

Utah County Assessor Parcel Numbers:

51-733-0111
51-733-0112
51-733-0114
51-733-0115

162808-MCB
When Recorded Mail to:

WESTERN ALLIANCE BANK
2700 West Sahara Avenue
Las Vegas, Nevada 89102
Attention: Commercial Real Estate

Mail all real property tax notices to:

Rivers Edge Condos, LLC
45 E. Center Street, Suite 103
North Salt Lake, Utah 84054
Attention: Manager

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

(CONSTRUCTION AND TERM, AND SECURING A TERM OBLIGATION)

**NOTE TO COUNTY RECORDER: THIS INSTRUMENT IS TO BE RECORDED AND
INDEXED AS A FIXTURE FILING AS WELL AS A DEED OF TRUST FOR
PURPOSES OF THE UTAH UNIFORM COMMERCIAL CODE.**

**THIS INSTRUMENT IS A "CONSTRUCTION MORTGAGE" FOR PURPOSES OF
ARTICLE NINE OF THE UTAH UNIFORM COMMERCIAL CODE**

This DEED OF TRUST AND SECURITY AGREEMENT WITH ASSIGNMENT OF RENTS AND FIXTURE FILING ("**Deed of Trust**") is made and effective as of December 6, 2022, between RIVERS EDGE CONDOS, LLC, a Utah limited liability company ("**Trustor**"), the address of which is set forth above, Cottonwood Title, as Trustee ("**Trustee**"), the address of which is set forth below in Section 21 of this Deed of Trust, and WESTERN ALLIANCE BANK, an Arizona corporation, as Beneficiary ("**Beneficiary**"), the address of which is set forth above.

WITNESSETH:

That Trustor grants the following described real property (“**Real Property**”), which is situated in the County of Utah, State of Utah, to Trustee in trust, with power of sale for the benefit of Beneficiary, to have and to hold upon the trusts, covenants, and agreements hereinafter set forth:

See *Exhibit “A”* attached hereto and incorporated by this reference.

TOGETHER WITH ANY:

Buildings, structures, and improvements, and building materials, fixtures, and equipment to be incorporated into any buildings, structures, or improvements located on or related in any way to the Real Property;

Goods, materials, supplies, fixtures, equipment, machinery, furniture, and furnishings, including without limitation, all such items used for (i) generation, storage, or transmission of air, water, heat, steam, electricity, light, fuel, refrigeration, or sound; (ii) ventilation, air-conditioning, heating, refrigeration, fire prevention and protection, sanitation, drainage, cleaning, transportation, communications, maintenance, or recreation; (iii) removal of dust, refuse, garbage, or snow; (iv) transmission, storage, processing, or retrieval of information; and (v) floor, wall, ceiling, and window coverings and decorations;

Income, receipts, revenues, rents, issues, and profits, including without limitation, room rents, minimum rents, additional rents, percentage rents, occupancy and user fees and charges, license fees, parking and maintenance charges and fees, tax and insurance contributions, proceeds of the sale of utilities and services, cancellation premiums, and claims for damages arising from the breach of any leases;

Water and water rights, ditches and ditch rights, reservoirs and reservoir rights, stock or interest in irrigation or ditch companies, minerals, oil, and gas rights, royalties, and lease or leasehold interests;

Plans and specifications prepared for the construction of any improvements, including without limitation, all studies, estimates, data, and drawings;

Documents, instruments, and agreements relating to, or in any way connected with, the operation, control, or development of the Real Property, including without limitation, any declaration of covenants, conditions, and restrictions and any articles of incorporation, bylaws, and other membership documents of any property owners’ association or similar group;

Claims and causes of action, legal and equitable, in any form whether arising in contract or in tort, and awards, payments, and proceeds due or to become due, including without limitation

those arising on account of any loss of, damage to, taking of, or diminution in value of, all or any part of the Real Property or any personal property described herein;

Sales agreements, escrow agreements, deposit receipts, and other documents and agreements for the sale or other disposition of all or any part of the Real Property or any of the personal property described herein, and deposits, proceeds, and benefits arising from the sale or other disposition of all or any part of the Real Property or any of the personal property described herein;

Easements, rights of access, rights of way, license agreements, or any other similar agreement related to or benefiting the Real Property;

Policies or certificates of insurance, contracts, agreements, or rights of indemnification, guaranty, or surety, and awards, loss payments, proceeds, and premium refunds that may be payable with respect to such policies, certificates, contracts, agreements, or rights;

Contracts, agreements, permits, licenses, authorizations, and certificates, including without limitation all architectural contracts, construction contracts, management contracts, service contracts, maintenance contracts, franchise agreements, license agreements, building permits, and operating licenses;

Trade names, trademarks, and service marks (subject to any franchise or license agreements relating thereto);

Refunds and deposits due or to become due from any utility companies or governmental agencies;

All of Trustor's right, title, and interest in and to common elements, development rights, and special declarant rights created pursuant to any condominium or other homeowner's declaration recorded against the Real Property in accordance with applicable law;

Replacements and substitutions for, modifications of, and supplements, accessions, addenda, and additions to, all of the personal property described herein;

Books, records, correspondence, files, and electronic media, and all information stored therein;

together with all products and proceeds of all of the foregoing, in any form, including all proceeds received, due or to become due from any sale, exchange, or other disposition thereof, whether such proceeds are cash or non-cash in nature, and whether represented by checks, drafts, notes, or other instruments for the payment of money.

The Real Property together with the rights and interests of Trustor described hereinabove shall hereinafter collectively be referred to as the **"Property"**.

FOR THE PURPOSE OF SECURING:

A. Payment of a Promissory Note (“**Note**”) in the principal amount of Eight Million and No/100 Dollars (\$8,000,000.00), or so much thereof as shall be advanced to Trustor, together with interest thereon, according to the terms thereof, of even date herewith, made by Trustor payable to the order of the Beneficiary, according to the tenor and effect of the Note and all renewals, extensions, modifications, amendments, and substitutions of, or for, the Note.

