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Recording requested by and upon recording, return to:

Balch & Bingham LLP

Attn: Corbitt Tate

1901 Sixth Avenue North, Suite 1500

Birmingham, Alabama 35203-4642

CT-165805-CAP

Parcel Numbers: 44-238-0002; 44-238-0003; 44-238-0004; 44-238-0005; 44-238-0006; 44-238-0007; 44-238-0008; 44-238-0009; 44-238-0010; 44-238-0011; 44-238-0012; 44-238-0013; 44-238-0014; and 44-238-0015

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

THIS DEED OF TRUST IS FILED AS AND SHALL CONSTITUTE A FIXTURE FILING IN ACCORDANCE WITH THE PROVISIONS OF SECTION 70A-9a-502 OF THE UTAH CODE ANNOTATED.

(Utah County, Utah)

THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, FINANCING STATEMENT AND FIXTURE FILING (herein "**Instrument**"), made as of June 26, 2023, by the grantor, **MWIC KELTON, LLC**, a Utah limited liability company, whose address is 201 Ferry Street SE, Suite 400, Salem, Oregon 97301 (herein "**Borrower**"), in favor of **COTTONWOOD TITLE INSURANCE AGENCY, INC.**, a Utah corporation, as trustee, whose address is 1996 East 6400 South, Suite 120, Murray, Utah 84121 (herein "**Trustee**"), for the benefit of the beneficiary, **TIAA, FSB**, a federal savings bank, whose address is 301 West Bay Street, Floor #28, Jacksonville, Florida 32202 (herein "**Beneficiary**"). For purposes of Utah Code Annotated Sections 57-1-19 through 57-1-36, the Borrower is the trustor under this Instrument.

WITNESSETH:

THAT, WHEREAS, Borrower is justly indebted to Beneficiary in the principal sum of **FORTY-FOUR MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$44,500,000.00)**, pursuant to a certain Promissory Note of even date herewith, together with any and all extensions, renewals, modifications, replacements, substitutions, restatements, and any and all other certificates or evidence of indebtedness evidenced by said Promissory Note (the "**Note**"), which has a maturity date of **July 1, 2028**. As used herein, the term "**Loan**" shall refer to the loan evidenced by the Note.

WHEREAS, the parties desire to secure the principal amount of the Note with interest, and all renewals, extensions and modifications thereof, and all refinancings of any part of the Note and any and all other additional indebtedness of Borrower to Beneficiary, now existing or hereafter arising, whether joint or several, due or to become due, absolute or contingent, direct or indirect, liquidated or unliquidated, and any renewals, extensions, modifications and refinancings thereof, and whether incurred or given as maker, endorser, guarantor or otherwise, and whether the same be evidenced by note, open account, assignment, endorsement, guaranty, pledge or otherwise (herein "**Other Indebtedness**").

NOW, THEREFORE, in consideration of the indebtedness herein recited, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to secure the prompt payment of same, with the interest thereon, and any extensions, renewals, modifications and refinancings of same, and any charges herein incurred by Beneficiary on account of Borrower, including but not limited to reasonable attorneys' fees, and any and all Other Indebtedness as set forth above, and further to secure the performance of the covenants, conditions and agreements hereinafter set forth and set forth in the Note and set forth in the Loan Documents (as defined below), and as may be set forth in instruments evidencing or securing Other Indebtedness (the "**Other Indebtedness Instruments**"), Borrower irrevocably and unconditionally gives, grants, sells, aliens, remises, releases, conveys, transfers, warrants, assigns, sets over, bargains and confirms unto Trustee, Trustee's heirs, successors and assigns, in trust for the benefit of Beneficiary, its legal representatives, successors and assigns, WITH POWER OF SALE and right of entry and possession, all of Borrower's estate, right, title and interest, now owned or hereafter acquired, including any reversion or remainder interest, in the real property located in the County of Utah, State of Utah, and more particularly described on Exhibit A attached hereto and incorporated herein including all heretofore or hereafter vacated alleys and streets abutting the property, and all easements, rights, appurtenances, tenements, hereditaments, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the property (collectively "**Premises**");

TOGETHER with all of Borrower's estate, right, title and interest, now owned or hereafter acquired, in, under and to:

- (a) all buildings, structures, improvements, parking areas, landscaping, equipment, machinery, fittings, fixtures, utility lines, mains, pipes and cables and articles of property now or hereafter erected on, attached to, or used or adapted for use in the operation of the Premises; all personal property now or hereafter located in, upon, over or under the Premises or any part thereof or off-site benefiting said real property and used or usable or intended to be used in connection with any present or future operation of said real property, including, but without limitation the generality of the foregoing: all heating, air conditioning, lighting, power and incinerating apparatus and equipment; all boilers, engines, motors, dynamos, generating equipment, piping and plumbing fixtures, water heaters, ranges, cooking apparatus and mechanical kitchen equipment, refrigerators, freezers, cooling, ventilating, sprinkling and vacuum cleaning systems, fire extinguishing apparatus, gas and electric fixtures, carpeting, floor coverings, underpadding, elevators, escalators,

partitions, mantels, built-in mirrors, window shades, blinds, draperies, screens, storm sash, awnings, signs, and shrubbery and plants, and including also all interest of any owner of the Premises in any of such items hereafter at any time acquired under conditional sale contract, chattel mortgage or other title retaining or security instrument, all of which property mentioned in this clause (a) shall be deemed part of the realty covered by this Instrument and not severable wholly or in part without material injury to the freehold of the Premises (all of the foregoing together with replacements and additions thereto are referred to herein as "**Improvements**");

(b) all compensation, awards, damages, rights of action and proceeds, including interest thereon and/or the proceeds of any policies of insurance therefor, arising out of or relating to (i) a taking or damaging of the Premises or Improvements thereon by reason of any public or private improvement, condemnation proceeding (including change of grade), sale or transfer in lieu of condemnation, or fire, earthquake or other casualty, or (ii) any injury to or decrease in the value of the Premises or the Improvements for any reason whatsoever;

(c) return premiums or other payments upon any insurance any time provided with respect to the Premises, Improvements, and other collateral described herein for the benefit of or naming Beneficiary, and refunds or rebates of taxes or assessments on the Premises;

(d) all written and oral leases and rental agreements (including extensions, renewals and subleases; all of the foregoing being referred to collectively herein as the "**Leases**") now or hereafter affecting the Premises, and including, without limitation, all rents, issues, income, profits and other revenues and income therefrom and from the renting, leasing or bailment of Improvements and equipment ("**Rents**"), all guaranties of tenants' performance under the Leases (including but not limited to rights under any letter of credit given as security for such tenant's obligations), and all rights and claims of any kind that Borrower may have against any tenant under the Leases or in connection with the termination or rejection of the Leases in a bankruptcy or insolvency proceeding;

(e) plans, specifications, contracts and agreements relating to the design or construction of the Improvements; Borrower's rights under any payment, performance, or other bond in connection with the design or construction of the Improvements; all landscaping and construction materials, supplies, and equipment used or to be used or consumed in connection with construction of the Improvements, whether stored on the Premises or at some other location; and contracts, agreements, and purchase orders with contractors, subcontractors, suppliers, and materialmen incidental to the design or construction of the Improvements;

(f) all contracts, deposits (including any and all tenant security deposits), deposit accounts, accounts, bank accounts (including any and all escrow accounts, reserve accounts, and cash collateral accounts), letters of credit, general intangibles, goods, contract rights, rights, claims or causes of action pertaining to or affecting the Premises or the Improvements, all options or contracts to acquire other property for use in connection with operation or development of the Premises or Improvements, management contracts, service or supply contracts, permits, licenses, franchises and certificates, and all commitments or agreements, now or hereafter in existence, intended by the obligor thereof to provide Borrower with proceeds to satisfy the Loan, or improve the Premises or Improvements, and the right to receive all proceeds due under such commitments or agreements including refundable deposits and fees;

(g) all books, records, surveys, reports and other documents related to the Premises, the Improvements, the Leases, or other items of collateral described herein; and

(h) all additions, accessions, replacements, substitutions, proceeds (cash and non-cash) and products of the real and personal property, tangible and intangible, described herein, including but not limited to lease and real-estate proceeds, all insurance, contract and tort proceeds and claims, and other amounts relating to the use, disposition, or sale of the collateral described herein, and all inventory, accounts, chattel paper, documents, instruments, equipment, fixtures, consumer goods and general intangibles acquired with cash proceeds of any of the foregoing items or types of property described above.

All of the foregoing described collateral is exclusive of any goods, equipment, inventory, furniture, furnishings or trade fixtures owned and supplied by tenants of the Premises. The Premises, the Improvements, the Leases and all of the rest of the foregoing collateral are herein referred to as the "**Property**".

Notwithstanding the foregoing, this Instrument does not take an interest in the following personal property located within the real property improvements described above built on the Premises: all portable furniture; portable fixtures; portable machinery; portable equipment; portable personal property owned by the Borrower and used in its business; all portable and window air conditioners; all portable appliances; carpets and rugs excluded from flood building coverage; clothes washers and dryers; food freezers (excluding walk-ins) and food; art and furs; and non-licensed self-propelled vehicles. For the avoidance of doubt, Trustee, for the benefit of Beneficiary, takes an interest in FEMA Flood Policy Coverage A-Building Property but does not take an interest in FEMA Flood Policy Coverage B-Personal Property located in the improvements built on the Premises.

TO HAVE AND TO HOLD the Property and all parts, rights, title, interest, separate estate property, possession, claim and demand whatsoever in law and in equity of Borrower in and to the same, members and appurtenances thereof, unto Trustee, in trust for the use, benefit and on behalf of Beneficiary and its successors and assigns in fee simple forever, subject, however, to the terms and conditions hereof, upon the trusts and for the uses and purposes herein set out.

TO SECURE TO Beneficiary (a) the repayment of the indebtedness evidenced by the Note, with interest thereon as set forth therein; (b) the repayment of any future advances, with interest thereon, made by Beneficiary to Borrower pursuant to Section 29 hereof (herein "**Future Advances**"); (c) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Instrument or to fulfill any of Borrower's obligations hereunder or under the other Loan Documents; (d) the performance of the covenants and agreements of Borrower contained herein or in the other Loan Documents; and (e) the repayment of all Other Indebtedness. The indebtedness and obligations described in clauses (a) through (e) above are collectively referred to herein as the "**Indebtedness**". The Note, this Instrument, and all other documents evidencing, securing or guaranteeing the Indebtedness, as the same may be modified or amended from time to time, are referred to herein as the "**Loan Documents**;" provided, however, the Environmental Certificate and Indemnification Agreement ("**Indemnity**") executed by Borrower and Lawrence Tokarski in favor of Beneficiary and that certain Limited Recourse Guaranty Agreement executed by Lawrence Tokarski in favor of Beneficiary ("**Guaranty**") shall not be included in the definition of Loan Documents and the obligations thereunder shall not be secured by this Instrument. The terms of the Note secured hereby may provide that the interest rate or payment terms or balance due may be indexed, adjusted, renewed, or renegotiated from time to time, and this Instrument shall continue to secure the Note notwithstanding any such indexing, adjustment, renewal or renegotiation. For purposes of clarity and avoidance of doubt, the Indemnity and Guaranty are specifically excluded from the Indebtedness secured by this Instrument.

PROVIDED, ALWAYS, this conveyance is made upon this special trust, that if Borrower shall pay unto Beneficiary the Indebtedness and if Borrower shall duly, promptly and fully perform, discharge,

execute, effect, complete and comply with and abide by each and every of the stipulations, agreements, conditions and covenants of the Note and this Instrument, then this Instrument and all assignments contained herein and liens created hereby shall cease and be null and void and may be canceled of record at the request and at the cost of the Borrower; otherwise to remain in full force and effect.

Borrower represents and warrants that Borrower has good, marketable and insurable title to, and has the right to mortgage an indefeasible fee simple estate in, the Premises, Improvements, Rents, and Leases and the right to convey the other Property, that the Property is unencumbered except as disclosed in writing to and approved by Beneficiary prior to the date hereof, and that Borrower will warrant and forever defend the title to the Property, and the quiet use and enjoyment thereof unto the Trustee and Beneficiary, and their respective substitutes, heirs, successors and assigns, against all claims and demands, subject only to the exceptions approved by Beneficiary in Beneficiary's final title insurance policy ("**Permitted Exceptions**"). Borrower further covenants and agrees to make such other further assurances to perfect the fee simple title to the Property in Beneficiary, or in any purchaser at foreclosure sale hereunder, as may hereafter be required by Beneficiary.

