



W2951708

When recorded, return to:

Dykema Gossett PLLC
1717 Main Street
Suite 4200
Dallas, Texas 75201
Attn: Bob Feroze

E# 2951708 PG 1 OF 16
Leann H. Kilts, WEBER COUNTY RECORDER
09-Nov-18 04:20 PM FEE \$40.00 DEP DAC
REC FOR: COTTONWOOD TITLE INSURANCE AGENCY
ELECTRONICALLY RECORDED

Parcel No. 07-002-0020

105296-CAF
107722-CAF

DEED OF TRUST, SECURITY AGREEMENT AND FINANCING STATEMENT

THIS DEED OF TRUST, SECURITY AGREEMENT AND FINANCING STATEMENT (this "**Trust Deed**") is made this 2nd day of November, 2018, between **LANDING POINT APARTMENTS, L.C.**, a Utah limited liability company, whose address is 609 Meadowlark Lane, Bountiful, Utah 84010 (referred to herein as "**Trustor**"), **COTTONWOOD TITLE INSURANCE AGENCY, INC.**, Trustee, whose address is 1996 East 6400 South, Suite 120, Salt Lake City, Utah 84121 (referred to herein as "**Trustee**") and **TREZ CAPITAL (2015) CORPORATION**, a British Columbia corporation, whose address is 1700-745 Thurlow Street, Vancouver, B.C. V6E 0C5, Attention: Morley Greene (sometimes referred to herein as "**Lender**" and sometimes as "**Beneficiary**").

1. Conveyance and Grant. Trustor hereby **IRREVOCABLY GRANTS, BARGAINS, SELLS, CONVEYS AND WARRANTS TO TRUSTEE, IN TRUST, WITH POWER OF SALE**, Trustor's right, title and interest in and to the property situated in Weber County, State of Utah, being more particularly described on Exhibit "A", attached hereto and incorporated herein by reference.

TOGETHER WITH all right, title, and interest of Trustor in and to all improvements, buildings, fixtures and Personal Property, now located or hereafter to be erected or placed upon any real property which, or upon any real property an interest in which, is now or hereafter subject to the lien of this Deed of Trust (all hereinafter referred to as the "**Improvements**"), and all right, title, and interest of Trustor, now owned or hereafter acquired, in and to any and all common areas, strips and gores of land, and in, to, and under the land within the streets, sidewalks, and alleys, adjoining such real property, and in and to all and singular the tenements, hereditaments, privileges, easements, franchises, rights, appendages, and appurtenances belonging or in any way appertaining to all such real property.

TOGETHER WITH all accounts, contract rights, rents, issues, royalties, profits, revenues, incomes, proceeds, tenements, general intangibles, hereditaments, privileges and appurtenances thereunto belonging, and other benefits of and from the property described above and property subject or required to be subject to the lien of this Deed of Trust, and any and all bank accounts and similar accounts containing any of the foregoing, and all of the estate, right, title, and interest of every nature whatsoever of Trustor in and to the same and every part and parcel thereof.

TOGETHER WITH any and all water rights which are appurtenant to or which have been used in connection with the real property, all existing and future water stock relating to the real property, all existing and future shares of stock or other evidence of ownership of any part of the real property that is owned by Trustor in common with others, and all existing and future documents of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the real property.

TOGETHER WITH all and singular the privileges and appurtenances thereunto belonging, (Trustor's interest in the real property described in Exhibit "A" and the Improvements, Personal Property, interests, privileges, and appurtenances described in this Section 1 being hereinafter referred to as the "**Property**"), it being the intention of Trustor that so far as may be permitted by law, all property, interests and rights of the character described in this Section 1 which are now owned or held or are hereafter acquired by Trustor and are affixed, attached, annexed to or placed upon any Property shall be and remain or become and constitute a portion of the security covered by and subject to the lien hereof and TRUSTOR WARRANTS THE TITLE TO THE SAME subject to those exceptions to title approved in advance by Beneficiary.

