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01/11/2022 12:48 PM By: arodriguez Fees: \$40.00
TRD- TRUST DEED
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: COTTONWOOD TITLE INSURANCE AGENCY, INC.
1996 EAST 6400 SOUTH SUITE 120SALT LAKE CITY, UT 84121

AFTER RECORDING RETURN TO:

Saalfeld Griggs PC
Attn: Shannon Martinez
PO Box 470
Salem, OR 97308

MAIL TAX STATEMENTS TO:

No Change

Tax Account No. 14-32-201-066

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

DATE: September 30, 2021

TRUSTOR: MWIC MAGNA APARTMENTS, LLC, whose address is 201 Ferry Street SE, Suite 400 Salem, OR, 97301.

TRUSTEE: COTTONWOOD TITLE INSURANCE AGENCY, INC. whose address is 1996 E. 6400 S., Ste 120, Salt Lake City, UT 84121

BENEFICIARY: LAWRENCE E. TOKARSKI, whose address is 201 Ferry Street SE, Suite 400 Salem, OR, 97301.

PROPERTY DESCRIPTION: See *Exhibit A*, attached hereto and incorporated fully herein by this reference, and commonly known as 8315 West Arbor Park Drive, Magna, UT 84044.

THIS DEED OF TRUST IS ALSO INTENDED TO BE A FIXTURE FILING AND IS TO BE INDEXED BOTH AS A DEED OF TRUST AND A FIXTURE FILING. THIS DEED OF TRUST IS A CONSTRUCTION MORTGAGE PURSUANT TO THE UNIFORM COMMERCIAL CODE, AS IT IS APPLIED IN UTAH, WHICH SECURES AN OBLIGATION INCURRED FOR THE CONSTRUCTION OF AN IMPROVEMENT ON LAND.

RECITALS:

- A. Trustor is the owner of the following described real property, including all appurtenances, buildings and existing or future improvements located thereon and all fixtures and attachments thereof, all of which real property is hereinafter collectively referred to as the "*Property*": See attached *Exhibit A*, which is incorporated fully herein by this reference, and commonly known as 8315 West Arbor Park Drive, Magna, UT 84044.

DEED OF TRUST (MWIC MAGNA APARTMENTS, LLC)

4830-6116-4539, v. 8

ACCOMMODATION RECORDING ONLY.
COTTONWOOD TITLE INSURANCE AGENCY,
INC. MAKES NO REPRESENTATION AS TO
CONDITION OF TITLE, NOR DOES IT ASSUME
ANY RESPONSIBILITY FOR VALIDITY,
SUFFICIENCY OR EFFECTS OF DOCUMENT.

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- B. Beneficiary has agreed to lend to Trustor (the "**Trustor**"), and the Trustor has agreed to borrow from Beneficiary, the principal sum of \$15,000,000.00 upon the terms and conditions set out herein and in that certain Promissory Note (the "**Note**") dated concurrently with this Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing (hereinafter "**Trust Deed**" or "**Deed of Trust**") with final payment due as set forth in the Note, but no later than March 30, 2022, which is the maturity date of this Loan (unless extended by the Beneficiary pursuant to the terms of the Note). Trustor has agreed to deed to Trustee the Property to secure full and timely payment and performance of the Obligations, as defined below, owing by the Trustor to the Beneficiary and to secure performance of all of the Obligations under the Note, this Trust Deed and under any other instruments evidencing or relating to the Obligations of the Trustor to the Beneficiary.
- C. Trustor is sometimes also referred to herein as "**Borrower**." Beneficiary is sometimes referred to herein as "**Creditor**" or "**Lender**." All capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Related Documents, as defined below.

TRUSTOR HEREBY GRANTS, BARGAINS, SELLS AND CONVEYS TO THE TRUSTEE, in trust, for valuable consideration with power of sale, all of Trustor's rights, title and interest in the Property, together with all of the following whether now or hereafter located on, existing on or used in connection with the Property, or the use or operation thereof: all buildings and improvements; all facilities, installations, apparatus, furnishings, fixtures, equipment, goods and all other personal property (including materials, supplies and goods, wherever located); all general intangibles, contracts, contract rights, agreements, permits, approvals, plans, specifications, drawings, surveys, engineering reports and other work product relating to the operation and management of the Property or the construction of any Improvements; and all easements, rights of way, appurtenances, alleys, streets and roads adjoining or abutting the Property, development rights, water, air, water rights, ditch rights (including stock in utilities with ditch or irrigation rights), and all other rights, royalties and profits relating to the Property, whether existing now or in the future; including, without limitation, all minerals, oil, gas, geothermal and similar matters; and presently assigns all of Trustor's rights and interest in all existing and future leases and tenancies relating to the Property, and all accounts, deposit accounts, rents, revenues, income, issues, proceeds and profits therefrom, to the Trustee, and its successors and its assigns, upon the terms set forth herein.

1. Definitions

Unless otherwise defined herein, all capitalized terms as used herein shall have the same meaning in all other related documents executed between the parties including, without limitation, the Note.

- 1.1 **Improvements.** Any and all buildings, tenements and structures and all accessories thereto including, without limitation, dwellings, garages, landscaping, fencing, utilities, sidewalks, driveways, outbuildings, warehouses, garages, landscaping, and all other structures and superstructures upon or relating to the Property.
- 1.2 **Indebtedness.** Any and all amounts owing to Creditor from Borrower at any time, under the Note or this Trust Deed, and shall include, without limitation, all principal, interest, fees, costs, and any and all other sums recoverable by Creditor under the terms of the Note and this Trust Deed.
- 1.3 **Laws.** Any and all statutes, regulations, rules, codes, ordinances, orders, referendums, opinions, or other authority by the United States, the state in which the Property is located and any political subdivision thereof, and any county, city, agency, department, commission, board, bureau or instrumentality of any of them.
- 1.4 **Loan.** The Loan shall collectively refer to any and all financing provided by Creditor to Borrower under the terms of this Trust Deed and the Note and shall also individually refer to the amount to

be advanced under the Note.

2. Particular Covenants, Representations and Warranties of Trustor

2.1 Obligations Secured

This Trust Deed secures the following, collectively referred to as the "**Obligations**":

- 2.1.1 The payment of all sums owing, including but not limited to principal and interest, and the performance of all covenants and obligations of Trustor, under that certain Commercial Promissory Note executed contemporaneously hereto by Trustor to Beneficiary for the principal sum of \$15,000,000.00 (or so much as has been advanced), whether such payment and performance is now due or becomes due in the future; and
- 2.1.2 The payment and performance of all covenants and obligations in the Note and this Trust Deed and all documents, security agreements, leases, loan agreements, assignment of leases and rents, deeds of trust, guaranties, pledges and all other documents or agreements executed in connection with this Trust Deed, which shall be referred to herein as "**Related Documents**." This term includes documents existing at the time of execution of this Trust Deed and documents executed after the date of this Trust Deed.

2.2 Payment of Indebtedness; Performance of Covenants

Trustor shall duly and punctually pay and perform all of the Obligations.

2.3 Property

Trustor warrants that it holds good and merchantable title to the Property free and clear of all liens, encumbrances, reservations, restrictions, easements, and adverse claims except those exceptions identified in that certain Owner's Policy dated October 1, 2021 as Policy No. 5011400-3120748e and issued by First American Title Insurance Company.