Borrower represents, warrants, covenants and agrees for the benefit of Beneficiary as follows:

1. PAYMENT OF PRINCIPAL AND INTEREST. Borrower shall perform, observe and comply with all terms and conditions and agreements and covenants of Borrower contained in the Loan Documents and to timely pay all and singular the principal, interest, and other sums of money payable by virtue of the Loan Documents and to pay all other sums secured hereby promptly on the days the same become due, whether in due course or upon acceleration.

2. APPLICATION OF PAYMENTS. Unless applicable law provides otherwise, each complete installment payment received by Beneficiary from Borrower under the Note or this Instrument shall be applied by Beneficiary first in payment of amounts payable to Beneficiary by Borrower under Section 3 hereof, then to interest payable on the Note, then to principal of the Note, and then to interest and principal on any Future Advances in such order as Beneficiary, at Beneficiary's sole discretion, shall determine. If an Event of Default shall have occurred and be continuing, Beneficiary may apply, in any amount and in any order as Beneficiary shall determine in Beneficiary's sole discretion, any payments received by Beneficiary under the Note or this Instrument. Any partial payment received by Beneficiary shall, at Beneficiary's option, be held in a non-interest bearing account until Beneficiary receives funds sufficient to equal a complete installment payment.

3. TAXES, INSURANCE AND ASSESSMENT; IMPOSITION DEPOSITS.

(a) Except as is hereinafter provided with respect to the impounding of such payments by Beneficiary, Borrower shall pay or cause to be paid when due, at least thirty (30) days prior to delinquency, all real estate taxes, insurance premiums, assessments, levies, liabilities, obligations, judgments, statutory and common law liens, decrees, water and sewer rates, ground rents, all other charges payable with respect to the Property and encumbrances of every nature and kind now on the Premises or hereafter may be imposed suffered, placed, levied or assessed thereupon.

(b) Unless waived in writing by Beneficiary, or as otherwise provided in this Section, Borrower shall deposit with Beneficiary on the day monthly installments of principal or interest, or both, are due under the Note (or on another day designated in writing by Beneficiary), until the Indebtedness is paid in full, an additional amount estimated by Beneficiary to be sufficient to accumulate with Beneficiary the entire sum required to pay, when due, on all policies of insurance required under this Instrument, plus all taxes, assessments and other charges next due upon the Property, plus, at Beneficiary's discretion, a contingency reserve of up to one-sixth of such

estimate. The amounts deposited under the preceding sentence are collectively referred to in this Instrument as the “**Imposition Deposits.**” The obligations of Borrower for which the Imposition Deposits are required are collectively referred to in this Instrument as “**Impositions.**” The amount of the Imposition Deposits shall be sufficient to enable Beneficiary to pay each Imposition before the last date upon which such payment may be made without any penalty or interest charge being added. Beneficiary shall maintain records indicating how much of the monthly Imposition Deposits and how much of the aggregate Imposition Deposits held by Beneficiary are held for the purpose of paying taxes, insurance premiums and each other Imposition.

(c) Imposition Deposits shall be held by Beneficiary or in a bank, credit union or other financial institution designated by Beneficiary. Beneficiary shall apply the Imposition Deposits to pay Impositions so long as no Event of Default has occurred and is continuing. Unless applicable law requires, Beneficiary shall not be required to pay Borrower any interest, earnings or profits on the Imposition Deposits. As additional security for the Indebtedness, Borrower hereby pledges and grants to Beneficiary a security interest in the Imposition Deposits and all proceeds of, and all interest and dividends on, the Imposition Deposits. Any amounts deposited with Beneficiary under this Section shall not be trust funds, nor shall they operate to reduce the Indebtedness, unless applied by Beneficiary for that purpose under Section 3(f).

(d) Borrower shall furnish to Beneficiary, not later than fifteen (15) days after receipt by Borrower, an official statement of the amount of all insurance premiums, taxes, assessments, and other charges next payable. If Beneficiary receives a bill or invoice for an Imposition, Beneficiary shall pay the Imposition from the Imposition Deposits held by Beneficiary. Beneficiary shall have no obligation to pay any Imposition to the extent it exceeds Imposition Deposits then held by Beneficiary. Beneficiary may pay an Imposition according to any bill, statement or estimate from the appropriate public office or insurance company without inquiring into the accuracy of the bill, statement or estimate or into the validity of the Imposition.

(e) If at any time the amount of the Imposition Deposits held by Beneficiary for payment of a specific Imposition exceeds the amount reasonably deemed necessary by Beneficiary, plus at Beneficiary’s discretion, a contingency reserve of up to one-sixth of such estimate, the excess shall be credited against future installments of Imposition Deposits. If at any time the amount of the Imposition Deposits held by Beneficiary for payment of a specific Imposition is less than the amount reasonably estimated by Beneficiary to be necessary, plus, at Beneficiary’s discretion, a contingency reserve of up to one-sixth of such estimate, Borrower shall pay to Beneficiary the amount of the deficiency within fifteen (15) days after written notice from Beneficiary.

(f) If an Event of Default has occurred and is continuing, Beneficiary may apply any Imposition Deposits, in any amounts and in any order as Beneficiary determines, in Beneficiary’s discretion, to pay any Impositions or as a credit against the Indebtedness. Upon payment in full of the Indebtedness, Beneficiary shall refund to Borrower any Imposition Deposits held by Beneficiary.

(g) If Beneficiary does not collect an Imposition Deposit with respect to an Imposition pursuant to a separate written waiver by Beneficiary, then at least thirty (30) days before the date each such Imposition is delinquent, or on the date this Instrument requires each such Imposition to be paid, Borrower must provide Beneficiary with proof of payment of each such Imposition for which Beneficiary does not require collection of Imposition Deposits. Beneficiary may revoke its deferral or waiver and require Borrower to deposit with Beneficiary any or all of the Imposition Deposits listed in Section 3(b) at any time.

4. CHARGES, LIENS. Borrower shall promptly discharge or bond off any lien encumbering the Property or any part thereof, and Borrower shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property. Borrower may contest any such lien by appropriate proceedings in good faith, timely filed, provided that enforcement of the lien is stayed pending such contest. Beneficiary may require that Borrower post security for payment of such lien in an amount satisfactory to Beneficiary in its sole and absolute discretion.

5. INSURANCE. Borrower shall maintain, or cause to be maintained, such insurance coverage as required by Beneficiary (with deductibles in an amount acceptable to Beneficiary). From time to time, at Beneficiary's discretion, Beneficiary may update and/or modify the insurance requirements. For all property insurance, Borrower shall cause Beneficiary to be named as "mortgagee" on a standard mortgagee endorsement, and for all other insurance, Beneficiary shall be named as "Lender Loss Payee". Beneficiary shall have the right, upon written notice, to require Borrower furnish to Beneficiary a copy of any insurance policy required to be carried hereunder (including endorsements), and Borrower shall furnish the requested policy or policies and all applicable endorsements within thirty (30) days of such request. Certificates evidencing all renewal and substitute policies of insurance shall be delivered to Beneficiary at least fifteen (15) days before termination of the policies being renewed or substituted. Any insurance certificates evidencing the foregoing shall be in form acceptable to Beneficiary and shall require the insurance company to give to Beneficiary at least thirty (30) days prior written notice before canceling the policy for any reason or materially amending it. If any improvement is located in a "**special flood hazard area**", Borrower shall maintain coverage in an amount satisfactory to Beneficiary to adequately insure the Improvements subject to flood risk, and the potential disruption to rental income. In no event shall the coverage be less than the lesser of (i) the outstanding principal balance of the Loan, (ii) maximum available per building under the National Flood Insurance Program, or (iii) one hundred percent (100%) replacement cost. Borrower shall obtain all required insurance from a carrier authorized to do business in the state where the Property is located and reasonably satisfactory to the Beneficiary. Borrower hereby authorizes Beneficiary, at any time, to communicate directly with Borrower's insurance agent or insurance carrier. Beneficiary shall have the right, but not the obligation, to make premium payments, at Borrower's expense, to prevent any cancellation, endorsement, alteration or reissuance of any policy of insurance maintained by Borrower, and such payments shall be accepted by the insurer to prevent same. The insurance policies required hereunder shall contain provisions as Beneficiary deems necessary to protect its interest. If it is determined that the Beneficiary has not received satisfactory written evidence that the Borrower maintains all required insurance, Beneficiary may force place any required coverage to protect its interest in the Property; notwithstanding any cure periods set forth herein or in the other Loan Documents, Beneficiary shall not be required to provide Borrower with any cure period prior to force placing insurance in order to prevent a lapse of such coverage (but Borrower shall be permitted the 20-day cure period applicable after such forced place insurance as described in Section 26 of this Instrument). Such insurance purchased by Beneficiary may, but need not, protect Borrower's interest in the Property. Such insurance purchased by Beneficiary may not pay any claim that Borrower makes or any claim that is made against Borrower in connection with the Property. Borrower may later cancel any insurance purchased by Beneficiary, but only after providing Beneficiary with evidence acceptable to Beneficiary that Borrower has obtained and paid for such insurance as required under this Instrument. If Beneficiary procures and maintains such insurance, Borrower shall be responsible for the costs of such insurance, including interest as described in Section 8 below and any other charges that Beneficiary may impose in connection with the placement of such insurance, until the effective date of the cancellation or expiration of such insurance. All such costs, interest and charges shall become immediately due and payable by Borrower and shall be secured by this Instrument. Such costs may be more than the cost of insurance Borrower may be able to obtain on its own.

If any act or occurrence of any kind or nature (including any casualty for which insurance was not obtained or obtainable) shall result in damage to or destruction of the Property or any part thereof (such event being called a "**Loss**"), Borrower shall give prompt written notice thereof to Beneficiary; and

(a) Subject to the conditions set forth below, Beneficiary shall have the option, in its sole discretion, of applying or paying all or part of the insurance proceeds: (i) to all or any part of the Indebtedness and in such order as Beneficiary may determine; or (ii) to the restoration of the Improvements; or (iii) to Borrower.

(b) Beneficiary agrees not to unreasonably withhold consent to the use of insurance proceeds for restoration of the Improvements following a partial casualty loss, provided that: (i) no Event of Default or event that with the passage of time or giving of notice would result in an Event of Default has occurred; (ii) Borrower provides evidence that adequate funds are available to restore the Improvements (to the extent the insurance proceeds are insufficient to cover the cost of such restoration), and advances any additional funds required prior to the disbursement of insurance proceeds; (iii) all tenants at the Premises, if any, acknowledge their leases remain valid and in full force; and (iv) Beneficiary retains control of insurance proceeds prior to use for restoration; provided, however, in the event of a Loss that is less than \$500,000 and provided the other conditions set forth in this subsection (b) are satisfied, Beneficiary shall make such insurance proceeds available to Borrower for the restoration of the Improvements in accordance with this Section 5.

(c) In the event of such loss or damage, all proceeds of insurance shall be payable to Beneficiary, and Borrower hereby authorizes and directs any affected insurance company to make payment of all proceeds directly to Beneficiary. Beneficiary is hereby authorized and empowered by Borrower to settle, adjust or compromise any claims for loss, damage or destruction under any policy or policies of insurance. Borrower hereby irrevocably appoints Beneficiary its attorney-in-fact coupled with an interest with the power and authority to endorse any checks, drafts or other instruments representing any proceeds of insurance, whether payable by reason of loss thereunder or otherwise.

(d) Except to the extent that insurance proceeds are received by Beneficiary and applied to the Indebtedness, nothing contained herein shall be deemed to excuse Borrower from repairing or maintaining the Property as provided in this Instrument or restoring all damage or destruction to the Property, regardless of whether or not there are insurance proceeds available 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 Instrument or invalidate any act done pursuant to such notice.

Nothing herein shall relieve Borrower from making all payments required by the Note or other Loan Documents. For the avoidance of doubt, if any loss shall occur at any time while an Event of Default shall have occurred and shall be continuing hereunder, Beneficiary shall be entitled to the benefit of all insurance policies held or maintained by Borrower, to the same extent as if same had been made payable to Beneficiary, and upon foreclosure hereunder, Beneficiary shall become the owner thereof.

