

When Recorded Return To:

First Western Trust Bank
1900 16th Street, Suite 1200
Denver, Colorado 80202
Attn: Loan Operations

14068971 B: 11399 P: 2967 Total Pages: 38
02/03/2023 12:36 PM By: salvarado Fees: \$40.00
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: FNTIC - NCS COLORADO MAIN
8055 E TUFTS AVE STE 900DENVER, CO 802372593

Parcel: 08-35-456-009, 08-35-456-010, 08-35-456-011,08-35-456-012, 08-35-456-013, 08-35-456-014, 08-35-456-014

**CONSTRUCTION DEED OF TRUST AND FIXTURE FILING
(With Assignment of Leases and Rents and Security Agreement)**

GRANTOR'S ORGANIZATIONAL IDENTIFICATION NUMBER: 12954497-0160

THIS CONSTRUCTION DEED OF TRUST AND FIXTURE FILING (With Assignment of Leases and Rents and Security Agreement) (as it may be amended and modified from time to time, the "**Deed of Trust**") is made as of February 2, 2023, by and between Chicago St Townhomes Property, LLC, a Utah limited liability company (the "**Grantor**"), whose mailing address is 537 W. 600 S., Suite 400, Salt Lake City, UT 84101; Cottonwood Title Insurance Agency, Inc. whose mailing address is 1996 East 6400 South, Suite 120, Murray, UT 84121 ("**Trustee**"), and FIRST WESTERN TRUST BANK, a Colorado banking corporation ("**Beneficiary**"), whose mailing address is 1900 16th St., Suite 1200, Denver, Colorado 80202.

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Grantor hereby irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, all of Grantor's right, title, interest and estate in and to Grantor's current and future interest in and to that certain real property (the "**Property**") located in the County of Salt Lake, State of Utah, more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "**Premises**");

TOGETHER WITH any interest of Grantor in any and all buildings and other improvements now or hereafter erected on the Premises including, without limitation, fixtures, attachments, appliances, equipment, machinery, and other personal property attached to such buildings and other improvements (the "**Improvements**"), all of which shall be deemed and construed to be a part of the Premises;

TOGETHER WITH any interest of Grantor in all rents, issues, profits, damages, royalties, income and other benefits now or hereafter derived from the Premises and the Improvements, subject to the terms and provisions of Article II of this Deed of Trust with respect to all leases and subleases of the Premises or Improvements now or hereafter existing or entered into, or portions thereof, granted by Grantor, and further subject to the right, power and authority hereinafter given to Grantor to collect and apply such rents;

Recording Requested by:
FNTG-NCS Colorado
N0040298

TOGETHER WITH all interests, estates or other claims, both in law and in equity, which Grantor now has or may hereafter acquire in the Premises or the Improvements;

TOGETHER WITH all easements, rights-of-way and other rights now owned or hereafter acquired by Grantor used in connection with the Premises or the Improvements or as a means of access thereto (including, without limitation, all rights pursuant to any trackage agreement and all rights to the nonexclusive use of common drive entries, and all tenements, hereditaments and appurtenances thereof and thereto) and all water and water rights and shares of stock evidencing the same;

TOGETHER WITH all leasehold estate, right, title and interest of Grantor in and to all leases or subleases covering the Premises or the Improvements or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Grantor thereunder including, without limitation, all rights of Grantor against the guarantors thereof, all cash or security deposits, advance rentals, and deposits or payments of similar nature subject to the terms and provisions of Article II of this Deed of Trust;

TOGETHER WITH all right, title and interest now owned or hereafter acquired by Grantor in and to any greater estate in the Premises or the Improvements;

TOGETHER WITH all right, title, and interest of Grantor in (i) the property and interests in property described on Exhibit B attached hereto and incorporated herein by reference, (ii) all other personal property now or hereafter owned by Grantor that is now or hereafter located on or used in connection with the Premises or the Improvements, (iii) all other rights and interests of Grantor now or hereafter held in personal property that is now or hereafter located on or used in connection with the Premises or the Improvements, (iv) all personal property and rights and interests in personal property of similar type or kind hereafter acquired by Grantor, and (v) all proceeds thereof (such personal property and proceeds are referred to herein collectively as the "**Personal Property**");

TOGETHER WITH all right, title and interest of Grantor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Premises, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Premises;

TOGETHER WITH all the estate, interest, right, title, other claim or demand, both in law and in equity (including, without limitation, claims or demands with respect to the proceeds of insurance in effect with respect thereto) that Grantor now has or may hereafter acquire in the Premises, the Improvements, the Personal Property, or any other part of the Trust Estate (as defined below), and any and all awards made for the taking by eminent domain, or by any proceeding of purchase in lieu thereof, of the whole or any part of the Trust Estate (including, without limitation, any awards resulting from a change of grade of streets and awards for severance damages);

TOGETHER WITH all proceeds of the foregoing.

The entire estate, property, right, title and interest hereby conveyed to Trustee may hereafter be collectively referred to as the "**Trust Estate**."

FOR THE PURPOSE OF SECURING (in such order of priority as Beneficiary may elect) the following (the “**Obligations**”):

(a) payment of indebtedness in the total principal amount of up to Eight Million Nine Hundred Thousand and No/100 Dollars (\$8,900,000.00) (“**Loan**”), with interest thereon, evidenced by that certain Promissory Note of even date herewith (as it may be amended, modified, extended, restated and/or renewed from time to time, the “**Note**”) executed by Grantor pursuant to that certain Construction Loan Agreement between Grantor and Beneficiary of even date herewith (as it may be amended, modified, extended, restated and/or renewed from time to time, the “**Loan Agreement**”);

(b) payment of all sums advanced by Beneficiary to protect the Trust Estate, with interest thereon equal to the Default Rate (as defined in the Loan Agreement) (which rate of interest is hereinafter referred to as the “**Agreed Rate**”);

(c) payment of all other sums, with interest thereon, that may hereafter be loaned to Grantor, or its successors or assigns, by Beneficiary, or its successors or assigns when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust;

(d) performance of every obligation of Grantor contained in the Loan Documents (as defined below);

(e) performance of every obligation of Grantor contained in any agreement, document, or instrument now or hereafter executed by Grantor reciting that the obligations thereunder are secured by this Deed of Trust, including, without limitation, all other obligations, agreements or indebtedness between Grantor and any affiliate of Beneficiary;

(f) for the benefit of Beneficiary, compliance with and performance of each and every provision of any declaration of covenants, conditions and restrictions, any maintenance, easement and party wall agreement, or any other agreement, document, or instrument by which the Trust Estate is bound or may be affected; and

(g) all other present or future, direct or indirect, absolute or contingent, liabilities, obligations and indebtedness of Grantor to Beneficiary, pursuant to any other loan or credit agreement, promissory note, deed of trust, or other agreement, and all further renewals, extensions, modifications, and restatements of the foregoing, whether or not Grantor executed any extension agreement or renewal instruments.

This Deed of Trust, the Note, the Loan Agreement, the Guaranty (as defined in the Loan Agreement), and any other deeds of trust, mortgages, agreements, guaranties or other instruments given to evidence or further secure the payment and performance of any or all of the Obligations, as the foregoing may be amended, modified, extended, or renewed from time to time may hereinafter be collectively referred to as the “**Loan Documents**.” Notwithstanding anything in this Deed of Trust to the contrary, the term Loan Documents does not include that certain Environmental Indemnification Agreement executed by Grantor and the guarantors of the Loan for the benefit of Beneficiary (the “**Environmental Indemnity**”), the term Obligations does not

include any obligations or liabilities under the Environmental Indemnity and the obligations and liabilities under the Environmental Indemnity are not secured by this Deed of Trust. Any term used or defined in the Uniform Commercial Code of Utah, as in effect from time to time, or under the Uniform Commercial Code, enforced from time to time, in any other state to the extent the same is the applicable law, ("**Uniform Commercial Code**"), and not defined in this Deed of Trust, has the meaning given to the term in the Uniform Commercial Code, when used in this Deed of Trust. Any term used but not defined in this Deed of Trust shall have the same meaning as defined in the Loan Agreement.

GRANTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

ARTICLE I
COVENANTS AND AGREEMENTS OF GRANTOR

1.01 Payment and Performance of Secured Obligations. Grantor shall pay when due and/or perform each of the Obligations. The Obligations mature on or before February [2], 2028.

1.02 Maintenance, Repair, Alterations. Grantor shall keep the Trust Estate in good condition and repair. Grantor shall not remove, demolish, or substantially alter any of the Improvements, except with the prior written consent of Beneficiary. Grantor shall complete promptly and in a good and workmanlike manner any Improvement that may be now or hereafter constructed on the Premises and promptly restore in like manner any Improvements that may be damaged or destroyed from any cause whatsoever and pay when due all claims for labor performed and materials furnished therefor. Grantor shall comply with all Requirements (as defined below) and shall not suffer to occur or exist any violation of any Requirement. Grantor shall not commit or permit any waste or deterioration of the Trust Estate, and, to the extent allowed by law, shall keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair. Grantor shall perform its obligations under each Lease. "**Requirement**" and "**Requirements**" mean, respectively, each and all obligations and requirements now or hereafter in effect by which Grantor or the Trust Estate are bound or which are otherwise applicable to the Trust Estate, construction of any Improvements on the Trust Estate, or operation, occupancy or use of the Trust Estate (including, without limitation (i) such obligations and requirements imposed by common law or any law, statute, ordinance, regulation, or rule (federal, state, or local), and (ii) such obligations and requirements of, in, or in respect of (A) any consent, authorization, license, permit, or approval relating to the Trust Estate, (B) any condition, covenant, restriction, easement, or right-of-way reservation applicable to the Trust Estate, (C) any Lien or Encumbrance, (D) any other agreement, document, or instrument to which Grantor is a party or by which Grantor or the Trust Estate is bound or affected, and (E) any order, writ, judgment, injunction, decree, determination, or award of any arbitrator, other private adjudicator, court, government, or governmental authority (federal, state, or local) to which Grantor is a party or by which Grantor or the Trust Estate is bound or affected).

1.03 Required Insurance. Grantor shall at all times provide, maintain and keep in force or cause to be provided, maintained and kept in force with respect to the Trust Estate, at no expense to Trustee or Beneficiary, policies of insurance in forms and amounts and issued by

companies reasonably satisfactory to Beneficiary covering such casualties, risks, perils, liabilities and other hazards as is required under the Loan Agreement. All such policies of insurance required by the terms of this Deed of Trust or the Loan Agreement shall contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the terms of such policy notwithstanding any act or negligence of Grantor or any party holding under Grantor that might otherwise result in forfeiture of said insurance and the further agreement of the insurer waiving all rights of setoff, counterclaim or deductions against Grantor.

