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Leann H. Kilts, WEBER COUNTY RECORDER
20-Dec-21 1139 AM FEE \$40.00 DEP TN
REC FOR: COTTONWOOD TITLE INSURANCE AGENCY
ELECTRONICALLY RECORDED

149011-JCP

**RECORDATION REQUESTED BY AND
WHEN RECORDED MAIL TO:**

Polsinelli PC
900 West 48th Place, Suite 900
Kansas City, Missouri 64112
Attn: Marla R. Bell, Esq.

- APN: 10-028-0039
- APN: 08-028-0078 *
- APN: 08-028-0079 *
- APN: 08-022-0089 *
- APN: 08-028-0083 *
- APN: 08-022-0091 *

**CROSS-DEFAULT, CROSS-COLLATERALIZATION AND CONTRIBUTION
AGREEMENT**

Dated and effective as of December 17, 2021

Between

**FOX CREEK MANAGEMENT, LLC, and
CLARADON MANAGEMENT, LLC,**
as Borrower,

CHEYENNE MISSION, LLC
as Pledgor,

and

RREF IV – D DIRECT LENDING INVESTMENTS, LLC,
as Lender

**CROSS-DEFAULT, CROSS-COLLATERALIZATION AND CONTRIBUTION
AGREEMENT**

THIS CROSS DEFAULT, CROSS-COLLATERALIZATION AND CONTRIBUTION AGREEMENT (this “**Agreement**”), made as of December 17, 2021 by **FOX CREEK MANAGEMENT, LLC**, a Delaware limited liability company, having an address at 11043 Olinda Street, Sun Valley, California 91352 (together with its successors and permitted assigns, “**Fox Creek Borrower**”), and **CLARADON MANAGEMENT, LLC**, a Delaware limited liability company, having an address at 11043 Olinda Street, Sun Valley, California 91352 (together with its successors and permitted assigns, “**Claradon Borrower**”, and together with Fox Creek Borrower, individually and/or collectively, as the context may require, “**Borrower**”), and **CHEYENNE MISSION, LLC**, a Wyoming limited liability company, having an address at 11043 Olinda Street, Sun Valley, California 91352 (together with its successors and permitted assigns, “**Cheyenne**”) for the benefit of **RREF IV – D DIRECT LENDING INVESTMENTS, LLC**, a Delaware limited liability company, having an address at c/o Rialto Capital Management, LLC, 600 Madison Avenue, 12th Floor, New York, New York 10022 (together with its successors and assigns, “**Lender**”).

WITNESSETH:

WHEREAS, concurrently with the execution of this Agreement, Fox Creek Borrower executed and delivered to Lender a Promissory Note, dated as of the date hereof, in the maximum principal amount of Twenty-Eight Million Five Hundred Thousand and No/100 Dollars (\$28,500,000.00) (as the same from time to time may be amended, consolidated, extended, renewed, modified, restated or replaced, the “**Fox Creek Note**”), in evidence of a loan in such amount (the “**Fox Creek Loan**”);

WHEREAS, the Fox Creek Loan is (A) governed by that certain Loan Agreement, dated as of the date hereof, between Fox Creek Borrower and Lender (as the same from time to time may be amended, consolidated, extended, renewed, modified, restated or replaced, the “**Fox Creek Loan Agreement**”), and (B) secured by, among other things, a Deed of Trust, Assignment of Leases and Rents, Fixture Filing and Security Agreement (as the same from time to time may be amended, consolidated, extended, renewed, modified, restated or replaced, the “**Fox Creek Security Instrument**”) executed by Fox Creek Borrower on the date hereof in favor of Lender in the maximum principal amount of Twenty-Eight Million Five Hundred Thousand and No/100 Dollars (\$28,500,000.00), encumbering the real property described on Exhibit A-1 attached hereto and made a part hereof, together with all improvements thereon and certain other property described in the Fox Creek Security Instrument (collectively, the “**Fox Creek Property**”), (ii) that certain Pledge and Security Agreement (the “**Fox Creek Pledge**”), dated as of the date hereof, executed by Cheyenne (in its capacity as pledgor under the Fox Creek Pledge, “**Fox Creek Pledgor**”), encumbering among other things, 100% of the equity interests in Fox Creek Borrower (the “**Fox Creek Pledge Collateral**”), and (iii) certain other documents, agreements, and instruments (the Fox Creek Note, the Fox Creek Security Instrument, the Fox Creek Pledge, and such other documents, agreements, and instruments, as the same from time to time may be amended, consolidated, extended, renewed, modified, restated or replaced, collectively, the “**Fox Creek Loan Documents**”);