Under no circumstances shall Beneficiary become obligated to take any action to restore the Property. In the event Beneficiary elects to release or apply any of the proceeds to the restoration of the Improvements pursuant to the provisions of this Section 5, then all such proceeds shall be released and/or applied to the cost of restoration (including within the term "restoration" any repair, reconstruction or alteration) as such restoration progresses, in amounts which shall equal ninety percent (90%) of the amounts from time to time certified by an architect approved by Beneficiary to have been incurred in such restoration of any and all of the Property (i.e., ninety percent (90%) of the total amount expended by the contractor for the project under a contract approved by Beneficiary and billed by the contractor to Borrower) and performed by a contractor reasonably satisfactory to Beneficiary and who shall furnish such corporate surety bond, if any, as may be reasonably required by Beneficiary in accordance with the plans and

specifications therefor approved by Beneficiary (which approval shall not be unreasonably withheld, conditioned or delayed) and the remaining ten percent (10%) upon completion of such restoration and delivery to Beneficiary of evidence reasonably satisfactory to Beneficiary that no mechanics' lien exists with respect to the work of such restoration; that the restoration work has been completed and fully paid for in accordance with plans and specifications for said work approved by Beneficiary; and the Property demonstrates a Debt Service Coverage Ratio equal to or greater than the Minimum Debt Service Coverage Ratio based on the Leases then in effect; and that all governmental approvals required for the completion of said restoration work and occupancy of the Property have been obtained and the same are in form and substance satisfactory to Beneficiary.

If within a reasonable period of time after the occurrence of any Loss, Borrower shall not have submitted to Beneficiary and received Beneficiary's approval of plans and specifications for the repair, restoration or rebuilding of such Loss or shall not have obtained approval of such plans and specifications from all governmental authorities whose approval is required, or if, after such plans and specifications are approved by Beneficiary and by all such governmental authorities, Borrower shall fail to commence promptly such repair, restoration or rebuilding, or if thereafter Borrower fails to carry out diligently such repair, restoration or rebuilding or is delinquent in the payment to mechanics, materialmen or others of the costs incurred in connection with such work, or if any other condition of this Section 5 is not satisfied within a reasonable period of time after the occurrence of any such Loss, and such failure continues beyond any applicable cure period, then Beneficiary may, in addition to all other rights herein set forth, at Beneficiary's option, (A) declare that an Event of Default has occurred and/or apply all of the insurance proceeds payable with respect to such Loss to the payment of the Indebtedness in such order as Beneficiary may elect, and/or (B) Beneficiary, or any lawfully appointed receiver of the Property may at their respective options, perform or cause to be performed such repair, restoration or rebuilding, and may take such other steps as they deem advisable to carry out such repair, restoration or rebuilding, and may enter upon the Property (subject to the rights of tenants under the Leases) for any of the foregoing purposes, and Borrower hereby waives, for itself and all others holding under it, any claim against Beneficiary and such receiver (other than a claim based upon the alleged gross negligence or intentional misconduct of Beneficiary or any such receiver) arising out of anything done by them or any of them pursuant to this Section 5 and Beneficiary may in its discretion apply any proceeds held by it to reimburse itself and/or such receiver for all amounts expended or incurred by it in connection with the performance of such work, including reasonable attorneys' fees, and any excess costs shall be paid by Borrower to Beneficiary and Borrower's obligation to pay such excess costs shall be secured by the lien of this Instrument and shall bear interest at the Default Rate as defined and set forth in the Note, until paid.

Nothing herein, and no authority given to Borrower to repair, rebuild or restore the Property or any portion thereof, shall be deemed to constitute Borrower the agent of Beneficiary for any purpose, or to create, either expressly or by implication, any liens or claims or rights on behalf of laborers, mechanics, materialmen or other lien holders which could in any way be superior to the lien or claim of Beneficiary, or which could be construed as creating any third party rights of any kind or nature to the insurance funds. At reasonable times during the work of restoration, and upon reasonable notice, Beneficiary, either personally or by duly authorized agents, shall have the right to enter upon the Property (subject to the rights of tenants under the Leases) for inspection of the work. Borrower expressly assumes all risk of loss, including a decrease in the use, enjoyment or value of the Property from any casualty whatsoever, whether or not insurable or insured against.

Borrower waives any and all right to claim or recover against Beneficiary or its officers, employees, agents and representatives, for loss of or damage to Borrower, the Property, Borrower's property or the property of others under Borrower's control from any cause insured against or required to be insured against under this Section 5.

6. PRESERVATION AND MAINTENANCE OF PROPERTY; COMPLIANCE WITH LAWS. Borrower (a) shall not commit waste or permit impairment or deterioration of the Property, (b) shall not permit, commit or suffer mining, drilling, removal of sand, gravel, loam or other materials, or excavations in, on or under the Premises, except excavations incident to construction of improvements on the Premises, (c) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Beneficiary may approve in writing, in the event of any damage, injury, loss, condemnation or taking thereto, whether or not insurance proceeds or other payments or condemnation awards are available to cover in whole or in part the costs of such restoration or repair, (d) shall keep the Property, including all improvements, fixtures, equipment, machinery and appliances thereon, in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair, (e) shall comply with all laws, ordinances, rules, regulations and requirements applicable to Borrower and/or the Property, including, without limitation, the Permitted Exceptions, and (f) shall not do or permit to be done to the Premises anything that will in any respect impair or weaken the security of this Instrument in the opinion of the Beneficiary. Without limitation of the foregoing, Borrower shall comply, and shall cause each owner of equity interests in Borrower to comply, with the USA PATRIOT ACT and all laws, rules and regulations relating to import or export controls, anti-money laundering and terrorist financing (collectively, the “**Anti-Terror Laws**”). If Borrower and/or any of the owners of equity interests in Borrower fail to comply with any of the Anti-Terror Laws, Borrower hereby authorizes Beneficiary to take such actions as may be required by the Anti-Terror Laws including, without limitation, refusing to accept payments from Borrower. Borrower represents, warrants and covenants that the Property is and shall be in substantial compliance with the Americans with Disabilities Act of 1990 and all of the regulations promulgated thereunder, as the same may be amended from time to time. In the event Beneficiary determines that Borrower is violating this Section 6, then in addition to all other rights and remedies set forth herein, after the lapse of any applicable cure period, Beneficiary shall have the right to require Borrower to escrow with Beneficiary such funds as are necessary to correct said maintenance. If any work required under this Section shall involve an estimated expenditure exceeding \$10,000.00, then no such work shall be carried out except as approved by Beneficiary, which approval shall not be unreasonably withheld, conditioned or delayed. Borrower shall promptly pay when due all lawful claims, charges or the like for any material or labor performed or related to any work on the Premises. No part of the Property shall be removed, demolished or materially altered without the prior written consent of Beneficiary.

7. USE OF PROPERTY. Unless required by applicable law or unless Beneficiary has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrower shall not, without Beneficiary’s prior written consent, (i) initiate or acquiesce in a change in the zoning classification (including any variance under any existing zoning ordinance applicable to the Property), (ii) permit the use of the Property to become a non-conforming use under applicable zoning ordinances, (iii) file any subdivision or parcel map affecting the Property, or (iv) amend, modify or consent to any easement, right-of-way license or covenants, conditions and restrictions burdening the Property.

8. PROTECTION OF BENEFICIARY’S SECURITY. If an Event of Default shall have occurred, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Beneficiary therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Beneficiary at Beneficiary’s option may make such appearances, disburse such sums and take such action as Beneficiary deems necessary, in its sole discretion, to protect Beneficiary’s interest, including, but not limited to, (i) disbursement of reasonable attorneys’ fees, (ii) entry upon the Property to make repairs, and (iii) procurement of satisfactory insurance as provided in Section 5 hereof.

Any amounts disbursed by Beneficiary pursuant to this Section 8, with interest thereon, shall become additional Indebtedness of Borrower secured by this Instrument. Unless Borrower and Beneficiary agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the Default Rate (as defined and set forth in the Note) until paid. Borrower hereby covenants and agrees that Beneficiary shall be subrogated to the lien of any mortgage, deed of trust or other lien discharged, in whole or in part, by the Indebtedness. Nothing contained in this Section 8 shall require Beneficiary to incur any expense or take any action hereunder.

9. INSPECTION In addition to other inspection rights of Beneficiary, but subject to any tenant's rights under the Leases, the Borrower shall and hereby does grant and convey to the Beneficiary, its agents, representatives, contractors, and employees, to be exercised by Beneficiary following an Event of Default hereunder or under any of the other Loan Documents (subject to any cure rights of Borrower), an easement and license to enter on the Property at any time and from time to time for the purpose of making such audits, tests, inspections, and examinations, including, without limitation, inspection of buildings and improvements, subsurface exploration and testing and groundwater testing (herein "**Inspections**"), as the Beneficiary, in its sole discretion, deems necessary, convenient, or proper to determine the condition and use of the Property, to make an inventory of the Property, and to determine whether the ownership, use and operation of the Property are in compliance with all federal, state, and local laws, ordinances, rules, and regulations, including, without limitation, environmental laws, health and public accommodation laws, the ADA and the Rehabilitation Act, as applicable, and ordinances, rules and regulations relating thereto. Notwithstanding the grant of the above easement and license to the Beneficiary, the Beneficiary shall have no obligation to perform any such Inspections, or to take any remedial action. All the costs and expenses incurred by the Beneficiary with respect to any Inspections which the Beneficiary may conduct or take pursuant to this Section 9, including, without limitation, the fees of any engineers, laboratories, and contractors, shall be repaid by the Borrower, with interest, and shall be secured by this Instrument and the other Loan Documents.

10. FINANCIAL DATA; BOOKS AND RECORDS. Borrower shall maintain full and correct books and records showing in detail the income, expenses and earnings relating to the Property, and permit Beneficiary's representative to examine such books and records and all supporting vouchers and data at any time and from time to time as Beneficiary may reasonably request at such place within the United States of America as such books and records are customarily kept.

11. CONDEMNATION. Borrower hereby transfers, assigns, and sets over to Beneficiary, up to the amount of the total Indebtedness, all awards of damages arising and all other sums paid or which become payable in connection with the condemnation of all or any part of the Property for public use or for injury to any part thereof by any governmental body, quasi-public authority, or public utility, and the proceeds of all such awards, after payment of all reasonable expenses incurred in recovering same, including reasonable fees for attorneys representing Beneficiary in any proceeding in which any such award is made, shall be paid to Beneficiary. Notwithstanding any taking of all or any part of the Property by eminent domain, or other injury to, or decrease in value of, the Property by any governmental body, quasi-public authority, or public utility, Borrower until such time as the Indebtedness is paid in full shall continue to pay and perform the obligations of this Instrument and of the Note secured hereby in the manner therein provided. Such awards or payments may, at the option of Beneficiary, be retained and applied by Beneficiary toward the Indebtedness in the manner designated by Beneficiary, or be paid over, wholly or in part, to Borrower for the purpose of altering, restoring, or rebuilding any part of the Property which may have been altered, damaged, or destroyed as a result of any such taking, or other injury to the Property. If, prior to the receipt by Beneficiary of any such award or payment, the Property shall have been sold on foreclosure of this Instrument, Beneficiary shall have the right to receive and retain such award or payment for application towards payment of any deficiency judgment which may be entered in favor of Beneficiary, together with interest applicable as set forth in the Note thereon, and to the extent of the reasonable attorney

fees (including on appeal), costs, and disbursements incurred by Beneficiary in connection with the collection of such award or payment, and such right shall exist whether or not a deficiency judgment shall have been sought or recovered or denied upon the Note, and the balance of such award or payment shall inure to the benefit of the party entitled thereto by applicable law.

Notwithstanding the foregoing, in the event of a condemnation in which the aggregate amount awarded to Borrower is less than \$500,000, Beneficiary agrees to make such condemnation award available to Borrower for the restoration of the Improvements in accordance with this Section 11 provided the following conditions are satisfied: (i) no Event of Default or event that with the passage of time or giving of notice would result in an Event of Default has occurred; (ii) Borrower provides evidence that adequate funds are available to restore the Improvements (to the extent the condemnation award is insufficient to cover the cost of such restoration), and advances any additional funds required prior to the disbursement of the condemnation award; (iii) all tenants at the Premises, if any, acknowledge their leases remain valid and in full force; (iv) Beneficiary retains control of condemnation award prior to use for restoration; and (v) such condemnation does not materially affect the Borrower's use of the Premises or operations on the Premises.

