

This instrument was prepared by,  
and after recordation should be returned to:

Greer, Herz & Adams, LLP  
Attn: Steven R. Burzinski  
2525 South Shore Blvd., Suite 203  
League City, Texas 77573

Assessor's Parcel No. 40-470-0004

**ABSOLUTE ASSIGNMENT OF LEASES AND RENTS**

This Absolute Assignment of Leases and Rents (this "Assignment") is executed effective as of August 1, 2017 (the "Effective Date"), by LINCOLN SQUARE APARTMENTS, LLC, a Utah limited liability company (hereinafter called "Assignor") for the benefit of AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company (hereinafter called "Assignee").

FOR AND IN CONSIDERATION of the loan made to Assignor by Assignee as evidenced by that certain promissory note (together with all renewals, modifications, increases, extensions, consolidations and rearrangements, thereof, individually and collectively referred to as the "Note") of even date in the original principal sum of \$37,500,000.00 payable to the order of Assignee and executed by Assignor, which is described in and secured by that one certain Deed of Trust, Security Agreement and Financing Statement (together with all renewals, modifications, increases, extensions, consolidations and rearrangements, thereof, the "Deed of Trust"; the Note, the Deed of Trust and all other documents evidencing, securing or relating to the Note and the Mortgage are sometimes individually referred to as a "Loan Document" and collectively as the "Loan Documents") of even date executed by Assignor for the benefit of Assignee, covering the real property described in Exhibit "A" attached hereto and made a part hereof by reference for all purposes, which, together with any and all buildings, improvements, fixtures and equipment located thereon owned by Assignor and any and all easements and appurtenances thereto, is hereinafter referred to as the "Mortgaged Property", Assignor has GRANTED, TRANSFERRED and ASSIGNED, and by these presents does GRANT, TRANSFER and ASSIGN unto Assignee the following:

1. any and all leases, written or oral, and all agreements for use or occupancy of any portion of the Mortgaged Property, including but not limited to, those lease(s) more particularly

described in that certain Closing Certificate of even date herewith executed by Assignor for the benefit of Assignee, which is incorporated herein by reference for all purposes, any and all extensions and renewals of said leases and agreements and any and all further leases or agreements, including, without limitation, subleases thereunder, upon or covering use or occupancy of all or any part of the Mortgaged Property, all such leases, agreements, subleases and tenancies heretofore mentioned being hereinafter individually and collectively referred to as the "Lease" and such parties, lessees, sublessees and tenants under any Lease being hereinafter individually and collectively referred to as a "Lessee";

2. any and all guaranties of the performance, payment and/or collection of any of the Leases (individually referred to as a "Guaranty" and collectively referred to as "Guaranties") by any guarantor, surety or other liable party thereunder (collectively referred to as a "Guarantor"); and

3. the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due, or to which Assignor may now or shall hereafter (including during the period of redemption, if any) become entitled or may demand or claim, arising or issuing from or out of the Leases or Guaranties or from or out of the Mortgaged Property, or any part thereof, including but not limited to minimum rents, additional rents, percentage rents, common area maintenance charges, parking charges, tax and insurance premium contributions, and liquidated damages following default, the premium payable by any Lessee under any Lease upon the exercise of any cancellation privilege provided for in any of the Leases, payments from any Guarantor and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Mortgaged Property, together with any and all rights and claims of any kind which Assignor may have against any Lessee or Guarantor in connection with the Leases or against any subtenants, occupants or users of the Mortgaged Property, all such monies, rights and claims in this paragraph described being hereinafter referred to as the "Rents".

To induce Assignee to lend the funds evidenced by the Note, Assignor hereby makes the following REPRESENTATIONS AND WARRANTIES, jointly and severally:

That Assignor has good title to the Leases, Guaranties and Rents hereby assigned and good right to assign the same, and that no other person, corporation or entity has any right, title or interest to the lessor's interest therein; that Assignor has duly and punctually performed all and singular the terms, covenants, conditions and warranties of the existing Leases on Assignor's part to be kept, observed and performed the failure of which would adversely affect Assignor; that Assignor has not previously sold, assigned, transferred, mortgaged or pledged the Leases, Guaranties or the Rents, whether now due or hereafter to become due; that any of the Rents due for any period subsequent to the date hereof have not been collected more than one month in advance and that payment of any of the Rents has not otherwise been anticipated, waived, released, discounted, set off or otherwise discharged or compromised except in the ordinary course of business; that Assignor has not received any funds or deposits from any Lessee in excess of one (1) month's rent for which credit has not already been made on account of accrued rents; and that to Assignor's knowledge the lessee under

any existing Lease is not in default of any of the terms thereof except as otherwise previously disclosed in writing to Assignee.