WHEREAS, concurrently with the execution of this Agreement, Claradon Borrower has executed and delivered to Lender a Promissory Note, dated as of the date hereof, in the maximum principal amount of Seventy-Five Million and No/100 Dollars (\$75,000,000.00) (as the same from time to time may be amended, consolidated, extended, renewed, modified, restated or replaced, the “**Claradon Note**”), in evidence of a loan in such amount (the “**Claradon Loan**”, together with the Fox Creek Loan, collectively and/or individually, as the context may require, the “**Loan**” or “**Loans**”);

WHEREAS, the Claradon Loan is (A) governed by that certain Loan Agreement, dated as of the date hereof, between Claradon Borrower and Lender (as the same from time to time may be amended, consolidated, extended, renewed, modified, restated or replaced, the “**Claradon Loan Agreement**”, together with the Fox Creek Loan Agreement, collectively and/or individually, as the context may require, the “**Loan Agreement**” or “**Loan Agreements**”), and (B) secured by, among other things, a Deed of Trust, Assignment of Leases and Rents, Fixture Filing and Security Agreement (as the same from time to time may be amended, consolidated, extended, renewed, modified, restated or replaced, the “**Claradon Security Instrument**”, together with the Fox Creek Security Instrument, collectively and/or individually, as the context may require, the “**Security Instrument**” or “**Security Instruments**”) executed by Claradon Borrower on the date hereof in favor of Lender in the maximum amount of Seventy-Five Million and No/100 Dollars (\$75,000,000.00), encumbering the real property described on Exhibit A-2 attached hereto and made a part hereof, together with all improvements thereon and certain other property described in the Claradon Security Instrument (collectively, the “**Claradon Property**”, and together with the Fox Creek Property, individually and/or collectively, as the context may require, the “**Property**” or the “**Properties**”), (ii) that certain Pledge and Security Agreement (the “**Claradon Pledge**”, together with the Fox Creek Pledge, individually and/or collectively, as the context may require, the “**Pledge**”), dated as of the date hereof, executed by Cheyenne (in its capacity as pledgor under the Claradon Pledge, the “**Claradon Pledgor**”; and together with the Fox Creek Pledgor, collectively, “**Pledgor**”), encumbering among other things, 100% of the equity interests in Claradon Borrower (the “**Claradon Pledge Collateral**”, together with the Fox Creek Pledge Collateral, individually and/or collectively, as the context may require, the “**Collateral**”), and (iii) certain other documents, agreements, and instruments (the Claradon Note, the Claradon Security Instrument, the Claradon Pledge, and such other documents, agreements, and instruments, as the same from time to time may be amended, consolidated, extended, renewed, modified, restated or replaced, collectively, the “**Claradon Loan Documents**”, and together with the Fox Creek Loan Documents, individually and/or collectively, as the context may require, the “**Loan Documents**”; and the Obligations (as defined in the Claradon Loan Documents) and the Obligations (as defined in the Fox Creek Loan Documents), together, the “**Combined Obligations**”); and

WHEREAS, Lender has required that this Agreement be executed and delivered as a condition to making of the Loans;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Cross-Default and Cross-Collateralization**. As more fully set forth in the Fox Creek Loan Documents and the Claradon Loan Documents, each Borrower hereby

acknowledges and agrees that the Fox Creek Loan Documents and the Claradon Loan Documents are subject to cross-default and cross-collateralization (the “**Cross-Collateralization**”) as follows:

(a) an Event of Default under any of the Fox Creek Loan Documents (as the term “Event of Default” is defined therein) shall constitute an Event of Default under the Claradon Loan Documents (as the term “Event of Default” is defined therein);

(b) an Event of Default under any of the Claradon Loan Documents (as the term “Event of Default” is defined therein) shall constitute an Event of Default under the Fox Creek Loan Documents (as the term “Event of Default” is defined therein);