Under no circumstances shall Beneficiary become obligated to take any action to restore the Property. In the event Beneficiary elects to release or apply any of the condemnation awards to the restoration of the Improvements under this Section 11, all such condemnation awards or proceeds shall be released and/or applied on the cost of restoration (including within the term "restoration" any repair, reconstruction or alteration) as such restoration progresses, in amounts which shall equal ninety percent (90%) of the amounts from time to time certified by an architect or other professional approved by Beneficiary to have been incurred in such restoration of any and all of the Property (i.e., ninety percent (90%) of the total amount expended by the contractor for the project under a contract approved by Beneficiary and billed by the contractor to Borrower) and performed by a contractor reasonably satisfactory to Beneficiary and who shall furnish such corporate surety bond, if any, as may be reasonably required by Beneficiary in accordance with the plans and specifications therefor approved by Beneficiary, which approval shall not be unreasonably withheld, conditioned or delayed, and the remaining ten percent (10%) upon completion of such restoration and delivery to Beneficiary of evidence reasonably satisfactory to Beneficiary that no mechanics' lien exists with respect to the work of such restoration; that the restoration work has been completed and fully paid for in accordance with plans and specifications for said work approved by Beneficiary; and the Property demonstrates a Debt Service Coverage Ratio equal to or greater than the Minimum Debt Service Coverage Ratio based on the Leases then in effect; and that all governmental approvals required for the completion of said restoration work and occupancy of the Property have been obtained and the same are in form and substance satisfactory to Beneficiary.

If within a reasonable period of time after the occurrence of any taking or condemnation, Borrower shall not have submitted to Beneficiary and received Beneficiary's approval of plans and specifications for the repair, restoration or rebuilding of the Property or shall not have obtained approval of such plans and specifications from all governmental authorities whose approval is required, or if, after such plans and specifications are approved by Beneficiary and by all such governmental authorities, Borrower shall fail to commence promptly such repair, restoration or rebuilding, or if thereafter Borrower fails to carry out diligently such repair, restoration or rebuilding or is delinquent in the payment to mechanics, materialmen or others of the costs incurred in connection with such work, or if any other condition of this Section 11 is not satisfied within a reasonable period of time after the occurrence of any such taking or condemnation, then Beneficiary may, after the lapse of any applicable cure period, in addition to all other rights herein set forth, at Beneficiary's option, (A) declare that an Event of Default has occurred and/or apply all of the proceeds of the taking or condemnation to the payment of the Indebtedness in such order as Beneficiary may elect, and/or (B) Beneficiary, or any lawfully appointed receiver of the Property may at their respective options, perform or cause to be performed such repair, restoration or rebuilding, and may take such other

steps as they deem advisable to carry out such repair, restoration or rebuilding, and may enter upon the Property for any of the foregoing purposes, and Borrower hereby waives, for itself and all others holding under it, any claim against Beneficiary and such receiver (other than a claim based upon the alleged gross negligence or intentional misconduct of Beneficiary or any such receiver) arising out of anything done by them or any of them pursuant to this Section 11 and Beneficiary may in its discretion apply any proceeds held by it to reimburse itself and/or such receiver for all amounts expended or incurred by it in connection with the performance of such work, including reasonable attorneys' fees, and any excess costs shall be paid by Borrower to Beneficiary and Borrower's obligation to pay such excess costs shall be secured by the lien of this Instrument and shall bear interest at the Default Rate as defined and set forth in the Note, until paid.

Nothing herein, and no authority given to Borrower to repair, rebuild or restore the Property or any portion thereof, shall be deemed to constitute Borrower the agent of Beneficiary for any purpose, or to create, either expressly or by implication, any liens or claims or rights on behalf of laborers, mechanics, materialmen or other lien holders which could in any way be superior to the lien or claim of Beneficiary, or which could be construed as creating any third party rights of any kind or nature to the proceeds. At reasonable times during the work of restoration, and upon reasonable notice, Beneficiary, either personally or by duly authorized agents, shall have the right to enter upon the Property for inspection of the work. Borrower expressly assumes all risk of loss, including a decrease in the use, enjoyment or value of the Property from any casualty whatsoever, whether or not insurable or insured against.

12. BORROWER AND LIEN NOT RELEASED. From time to time, Beneficiary may, at Beneficiary's option, without giving notice to or obtaining the consent of Borrower, Borrower's successors or assigns or of any junior lienholder or guarantors, without liability on Beneficiary's part and notwithstanding the occurrence of an Event of Default, extend the time for payment of the Indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of the Indebtedness (including but not limited to any guarantor), accept an extension or modification or renewal note or notes therefor, modify the terms and time of payment of the Indebtedness, enter into a loan modification agreement with Borrower, release from the lien of this Instrument any part of the Property, accept or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, join in any extension or subordination agreement, and agree in writing with Borrower to modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable thereunder. Any actions taken by Beneficiary pursuant to the terms of this Section 12 shall not affect the obligation of Borrower or Borrower's successors or assigns to pay the sums secured by this Instrument and to observe the covenants of Borrower contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment of the Indebtedness, and shall not affect the lien or priority of the lien hereof on the Property. Borrower shall pay Beneficiary a service charge (based on Beneficiary's then-current fee schedule for each matters), together with such title insurance premiums and reasonable attorneys' fees as may be incurred at Beneficiary's option, for any such action if taken at Borrower's request or for other servicing requests, including but not limited to name changes, and prepayments of the Indebtedness. Such service charge is exclusive of any reasonable legal fees which may be incurred by Beneficiary in connection with Borrower's request.

13. FORBEARANCE BY BENEFICIARY NOT A WAIVER. No waiver of any default hereunder, under any of the other Loan Documents, or under any of the Other Indebtedness Instruments shall extend to or shall affect any subsequent or any other then existing default or shall impair any rights, powers or remedies consequent thereon.

If the Beneficiary (a) grants forbearance or an extension of time for the payment of any indebtedness secured hereby; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted herein, in the Note, in any of the other Loan Documents, or in any of the Other Indebtedness Instruments; (d) releases any part of the Property from this Instrument or otherwise

changes any of the terms of this Instrument, the Note, any of the other Loan Documents or the Other Indebtedness Instruments; (e) consents to the filing of any map, plat, or replat of or consents to the granting of any easement on, all or any part of the Property; or (f) makes or consents to any agreement subordinating the priority of this Instrument, any such act or omission shall not release, discharge, modify, change, or affect the original liability under this Instrument, the Note, the other Loan Documents, or the Other Indebtedness Instruments of the Borrower or any subsequent purchaser of the Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor; nor shall any such act or omission preclude the Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in the event of any other default then made or of any subsequent default, nor, except as otherwise expressly provided in an instrument or instruments executed by the Beneficiary shall the provisions of this Instrument be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Property, the Beneficiary, without notice to any person, corporation or other entity (except notice shall be given to Borrower so long as Borrower remains liable under the Note, this Instrument or any of the other Loan Documents) hereby is authorized and empowered to deal with any such vendee or transferee with reference to the Property or the indebtedness secured hereby, or with reference to any of the terms or conditions hereof, or of the other Loan Documents, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any of the liabilities or undertakings hereunder.

14. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT. This Instrument is intended to be a security agreement pursuant to Section 70A-9a-502 of the Utah Code Annotated and the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants and conveys to Beneficiary a first and prior security interest in all of the Property that constitutes personal property ("**Collateral**", for purposes of this Section 14), whether now owned or hereafter acquired. Borrower agrees that Beneficiary may file this Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Collateral. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Beneficiary may submit for filing any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Instrument in such form as Beneficiary may deem appropriate to perfect a security interest with respect to the foregoing items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all costs and expenses of any record searches for financing statements Beneficiary may require.

Borrower expressly warrants and covenants:

(a) Except for the security interest granted hereby and the Permitted Exceptions, Borrower is the owner of the Collateral free from any lien, security interest or encumbrance. Borrower understands that any further encumbrance of the Collateral is prohibited. Borrower shall defend the Collateral against all claims and demands of all persons at any time claiming the same or any interest therein.

(b) The Collateral is used or bought primarily for use in the business of Borrower and not for consumer purposes.

(c) Borrower's business address is as stated above. The Collateral is located at or on or is used or owned for or in connection with the Premises and other Property.

(d) Borrower shall promptly notify Beneficiary of any change in the location of the Collateral or any change in Borrower's principal place of business.

(e) Borrower shall pay when due, prior to delinquency, all taxes and assessments of every nature which may be levied or assessed against the Collateral.

(f) Except for liens in favor of Beneficiary and the Permitted Exceptions, without Beneficiary's prior written consent, Borrower shall not permit or allow any lien, security interest or encumbrance whatsoever upon the Collateral and shall not permit the Collateral to be attached or replevied.

(g) The Collateral is in good condition and Borrower shall keep the Collateral in good condition (reasonable wear and tear excepted) and from time to time, forthwith, replace and repair all such parts of the Collateral as may be broken, worn out, or damaged without allowing any lien to be created upon the Collateral on account of such replacement or repairs and such replacement Collateral shall be equal or better value than the property so transferred or removed. Beneficiary may examine and inspect the Collateral at any time, wherever located, subject to reasonable prior notice and the terms of the Leases.

(h) Borrower will not use the Collateral in violation of any applicable statutes, regulations or ordinances.

Until the occurrence of an Event of Default (after expiration of any applicable cure periods), Borrower may have possession of the Collateral and use it in any lawful manner. If an Event of Default shall have occurred and be continuing, Beneficiary shall have the immediate right to the possession of the Collateral.

If an Event of Default shall have occurred and be continuing, Beneficiary shall have the remedies of a secured party under the Uniform Commercial Code in effect in the State in which the Property is located and Beneficiary may also invoke the remedies provided in Section 27 of this Instrument as to such items. In exercising any of said remedies Beneficiary may proceed against the items of real property and any items of Collateral specified above separately or together and in any order whatsoever, without in any way affecting the availability of Beneficiary's remedies under the Uniform Commercial Code or of the remedies provided in Section 27 of this Instrument. Within thirty (30) days following any request therefor by Beneficiary, Borrower shall prepare and deliver to Beneficiary a written inventory specifically listing all of the Collateral covered by the security interest herein granted, which inventory shall be certified by Borrower as being true, correct, and complete.

The following information is provided in order that this Instrument shall comply with the requirements of the Uniform Commercial Code, as enacted in the State where the Property is located, for instruments to be filed as financing statements and with other requirements of applicable law:

- | | | |
|-----|--|---|
| (a) | Name of Borrower (Debtor): | MWIC Kelton, LLC |
| | Address of Borrower: | 201 Ferry Street SE, Suite 400
Salem, Oregon 97301 |
| | Type of Organization: | limited liability company |
| | Jurisdiction of Borrower's
Organization | Utah |
| (b) | Name of Beneficiary (Secured
Party): | TIAA, FSB |

Address of Beneficiary: 301 West Bay Street
Floor #28
Jacksonville, FL 32202

(c) Record Owner of Real Estate Borrower
Described on Exhibit A hereto:

15. LEASES OF THE PROPERTY. Borrower shall perform the covenants of Borrower as lessor under any present and future Leases affecting all or any part of the Property, and neither do nor neglect to do, nor permit to be done, anything which may diminish or impair the value of the leased property, or the rents provided for therein, or the interest of Borrower or Beneficiary therein or thereunder. All present and future Leases affecting all or any part of the Property shall be subject to the review and approval of Beneficiary, and provided that residential leases entered into in the ordinary course of Borrower's business, which otherwise meet the requirements of this Section 15 shall not be subject to Beneficiary's review and approval. All present and future leases shall be fully subordinated to Beneficiary's security interest, with a subordination and attornment provisions therein. Borrower shall pay all reasonable attorneys' fees incurred by Beneficiary in reviewing any Lease or proposed Lease. Borrower without first obtaining the written consent of Beneficiary thereto, which shall be granted or not granted in Beneficiary's sole and absolute discretion, shall not: (a) assign the rents from the Property or any part thereof; (b) collect rents from the Property or any part thereof, for more than one (1) month in advance; (c) enter into a lease which provides for rent based in whole or in part on the net income, net profits or net sales of any such lessee or sub-lessee; or (d) enter into a lease with an initial rental term of less than twelve (12) months; provided, however, notwithstanding the foregoing, Borrower may enter into leases with an initial term of less than twelve (12) months, but equal to greater than six (6) months, so long as the aggregate number of such leases existing at any one-time does not exceed 33% of the apartment units located on the Property. Borrower shall, upon request by Beneficiary, furnish to Beneficiary accurate copies of all leases affecting the Property or any part thereof.