TO HAVE AND TO HOLD the same IN TRUST, WITH POWER OF SALE, however, for the purpose of securing the payment of that certain Note of even date herewith (the "**Note**") from JF VISTA PARTNERS, LLC, a Utah limited liability company ("**Borrower**"), to Beneficiary in the principal sum of Seventeen Million Two Hundred Nineteen Thousand and No/100 U.S. Dollars Dollars (\$17,219,000); the payment of all sums expended or advanced by Beneficiary pursuant to the terms hereof. (The obligations under the Note, and advances made by Beneficiary pursuant to the terms of this Trust Deed or any other instrument now in existence or hereafter executed or any amendment or modification thereto, the purpose of which is to secure the repayment of the Note, are hereinafter referred to as the "**Indebtedness**"); and the performance of each covenant and agreement of Trustor contained herein and in any modification or amendment of this Trust Deed.

Borrower is entering into a certain Ground Lease (MODA Vista) dated on or about the date hereof (the "**Ground Lease**") with Trustor in connection with obtaining the Indebtedness. In order to induce Lender to provide the Indebtedness to Borrower and for Borrower to enter into the Ground Lease with Trustor, Trustor has agreed to enter into this Trust Deed. Trustor agrees that it will receive direct and indirect benefit from Borrower's obtaining the Indebtedness from Lender.

Lender acknowledges that pursuant to the Ground Lease, Trustor has delegated to Borrower, and Borrower has assumed, the obligation to pay property taxes and assessments with respect to the Property, and to obtain and pay for the Insurance required by the Trust Deed. Borrower's obligations with respect to taxes, assessments and insurance shall be primary, and Trustor's obligations shall be secondary, and are only operative if Borrower fails to fulfill its obligations under the Ground Lease and this Trust Deed.

The Real Property or its address is commonly known as 5030 Harrison Boulevard, Ogden, Utah 84403. The Real Property tax identification number is 07-002-0020.

2. **Cross-Collateralization.** In addition to the Note, this Trust Deed secures all obligations, debts and liabilities, plus interest thereon, of Trustor to Lender, or any one or more of them, as well as all claims by Lender against Trustor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Trustor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise,

and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

3. Future Advances. In addition to the Note, this Trust Deed secures all future advances made by Lender to Borrower, whether or not the advances are made pursuant to a commitment by Lender. Specifically, without limitation, this Trust Deed secures, in addition to the amounts specified in the Note, all future amounts Lender in its discretion may advance to preserve, protect, or improve the Property or to pay expenses related to the Property, together with interest or other fees thereon.

Trustor presently assigns to Lender (also known as Beneficiary in this Trust Deed) all of Trustor's right, title and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Trustor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS TRUST DEED, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS, AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS TRUST DEED. ANY EVENT OF DEFAULT UNDER THE NOTE, OR ANY OF THE RELATED DOCUMENTS REFERRED TO THEREIN, SHALL ALSO BE AN EVENT OF DEFAULT UNDER THIS TRUST DEED.

4. Performance. Except as otherwise provided in this Trust Deed, Trustor shall strictly and in a timely manner perform all of Trustor's obligations under this Trust Deed, and the Ground Lease.

5. Possession and Maintenance of the Property. Trustor agrees that Trustor's possession and use of the Property shall be governed by the following provisions:

5.1 Possession and Use. Until the occurrence of an Event of Default, Trustor may (a) remain in possession and control of the Property; (b) use, operate or manage the Property; and (c) collect the Rents, if any, from the Property. Trustor shall not change the use of the Property or construct any improvements on the Property without the prior written consent of Lender.

5.2 Duty to Maintain. As such may pertain to the Property, Trustor shall maintain the Property in tenable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

5.3 Compliance with Environmental Laws. Trustor represents and warrants to Lender that: (a) During the period of Trustor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (b) Trustor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (i) any breach or violation of any Environmental laws, (ii) any use, generation, manufacture, storage, treatment, disposal, releaser or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (iii) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (c) except as previously disclosed to and acknowledged by Lender in writing, (i) neither Trustor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (ii) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental laws. The representations and warranties contained herein are based on Trustor's due diligence in investigating the Property for Hazardous Substances. Trustor hereby (a) releases and waives any future claims against Lender for indemnity or contribution in the event

Trustor becomes liable for cleanup or other costs under any such laws; and (b) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Trust Deed or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Trustor's ownership or interest in the Property, whether or not the same was or should have been known to Trustor. The provisions of this section of the Trust Deed, including the obligation to indemnify and defend, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Trust Deed, the Note, or the Related Documents, and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

5.4 Nuisance, Waste. Trustor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property.

5.5 Removal of Improvements. Trustor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Trustor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

5.6 Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times, subject to the rights of lessees and other occupants of the Property, to attend to Lender's interests and to inspect the Real Property for purposes of Trustor's compliance with the terms and conditions of this Trust Deed.