2.4 Further Assurances; Filing; Refiling; Etc.

- 2.4.1 Trustor shall execute, acknowledge, and deliver, from time to time, such further instruments as Beneficiary or Trustee may require to accomplish the purposes of this Trust Deed.
- 2.4.2 Trustor, immediately upon the execution and delivery of this Trust Deed, and thereafter from time to time, shall cause this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and each instrument of further assurance, to be recorded and rerecorded in such manner and in such places as may be required by any present or future law to perfect, and continue perfection of, the lien and estate of this Trust Deed.
- 2.4.3 Trustor shall be obligated to pay to Beneficiary all filing and recording fees, and all expenses incident to the execution, filing, recording, and acknowledgment of this Trust Deed; any security agreement, mortgage, or deed of trust supplemental hereto and any instrument of further assurance; and all federal, state, county, and municipal taxes, assessments and charges arising out of or in connection with the execution, delivery, filing, and recording of this Trust Deed. Such costs may be advanced by Beneficiary and added to the balance on the Note, at Beneficiary's election.

- 2.4.4 Trustor shall pay all fees and costs relating to any surveys, appraisals, environmental inspections and reports, and any other environmental testing done on behalf of or incurred by Beneficiary. Such costs may be advanced by Beneficiary and added to the balance on the Note, at Beneficiary's election.

2.5 Compliance with Laws

Trustor further represents, warrants and covenants that, to the best of its knowledge:

- 2.5.1 The Property shall be developed, and all Improvements, if any, will be constructed and maintained, in full compliance with all applicable laws and all covenants, conditions, easements, and restrictions affecting the Property (collectively "**Covenants**"); and
- 2.5.2 Trustor and its use, operations and construction of any Improvements upon the Property currently comply, and will hereafter comply in all material respects, with all applicable laws and Covenants including, without limitation, all laws relating to access to the Property and the American with Disabilities Act, as amended.

2.6 Hazardous Substances Certificate, Indemnification and Warranties

- 2.6.1 For purposes of this Section, "**Environmental Laws**" mean any and all federal, state, regional, county and local statutes, regulations, rules, ordinances and policies, all court and administrative orders and decrees, arbitration awards, and all common law, which pertain to environmental matters or contamination of any type whatsoever or the protection of human health or the environment, including, but not limited to, those relating to the presence, manufacture, processing, use, distribution, treatment, storage, disposal, generation, or transportation of Hazardous Substances; air, water (including surface water, groundwater, and stormwater) or soil (including subsoil) contamination or pollution; the presence or release of Hazardous Substances; protection of wildlife, endangered species, wetlands, or natural resources; the health and safety of employees and other persons; and notification requirements relating to all of the foregoing including, without limitation, the following statutes, and regulations adopted thereunder: the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), 42 U.S.C. § 9601, et seq. ("CERCLA"); the Solid Waste Disposal Act, as amended by the Resource Conservation Recovery Act and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6901 et seq. ("RCRA"); the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. § 1251 et seq.; the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. ("TSCA"); the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; and the Occupational Safety and Health Act, 19 U.S.C. § 6251 et seq., as each of the foregoing may be amended from time to time.

- 2.6.2 For the purposes of this Section, "**Hazardous Substance**" includes all of the following, without limitation: (a) any substance, chemical, compound, product, solid, gas, liquid, waste, byproduct, pollutant, contaminant, or material now or hereafter regulated by any Environmental Law or defined or designated as a hazardous, infectious, toxic or radioactive material, waste or substance, or as a pollutant or contaminant (or designated by any other similar term), by any Environmental Law now or hereafter in effect; (b) asbestos and any substance or compound containing asbestos; (c) petroleum, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel (or

mixtures of natural gas and such synthetic gas) and ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal resources; (d) urea formaldehyde foam insulation; (e) polychlorinated biphenyls (PCBs); (f) radon; (g) mold; and (h) any other chemical, material, or substance, exposure to which (because of its quantity, concentration, or physical or chemical characteristics) is limited or regulated for health and safety reasons by any governmental authority, or which poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

- 2.6.3 Trustor will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under or about the Property or the Property's groundwater, or transport to or from the Property, any Hazardous Substance and will not permit any other person to do so, except for such Hazardous Substances that may be used in the ordinary course of Trustor's business and in compliance with all Environmental Laws including, but not limited to those relating to licensure, notice, and recordkeeping.
- 2.6.4 Trustor will keep and maintain the Property in compliance with and shall not cause or permit all or any portion of the Property, including groundwater, to be in violation of any Environmental Law.
- 2.6.5 Trustor shall give prompt written notice to Beneficiary of:
 - 2.6.5.1 Any proceeding, inquiry, or notice by or from any governmental authority with respect to any alleged violation of any Environmental Law or the presence of any Hazardous Substance on the Property or the migration of any Hazardous Substance from or to other premises; except for any Hazardous Substance which is allowed or permitted to be stored on the Property in accordance with applicable law;
 - 2.6.5.2 All known claims made or threatened by any person against Trustor or with respect to the Property or Improvements relating to any loss or injury resulting from any Hazardous Substance or the violation of any Environmental Law;
 - 2.6.5.3 The existence of any Hazardous Substance on or about all or any portion of the Property other than in accordance with applicable law; or
 - 2.6.5.4 Trustor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could in Trustor's judgment cause any restrictions on the ownership, occupancy, transferability, or use of the Property under any Environmental Law.
- 2.6.6 Trustor shall promptly provide to Beneficiary copies of all reports, documents, and notices provided to or received from any agency administering any Environmental Laws or any person hired by Beneficiary, or for Beneficiary's benefit, to inspect or conduct testing of the Property with regard to any Environmental Laws. Beneficiary shall have the right to join and participate, in its own name if it so elects, in any legal proceeding or action initiated with respect to the Property or Improvements in connection with any Environmental Law and have its attorney fees and costs incurred in connection with such an action paid by Trustor, if Beneficiary determines that such participation is reasonably necessary to protect its interest in the Property.

- 2.6.7 If, at any time, Beneficiary has reason to believe that any release, discharge, or disposal of any Hazardous Substance affecting the Property or Improvements has occurred or is threatened, (other than disposal occurring in accordance with and in compliance with all applicable law and all permits and licensing required) or if Beneficiary has reason to believe that a violation of an Environmental Law has occurred or may occur with respect to the Property or Improvements, Beneficiary may require Trustor to obtain or may itself obtain, at Trustor's expense, an environmental assessment of such condition or threatened condition by a qualified environmental consultant.
- 2.6.8 In the event that any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature (the "**Remedial Work**") is required under any applicable Environmental Law, any judicial order, or by any governmental agency or person because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a Hazardous Substance on, under, or about all or any portion of the Property, or the contamination (whether presently existing or occurring after the date of this Trust Deed) of the buildings, facilities, soil, groundwater, surface water, air, or other elements on or under any other property as a result of Hazardous Substances emanating from the Property, Trustor shall, within 30 days after written demand by Beneficiary for Trustor's performance under this provision (or such shorter period of time as may be required under any applicable law, regulation, order, or agreement), commence and thereafter diligently prosecute to completion, all such Remedial Work. All costs and expenses of such Remedial Work shall be paid by Trustor including, without limitation, Beneficiary's reasonable attorney fees and costs and expert fees incurred in connection with monitoring or review of the legal aspects of such Remedial Work. In the event Trustor shall fail to timely commence, or cause to be commenced, such Remedial Work, Beneficiary may, but shall not be required to, cause such Remedial Work to be performed. In that event, all costs and expenses incurred in connection with the Remedial Work shall become payable immediately upon demand by Beneficiary, or at Beneficiary's sole option, part of the Obligations secured by this Trust Deed and shall bear interest until paid at the rate provided in the Note and shall be paid in accordance with the terms of the Note.
- 2.6.9 **Indemnification:** Trustor hereby agrees to indemnify, defend and hold Beneficiary, and its agents, affiliates, related entities, predecessors, successors, and assigns, harmless from and against any and all losses, damages, liens, costs, expenses, and liabilities directly or indirectly arising out of or attributable to any violation of any Environmental Law, any breach of Trustor's warranties in this Section, or the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a Hazardous Substance on, under, or about the Property, including without limitation the costs of any required repair, cleanup, containment, or detoxification of the Property, the preparation and implementation of any closure, remedial or other required plans, attorney fees and costs (including but not limited to those incurred in any proceeding and in any review or appeal), other charges, expert fees, penalties, and fines.