B. The expenses and costs incurred or paid by Beneficiary in the preservation and enforcement of the rights and remedies of Beneficiary and the duties and liabilities of Trustor hereunder, including, but not by way of limitation, attorneys’ fees, court costs, witness fees, expert witness fees, collection costs, and costs and expenses paid by Beneficiary in performing for Trustor’s account any obligation of said Trustor under this instrument or under any obligation secured hereby.

D. Payment of additional sums and interest thereon which may hereafter be loaned to Trustor when evidenced by a promissory note or notes which recite that the same is secured by this Deed of Trust.

E. Notwithstanding anything herein to the contrary, this Deed of Trust will not secure any obligations under that certain Environmental Indemnity of even date herewith executed by Trustor in favor of Beneficiary, and Trustor’s obligations thereunder will survive any foreclosure, trustee’s sale, or any other similar proceeding hereunder. Neither shall this Deed of Trust secure any guaranty of the loans evidenced by the Note.

F. Performance of each and every term, provision, covenant, and condition contained in any loan agreement, credit agreement, or any other document or instrument executed by Trustor in favor of Beneficiary relating to the loans evidenced by the Note hereby secured (the Note together with any such agreement, document, or instrument shall hereinafter collectively be referred to as the “**Loan Documents**”). The term Loan Documents specifically excludes any guaranty or environmental indemnity executed in connection with the Note.

G. *Trustor acknowledges and agrees that Beneficiary is obligated to make certain future advances (meaning that they are “obligatory advances”), subject to the terms of the Loan Documents, and so long as there is no default under the terms of the Loan Documents, and the lien of this Deed of Trust secures repayment of all such future advances with the same priority as if they were made upon the recording of this Deed of Trust.*

H. The parties hereto intend that this Deed of Trust shall have no particular maturity date, and that it shall remain in full force and effect, and shall not expire, unless and until the full repayment of the Note.

AND IT IS FURTHER PROVIDED THAT:

1. **Compliance with Laws.** Trustor shall not commit, suffer, or permit any act to be done, or condition to exist, on the Property which violates or is prohibited by any law, statute, code, act, ordinance, order, judgment, decree, injunction, rule, regulation, permit, license, authorization, direction, or requirement of any government or subdivision thereof, whether it be federal, state, county, or municipal, which is applicable to the Property, or any part thereof, now or at any time hereafter (including, without limitation, the Americans with Disabilities Act (42 U.S.C. §§ 12101-12213 and 47 U.S.C. §§ 225 and 611)). The requirements set forth by this section 1 are hereinafter collectively referred to as the “**Legal Requirements.**”

2. **Repair and Maintenance.** Subject to the construction of the Improvements at the Property in accordance with the terms of that certain Construction and Term Loan Agreement of even date herewith (“**Loan Agreement**”), by and between Trustor and Beneficiary, Trustor agrees to properly care for and keep the Property in first class condition, order, and repair; to care for, protect, and repair all buildings and improvements situate thereon; not to remove, materially alter, or demolish any buildings or other improvements situate thereon; not to remove, materially alter, or demolish any buildings or improvements damaged or destroyed thereon; to complete in a good workmanlike manner any building or other improvement which may be constructed thereon; and to pay, when due, all claims for labor performed and for materials furnished therefor; and otherwise to protect and preserve the same; to comply with all Legal Requirements having application to any alterations or improvements made thereon; not to commit or permit any waste or deterioration of said buildings and improvements or of said Property; and to comply with the Clean Air Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Resource Conservation Act of 1976, as amended, the Hazardous Materials Transportation Act, as amended, the Resource Conservation and Recovery Act, as amended, or any other Legal Requirement related to Hazardous Substances (defined below); and to do any other act or acts all in a timely and proper manner, which, from the character or use of the Property may be reasonably necessary to maintain the Property in a first-class condition, the specific enumerations herein not excluding the general (including, without limitation, the establishment of an equipment replacement reserve for all equipment that is part of the Property).

3. **Environmental Compliance.**

(a) As used herein, the term “**Hazardous Substances**” shall mean any or all of the following: (i) any and all hazardous substances, hazardous materials, toxic substances, or solid waste as defined in the Clean Air Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Resource Conservation Act of 1976, as amended, the Hazardous Materials Transportation Act, as amended, the Resource Conservation and Recovery Act, as amended, or any other Legal Requirement related to hazardous substances and the regulations promulgated thereunder, (ii) any substance or materials listed as hazardous or toxic in the United States Department of Transportation Table, by the Environmental Protection Agency, or any successor agency, or under any Federal, state, or local laws or regulations, (iii) any asbestos, poly-chlorinated biphenyls, urea formaldehyde foam, explosives, or radioactive waste, or (iv) any other chemical, material, or substance which is not classified as hazardous or toxic but

exposure to which is prohibited, limited, or regulated by any Federal, state, local, or other governmental authority having jurisdiction over the Property.

(b) Trustor shall comply with any and all Legal Requirements regarding the presence or removal of Hazardous Substances on the Property, shall pay immediately, when due, the costs of removal from the Property of any such Hazardous Substances which are required to be removed pursuant to any Legal Requirement, and shall keep the Property free of any lien which may arise pursuant to such Legal Requirements. The Trustor shall not, and shall not permit any person or entity to, release, discharge, or dispose of any Hazardous Substances on the Property except in compliance with all Legal Requirements and, if the same shall exist, Trustor shall immediately remove or cause to be removed from the Property such Hazardous Substances to the extent required to be removed pursuant to any Legal Requirement.