1.04 Delivery of Policies, Payment of Premiums.

(a) At Beneficiary's option all policies of insurance shall either have attached thereto a lender's loss payable endorsement for the benefit of Beneficiary in form satisfactory to Beneficiary or shall name Beneficiary as an additional insured. Grantor shall furnish Beneficiary with certificates of insurance for each required policy setting forth the coverage, the limits of liability, the name of the carrier, the policy number and the period of coverage. If Beneficiary consents, Grantor may provide any of the required insurance through blanket policies carried by Grantor and covering more than one location, or by policies procured by a tenant or other party holding under Grantor; provided, however, all such policies shall meet the requirements referred to in Section 1.03. At least thirty (30) days prior to the expiration of each required policy, Grantor shall deliver to Beneficiary evidence reasonably satisfactory to Beneficiary of the payment of premium and the renewal or replacement of such policy continuing insurance in form as required by this Deed of Trust. All such policies shall contain a provision that, notwithstanding any contrary agreement between Grantor and insurance company, such policies will not be cancelled, allowed to lapse without renewal, surrendered or materially amended, which term shall include any reduction in the scope or limits of coverage, without at least thirty (30) days' prior written notice to Beneficiary.

(b) In the event Grantor fails to obtain, maintain, or deliver to Beneficiary the policies of insurance with respect to the Trust Estate required by this Deed of Trust, Beneficiary may, at Beneficiary's election, but without any obligation so to do, procure such insurance or single-interest insurance for such risks covering Beneficiary's interest, and Grantor will pay all premiums thereon promptly upon demand by Beneficiary, and until such payment is made by Grantor, the amount of all such premiums shall bear interest at the Agreed Rate. Upon the occurrence and during the continuation of an Event of Default and request by Beneficiary, Grantor shall deposit with Beneficiary in monthly installments, an amount equal to one-twelfth (1/12) of the estimated aggregate annual insurance premiums on all policies of insurance required by this Deed of Trust (funds deposited for this purpose are referred to as "**Insurance Impounds**"). In such event Grantor further agrees to cause all bills, statements, or other documents relating to the foregoing insurance premiums to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements, or other documents evidencing that a premium for a required policy is then payable, and provided there are sufficient Insurance Impounds, Beneficiary shall timely pay such amounts as may be due thereunder out of the Insurance Impounds. If at any time and for any reason the Insurance Impounds are or will be insufficient to pay such amounts as may be then or subsequently due, Beneficiary shall notify Grantor and Grantor shall immediately deposit an amount equal to such deficiency with Beneficiary.

Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a trustee of Insurance Impounds or to be obligated to pay any amounts in excess of the amount of the Insurance Impounds, nor shall anything contained herein modify the obligation of Grantor set forth in Section 1.03 to obtain and maintain insurance. Beneficiary may commingle Insurance Impounds with its own funds, and Grantor shall not be entitled to interest thereon. Beneficiary may reserve for future payments of premiums such portion of Insurance Impounds as Beneficiary in its absolute and sole discretion deems proper. If Grantor fails to deposit with Beneficiary sums sufficient to pay fully such premiums at least thirty (30) days before delinquency thereof, Beneficiary may, at Beneficiary's election, but without any obligation so to do, advance any amounts required to make up the deficiency, which advances, if any, shall be secured hereby and shall be repayable to Beneficiary upon demand with interest from the date advanced at the Agreed Rate, or at the option of Beneficiary the latter may, without making any advance whatever, apply any Insurance Impounds to payment of the Obligations in such order as Beneficiary may determine, notwithstanding that such Obligations may not yet be due. Upon the occurrence of an Event of Default, Beneficiary may, at any time, at Beneficiary's option, apply any Insurance Impounds or Impositions Impounds under this Section 1.04 or Section 1.08, any funds paid as Rents, and any other funds of Grantor held by Beneficiary to payment of any of the Obligations, in such manner and order as Beneficiary may elect, notwithstanding that such Obligations may not yet be due.

1.05 Casualties; Insurance Proceeds.

(a) Grantor shall give prompt written notice thereof to Beneficiary after the happening of any casualty to or in connection with the Trust Estate or any part thereof, whether or not covered by insurance. All proceeds of insurance shall be payable to Beneficiary, and Grantor hereby authorizes and directs any affected insurance company to make payment of such proceeds directly to Beneficiary. If Grantor receives any proceeds of insurance resulting from such casualty, Grantor shall promptly pay over such proceeds to Beneficiary. All proceeds of insurance will be applied in accordance with Section 1.21 hereof.

(b) Grantor shall not be excused from repairing or maintaining the Trust Estate as provided in Section 1.02 hereof or restoring all damage or destruction to the Trust Estate, regardless of whether or not there are insurance proceeds available to Grantor or whether any such proceeds are sufficient in amount, and the application or release by Beneficiary of any insurance proceeds shall not cure or waive any default or notice of default under this Deed of Trust or invalidate any act done pursuant to such default or notice of default.

1.06 Assignment of Policies Upon Foreclosure. In the event of foreclosure of this Deed of Trust as a mortgage, a sale under the power of sale, or any other transfer of title or assignment of the Trust Estate in extinguishment, in whole or in part, of the Obligations, all right, title and interest of Grantor in and to all policies of insurance required by Section 1.03 shall inure to the benefit of and pass to the successor in interest to Grantor or the purchaser or grantee of the Trust Estate, to the extent such policies are assignable pursuant to the terms thereof.

1.07 Indemnification; Subrogation; Waiver of Offset.

(a) If Beneficiary is made a party to any litigation concerning the Note, this Deed of Trust, any of the Loan Documents, the Trust Estate or any part thereof or interest therein, or the occupancy of the Trust Estate by Grantor, then Grantor shall indemnify, defend and hold Beneficiary harmless for, from and against all liability by reason of said litigation, including reasonable attorneys' fees and expenses incurred by Beneficiary as a result of any such litigation, whether or not any such litigation is prosecuted to judgment. Beneficiary may employ an attorney or attorneys to protect its rights hereunder, and in the event of such employment following any breach by Grantor, Grantor shall pay Beneficiary reasonable attorneys' fees and expenses incurred by Beneficiary, whether or not an action is actually commenced against Grantor by reason of its breach.

(b) Grantor waives any and all right to claim or recover against Beneficiary, its successors and assigns, their directors, officers, employees, agents and representatives, for loss of or damage to Grantor, the Trust Estate, Grantor's property or the property of others under Grantor's control from any cause insured against or required to be insured against by this Deed of Trust.

(c) All sums payable by Grantor pursuant to this Deed of Trust shall be paid without notice (except for such notice as may be expressly required hereunder or under the other Loan Documents), demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Grantor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Trust Estate or any part thereof; (ii) any restriction or prevention of or interference by any Person (as defined below) with any use of the Trust Estate or any part thereof; (iii) any title defect or encumbrance or any eviction from the Premises or the Improvements or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary, or by any court, in any such proceeding; (v) any claim that Grantor has or might have against Beneficiary; (vi) any default or failure on the part of Beneficiary to perform or comply with any of the terms of the Loan Documents or of any other agreement with Grantor; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing; whether or not Grantor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, Grantor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Grantor. "**Person**" means any natural person, any unincorporated association, any corporation, any partnership, any joint venture, any trust, any other legal entity, or any governmental authority (federal, state, local or foreign).

1.08 Impositions.

(a) Grantor shall pay, or cause to be paid, prior to delinquency, all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, (including, without limitation, nongovernmental levies or assessments such as maintenance charges, levies, or charges resulting from covenants, conditions and restrictions affecting the Trust Estate) that are assessed or imposed upon the Trust Estate or become due and payable and that create, may create, or appear to create a lien upon the Trust Estate (the above are sometimes referred to herein individually as an “**Imposition**” and collectively as “**Impositions**”), provided, however, that if by law any Imposition is payable, or may at the option of the taxpayer be paid, in installments, Grantor may pay the same or cause it to be paid, together with any accrued interest on the unpaid balance of such Imposition, in installments as the same becomes due and before any fine, penalty, interest, or cost may be added thereto for the nonpayment of any such installment and interest.

(b) If at any time after the date hereof there shall be assessed or imposed a fee, tax, or assessment on Beneficiary and measured by or based in whole or in part upon this Deed of Trust or the outstanding amount of the Obligations, then all such taxes, assessments or fees shall be deemed to be included within the term Impositions as defined in Section 1.08(a) and Grantor shall pay and discharge the same as herein provided with respect to the payment of Impositions. If Grantor fails to pay such Impositions prior to delinquency, Beneficiary may, at its option, declare all or part of the Obligations, immediately due and payable. If Grantor is prohibited by law from paying such Impositions, Beneficiary may, at its option, declare all or part of the Obligations due and payable on a date which is not less than six (6) months from the date such prohibition is imposed on Grantor.

(c) Subject to the provisions of Section 1.08(d) and upon request by Beneficiary, Grantor shall deliver to Beneficiary within thirty (30) days after the date upon which any Imposition is due and payable by Grantor official receipts of the appropriate taxing authority, or other proof satisfactory to Beneficiary, evidencing the payment thereof.

(d) Grantor shall have the right before any delinquency occurs to contest or object to the amount or validity of any Imposition by appropriate proceedings, but this shall not be deemed or construed in any way as relieving, modifying, or extending Grantor’s covenant to pay any such Imposition at the time and in the manner provided in this Section 1.08, unless Grantor has given prior written notice to Beneficiary of Grantor’s intent to so contest or object to an Imposition, and unless, in Beneficiary’s absolute and sole discretion, (i) Grantor shall demonstrate to Beneficiary’s satisfaction that the proceedings to be initiated by Grantor shall conclusively operate to prevent the sale of the Trust Estate or any part thereof or interest therein to satisfy such Imposition prior to final determination of such proceedings, (ii) Grantor shall furnish a good and sufficient bond or surety as requested by and satisfactory to Beneficiary, or (iii) Grantor shall demonstrate to Beneficiary’s satisfaction that Grantor has provided a good and

sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale.

(e) Upon the occurrence and during the continuation of an Event of Default and upon request by Beneficiary, Grantor shall pay to Beneficiary an initial cash deposit in an amount adequate to pay all Impositions for the ensuing tax fiscal year and shall thereafter continue to deposit with Beneficiary, in monthly installments, an amount equal to one-twelfth (1/12) of the sum of the annual Impositions reasonably estimated by Beneficiary, for the purpose of paying the installment of Impositions next due (funds deposited for this purpose are referred to as “**Impositions Impounds**”). In such event, Grantor further agrees to cause all bills, statements, or other documents relating to Impositions to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements, or other documents, and providing there are sufficient Impositions Impounds, Beneficiary shall timely pay such amounts as may be due thereunder out of the Impositions Impounds. If at any time and for any reason the Impositions Impounds are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary may notify Grantor and upon such notice Grantor shall deposit immediately an amount equal to such deficiency with Beneficiary. Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a trustee of Impositions Impounds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this Section 1.08(e). Beneficiary may commingle Impositions Impounds with its own funds and shall not be obligated to pay any interest on any Impositions Impounds. Beneficiary may reserve for future payment of Impositions such portion of Impositions Impounds as Beneficiary may in its absolute and sole discretion deem proper. If Grantor fails to deposit with Beneficiary sums sufficient to fully pay such Impositions at least thirty (30) days before delinquency thereof, Beneficiary may, at Beneficiary’s election, but without any obligation so to do, advance any amounts required to make up the deficiency, which advances, if any, shall be secured hereby and shall be repayable to Beneficiary upon demand together with interest thereon at the Agreed Rate from the date of such advance, or at the option of Beneficiary the latter may, without making any advance whatever, apply any Impositions Impounds held by it upon any of the Obligations in such order as Beneficiary may determine, notwithstanding that such Obligations may not yet be due.