In addition to this indemnity, Trustor hereby releases and waives all present and future claims against Beneficiary and Trustee, and their directors, officers, employees, members, agents, affiliates, related entities, predecessors, successors, and assigns, for indemnity or contribution in the event Trustor becomes liable for cleanup or any other costs or claims relating in any way to any Environmental Laws or Hazardous Substances.

- 2.6.10 Trustor represents and warrants to Beneficiary that:

- 2.6.10.1 Neither the Property, nor Trustor or any tenants or occupants of the Property, is in violation of or subject to any existing, pending, or threatened investigation by any governmental authority under any Environmental Law.
 - 2.6.10.2 Trustor, and its tenants and occupants of the Property, have not been and are not required by any Environmental Law to obtain any permit or license other than those it has obtained to construct or use the Improvements.
 - 2.6.10.3 Trustor, and its tenants and occupants of the Property, will not and have not used, generated, manufactured, produced, stored, released, discharged, or disposed of on, under, or about the Property any Hazardous Substance in violation of any Environmental Law.
 - 2.6.10.4 No lead-based paints are on, or will be placed upon, the Property.
- 2.6.11 All Representations, Warranties, and Covenants herein shall survive the satisfaction of the Obligations, the reconveyance of the Property, and the foreclosure of this Trust Deed by any means and shall be for the benefit of Beneficiary any successor or assign of Beneficiary and any subsequent owner of the Property following foreclosure, deed in lieu, or otherwise purchased the Property from Beneficiary.

2.7 **Maintenance and Improvements**

Trustor shall maintain every portion of the Property and all existing and future Improvements in good repair, working order, and condition, except for reasonable wear and tear, and shall at Beneficiary's election restore, replace, or rebuild all or any part of the Improvements now or hereafter damaged or destroyed by any casualty (whether or not insured against or insurable) or affected by any Condemnation (as defined in Section 3 below). Trustor shall not commit, permit, or suffer any waste, strip, or deterioration of the Property or Improvements.

2.8 **Liens**

Trustor shall pay when due all claims for services, labor, materials, or supplies that, if unpaid, might become a lien on all or any portion of the Property or the Improvements. Trustor shall not create, or suffer, or permit to be created, any mortgage, deed of trust, lien, security interest, charge, or encumbrance upon the Property or Improvements prior to, on a parity with, or subordinate to the lien of this Trust Deed.

2.9 **Impositions**

- 2.9.1 Trustor shall pay or cause to be paid, when due and before any fine, penalty, interest, or cost attaches, all taxes, assessments, fees, levies, and all other governmental and nongovernmental charges of every nature now or hereafter assessed or levied against any part of the Property or Improvements (including, without limitation, levies or charges resulting from Covenants), or on the lien or estate of Beneficiary or Trustee (collectively, the "**Impositions**"); provided, however, that if by law any such Imposition may be paid in installments, whether or not interest shall accrue on the unpaid balance, Trustor may pay the same in installments, together with accrued interest on the unpaid balance, as the same become due, before any fine, penalty, or cost attaches.
- 2.9.2 Trustor shall furnish to Beneficiary, promptly upon request, satisfactory evidence of the payment of all Impositions. Beneficiary is hereby authorized to request and receive from

the responsible governmental and nongovernmental personnel together with any property tax registration service written statements with respect to the accrual and payment of all Impositions and appoints Beneficiary as its attorney-in-fact in this regard.

2.10 Books and Records; Inspection of the Property

Trustor shall keep complete and accurate records and books of account with respect to the Property and its operation in accordance with generally accepted accounting principles consistently applied. Trustor shall permit Trustee, Beneficiary, and their agents and authorized representatives to enter and inspect the Property and the Improvements, and to examine and make copies or extracts of the records and books of account of the Trustor with respect to the Property and the Improvements, all at such reasonable times as Beneficiary or Trustee may choose.

2.11 Appraisals and Environmental Assessments

Beneficiary, its agents, or contractors may enter upon the Property from time to time, upon reasonable notice, to inspect or appraise the Property including, without limitation, environmental assessments or evaluations, in Beneficiary's sole judgment and discretion. If Trustor refuses to permit such inspection or appraisal, Beneficiary may specifically enforce performance of this provision. Trustor agrees to reimburse Beneficiary for the cost of an inspection, appraisal, assessment or evaluation of the Property, at any time. Beneficiary shall have the right and authority to enter upon and inspect and appraise the Property at any time in its sole discretion. Trustor shall fully cooperate with Beneficiary, and any inspector, environmental consultant and appraiser in obtaining and providing the necessary information to prepare any assessment, valuation, review or report relating to the same. In the event that Trustor fails to cooperate with Beneficiary with regard to the rights afforded to Beneficiary under this provision or applicable law or in the event that Trustor shall fail to pay the cost of any inspection, appraisal, assessment or evaluation immediately upon demand, then either of such events shall constitute an Event of Default hereunder and Beneficiary shall be entitled to exercise all remedies available to it herein or under applicable law.

2.12 Limitations of Use

Trustor shall not initiate, join in, or consent to any rezoning of the Property or any change in any Covenant or other public or private restrictions limiting or defining the uses that may be made of all or any part of the Property and the Improvements without the prior written consent of Beneficiary.

2.13 Insurance

2.13.1 Property and Other Insurance. Trustor shall obtain and maintain in full force and effect or cause its contractors during the term of this Trust Deed to maintain commercially reasonable builder's risk insurance during the course of construction, and following construction, all policies of insurance for full value of replacement value or as may otherwise be required by Beneficiary in its discretion. In addition, Trustor shall obtain and maintain all such other insurance coverages, which at the time are commonly carried for similar property, in such amounts and on such terms as Beneficiary may require.