4. **Taxes.**

(a) Trustor agrees to pay, before default and/or delinquency (i) all taxes and assessments, of any kind or nature, which are assessed against or affect the Property or any part thereof ("**Impositions**") and (ii) all obligations which are represented, evidenced, or secured by liens, encumbrances, charges, and/or claims on said Property, or any part thereof, which appear to have priority over the lien of this Deed of Trust ("**Senior Encumbrances**").

(b) In the event that Trustor fails to make any payment required by section 4(a) above, within the time periods required therein, Beneficiary may pay the same without demand or notice (in which case Beneficiary shall be the sole judge of the legality, validity, and/or priority of the obligation so paid and of the amount required to be paid).

5. **Appraisals.** The Trustor hereby agrees to provide Beneficiary, at Beneficiary's sole option, and at Trustor's expense, and within sixty (60) days of Beneficiary's request therefor, an appraisal of the Property which: (i) is in a form and substance acceptable to Beneficiary in the sole and absolute exercise of its discretion; and (ii) is completed by an appraiser acceptable to Beneficiary in the sole and absolute exercise of its discretion. Without limiting the generality of the foregoing sentence, Trustor hereby agrees that: A) Beneficiary may enter onto the Property upon ten (10) days' advance written notice to Trustor to perform its own appraisal of the Property and that Beneficiary will have access to all buildings and/or improvements on the Property so that it can complete that appraisal; B) all such appraisals shall be at Trustor's cost and expense. r

6. **Insurance.** Trustor agrees to keep all buildings and/or improvements, which are ever located on the Property, and all of the Property, including any personal property that is part of the Property, insured by policies of general liability insurance and insurance providing coverage against loss by fire and/or hazard, and/or flood, which policy(ies) shall have extended coverage endorsements, shall include, if applicable, business interruption provisions, and shall be issued by company(ies) authorized to issue such policy(ies) in the State of Utah. The terms and amounts of all such policies, and the insurance companies that issue such policies, must be acceptable to Beneficiary in the sole and absolute exercise of its discretion. Said insurance shall provide for at

least ten (10) days' advance written notice to Beneficiary prior to cancellation. Said insurance shall, at Beneficiary's sole option, be payable to Beneficiary to the amount of the unsatisfied obligations to Beneficiary hereby secured or include such riders or mortgagee's endorsements as Beneficiary may reasonably require. The policy or policies of said insurance shall be delivered to Beneficiary, as further security, and in default hereof, Beneficiary may procure such insurance, and expend such sum or sums therefor as Beneficiary shall deem reasonably necessary. Subject to the terms of the other Loan Documents, so long as no Event of Default (as defined in section 14 below) has occurred and is continuing, Trustor may settle, compromise, adjust, or apply any insurance or other claim without the Beneficiary's prior written consent so long as the amount of the claim (but not the settlement or compromise thereof) is less than \$10,000.00. So long as no Event of Default has occurred or is continuing, Beneficiary shall apply all insurance proceeds to the repair and/or restoration of the Property upon the satisfaction of the following conditions: i) Trustor shall have delivered written notice to Beneficiary of its intention to commence repairs and restoration within ten (10) business days following the settlement of any claim or claims under any insurance policies relating to the Property; ii) all insurance proceeds are deposited with Beneficiary; iii) within sixty (60) days following the deposit of such insurance proceeds with Beneficiary, Trustor shall have deposited with Beneficiary the amount necessary, if any, to pay the difference between the cost of restoration or repair of the Property and the amount of such insurance proceeds; iv) Trustor shall have delivered to Beneficiary a budget of all costs of reconstruction, repair, and/or restoration for the Property, acceptable to Beneficiary in the sole and absolute exercise of its discretion; and v) Beneficiary and all applicable governmental agencies shall have approved the final plans and specifications for the reconstruction, repair, or restoration of the Property. Subject to conditions set forth in the foregoing sentence, Beneficiary shall disburse such insurance proceeds as necessary to pay for the reconstruction, repair, or restoration of the Property. Upon the occurrence of an Event of Default: Beneficiary shall have the sole right to settle, compromise, or adjust any insurance or other claim in such manner as Beneficiary may determine, and for this purpose, Beneficiary may, in its own name or in the name of Trustor, take such action as Beneficiary deems appropriate; any amount collected by Trustor with respect to an insurance or other claim shall be delivered immediately to Beneficiary; the amount collected by Trustor or Beneficiary under any fire or other insurance policy may be applied by Beneficiary upon the indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary, the entire amount so collected, or any part thereof, may be released to Trustor upon such conditions as Beneficiary may impose (such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to the terms of this Deed of Trust).

7. **Impound Accounts.** To the fullest extent permitted by applicable laws, upon the occurrence and during the continuance of an Event of Default (as such term is defined in Section 14(a) of this Deed of Trust), at Beneficiary's sole election, Trustor shall pay to Beneficiary, on the day of each calendar month when installment payments are due under the Note secured hereby, an amount, to be estimated by Beneficiary, which will be sufficient to provide for payment, at least thirty (30) days prior to the applicable due date(s), of one or more (as required by Beneficiary) of the following: (i) the Impositions which are required to be paid under section 4 above, (ii) the obligations which are represented, evidenced, or secured by Senior Encumbrances and which are

required to be paid under section 4 above; and/or (iii) the premiums necessary to maintain the insurance coverage required by section 6 above. Amounts held by Beneficiary hereunder shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of Beneficiary, and no interest shall be payable in respect thereof. Upon demand of the Beneficiary, Trustor agrees to deliver to Beneficiary such additional monies as are necessary to make up any deficiencies in the amounts necessary to enable Beneficiary to pay such Impositions, obligations which are represented, evidenced, or secured by Senior Encumbrances, and/or insurance premiums. Upon the occurrence of an Event of Default as set forth in section 14 below, the Beneficiary may apply to reduction of the sums secured hereby, in such manner as Beneficiary shall determine, any amount remaining to the Beneficiary's credit hereunder.

