

**PREPARED OUT-OF-STATE BY AND  
WHEN RECORDED MAIL TO:**

Elkins Kalt Weintraub Reuben Gartside LLP  
2049 Century Park East, Suite 2700  
Los Angeles, CA 90067  
Attention: Scott M. Kalt, Esq.  
Loan Number: 706110604  
*105149-CAF*  
TAX ID: 16-06-253-029

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9/21/2018 1:22:00 PM \$20.00  
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ADAM GARDINER  
Recorder, Salt Lake County, UT  
COTTONWOOD TITLE  
BY: eCASH, DEPUTY - EF 6 P.

**ASSIGNMENT OF LEASES AND RENTS**

THIS ASSIGNMENT OF LEASES AND RENTS (this “**Assignment**”) is made as of the 21<sup>st</sup> day of September, 2018, by JF BONNEVILLE APARTMENTS, LLC, a Utah limited liability company having its principal office and place of business at 1148 West Legacy Crossing Blvd, Suite 400, Centerville, Utah 84014 (“**Borrower**”), to VIP GP, LTD., a Cayman Islands exempted limited company in its capacity as general partner for and on behalf of PGIM VIP MORTGAGE ACCOUNT, L.P., a Cayman Islands exempted limited partnership, having an office at c/o Prudential Asset Resources, Inc., 2100 Ross Avenue, Suite 2500, Dallas, Texas 75201, Attention: Asset Management Department; Reference Loan No. 706110604 (“**Lender**”).

**RECITALS:**

- A. Borrower is the sole owner and holder of (a) the premises described in Exhibit A attached hereto and incorporated herein (“**Property**”) and (b) the landlord’s interest under the Leases (as defined in the Instrument [defined below]);
- B. Lender has made a loan to Borrower in the principal sum of TWENTY SIX MILLION AND NO/100 U.S. DOLLARS (\$26,000,000.00) (the “**Loan**”) evidenced by that certain Promissory Note dated as of the date hereof (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Note**”) and secured by that certain Deed of Trust and Security Agreement dated as of the date hereof (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Instrument**”). The Loan is governed by that certain Loan Agreement dated as of the date hereof by and between Borrower and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Loan Agreement**”) (capitalized terms used without definition shall have the meanings ascribed to them in the Loan Agreement or the Instrument, as applicable); and
- C. Lender was willing to make the Loan to Borrower only if Borrower assigned the Leases and Rents (as defined in the Instrument) to Lender in the manner provided below to secure payment of the Obligations (as defined in the Loan Agreement).

IN CONSIDERATION of the principal sum of the Note and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower agrees as follows:

1. Assignment. Borrower irrevocably, absolutely and unconditionally assigns, transfers, and sets over to Lender, its successors and assigns, all of the right, title, interest, and estate that Borrower may now or later have in, to and under (a) the Leases (which term shall also include the Specific Leases and all guaranties thereof) now or hereafter entered into; (b) the Rents; (c) all proceeds from the cancellation,

surrender, sale or other disposition of the Leases, including, but not limited to, any Recovery (as defined in the Loan Agreement); (d) the right to collect and receive all the Rents; and (e) the right to enforce and exercise, whether at law or in equity or by any other means, all terms and conditions of the Leases. This Assignment is intended by Borrower and Lender to constitute a present, absolute assignment and not a collateral assignment for additional security only. Upon full payment and satisfaction of the Obligations and written request by Borrower, Lender shall transfer, set over, and assign to Borrower all right, title, and interest of Lender in, to, and under the Leases and the Rents.