16. REMEDIES CUMULATIVE. Each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

17. TRANSFERS OF THE PROPERTY; SUBORDINATE FINANCING PROHIBITED. Beneficiary may, at its option, declare all sums secured by this Instrument to be immediately due and payable, and Beneficiary may invoke any remedies permitted by Section 27 of this Instrument, if title to the Property is changed without the prior written consent of Beneficiary, which consent shall be at Beneficiary's sole discretion, or as permitted by Section 31 of the Note. Any transfer of any interest in the Property or in the income therefrom, by sale, lease (except for Leases to tenants in the ordinary course of managing income property), contract, mortgage, deed of trust, further encumbrance or otherwise (including any such transfers as security for additional financing of the Property), shall be considered a change of title. Notwithstanding the foregoing, utility easements and other easements benefiting the Property or required by local jurisdiction shall not be a violation of this Section 17 so long as such easements do not (ii) materially interfere with the operation of the Property, or (ii) have a material adverse effect on the value of the Property. Leasehold mortgages and collateral assignments of any Lease of the Property given by tenants of the Property are prohibited without the prior written consent of Beneficiary, which consent may be withheld in Beneficiary's sole discretion.

18. NOTICE. Except for any notice required under applicable law to be given in another manner, any and all notices, elections, demands, or requests permitted or required to be made under this Instrument or under the Note shall be in writing, signed by the party giving such notice, election, demand or request, and shall be delivered personally, or sent by registered or certified mail, postage prepaid, or by

Federal Express or similar nationally recognized overnight delivery service requiring a receipt, to the other party at the address stated above, or to such other party and at such other address within the United States of America as any party may designate in writing as provided herein. The date of receipt of such notice, election, demand or request shall be the earliest of (i) the date of actual receipt, (ii) three (3) business days after the date of mailing by registered or certified mail, (iii) one (1) business day after the date of sending via overnight delivery by Federal Express, or another similar service requiring a receipt, or (iv) the date of personal delivery (or refusal upon presentation for delivery).

19. SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; AGENTS; CAPTIONS. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective heirs, successors and assigns of Beneficiary and Borrower, subject to the provisions of Section 17 hereof. Beneficiary may assign, sell, or transfer in whole or in part its interests in the Note, or any of its rights under any of the Loan Documents, including servicing rights, whether as part of a securitization transaction or by participation, assignment, sale or other transfer (in each case, a “**Transfer**”). Upon a Transfer of Beneficiary’s entire right and interest under the Loan Documents, Beneficiary shall automatically be relieved, from and after the date of such assignment, of liability for the performance of any obligation of Beneficiary contained in the Loan Documents. If more than one person or entity is the “**Borrower**” under the Note, whether as individuals, partners, partnerships, limited liability companies, or corporations, each such person or entity shall be jointly and severally liable for Borrower’s obligations hereunder. In exercising any rights hereunder or taking any actions provided for herein, Beneficiary may act through its employees, agents or independent contractors as authorized by Beneficiary. The captions and headings of the sections of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

20. WAIVER OF STATUTE OF LIMITATIONS. To the extent permitted by applicable law, Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce the Note or any other obligation secured by this Instrument.

21. WAIVER OF MARSHALLING. Notwithstanding the existence of any other security interests in the Property held by Beneficiary or by any other party, Beneficiary shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Beneficiary shall have the right to determine the order in which any or all portions of the Indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower, any party who consents to this Instrument and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

22. HAZARDOUS WASTE. Beneficiary has obtained, and Borrower has reviewed, a Phase I Environmental Site Assessment Report dated April 3, 2023, prepared by Partner Engineering and Science, Inc. (the “**Report**”). Except as disclosed to Beneficiary in the Report, Borrower has received no notification and has no actual knowledge of any kind suggesting that the Property or any adjacent property is or may be contaminated with any hazardous waste or materials or is or may be required to be cleaned up in accordance with any applicable law or regulation; and Borrower further represents and warrants that, except as previously disclosed to Beneficiary in writing, to its knowledge as of the date hereof, there are no hazardous waste or materials located in, on or under the Property or any adjacent property, or incorporated in any Improvements, nor has the Property or any adjacent property ever been used as a landfill or a waste disposal site, or a manufacturing, handling, storage, distribution or disposal facility for hazardous waste or materials, except for reasonable quantities of ordinary office supplies, cleaning supplies, insecticides, pesticides, and paint used in the normal operation and maintenance of the Property, provided that the same

are used, stored, handled, and disposed of in accordance with applicable laws (“**Permitted Substances**”). As used herein, the term “**hazardous waste or materials**” includes any substance or material defined in or designated as hazardous or toxic wastes, hazardous or toxic material, a hazardous, toxic or radioactive substance, or other similar term, by any federal, state or local statute, regulation or ordinance now or hereafter in effect. Borrower shall promptly comply with all statutes, regulations and ordinances, and with all orders, decrees or judgments of governmental authorities or courts having jurisdiction, relating to the use, collection, treatment, disposal, storage, control, removal or cleanup of hazardous waste or materials in, on or under the Property or any adjacent property, or incorporated in any Improvements, at Borrower’s expense. In the event that Beneficiary at any time has reason to believe that the Property is not free of all hazardous waste or materials other than Permitted Substances or that Borrower has violated any applicable environmental law with respect to the Property, then immediately upon request by Beneficiary, Borrower shall promptly order, diligently pursue obtaining and furnish to Beneficiary, at Borrower’s sole cost and expense, an environmental audit and inspection of the Property from an expert satisfactory to Beneficiary. In the event that Borrower fails to immediately obtain such audit or inspection, and any applicable cure period has lapsed, Beneficiary or its agents may perform or obtain such audit or inspection at Borrower’s sole cost and expense. Beneficiary may, but is not obligated to, enter upon the Property (subject to the reasonable rights of tenants under the Leases) and take such actions and incur such costs and expenses to effect such compliance as it deems advisable to protect its interest in the Property; and whether or not Borrower has actual knowledge of the existence of hazardous waste or materials on the Property or any adjacent property as of the date hereof, Borrower shall reimburse Beneficiary as provided in Section 23 below for the full amount of all costs and expenses incurred by Beneficiary prior to Beneficiary acquiring title to the Property through foreclosure or acceptance of a deed in lieu of foreclosure, in connection with such compliance activities. Neither this provision nor any of the other Loan Documents shall operate to put Beneficiary in the position of an owner of the Property prior to any acquisition of the Property by Beneficiary. The rights granted to Beneficiary herein and in the other Loan Documents are granted solely for the protection of Beneficiary’s lien and security interest covering the Property, and do not grant to Beneficiary the right to control Borrower’s actions, decisions or policies regarding hazardous waste or materials.

23. ADVANCES, COSTS AND EXPENSES. Borrower shall pay any and all costs, fees, and expenses of every kind and nature, including Beneficiary’s reasonable attorneys’ fees (including on appeal), accountants’ fees, the cost of title evidence, appraisals, inspections, title reports, title insurance premiums, tax and assessment payments, insurance premiums and the costs of managing and/or selling the Property, incurred or expended at any time by Beneficiary or Trustee in the collection of the Indebtedness and/or foreclosure on the Note and this Instrument or otherwise incurred in protecting and preserving the lien of this Instrument or in enforcing Beneficiary’s and/or Trustee’s rights under this Instrument or under any other instrument evidencing and/or securing the Indebtedness secured hereby, or in enforcing, sustaining, protecting, or defending the lien or priority of this Instrument against any and all persons including, but not limited to, lien claimants or the exercise of the power of eminent domain or other governmental power of any kind. Every such payment made by or on behalf of Beneficiary shall be immediately due and payable by Borrower to Beneficiary and shall bear interest from the date of disbursement thereof by Beneficiary at the rate per annum then applicable under the Note to sums of principal then outstanding. All such costs and expenses incurred by Beneficiary, and advances made, shall constitute advances under this Instrument to protect the Property and shall be secured by and have the same priority as the lien of this Instrument. If Borrower fails to pay any such advances, costs and expenses and interest thereon, and any applicable cure periods have lapsed, Beneficiary may apply any undisbursed loan proceeds to pay the same, and, without foreclosing the lien of this Instrument, may at its option commence an independent action against Borrower for the recovery of the costs, expenses and/or advances, with interest, together with costs of suit, costs of title reports and guaranty of title, disbursements of counsel and reasonable attorneys’ fees incurred therein or in any appeal therefrom. The obligations of Borrower set forth in this Section 23 shall survive the foreclosure of this Instrument (whether by judicial or non-judicial foreclosure) and/or after any judgment

is entered on the Note or this Instrument and include any of the foregoing costs, fees and expenses set forth in this Section that arise or accrue after foreclosure of this Instrument or a judgment entered on the Note or this Instrument. If any check delivered by or on behalf of Borrower in payment of any monthly installment due on the Indebtedness or any other payment due hereunder shall be returned on account of insufficient funds, or if Beneficiary is unable to debit Borrower's account for such payment in accordance with previously agreed automated funds withdrawal mechanism, Borrower shall pay a service charge in accordance with Beneficiary's then-current fee schedule. Nothing contained in this Section shall be construed as requiring Beneficiary to advance or spend money for any of the purposes mentioned in this Section.

24. ASSIGNMENT OF LEASES AND RENTS. Borrower, for good and valuable consideration, the receipt of which is hereby acknowledged, to secure the Indebtedness, does hereby absolutely and unconditionally grant, bargain, sell, transfer, assign, convey, set over and deliver unto Beneficiary all right, title and interest of Borrower in, to and under the Leases of the Property, whether now in existence or hereafter entered into, and all guaranties, amendments, extensions and renewals of said Leases and any of them, and all Rents which may now or hereafter be or become due or owing under the Leases, and any of them, or on account of the use of the Property. The terms of the Utah Uniform Assignment of Rents Act are incorporated herein by reference, with the parties acknowledging that the assignment of leases and rents contained therein is a present and absolute assignment and not a collateral assignment of Borrower's interest in the Rents (as defined herein and within the meaning of the Utah Uniform Assignment of Rents Act, Utah Code Ann. 57-26-101, *et seq.*) described therein.

The foregoing assignment is further evidenced and confirmed by an Assignment of Rents, Leases and Revenues ("**Assignment**") from Borrower to Beneficiary of even date herewith. In the case of any conflict between this Section 24 and the Assignment, the provisions of this Instrument shall control.

Borrower represents, warrants, covenants and agrees with Beneficiary as follows:

(a) The sole ownership of the entire lessor's interest in the Leases is vested in Borrower, and Borrower has not, and shall not, perform any acts or execute any other instruments which might prevent Beneficiary from fully exercising its rights with respect to the Leases under any of the terms, covenants and conditions of this Instrument.

(b) To Borrower's knowledge as of the date hereof, there are no monetary defaults now existing under any of the Leases except to the extent Borrower has provided notice of such monetary defaults to Beneficiary in writing.

(c) Borrower shall give prompt written notice to Beneficiary if Borrower receives notices from tenants representing ten percent (10%) or more of the Leases claiming that a default has occurred under such Leases on the part of Borrower, together with a complete copy of any such notices.

(d) Each of the Leases shall remain in full force and effect irrespective of any merger of the interest of lessor and any lessee under any of the Leases.

(e) Borrower will not permit any Lease to become subordinate to any lien other than the lien of this Instrument.

Upon the occurrence and continuance of an Event of Default, in addition to any other remedies available to Beneficiary under this Section or this Instrument, Beneficiary shall have the immediate right, but not the duty or obligation, without prior written notice to Borrower or to any third party (but with due

regard for rights of tenants under Leases), to enter upon the Property and to take such actions as Beneficiary may deem necessary to cure the default or violation by Borrower under such Lease or Leases. The costs incurred by Beneficiary in taking any such actions pursuant to this paragraph shall become part of the Indebtedness, shall bear interest at the rate provided in the Note, and shall be payable by Borrower to Beneficiary on demand. Beneficiary shall have no liability to Borrower or to any third party for any actions taken by Beneficiary or not taken pursuant to this paragraph.

The assignment made hereunder is an absolute, present assignment from Borrower to Beneficiary, effective immediately, and is not merely an assignment for security purposes but is irrevocable by Borrower so long as the Indebtedness remains outstanding. Notwithstanding the foregoing, until a notice is sent to the Borrower in writing that an Event of Default (as defined below) has occurred under the terms and conditions of the Note or any instrument constituting security for the Note (which notice is hereafter called a "Notice"), Borrower is granted a license to receive, collect and enjoy the Rents accruing from the Property.

If an Event of Default shall occur and any applicable cure periods shall have expired, Beneficiary may, at its option, after service of a Notice, receive and collect all such Rents as they become due, from the Property. Beneficiary shall thereafter continue to receive and collect all such Rents, until Beneficiary shall otherwise agree in writing. All sums received by Borrower after service of such Notice shall be deemed received in trust and shall be immediately turned over to Beneficiary.