2.13.2 Insurance Companies and Policies. All insurance shall be written by a company or companies reasonably acceptable to Beneficiary; shall contain a long form mortgagee clause in favor of Beneficiary with loss proceeds under any policy payable to Beneficiary, subject to the terms of this Trust Deed; shall require 30 days' prior written notice to Beneficiary of cancellation or reduction in coverage; shall contain waivers of subrogation and endorsements that no act or negligence of Trustor or any occupant, and no occupancy or use of the Property for purposes more hazardous than permitted

by the terms of the policy will affect the validity or enforceability of such insurance as against Beneficiary; shall be in full force and effect on the date of this Trust Deed; and shall be accompanied by proof of premiums paid for the current policy year. Beneficiary shall be named as additional insured on all liability policies. Trustor shall forward to Beneficiary, upon request, certificates evidencing the coverages required under this Trust Deed and copies of all policies.

2.13.3 **Blanket Policy.** If a blanket policy is issued, a certified copy of such policy shall be furnished together with a certificate indicating that the Property and Beneficiary are insured under such policy in the proper designated amount.

2.13.4 **Insurance Proceeds.** All proceeds from any insurance on the Property shall be used in accordance with the provisions of Section 2.15.

2.13.5 **Insurance Disclosure.**

WARNING

Unless Trustor provides Lender with evidence of the insurance coverage as required herein, Lender may purchase insurance at Trustor's expense to protect Lender's interest. This insurance may, but need not, also protect Trustor's interest. If the Property becomes damaged, the coverage Lender purchases may not pay any claim Trustor makes or any claim made against Trustor. Trustor may later cancel this coverage by providing evidence that Trustor has obtain property coverage elsewhere.

Trustor is responsible for the cost of any insurance purchased by Lender. The cost of this insurance may be added to the Note balance. If the cost is added to the Note balance, the interest rate on the Note will apply to this added amount. The effective date of coverage may be the date Trustor's prior coverage lapsed or the date Trustor failed to provide proof of coverage.

The coverage Lender purchases may be considerably more expensive than the insurance Trustor can obtain on Trustor's own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

2.14 Assignments of Policies upon Foreclosure

In the event of foreclosure of the lien of this Trust Deed or other transfer of title, or assignment of the Property in whole or in part, all rights, title, and interest of Trustor in and to all policies of insurance procured as set forth herein shall inure to the benefit of and pass to the successors in interest of Trustor or the purchaser or grantee of all or any part of the Property.

2.15 Casualty/Loss Restoration

2.15.1 After the occurrence of any casualty to the Property, whether or not required to be insured against as provided in this Trust Deed, Trustor shall give prompt written notice of the casualty to Beneficiary, specifically describing the nature and cause of such casualty and the extent of the damage or destruction to the Property. Beneficiary may make proof of loss if it is not made promptly and to Beneficiary's satisfaction by Trustor.

2.15.2 Trustor assigns to Beneficiary all insurance proceeds that Trustor may be entitled to receive with respect to any casualty. Beneficiary may, at its sole option, apply the insurance proceeds to the reduction of the Obligations in such order as Beneficiary may

determine, whether or not such Obligations are then due, or apply all or any portion of the insurance proceeds to the cost of restoring and rebuilding the portion of the Property or Improvements that were damaged or destroyed. In the event that Beneficiary elects to apply the insurance proceeds to rebuilding and restoration, Beneficiary shall be entitled to hold the proceeds, and the proceeds shall be released only on such terms and conditions as Beneficiary shall require in its discretion including, but not limited to, prior approval of plans and release of liens. No proceeds shall be released if Event of Default exists under this Trust Deed.

- 2.15.3 In the event of any loss or casualty to the Property, Beneficiary shall have no further obligation to make any advance under the Note or fund the Loan, and may cease any such advances without prior notice to Trustor.

2.16 *Actions to Protect Property; Reserves*

- 2.16.1 If Trustor shall fail to obtain the insurance as required herein or perform or observe any of its other Covenants or agreements under this Trust Deed or any of the Related Documents, Beneficiary may, without obligation to do so, obtain or pay the same or take other action that it deems appropriate to remedy such failure. All sums, including reasonable attorney fees and costs so expended or expended to maintain the lien or estate of this Trust Deed or its priority, or to protect or enforce any of Beneficiary's rights, or to recover the Obligations secured by this Trust Deed, shall be a lien on the Property, shall be secured by this Trust Deed, and shall be paid by Trustor upon demand, together with interest at the default rate provided in the Note. No payment or other action by Beneficiary under this Section shall impair any other right or remedy available to Beneficiary or constitute a waiver of any default.
- 2.16.2 If Trustor fails to promptly perform any of its Obligations under Section 2.9 (Impositions) or 2.13 (Insurance) of this Trust Deed, Beneficiary may require Trustor thereafter to pay and maintain with Beneficiary reserves for payment of such Obligations. In that event, Trustor shall pay to Beneficiary each month a sum estimated by Beneficiary to be sufficient to produce, at least 20 days before due, an amount equal to the Impositions and/or insurance premiums. If the sums so paid are insufficient to satisfy any Imposition or insurance premium when due, Trustor shall pay any deficiency to Beneficiary upon demand, and shall bear interest at the default rate under the Note from the date of demand by Beneficiary until fully paid. The reserves may be commingled with Beneficiary's other funds, and Beneficiary shall not be required to pay interest to Trustor on such reserves. Beneficiary shall not hold the reserve in trust for Trustor, and Beneficiary shall not be the agent of Trustor for payment of the taxes and assessments required to be paid by Trustor.

3. Condemnation

- 3.1 Should any part of or interest in the Property be taken or damaged by reason of any public improvement, eminent domain, condemnation proceeding, or in any similar manner (a "**Condemnation**"), or should Trustor receive any notice or other information regarding such action, Trustor shall give immediate notice of such action to Beneficiary.
- 3.2 Beneficiary shall be entitled to all compensation, awards, and other payments or relief ("**Condemnation Proceeds**") up to the full amount of the Obligations, and shall be entitled, at its option, to commence, appear in, and prosecute any Condemnation proceeding in its own or Trustor's name and make any compromise or settlement in connection with such Condemnation. In the event the Property is taken in its entirety by Condemnation, all Obligations secured by this Trust Deed, at Beneficiary's election, shall become immediately due, payable and collectible.
- 3.3 Beneficiary may, at its sole option, apply the Condemnation Proceeds to the reduction of the Obligations in such order as Beneficiary may determine, or apply all or any portion of the Condemnation Proceeds to the cost of restoring and improving the remaining Property. In the event that Beneficiary elects to apply the Condemnation Proceeds to restoration and improvement, the proceeds shall be held by Beneficiary and shall be released only upon such terms and conditions as Beneficiary shall require in its reasonable judgment, including, but not limited to, prior approval of plans and release of liens. No Condemnation Proceeds shall be released if Trustor is in default under this Trust Deed.
- 3.4 In the event that Condemnation occurs or a Condemnation proceeding is commenced, Beneficiary shall have no further obligation to make any advance under the Loan or fund the Loan, and may cease any such advances without prior notice to Trustor.