2. Borrower's License. Until an Event of Default (as defined in the Loan Agreement) occurs, Borrower shall have a revocable license (the "**License**") from Lender to exercise all rights extended to the landlord under the Leases. Borrower shall hold the Rents, or an amount sufficient to discharge all current sums due on the Obligations, in trust for the payment of the Obligations and, prior to the occurrence of an Event of Default, Borrower may use, distribute and enjoy all Rents remaining thereafter. Upon an Event of Default, whether or not legal proceedings have commenced and without regard to waste, adequacy of security for the Obligations or the solvency of Borrower, the License shall automatically terminate without notice by Lender (any such notice being expressly waived by Borrower). Upon such termination, Borrower shall deliver to Lender within seven (7) days after written notice from Lender (a) all Rents (including prepaid Rents) held or collected by Borrower from and after the date of the Event of Default, (b) all security or other deposits paid pursuant to the Leases, and (c) all previously paid charges for services, facilities or escalations to the extent allocable to any period after the Event of Default. Borrower agrees and stipulates that upon execution of this Assignment, Borrower's only interest in the Leases or Rents is as a licensee revocable upon an Event of Default.

3. Lender as Creditor of Tenant. Upon execution of this Assignment, Lender, and not Borrower, shall be the creditor of any Tenant in respect of assignments for the benefit of creditors and bankruptcy, reorganization, insolvency, dissolution or receivership proceedings affecting any such Tenant; provided, however, that Borrower shall be the party obligated to make timely filings of claims in such proceedings or to otherwise pursue creditor's rights therein. Notwithstanding the foregoing, Lender shall have the right, but not the obligation, to file such claims instead of Borrower and if Lender does file a claim, Borrower agrees that Lender (a) is entitled to all distributions on such claim to the exclusion of Borrower and (b) has the exclusive right to vote such claim and otherwise to participate in the administration of the estate in connection with such claim. Lender shall have the option to apply any monies received by it as such creditor to the Obligations in the order set forth in the Documents. If a petition is filed under the Bankruptcy Code (as defined in the Instrument) by or against Borrower, and Borrower, as landlord under any Lease, decides to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Borrower shall give Lender at least ten (10) days' prior written notice of the date when Borrower shall apply to the bankruptcy court for authority to reject the Lease. Lender may, but shall not be obligated to, send Borrower within such ten-day period a written notice stating that (a) Lender demands that Borrower assume and assign the Lease to Lender pursuant to Section 365 of the Bankruptcy Code and (b) Lender covenants to cure or provide adequate assurance of future performance under the Lease. If Lender sends such notice, Borrower shall not reject the Lease provided Lender complies with clause (b) of the preceding sentence.

4. Notice to Tenant of an Event of Default. Upon the occurrence of an Event of Default and written demand sent by Lender to any of the Tenants (in each case, a "**Rent Direction Letter**"), Borrower hereby irrevocably authorizes each Tenant to (a) pay all Rents to Lender and (b) rely upon any such Rent Direction Letter from Lender without any obligation to inquire as to the actual existence of the Event of Default, notwithstanding any claim of Borrower to the contrary. Borrower shall have no claim against any Tenant for any Rents paid by Tenant to Lender pursuant to any Rent Direction Letter.

5. Indemnification of Lender. Borrower hereby agrees to indemnify and hold Lender harmless from any and all Losses that Lender may incur under the Leases or by reason of this Assignment in connection with events occurring at any time during Borrower's ownership of the Property, except for Losses incurred as a direct result of Lender's willful misconduct or gross negligence. Nothing in this Assignment shall be construed to bind Lender to the performance of any of the terms of the Leases or to otherwise impose any liability on Lender including, without limitation, any liability under covenants of quiet enjoyment in the Leases in the event that any Tenant shall have been joined as party defendant in any action to foreclose the Instrument and shall have been barred thereby of all right, title, interest, and equity of redemption in the premises. This Assignment imposes no liability upon Lender for the operation and maintenance of the Property or for carrying out the terms of any Lease before Lender has entered and taken actual possession and complete control of all operations of the Property. Any Losses incurred by Lender, by reason of actual entry and taking possession under any Lease or this Assignment or in the defense of any claims shall, at Lender's request, be reimbursed by Borrower. Such reimbursement shall include interest at the Default Rate from the date of demand by Lender and any and all Costs incurred by Lender. Lender may, upon entry and taking of possession, collect the Rents and apply them to reimbursement for any such items.