8. Assignment of Rents and Condemnation Proceeds.

(a) Trustor hereby irrevocably and absolutely assigns and transfers to Beneficiary, all rents, issues, income, revenues, royalties, and profits derived from the Property, or any business activity conducted thereon, and each and every part thereof, including all present and future leases and rental agreements ("**Rents**"), reserving unto Trustor a license to collect the Rents prior to written notice to Trustor of any Event of Default, as defined by section 14 below. During the occurrence and continuance of an Event of Default, and written notice to Trustor thereof, the Rents, including those past due, unpaid, or undetermined, shall be collected by Beneficiary or its agent, and shall be applied, less costs and expenses of operation and collection, including attorneys' fees, to any indebtedness and/or obligation secured hereby, and in such order as Beneficiary shall determine. To the extent permitted by law, rights assigned to Beneficiary under this section 8 may be enforced by Beneficiary without regard to the adequacy of the security hereof or the solvency of Trustor by any one or more of the following methods: (i) appointment of a receiver, (ii) Beneficiary's taking possession of the Property; (iii) Beneficiary's collecting any monies payable under leases or rental agreements directly from the parties obligated for payment; (iv) injunctions; and (v) any other method permitted by law. The collection of the Rents, and the application thereof as aforesaid, shall not cure or constitute a waiver of any default or notice of default hereunder or invalidate any act done pursuant to such notice. Trustor and Beneficiary intend that this assignment shall be a present, absolute, and unconditional assignment, not an assignment for additional security only, and shall, immediately upon the execution hereof, subject to the license granted above, give Beneficiary, and its agent, the right to collect the Rents and to apply them as aforesaid. Nothing contained herein, nor any collection of rents, issues, profits, and income by Beneficiary, or its agent, or a receiver, shall be construed to make Beneficiary a "mortgagee-in-possession" of the Property so long as Beneficiary has not itself entered into actual possession of the Property or shall be construed to be an assumption of liability by Beneficiary under, or a subordination of, the lien of this Deed of Trust, to any tenancy, lease, or option. Trustor agrees to provide Beneficiary with updated leases within thirty (30) days of any request in writing by Beneficiary.

(b) Any award of damages in connection with any condemnation for public use of, or injury to the Property, or any part thereof, is hereby assigned and shall be paid to Beneficiary, who may apply such monies to the Note, or, in its sole discretion, release such monies received by

Beneficiary in the same manner and with the same effect as herein provided for disposition of proceeds of insurance.

(c) This Section 8 is subject to the Utah Uniform Assignment of Rents Act, Utah Code Annotated, § 57-26-101 *et seq.* (the “**Utah Rents Act**”), and in the event of any conflict or inconsistency between the provisions of this Deed of Trust and the provisions of the Utah Rents Act, the provisions of the Utah Rents Act shall control and the Beneficiary shall have all rights and remedies available under the Utah Rents Act which rights and remedies shall be cumulative with all rights and remedies hereunder.

9. Performance by Trustee or Beneficiary.

(a) Should the Trustor fail to make any payment or perform any act which Trustor is obligated to make or perform hereby, then the Trustee, or Beneficiary, at the election of either of them, but without any obligation to do so, upon ten (10) business days’ notice to the Trustor, or any successor in interest of the Trustor, and without releasing Trustor from any obligation hereunder, may make such payment or perform such act and incur any liability, or expend whatever amounts, in its absolute discretion, it may deem reasonably necessary therefor. All sums incurred or expended by the Trustee or Beneficiary, under the terms hereof, shall become immediately due and payable by the Trustor to the Trustee or Beneficiary when so incurred or expended, and shall bear interest until paid at an annual percentage rate equal to the Default Rate which is set forth by section 14 below. In no event shall payment by Trustee or Beneficiary be construed as a waiver of the default occasioned by Trustor’s failure to make such payment or payments.

(b) If, during the existence of the trust created hereby, there is commenced or pending any suit or action affecting the Property, or any part thereof, or the title thereto, or if any adverse claim for or against the Property, or any part thereof, is made or asserted, the Trustee or Beneficiary may appear or intervene in the suit or action and retain counsel therein and defend same, or otherwise take such action therein as they may be advised, and if during the occurrence and continuance of an Event of Default may settle or compromise same or the adverse claim; and in the behalf and for any of the purposes may pay and expend such sums of money as the Trustee or Beneficiary may deem to be necessary. All such sums incurred or expended by Trustee or Beneficiary under the provisions of this section shall become immediately due and payable by the Trustor to the Trustee or Beneficiary when so incurred or expended and shall bear interest until paid at an annual percentage rate equal to the Default Rate which is set forth by section 14 below.

(c) Trustor agrees to pay and discharge all costs, fees, and expenses if incurred in connection with any default by Trustor or the preservation of the trust created hereby, including without limitation (i) reconveyance and foreclosure fees of Trustee, (ii) costs and expenses of Beneficiary or Trustee or any receiver appointed under this Deed of Trust in connection with the operation, maintenance, management, protection, preservation, collection, sale, or other liquidation of the trust created hereby or foreclosure of this Deed of Trust, (iii) advances made by Beneficiary to complete or partially construct all or any part of any construction which may have commenced on the Property or otherwise to protect the security of this Deed of Trust, (iv) costs of

evidence of title, and (v) the fees and disbursements of Trustee's and Beneficiary's legal counsel and other out-of-pocket expenses; together with interest on all such amounts until paid at the Default Rate.

10. **Modifications.** At any time, and from time to time, without liability therefor and without notice to Trustor, upon written request of Beneficiary and presentation of this Deed of Trust and the Note secured hereby for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby or the effect of this Deed of Trust upon the remainder of the Property, Trustee may (i) re-convey any part of the Property to the persons legally entitled thereto; (ii) consent in writing to the making of any map or plat thereof; (iii) join in granting any easement thereon, or (iv) join in any extension agreement or subordination agreement in connection herewith. The Beneficiary may without notice to or consent of Trustor extend the time of payment of any indebtedness secured hereby to any successor in interest of the Trustor without discharging the Trustor from liability thereon.

