

Recording Requested by:

10726174  
6/11/2009 10:25:00 AM \$22.00  
Book - 9734 Pg - 2954-2959  
Gary W. Ott  
Recorder, Salt Lake County, UT  
FIRST AMERICAN TITLE  
BY: eCASH, DEPUTY - EF 6 P.

(800)668-4853

AFTER RECORDING RETURN TO:

MORRISON APARTMENTS  
C/O PACIFIC WEST MANAGEMENT  
16027 VENTURA BLVD., #550  
ENCINO, CALIFORNIA 91436

09-01

SPACE ABOVE THIS LINE (3 1/4" X 5") FOR RECORDER'S USE

## DEED OF TRUST AND ASSIGNMENT OF RENTS

A.K.A.: 8475 S. Sandy Parkway, Sandy, Utah 84070 //A.P.N.: 21-36-377-013-4003, 21-36-377-013-4002 & 21-36-377-013-4001

This Deed of Trust, made **May 20, 2009** between , **BHCP SANDY LLC, A DELAWARE LIMITED LIABILITY COMPANY** as TRUSTOR, whose address is **16027 Ventura Boulevard, Suite 550, Encino, California 91436**, First American Title Insurance Agency, LLC, a Delaware Limited Liability Company, as TRUSTEE, and **MORRISON APARTMENTS, A CALIFORNIA GENERAL PARTNERSHIP**, as BENEFICIARY, Witnesses: That Trustor CONVEYS AND WARRANTS TO TRUSTEE IN TRUST, WITH POWER OF SALE, the following described property, situated in **Salt Lake County, State of Utah**:

Tax ID Number: 30-0159387

Together with all buildings, fixtures and improvements thereon and all water rights, rights of way, easements, rents, issues, profits, income, tenements, hereditaments, privileges and appurtenances thereunto belonging, now or hereafter used or enjoyed with said property, or any part thereof, **SUBJECT, HOWEVER**, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits.

### For the Purpose of Securing:

(1) payment of the indebtedness evidenced by a promissory note of even date hereof in the principal sum of **\$8,000,000.00** made by Trustor, payable to the order of Beneficiary at the times, in the manner and with interest as therein set forth, and any extensions and/or renewals or modifications thereof; (2) the performance of each agreement of Trustor herein contained; (3) the payment of such additional loans or advances as hereafter may be made to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust; and (4) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms hereof, together with interest thereon as herein provided.

### To Protect the Security of This Deed of Trust, Trustor Agrees:

1. To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting said property; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law to do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general; and, if the loan secured hereby or any part thereof is being obtained for the purpose of financing construction of improvements on said property Trustor further agrees:

- (a) To commence construction promptly and to pursue same with reasonable diligence to completion in accordance with plans and specifications satisfactory to Beneficiary, and
- (b) To allow Beneficiary to inspect said property at all times during construction.

Trustee, upon presentation to it of an affidavit signed by Beneficiary, setting forth facts showing a default by Trustor under this numbered paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

**BK 9734 PG 2954**

2. To provide and maintain insurance, of such type or types and amounts as Beneficiary may require, on the improvements now existing or hereafter erected or placed on said property. Such insurance shall be carried in companies approved by Beneficiary with loss payable clauses in favor of and in form acceptable to Beneficiary. In the 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 the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged. In the event that the Trustor shall fail to provide satisfactory hazard insurance, the Beneficiary may procure, on the Trustor's behalf, insurance in favor of the Beneficiary.

7. Should Trustor fail to make any payment or do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: Make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary of Trustee; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising such powers, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefor, including cost of evidence of title, employ counsel, and pay his reasonable fees.

8. To pay immediately and without demand all sums expended hereunder by Beneficiary or Trustee, with interest from date of expenditure at the rate of 0.0000% per annum until paid, and the repayment thereof shall be secured hereby.

**IT IS MUTUALLY AGREED THAT:**

9. Should said property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary, who may, after deducting therefrom all its expenses, including attorney's fees, apply the same on any indebtedness secured hereby. Trustor agrees to execute such further assignments of any compensation, award, damages, and rights of action and proceeds as Beneficiary or Trustee may require.