6. No Merger. Each Lease shall remain in full force and effect, notwithstanding any merger of Borrower's and Tenant's interest thereunder.

7. Documents Incorporated. The terms and conditions of the Documents are incorporated into this Assignment as if fully set forth in this Assignment.

8. WAIVER OF TRIAL BY JURY. EACH OF BORROWER AND LENDER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM FILED BY EITHER PARTY, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN, THE DOCUMENTS, OR ANY ALLEGED ACTS OR OMISSIONS OF LENDER OR BORROWER IN CONNECTION THEREWITH.

9. Utah Uniform Assignment of Rents Act. This Assignment is subject to the Utah Uniform Assignment of Rents Act, Utah Code Annotated, Section 57-26-101 et seq. (the "Act"), and in the event of any conflict or inconsistency between the provisions of this Assignment and the provisions of the Act, the provisions of the Act shall control and Lender shall have all rights and remedies available under the Act which rights and remedies shall be cumulative with all rights and remedies hereunder.

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[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Borrower has duly executed this Assignment the date first above written.

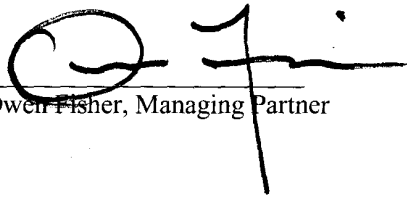
**BORROWER:**

**JF BONNEVILLE APARTMENTS, LLC**, a Utah limited liability company

By: JF Bonneville Manager, LLC, a Utah limited liability company, its Manager

By: JF Properties, LLC, a Utah limited liability company, its Manager

By: J. Fisher Companies, LLC, a Utah limited liability company, its Manager

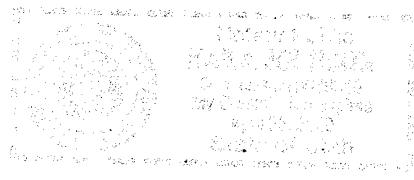
By:   
Owen Fisher, Managing Partner

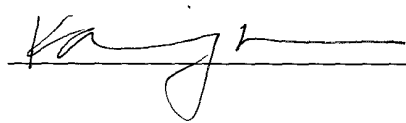
State of Utah )  
County of Davis )

On September 20, 2013, before me, Kaila Johnson, a Notary Public, personally appeared Owen Fisher, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Utah that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature 

**EXHIBIT A  
PROPERTY DESCRIPTION**

PARCEL 1:

Beginning at a point 135 feet West from the Northeast corner of Lot 8, Block 48, Plat B, Salt Lake City Survey and running thence West 195 feet; thence South 5 rods; thence West 10 rods; thence South 5 rods; thence East 10 rods; thence North 2.5 rods; thence East 60 feet; thence South 2.5 rods; thence East 270 feet; thence North 110 feet; thence West 135 feet; thence North 55 feet to the point of beginning.

PARCEL 1A:

Right-of-way for ingress and egress over Slade Place as disclosed by that certain Warranty Deed recorded August 8, 1908 as Entry No. 238636 in Book 7P at Page 506 of official records, being more particularly described as follows: Beginning at the Southeast corner of Lot 7, Block 48, Plat B, Salt Lake City Survey and running thence North 20 feet; thence West 330 feet; thence South 20 feet; thence East 330 feet to the point of beginning.

Parcel Identification Number: 16-06-253-029 (for reference purposes only)

Tax Id No.: 16-06-253-029

**EXHIBIT B**

**DESCRIPTION OF LEASES**

All leases, subleases, lettings and licenses of or affecting the Property, now or hereafter in effect, and all amendments, extensions, modifications, replacements or revenues thereof.