11. **Reconveyance.** Upon receipt of written request from Beneficiary reciting that all sums secured hereby have been paid and upon surrender of this Deed of Trust and the Note secured hereby to Trustee for cancellation and retention, or such other disposition as Trustee, in its sole discretion, may choose, and upon payment of its fees, the Trustee shall reconvey, without warranty, all portions of the Property which are then encumbered hereby to the persons legally entitled thereto. The recitals in such reconveyance of any matters of fact shall be conclusive proof of the truth thereof. The grantee in such reconveyance may be described in general terms as "the person or persons legally entitled thereto". In the event there is a conflict between the provisions of this Section 11 and Section 33 of this Deed of Trust, the provisions of Section 33 shall control.

12. **Substitution of Trustee.** The Beneficiary or its assigns may, from time to time, appoint another trustee, or trustees, to execute the trust created by this Deed of Trust or other conveyance in trust. Upon the recording in the appropriate county of such certified copy or executed and acknowledged instrument, the new trustee or trustees shall be vested with all the title, interest, powers, duties, and trusts in the Property which are vested in or conferred upon the original trustee. If there be more than one trustee, either may act alone and execute the trusts upon the request of the Beneficiary, and all his acts thereunder shall be deemed to be the acts of all trustees, and the recital in any conveyance executed by such sole trustee of such request shall be conclusive evidence thereof, and of the authority of such sole trustee to act in accordance therewith.

13. **Due on Sale, etc.**

(a) Except as otherwise provided in this Deed of Trust or the other Loan Documents and in the ordinary course of Trustor's business, there shall be no "**Transfer of Interest**" (as defined by section 13(b) below) with respect to the Property, without the prior written consent of Beneficiary having first been obtained, and in the event of such a "**Transfer of Interest,**" then, at the option of Beneficiary, any indebtedness or obligation which is secured hereby shall

immediately become due and payable, without demand or notice, irrespective of the maturity dates which may be expressed in any Loan Documents evidencing such indebtedness or obligation.

(b) A “**Transfer of Interest**” shall be deemed to have occurred with respect to the Property (i) if Trustor, without Beneficiary’s prior written consent, shall (or shall enter into an agreement to), sell, transfer, encumber, create a junior lien, convey, or in any manner alienate any interest in the Property, or shall be divested of title to the Property in any manner or way, whether voluntarily or involuntarily (except for bona fide sales made in the ordinary course of business), and/or (ii) if Trustor, or a member of Trustor if other than a natural person, or any membership interest, beneficial interest, legal interest, or equitable interest in Trustor, or any one of them, is sold, transferred, alienated, conveyed, hypothecated, or encumbered, and/or if the present manager of the Trustor is changed without the Beneficiary’s prior written consent.

14. **Default.**

(a) The occurrence of any “**Event of Default**” defined in the Loan Documents (including, without limitation, the Construction and Term Loan Agreement, of which terms are defined above in Section 2 of this Deed of Trust) shall be an Event of Default hereunder including, without limitation: (i) subject to applicable cure periods, failure by Trustor to pay when due any amount which Trustor is required to pay under the respective Note or any other Loan Documents secured by this Deed of Trust, (ii) subject to applicable cure periods, failure by Trustor to satisfy or perform any obligation secured by this Deed of Trust, other than the payment of money, or failure by Trustor to comply with, satisfy, or perform any term, provision, covenant, or condition, other than the payment of money as contained in the Loan Documents which default is not cured as allowed in the relevant Loan Document, (iii) the commencement by Trustor of a voluntary case or other proceeding seeking liquidation, reorganization, or other relief with respect to it or its respective debts under the United States Bankruptcy Code or any bankruptcy, insolvency, or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official, for any substantial part of its property or the consent by Trustor to any such relief or to the appointment or taking possession by any such official in any involuntary case or other proceeding commenced against Trustor or the admission by Trustor, in writing, of its inability to pay its debts as they come due, (iv) the repudiation and/or cancellation of any guaranty of the Note, any notice by Trustor that this Deed of Trust no longer secure future advances, and/or (vi) any unpermitted Transfer of Interest shall occur.

(b) The term “**Default Rate**” shall have the meaning therefor set forth in the Note.

15. **Power of Sale.** Upon the occurrence of an Event of Default, as defined by section 14 above, and recording of the notice of default and election to sell, as required by Utah Code § 57-1-24–26, then the Trustee, its successors or assigns, on demand by Beneficiary, shall sell the Property, in whole or in part, in order to accomplish the objectives of these trusts, in the manner following, namely:

(a) The Trustee shall first give notice of the time and place of such sale, in the manner provided by the laws of the State of Utah for the sale of real property under execution, and may from time to time postpone such sale by such advertisement as it may deem reasonable, or without further advertisement, by proclamation made to the persons assembled at the time and place previously appointed and advertised for such sale, and on the day of sale so advertised, or to which such sale may have been postponed, the Trustee may sell the property as so advertised, at public auction, at the time and place specified in the notice, as provided by Utah Code § 57-1-27, to the highest cash bidder. The Beneficiary, obligee, creditor, or the holder or holders of the Loan Documents secured hereby may bid and purchase at such sale. The Beneficiary may, after recording the notice of breach and election, waive or withdraw the same or any proceedings thereunder, and shall thereupon be restored to its former position and have and enjoy the same rights as though such notice had not been recorded.