5.7 Compliance with Governmental Requirements. Trustor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans with Disabilities Act. Trustor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Trustor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Trustor to post adequate security, or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

5.8 Duty to Protect. Trustor agrees neither to abandon nor leave unattended the Property. Trustor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

6. Preservation of Lien Priority; Consent by Lender. Trustor will not, directly or indirectly, create or suffer or permit to be created or to stand against all or any part of the Property any lien or charge subordinate to, or on a parity with the lien of this Trust Deed, except for such other liens as consented to in writing by Lender. In furtherance of this provision, without the prior written consent of Lender, which Lender may withhold in its sole discretion for any reason or for no reason, Trustor shall not execute or deliver any pledge, security agreement, mortgage, deed of trust or other instrument of hypothecation, covering all or any portion of the Property nor sell, contract to sell, lease with option to purchase, convey, alienate, transfer or otherwise dispose of all or any portion of the Property, whether voluntarily or involuntarily, by operation of law or otherwise, and any act in contravention hereof shall constitute an Event of Default (without notice or passage of time). Lender may, at Lender's option, declare immediately due and payable all sums secured by this Trust Deed upon the further encumbrance, sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. If Trustor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Trustor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by state law of the state in which the Real Property is situated.

7. Taxes and Liens. The following provisions relating to the taxes and liens on the Property are part of this Trust Deed:

7.1 Payment. Trustor shall pay when due (and in all events prior to delinquency) all taxes, special taxes, assessments, charges (including water and sewer), homeowners'/association fees, fines and impositions levied against or on account of the Property, and shall pay when due all claims for work done on or for service rendered or material furnished to the Property. Trustor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Trust Deed, except for the lien of taxes and assessments not due and except as otherwise provided in this Trust Deed.

7.2 Right to Contest. Trustor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Trustor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Trustor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Trustor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property.

7.3 Evidence of Payment. Trustor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

7.4 Notice of Construction. Trustor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of such work, services or materials. Trustor will, upon request of Lender, furnish to Lender advance assurances satisfactory to Lender that Trustor can and will pay the cost of such Improvements.

8. Insurance. Trustor will, or will cause Borrower through the Ground Lease to, provide and maintain insurance on the Property (fire, property and any other forms of insurance reasonably required by Lender) and on the improvements now existing or hereafter erected or placed on the Property. In event of loss, Trustor shall give immediate notice to Beneficiary, who may make proof of loss, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Beneficiary instead of to Trustor and Beneficiary jointly, and the insurance proceeds, or any part thereof, may be applied by Beneficiary, at its option, to reduction of the Indebtedness hereby secured or to the restoration or repair of the property damaged.

9. Lender's Expenditures. If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Trustor fails to comply with any provision of this Trust Deed or any Related Documents but not limited to Trustor's failure to discharge or pay when due any amounts Trustor is required to discharge or pay under this Trust Deed, Lender on Trustor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, fees, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insurance, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Trustor. All such expenses will become a part of the Indebtedness and, at Lender's option, will be payable on demand. The Trust Deed will also secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

10. Warranties; Defense of Title. The following provisions relating to ownership of the Property are a part of this Trust Deed:

10.1 **Title.** Trustor warrants that: (a) Trustor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Trust Deed; and (b) Trustor has the full right, power, and authority to execute and deliver this Trust Deed to Lender.

10.2 **No Default or Violations.** No Event of Default or event which, with notice or passage of time or both, would constitute an Event of Default has occurred and is continuing under this Trust Deed or the Ground Lease. Trustor is not in violation of any governmental requirement (including, without limitation, any applicable securities law) or in default under any agreement to which it is bound, or which affects it or any of its property, and the execution, delivery and performance of this Trust Deed or the Ground Lease in accordance with their terms. The use and occupancy of the Property will not violate any governmental requirement (including, without limitation, any applicable usury law), or conflict with, be inconsistent with or result in any default under, any of the representations or warranties, covenants, conditions or other provisions of any indenture, mortgage, deed of trust, easement, restriction of record, contract, document, agreement or instrument of any kind to which any of the foregoing is bound or which affects it or any of its property, except as identified in writing and approved by Lender.