4. Assignment of Leases and Rents

- 4.1 Trustor assigns and conveys to Beneficiary all of Trustor's rights, title, and interest in and to all present and future Leases and Rents. Beneficiary grants to Trustor a license to collect such rents, which license may be revoked at Beneficiary's option and shall be automatically revoked upon acceleration of all or part of the Indebtedness.
- 4.2 **Definitions.** As used herein, "**Leases**" means all present and future leases, subleases, rental agreements, and other agreements for the use and occupancy of all or any part of the Real Property, whether written or oral, and any amendments, extensions, renewals, and replacements thereof. "**Rents**" means all present and future rents, revenues, fees, charges, income, issues, royalties, profits and other income, benefits, or payments of any nature arising from or out of the Leases or from or out of all or any part of the Property.
- 4.3 **Trustor's Representations and Warranties.** Trustor continuously represents and warrants that: (a) Trustor will have or has good right, title, and interest to all Leases and Rents, free of all liens, encumbrances, and claims except those disclosed to and accepted by Beneficiary in writing; (b) Trustor has full right, power, and authority to enter into and perform this assignment; (c) all Leases are in full force and effect and have not been modified or amended; (d) all Rents have not been waived, discounted, compromised, setoff or paid more than one month in advance; (e) there are no other assignments, transfers, pledges or encumbrances of any Leases or Rents; and (f) neither Trustor, nor any lessees, occupants or tenants, are in default under any lease or rental agreement relating to the Property.
- 4.4 **Trustor's Agreements.** Trustor shall (a) fulfill or perform each and every term, covenant and provision of the Leases to be fulfilled or performed by the lessor thereunder; (b) give prompt notice to Beneficiary of any notice received by Trustor of default under any Lease or of any

alleged default or failure of performance that could become a default thereunder, together with a complete copy of any such notice; and (c) enforce, short of termination thereof, the performance or observance of each and every term, covenant and provision of each Lease to be performed or observed by the lessees and tenants thereunder. Trustor, without the prior written consent of Beneficiary, shall not: (a) enter into a new lease; (b) cancel, modify or alter, or accept the surrender of, any Lease; (c) assign, transfer, pledge or encumber, the whole or any part of the Leases and Rents to anyone other than Beneficiary; (d) accept any Rents more than one month in advance of the accrual thereof; or (e) do or permit anything to be done, the doing of which, or omit or refrain from doing anything, the omission of which, could be a breach or default under the terms of any Lease or a basis for termination thereof.

4.5 Beneficiary Not Liable. Beneficiary does not assume and shall not be liable for any obligation of the lessor under any of the Leases and all such obligations shall continue to rest upon Trustor as though this assignment had not been made. Neither the assignment of the Leases and Rents, nor the exercise by Beneficiary of any of its rights or remedies hereunder or in connection herewith, prior to Beneficiary obtaining actual possession of the Property, shall constitute Beneficiary as a "mortgagee in possession" or otherwise make Beneficiary responsible or liable in any manner with respect to the Property or the occupancy, operation or use thereof.

4.6 Beneficiary's Rights to Collect Rents. In addition to the other remedies available to Beneficiary, Beneficiary shall have the right at any time, if an Event of Default has occurred, to collect and receive the Rents. For this purpose, Beneficiary is hereby given and granted the following rights, powers and authority, exercisable while an Event of Default has occurred and after any applicable notice and cure period: (a) Beneficiary may send notices to any and all tenants of the Property advising them of the assignment and directing all Rents to be paid directly to Beneficiary or Beneficiary's agent; (b) Beneficiary may enter upon and take possession of the Property; demand, collect and receive from the tenants or from any other Persons liable therefor, all of the Rents; institute and carry on all legal proceedings necessary for the protection of the Property, including such proceedings as may be necessary to recover possession of the Property; collect the Rents and remove any tenant or tenants or other persons from the Property; (c) Beneficiary may enter upon the Property to maintain the Property and keep the same in repair; to pay the costs thereof and of all services of all employees, including their equipment, and of all continuing costs and expenses of maintaining the Property in proper repair and condition, and also to pay all taxes, assessments and water utilities, and the premiums on fire and other insurance effected by Beneficiary on the Property; (d) Beneficiary may do any and all things to execute and comply with applicable state laws and also all other laws, rules, orders, ordinances and requirements of all other governmental agencies affecting the Property; (e) Beneficiary may rent or lease the whole or any part of the Property for such term or terms and on such conditions as Beneficiary may deem appropriate; (f) Beneficiary may engage such agent or agents as Beneficiary may deem appropriate, either in Beneficiary's name or in Trustor's names, to rent and manage the Property, including the collection and application of Rents; and (g) Beneficiary may do all such other things and acts with respect to the Property as Beneficiary may deem appropriate and may act exclusively and solely in the place and stead of Trustor and to have all of the powers of Trustor for the purposes stated above. Beneficiary shall not be required to do any of the foregoing acts or things, and the fact that Beneficiary shall have performed one or more of the foregoing acts or things shall not require Beneficiary to do any other specific act or thing.

5. Security Agreement and Fixture Filing

To secure the Obligations, Trustor hereby grants to Beneficiary a security interest in the following: (1) the Property to the extent the same is not encumbered by this Trust Deed as a first priority real estate lien; (2) all personal property that is used or will be used in the construction of any Improvements on the Property including any Improvements; (3) all personal property that is now or will hereafter be placed on or in the Property or

Improvements; (4) all personal property that is derived from or used in connection with the use, occupancy, or enjoyment of the Property (including, without limitation, materials not yet incorporated into the Property); (5) all property defined in the Uniform Commercial Code as adopted in the State of Utah, as inventory, accounts, deposit accounts, equipment, fixtures, instruments and general intangibles, to the extent the same are used at, or arise in connection with the ownership, maintenance, or operation of, the Property; (6) all causes of action, claims, security deposits, advance rental payments, utility deposits, refunds of fees or deposits paid to any governmental authority, refunds of taxes, and refunds of insurance premiums relating to the Property; and (7) all present and future attachments, accessions, amendments, replacements, additions, products, and proceeds of every nature of the foregoing (hereinafter "**Personal Property**"). The Personal Property and the Property together are collectively the "**Collateral**". This Trust Deed shall constitute a security agreement and fixture filing under the Uniform Commercial Code and Secured Transactions statutes of the State of Utah. The mailing address of Trustor and the address of Beneficiary from which information may be obtained are set forth in the introductory Section of this Trust Deed.

Upon request of Beneficiary, Trustor shall take whatever action is requested by Beneficiary to evidence, perfect, protect, enforce and continue Beneficiary's security interest in the Personal Property including the Rents. In addition to recording this Deed of Trust in the real property records, Beneficiary may, at any time and without further authorization from Trustor, file executed counterparts, copies or reproductions of this Deed of Trust as a financing statement. Trustor authorizes Beneficiary to file any financing statements and to take all other actions which Beneficiary deems advisable to evidence, perfect or continue its security interest in any Collateral. Trustor shall reimburse Beneficiary for all expenses incurred in perfecting or continuing this security interest. Upon default, Trustor shall assemble the Personal Property in a manner and at a place reasonably convenient to Trustor and Beneficiary and make it available to Beneficiary within three (3) days after receipt of written demand from Beneficiary.

The names of Trustor (debtor) and Beneficiary (secured party) and their mailing addresses from which information concerning the security interest granted by this Deed of Trust may be obtained (each as required by the Uniform Commercial Code), are as stated on the first page of this Deed of Trust. Trustor is an existing Oregon corporation.