10. At any time and from time to time upon written request of Beneficiary, payment of its fees and presentation of this Deed of Trust and the note for endorsement (in case of full reconveyance, for cancellation and retention) without affecting the liability of any person for the payment of the indebtedness secured hereby, and without releasing the interest of any party joining in this Deed of Trust, Trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Deed of trust or the lien or charge thereof; (d) grant any extension or modification of the terms of this loan; (e) reconvey, without warranty, all or any part of said property. The grantee in any reconveyance may be described as "the person or persons entitled thereto", and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustor agrees to pay reasonable trustee's fees for any of the services mentioned in this paragraph.

11. As additional security, Trustor hereby assigns to Beneficiary, during the continuance of these trusts, all rents, issues, royalties and profits of the property affected by this Deed of trust and of any personal property located thereon. Until Trustor shall default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Trustor shall have the right to collect all such rents, issues, royalties and profits earned prior to default as they become due and payable. If Trustor shall default as aforesaid, Trustor's right to collect any of such moneys shall cease and Beneficiary shall have the right, with or without taking possession of the property affected hereby, to collect all rents, royalties, issues, and profits. Failure or discontinuance of Beneficiary at any time or from time to time to collect any such moneys shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power, and authority to collect the same. Nothing contained herein, nor the exercise of the right by Beneficiary to collect, shall be, or construed to be, an affirmation by Beneficiary of any tenancy, lease or option, nor an assumption of liability under, nor a subordination of the lien or charge of this Deed of Trust to any such tenancy, lease or option.

12. Upon any default by Trustor hereunder, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court (Trustor hereby consenting to the appointment of Beneficiary as such receiver), and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue for or otherwise collect said rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

13. The entering upon and taking possession of said property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of said property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

14. The failure on the part of the Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Beneficiary of any default shall not constitute a waiver of any other or subsequent default.

15. Time is of the essence hereof. Upon default by Trustor in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of Beneficiary. In the event of such default, Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause said property to be sold to satisfy the obligations hereof and Trustee shall file such notice for record in each county wherein said property or some part or parcel thereof is situated. Beneficiary also shall deposit with Trustee, the note and all documents evidencing expenditures secured hereby.

16. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Trustor to direct the order in which such property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he deems expedient, postpone the sale from time to time until it shall be completed and, in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale; provided, if the sale is postponed for longer than such time as may be required by law beyond the day designated in the notice of sale, notice thereof shall be given in the same manner as the original notice of sale. Trustee shall execute and deliver to the purchaser its Deed conveying said property so sold, but without any covenant of warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and attorney's fees; (2) cost of any evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at 0.0000% per annum from date of expenditure; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the County Clerk of the country in which the sale took place.

17. Trustor agrees to surrender possession of the hereinabove described Trust property to the Purchaser at the aforesaid sale, immediately after such sale, in the event such possession has not previously been surrendered by Trustor.

18. Upon the occurrence of any default hereunder, Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclose this Deed of Trust in the manner provided by law for the foreclosure of mortgages on real property and Beneficiary shall be entitled to recover in such proceedings all costs and expenses incident thereto, including a reasonable attorney's fee in such amount as shall be fixed by the court.

19. Beneficiary may appoint a successor trustee at any time by filing for record in the office of the County Recorder of each county in which said property or

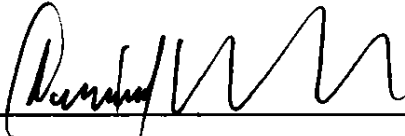
IN WITNESS WHEREOF, Trustor has executed this Instrument or has caused the same to be executed under seal by its sole member or manager thereunto duly authorized.