10.3 **No Litigation or Government Controls.** No proceedings of any kind are pending, or, to the knowledge of Trustor, threatened against or affecting Trustor, the Property (including any attempt or threat by any governmental authority to condemn or rezone all or any portion of the Property, or actions to collect homeowners'/association dues or fees), or involving the validity, enforceability or priority of this Trust Deed or the Ground Lease or enjoining or preventing or threatening to enjoin or prevent the use and occupancy of the Property or the performance by Trustor of its obligations hereunder. No rent controls, governmental moratoria or environment controls are presently in existence, or, to the knowledge of Trustor, threatened, affecting the Property, except as identified in writing to and approved by Lender.

10.4 **No Violation of Agreement by Trustor.** This Trust Deed and the Ground Lease are valid and enforceable obligations of Trustor in accordance with their respective terms. Trustor further covenants and warrants that this Trust Deed and the Ground Lease, and the performance or observance by Trustor of any of the matters or things in this Trust Deed and the Ground Lease do not provide for or contravene any covenant in any indenture or agreement affecting Trustor.

10.5 **Defense of Title.** Subject to the exceptions in Paragraph 10.1 above, Trustor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Trustor's title or the interest of Trustee or Lender under this Trust Deed, Trustor shall defend the action at Trustor's expense. Trustor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Trustor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

10.6 **Survival of Representations and Warranties.** All representations, warranties, and agreements made by Trustor in this Trust Deed shall survive the execution and delivery of this Trust Deed, shall be continuing in nature, and shall remain in full force and effect until such time as the Indebtedness shall be paid in full.

11. Condemnation. The following provisions relating to condemnation proceedings are a part of this Trust Deed:

11.1 **Proceedings.** If any proceeding in condemnation is filed, Trustor shall promptly notify Lender in writing, and Trustor shall promptly take such steps as may be necessary to defend the action and obtain the award. Trustor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceedings and to be represented in the proceedings by counsel of its own choice, and Trustor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

11.2 **Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

12. **Imposition of Taxes, Fees and Charges by Governmental Authorities.** The following provisions relating to governmental taxes, fees and charges are a part of this Trust Deed.

12.1 **Current Taxes, Fees and Charges.** Upon request by Lender, Trustor shall execute such documents in addition to this Trust Deed and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Trustor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Trust Deed, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Trust Deed.

12.2 **Taxes.** The following shall constitute taxes to which this section applies: a specific tax upon this type of Trust Deed or upon all or any part of the Indebtedness secured by this Trust Deed.

12.3 **Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Trust Deed, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided in Section 16 unless Trustor either (a) pays the tax before it becomes delinquent; or (b) contests the tax as provided above in Section 7 and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

13. **Security Agreement; Financing Statements.** The following provisions relating to this Trust Deed as a security agreement are a part of this Trust Deed:

13.1 **Security Agreement.** This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

13.2 **Security Interest.** Upon request by Lender, Trustor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property, if any. In addition to recording this Trust Deed in the real property records, Lender may, at any time and without further authorization from Trustor, file executed counterparts, copies or reproductions of this Trust Deed as a financing statement. Lender may also, at any time and without further authorization from Trustor, file any number of Uniform Commercial Code financing statements with the appropriate state office(s) as it deems necessary to further perfect its security interest in the Property. Trustor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Trustor shall not remove, sever or detach the Personal Property from the Property. Upon default, Trustor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Trustor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

13.3 **Addresses.** The mailing addresses of Trustor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Trust Deed may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Trust Deed.