6. Events of Default, Remedies

6.1 Events of Default

Each of the following shall constitute an Event of Default under this Trust Deed and under each of the other Related Documents:

- 6.1.1 *Payment Default.* Trustor fails to make any payment when due under the Note including, without limitation, final payment upon maturity.
- 6.1.2 *Other Defaults.* Trustor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Trust Deed or in any of the Related Documents.
- 6.1.3 *False Statements.* Any warranty, representation or statement made or furnished to Beneficiary by Trustor in connection with this Trust Deed or the Related Documents, or in any written information or financial statement delivered to Beneficiary or on Trustor's behalf, is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.
- 6.1.4 *Insolvency.* The dissolution or termination of Trustor's existence, the insolvency of Trustor, the appointment of a receiver for any part of Trustor's property or business, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Trustor, or Trustor is unable to pay their debts when they become due.

- 6.1.5 *Defective Collateralization.* This Deed of Trust or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.
- 6.1.6 *Creditor or Forfeiture Proceedings.* Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Trustor or by any governmental agency against any collateral securing the loan. This includes a garnishment of any of Trustor's accounts.
- 6.1.7 *Liens.* Any writ of attachment, garnishment, execution, tax lien or similar instrument is issued against any Collateral, or any other assets or property of Trustor; or any other lien or encumbrance is issued against any Collateral securing repayment of the Obligations or any other assets or property of Trustor, and such lien or encumbrance is not removed from title within 30 days after issuance.
- 6.1.8 *Judgments.* Any judgment is entered against Trustor that materially affects, as determined in Beneficiary's sole judgment, Trustor's business, financial condition or the value of any property or other assets in which Trustor holds an interest, and such judgment is not vacated, bonded or stayed pending a satisfactory appeal, to Beneficiary's satisfaction in its sole judgment, within thirty (30) days following the date of entry thereof.
- 6.1.9 *Payment of Debts.* Trustor is not generally paying their debts as such debts become due.
- 6.1.10 *Inability to Perform.* Beneficiary has a good faith belief that Trustor is unable to perform such party's duties and obligations under this Trust Deed or any of the Related Documents.
- 6.1.11 *Impairment.* Beneficiary has a good faith belief that Beneficiary's rights in any Collateral are impaired or that any such Collateral itself is impaired.
- 6.1.12 *Sale of Assets.* Trustor sells assets or property, including any Collateral, or any portion thereof, is sold to or merged with any other individual, business or entity without the written consent of Beneficiary.
- 6.1.13 *Insecurity.* Beneficiary in good faith believes itself insecure.
- 6.1.14 *Transfer; Due-on-Sale; Due-on-Encumbrance.* Any sale, gift, conveyance, contract for conveyance, transfer, assignment, encumbrance, pledge, or grant of a security interest in all or any part of the Collateral, or any interest therein, either voluntarily, involuntarily, or by the operation of law (a "*Transfer*"), without Beneficiary's prior written consent.
- 6.1.15 *Transfer or Purchase of Ownership in Business.* The execution and delivery by the Trustor of any joint venture agreement, partnership agreement, declaration of trust, operating agreement of an LLC and amendments or modifications thereof, option agreement or other instrument where under any other person may become entitled, directly or indirectly, to the possession or enjoyment of the Improvements on any of the Collateral, or the income or other benefits derived or to be derived therefrom, without the prior written consent of Beneficiary.
- 6.1.16 *Governmental Forfeiture.* Possession or manufacture of a controlled substance on the property, or any "*prohibited conduct*" which could lead to a civil forfeiture under federal or state law.

6.2 Remedies in Case of Default

If an Event of Default shall occur which is not cured during any applicable cure period, then Beneficiary or Trustee may exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available under the Related Documents, by law, in equity, or otherwise, without prior notice to Trustor:

- 6.2.1 *Acceleration.* Beneficiary may declare all or any portion of the Obligations immediately due and payable.
- 6.2.2 *Cease Advances.* Beneficiary may cease disbursements of any loan proceeds under the Loan.
- 6.2.3 *Receiver.* Beneficiary may have a receiver appointed for the Collateral including the Property, including without limitation, management of the Property and collection of rents or proceeds from the Property, and completion of the development and construction of the Property. Beneficiary shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Property exceeds the amount of the Obligations secured by this Trust Deed. Employment by Trustee or Beneficiary shall not disqualify a person from serving as receiver. The receiver may serve without bond if permitted by law. Trustor expressly acknowledges that enforcement of Beneficiary's right to appointment of a receiver hereunder is necessary to secure ample justice to the parties. Trustor hereby further agrees to the extent permitted by law that the pendency of any action brought by Beneficiary for the appointment of a receiver shall not prevent the foreclosure of this Trust Deed. Trustor consents to the appointment of a receiver at Beneficiary's option and waives any and all defenses to such an appointment.
- 6.2.4 *Possession.* Beneficiary may, either through a receiver or as a lender-in-possession, enter and take possession of all or any part of the Property and use, operate, manage, control, and complete the Project on it as Beneficiary shall deem appropriate in its sole discretion. Upon request after an Event of Default, Trustor shall peacefully relinquish possession and control of the Property and Personal Property to Beneficiary or any receiver appointed under this Trust Deed.
- 6.2.5 *Rents.* Beneficiary may revoke Trustor's right to collect the Rents, and may, either itself or through a receiver, collect the same. Beneficiary shall not be deemed to be in possession of the Collateral solely by reason of exercise of the rights contained in this Trust Deed. If Rents are collected by Beneficiary, Trustor hereby irrevocably appoints Beneficiary as Trustor's attorney-in-fact, with power of substitution, to endorse instruments received in payment thereof in the name of Trustor and to negotiate such instruments and collect their proceeds. After payment of all Obligations, any remaining amounts shall be paid to Trustor and this power shall terminate.
- 6.2.6 *Power of Sale.* Beneficiary may direct Trustee, and Trustee shall be empowered, to foreclose the Property by advertisement and sale under applicable law.
- 6.2.7 *Foreclosure.* Beneficiary may judicially foreclose this Trust Deed and obtain a judgment foreclosing Trustor's interest in all or any part of the Collateral and giving Beneficiary the right to collect any deficiency remaining due after disposition of the Collateral.
- 6.2.8 *Fixtures and Personal Property.* With respect to any Improvements and other Collateral subject to a security interest in favor of Beneficiary, Beneficiary may exercise any and all of the rights and remedies of a secured party under the Uniform Commercial Code.

- 6.2.9 *Abandonment.* Beneficiary may abandon all or any portion of the Property or Collateral by written notice to Trustor.
- 6.2.10 *Other Remedies.* All other remedies available to Beneficiary and/or Trustee under the Related Documents or applicable law.
- 6.2.11 *Deficiency Judgment.* To the extent permitted by applicable law, Beneficiary shall have the right to seek and obtain a deficiency judgment following the completion of a judicial foreclosure or non-judicial or trustee's sale of all or a portion of the Collateral for the Obligations secured by this Trust Deed.

6.3 **Sale**

In any sale under this Trust Deed or pursuant to any judgment, the Property, to the extent permitted by law, may be sold as an entirety or in one or more parcels and in such order as Beneficiary may elect, without regard to the right of Trustor, any person claiming under Trustor, or any guarantor or surety to the marshaling of assets. The purchaser at any such sale shall take title to the Property or the part thereof so sold, free and clear of the estate of Trustor, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Beneficiary, its shareholders, officers, agents, and employees, may purchase at any such sale. Beneficiary and each of its officers are irrevocably appointed Trustor's attorney-in-fact, with power of substitution, to make all appropriate transfers and deliveries of the Collateral or any portions thereof so sold and, for that purpose, Beneficiary and its officers may execute all appropriate instruments of transfer. Nevertheless, Trustor shall ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to Beneficiary or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Beneficiary, for such purpose.