Assignor further COVENANTS AND AGREES, jointly and severally:

1. to observe, perform and discharge all material obligations, covenants and warranties provided for under the terms of the Leases and Guaranties to be kept, observed and performed by Assignor, the failure of which would adversely affect Assignor, and to give prompt notice to Assignee in the event Assignor fails to observe, perform and discharge same;

2. upon the written request of Assignee, to notify in writing Lessee, Guarantor and/or other occupant of the Mortgaged Property or any part thereof that any security deposits or other deposits heretofore delivered to Assignor have been retained by Assignor or assigned and delivered to Assignee as the case may be;

3. to enforce or secure, in the name of the Assignee if Assignee should so request, the performance of each and every material obligation, term, covenant, condition and agreement to be performed the failure of which would adversely affect Assignor by (a) any Lessee under the terms of the Leases and (b) any Guarantor under the terms of the Guaranties;

4. to appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases, the Guaranties or the obligations, duties or liabilities of Assignor and any Lessee thereunder, and, upon request by Assignee, to do so in the name and on behalf of Assignee but at the expense of the Assignor, and to pay all costs and expenses of Assignee, including reasonable attorneys' fees, in any action or proceeding in which the Assignee may appear;

5. not to receive or collect any Rents from any present or future lessee or from any current or future guarantor for a period of more than one (1) month in advance, or pledge, transfer, mortgage or otherwise encumber or assign future payments of the Rents;

6. not to waive, excuse, condone, discount, set off, compromise or in any manner release or discharge any current or future guarantor or lessee from any obligations, covenants, conditions and agreements by said lessee or guarantor to be kept, observed and performed, including, without limitation, the obligation to pay rent in the manner and at the place and time specified in any current or future lease except in the exercise of its commercially reasonable business discretion and only to the extent not prohibited by the Deed of Trust;

7. not to enter into any new leases and not to cancel, terminate or consent to any surrender of the existing Lease or any Guaranty, or modify or alter the terms of any lease or any guaranty without, in each such instance, the prior written consent of Assignee except in the exercise of Assignor's commercially reasonable business discretion and only to the extent not prohibited by the Deed of Trust;

8. promptly upon receipt of demand from Assignee, to notify Lessee, Guarantor and/or other occupant of the Mortgaged Property in writing of the rights granted to Assignee hereunder, and upon the occurrence and during the continuance of any Event of Default, to direct, in writing, Lessee, Guarantor and/or other occupant of the Mortgaged Property to pay all Rents then due or to become due from Lessee, Guarantor and occupant directly to Assignee upon such Lessee's, Guarantor's or occupant's receipt of written notice from Assignee of Assignee's exercise of Assignee's rights under this Assignment;

9. to provide Assignee with copies of all notices, complaints, demands and petitions regarding (a) any actual, potential or alleged default on the part of the landlord or the tenant under all Leases or (b) any Hazardous Materials, as such term is defined in the Mortgage, sent or received by Assignor immediately upon Assignor's sending same or within five (5) days of Assignor's receipt of same, as applicable; and

10. to promptly remit to Assignee any and all Rents received by Assignor after Assignor's receipt from Assignee of termination of Assignor's license to collect Rents granted herein.

So long as no Event of Default (as defined under any Loan Document) shall have occurred, Assignor shall have the right under a license granted hereby (but limited as provided in the following paragraphs) to collect, receive, retain, use and disburse, but not prior to accrual, all of the Rents arising from or out of the Leases or the Mortgaged Property.