(f) Grantor shall not initiate or suffer to occur or exist the joint assessment of any real and personal property included in the Trust Estate or any other procedure whereby the lien of real property taxes and the lien of personal property taxes shall be assessed, levied, or charged to the Trust Estate as a single lien.

1.09 Utilities. Grantor shall pay when due all charges that are incurred by Grantor for the benefit of the Trust Estate or that may become a charge or lien against the Trust Estate for gas, electricity, water, sewer, or other services furnished to the Trust Estate.

1.10 Actions Affecting Trust Estate. Grantor shall appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and shall pay all costs and expenses (including, without limitation, costs of evidence of

title, litigation, and attorneys' fees) in any such action or proceeding in which Beneficiary or Trustee may appear.

1.11 Actions By Beneficiary. If Grantor fails beyond applicable grace and cure periods to make any payment or to do any act as and in the manner provided in any of the Loan Documents, Beneficiary, in its absolute and sole discretion, without obligation so to do, without releasing Grantor from any obligation, may make or do the same in such manner and to such extent as either may deem necessary or appropriate. In connection therewith (without limiting their general powers, whether conferred herein, in another Loan Document or by law), Beneficiary has and is hereby given the right, but not the obligation, effective upon the occurrence and during the continuance of an Event of Default (a) to enter upon and take possession of the Trust Estate; (b) to make additions, alterations, repairs and improvements to the Trust Estate that they or either of them may consider necessary or appropriate to keep the Trust Estate in good condition and repair; (c) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Beneficiary; (d) to pay, purchase, contest or compromise any Lien or Encumbrance (as defined below) or alleged Lien or Encumbrance (as defined in Section 1.16) whether superior or junior to this Deed of Trust; and (e) in exercising such powers, to pay necessary expenses (including, without limitation, expenses of employment of counsel or other necessary or desirable consultants). Grantor shall, immediately upon demand therefor by Beneficiary, pay to Beneficiary an amount equal to all respective costs and expenses incurred by them in connection with the exercise by Beneficiary of the foregoing rights (including, without limitation, costs of evidence of title, court costs, appraisals, surveys and receiver's, trustee's and attorneys' fees) together with interest thereon from the date of such expenditures at the Agreed Rate.

1.12 Transfer of Trust Estate by Grantor. In order to induce Beneficiary to make the Loan, Grantor agrees that, in the event of any Transfer (as hereinafter defined), without the prior written consent of Beneficiary, Beneficiary shall have the absolute right, at its option, without prior demand or notice, to declare all sums secured hereby immediately due and payable. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. Beneficiary may grant or deny such consent in its sole discretion and, if consent should be given, any such Transfer shall be subject to this Deed of Trust, and such transferee shall assume all obligations hereunder and agree to be bound by all provisions contained herein. Such assumption shall not, however, release Grantor or any maker or guarantor of the Note from any liability thereunder without the prior written consent of Beneficiary. As used herein, "**Transfer**" shall mean:

(i) any sale, transfer, conveyance, hypothecation, encumbrance, lease or vesting of the Trust Estate or any part thereof or interest therein to or in any Person, whether voluntary, involuntary, by operation of law, or otherwise, except the "**Permitted Encumbrances**" (as defined in the Loan Agreement);

(ii) any sale, transfer, assignment, conveyance, hypothecation, encumbrance or vesting of any general partnership interest in Grantor whether voluntary, involuntary, by operation of law, or otherwise, except the Permitted Encumbrances;

(iii) any sale, transfer, assignment, conveyance, hypothecation, encumbrance or vesting of any stock or ownership interest in Grantor whether voluntary, involuntary, by operation of law, or otherwise that results in a change in control, except the Permitted Encumbrances; for purposes of this Section, "change in control" shall mean any change in the ownership of a Controlling interest in Borrower;

(iv) any sale, transfer, assignment, conveyance, hypothecation, encumbrance or vesting of any shares of stock in Grantor or any consolidation or merger of Grantor (if Grantor is a corporation) whether voluntary, involuntary, by operation of law, or otherwise, except the Permitted Encumbrances; or

(v) the execution of any agreements to do any of the foregoing, except the Permitted Encumbrances.

1.13 Eminent Domain.

(a) In the event that any proceeding or action be commenced for the taking of the Trust Estate, or any part thereof or interest therein, for public or quasi-public use under the power of eminent domain, condemnation (including, without limitation, inverse condemnation) or otherwise (hereinafter collectively referred to as a "**Taking**"), or if the same be taken or damaged by reason of any public improvement or Taking, or should Grantor receive any notice or other information regarding such Taking or damage, Grantor shall give prompt written notice thereof to Beneficiary. All compensation, awards, damages, rights of action and proceeds awarded to Grantor by reason of any such Taking or damage or received by Grantor as the result of a transfer in lieu of a Taking (the "**Condemnation Proceeds**") are hereby assigned to Beneficiary, and Grantor agrees to execute such further assignments of the Condemnation Proceeds as Beneficiary or Trustee may require. If Grantor receives any Condemnation Proceeds Grantor shall promptly pay over such proceeds to Beneficiary. Beneficiary is hereby authorized and empowered by Grantor, at Beneficiary's option and in Beneficiary's sole discretion, as attorney-in-fact for Grantor, to settle, adjust, or compromise any claim for loss or damage in connection with any Taking or proposed Taking and, without regard to the adequacy of its security, to commence, appear in and prosecute in its own name and/or on behalf of Grantor any such action or proceeding arising out of or relating to a Taking or proposed Taking.

(b) Grantor shall not be excused from repairing or maintaining the Trust Estate as provided in Section 1.02 or restoring all damage or destruction to the Trust Estate, regardless of whether or not there are Condemnation Proceeds available to Grantor or whether any such Condemnation Proceeds are sufficient in amount. The application or release of the Condemnation Proceeds shall not cure or waive any default or notice of default hereunder or under any other Loan Document or invalidate any act done pursuant to such default or notice of default.

1.14 Additional Security. No other security now existing, or hereafter taken, to secure the obligations secured hereby shall be impaired or affected by the execution of this Deed of Trust. All security for the Obligations from time to time shall be taken, considered and held as

cumulative. Any taking of additional security, execution of partial releases of the security, or any extension of the time of payment of, or modification of other terms of any of the Obligations shall not diminish the force, effect or lien of this Deed of Trust and shall not affect or impair the liability of any maker, guarantor, surety or endorser for the payment or performance of any of the Obligations. In the event Beneficiary at any time holds additional security for any of the Obligations, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before, concurrently with, or after a sale or realization is made hereunder.

1.15 Inspections. Beneficiary, and its agents, representatives officers, and employees, are authorized to enter at any reasonable time upon reasonable advance notice upon or in any part of the Trust Estate for the purpose of inspecting the same and for the purpose of performing any of the acts Beneficiary is authorized to perform hereunder or under the terms of any of the Loan Documents.

1.16 Ownership and Liens and Encumbrances. Grantor is, and as to any portion of the Trust Estate acquired hereafter will upon such acquisitions be, and shall remain the owner of the Trust Estate free and clear of any Liens and Encumbrances. Grantor shall not grant, shall not suffer to exist, and shall pay and promptly discharge, at Grantor's cost and expense, all Liens and Encumbrances and any claims thereof upon the Trust Estate, or any part thereof or interest therein. Grantor shall notify Beneficiary immediately in writing of any Lien or Encumbrance or claim thereof. Grantor shall have the right to contest in good faith the validity of any involuntary Lien or Encumbrance, provided Grantor shall first deposit with Beneficiary a bond or other security satisfactory to Beneficiary in such amount as Beneficiary shall reasonably require, but not more than one hundred fifty percent (150%) of the amount of the claim, and provided further that if Grantor loses such contest, Grantor shall thereafter diligently proceed to cause such Lien or Encumbrance to be removed and discharged. If Grantor shall fail to remove and discharge any Lien or Encumbrance or claim thereof, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, after only such notice to Grantor as may be reasonable under the then existing circumstances, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such Lien or Encumbrance by depositing in a court a bond or the amount claimed or otherwise giving security for such claim, or by procuring such discharge in such manner as is or may be prescribed by law. Grantor shall, immediately upon demand therefor by Beneficiary, pay to Beneficiary an amount equal to all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing right to discharge any Lien or Encumbrance or claim thereof, together with interest thereon from the date of each such expenditure at the Agreed Rate. Such costs and expenses shall be secured by this Deed of Trust. "Lien or Encumbrance" and "Liens and Encumbrances" mean, respectively, each and all of the following in respect of the Trust Estate: leases, other rights to occupy or use, mortgages, deeds of trust, pledges, security agreements, assignments, assignments as security, conditional sales, title retention arrangements or agreements, conditions, covenants, and restrictions, and other charges, liens, encumbrances, or adverse interests, whether voluntarily or involuntarily created and regardless of whether prior or subordinate to any estate, right, title, or interest granted to Trustee or Beneficiary in this Deed of Trust, excluding from the foregoing the Permitted Encumbrances.

1.17 Beneficiary's Powers. Without affecting the liability of any Person liable for the payment of the Obligations herein mentioned, and without affecting the lien or charge of this

Deed of Trust upon any portion of the Trust Estate not then or theretofore released as security for the Obligations, Beneficiary may, from time to time and without notice (a) release any person so liable, (b) extend the Obligations, (c) grant other indulgences, (d) release, or cause to be released, at any time at Beneficiary's option any parcel, portion or all of the Trust Estate, (e) take or release any other or additional security or any guaranty for any Obligation herein mentioned, or (f) make compositions or other arrangements with debtors in relation thereto.

1.18 Financial Statements. Grantor shall deliver to Beneficiary such financial statements, balance sheets, profit and loss statements, operating statements, income and expense statements and other financial information in such detail and at the times required by the Loan Agreement. All such statements shall be prepared in accordance with the requirements of the Loan Agreement. Beneficiary shall have the right to audit, inspect and copy all of Grantor's books and records, relating thereto.

1.19 Trade Names. At the request of Beneficiary from time to time, Grantor shall execute a certificate in form satisfactory to Beneficiary listing the trade names or fictitious business names under which Grantor intends to operate the Trust Estate or any business located thereon and representing and warranting that Grantor does business under no other trade names or fictitious business names with respect to the Trust Estate. Grantor shall immediately notify Beneficiary in writing of any change in said trade names or fictitious business names, and will, upon request of Beneficiary, execute any additional financing statements and other certificates necessary to reflect the change in trade names or fictitious business names.

1.20 Reserved.

1.21 Application of Insurance Proceeds and Condemnation Proceeds. Notwithstanding the other provisions of this Deed of Trust to the contrary, Beneficiary agrees that Grantor shall have the right to apply insurance proceeds and Condemnation Proceeds to the repair, replacement, or restoration of the Trust Estate if each of the following conditions precedent is satisfied:

(a) Grantor delivers notice to Beneficiary of its intention to repair, replace, or restore the Trust Estate within thirty (30) days after settlement of any claim under any insurance policies or any claim as to any Taking, the proceeds of which are used to pay for the repair, replacement, or restoration of the Trust Estate.