6.4 **Cumulative Remedies**

All remedies under this Trust Deed are cumulative and not exclusive. Any election to pursue one remedy shall not preclude the exercise of any other remedy. An election by Beneficiary to cure any default shall not constitute a waiver of the default or of any of the remedies provided in this Trust Deed. No delay or omission in exercising any right or remedy shall impair the full exercise of that or any other right or remedy or constitute a waiver of the default.

6.5 **Receiver or Lender-in-Possession**

Upon taking possession of all or any part of the Collateral, Trustee, Beneficiary, or a receiver may:

- 6.5.1 *Management.* Use, operate, manage, control, and conduct business with the Collateral and make expenditures for such purposes and for such maintenance and improvements as are deemed reasonably necessary.
- 6.5.2 *Rents and Revenues.* Collect all rents, revenues, income, issues, proceeds and profits from the Collateral and apply such sums to the reasonable expenses of use, operation, management, maintenance, and improvements.
- 6.5.3 *Construction.* At its option, complete any development or construction in progress on the Property, and in that connection pay bills, borrow funds, employ contractors, and make any changes in plans and specifications as it deems appropriate.
- 6.5.4 *Additional Indebtedness.* If the revenues produced by the Collateral are insufficient to pay expenses, Beneficiary, Trustee, or the receiver may borrow or advance such sums

upon such terms as it deems reasonably necessary for the purposes stated in this Section. All advances shall bear interest, unless otherwise provided, at the rate set forth in the Note, and repayment of such sums shall be secured by this Trust Deed.

6.5.5 *Other Actions.* Take any other action as allowed by Beneficiary or Trustee under applicable law or pursuant to the terms of the Related Documents.

6.6 *Application of Proceeds*

All proceeds realized from the exercise of the rights and remedies under this Section shall be applied as follows:

6.6.1 *Costs and Expenses.* To pay all costs of exercising such rights and remedies, including the costs of maintaining and preserving the Property, the costs and expenses of any receiver or lender-in-possession, the costs of any sale, attorney fees, and all costs and expenses recoverable under this Trust Deed, the Related Documents or applicable law.

6.6.2 *Indebtedness.* To pay all Obligations, in such order as Beneficiary shall determine in its sole discretion.

6.6.3 *Surplus.* The surplus, if any, remaining after satisfaction of all the Obligations shall be paid to the clerk of the court in the case of a judicial foreclosure proceeding, otherwise to the person or persons legally entitled to the surplus.

6.7 *Deficiency*

No sale or other disposition of all or any part of the Collateral shall be deemed to relieve Trustor of any of the Obligations, except to the extent that the proceeds are applied to the payment of such Obligations. If the proceeds of a sale, a collection, or other realization of, or upon the Collateral, are insufficient to cover the costs and expenses of such realization and the payment in full of the Obligations, Trustor shall remain liable for any deficiency to the fullest extent permitted by law.

Trustor further waives all rights and defenses arising by reason of any "one action" or "anti-deficiency" law or any other law which may prevent Beneficiary from bringing any action against Trustor, including a claim for deficiency to the extent Beneficiary is otherwise entitled to a claim for deficiency, before or after Beneficiary's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale. Trustor agrees to remain liable under the Note or other obligation with Beneficiary no matter what action Beneficiary takes or fails to take under this Trust Deed.

6.8 *Waiver of Stay, Extension, Moratorium, and Valuation Laws*

To the fullest extent permitted by law, Trustor waives the benefit of any existing or future stay, extension, or moratorium law that may affect observance or performance of the provisions of this Trust Deed and any existing or future law providing for the valuation or appraisal of the Property prior to any sale.

7. *General Provisions*

7.1 *Time is of the Essence*

Time is of the essence with respect to all terms, covenants and Obligations of Trustor under this Trust Deed.

7.2 Uniform Commercial Code Security Agreement

This Trust Deed shall serve and is to be also considered as a security agreement under the Uniform Commercial Code and applicable Utah law.

7.3 Reconveyance by Trustee

At any time upon the request of Beneficiary, payment of Trustee's fees, if any, and presentation of this Trust Deed, without affecting the liability of any persons for the payment of the Obligations, Trustee may reconvey, without warranty, all or any part of the Property. The grantee in any reconveyance may be described as the "*person or persons legally entitled thereto*," and the recitals therein of any facts shall be conclusive proof of the truthfulness thereof.

7.4 Substitute Trustee

In the event of dissolution or resignation of Trustee, Beneficiary may substitute one or more trustees to execute the trust hereby created, and the new trustee(s) shall succeed to all the powers and duties of the prior trustee(s).

7.5 Trust Deed Binding on Successors and Assigns

This Trust Deed shall be binding upon and inure to the benefit of the successors and assigns of Trustor, Trustee, and Beneficiary. If the Property or any portion thereof shall at any time be vested in any person other than Trustor, Beneficiary shall have the right to deal with such successor regarding this Trust Deed, the Property, and the Obligations in such manner as Beneficiary deems appropriate in its sole discretion, without notice to or approval by Trustor and without impairing Trustor's liability for the Obligations.

7.6 Beneficiary's Expenditures

If any action or proceeding is commenced that would materially affect Trustor's interest in the Property or repayment of the Obligations, or if Trustor fails to comply with any provision of this Trust Deed or the Related Documents including, but not limited to, Trustor's failure to discharge or pay any amounts when due any, or Beneficiary advances or pays any other monies as allowed by, contemplated or as necessary in accordance with the terms of the Related Documents, Beneficiary on Trustor's behalf, may (but shall not be obligated to) take any action Beneficiary deems appropriate including, but not limited to, discharging or paying any taxes, liens, security interests, encumbrances and other claims at the time levied or claimed, paying all costs for insuring, maintaining and preserving the Property, and all attorney fees and costs relating to the foregoing. Such expenditures shall include, but are not limited to, the following: costs of appraisals, completion of construction upon default, title policies and reports, payment of taxes, costs of inspections or environmental assessments of Property, and all attorney fees and costs of Beneficiary relating to the same. All such expenditures incurred and paid by Beneficiary for such purposes will then bear interest at the rate then applicable under the Note from the date incurred or paid by Beneficiary to the date of repayment by Trustor. All such expenses will become part of the Obligations and, at Beneficiary's option and sole discretion, will: (a) be payable upon demand; or (b) be added to the balance of the Note and due and payable upon the Note's maturity.

7.7 Attorney Fees and Costs

Trustor agrees to pay, upon demand, all of Beneficiary's attorney fees, costs and expenses incurred in connection with the interpretation and enforcement of this Trust Deed and the Related Documents and collection of the Obligations. In addition, if any legal action or proceeding is brought by either Trustor or Beneficiary to enforce or construe a provision of this Trust Deed, the unsuccessful party in such action or proceeding, whether or not such action or proceeding is settled or prosecuted to final

judgment, shall pay all of the attorney fees and costs incurred by the prevailing party in the action, including but not limited to any attorney fees and costs incurred as a result of an appeal of the action. If Trustor shall become subject to any case or proceeding under the bankruptcy and reorganization laws of the United States, as amended or recodified from time to time, Trustor shall pay to Beneficiary on demand all attorney fees, costs and expenses which Beneficiary may incur in connection with such proceeding including, without limitation, those fees, costs and expenses necessary to obtain relief from the automatic stay or to obtain adequate protection for any of Beneficiary's rights or collateral. All attorney fees, costs and expenses recoverable under this Trust Deed shall become part of the Indebtedness, shall bear interest at the default rate under the Note, and shall be payable to Beneficiary upon demand.