Upon the occurrence of an Event of Default, Assignee, at its option, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies: (a) to terminate the license hereby granted to Assignor to collect the Rents as aforesaid, and, without taking possession of the Mortgaged Property, to, in Assignee's own name, demand, collect, receive, sue for, attach and levy the Rents, to give proper receipts, releases and acquittances therefor, and, after deducting all necessary and reasonable costs and expenses of collection, including reasonable attorney's fees, to apply the net proceeds thereof, together with any funds of Assignor deposited with Assignee, upon any indebtedness secured hereby or obligation provided for in any of the Loan Documents and in such order as Assignee may determine; (b) to declare all sums secured hereby immediately due and payable and, at Assignee's option, to exercise all of the rights and remedies provided for in the Loan Documents or under the terms hereof; and (c) without any action or proceeding, through any person or by agent, or by the trustee(s) or successor trustee under the Deed of Trust, or by a receiver to be appointed by a court, to enter upon, take possession of, manage and operate the Mortgaged Property or any part thereof, and irrespective of Assignor's possession of the Mortgaged Property, to make, modify, enforce, cancel or accept surrender of any of the Leases and Guaranties, to remove and evict any Lessee or other occupant (to the extent permitted by applicable law and the terms of the applicable Lease), to increase or reduce rents, to decorate, clean and make repairs, and to otherwise do any act or incur any cost or expenses Assignee shall deem proper to protect the Leases, Guaranties and the Mortgaged Property, as fully and to the same extent as Assignor could do if in possession, and in such event to apply any funds so collected to the operation

and management of the Mortgaged Property, but in such order as Assignee shall deem proper, and including payment of reasonable management, brokerage and attorney's fees, and then, to the extent funds are available and to the extent deemed appropriate by Assignee, to the maintenance, without interest thereon, of a reserve for replacement of items on the Mortgaged Property, and then, if any of such funds remain, to the payment of any outstanding indebtedness evidencing, securing or relating to the terms of the Loan Documents.

The exercise by Assignee of any of the rights and remedies described above, including collection of the Rents and application thereof as aforesaid and/or the entry upon and taking possession of the Mortgaged Property, shall not cure or waive any Event of Default or waive, modify or affect any notice of default under the Loan Documents or hereunder, or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by Assignee, once exercised, shall continue for so long as Assignee shall elect, notwithstanding that the collection and application as aforesaid of the Rents may have cured the original Event of Default. If Assignee shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time and from time to time following any subsequent Event of Default.

Notwithstanding the aforesaid license of Assignor to collect the Rents accruing under the Leases prior to an Event of Default, Assignee shall at all times be the creditor of each Lessee under the Leases and Guaranties in respect of assignments for the benefit of creditors, bankruptcy, reorganization, rearrangement, insolvency, dissolution, or receivership proceedings, with Assignee having the option to apply any monies received by the Assignee as such creditor to reduction of the principal or interest or other indebtedness evidencing, securing or relating to the Loan Documents.

This Assignment shall remain in effect as long as any part of the indebtedness evidencing, securing or relating to the Loan Documents remains unpaid, and upon payment in full of said indebtedness, Assignee shall execute a release of this Assignment upon request of Assignor and at the expense of Assignor.

If an Event of Default shall have occurred, and if there is any law requiring Assignee to take actual possession of the Mortgaged Property (or some action equivalent thereto, such as securing the appointment of a receiver) in order for Assignee to "perfect" or "activate" its rights and remedies as set forth herein, then to the maximum extent permitted by law Assignor waives the benefits of such law and agrees that such law shall be satisfied solely by: (1) Assignee sending Assignor written notice that Assignee intends to enforce, and is enforcing, its rights in and to the Mortgaged Property and the rents, revenues, profits, and other items assigned herein; and (2) Assignee sending written notice to any or all tenants on the Mortgaged Property that said tenants should commence making payments under the Leases directly to Assignee or its designee.

In case any one or more of the provisions contained in this Assignment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or

unenforceability shall not affect any other provision hereof, and this Assignment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

This Assignment shall be interpreted, construed and enforced in accordance with the internal laws of the State of Utah, without regard to its internal laws with respect to conflict of laws.

This Assignment shall run with the land and shall inure to the benefit of and bind all parties hereto and their respective successors and assigns.

**[THE REMAINDER OF THIS PAGE INTENTIONALLY RESERVED]**

The undersigned has caused this Absolute Assignment of Leases and Rents to be executed as of the date set forth in the acknowledgement below, and to be effective as of the Effective Date.

**ASSIGNOR:**

**LINCOLN SQUARE APARTMENTS, LLC,**  
a Utah limited liability company

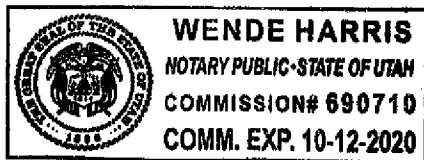
By: Ralph Randy Moffat  
Ralph Randy Moffat, its Manager

STATE OF UTAH §  
  §  
COUNTY OF Salt Lake §

Before me, the undersigned authority, a Notary Public, on this day personally appeared Ralph Randy Moffat, as Manager of LINCOLN SQUARE APARTMENTS, LLC, a Utah limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed, and as the act of said limited liability company.

