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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

ASSIGNMENT OF RENTS, LEASES AND REVENUES

THIS ASSIGNMENT OF RENTS, LEASES AND REVENUES (hereinafter referred to as this “Assignment”) is made this 26th day of June, 2023, by **MWIC KELTON, LLC**, a Utah limited liability company (hereinafter referred to as the “Assignor”), to **TIAA, FSB**, a federal savings bank, its successors and/or assigns (hereinafter referred to as “Assignee”).

RECITALS:

A. Assignor is the grantor under that certain Deed of Trust, Security Agreement, Assignment of Leases and Rents, Financing Statement and Fixture Filing of even date herewith, recorded or to be recorded in the public records of Utah County, Utah (as amended from time to time, the “**Deed of Trust**”) securing, among other obligations, that certain Promissory Note of even date herewith from Assignor payable to the order of Assignee in the original principal amount of **FORTY-FOUR MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$44,500,000.00)** (the foregoing note, together with any and all extensions, renewals, modifications, replacements, substitutions, restatements, and any and all other certificates or evidences of indebtedness evidenced by said Promissory Note, is hereinafter referred to as the “**Note**”), and which Deed of Trust encumbers certain real property situated, lying and being in Utah County, Utah (hereinafter referred to as the “**Premises**”) more particularly described as follows, to-wit:

See Exhibit "A" attached hereto and by reference made a part hereof

B. In order to induce Assignee to accept the Note from Assignor, Assignor has agreed to execute this Assignment to secure the Note.

THEREFORE, in order to further secure the payment of the indebtedness of Assignor to Assignee evidenced by the Note and in consideration of the acceptance of the aforesaid Note, receipt and sufficiency of which are hereby acknowledged, Assignor hereby grants, transfers and assigns to Assignee its entire interest in and to any and all leases, rental agreements and agreements for the use and/or occupancy of any part of the Premises (said leases, rental agreements and other agreements are herein referred to as the "**leases**") now existing or hereafter entered into which affect the Premises or any part thereof, together with all rents, income and profits arising from said leases and renewals thereof and all rents, income and profits for use and occupation of the Premises and from all such leases upon said Premises which may be executed in the future during the term of this Assignment, and to any and all monies, rents, issues and profits of every kind and nature (all such monies, rents, receivables, issues and profits of every kind and nature are hereinafter referred to as "**revenues**") arising from the operation, use and occupation of the Premises, and any business operated thereon.

This Assignment is made for the purpose of securing:

A. The payment of the principal sum and interest thereon of the Note, including any extension thereof.

B. Payment of all other sums with interest thereon becoming due and payable to Assignee under the provisions of this Assignment, the Note and the Deed of Trust.

C. The performance and discharge of each and every obligation, covenant and agreement of Assignor contained herein or in the Note or Deed of Trust.

Assignor covenants with Assignee to observe and perform all the obligations imposed upon the lessor under said leases and not to do or permit to be done anything to impair the security thereof; not to collect any of the rent, income, and profits arising or accruing under said leases or from the Premises more than one month in advance; not to execute any other assignment of lessor's interest in said leases or assignment of rents arising or accruing from said leases or from the premises; at Assignee's request, to assign and transfer to the Assignee any and all subsequent leases upon all or any part of the Premises and to execute and deliver at the request of Assignee all such further assurances and assignments in the Premises as Assignee shall from time to time require.

This Assignment is made on the following terms, covenants and conditions:

1. So long as there shall exist no default, after the lapse of any applicable cure period, by Assignor in the performance of any obligation, covenant, or agreement herein or in either of the Note, Deed of Trust or in said leases contained on the part of Assignor to be performed, Assignor shall have the right to collect at the time of, but not more than one month prior to, the date provided for the payment thereof, all rents, incomes, profits and revenues arising under said leases and/or from the operation, use or occupation of the Premises described therein and to retain, use and enjoy the same.

2. Upon or at any time after default and the lapse of any applicable cure period, after the lapse of any applicable cure period, in the payment of the principal sum or interest thereon of the Note or in the performance of any obligation, covenant, or agreement herein or in the Note, Deed of Trust or leases contained on the part of Assignor to be performed, Assignee, without in any way waiving such default, may