14. **Further Assurances; Attorney-in-Fact.** The following provisions relating to further assurances and attorney-in-fact are a part of this Trust Deed:

14.1 **Further Assurances.** At any time, and from time to time, upon request of Lender, Trustor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, re-filed, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurances, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (a) Trustor's obligations under this Trust Deed and the Ground Lease, and (b) the liens and security interests created by this Trust Deed on the Property, whether now owned or hereafter acquired by Trustor. Unless prohibited by law or Lender agrees to the contrary in writing, Trustor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

14.2 **Attorney-in-Fact.** If Trustor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Trustor and at Trustor's expense. For such purposes, Trustor hereby irrevocably appoints Lender as Trustor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

15. **Full Performance.** If Borrower pays all the Indebtedness, including without limitation all future advances, when due, and Trustor performs all the obligations imposed upon Trustor under this Trust Deed, Lender shall execute and deliver to Trustee a request for full reconveyance and shall execute and deliver to Trustor suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and Personal Property. Any reconveyance fee required by law shall be paid by Trustor, if permitted by applicable law.

16. **Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Trust Deed:

16.1 **Payment Default.** Borrower fails to make any payment when due under the Indebtedness.

16.2 **Compliance and Performance Defaults.** Trustor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Trust Deed or in the Ground Lease or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Trustor.

16.3 **Default on Other Payments.** Failure of Trustor within the time required by this Trust Deed to make any payment for taxes, fees, dues or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

16.4 **False Statements.** Any warranty, representation or statement made or furnished to Lender by Trustor or on Trustor's behalf under this Trust Deed or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

16.5 **Defective Collateralization.** This Trust Deed or the Ground Lease ceases to be in full force and effect (including failure of any collateral documents to create a valid and perfected security interest or lien) at any time and for any reason.

16.6 **Insolvency.** The dissolution or termination of Trustor's existence as a going business, the insolvency of Trustor, the appointment of a receiver for any part of Trustor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Trustor.

16.7 **Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Trustor or by any governmental agency against any property securing the Indebtedness. This includes a garnishment of any of Trustor's accounts. However, this Event of Default shall not apply if there is a good faith dispute by Trustor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Trustor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

16.8 **Breach of Other Agreement.** Any breach by Trustor under the terms of any other agreement affecting Trustor's rights or interest in the Property, or between Trustor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Trustor to Lender, whether existing now or later.

16.9 **Default Under Ground Lease.** If any default occurs under the Ground Lease.

16.10 **Default Under Borrower Loan Documents.** If any default or event of default occurs under the Note or any Related Document.

17. **Rights and Remedies on Default.** If an Event of Default occurs under this Trust deed, at any time thereafter, Trustee or Lender may exercise any one or more of the following rights and remedies:

17.1 **Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Trustor under this Trust Deed, after Trustor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

17.2 **Accelerate Indebtedness.** Lender shall have the right at its option without notice to Trustor to declare the entire Indebtedness immediately due and payable, including without limitation any default interest or prepayment penalty which Trustor would be required to pay under the terms of the Note.

17.3 **Foreclosure.** With respect to all or any part of the Real Property, Lender shall have the right to foreclose by non-judicial foreclosure or by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law. If this Trust Deed is foreclosed by judicial foreclosure, Lender 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 the amount of the unpaid balance of the judgment.

17.4 **UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

17.5 Entry; Collect Rents. Lender shall have the right, without notice to Trustor, to enter and take possession of and manage the Property and collect the Rents, if any, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Trustor irrevocably designates Lender as Trustor's attorney-in-fact to endorse instruments received in payment thereof in the name of Trustor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver, as provided in Section 17.6.

17.6 Appoint Receiver. Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

17.7 Tenancy at Sufferance. If Trustor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Trustor, Trustor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (a) pay a reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Lender.

17.8 Other Remedies. Trustee or Lender shall have any other right or remedy provided in this Trust Deed or available at law or in equity.

17.9 Notice of Sale. Lender shall give Trustor reasonable notice of the time and place of any public sale of the 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 at least fifteen (15) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

17.10 Sale of the Property. To the extent permitted by applicable law, Trustor hereby waives any and all rights to have the Property marshaled. In exercising its rights and remedies, the Trustee or Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

17.11 Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Trust Deed, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorney's fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the

Trustee, to the extent permitted by applicable law. Trustor also will pay any court costs, in addition to all other sums provided by law.