(b) Beneficiary determines in its reasonable discretion (i) that the Trust Estate can be repaired, replaced, or restored to substantially the same condition prior to the Taking or casualty, and (ii) that the repair, replacement, or restoration of the Trust Estate can be completed no later than six (6) months prior to the earliest maturity date of any Note (as extended from time to time).

(c) No Event of Default, or event which with notice or lapse of time would become an Event of Default, has occurred and is continuing.

(d) All Condemnation Proceeds and insurance proceeds, as applicable, are deposited with Beneficiary.

(e) Grantor has deposited with Beneficiary an amount, if a positive amount (as determined by Beneficiary) equal to (A) the sum of (1) the cost of the repair, replacement, or restoration of the Trust Estate, and (2) all operating expenses of the Trust Estate until such time as the Trust Estate can generate sufficient income to pay such operating expenses; less (B) the sum of (1) the Condemnation Proceeds or insurance proceeds deposited with Beneficiary, and (2) if the obligations secured hereby include a loan by Beneficiary to Grantor to finance the construction of any improvements to be repaired, replaced, or restored, any undisbursed portion of such loan available under the Loan Agreement for construction of such Improvements.

(f) Grantor has delivered to Beneficiary (A) final plans and specifications for the repair, replacement, or restoration of the Trust Estate, (B) a budget of all costs, expenses, and fees for the repair, replacement, or restoration of the Trust Estate, (C) a construction schedule for the repair, replacement, or restoration of the Trust Estate, and (D) a construction contract for the repair, replacement, or restoration of the Trust Estate, and Beneficiary has approved such plans and specifications, budget, construction schedule, and construction contract and the contractor under the construction contract in its reasonable discretion.

(g) All applicable Governmental Authorities have approved the final plans and specifications for the repair, replacement, or restoration of the Trust Estate. Grantor has obtained all other approvals and permits required for such repair, replacement, or restoration.

(h) The approved contractor commences the repair, replacement, or restoration of the Trust Estate.

If all of the above conditions are satisfied, Beneficiary will disburse the Condemnation Proceeds, insurance proceeds, and any other amount deposited with Beneficiary pursuant to the foregoing and in accordance with Beneficiary's customary procedures for disbursement of construction loans; provided that if requested by Beneficiary, Grantor shall execute such documents regarding such disbursements and requirements as Beneficiary may reasonably request. If any of the above conditions are not satisfied within the time limits described above or, if after satisfaction of the above conditions, Grantor does not prosecute and complete the repair, replacement, or restoration of the Trust Estate with due diligence and in accordance with the construction schedule and within the budget approved by Beneficiary, Beneficiary may at any time apply the then remaining Condemnation Proceeds, insurance proceeds, and any other amount deposited with Beneficiary to the payment of the obligations secured hereby, whether or not then due, and Beneficiary shall have no obligation to disburse such proceeds or deposited funds for the payment of the costs, expenses, and fees incurred in the repair, replacement, or restoration of the Trust Estate. If there are any Condemnation Proceeds, insurance proceeds, or other amounts deposited with Beneficiary pursuant hereto remaining after payment of such obligations in full, such funds shall be paid to the person legally entitled thereto. To the extent that the Loan Agreement provides for advances for the construction of improvements on the Trust Estate, Grantor shall not have any further obligation to make advances with respect to such improvements unless the Grantor is then in compliance with the terms of this Section 1.21 with respect to any applicable Condemnation Proceeds or Insurance Proceeds.

1.22 Impounds.

(a) From and after the occurrence and continuation of an Event of Default, as further security for the payment of the Note and the payment of real estate taxes, regular or special assessments and insurance premiums, Grantor shall be required to deposit, with each payment on the Note, an amount which shall, when multiplied by the number of loan payments due under the Note each year, be sufficient, in the reasonable estimation of Beneficiary (as determined each year) to pay all such charges not less than thirty (30) days prior to the date on which such items become due and payable. Beneficiary shall be furnished evidence to allow it to estimate such amounts, including paid receipts, assessment notices and tax receipts. All funds so deposited (i) shall be held free of any liens or claims on the part of creditors of the Grantor; and (ii) shall not be, or deemed to be, a trust fund; and such funds shall, until applied to the payment of the aforesaid items, as hereinafter provided, be held by Beneficiary without interest (except to the extent required under applicable law) and may be commingled with other funds of Beneficiary. All funds so deposited shall be applied to the payment of the aforesaid items only upon the satisfaction of the following conditions: (1) no Event of Default or event, which, with notice or the passage of time or both, could become an Event of Default, shall have occurred and be continuing; (2) Beneficiary shall have sufficient funds to pay the full amounts of such items (which funds may include amounts paid solely for such purpose by Grantor in addition to the escrowed funds); and (3) Grantor shall have furnished Beneficiary with prior written notification that such items are due and with the bills and invoices therefor in sufficient time to pay the same before any penalty or interest attaches, and shall have deposited any additional funds as Beneficiary may reasonably determine as necessary to pay such items.

(b) If for any reason the funds on deposit with Beneficiary under this Section 1.22 shall not be sufficient to pay all charges specified herein within the time specified in this Section 1.22, then Grantor shall, within ten (10) days after demand by Beneficiary, deposit sufficient sums so that Beneficiary may pay all such charges in full, together with any penalty and interest thereon (except for any penalty or interest which results from Beneficiary's negligent failure to timely pay such charges). If the funds on deposit with Beneficiary shall from time to time exceed the amounts needed to pay all charges specified herein, then such excess shall be held by Beneficiary for further payments of such charges as specified in this Section 1.22.

(c) Beneficiary expressly disclaims any obligation to pay the aforesaid items unless and until Grantor complies with all of the provisions set forth in subsections 1.22(a) and (b). Payments of all charges specified herein will, at the discretion of Beneficiary, be made as the same become due and payable even though subsequent owners of the Trust Estate may benefit therefrom. Beneficiary may, in refunding any part of the funds deposited hereunder as a result of the Note being paid in full, or for any other reason at the discretion of Beneficiary, pay the amount being refunded to whoever is represented to be the owner of the Trust Estate or any portion thereof at the time such refund is made. Grantor hereby pledges any and all monies now or hereafter deposited pursuant to subsection 1.22(b) as additional security for the Note and other Loan Documents. If any Event of Default shall have occurred, or if the Note

shall be accelerated as herein provided, all funds so deposited may, at Beneficiary's option, be applied as determined solely by Beneficiary or to cure said Event of Default or as provided in this Section 1.22. In no event shall Grantor claim any credit against the principal and interest due hereunder for any payment or deposit for any of the aforesaid items.

ARTICLE II ASSIGNMENT OF RENTS AND LEASES

2.01 Assignment of Rents and Leases. Effective upon the recordation of this Deed of Trust, Grantor hereby irrevocably, absolutely, presently and unconditionally assigns, transfers, and sets over to Beneficiary, all rents, security deposits, royalties, issues, profits, earnings, revenue, income, products and proceeds of the Trust Estate, whether now due, past due or to become due, including, without limitation, all prepaid rents, security deposits, and all rights to payment from the above-listed items (some or all collectively, as the context may require, "**Rents**"), and all rights in and to any lease or agreement written or oral, devising any portion of the Trust Estate whether in existence at or upon the recordation of this Deed of Trust or entered into after the recordation of this Deed of Trust (each, a "**Lease**"), and confers upon the Beneficiary the right to collect such Rents and enforce the provisions of any Leases with or without taking the Trust Estate. This is an absolute assignment, not an assignment for security only.

2.02 Grant of License. Beneficiary hereby confers upon Grantor a license ("**License**") to collect and retain the Rents as they become due and payable and to otherwise possess and enjoy all of the landlord's rights and obligations under all of the Leases, so long as no Event of Default, as defined in Section 4.01, shall exist and be continuing. If an Event of Default has occurred and is continuing, Beneficiary shall have the right, which it may choose to exercise in its sole discretion, to terminate this License with notice to Grantor, and without regard to the adequacy of Beneficiary's security under this Deed of Trust.

2.03 Collection and Application of Rents and Enforcement of Leases. Subject to the License granted to Grantor under Section 2.02, Beneficiary has the right, power and authority to collect any and all Rents and enforce the provisions of any Lease. Grantor hereby irrevocably appoints Beneficiary its attorney-in-fact, with full power of substitution, effective only during the continuance of an Event of Default to perform any and all of the following acts, if and at the times when Beneficiary in its sole discretion may so choose:

- (a) Demand, receive and enforce payment of any and all Rents; or
- (b) Give receipts, releases and satisfactions for any and all Rents; or
- (c) Sue either in the name of Grantor or in the name of Beneficiary for any and all Rents; or
- (d) Enforce the provisions of any and all Leases.

The appointment granted in this Section 2.03 shall be deemed to be a power coupled with an interest. Beneficiary's right to the Rents, or to enforce the provisions of any Lease, does not

depend on whether or not Beneficiary takes possession of the Trust Estate as permitted under Article IV below. In Beneficiary's sole discretion, Beneficiary may choose to collect Rents or enforce any and all Leases either with or without taking possession of the Trust Estate. Beneficiary shall apply all Rents collected by it in the manner provided under Section 2.06. If an Event of Default occurs and continues while Beneficiary is in possession of all or part of the Trust Estate and is collecting and applying Rents as permitted under this Deed of Trust, Beneficiary and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Deed of Trust and at law or in equity, including the right to exercise the power of sale granted under in this Deed of Trust.

2.04 Beneficiary Not Responsible. Under no circumstances shall Beneficiary have any duty to produce Rents from the Trust Estate. Regardless of whether or not Beneficiary, in person or by agent, takes actual possession of the Premises and Improvements, Beneficiary is not and shall not be deemed to be:

- (a) A "mortgagee in possession" for any purpose; or
- (b) Responsible for performing any of the obligations of the Grantor as lessor under any lease; or
- (c) Responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Trust Estate, or any negligence in the management, upkeep, repair or control of the Trust Estate; or
- (d) Liable in any manner for the Trust Estate or the use, occupancy, enjoyment or operation of all or any part of it.

2.05 Leasing. Grantor shall not accept any deposit or prepayment of Rents for any rental period exceeding one (1) month without Beneficiary's express prior written consent. Grantor shall not lease the Trust Estate or any part of it except strictly in accordance with the Loan Agreement. Grantor shall apply all Rents in the manner required by the Loan Agreement. Grantor shall deliver copies or originals of any or all Leases to Beneficiary as and when requested from time to time by Beneficiary.

2.06 Application of Rents. Upon such entry, Beneficiary shall, after payment of all property charges and expenses (including, without limitation, reasonable compensation to such managing agent as it may select and employ) and after the accumulation of a reserve to meet requisite amounts, credit the net amount of the Rents received by it to the Obligations, but the manner of the application of such net income and which items shall be credited shall be determined in the sole discretion of Beneficiary. Beneficiary shall not be accountable for more monies than it actually receives from the Trust Estate; nor shall it be liable for failure to collect Rents. Beneficiary shall make reasonable efforts to collect Rents, reserving, however, within its own absolute and sole discretion, the right to determine the method of collection and the extent to which enforcement of collection of Rents shall be prosecuted and Beneficiary's judgment shall be deemed conclusive and reasonable.

