borrower without in any way vitiating or discharging Borrower's liability hereunder or upon the Secured Obligations. No sale of the Mortgaged Estate, and no forbearance on the part of Lender, and no extension of the time for the payment of the Secured Obligations, given by Lender, shall operate to release, discharge, modify, change or affect the original liability, if any, of Borrower or the liability of any guarantors or sureties of Borrower, either in whole or in part.

Section 6.09. Assignment of Lender's Interest. Borrower hereby specifically grants unto Lender the right and privilege, at Lender's option, to transfer and assign to any third person all or any part of Lender's rights hereunder. Upon any such transfer, Borrower at Lender's request, shall provide an estoppel certificate to such third person in form and content satisfactory to Lender, in its reasonable discretion.

Section 6.10. Time Is of the Essence. Time is of the essence under this Deed of Trust and the other Loan Documents.

IN WITNESS WHEREOF, Borrower has caused this Deed of Trust to be duly executed on the day and year set forth in the acknowledgment attached hereto and effective on the date first written above.

NINIGRET PARK DEVELOPMENT, L.C., a
Utah limited liability company

By Ninigret Group, L.C.
Its Manager

By Randolph G. Abood
Randolph G. Abood, Member of Ninigret
Group, L.C.

STATE OF Utah)
: SS.
COUNTY OF Salt Lake

The foregoing instrument was acknowledged before me this 25th day of October, 1995, by Randolph G. Abood, the Member of Ninigret Group, L.C., a Utah limited liability company that is the Manager of Ninigret Park Development, L.C., a Utah limited liability company.



NOTARY PUBLIC
ROBERT C. HYDE
201 South Main Street
Salt Lake City, Utah 84111
My Commission Expires
January 17, 1998
STATE OF UTAH

Robert C Hyde
NOTARY PUBLIC
Residing at: Salt Lake City, Utah

My Commission Expires:

1-17-98

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EXHIBIT "A"

**LOT 1, NINIGRET PARK, PLAT 1, according to the official plat thereof,
as recorded in the office of the Salt Lake County Recorder.**