17.12 Rights of Trustee. Trustee shall have all of the rights and duties of Lender as set forth in this section.

18. Successor Trustee. Lender, at Lender's option, may from time to time appoint a successor Trustee to any Trustee appointed under this Trust Deed by an instrument executed by Lender and recorded in the office of the recorder of the county and state in which the Real Property is situated. The instrument shall contain, in addition to all other matters required by state law, the names of the original Lender, Trustee, and Trustor, the book and page where this Trust Deed is recorded, and the name and address of the successor trustee, and the instrument shall be executed and acknowledged by Lender or its successors in interest. The successor trustee, without conveyance of the Property, shall succeed to all the title, power, and duties conferred upon the Trustee in this Trust Deed and by applicable law. This procedure for substitution of Trustee shall govern to the exclusion of all other provisions for substitution.

19. Notices. Any notice required to be given under this Trust Deed, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by fax or electronic mail (e-mail) transmission (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses indicated on the first page of this Trust Deed. All copies of notices of foreclosure from the holder of any lien which has priority over this Trust Deed shall be sent to Lender's address, as indicated on the first page of this Trust Deed. Any party may change its address for notices under this Trust Deed by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Trustor agrees to keep Lender informed at all times of Trustor's current address. Unless otherwise provided or required by law, if there is more than one Trustor, any notice given by Lender to any Trustor is deemed to be notice given to all Trustors.

20. Miscellaneous Provisions. The following miscellaneous provisions are a part of this Trust Deed:

20.1 Entire Agreement; Amendments. This Trust Deed, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Trust Deed. No alteration of or amendment to this Trust Deed shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

20.2 Annual Reports. Trustor shall furnish to Lender, upon request, a certified financial statement, including a profit/loss report and balance sheet, for Trustor's previous fiscal year, or other designated accounting period in such form and detail as Lender may reasonably require.

20.3 Caption Headings. Caption headings in this Trust Deed are for convenience purposes only and are not to be used to interpret or define the provisions of this Trust Deed.

20.4 No Merger. There shall be no merger of the interest or estate created by this Trust Deed with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

20.5 Governing Law. This Trust Deed will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Utah without regard to its conflicts of law provisions. This Trust Deed has been accepted by Lender in the State of Utah.

20.6 Choice of Venue. If there is a lawsuit, Trustor agrees upon Lender's request to submit to the jurisdiction of the courts of Salt Lake County, State of Utah.

20.7 No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Trust Deed unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Trust Deed shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Trust Deed. No prior waiver by Lender, nor any course of dealing between Lender and Trustor, shall constitute a waiver of any of Lender's rights or of any of Trustor's obligations as to any future transactions. Whenever the consent of Lender is required under this Trust Deed, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

20.8 Severability. If a court of competent jurisdiction finds any provision of this Trust Deed to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Trust Deed. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Trust Deed shall not affect the legality, validity or enforceability of any other provision of this Trust Deed.

20.9 Binding Effect. Subject to any limitations stated in this Trust Deed on transfer of Trustor's interest, this Trust Deed shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Trustor, Lender, without notice, may deal with Trustor's successors with reference to this Trust Deed and the Indebtedness by way of forbearance or extension without releasing Trustor from the obligations of this Trust Deed or liability under the Indebtedness.

20.10 Time is of the Essence. Time is of the essence in the performance of this Trust Deed.

20.11 Waive Jury. All parties to this Trust Deed hereby waive the right to any jury trial in any action, proceeding or counterclaim brought by any party against any other party.

20.12 Waiver of Homestead Exemption. Trustor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Utah as to all Indebtedness secured by this Trust Deed.

20.13 No Joint Venture, Partnership. The exercise by Lender of any of its rights, privileges or remedies conferred hereunder or under the Note or the Related Documents or under applicable law, shall not be deemed to render Lender a partner or joint venturer with Trustor or with any other person or entity. Any and all of such actions will be exercised by Lender solely in furtherance of its role as a secured lender advancing funds for use by Trustor as provided in this Trust Deed. Trustor shall indemnify Lender against any claim by any third party for any injury, damage or liability of any kind arising out of any failure of Trustor to perform its obligations in this transaction, shall notify Lender of any lawsuit based on such claim, and at Lender's election, shall defend Lender therein at Trustor's own expense by counsel satisfactory to Lender or shall pay Lender's costs and attorney's fees if Lender chooses to defend itself on any such claim.