(b) The Trustee, upon such sale, shall make (without warranty), execute, and, after due payment made, deliver to purchaser or purchasers, his or their heirs or assigns, a deed or deeds of the Property so sold which shall convey to the purchaser all the title of the Trustor in the Property, subject to Utah Code § 57-1-28, and shall apply the proceeds of the sale thereof in payment, (unless required otherwise by Utah Code § 57-1-29) firstly, to the expenses of such sale, together with the expenses of this trust, including counsel fees, which shall become due upon any default made by Trustor in any of the payments aforesaid; and also such sums, if any, as Trustee or Beneficiary shall have paid, for procuring a search of the title to the Property, of any part thereof, subsequent to the execution of the Deed of Trust; and in payment, secondly, to the obligations or debts secured hereby, and interest thereon then remaining unpaid, and the amount of all other monies with interest thereon herein agreed or provided to be paid by Trustor in such order as Beneficiary may elect in its sole discretion; and the balance or surplus of such proceeds of sale it shall pay to Trustor, its successor or assigns.

(c) In the event of a sale of the Property conveyed or transferred in trust, or any part thereof, and the execution of a deed or deeds therefor under such trust, the recital therein of default, and of recording the notice of breach and election to sell, and of the elapsing of the 3-month period, and of the giving of notice of sale, and of a demand by Beneficiary that such sale should be made, shall be conclusive proof of such default, recording, election, elapsing of time, and of the due giving of such notice, and that the sale was regularly and validly made on due and proper demand by Beneficiary; and any such deed or deeds with such recitals therein shall be effectual and conclusive against Trustor, its successors and assigns, and all other persons; and the receipt for the purchase money recited or contained in any deed executed to the purchaser as aforesaid shall be sufficient discharge to such purchaser from all obligation to see to the proper application of the purchase money, according to the trusts aforesaid. With respect to any of the Property which is personal property, Beneficiary shall have, in the jurisdiction in which enforcement of this Deed of Trust is sought, or in any other applicable jurisdiction, all remedies of a secured party under the Utah Uniform Commercial Code and may require Trustor, on demand, to assemble all such personal property and make the same available to Beneficiary at such places as Beneficiary may

select that are reasonably convenient for both parties, whether at the premises of Trustor or elsewhere.

(d) For the avoidance of doubt, neither Trustee nor Beneficiary shall have the ability to sell or cause a sale of the Property except in accordance with this Section 15.

(e) If Trustor, Trustor's successor in interest or any other person having a subordinate lien or encumbrance of record on the Property, reinstates this Deed of Trust and the Loan within three (3) months of the recordation of a notice of default in accordance with Utah Code § 57-1-31(1), such party shall pay to Beneficiary the reasonable cancellation fee contemplated by Utah Code § 57-1-31(2), as delivered by Beneficiary, in accordance with its then current policies and procedures, whereupon Trustee shall record a notice of cancellation of the pending sale.

16. **Deficiency.** Subject to applicable laws, Trustor agrees to pay any deficiency arising from any cause after application of the proceeds of the sale held in accordance with the provisions section 15 above.

17. **Remedies Cumulative and Limitation of Waiver.** Subject to applicable law, the rights and remedies of Beneficiary upon the occurrence of one or more defaults by Trustor (whether such rights and remedies are conferred by statute, by rule of law, by this Deed of Trust, or otherwise) may be exercised by Beneficiary, in the sole discretion of Beneficiary, either alternatively, concurrently, or consecutively in any order. The exercise by Beneficiary, or Trustee at the express direction of Beneficiary, of any one or more of such rights and remedies shall not be construed to be an election of remedies nor a waiver of any other rights and remedies Beneficiary might have unless, and limited to the extent that, Beneficiary shall so elect or so waive by an instrument in writing delivered to Trustee. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment, when due, of all other sums so secured or to declare default, as herein provided, for failure to so pay.

18. **Stamps.** If at any time the United States of America, any state thereof, or any governmental subdivision of such state shall require revenue stamps to be affixed to the Note or any of the other Loan Documents, or the payment of any other tax paid on or in connection therewith, Trustor shall pay the same with any interest or penalties imposed in connection therewith if Trustor is permitted by law to pay such amount and, if not so permitted then the Note shall immediately be due and payable.

19. **Law.** Trustor acknowledges and agrees that the Loan Documents, including provisions with respect to the making of any disbursements, the creation of any monetary obligations and the rights accruing and compensation payable to Beneficiary in connection therewith, shall be governed by and construed in accordance with the laws of the State of Nevada, but the laws of the State of Utah shall govern the enforcement and interpretation of this Deed of Trust; provided, however, in all instances, Federal Law shall apply to the extent that Beneficiary may have greater rights thereunder.

20. **Miscellaneous.**

(a) This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. It is expressly agreed that the trust created hereby is irrevocable by Trustor.

(b) In the event that Trustor consists of more than one person or entity, the obligations of Trustor hereunder shall be joint and several.

(c) In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. The term “**Beneficiary**” includes any future holder of the Note secured hereby. The term “**Trustor**” includes the term “**Grantor**.”

(d) Trustor hereby appoints Beneficiary the attorney-in-fact of Trustor to prepare, sign, file, and record one or more financing statements; any documents of title or registration, or like papers, and to take any other action deemed necessary, useful, or desirable by Beneficiary to perfect and preserve Beneficiary’s security interest against the rights or interests of third persons. The power vested in said attorney-in-fact is and shall be deemed to be coupled with an interest and irrevocable.

(e) If any provision of this Deed of Trust or its application to any person or circumstances is held invalid, the other provisions hereof or the application of the provision to other persons or circumstances shall not be affected.

(f) The captions or headings at the beginning of each section hereof are for convenience of the parties and are not a part of this Deed of Trust.

(g) Time is of the essence of each provision of this Deed of Trust.

(h) The interest rate applicable to the Note is a variable interest rate, and the lien of this Deed of Trust secures repayment of interest due under such variable rate.