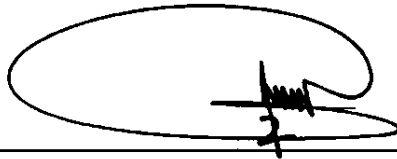
**SIGNATURE OF TRUSTOR**

**BHCP SANDY LLC,  
a Delaware limited liability company**

**By its sole member,  
Baldwin Hills Crenshaw Plaza, LLC,  
a California limited liability company**

**By its sole manager,  
Pacific West Management,  
a California general partnership**

By:   
David Hager, General Partner

By:   
Adam Milstein, General Partner

Title/Escrow No.: \_\_\_\_\_ (\_\_\_\_\_ Title Company)

Legal Description:

REAL PROPERTY IN THE CITY OF SANDY, COUNTY OF SALT LAKE, STATE OF UTAH, AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF SANDY PARKWAY WHICH IS NORTH 1058.64 FEET AND EAST 653.88 FEET FROM THE SOUTHWEST CORNER OF SECTION 36, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN (BASIS OF BEARING: SOUTH 00°13'50" WEST FROM SAID SOUTHWEST CORNER OF SECTION 36 TO THE WEST QUARTER CORNER OF SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN) AND RUNNING THENCE SOUTH 59°57'35" EAST 505.615 FEET ALONG SAID NORTHERLY LINE TO A POINT ON A 440.471 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE AND SAID NORTHERLY LINE 361.372 FEET (CHORD BEARS SOUTH 37°22'46" EAST 351.322 FEET); THENCE SOUTH 12°57'35" EAST 204.761 FEET ALONG THE EASTERLY LINE OF SAID SANDY PARKWAY; THENCE NORTH 72°05'59" EAST 108.00 FEET; THENCE SOUTH 18°09'27" EAST 170.00 FEET; THENCE NORTH 77°02'25" EAST 269.81 FEET TO THE WESTERLY LINE OF THE D & RGW RAILROAD RIGHT OF WAY; THENCE NORTH 08°07'19" WEST 858.457 FEET ALONG SAID WESTERLY LINE; THENCE SOUTH 81°56'39" WEST 35.347 FEET; THENCE NORTH 44°20'00" WEST 234.704 FEET TO THE POINT OF CURVATURE OF AN 80.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE 60.505 FEET (CHORD BEARS NORTH 22°40'00" WEST 59.073 FEET); THENCE NORTH 01°00'00" WEST 281.994 FEET; THENCE SOUTH 89°01'27" WEST 50.00 FEET; THENCE SOUTH 01°00'00" EAST 389.947 FEET; THENCE SOUTH 89°03'50" WEST 659.24 FEET TO A POINT ON A 532.435 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE 137.365 FEET (CHORD BEARS SOUTH 22°38'58" WEST 136.984 FEET); THENCE SOUTH 30°02'25" WEST 25.00 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS FOR VEHICULAR AND PEDESTRIAN TRAFFIC AS PROVIDED IN GRANT OF ACCESS EASEMENT DATED OCTOBER 3, 1990 AND RECORDED OCTOBER 5, 1990 AS ENTRY NO. 4974537 IN BOOK 6258 AT PAGE 2080 OF THE OFFICIAL RECORDS OVER THE FOLLOWING DESCRIBED REAL PROPERTY:

BEGINNING AT A POINT WHICH IS NORTH 1206.70 FEET AND EAST 719.15 FEET FROM THE SOUTHWEST CORNER OF SECTION 36, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN (BASIS OF BEARING SOUTH 00°13'50" WEST FROM SAID SOUTHWEST CORNER OF SECTION 36 TO THE WEST QUARTER CORNER OF SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN) AND RUNNING THENCE NORTH 89°03'50" EAST 90.00 FEET; THENCE NORTH 00°56'10" WEST 30.00 FEET; THENCE SOUTH 89°03'50" WEST 82.23 FEET TO A POINT ON THE ARC OF A 532.435 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE 30.99 FEET (CHORD BEARS: SOUTH 13°35'27" WEST 30.99 FEET) TO THE POINT OF BEGINNING.

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

On May 20, 2009 before me, Connie L. Cooper Notary Public  
Date Here, Insert Name and Title of the Officer

personally appeared David Hagen  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature [Signature]  
Signature of Notary Public

Place Notary Seal Above



### OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

#### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

#### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
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Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
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## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles }

On June 5, 2009 before me, Connie L. Cooper, Notary Public

personally appeared Adam Musteja



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature [Signature]

Place Notary Seal Above

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Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

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☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

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OF SIGNER  
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Signer's Name: \_\_\_\_\_

- ☐ Individual  
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☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

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