2.07 Indemnity. Grantor hereby agrees to indemnify and hold harmless Beneficiary for, from and against any and all losses, liabilities, obligations, claims, demands, damages,

penalties, judgments, costs, and expenses, including legal fees and expenses, howsoever and by whomsoever asserted, arising out of or in any way connected with this assignment, other than those arising from Beneficiary's own gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final, non-appealable judgment); and all such losses, liabilities, obligations, claims, demands, damages, penalties, judgments, costs and expenses shall be deemed added to the indebtedness secured hereby and shall be secured by any and all other instruments securing said indebtedness.

2.08 No Obligation to Perform. Nothing contained herein shall operate or be construed to obligate Beneficiary to perform any obligations of Grantor under any Lease (including, without limitation, any obligation arising out of any covenant of quiet enjoyment therein contained in the event the lessee under any such Lease shall have been joined as a party defendant in any action to foreclose and the estate of such lessee shall have been thereby terminated). Prior to actual entry into and taking possession of the Premises by Beneficiary, this assignment shall not operate to place upon Beneficiary any responsibility for the operation, control, care, management or repair of the Trust Estate or any portion thereof, and the execution of this assignment by Grantor shall constitute conclusive evidence that all responsibility for the operation, control, care, management and repair of the Trust Estate is and shall be that of Grantor, prior to such actual entry and taking of possession.

ARTICLE III SECURITY AGREEMENT

3.01 Creation of Security Interest. Grantor hereby grants to Beneficiary a security interest in and to all the Personal Property.

3.02 Representations, Warranties and Covenants of Grantor. Grantor hereby represents, warrants and covenants (which representations, warranties and covenants shall survive creation of any indebtedness of Grantor to Beneficiary and any extension of credit thereunder) as follows:

(a) The Personal Property is not used or bought for personal, family or household purposes.

(b) The tangible portion of the Personal Property will be kept on or at the Premises or Improvements and Grantor will not, without the prior written consent of Beneficiary, remove the Personal Property or any portion thereof therefrom except in the ordinary course of business, and except for such portions or items of Personal Property which are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Grantor with similar items of greater value.

(c) At the request of Beneficiary, Grantor will join Beneficiary in executing one or more financing statements and fixture filings pursuant to the Uniform Commercial Code, in form satisfactory to Beneficiary and will pay the cost of recording and filing the same in all public offices wherever recording or filing is deemed by Beneficiary to be necessary or desirable.

(d) Grantor's principal place of business is at the address given above in the preamble of this Deed of Trust. Grantor does not do business under any trade name except as previously disclosed in writing to Beneficiary. Grantor will immediately notify Beneficiary in writing of any change in its place of business or the adoption or change of any organizational name, trade name or fictitious business name, and will upon request of Beneficiary, execute any additional financing statements or other certificates necessary to reflect the adoption or change in trade name or fictitious business name. Grantor will also promptly notify Beneficiary (i) of any change of Grantor's organizational identification number or (ii) if Grantor does not now have an organizational identification number and later obtains one, of such organizational identification number.

(e) Grantor shall immediately notify Beneficiary of any claim of which Grantor is aware against the Personal Property adverse to the interest of Beneficiary therein.

3.03 Use of Personal Property by Grantor. Until the occurrence of an Event of Default hereunder or under any other Loan Document, Grantor may have possession of the Personal Property and use it in any lawful manner not inconsistent with this Deed of Trust and not inconsistent with any policy of insurance thereon.

3.04 Remedies Upon an Event of Default.

(a) In addition to the remedies provided in Section 4.02 hereof, upon the occurrence of an Event of Default hereunder, Beneficiary may, at its option, do any one or more of the following:

(i) Either personally, or by means of a court appointed receiver, take possession of all or any of the Personal Property and exclude therefrom Grantor and all others claiming under Grantor, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Grantor with respect to the Personal Property or any part thereof. In the event Beneficiary demands, or attempts to take possession of the Personal Property in the exercise of any rights under this Deed of Trust, Grantor agrees to promptly turn over and deliver possession thereof to Beneficiary;

(ii) Without notice to or demand upon Grantor, make such payments and do such acts as Beneficiary may deem necessary to protect its security interest in the Personal Property (including, without limitation, paying, purchasing, contesting or compromising any Lien or Encumbrance, whether superior or inferior to such security interest) and in exercising any such powers or authority to pay all expenses (including, without limitation, litigation costs and reasonable attorney's fees) incurred in connection therewith;

(iii) Require Grantor from time to time to assemble the Personal Property, or any portion thereof, at a place designated by Beneficiary and reasonably convenient to both parties, and deliver promptly such Personal

Property to Beneficiary, or an agent or representative designated by Beneficiary. Beneficiary, and its agents and representatives, shall have the right to enter upon any or all of Grantor's premises and property to exercise Beneficiary's rights hereunder;

(iv) Realize upon the Personal Property or any part thereof as herein provided or in any manner permitted by law and exercise any and all of the other rights and remedies conferred upon Beneficiary by this Deed of Trust, any other Loan Document, or by law, either concurrently or in such order as Beneficiary may determine;

(v) Sell or cause to be sold in such order as Beneficiary may determine, as a whole or in such parcels as Beneficiary may determine, the Personal Property and the remainder of the Trust Estate;

(vi) Sell, lease, or otherwise dispose of the Personal Property at public sale, upon terms and in such manner as Beneficiary may determine. Beneficiary may be a purchaser at any sale; and

(vii) Exercise any remedies of a secured party under the Uniform Commercial Code or any other applicable law.

(b) Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Beneficiary shall give Grantor at least five (5) days' prior written notice of the time and place of any public sale of the Personal Property or other intended disposition thereof to be made. Such notice may be mailed to Grantor at the address set forth in Section 5.05. If Beneficiary fails to comply with this Section 3.04(b) in any respect, its liability for such failure shall be limited to the liability (if any) imposed on its as a matter of law under the Uniform Commercial Code.

(c) The proceeds of any sale under Section 3.04(a)(vi) shall be applied as follows:

(i) To the repayment of the reasonable costs and expenses of taking, holding, and preparing for the sale and the selling of the Personal Property (including, without limitation, costs of litigation and attorneys' fees) and the discharge of all Impositions, Liens and Encumbrances, and claims thereof, if any, on the Personal Property prior to the security interest granted herein (except any Impositions or Liens and Encumbrances subject to which such sale shall have been made);

(ii) To the payment of the Obligations in such order as Beneficiary shall determine; and

(iii) The surplus, if any, shall be paid to the Grantor or to whomsoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

(d) Beneficiary may comply with any applicable state or federal law or regulatory requirements in connection with a disposition of the Personal Property and such compliance will not be considered to affect adversely the commercial reasonableness of any sale of the Personal Property.

(e) Beneficiary may sell the Personal Property without giving any warranties as to such property, and may specifically disclaim any warranties of title, merchantability, fitness for a particular purpose or the like, and this procedure will not be considered to adversely affect the commercial reasonableness of any sale of the Personal Property.

(f) Grantor acknowledges that a private sale of the Personal Property may result in less proceeds than a public sale.

(g) Grantor acknowledges that the Personal Property may be sold at a loss to Grantor and that, in such event, Beneficiary shall have no liability or responsibility to Grantor for such loss.

Beneficiary shall have the right to enforce one or more remedies hereunder, successively or concurrently, and such action shall not operate to estop or prevent Beneficiary from pursuing any further remedy that it may have. Any repossession or retaking or sale of the Personal Property pursuant to the terms hereof shall not operate to release Grantor until full payment of any deficiency has been made in cash.

3.05 Security Agreement. This Deed of Trust constitutes and shall be deemed to be a “security agreement” for all purposes of the Uniform Commercial Code and Beneficiary shall be entitled to all the rights and remedies of a “secured party” under the Uniform Commercial Code.

3.06 Fixture Filing. Upon its recording in the real property records, this Deed of Trust shall be effective as a financing statement filed as a fixture filing. This Deed of Trust shall also be effective as a financing statement covering as extracted collateral (including oil and gas), accounts and general intangibles under the Uniform Commercial Code and the Uniform Commercial Code as in effect from time to time in any other state where the Trust Estate is situated. In addition, a carbon, photographic or other reproduced copy of this Deed of Trust and/or any financing statement relating hereto shall be sufficient for filing and/or recording as a financing statement. The filing of any other financing statement relating to any personal property, rights or interests described herein shall not be construed to diminish any right or priority hereunder.

3.07 Authorization to File Financing Statements; Power of Attorney. Grantor hereby authorizes Beneficiary at any time and from time to time to file any initial financing statements, amendments thereto, and continuation statements with or without signature of Grantor as authorized by applicable law, as applicable to the Trust Estate. For purposes of such filing, Grantor agrees to furnish any information reasonably requested by Beneficiary promptly upon request by Beneficiary. Grantor also ratifies its authorization for Beneficiary to have filed any like initial financing statements, amendments thereto, or continuation statements if filed prior to the date of this Deed of Trust. Grantor hereby irrevocably constitutes and appoints Beneficiary

and any officer or agent of Beneficiary, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of Grantor or in Grantor's own name to execute in Grantor's name any such documents and to otherwise carry out the purposes of this Section 3.07, to the extent that Grantor's authorization above is not sufficient. To the extent permitted by law, Grantor hereby ratifies and affirms all acts said attorneys-in-fact shall lawfully do, have done in the past, or caused to be done in the future by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

ARTICLE IV REMEDIES UPON DEFAULT

4.01 Event of Default. An Event of Default (as defined in the Loan Agreement) constitutes an "**Event of Default**" under this Deed of Trust.

4.02 Acceleration Upon Default; Additional Remedies. Upon the occurrence of an Event of Default, Beneficiary may, at its option, declare all or any part of the Obligations immediately due and payable without any presentment, demand, protest or notice of any kind. Beneficiary, in addition to the exercise of any or all of the remedies specified elsewhere in this Deed of Trust, may exercise any or all of the following:

(a) Entry. Beneficiary, in person, by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, ex parte or otherwise, and without regard to the adequacy of its security or the solvency of Grantor, may enter, take possession of, manage and operate all or any part of the Trust Estate, and may also do any and all other things in connection with those actions that Beneficiary may in its sole discretion consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include: taking and possessing all of Grantor's or the then owner's Books and Records; entering into, enforcing, modifying, or canceling Leases on such terms and conditions as Beneficiary may consider proper; obtaining and evicting tenants; fixing or modifying Rents; collecting and receiving any payment of Rents and other money owing to Grantor; completing any unfinished construction; and/or contracting for and making repairs and alterations. If Beneficiary so requests, Grantor shall assemble all of the Trust Estate that has been removed from the Premises and make all of it available to Beneficiary at the site of the Premises. Grantor hereby irrevocably constitutes and appoints Beneficiary as Grantor's attorney-in-fact, with full power of substitution, to perform such acts and execute such documents as Beneficiary in its sole discretion may consider to be appropriate in connection with taking these measures, including endorsement of Grantor's name on any instruments. The appointment granted in this Section 4.03 shall be deemed to be a power coupled with an interest. Regardless of any provision of this Deed of Trust or any other Loan Document, Beneficiary shall not be considered to have accepted any property other than cash or immediately available funds in satisfaction of any obligation of Grantor to Beneficiary, unless Beneficiary has given express written notice of Beneficiary's election of that remedy in accordance with Section 9-620 of the Uniform Commercial Code. The entering upon and taking possession of the Trust Estate, the collection of such Rents and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of all or any portion of the Trust Estate or the

collection, receipt and application of Rents, Beneficiary shall be entitled to exercise every right provided for in any of the Loan Documents or by law upon occurrence of any Event of Default, including, without limitation, the right to exercise the power of sale.