(i) Trustor represents and warrants to Beneficiary that (a) the Property is not used principally for agricultural purposes, and (b) the loan secured by this Deed of Trust was not made primarily for personal, family or household purposes.

(j) PURSUANT TO UTAH CODE § 25-5-4, TRUSTOR IS NOTIFIED THAT THE WRITTEN LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

21. **Notice.** Except as otherwise provided by law, any notice, request, demand, consent, approval, or other communication (“**Notice**”) provided or permitted under this Deed of Trust, or any other instrument contemplated hereby, shall be in writing, signed by the party giving such Notice and shall be given by personal delivery to the other party or by United States certified or registered mail, postage prepaid, return receipt requested, addressed to the party for whom it is intended at its address as set forth below. Unless otherwise specified, Notice shall be deemed given when received, but if delivery is not accepted, on the earlier of the date delivery is refused or the third day after same is deposited in any official United States Postal Depository. Any party from time to time, by Notice to the other parties given as above set forth, may change its address for purpose of receipt of any such communication.

Beneficiary: WESTERN ALLIANCE BANK
2700 West Sahara Avenue
Las Vegas, Nevada 89102
Attention: Commercial Real Estate

Trustor: RIVERS EDGE CONDOS, LLC
45 E. Center Street, Suite 103
North Salt Lake, Utah 84054
Attention: Manager

Trustee: Cottonwood Title
1216 West Legacy Crossing Blvd.
Suite #100
Centerville, Utah 84014

22. **No Third Party Beneficiaries.** This Deed of Trust is made and entered into for the sole protection and benefit of the parties hereto, and no other person or entity shall be a direct or indirect beneficiary of, or shall have any direct or indirect cause of action or claim in connection with, this Deed of Trust or any of the other Loan Documents.

23. **No Offset.** Under no circumstances shall Trustor fail or delay to perform (or resist the enforcement of) any of its obligations in connection with any of the Loan Documents because of any alleged offsetting claim or cause of action against Beneficiary (or any indebtedness or obligation of Beneficiary) which has not been confirmed in a final judgment of a court of competent jurisdiction (sustained on appeal, if any) against Beneficiary, and Trustor hereby waives any such rights of setoff (or offset) which it might otherwise have with respect to any such claims or causes of action against Beneficiary (or any such obligations or indebtedness of Beneficiary), unless and until such right of setoff is confirmed and liquidated by such a final judgment. Trustor further waives any right that it might otherwise have to require a marshaling of any security of Beneficiary or to direct the order in which Beneficiary pursues its rights or remedies with respect to any of its security.

24. **Continuation of Payments.** Notwithstanding any taking by eminent domain or other governmental action causing injury to, or decrease in value of, the Property and creating a right to compensation therefor, Trustor shall continue to make the required payments of principal and interest on the Note. If, prior to the receipt by Beneficiary of such award or compensation, the Property shall have been sold in any action or proceeding to foreclose this Deed of Trust, Beneficiary shall have the right to receive said award or compensation to the extent of any deficiency found to be due upon such sale, with interest hereon, whether or not a deficiency judgment of this Deed of Trust shall have been sought or recovered, together with counsel fees and the costs and disbursements incurred by Beneficiary in connection with the collection of such award or compensation.

25. **Security Agreement.**

(a) With respect to all of the personal property that is included in the description of the Property ("**Collateral**"), this Deed of Trust shall constitute a security agreement under Article 9 of the Utah Uniform Commercial Code, and Trustor hereby grants Beneficiary a security interest in the Collateral for the purpose of securing all of Trustor's obligations under the Note, and grants Beneficiary all rights of a secured party under the provisions of Article 9 of the Utah Uniform Commercial Code in connection therewith.

(b) Without limiting the generality of any other provision of this Deed of Trust, Trustor further covenants that the Collateral will be kept on or at the Property, that Trustor will not sell or otherwise dispose of the Collateral, that Trustor will keep the Collateral in good condition and repair, that Beneficiary may inspect and examine the Collateral at any time, that the Collateral is free and clear of any other liens or encumbrances, and that the security interest granted hereby extends to all proceeds and replacements for any or all of the Collateral.

(c) If there is an Event of Default, beneficiary may take possession of any part or all of the Collateral, and thereafter take all actions in connection therewith that it deems necessary or appropriate to protect or preserve the Collateral, require Trustor to assemble the Collateral at a place designated by Beneficiary, sell the Collateral at a public or private sale in such order as Beneficiary may determine (at Beneficiary's sole election, together with or independent of any Trustee's sale hereunder but subject to Article 9 of the Utah Uniform Commercial Code), and exercise any and all other rights extended to secured parties under the terms of Article 9 of the Utah Uniform Commercial Code.

(d) Trustor agrees that Beneficiary may file and/or record such Utah Uniform Commercial Code financing statements as Beneficiary deems necessary, in its sole discretion, to perfect the security interest granted hereby.

26. **Fixture Filing.** This Deed of Trust covers goods which are or are to become fixtures related to the Property, and constitutes a "**fixture filing**" with respect thereto, showing Trustor to be "**debtor**" and Beneficiary to be "**secured party**," for purposes of the Utah Uniform Commercial Code.

27. **Warranty of Title.** Trustor warrants that it is the sole owner of good and marketable title to the Property, and Trustor will forever defend the same against all claims and persons whomsoever, unto Beneficiary, its successors, and assigns, subject only to the matters approved by beneficiary as acceptable exceptions to title pursuant to the provisions of the closing instruction letter delivered herewith to the title insurance company insuring the lien of this Deed of Trust. All of Trustor's present and future right, title, and interest in the Property shall be subject to the lien and other terms and provisions of this Deed of Trust regardless of the time that any such right, title, and interest is created, obtained by, or conveyed, transferred, or assigned to Trustor.