at its option, without notice and without regard to the adequacy of the security for the Note, either in person or by agent, with or without bringing any action or proceeding, declare the indebtedness hereby secured due and payable and/or, subject to the appointment of a receiver, and subject to the terms of any leases at the Premises, take possession of the Premises and have, hold, manage, lease and operate the same on such terms and for such period of time as Assignee may deem proper and either with or without taking possession of said Premises in its own name, sue for or otherwise collect and receive all rents, income, profits and revenues of said Premises, including those past due and unpaid, with full power to make from time to time all alterations, renovations, repairs, or replacements thereto or thereof as may seem proper to Assignee, and to apply such rents, income, profits and revenues to the payment of: (a) all reasonable expenses of managing the Premises, including, without being limited thereto, the salaries, fees and wages of the managing agent and such other employees as Assignee may deem necessary or desirable, all taxes, charges, claims, assessments, liens, premiums for all insurance which Assignee may deem necessary or desirable, costs of renovations, repairs, or replacements, and all expenses incident to taking and retaining possession of the Premises; and (b) the principal sum and interest thereon of the Note, together with all reasonable costs and reasonable attorneys' fees; all in such order or priority as Assignee in its sole discretion may determine, any statute, law, custom, or use to the contrary notwithstanding. The exercise by Assignee of the option granted to it in this Section 2 and the collection of the rents, income, profits and revenues and the application thereof as herein provided shall not be considered a waiver of any default by Assignor under the Note, Deed of Trust, leases or this Agreement.

3. Assignee shall not be liable for any loss sustained by the Assignor resulting from Assignee's failure to let the Premises after default or from any other act or omission of Assignee in managing the Premises after default. Nor shall Assignee be obligated to perform or discharge nor does Assignee hereby undertake to perform or discharge any obligation, duty, or liability under said leases by reason of this Assignment, and Assignor shall and does hereby agree to indemnify and hold Assignee harmless from, any and all liability, loss, or damage which may be incurred under said leases or by reason of this Assignment and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in said leases. Should Assignee incur any such liability under said leases or by reason of this Assignment or in defense of any such claims or demands, the amount thereof, including costs, expenses, and reasonable attorneys' fees, shall be secured hereby and Assignor shall reimburse Assignee therefor immediately upon demand and upon the failure of Assignor so to do, Assignee may, at its option, declare all sums secured hereby and by the Deed of Trust immediately due and payable. And it is further understood that this Assignment shall not operate to place responsibility for the control, care, management, or repair of said Premises upon Assignee, nor for the carrying out of any of the terms and conditions of said leases; nor shall it operate to make Assignee responsible or liable for any waste committed on the property by the tenants or any other parties or for any dangerous or defective condition of the Premises, or for any negligence in the management, upkeep, repair, or control of said Premises resulting in loss or injury or death to any tenant, licensee, employee, or stranger.

4. Upon payment in full of the principal sum and interest of the Note, this Assignment shall become and be void and of no effect, but the affidavit, certificate, letter, or statement of Assignee or any officer, agent, or attorney of Assignee showing any part of said principal, interest, or indebtedness to remain unpaid shall be and constitute conclusive evidence of the validity, effectiveness, and continuing force of this Assignment, and any person may, and is hereby authorized to, rely thereon. Assignor hereby authorizes and directs the lessees named in said leases or any other or future lessees or occupants of the Premises described therein or in the Deed of Trust, upon receipt from the Assignee of written notice to the effect that Assignee is then the holder of the Note and Deed of Trust and that a default exists thereunder or under this Assignment, which has not been cured within applicable cure periods, to pay over to the Assignee all rents, income, profits and revenues hereby assigned and to continue so to do until otherwise notified by Assignee.

5. Assignee may take or release other security for the payment of said indebtedness, may release any party primarily or secondarily liable therefor, and may apply any other security held by it to the satisfaction of such indebtedness without prejudice to any of its rights under this Assignment.

6. The term "leases" or "said leases", as used herein, means said leases hereby assigned or any extension or renewal thereof, and any leases subsequently executed during the term of this Assignment covering the Premises or any part thereof.

7. Nothing contained in this Assignment, and no act done or omitted by Assignee pursuant to the powers and rights granted it hereunder, shall be deemed to be a waiver by Assignee of its rights and remedies hereunder, under the Note or under the Deed of Trust. This Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Assignee under the terms of the Note and Deed of Trust. The right of Assignee to collect the principal sum of the Note or interest thereon, and to enforce any other security therefor held by it, may be exercised by Assignee either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

8. In case of any conflict between the terms of this instrument and the terms of the Deed of Trust, the terms of Deed of Trust shall prevail.

9. This Assignment, together with the covenants and warranties herein contained, shall inure to the benefit of Assignee and any subsequent holder of the Note and Deed of Trust and shall be binding upon Assignor, its successors and assigns, and any subsequent owner of the Premises.

10. ASSIGNOR AND ASSIGNEE, JOINTLY AND SEVERALLY, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS ASSIGNMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS, WHETHER VERBAL OR WRITTEN, OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE ASSIGNEE ACCEPTING THIS ASSIGNMENT FROM ASSIGNOR.

11. The terms of the Utah Uniform Assignment of Rents Act are incorporated herein by reference, with the Assignor acknowledging that the assignment of rents contained herein is a present and absolute assignment and not a collateral assignment of Assignor'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.

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

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

ASSIGNOR:

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 9th, 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"

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.

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