(b) Judicial Foreclosure. Commence an action to foreclose the lien of this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(c) Reserved.

(d) Appointment of Receiver. Beneficiary, as a matter of right and without notice to Grantor or any one claiming under Grantor, and without regard to the then value of the Trust Estate or the interest of Grantor therein, shall have the right to apply to any court having jurisdiction, either ex parte or otherwise, and without regard to the adequacy of its security or the solvency of the Grantor, to appoint a receiver or receivers of the Trust Estate, and Grantor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided herein and shall continue as such and exercise all such powers until the later of the date of confirmation of sale of the Trust Estate or the date of expiration of any redemption period unless such receivership is sooner terminated.

(e) Other Remedies. Exercise all other rights and remedies provided herein, in any Loan Document or other document or agreement now or hereafter securing or guarantying all or any portion of the Obligations, or by law or at equity.

4.03 Remedies Not Exclusive. Beneficiary is entitled to enforce payment and performance of any and all of the Obligations and to exercise all rights and powers under the Loan Documents and under the law now or hereafter in effect, notwithstanding some or all of the Obligations may now or hereafter be otherwise secured or guaranteed. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other rights herein contained, shall prejudice or in any manner affect Beneficiary's right to realize upon or enforce any other security or guaranty now or hereafter held by Beneficiary, it being agreed that Beneficiary is entitled to enforce this Deed of Trust and any other security or any guaranty now or hereafter held by Beneficiary in such order and manner as Beneficiary may in its absolute discretion determine. No remedy herein conferred upon or reserved to Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing under the law or at equity. Every power or remedy given by any of the Loan Documents or by law to Beneficiary or to which Beneficiary may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Beneficiary and, to the extent permitted by law, either of them may pursue inconsistent remedies.

4.04 Application of Proceeds. To the extent permitted by law, the proceeds of the sale of the Trust Estate or any portion thereof shall be applied in the following manner:

(a) First, to pay all costs and expenses of foreclosing this Deed of Trust and/or the sale or disposition of the Trust Estate or any portion thereof, including, but not limited to, trustee's fees, court costs, costs of evidence of title in connection with sale and reasonable attorneys' fees actually incurred; and

(b) Second, to pay the Obligations, to the extent permitted by applicable law, in any order and proportions as Beneficiary in its sole and absolute discretion may choose; and

(c) Third, to remit the remainder, if any, to the person or persons legally entitled thereto.

To the extent allowed under applicable law, if the Obligations include more than one loan or line of credit, by cross collateralization or otherwise, it is specifically agreed that the proceeds of any sale of the Trust Estate or any portion thereof or any other foreclosure action shall not be applied pro-rata unless such application is directed by Beneficiary, but instead shall be applied to all such Obligations in any order, proportions and manner as Beneficiary in its sole and absolute discretion may choose.

ARTICLE V MISCELLANEOUS

5.01 Change, Discharge, Termination, or Waiver. No provision of this Deed of Trust may be changed, discharged, terminated, or waived except in a writing signed by the party against whom enforcement of the change, discharge, termination, or waiver is sought. No failure on the part of Beneficiary to exercise and no delay by Beneficiary in exercising any right or remedy under the Loan Documents or under the law shall operate as a waiver thereof.

5.02 Grantor Waiver of Rights. Grantor waives, to the extent permitted by law, (a) the benefit of all laws now existing or that may hereafter be enacted providing for any appraisal before sale of any portion of the Trust Estate, and (b) all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the Obligations and marshaling in the event of foreclosure of the liens hereby created, and (c) all rights and remedies that Grantor 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.

5.03 Statements by Grantor. Grantor shall, within ten (10) days after written notice thereof from Beneficiary, deliver to Beneficiary a written statement stating the unpaid principal of and interest on the Note and any other amounts secured by this Deed of Trust and stating whether any offset or defense exists against such principal and interest or such other amounts.

5.04 Release by Trustee. Upon written request of Beneficiary stating that all Obligations have been satisfied in full, and upon payment by Grantor of Trustee's fees, Trustee will release, the lien of this Deed of Trust from all or any portion of the Trust Estate then encumbered hereby. Beneficiary will make such request when all Obligations have been satisfied in full.

5.05 Notices. All notices, demands, requests, consents, approvals or other communications (any of the foregoing, a "**Notice**") required, permitted or desired to be given

hereunder must be in writing and must be sent delivered by: (i) registered or certified mail, postage prepaid, return receipt requested, (ii) FedEx, UPS or another reputable overnight courier, (iii) delivered by hand by commercial courier service, or (iv) by electronic mail, addressed to the party to be so notified at its address set forth below, or to such other address as such party may hereafter specify in accordance with the provisions of this Section 5.05. Any Notice will be deemed to have been received: (A) 3 days after the date such Notice is mailed, (B) on the date of delivery by hand (or refusal to accept such delivery) if delivered during business hours on a Business Day (otherwise on the next Business Day), (C) on the next Business Day if sent by an overnight commercial courier and/or (D) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. Notices will be deemed effective if delivered by counsel to either party, as if given directly by such party. The addresses for the mailing or delivering of notices shall be as follows:

To Beneficiary: First Western Trust Bank
1900 16th St., Suite 1200.
Denver, CO 80202
Attention: Joe Short, Market President
Email: joe.short@myfw.com

To Grantor: Chicago Street Townhomes Property, LLC
537 W. 600 S., Suite 400
Salt Lake City, UT 84101
Attention: H. Jason Winkler
Email: jason@qfactorsolutions.com

Any party may change the address to which any such Notice is to be delivered by furnishing 10 days prior written notice of such change to the other parties in accordance with the provisions of this Section 5.05. Notices will be deemed to have been given on the date as set forth above, even if there is an inability to actually deliver any such Notice because of a changed address of which no Notice was given, or there is a rejection or refusal to accept any Notice offered for delivery.

5.06 Captions and References. The headings at the beginning of each section of this Deed of Trust are solely for convenience and are not part of this Deed of Trust. Unless otherwise indicated, each reference in this Deed of Trust to a section or an exhibit is a reference to the respective section herein or exhibit hereto.

5.07 Invalidity of Certain Provisions. If any provision of this Deed of Trust is unenforceable, the enforceability of the other provisions shall not be affected and they shall remain in full force and effect. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Trust Estate, the unsecured or partially secured portion of the debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the debt which is not secured or fully secured by the lien of this Deed of Trust.

5.08 Subrogation. To the extent that proceeds of the Note are used to pay any outstanding lien, charge or prior encumbrance against the Trust Estate, such proceeds have been or will be advanced by Beneficiary at Grantor's request and Beneficiary shall be subrogated to any and all rights and liens held by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released.

5.9 Attorneys' Fees. If any or all of the Obligations are not paid when due or if an Event of Default occurs, Grantor agrees to pay all costs of enforcement and collection and preparation therefore (including, without limitation, reasonable attorney's fees) whether or not any action or proceeding is brought (including, without limitation, all such costs incurred in connection with any bankruptcy, receivership, or other court proceedings (whether at the trial or appellate level)), together with interest therein from the date of demand at the Agreed Rate.

5.10 Governing Law. The provisions of this Deed of Trust regarding the creation, perfection, and enforcement of the Lien and security interest herein granted shall be governed by and construed under the laws of the State of Utah. ALL OTHER PROVISIONS OF THIS DEED OF TRUST SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF COLORADO, WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES.

5.11 Joint and Several Obligations. If this Deed of Trust is signed by more than one party as Grantor, all obligations of Grantor herein shall be the joint and several obligations of each party executing this Deed of Trust as Grantor.

5.12 Number and Gender. In this Deed of Trust the singular shall include the plural and the masculine shall include the feminine and neuter gender and vice versa, if the context so requires.

5.13 Loan Statement Fees. Grantor shall pay the amount demanded by Beneficiary or its authorized loan servicing agent for any statement regarding the Obligations, provided, however, that such amount may not exceed the maximum amount allowed by law at the time request for the statement is made.

5.14 Counterparts. This document may be executed and acknowledged in counterparts, all of which executed and acknowledged counterparts shall together constitute a single document. Signature and acknowledgment pages may be detached from the counterparts and attached to a single copy of this document to form physically one document, which may be recorded.

5.15 No Merger of Lease. If both the lessor's and lessee's estate under any lease or any portion thereof which constitutes a part of the Trust Estate shall at any time become vested in one owner, this Deed of Trust and the lien created hereby shall not be destroyed or terminated by application of the doctrine of merger unless Beneficiary so elects as evidenced by recording a written declaration executed by Beneficiary so stating, and, unless and until Beneficiary so elects, Beneficiary shall continue to have and enjoy all of the rights and privileges of Beneficiary as to the separate estates. In addition, upon the foreclosure of the lien created by this Deed of Trust on the Trust Estate pursuant to the provisions hereof, any leases or subleases then existing

and affecting all or any portion of the Trust Estate shall not be destroyed or terminated by application of the law of merger or as a matter of law or as a result of such foreclosure unless Beneficiary or any purchaser at such foreclosure sale shall so elect. No act by or on behalf of Beneficiary or any such purchaser shall constitute a termination of any lease or sublease unless Beneficiary or such purchaser shall give written notice thereof to such tenant or subtenant.

5.16 Status of Title. Grantor represents and warrants to Beneficiary that:

(a) it is the lawful owner of the Trust Estate free and clear of all Liens and Encumbrances and holds a fee simple estate in the Premises and Improvements, subject only to the Permitted Encumbrances and that Grantor has full right, power and authority to convey and mortgage the same and to execute this Deed of Trust;

(b) Grantor's exact legal name is correctly set forth in the introductory paragraph of this Deed of Trust;

(c) if Grantor is not an individual, Grantor is an organization of the type and (if not an unregistered entity) is incorporated in or organized under the laws of the state specified in the introductory paragraph of this Deed of Trust;

(d) if Grantor is an unregistered entity (including, without limitation, a general partnership), it is organized under the laws of the state specified in the introductory paragraph of this Deed of Trust; and

(e) Grantor's organizational identification number, if any, assigned by the state of incorporation or organization is correctly set forth on the first page of this Deed of Trust.

5.17 Integration. The Loan Documents contain the complete understanding and agreement of Grantor and Beneficiary and supersede all prior representations, warranties, agreements, arrangements, understandings, and negotiations.

5.18 Binding Effect. The Loan Documents will be binding upon, and inure to the benefit of, Grantor, Trustee and Beneficiary and their respective successors and assigns. Grantor may not delegate its obligations under the Loan Documents.