28. **Appointment of a Receiver.** Subject to applicable laws, following the occurrence of an Event of Default, a receiver may be appointed, upon notice to Trustor, whereupon the receiver shall immediately be entitled to possession of all of the Property. Beneficiary's right to a receiver shall be absolute and unconditional. The receiver may be appointed without regard to the adequacy of any security for the Note and Trustor shall immediately surrender possession of the Property to the receiver upon his appointment. The receiver shall have the right to take possession of the Property, to collect the Rents therefrom, to complete the construction of the Improvements in progress thereon, to lease the Property or any part thereof, to operate any business thereon, and to exercise such other rights as may be granted by the court pending such proceedings, and up to the time of redemption of issuance of a Trustee's deed. Rents shall be applied to the costs and expenses of the receiver and the receivership, including any costs of construction, and the balance shall be applied in the manner provided for herein. The receiver shall have the power to borrow money from any person, including Beneficiary, for expenses of operating, preserving, maintaining, and caring for the Property, and completing the construction in progress of the Improvements upon the Property, and all such borrowed sums, together with interest thereon, whether expended or not, shall be added to the obligations secured hereby. In addition, any costs incurred, or advances made, by Beneficiary in connection with the implementation or operation of the receivership, shall be added to the obligations secured hereby, bear interest at the Default Rate, be guaranteed by any guarantee(s) now or thereafter relating to the obligations secured hereby, and be secured by this Deed of Trust.

29. **Construction Mortgage.**

(a) This Deed of Trust is a "**construction mortgage**" as that term is used in Article Nine of the Utah Uniform Commercial Code (Utah Code § 70A-9a-334).

(b) Trustor shall timely comply with all requirements of Utah Code Title 38 Chapter 1a with regard to filings and notices. Trustor shall cause Beneficiary to be named as a person interested in receiving electronic notices of all filings with respect to the Property in the State Construction Registry in accordance with Utah Code § 38-1a-201. Trustor shall also provide to Beneficiary copies of all preliminary notices or other notices filed by any contractor, subcontractor or supplier with respect to the Property that are included in the State Construction Registry and/or received by Trustor.

30. **Waiver of Jury Trial.** Trustor and Beneficiary each (a) covenants and agrees not to elect a trial by jury with respect to any issue arising out of this instrument or the relationship between the parties as borrower and lender that is triable of right by a jury and (b) waives any right to trial by jury with respect to such issue to the extent that any such right exists now or in the future. This waiver of right to trial by jury is separately given by each party, knowingly and voluntarily, with the benefit of competent legal counsel.

31. **Waiver of Marshaling.** To the extent permitted by law, Trustor waives (i) the benefit of all present or future laws providing for any appraisal before sale of any portion of the Property, (ii) all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the debts and/or obligations secured by this Deed of Trust and marshaling in the event of foreclosure of the lien created by this Deed of Trust, (iii) all rights and remedies which Trustor may have or be able to assert by reason of the laws of the State of Utah pertaining to the rights and remedies of sureties, (iv) the right to assert any statute of limitations as a bar to the enforcement of the lien of this Deed of Trust or to any action brought to enforce the Note or any other obligation secured by this Deed of Trust, (v) any rights, legal or equitable, to require marshaling of assets or to require upon foreclosure sales in a particular order, including any rights under Utah Code § 57-1-27(1)(c)^a. Beneficiary shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided by this Deed of Trust. Beneficiary shall have the right to determine the order in which any or all portions of the indebtedness and obligations secured by this Deed of Trust are satisfied from the proceeds realized upon the exercise of the remedies provided by this Deed of Trust.

32. **Certification of Loan Documents.** Within ten (10) business days after a request from Beneficiary, Trustor shall deliver to Beneficiary a written statement, signed and acknowledged by Trustor, certifying to Beneficiary or any person designated by the Beneficiary, as of the date of such statement (i) that the Loan Documents are unmodified and in full force and effect (or if there have been modifications, that the Loan Documents are in full force and effect as modified and setting forth such modifications), (ii) the unpaid principal balance of the Note, (iii) the date to which interest under the Note has been paid, (iv) that Trustor is not in default in paying the indebtedness or in performing or observing any of the covenants and agreements contained in this Deed of Trust or any other Loan Document (or, if the Trustor is in default, describing such default in reasonable detail), (v) whether or not there are then existing any offsets or defenses known to Trustor against the enforcement of any right or remedy of Beneficiary under the Loan Documents, and (vi) any additional facts requested by the Beneficiary. Failure to timely issue the requested certificate shall, at the election of the Beneficiary, be an Event of Default by the Trustor.

Notwithstanding anything to the contrary herein, in the event that the provisions of the Loan Agreements conflict with the provisions of this Deed of Trust, the provisions of the Loan Agreements shall control.

^a NTD: It is unclear in Utah case law if this waiver is enforceable.

[SIGNATURE PAGE TO FOLLOW.]

EXHIBIT "A"

The land referred to herein below is situated in the County of Utah, State of Utah, and described as follows:

PARCEL 1:

Lots 111, 112, 114, and 115, RIVERS EDGE ON UNIVERSITY, according to the official plat thereof recorded October 3, 2022 as Entry No. 106668:2022 in the office of the Utah County Recorder, State of Utah.

PARCEL 1A:

A nonexclusive easement for pedestrian and vehicular ingress and egress, as defined and disclosed in that certain Master Declaration of Covenants, Conditions and Restrictions of The Mix at Rivers Edge recorded May 6, 2021 as Entry No. 86004:2021 in the office of the Utah County Recorder.

PARCEL 1B:

The nonexclusive right of ingress and egress, as set forth and defined in that certain Declaration of Covenants, Conditions, and Restrictions for the Towns at Rivers Edge Owners' Association recorded December 5, 2022 as Entry No. 122242:2022 in the office of the Utah County Recorder.