7.8 Governing Law

All terms of and the interpretation and enforcement of this Trust Deed shall be governed by, construed and enforced in accordance with, federal laws and the laws of the State of Oregon, without regard to principles of conflicts of law, except that, to the extent governed by state law, matters relating to perfection, priority and enforcement of any security interest in personal property securing the Note shall be governed by the laws of the state where the person granting that security interest is located. However, if there ever is a question about whether any provision of this Agreement is valid or enforceable, the provision that is questioned will be governed by whichever state or federal law would find the provision to be valid and enforceable.

7.9 Captions

The captions to the Sections of this Trust Deed are included only for the convenience of the parties and shall not have the effect of defining, diminishing, or enlarging the rights of the parties or affecting the construction or interpretation of any portion of this Trust Deed.

7.10 Priority

This Trust Deed is intended to be a first priority and superior lien upon the Property. However, in the event that all or any portion of the Property is determined subject to a superior mortgage or trust deed, the rights of Beneficiary under this Trust Deed that have also been granted to such a superior mortgagee or trust deed beneficiary, shall be subject to the rights of the superior mortgagee or trust deed beneficiary. Trustor hereby authorizes all such superior mortgagees and beneficiaries, on satisfaction of the indebtedness secured by their mortgage or trust deed, to remit all remaining insurance or Condemnation Proceeds and all other sums held by them to Beneficiary to be applied in accordance with this Trust Deed.

7.11 Person Defined

As used in this Trust Deed, the word person shall mean any natural person, partnership, trust, corporation, or other legal entity of any nature.

7.12 Commercial Purpose

Trustor covenants and warrants that the Collateral including Improvements are used by Trustor exclusively for business and commercial purposes.

7.13 Rule of Construction

Any rule of construction interpreting this instrument against its drafter shall be inapplicable.

7.14 No Waiver

No delay or omission of Beneficiary in exercising any right or power arising from any default by Trustor shall be construed as a waiver of such default or as an acquiescence therein, nor shall any single or partial exercise thereof preclude any further exercise thereof. Beneficiary may, at its option, waive any of the conditions herein and any such waiver shall not be deemed a waiver of Beneficiary's rights hereunder but shall be deemed to have been made in pursuance of this Agreement and not in modification thereof. No waiver of any Event of Default shall be construed to be a waiver of or acquiescence in or consent to any preceding or subsequent Event of Default.

7.15 Merger

There shall be no merger of the interest or estate created by this Trust Deed with any other interest or estate in the Property at any time held by or for the benefit of Beneficiary in any capacity without the written consent of Beneficiary.

7.16 Powers of Attorney

The various agencies and powers of attorney conveyed to Beneficiary under this Trust Deed are granted for purposes of security and may not be revoked by Trustor until such time as the same is renounced by Beneficiary.

8. Utah Specific Provisions

8.1 Legal Description

The legal description of the property to which the fixtures relate is set forth on Exhibit A. This Deed of Trust is to be recorded in the real estate records in the County Recorder's office of the county in which the Real Estate is located.

8.2 Merger

THIS DEED OF TRUST IS A FINAL EXPRESSION OF THE AGREEMENT BETWEEN THE LENDER, AS CREDITOR, AND THE BORROWER, AS DEBTOR, AND THE WRITTEN AGREEMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED ORAL AGREEMENT.

This Trust Deed is hereby executed as of the date set forth above.

[SIGNATURES ON FOLLOWING PAGES]

TRUSTOR: MWIC MAGNA APARTMENTS, LLC, a Utah Limited Liability Company

By: Mountain West Investment Corporation
an Oregon corporation,
Manager

Jason E Tokarski

By: Jason Tokarski, Vice President

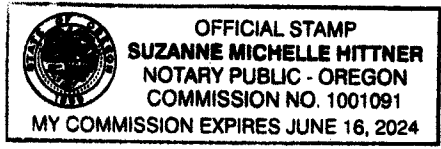
State of OR)
) ss.
County of Marion)

On this 5th day of October, 2021, personally appeared Jason Tokarski, being the Vice President of Mountain West Investment Corporation, Manager of MWIC Magna Apartments, LLC, and that said instrument was signed on behalf of said Trustor, by authority of its officers and directors and acknowledged said instrument to be its voluntary act and deed.

Before me:

Suzanne M. Mittner

Notary Public - State of OR



TRUSTOR: MWIC MAGNA APARTMENTS, LLC, a Utah Limited Liability Company

By: Lake Union Partners Seattle, LLC
a Washington limited liability company,
Manager



By: Tyson Feaster, Manager

State of Washington)
County of King)

ss.

On this 29th day of ~~November~~ December, 2021, personally appeared Tyson Feaster, being the Manager of Lake Union Partners Seattle, LLC, Manager of MWIC Magna Apartments, LLC, and acknowledged that said instrument was signed on behalf of said Trustor, by authority of its officers and directors and acknowledged said instrument to be its voluntary act and deed.



Shelby Hjort
Notary Public - State of Washington 04/20/2025

EXHIBIT A
Legal Description

4830-6116-4539, v. 8

EXHIBIT A

File No.: 118881-CAB

PARCEL 1:

Beginning at a point on the East right-of-way line of 8400 West Street which is South 734.30 feet and East 68.88 feet from the North quarter corner of Section 32, Township 1 South, Range 2 West, Salt Lake Base and Meridian basis of bearing being the North line of said Section 32 which bears South 89°49'24" East; thence South 89°44'24" East 511.98 feet; thence South 00°15'36" West 111.18 feet; thence South 89°39'43" East 391.33 feet; thence South 63°22'42" East 13.48 feet; thence South 39°23'31" East 48.27 feet; thence South 00°10'36" West 353.67 feet to a point on the North line of the Utah and Salt Lake Canal and to a point on a 604.45 foot radius curve to the left, the chord of which bears South 89°03'18" West; thence Westerly along said North line and said curve through a central angle of 38°36'34" a distance of 407.31 feet; thence South 69°45'01" West along said North line 127.78 feet; thence North 00°44'30" East 190.73 feet; thence North 82°16'05" West 8.58 feet; thence North 14°25'04" West 35.16 feet; thence South 87°12'47" West 411.49 feet to the East right-of-way line of 8400 West Street; thence North 00°08'25" East along said East line 357.74 feet to the point of beginning.

PARCEL 1A:

Reciprocal pedestrian and vehicular ingress and egress easements as more particularly defined in those certain following instruments: (i) recorded February 7, 1986 as Entry Nos. 4199263 and 4199264 in Book 5734 at Pages 1380 and 1384; (ii) recorded November 3, 1986 as Entry Nos. 4342468 and 4342469 in Book 5835 at Pages 1265 and 1268; and (iii) recorded December 14, 1994 as Entry No. 5985382 in Book 7071 at Page 183 of official records.