5.19 Time of the Essence. Time is of the essence with regard to the each provision of the Loan Documents as to which time is a factor.

5.20 Survival. The representations, warranties, and covenants of the Grantor and the Loan Documents shall survive the execution and delivery of the Loan Documents and the making of the Loan.

5.21 Costs and Expenses. All costs and expenses reasonably incurred by Beneficiary in connection with entering into possession of the Trust Estate, either by a court-appointed receiver or by any other legally permissible means, assuming control with respect to the development, construction, operation, maintenance, repair and/or restoration of the Trust Estate and/or any Improvements thereon, enforcing all Leases and/or collecting all Rents due

thereunder, and taking any and all other acts permitted under the Loan Documents which Beneficiary shall reasonably determine to be necessary for the administration of the Loan, to enforce the provisions and/or to carry out the purposes of the Note, the Loan Agreement, this Deed of Trust and/or other Loan Documents (including without limitation any reasonable attorney's fees, appraisal and/or appraisal review charges, environmental consulting, inspection and/or review costs, property inspection fees, consultant expenses and other similar costs) shall be reimbursed by Grantor on demand and, if not then paid, all such sums shall be added to the amount owing under the Note and shall be secured by the lien of the Deed of Trust, and shall bear interest at the rate provided for in the Note, including any applicable default rate. For purposes hereof, Beneficiary shall include Beneficiary, and any beneficiary or holder of the Note.

5.22 Construction Deed of Trust. This Deed of Trust secures an obligation incurred for the construction of improvements on land. This Deed of Trust is a "construction mortgage" and is entitled to the benefits of *Utah Code Annotated* § 70A-9a-334.

ARTICLE VI LOCAL LAW PROVISIONS

6.01 Sale by Trustee Pursuant to Power of Sale; Judicial Foreclosure. After the lapse of such time as may then be required by *Utah Code Annotated* § 57-1-24 or other applicable law following the recordation of the notice of default, and notice of default and notice of sale having been given as then required by *Utah Code Annotated* § 57-1-25 and § 57-1-26 or other applicable law, Trustee, without demand on Grantor, shall sell the Trust Estate on the date and at the time and place designated in the notice of sale, at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale or on such other terms as are set forth in the notice of sale. The person conducting the sale may, for any cause deemed expedient, postpone the sale from time to time until it shall be completed and, in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale; *provided*, if the sale is postponed for longer than forty-five (45) days beyond the date designated in the notice of sale, notice of the time, date, and place of sale shall be given in the same manner as the original notice of sale as required by *Utah Code Annotated* § 57-1-27. Trustee shall execute and deliver to the purchaser a Trustee's Deed, in accordance with *Utah Code Annotated* § 57-1-28, conveying the Trust Estate so sold, but without any covenant of warranty, express or implied. The recitals in the Trustee's Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale as follows:

First: To the costs and expenses of exercising the power of sale and of the sale, including the payment of Trustee's and attorneys' fees actually incurred not to exceed the amount which may be provided for in the trust deed.

Second: To payment of the obligations secured by this Deed of Trust.

Third: The balance, if any, to the person or person's legally entitled to the proceeds, or Trustee, in the Trustee's discretion, may deposit the balance of the proceeds with the

clerk of the district court of the county in which the sale took place, in accordance with *Utah Code Annotated* § 57-1-29.

Upon any sale made under or by virtue of this Section, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, the Beneficiary may bid for and acquire the Trust Estate, whether by payment of cash or by credit bid in accordance with *Utah Code Annotated* § 57-1-28(1)(b). In the event of a successful credit bid, Beneficiary shall make settlement for the purchase price by crediting upon the Obligations of Grantor secured by this Deed of Trust such credit bid amount. Beneficiary, upon so acquiring the Trust Estate or any part thereof, shall be entitled to hold, lease, rent, operate, manage, and sell the same in any manner provided by applicable laws. For purposes of *Utah Code Annotated* § 57-1-28, Grantor agrees that all default rate interest and late charges, if any, owing from time to time under the Loan shall constitute a part of and be entitled to the benefits of Beneficiary's lien upon the Trust Estate and Beneficiary may include the amount of all unpaid late charges in any credit bid Beneficiary may make at a foreclosure sale of the Trust Estate pursuant to this Deed of Trust.

In the event of any amendment to the provisions of *Utah Code Annotated* Title 57 or other provisions of *Utah Code Annotated* referenced in this Deed of Trust, this Deed of Trust shall, at the sole election of Beneficiary, be deemed amended to be consistent with such amendments or Beneficiary may elect not to give effect to such deemed amendments hereto if permitted by applicable law.

In the event of any bankruptcy auction with respect to any or all of the Trust Estate, whether such sale is conducted pursuant to United States Code Title 11, Section 363 or United States Title 11, Section 1129(b)(2)(A), Beneficiary shall have the absolute right to bid and become the purchaser at any such sales and credit the Obligations against any such successful bid.

6.02 Election to Foreclose as a Mortgage. Upon the occurrence of an Event of Default, Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclose this Deed of Trust in the manner provided by law for the foreclosure of mortgages on real property interests, and Beneficiary shall be entitled to recover in such proceeding all costs and expenses incident thereto, including reasonable attorneys' fees and disbursements in such amount as shall be fixed by the court. Grantor hereby waives all rights to the marshalling of Grantor's assets encumbered by this Deed of Trust to the fullest extent permitted by law, including the Trust Estate, or any portion thereof, and all rights to require the Trust Estate to be sold in several parcels. The proceeds or avails of such a sale pursuant to the foreclosure of this Deed of Trust as a mortgage shall first be applied to pay all reasonable fees, charges, costs of conducting such sale and advertising the Trust Estate, and attorneys' fees as herein provided, second to pay to Beneficiary the then outstanding amount of the Obligations with interest at the applicable rate, and third to the person so entitled. Beneficiary may purchase all or any part of the Trust Estate at such sale. Any purchaser at such sale shall not be responsible for the application of the purchase money. During any redemption period subsequent to such sale, the amount of Beneficiary's bid entered at such sale shall bear interest at the default interest rate set forth in the applicable note.

6.03 Attorneys' Fees in the Event of Foreclosure; Debt Secured. If this Deed of Trust is foreclosed by the Trustee, Trustee shall allow a reasonable amount of attorneys' fees for services rendered in the supervision of such foreclosure proceedings as a part of the cost of foreclosure. If the foreclosure proceedings are made through court proceedings, attorneys' fees in an amount determined by the court to be reasonable shall be taxed by the court as a part of the cost of such foreclosure proceedings. For purposes of *Utah Code Annotated* § 57-1-32, the total indebtedness secured by this Deed of Trust shall include all amounts payable by Grantor hereunder, including any increased rate of interest, any defeasance or prepayment payments or other amounts or obligations.

6.04 Deficiency. Grantor agrees to pay any deficiency arising from any cause, to which Beneficiary may be entitled after applications of the proceeds of any trustee's sale, and Beneficiary may commence suit to collect such deficiency in accordance with *Utah Code Annotated* § 57-1-32 or other applicable law. Grantor agrees for purposes of *Utah Code Annotated* § 57-1-32 that the value of the Trust Estate as determined and set forth in an MAI appraisal of the Trust Estate as obtained by Beneficiary on or about the date of the sale or the recording of a notice of default and election to sell shall constitute the "fair market value" of the Trust Estate for purposes of *Utah Code Annotated* § 57-1-32. For purposes of *Utah Code Annotated* § 57-1-28, Grantor agrees that all default interest, late charges, any prepayment premiums, swap breakage fees, and similar amounts, if any, owing from time to time under the Loan Documents shall constitute a part of and be entitled to the benefits of Beneficiary's lien upon the Trust Estate and Beneficiary may add all such amounts to the principal balance of the Loan, in its sole discretion, and Beneficiary may include such amounts in any credit which Beneficiary may make against its bid at a foreclosure sale of the Trust Estate pursuant to this Deed of Trust.

6.05 Residential Rental Property. For purposes of *Utah Code Annotated* §§ 57-1-25 and 78B-6-901.5, Grantor agrees that the stated purpose for which this Deed of Trust was given is not to finance residential rental property.

6.06 One Action Rule and Deficiency Statute. Grantor knowingly waives, to the fullest extent permitted by applicable law, the rights, protections and benefits afforded to Grantor under *Utah Code Annotated* §§78B-6-901 and 57-1-32 and any successor or replacement statute or any similar laws or benefits.

6.07 Acceptance by Trustee; Successor Trustees. Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. All successor trustees shall be appointed in accordance with *Utah Code Annotated* § 57-1-22.

6.08 Fixture Filings. This Deed of Trust covers goods which are or are to become fixtures, is effective as a financing statement filed as a fixture filing and is to be filed in the real estate records. The filing of any other financing statement relating to any personal property, rights or interests described herein shall not be construed to diminish any right or priority hereunder. THIS INSTRUMENT CONSTITUTES A SECURITY AGREEMENT, AND IS FILED AS A FIXTURE FILING, WITH RESPECT TO ANY PORTION OF THE PROPERTY IN WHICH A PERSONAL PROPERTY SECURITY INTEREST OR LIEN MAY BE GRANTED OR CREATED PURSUANT TO THE UNIFORM COMMERCIAL CODE OR

UNDER COMMON LAW, AND AS TO ALL REPLACEMENTS, SUBSTITUTIONS, AND ADDITIONS TO SUCH PROPERTY AND THE PROCEEDS THEREOF. FOR PURPOSES OF THE SECURITY INTEREST OR LIEN CREATED HEREBY, LENDER IS THE "SECURED PARTY" AND GRANTOR IS THE "DEBTOR." GRANTOR IS THE RECORD OWNER OF THE TRUST PROPERTY.

6.09 Integration. PURSUANT TO *UTAH CODE ANNOTATED* § 25-5-4, GRANTOR IS NOTIFIED THAT THIS DEED OF TRUST, ANY PROMISSORY NOTE AND OTHER LOAN DOCUMENTS GOVERNING, EVIDENCING AND SECURING THE OBLIGATIONS SECURED HEREBY REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

6.10 Mechanic's and Materialman's Liens.

(a) This Deed of Trust shall be a valid and existing first priority lien on the Grantor's interest in the Property free and clear of any and all exceptions for mechanic's and materialman's liens and all other liens and exceptions.

(b) Grantor shall pay and promptly discharge, at Grantor's cost and expense, all liens, encumbrances and charges upon the Grantor's interest in the Property, or any part thereof or interest therein whether inferior or superior to this Deed of Trust and keep and maintain the same free from the claim of all persons supplying labor, services or materials that will be used in connection with or enter into the construction of any and all Improvements regardless of by whom such services, labor or materials may have been contracted, provided, however, that Grantor shall have the right to contest any such claim or lien so long as Grantor previously records a notice of release of lien and substitution of alternate security as contemplated by *Utah Code Annotated* § 38-1-28 and otherwise complies with the requirements of *Utah Code Annotated* § 38-1-28 to release the Grantor's interest in the Property from such lien or claim. Notwithstanding the foregoing, Grantor may (A) with the prior written consent of Beneficiary, contest the amount of any such lien or claim related to services, labor or materials in accordance with *Utah Code Annotated* § 38-1-28(7) without previously recording a notice of release of lien and substitution of alternate security or (B) appropriately bond or reserve (in cash deposited with Beneficiary) for any such lien or claim, as determined in Beneficiary's reasonable discretion.