If Beneficiary shall have sent a Notice and shall be collecting Rents under this Section 24, Beneficiary shall apply the Rents received from Borrower's lessees to accrued interest and principal under the Note. If no Event of Default remains uncured, amounts received in excess of the aggregate monthly payment due under the Note shall be remitted to Borrower in a timely manner. Nothing contained herein shall be construed to constitute Beneficiary as a mortgagee-in-possession in absence of its physically taking possession of the Property.

Borrower hereby irrevocably appoints Beneficiary its true and lawful attorney in fact with power of substitution and with full power for Beneficiary in its own name and capacity or in the name and capacity of Borrower, from and after service of Notice, and until Beneficiary waives such Event of Default in writing, to demand, collect, receive and give complete acquittances for any and all Rents accruing from the Property, either in its own name or in the name of Borrower or otherwise, which Beneficiary may deem necessary or desirable in order to collect and enforce the payment of the Rents and to demand, collect, receive, endorse, and deposit all checks, drafts, money orders or notes given in payment of such Rents. Such appointment is coupled with an interest and is irrevocable. Beneficiary shall not be liable for or prejudiced by any loss of any note, checks, drafts, etc., unless such loss shall have been found by a court of competent jurisdiction to have been due to the gross negligence or willful misconduct of Beneficiary.

Borrower also hereby irrevocably appoints Beneficiary from and after service of Notice as its true and lawful attorney-in-fact to appear in any state or federal bankruptcy, insolvency, or reorganization proceeding in any state or federal court involving any of the tenants of the Leases. Lessees of the Property are hereby expressly authorized and directed, from and after service of a Notice to pay any and all amounts due Borrower pursuant to the Leases to Beneficiary or such nominee as Beneficiary may designate in writing delivered to and received by such lessees who are expressly relieved of any and all duty, liability or obligation to Borrower in respect of all payments so made.

If an Event of Default shall occur and any applicable cure periods shall have expired, Beneficiary is hereby vested with full power from and after service of a Notice to use all measures, legal and equitable, deemed by it necessary or proper to enforce the assignment granted hereunder and to collect the Rents assigned hereunder, including the right of Beneficiary or its designee, to enter upon the Property, or any

part thereof, and take possession of all or any part of the Property together with all personal property, fixtures, documents, books, records, papers and accounts of Borrower relating thereto, and may exclude the Borrower, its agents and servants, wholly therefrom. Borrower hereby grants full power and authority to Beneficiary to exercise all rights, privileges and powers herein granted at any and all times after service of a Notice (until Beneficiary waives in writing such Event of Default), with full power to use and apply all of the Rents and other income herein assigned to the payment of the costs of managing and operating the Property and of any indebtedness or liability of Borrower to Beneficiary, including but not limited to the payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing, rebuilding and restoring the Improvements on the Premises or of making the same rentable, reasonable attorneys' fees incurred in connection with the enforcement of the assignment granted hereunder, and the Indebtedness, all in such order as Beneficiary may determine. Beneficiary shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of the lessor under any of the Leases and does not assume any of the liabilities in connection with or arising or growing out of the covenants and agreements of Borrower in the Leases. It is further understood that the assignment granted hereunder shall not operate to place responsibility for the control, care, management or repair of the Property, or parts thereof, upon Beneficiary, nor shall it operate to make Beneficiary liable for the performance of any of the terms and conditions of any of the Leases, or for any waste of the Property by any lessee under any of the Leases or any other person, or for any dangerous or defective condition of the Property or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any lessee, licensee, employee or stranger, unless the same shall have been found by a court of competent jurisdiction to have been due to the gross negligence or willful misconduct of Beneficiary.

25. FINANCIAL COVENANTS. All financial covenants set forth herein shall be calculated based upon all required financial reporting.

Debt Service Coverage Ratio. During the term of the Loan, the Borrower shall at all times maintain a Debt Service Coverage Ratio of not less than 1.15:1.00 (the "**Minimum Debt Service Coverage Ratio**"), measured annually (unless noted below), starting with the period beginning January 1, 2024 and ending December 31, 2024. Beneficiary may test the Borrower's Debt Service Coverage Ratio upon receipt of any financial information delivered pursuant to Section 6.i. of the Note and/or all of such financial information required to be delivered to Beneficiary pursuant to Section 6.i of the Note, in the Beneficiary's sole discretion. In addition, Beneficiary may test the Borrower's Debt Service Coverage Ratio at any time following the occurrence and continuance of an Event of Default on a rolling twelve (12) month basis. "**Debt Service Coverage Ratio**" means the ratio of (i) Net Operating Income to (ii) Pro Forma Debt Service Amount. "**Net Operating Income**" means (a) Approved Income, less (b) Approved Expenses. "**Approved Income**" means the total amount of collected rents and other revenue received by Borrower for the period tested in connection with the operation of the Property in the ordinary course of business. "**Approved Expenses**" means the greater of (i) Borrower's operating expenses for the period tested, which shall be adjusted, if necessary, to include (a) a minimum management fee of three percent (3%) and (b) a minimum of \$200 per unit for replacement reserves, or (ii) the estimated operating expenses for twelve (12) months of operation of the Property as set forth in the most recent appraisal of the Property that has been accepted by Beneficiary and which shall be adjusted, if necessary, to include (a) a minimum management fee of three percent (3%) and (b) a minimum of \$200 per unit for replacement reserves. "**Pro Forma Debt Service Amount**" means the total annualized principal and interest payments that would be due on the Note using the then current interest rate and assuming an amortization period equal to the remaining amortization period under the Note. If Borrower fails to achieve the Minimum Debt Service Coverage Ratio, then it will be an Event of Default unless Borrower cures such failure pursuant to one of the cure provisions set forth below:

(a) Within ninety (90) days of Beneficiary's notice to Borrower, Borrower makes a principal payment on the Loan in an amount necessary to enable Borrower to achieve the Minimum Debt Service Coverage Ratio (after giving effect to such payment and re-amortizing the outstanding principal balance over the remaining amortization period). Upon Beneficiary's receipt of such principal payment, the outstanding principal balance of the Loan will be reamortized over the remaining amortization period; or

(b) Within thirty (30) days of Beneficiary's notice to Borrower, Borrower deposits with Beneficiary an amount equal to the greater of (i) twenty-five percent (25%) of the amount that would bring the Debt Service Coverage Ratio into compliance with the Minimum Debt Service Coverage Ratio or (ii) \$100,000.00 (the "**Required Deposit Amount**"). Borrower will then have an additional six (6) months from the last month of the trailing twelve (12) month revenue and expense statement used for the prior failed Debt Service Coverage Ratio test to cure such failure (the "**Debt Service Coverage Cure Period**") by providing Beneficiary a current certified rent roll, operating statements of the Property reflecting the trailing twelve (12) months ending with the last month of the Debt Service Coverage Cure Period, and other documentation required by Beneficiary that evidences that the Debt Service Coverage Ratio of Borrower is in compliance with the Minimum Debt Service Coverage Ratio, such test to be based on the trailing twelve (12) months. In the event the Debt Service Coverage Ratio is greater than or equal the Minimum Debt Service Coverage Ratio but less than 1.25:1.00, then the Debt Service Coverage Ratio will be tested every six (6) months on a trailing twelve (12) months basis until the earlier of (i) eighteen (18) months from the date of the expiration of the Debt Service Coverage Cure Period or (ii) the date on which Borrower's Debt Service Coverage Ratio is greater than or equal to 1.25:1.00. The Beneficiary shall return the Required Deposit Amount within thirty (30) days of the earlier of (i) the Borrower demonstrating a Debt Service Coverage Ratio equal to or greater than 1.25:1.00 or (ii) the Borrower demonstrating a Debt Service Coverage Ratio in compliance with the Minimum Debt Service Coverage Ratio for a period of eighteen (18) months from the date of the expiration of the Debt Service Coverage Cure Period (such additional period shall be referred to herein as the "**Additional Holding Period**"). If Borrower is unable to demonstrate compliance with the Minimum Debt Service Coverage Ratio for the trailing twelve (12) month period ending with the last month of the Debt Service Coverage Cure Period or at any time during the Additional Holding Period, then Borrower hereby authorizes Beneficiary to apply the Required Deposit Amount (and any and interest accrued thereon) deposited with Beneficiary to the outstanding balance of the Loan. Except as set forth below, the application of the Required Deposit Amount shall not waive any default caused by Borrower failing to maintain the Minimum Debt Service Coverage Ratio. If Borrower is not in compliance with the Minimum Debt Service Coverage Ratio (i) for the trailing twelve (12) months ending with the last month of the Debt Service Coverage Cure Period or (ii) for any trailing twelve (12) months during the Additional Holding Period, then within thirty (30) days of the last day of the last month tested for such failed Debt Service Coverage Ratio test, Borrower shall make a principal payment on the Loan in an amount which together with the Required Deposit Amount would result in the Borrower achieving the Minimum Debt Service Coverage Ratio. Borrower hereby agrees that the Required Deposit Amount shall secure the Loan, and Borrower will not have the right to withdraw the Required Deposit Amount (or any portion thereof) during the Debt Service Coverage Cure Period or the Additional Holding Period, if applicable. Borrower agrees to promptly execute any and all documents required by Beneficiary to evidence the same. Borrower may only elect to exercise the cure option set forth in this Section 25(b) once during the term of the Loan.

(c) Notwithstanding any provision of the Note to the contrary, no Prepayment Fee (as defined in the Note) shall be due in connection with any payments made under this Section 25.

26. **DEFAULT.** The following shall each constitute an event of default (each an “**Event of Default**”):

(a) The occurrence of a “**Default**” under and as defined and set forth in the Note or the occurrence of a default or event of default under any Other Indebtedness Instrument, the Indemnity or the Guaranty, beyond any applicable notice and cure period.

(b) Failure of Borrower within the time required by this Instrument to make any payment for taxes, insurance or for reserves for such payments, any payment necessary to prevent filing of any lien or any other payment required by this Instrument, and such failure shall continue for a period of ten (10) days after such payment is due; provided, however, that such cure period shall not impede or delay Beneficiary’s rights to force place insurance as described in Section 5 hereof, nor shall it alter Borrower’s responsibility for the costs thereof. In the event Beneficiary acquires forced place insurance, Beneficiary shall forbear exercising any additional remedies for such default for a period of twenty (20) days following receipt of Beneficiary’s invoice for such insurance to allow Borrower to provide the required insurance and pay Beneficiary for the cost of the force place insurance.

(c) Failure of Borrower to make any payment or perform any obligation under any superior lien or encumbrance on the Property that is a Permitted Exception, within the time required thereunder, or commencement of any suit or other action to foreclose any superior lien or encumbrance.

(d) The Property is transferred or any agreement to transfer any part or interest in the Property in any manner whatsoever (other than an agreement that contemplates payment of the Indebtedness in full upon consummation of such agreement) is made or entered into without the prior written consent of Beneficiary, except as specifically allowed under this Instrument or the Loan Documents, including without limitation creating or allowing any subordinate liens on the Property.

(e) If any federal, state or local tax lien, or any other lien, encumbrance, mortgage or other security instrument or judgment be filed of record against Borrower (including any claim of lien for labor or materials), or the Premises and not be removed by payment or transferred to bond in the manner provided by law within thirty (30) days from the date of recording.

(f) Failure of Borrower to observe or perform any other covenant or condition contained herein and such default shall continue for twenty (20) days after notice is given to Borrower specifying the nature of the failure unless a shorter period of time is specified herein, the Note or any other Loan Document; provided, however, if such cure is not reasonable within twenty (20) days, Borrower shall have a longer period as is reasonable, not to exceed a total of sixty (60) days, so long as Borrower is diligently pursuing such cure. For the avoidance of doubt, Borrower’s cure of its failure to maintain the Minimum Debt Service Coverage Ratio shall be governed by Section 25.

(g) Borrower’s abandonment of the Property.

(h) A bona fide claim of priority to this Instrument by title, lien, or otherwise is asserted in any legal, administrative, or equitable proceeding, and said claim remain pending in excess of thirty (30) days.

(i) Except as expressly permitted under this Instrument or the other Loan Documents, if Borrower merges or consolidates with or into any other entity or sells, leases, transfers or otherwise disposes of all or any substantial part of its assets without the prior written approval from Beneficiary.