21. Definitions. The following capitalized words and terms shall have the following meanings when used in this Trust Deed. Words and terms used in the singular shall include the plural, and plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Trust Deed shall have the

meanings attributed to such terms in the Uniform Commercial Code. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America.

“Environmental Laws” means any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. (“CERCLA”), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 (“SARA”), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto or intended to protect human health or the environment.

“Hazardous Substances” means materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words “Hazardous Substances” are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term “Hazardous Substances” also includes, without limitation, petroleum, including crude oil and any fraction thereof and asbestos.

“Improvements” means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

“Indebtedness” means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Trustor’s obligations or expenses incurred by Trustee or Lender to enforce Trustor’s obligations under this Trust Deed, together with interest on such amounts as provided in this Trust Deed. Specifically, without limitation, Indebtedness includes the future advances, as set forth in Section 3, together with all interest thereon, and all amounts that may be indirectly secured by the Cross-Collateralization provision of Section 2.

“Personal Property” means all equipment, fixtures, and other articles of personal property now or hereafter owned by Trustor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

“Property” means collectively the Real Property and the Personal Property.

“Real Property” means the real property, interests and rights, as described in Section 1 and Exhibit “A”.

“Related Documents” means all trust deed notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, pledge agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

“Rents” means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property, including, without limitation, those pursuant to the Ground Lease.

[Separate Signature Page Follows]

TRUSTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS TRUST DEED,
AND TRUSTOR AGREES TO ITS TERMS.

TRUSTOR:

LANDING POINT APARTMENTS, L.C.,
a Utah limited liability company

By: *David L. Phillips*

Name: DAVID L. PHILLIPS

Title: MANAGER

State of Utah)

ss:

County of DAVIS)

The foregoing document was duly acknowledged before me this 5th day of November, 2018, by David L. Phillips, the Manager of LANDING POINT APARTMENTS, L.C., a Utah limited liability company, in the capacity indicated.

Kaila Johnson
Notary Public

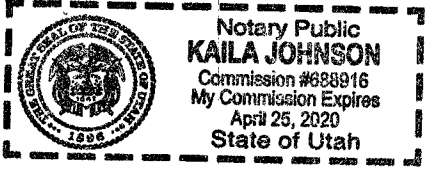


Exhibit "A"
(Legal Description of the Real Property)

A part of the Northwest quarter of Section 15, Township 5 North, Range 1 West, Salt Lake Base and Meridian:

Commencing at the Southwest corner of said Northwest corner of Section 15; thence 784.89 feet North $00^{\circ}05'51''$ East along the section line; and 633.70 feet South $89^{\circ}54'09''$ East to the point of beginning being an existing right of way monument and running thence three (3) courses along the East right of way line of Harrison Boulevard (SR-203) according to Highway Right of Way Plans S-162(3) Sheets 4 and 5, as follows: (1) North $64^{\circ}04'09''$ West 74.20 feet; (2) North $31^{\circ}27'00''$ West 484.00 feet to a point of curvature; and (3) Northwesterly along the arc of a 1,860.10 foot radius curve to the right a distance of 104.70 feet (Delta Angle equals $03^{\circ}13'30''$ and Long Chord bears North $29^{\circ}50'15''$ West 104.69 feet) to the intersection of said East right of way line and the North line of the Southwest quarter of said Northwest quarter; thence South $89^{\circ}32'00''$ East 739.12 feet to the Southerly right of way line of Old Post Road, to a point of a non-tangent curve, of which the radius point lies North $48^{\circ}16'26''$ East; thence two (2) courses along said Southerly right of way line as follows: (1) Southeasterly along the arc of a 1,507.66 foot radius curve to the left a distance of 414.62 feet (Delta Angle equals $15^{\circ}45'25''$ and Long Chord bears South $49^{\circ}36'17''$ East 413.32 feet); and (2) Southeasterly along the arc of a 854.67 foot radius curve to the right a distance of 23.09 feet (Long Chord bears South $56^{\circ}42'34''$ East 23.09 feet) to an old existing fence line; thence South $00^{\circ}28'15''$ West 254.17 feet along said old existing fence line; thence North $85^{\circ}33'49''$ West 486.78 feet along an old existing fence line and said old fence line extended; thence South $81^{\circ}13'26''$ West 216.96 feet to the point of beginning.