(c) If Grantor shall fail to remove and discharge any such lien, encumbrance or charge, or if Grantor shall dispute the amount thereof in contravention of the requirements hereof, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the release of the Grantor's interest in the Property from the effect of such lien, encumbrance or charge by obtaining a bond in the name of and for the account Grantor of and recording a notice of release of lien and substitution of alternate security in the name of Grantor, each as contemplated by *Utah Code Annotated* § 38-1-28 or other applicable law, or otherwise by giving security for such claim. Grantor shall, immediately upon demand therefor by Beneficiary, pay to

Beneficiary an amount equal to all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing right to discharge any such lien, encumbrance or charge, including costs of any bond or additional security, together with interest thereon from the date of such expenditure at the default rate set forth in the Loan Documents.

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

6.12 Personal Property. It is the express understanding and intent of the parties that as to any personal property interests subject to the Uniform Commercial Code, Beneficiary, upon an Event of Default, may proceed under the Uniform Commercial Code or may proceed as to both real and personal property interests in accordance with the provisions of this Deed of Trust and its rights and remedies in respect of real property, and treat both real and personal property interests as one parcel or package of security as permitted by *Utah Code Annotated* § 70A-9a-601 or other applicable law, and further may sell any shares of corporate stock evidencing water rights in accordance with *Utah Code Annotated* § 57-1-30 or other applicable law.

6.13 Substitution of Trustee. Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where the Premises are situated, with a copy thereof being provided to the persons required by *Utah Code Annotated* § 57-1-22 or any successor statute, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Grantor, Trustee and Beneficiary hereunder, the book and page where this Deed of Trust is recorded and the name and address of the new Trustee and all other information required by *Utah Code Annotated* § 57-1-22 or any successor statute.

6.14 Defeasance. If all of the Obligations are paid as the same become due and payable and if all of the covenants, warranties, undertakings and agreements made in the Loan Documents are kept and performed, then and in that event only, all rights under this Deed of Trust shall terminate and the Grantor's interest in the Property shall become wholly clear of the liens, security interests, conveyances and assignments evidenced hereby, and Beneficiary shall request the Trustee to execute a release in due form at Grantor's cost.

6.15 Future Advances. It is the express intention of the Grantor that this Deed of Trust secure payment and performance of all of the Obligations, whether now existing or hereinafter incurred by reason of future advances by the Beneficiary or otherwise, and regardless of whether

such Obligations are or were contemplated by the parties at the time of the granting of this Deed of Trust. Notice of the continuing grant of this Deed of Trust shall not be required to be stated on the face of any document evidencing any of the Obligations, nor shall such documents be required to otherwise specify that they are secured hereby.

6.16 Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Article VI and the other terms and conditions of this Deed of Trust, the terms and conditions of this Article VI shall control and be binding.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Grantor has executed this Deed of Trust as of the day and year first above written.

GRANTOR:

CHICAGO ST TOWNHOMES PROPERTY, LLC,
a Utah limited liability company

By: Chicago St Townhomes QOZB, LLC,
a Utah limited liability company, its Member

By: Chicago St Townhomes QOF, LLC,
a Utah limited liability company, its
Manager

By: [Signature]
Name: H. Jason Winkler
Title: Manager

STATE OF UTAH)
) ss:
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 8 day of December 2022, by H. Jason Winkler, as Manager of Chicago St Townhomes QOF, LLC, as Manager of Chicago St Townhomes QOZB, LLC as Member of Chicago St Townhomes Property, LLC, a Utah limited liability company.

My commission expires:

[Signature]
NOTARY PUBLIC

June 9, 2026

[SEAL]

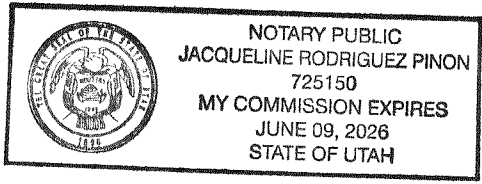


EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

Commencing 1 foot West and 38.75 feet South of the Northwest corner of Lot 2, Block 57, Plat "C", Salt Lake City Survey, and running thence East 124.0 feet; thence South 41.25 feet; thence West 124.0 feet; thence North 41.25 feet to the point of commencement.

PARCEL 2:

Commencing at a point 208 $\frac{3}{4}$ feet North from the Southwest corner of Lot 2, Block 57, Plat "C", Salt Lake City Survey, and running thence West 1 foot; thence North 41- $\frac{1}{4}$ feet; thence East 124 feet; thence South 41- $\frac{1}{4}$ feet; thence West 123 feet to the place of beginning.

PARCEL 2A:

Together with a perpetual right of way over the following described land to wit Commencing at a point 123 feet East from the Southwest corner of Lot 2, BLOCK 57, PLAT "C" Salt Lake City Survey aforesaid, and running thence East 9 feet; thence North 40 rods; thence West 9 feet; thence South 40 rods to the place of beginning.

PARCEL 3:

Commencing 451.25 feet South from the Northwest corner of Lot 7, Block 57, Plat "C", Salt Lake City Survey, and running thence East 123.0 feet; thence South 41.25 feet; thence West 124.0 feet; thence North 41.25 feet; thence East 1.0 feet to the point of commencement.

PARCEL 4:

Commencing 1 foot West and 81.0 feet North from the Southwest corner of Lot 2, Block 57, Plat "C", Salt Lake City Survey, and running thence North 86.5 feet; thence East 124.0 feet; thence South 86.5 feet; thence West 124.0 feet to the point of commencement.

PARCEL 5:

Commencing at the Southwest corner of Lot 2, Block 57, Plat "C", Salt Lake City Survey, and running thence East 66 feet; thence North 81 feet; thence West 67 feet; thence South 81 feet; thence East 1 foot to the point of beginning.

PARCEL 6:

Beginning at a point 42 feet West from the Southeast corner of Lot 2, Block 57, Plat "C", Salt Lake City Survey, and running thence West 57 feet; thence North 81 feet; thence East 57 feet; thence South 81 feet to the place of beginning.

PARCEL 6A:

Together with a perpetual right of way over the following described tract of land, to wit Commencing at a point 33 feet West from the Southeast corner of said Lot 2, Block, Plat and Survey aforesaid, and running thence West 9 feet; thence North 40 rods; thence East 9 feet; thence South 40 rods to the place of beginning.

EXHIBIT B

DESCRIPTION OF PERSONAL PROPERTY

All of Grantor's assets, including without limitation, "Account", "Cash proceeds", "Chattel paper", "Collateral", "Deposit account", "Electronic chattel paper", "Equipment", "Fixtures", "General intangibles", "Goods", "Instrument", "Inventory", "Investment property", "Letter-of-credit right", "Noncash proceeds", "Proceeds", and "Tangible chattel paper", as defined in the Uniform Commercial Code. Such assets include without limitation,

(a) All personal property (including, without limitation, all goods, supplies, equipment, furniture, furnishings, fixtures, machinery, inventory, and construction materials and software embedded in any of the foregoing) in which Grantor now or hereafter acquires an interest or right, which is now or hereafter located on or affixed to the Premises or the Improvements or used or useful in the operation, use, or occupancy thereof or the construction of any Improvements thereon, together with any interest of Grantor in and to personal property which is leased or subject to any superior security interest, and all books, records, leases and other agreements, documents, and instruments of whatever kind or character, relating to the Premises, Improvements, or such personal property ("**Personal Property**");

(b) All fees, income, rents, issues, profits, earnings, receipts, royalties, and revenues which, after the date hereof and while any portion of the Obligations remains unpaid or unperformed, may accrue from such Personal Property or any part thereof or from the Premises, the Improvements or any other part of the Trust Estate, or which may be received or receivable by Grantor from any hiring, using, letting, leasing, subhiring, subletting, subleasing, occupancy, operation, or use thereof;

(c) All of Grantor's present and future rights to receive payments of money, services, or property, including, without limitation, rights to all deposits from tenants of the Premises or Improvements, rights to receive capital contributions or subscriptions from Grantor's partners or shareholders, amounts payable on account of the sale of partnership interests in Grantor or the capital stock of Grantor, accounts and other accounts receivable, deposit accounts, chattel paper (whether tangible or electronic), notes, drafts, contract rights, instruments, general intangibles, and principal, interest and payments due on account of goods sold or leased, services rendered, loans made or credit extended, together with title to or interest in all agreements, documents, and instruments, evidencing, securing or guarantying the same;

(d) All other intangible property (and related software) and rights relating to the Premises, the Improvements, the Personal Property described in Paragraph (a) above or the operation, occupancy, or use thereof, including, without limitation, all governmental and non-governmental permits, licenses, and approvals relating to construction on or operation, occupancy, or use of the Premises or Improvements, all names under or by which the Premises or Improvements may at any time be operated or known, all rights to carry on business under any such names, or any variant thereof, all trade names and trademarks relating in any way to the Premises or the Improvements, and all good will and software in any way relating to the Premises or the Improvements;

(e) Grantor's rights under all insurance policies covering the Premises, the Improvements, the Personal Property, and the other parts of the Trust Estate and any and all proceeds, loss payments, and premium refunds payable regarding the same;

(f) All reserves, deferred payments, deposits, refunds, cost savings, and payments of any kind relating to the construction of any Improvements on the Premises;

(g) All water stock relating to the Premises;

(h) All causes of action, claims, compensation, and recoveries for any damage to, destruction of, or condemnation or taking of the Premises, the Improvements, the Personal Property, or any other part of the Trust Estate, or for any conveyance in lieu thereof, whether direct or consequential, or for any damage or injury to the Premises, the Improvements, the Personal Property, or any other part of the Trust Estate, or for any loss or diminution in value of the Premises, the Improvements, the Personal Property, or any other part of the Trust Estate;

(i) All architectural, structural, mechanical, and engineering plans and specifications prepared for construction of Improvements or extraction of minerals or gravel from the Premises and all studies, data, and drawings related thereto; and also all contracts and agreements of the Grantor relating to the aforesaid plans and specifications or to the aforesaid studies, data, and drawings or to the construction of Improvements on or extraction of minerals or gravel from the Premises;

(j) All commercial tort claims Grantor now has or hereafter acquires relating to the properties, rights, titles, and interests referred to in this Exhibit B or elsewhere in the Deed of Trust;

(l) All letter of credit rights (whether or not the letter or credit is evidenced by a writing) Grantor now has or hereafter requires relating to the properties, rights, titles and interest referred to in this Deed of Trust;

(m) All proceeds from sale or disposition of any of the aforesaid collateral and all supporting obligations ancillary thereto or arising in any way in connection therewith; and

(n) All Grantor's rights in proceeds of the loan evidenced by the Note.

As used in this Exhibit B the terms "Obligations", "Note", "Trust Estate", "Premises", "Improvements" and all other capitalized terms used herein but not otherwise defined shall have the meanings set forth in the Deed of Trust to which this Exhibit B is attached.