(j) If the Property is subject to actual or threatened waste, or any part thereof is removed, demolished or materially altered so that the value of the Property is diminished, except as a result of eminent domain proceedings or in connection with restoration after a casualty in accordance with the terms herein.

27. RIGHTS AND REMEDIES ON DEFAULT.

27.1. Remedies. Upon the occurrence of any Event of Default and at any time thereafter unless Beneficiary has waived such Event of Default in writing, Beneficiary and/or Trustee may exercise any one or more of the following rights and remedies:

(a) Beneficiary may declare all sums secured by this Instrument immediately due and payable, including any Prepayment Fee (as defined in the Note) which Borrower would be required to pay, and this Instrument shall remain in force, and Beneficiary may exercise any right, power or remedy permitted to it by law or by contract.

(b) Beneficiary (either through the Trustee or as otherwise provided under applicable law) shall have the right to foreclose this Instrument in accordance with applicable law. In the event of foreclosure of any lien or security interest created by this Instrument, Beneficiary may, to the extent permitted by applicable law, apply such foreclosure proceeds, in Beneficiary's sole discretion, to the debt secured by this Instrument in any order and in any fashion whatsoever.

(c) In the event of any foreclosure, to the extent permitted by applicable law, Beneficiary will be entitled to a judgment which will provide that if the foreclosure sale proceeds are insufficient to satisfy the judgment, execution may issue for any amount by which the unpaid balance of the Indebtedness exceeds the net sale proceeds payable to Beneficiary.

(d) With respect to all or any part of the Property that constitutes personal property (the "**Personal Property**"), Beneficiary shall have all rights and remedies of secured party under the Uniform Commercial Code. When all time periods then legally mandated have expired, and after such notice of sale as may then be legally required has been given, Beneficiary may sell the Personal Property at a public sale to be held at the time and place specified in the notice of sale. It shall be deemed commercially reasonable for the Beneficiary to dispose of the Personal Property without giving any warranties as to the Personal Property and specially disclaiming all disposition warranties. Beneficiary may, to the extent permitted in Section 70A-9A-5-2 of the Utah Code Annotated 9-604, choose to dispose of some or all of the Property, in any combination consisting of both personal property and real property, in one sale to be held in accordance with the law and procedures applicable to real property, as permitted by Article 9 of the Uniform Commercial Code in effect in Utah. Borrower agrees that such a sale of personal property together with real property constitutes a commercially reasonable sale of the Personal Property.

(e) Beneficiary shall have the right to have a receiver appointed to take possession of any or all of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, to make all necessary and needed repairs, to complete the construction of any improvements which has been undertaken but not completed, to pay all taxes and assessments against the Property and insurance premiums for insurance thereon, to collect all

the Rents from the Property and apply the proceeds, over and above cost of the receivership, against the sums due under this Instrument, and to exercise all of the rights with respect to the Property described in Section 24 above. All such expenses shall be included in the definition of Indebtedness and shall be secured by the lien of this Instrument until paid. The receiver may serve without bond if permitted by law. To the extent permitted by law, Beneficiary's right to the appointment of a receiver shall exist whether or not apparent value of the Property exceeds the sums due under this Instrument by a substantial amount. Employment by Beneficiary shall not disqualify a person from serving as a receiver. Borrower hereby specifically waives the right to object to the appointment of a receiver and hereby expressly consents that the appointment shall be made as an admitted equity and as a matter of absolute right of Beneficiary. The receivership shall, at the option of Beneficiary, continue until full payment of the Note and all other Indebtedness, or until title to the Property shall have passed by foreclosure sale under this Instrument, or until the Property are otherwise sold as permitted herein. If permitted by applicable law, Beneficiary and/or Trustee and its agents shall have the rights of the receiver set forth in this subsection.

(f) In the event Borrower remains in possession of the Property after the Property is sold as provided above or Beneficiary otherwise becomes entitled to possession of the Property upon default of Borrower, Borrower shall become a tenant at will of Beneficiary or the purchaser of the Property and shall pay a reasonable rental for use of the Property while in Borrower's possession.

(g) Beneficiary may cure any breach or Event of Default of Borrower, and if it chooses to do so in connection with any such cure, Beneficiary may also enter the Property and/or do any and all other things which it may in its sole discretion consider necessary and appropriate to protect the security of this Instrument. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Beneficiary under, this Instrument; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which in Beneficiary's sole judgment is or may be senior in priority to this Instrument, such judgment of Beneficiary to be conclusive as among the parties to this Instrument; obtaining insurance and/or paying any premiums or charges for insurance required to be carried under this Instrument; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Beneficiary. All such expenses shall be included in the definition of Indebtedness and shall be secured by the lien of this Instrument until paid. Beneficiary may take any of the actions permitted hereunder either with or without giving notice to any person. Beneficiary may apply the proceeds from such sale, in Beneficiary's sole discretion, to the Indebtedness in any order and in any fashion whatsoever.

(h) Beneficiary may bring an action in any court of competent jurisdiction to foreclose this Instrument or to obtain specific enforcement of any of the covenants or agreements of this Instrument.

(i) Beneficiary and/or Trustee shall have any other right or remedy provided in this Instrument, the Note, or any other Loan Document or instrument delivered by Borrower in connection therewith, or available at law, in equity or otherwise.

(j) Beneficiary shall have all the rights and remedies set forth in Sections 23, 24 and

(k) Beneficiary may foreclose this Instrument by way of a trustee's sale pursuant to the provisions of Title 57, Chapter 1, of the Utah Code Annotated, as currently in effect, as amended, or in any other manner then permitted by law, after the lapse of such time as may then

be required by law following the recordation of a notice of default and notice of sale having been given as then required by law, Trustee, without demand on Borrower, shall sell the Property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parts or parcels, and in the absence of direction by Borrower, in such order as it may determine, at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. To the extent allowed by law, the person conducting the sale may, for any cause he or she deems expedient, postpone the sale from time to time until it shall be completed and, in every such case, postponement shall be given by public declaration thereof at the time and place last appointed for sale. Without limiting the foregoing, upon the occurrence of an Event of Default, Trustee may upon request of Beneficiary exercise the power of sale hereunder in accordance with this Instrument or as otherwise required by applicable law.

27.2. Sale of the Property. In exercising its rights and remedies, Trustee or Beneficiary may, at Beneficiary's sole discretion, cause all or any part of the Property to be sold as a whole or in parcels, and certain portions of the Property may be sold without selling other portions. Beneficiary may bid at any public sale on all or any portion of the Property. Trustee may postpone the sale of all or any parcel of the Property to any later time by public announcement at the time and place of any previously scheduled sale or as otherwise permitted by applicable law.

27.3. Notice of Sale. Beneficiary shall give Borrower reasonable notice of the time and place of any public sale of any personal property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given in accordance with applicable law, including notices given in the manner and at the times required for notices in a nonjudicial foreclosure.

27.4. Waiver; Election of Remedies. A waiver by either party of a breach of a provision of this Instrument shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. Election by Beneficiary to pursue any remedy shall not exclude pursuit of any other remedy, and all remedies of Beneficiary under this Instrument are cumulative and not exclusive. An election to make expenditures or take action to perform an obligation of Borrower shall not affect Beneficiary's right to declare a default and exercise its remedies under this Instrument.

28. SATISFACTION OF INSTRUMENT. Upon payment of all sums secured by this Instrument, Beneficiary shall execute a satisfaction or cancellation of this Instrument and shall surrender this Instrument and all notes evidencing Indebtedness secured by this Instrument to the person or persons legally entitled thereto. Such person or persons shall pay Beneficiary's costs incurred in connection with satisfaction or cancellation of this Instrument.

29. FUTURE ADVANCES. Upon request of Borrower, Beneficiary, at Beneficiary's option so long as this Instrument secures Indebtedness held by Beneficiary, may make Future Advances to Borrower. Such Future Advances, with interest thereon, shall be secured by this Instrument with and have the same priority as the original indebtedness secured hereby and be subject to all terms and provisions of this Instrument, whether or not such additional loan or advance is evidenced by a promissory note of the Borrower and whether or not identified by a recital that it is secured by this Instrument. Notwithstanding the foregoing, it is understood and agreed that this Section shall not be construed to obligate Beneficiary to make any such additional loans or advances. Any additional amounts advanced by Beneficiary pursuant to the provisions of this Instrument shall be deemed necessary expenditures of the protection of the security. The Borrower need not sign any instrument or notation evidencing or stipulating that future advances, future obligations and/or liabilities are secured by this Instrument.

30. USE OF PROPERTY. The Property is not currently used for agricultural, farming, timber or grazing purposes. Borrower warrants that this Instrument is and will at all times constitute a commercial mortgage, as defined under appropriate state law.

31. IMPOSITION OF TAX BY STATE.

31.1. State Taxes Covered. The following constitute state taxes to which this Section applies:

(a) A specific tax upon mortgages or deeds of trust or upon all or any part of the indebtedness secured by a mortgage or deed of trust.

(b) A specific tax on a Borrower which the taxpayer is authorized or required to deduct from payments on the indebtedness secured by a mortgage or deed of trust.

(c) A tax on a mortgage chargeable against the beneficiary or mortgagee or the holder of the note secured thereby.

(d) A specific tax on all or any portion of the indebtedness or on payments of principal and interest made by a grantor against the creditor receiving such payments.

31.2. Remedies. If any state tax to which this Section applies is enacted subsequent to the date of this Instrument, this shall have the same effect as an Event of Default, and Beneficiary may exercise any or all of the remedies available to it unless the following conditions are met:

(a) Borrower may lawfully pay the tax or charge imposed by state tax, and

(b) Borrower pays the tax or charge within thirty (30) days after notice from Beneficiary that the tax has been levied; provided, however, Borrower may contest any such taxes by appropriate proceedings in good faith, timely filed, provided that (i) any enforcement action against Borrower, the Property and/or Beneficiary is stayed pending such contest, and (ii) if required by Beneficiary, Borrower establishes reserves in an amount reasonably satisfactory to Beneficiary.

32. ATTORNEYS' FEES. In the event suit or action is instituted to enforce or interpret any of the terms of this Instrument (including without limitation efforts to modify or vacate any automatic stay or injunction), the prevailing party shall be entitled to recover all expenses reasonably incurred at, before and after trial and on appeal whether or not taxable as costs, or in any bankruptcy proceeding including, without limitation, reasonable attorneys' fees, witness fees (expert and otherwise), deposition costs, copying charges and other expenses. Whether or not any court action is involved, all reasonable expenses, including but not limited to the costs of searching records, obtaining title reports, surveyor reports, and title insurance, incurred by Beneficiary that are necessary at any time in Beneficiary's reasonable opinion for the protection of its interest or enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the interest rate as provided in the Note.

33. GOVERNING LAW; SEVERABILITY. This Instrument shall be governed by the law of the State of Utah applicable to contracts made and to be performed therein (excluding choice-of-law principles). In the event that any provision or clause of this Instrument conflicts with applicable law, such conflict shall not affect other provisions of this Instrument which can be given effect without the conflicting provision, and to this end the provisions of this Instrument are declared to be severable.

34. TIME OF ESSENCE. Time is of the essence of this Instrument.

35. CHANGES IN WRITING. This Instrument and any of its terms may only be changed, waived, discharged or terminated by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. Any agreement subsequently made by Borrower or Beneficiary relating to this Instrument shall be superior to the rights of the holder of any intervening lien or encumbrance.

36. DEFENSE OF ACTIONS BY BORROWER. Borrower shall, at its own cost and expense, defend, indemnify and hold Beneficiary and the lien of this Instrument harmless from any action, proceeding or claim affecting the Property or affecting the Indebtedness, except for such claims arising from Beneficiary's gross negligence or willful misconduct. If Borrower neglects or refuses to carry out the covenants contained in this Section, Beneficiary, at its option, may afford such defense and pay reasonable attorneys' fees, costs and expenses incurred in any such defense at trial or appellate or in private settlement proceedings. All such payments, plus interest thereon from the time of payment at the rate applicable under the Note upon sums outstanding thereunder after maturity shall be deemed a part of the Indebtedness and shall be immediately due and payable by Borrower to Beneficiary.

37. ACTION ON NOTE. To the extent permitted by applicable law, Beneficiary shall be entitled to sue and recover judgment upon the Note either before, after, or during the pendency of any proceeding for the enforcement of this Instrument. Borrower agrees that no recovery of a judgment upon the Note, and no attachment or levy of any execution upon any such judgment upon any of the Property, shall in any manner, or to any extent, affect the lien of this Instrument or any of the rights, powers, or remedies of Beneficiary hereunder.