Given under my hand and notarial seal this 28 day of July, 2017.

Wende Harris  
Notary Public, State of Utah



[Signature/Notary Page(s) to Absolute Assignment of Leases and Rents – Lincoln Square Apartments, LLC]

**EXHIBIT "A"**

**MORTGAGED PROPERTY**

**[Follows this Cover Page]**

[Exhibit "A" to Absolute Assignment of Leases and Rents – Lincoln Square Apartments, LLC]

GHA371507  
10500-773



**Parcel 1:**

**A portion of Lot 1, Geneva Park East - Phase Two, according to the official plat thereof as recorded in the Office of the Utah County Recorder, more particularly described as follows:**

**A parcel of land located in Northwest Quarter of the Northeast Quarter of Section 17, Township 6 South, Range 2 East, Salt Lake Base and Meridian; said property being more particularly described as follows:**

**Commencing at a point located South 00°02'55" East along the section line 52.75 feet and West 1451.14 feet from the Northeast Corner of Section 17, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence along the easterly boundary of Lot 1, Geneva Park East-Phase Two Subdivision the following three (3) calls: South 00°33'35" East 0.78 feet, North 89°26'17" East 12.01 feet, along an arc of a 15.00 foot radius tangent curve to the right 23.56 feet (chord bears South 45°33'41" East 21.21 feet) to the westerly right-of-way of Mill Road and easterly boundary of Lot 1, Geneva Park East-Phase Two Subdivision; thence along the westerly right-of-way of Mill Road and the easterly boundary of Lot 1, Geneva Park East-Phase Two Subdivision the following three (3) calls: South 00°33'46" East 159.05 feet, along an arc of a 799.00 foot radius tangent curve to the left 466.86 feet (chord bears South 17°18'08" East 460.25 feet), South 34°02'40" East a distance of 37.41 feet to the Southeast Corner of Lot 1; thence North 89°59'49" West along the property line between Lot 1 and Lot 2 1020.20 feet to a point on the easterly right of way of the Union Pacific Railroad and westerly boundary line of Lot 1, Geneva Park East-Phase Two Subdivision; thence North 30°03'56" West along said right of way and westerly boundary line 731.57 feet; thence North 89°26'14" East 194.54 feet; thence along an arc of a 48.00 foot radius non-tangent curve to the left 58.01 feet (chord bears North 89°26'03" East a distance of 54.54 feet); thence North 89°26'03" East a distance of 951.13 feet to the point of beginning.**

**The following is shown for information purposes only: Tax ID No. 40-470-0004**

**Parcel 2:**

**Terms, conditions, easements, benefits and limitations contained in RESERVATION, DECLARATION AND GRANT OF EASEMENTS recorded September 2, 2011 as Entry No.: 62336:2011, Official Records.**

**Parcel 3:**

**Terms, conditions, easements, benefits, and limitations contained in RESERVATION, DECLARATION AND GRANT OF EASEMENTS recorded June 19, 2014 as Entry No.: 41851:2014, Official Records.**

**Parcel 4:**

**Together With the rights and interests as set forth in that certain DECLARATION OF PROTECTIVE COVENANTS, AGREEMENTS, EASEMENTS, CONDITIONS AND RESTRICTIONS FOR EASTLAKE AT GENEVA INDUSTRIAL BUSINESS PARK, PHASE 2 LOTS 3, 4, 7, 8 and 9, except color, creed, national origin, religion, sex, handicap or familial status, unless and only to the extent that said Covenants (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicap persons contained in instrument:**

**Recorded: November 24, 2009**

**Entry No: 121704:2009**

**Amendment to said Covenants:**

**Recorded: December 21, 2009**

**Entry No.: 130269:2009**

**Parcel 5:**

**Together With the easements, benefits, and limitations contained in proposed TEMPORARY ACCESS EASEMENT AGREEMENT dated July 28, 2017, executed by and between Geneva Anderson, LLC, a Utah limited liability company as Grantor and Lincoln Square Apartments, LLC, a Utah limited liability company as Grantee, recorded July 28, 2017 as Entry No. 73068:2017, Official Records.**