38. NO OFFSET. Borrower's obligation to make payments and perform all obligations, covenants and warranties under this Instrument and under the Note shall be absolute and unconditional and shall not be affected by any circumstance, including without limitation any setoff, counterclaim, abatement, suspension, recoupment, deduction, defense or other right that Borrower or any guarantor may have or claim against Beneficiary or any entity participating in making the loan secured hereby. The foregoing provisions of this section, however, do not constitute a waiver of any claim or demand which Borrower or any guarantor may have in damages or otherwise against Beneficiary or any other person, or preclude Borrower from maintaining a separate action thereon; provided, however, that Borrower waives any right it may have at law or in equity to consolidate such separate action with any action or proceeding brought by Beneficiary.

39. WAIVER OF JURY TRIAL. TO THE EXTENT PERMITTED BY APPLICABLE LAW, BORROWER AND BENEFICIARY HEREBY KNOWINGLY, VOLUNTARILY AND INTELLIGENTLY WAIVE ANY AND ALL RIGHTS THAT EACH PARTY TO THIS INSTRUMENT MAY NOW OR HEREAFTER HAVE UNDER THE LAWS OF THE UNITED STATES OF AMERICA OR THE STATE IN WHICH THE PROPERTY IS LOCATED, TO A TRIAL BY JURY OF ANY AND ALL ISSUES ARISING DIRECTLY OR INDIRECTLY IN ANY ACTION OR PROCEEDING RELATING TO THIS INSTRUMENT, THE LOAN DOCUMENTS OR ANY TRANSACTIONS CONTEMPLATED THEREBY OR RELATED THERETO. IT IS INTENDED THAT THIS WAIVER SHALL APPLY TO ANY AND ALL DEFENSES, RIGHTS, CLAIMS AND/OR COUNTERCLAIMS IN ANY SUCH ACTION OR PROCEEDING. BORROWER UNDERSTANDS THAT THIS WAIVER IS A WAIVER OF A CONSTITUTIONAL SAFEGUARD, AND EACH PARTY INDIVIDUALLY BELIEVES THAT THERE ARE SUFFICIENT ALTERNATE PROCEDURAL AND SUBSTANTIVE SAFEGUARDS, INCLUDING, A TRIAL BY AN IMPARTIAL JUDGE, THAT ADEQUATELY OFFSET THE WAIVER CONTAINED HEREIN.

40. MAXIMUM INTEREST CHARGES. In accordance with applicable provisions of the Note, Borrower and Beneficiary intend to comply with the applicable law governing the highest lawful rate and the maximum amount of interest payable on or in connection with the Loan. Such provisions of the Note shall be controlling with respect to all Loan Documents between Borrower and Beneficiary in order to ensure compliance with applicable laws. By execution of this Instrument, Borrower acknowledges that it believes the Loan to be nonusurious and agrees that if, at any time, Borrower should have reason to believe that the Loan is in fact usurious, it will give Beneficiary written notice of its belief and the reasons why Borrower believes the Loan to be usurious, and Borrower agrees that Beneficiary shall have ninety (90) days following its receipt of such written notice in which to make appropriate refund or other adjustment in order to correct such condition if it in fact exists.

41. INFORMATION SHARING. Borrower and each of Borrower's affiliates hereby authorize Beneficiary to disclose information about the Property, Borrower or Borrower's affiliates that Beneficiary may at any time possess to any subsidiary or affiliate of Beneficiary, whether such information was supplied by Borrower to Beneficiary or otherwise obtained by Beneficiary.

42. APPRAISAL. If at any time Beneficiary shall determine in good faith that an appraisal of the Property is required as a result of (a) any law, regulation or guideline or any change or interpretation thereof; (b) the Federal Reserve, the Federal Deposit Insurance Corporation or any central bank or other fiscal, monetary or other governmental authority having jurisdiction over Beneficiary or the activities of Beneficiary requesting, directing or imposing a condition upon Beneficiary (whether or not such request, direction or condition shall have the force of law); or (c) Beneficiary, in its reasonable discretion deems an appraisal appropriate or necessary, then Beneficiary may require that Borrower provide such appraisal at Borrower's sole cost and expense within forty-five (45) days after Beneficiary's request, prepared by a state certified appraiser in compliance with the Financial Institutions Reform Recovery and Enforcement Act of 1989, as amended; provided, however, so long as no Event of Default exists, Borrower shall only be required to pay for an appraisal required under subsection (c) once in any twelve (12) month period.

43. WAIVER OF APPRAISAL, HOMESTEAD, REDEMPTION, ETC. Upon the occurrence of an Event of Default, neither Borrower nor anyone claiming through or under Borrower shall or may set up, claim or seek to take advantage of any appraisement, valuation, stay, extension, homestead, exemption or redemption laws now or hereafter in force, to prevent or hinder the enforcement or foreclosure of this Instrument, or the absolute sale of the Property, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and Borrower, for itself and those claiming through or under it, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the Property marshalled upon any foreclosure of the lien hereof.

44. BORROWER'S FUNDS. Borrower represents, warrants and covenants to Beneficiary that:

(a) It has taken, and shall continue to take until after the Loan is fully repaid, such measures as are required by law to verify that the funds invested in the Borrower are derived (i) from transactions that do not violate U.S. law nor, to the extent such funds originate outside the United States, do not violate the laws of the jurisdiction in which they originated; and (ii) from permissible sources under U.S. law and to the extent such funds originate outside the United States, under the laws of the jurisdiction in which they originated.

(b) To the best of its knowledge, neither Borrower, nor any holder of a direct interest in Borrower, nor any person providing funds to Borrower (i) is under investigation by any governmental authority for, or has been charged with, or convicted of, money laundering, drug trafficking, terrorist related activities, any crimes which in the United States would be predicate

crimes to money laundering, or any violation of any Anti-Money Laundering Laws; (ii) has been assessed civil or criminal penalties under any Anti-Money Laundering Laws; and (iii) has had any of its/his/her funds seized or forfeited in any action under any Anti-Money Laundering Laws.

(c) Borrower shall make payments on the Loan solely from funds invested in Borrower, operating revenues or insurance proceeds unless otherwise agreed to by Beneficiary.

(d) To the best of Borrower's knowledge, as of the date hereof and at all times during the term of the Loan, all operating revenues are and will be derived from lawful business activities of Property tenants or other permissible sources under U.S. law.

(e) On the Maturity Date (as defined in the Note), Borrower will take reasonable steps to verify that funds used to repay the Loan in full (whether in connection with a refinancing, asset sale or otherwise) are from sources permissible under U.S. law and to the extent such funds originate outside the United States, permissible under the laws of the jurisdiction in which they originated.

45. COMPLIANCE WITH ANTI-TERRORISM AND ANTI-MONEY LAUNDERING LAWS. Borrower represents, warrants, covenants and agrees, as of the date of this Instrument and continuing so long as the Indebtedness shall remain outstanding, that:

(a) It is and at all times shall be in compliance with the Office of Foreign Assets Control sanctions and regulations promulgated under the authority granted by the Trading with the Enemy Act ("TWEA"), 50 U.S.C. App. Section 1, et seq., and the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. Section 1701, et seq., as the TWEA and the IEEPA may apply to Borrower's activities;

(b) It is and at all times shall be in compliance with the Patriot Act and all rules and regulations promulgated under the Patriot Act applicable to Borrower; and

(c) It (i) is not now, nor has ever been under investigation by any governmental authority for, nor has been charged with or convicted for a crime under, 18 U.S.C. Sections 1956 or 1957 or any predicate offense thereunder, or a violation of the Bank Secrecy Act; (ii) has never been assessed a civil penalty under any anti-money laundering laws or predicate offenses thereunder; (iii) has not had any of its funds seized, frozen or forfeited in any action relating to any anti-money laundering laws or predicate offenses thereunder; (iv) has taken such steps and implemented such policies as are reasonably necessary to ensure that Borrower is not promoting, facilitating or otherwise furthering, intentionally or unintentionally, the transfer, deposit or withdrawal of criminally-derived property, or of money or monetary instruments which are (or which Borrower suspects or has reason to believe are) the proceeds of any illegal activity or which are intended to be used to promote or further any illegal activity; and (v) has taken such steps and implemented such policies as are reasonably necessary to ensure that Borrower is in compliance with all laws and regulations applicable to its business for the prevention of money laundering and with anti-terrorism laws and regulations, with respect both to the source of funds from its investors and from its operations, and that such steps include the development and implementation of an anti-money laundering compliance program within the meaning of Section 352 of the Patriot Act, to the extent Borrower is required to develop such a programs under the rules and regulations promulgated pursuant to Section 352 of the Patriot Act.

46. SUBSTITUTION OF TRUSTEE. Beneficiary shall at any time have the irrevocable right to remove the Trustee herein named without notice or cause and to appoint its successor by an instrument

in writing, duly acknowledged, in such form as to entitle such written instrument to be recorded in the State of Utah, and in the event of the death or resignation of the Trustee herein named, Beneficiary shall have the right to appoint its successor by such written instrument. Any Trustee so appointed shall be vested with the title to the Property, and shall possess all of the powers, duties and obligations herein conferred on the Trustee in the same manner and to the same extent as though he were named herein as Trustee.

47. WAIVERS. Borrower hereby waives any rights or remedies on account of any extensions of time, releases granted or other dealings between Beneficiary and any subsequent owner of the Property. Upon the occurrence of an Event of Default, neither Borrower nor anyone claiming through or under Borrower shall or may set up, claim or seek to take advantage of any appraisal, valuation, stay, extension, dower, homestead, exemption or redemption laws now or hereafter in force, to prevent or hinder the enforcement or foreclosure of this Instrument, or the absolute sale of the Property, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and Borrower, for itself and those claiming through or under it, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the Property marshalled upon any foreclosure of the lien hereof. Borrower further waives any and all notices including, without limitation, notice of intention to accelerate the obligations secured hereby and notice of acceleration of such obligations, except for those notices required herein or in the Loan Documents or under applicable law. Borrower further agrees that, in case of a sale hereunder, the purchaser shall have an absolute title in fee simple.

48. INTEREST NOT TO EXCEED MAXIMUM ALLOWED BY LAW. The parties hereto shall in no event be deemed to have contracted for a greater rate of interest than the maximum rate permitted by law. Should a greater amount be collected, it shall be construed as a mutual mistake of the parties and the excess shall be returned to the party paying same.

49. WAIVER OF OATH AND BOND. It is expressly agreed that the Trustee, or its successors, may execute the power of sale herein and other powers and rights without giving bond or taking oath.

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

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS INSTRUMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.

[Remainder of page intentionally left blank; signature pages to follow.]

IN WITNESS WHEREOF, Borrower has executed this Instrument under seal as of the day and year first written above.

BORROWER:

MWIC KELTON, LLC,
a Utah limited liability company

By: Mountain West Investment Corporation,
an Oregon corporation,
its Manager

By: Jason E. Tokarski (SEAL)
Jason E. Tokarski, Vice President

State of OREGON)

County of MAPION)

The foregoing instrument was acknowledged before me this June 9, 2023, by Jason E. Tokarski, Vice President of Mountain West Investment Corporation, an Oregon corporation, the Manager of **MWIC Kelton, LLC**, a Utah limited liability company.

Kaylee Krista Bernards
Notary Public

Notary Seal:

My Commission Expires: July 21 2023

Residing at: SALEM, OREGON

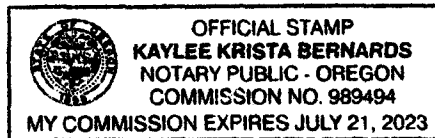


EXHIBIT A

Legal Description

The following property situated in Utah County, Utah:

PARCEL 1:

Lots 2 through 15, inclusive, KELTON APARTMENTS PHASE 1 PLAT, according to the official plat thereof, recorded April 13, 2021 as Entry No. 69769:2021 in the office of the Utah County Recorder.

PARCEL 1A:

A nonexclusive reciprocal access and utility easement, appurtenant to Parcel 1 above, as set forth and defined in that certain Declaration of Access and Utility Easement and Maintenance Declaration recorded June 15, 2023 as Entry No. 38739:2023 in the office of the Utah County Recorder.

Parcel Numbers: 44-238-0002; 44-238-0003; 44-238-0004; 44-238-0005; 44-238-0006; 44-238-0007; 44-238-0008; 44-238-0009; 44-238-0010; 44-238-0011; 44-238-0012; 44-238-0013; 44-238-0014; and 44-238-0015