(c) the Fox Creek Security Instrument, the Fox Creek Pledge and all of the other Fox Creek Loan Documents securing or guaranteeing the Fox Creek Note and the obligations of Fox Creek Borrower under the other Fox Creek Loan Documents also shall secure and guaranty the Claradon Note and the other Claradon Loan Documents;

(d) the Claradon Security Instrument, the Claradon Pledge and all of the other Claradon Loan Documents securing or guaranteeing the Claradon Note and the obligations of Claradon Borrower under the other Claradon Loan Documents also shall secure and guaranty the Fox Creek Note and the other Fox Creek Loan Documents;

(e) the aggregate principal amount secured by each of the Fox Creek Security Instrument and the other Fox Creek Loan Documents, and the Claradon Security Instrument and the other Claradon Loan Documents shall be One Hundred Three Million Five Hundred Thousand and No/100 Dollars (\$103,500,000.00) (less the amount of any Loan released from this Agreement pursuant to the terms hereof);

(f) in the event of a Condemnation (as defined in each of the Loan Agreements) with respect to any of the Properties, the determination as to whether or not the Loan relating to such Property must be paid down by a “qualified amount” (as such term is defined in IRS Rev. Proc. 2010-30, as the same may be modified, supplemented, superseded or amended from time to time) shall be made on the basis of the aggregate unpaid principal balance of all of the Loans and the aggregate value of the remaining Property (based solely on real property and excluding any personal property or going concern value) (such value to be determined, in Lender’s sole discretion, by any commercially reasonable method permitted to a REMIC Trust).

2. **Default.** Any default by Borrower and/or Pledgor in fulfilling any of its obligations hereunder shall constitute an Event of Default under each of the Fox Creek Loan Documents and the Claradon Loan Documents (as the term “Event of Default” is defined in each of the Fox Creek Loan Documents and the Claradon Loan Documents).

3. **Further Assurances.** Upon written request, each Borrower and each Pledgor will (a) cooperate in any manner that may be reasonably requested by Lender or its counsel, from time to time, and (b) execute and deliver all documentation and take all actions requested by Lender (i) in order to effectuate the cross-collateralization of the Loans or (ii) to release any one or more of the Properties and/or the Collateral from this Agreement or (iii) to combine one or more of the Properties and/or the Collateral into separate securitization pools by virtue of one or more cross-collateralization agreements in similar form to this Agreement, which

form is reasonably satisfactory to Lender. Notwithstanding anything herein to the contrary, each Borrower and Pledgor hereby agrees that it shall promptly execute and deliver such additional agreements, amendments and other instruments and promptly take such additional action as Lender may, at any time and from time to time, reasonably request in order for Lender to obtain the full benefits and rights granted or intended to be granted in connection herewith.

4. **Termination.** Each Borrower and Pledgor acknowledges and agrees that, notwithstanding anything to the contrary contained in this Agreement, Lender may unilaterally terminate this Agreement in whole or in part including, without limitation, by releasing any of the Loans from this Agreement. Notwithstanding anything to the contrary contained in this Agreement or in any of the Fox Creek Loan Documents or the Claradon Loan Documents, in the event that (i) any of the Loans is securitized (a "**Securitized Loan**"), and any other Loan is not included in the securitization with such Securitized Loan, or (ii) any of the Loans is transferred (a "**Transferred Loan**") by Lender so that such Transferred Loan is then held by a different lender (except for an affiliate of Lender), then this Agreement shall terminate and be of no further force or effect with respect to such Securitized Loan or Transferred Loan, as applicable, as if such Securitized Loan or Transferred Loan were never referenced herein. No further instrument shall be required to effectuate such termination, and any such instrument recorded by Lender shall be effective if executed by Lender; provided, however, each Borrower and Pledgor shall, upon Lender's written request and at Borrower's sole cost, execute and cause to be recorded against the Properties a full or partial release of this Agreement, as applicable, upon satisfaction of the termination conditions above. If requested by Lender, each Borrower and Pledgor shall promptly execute any and all documentation as may be required by Lender to give effect to any termination under this Agreement, including without limitation one or more amendments to the Loan Documents to evidence such termination. In the event of any termination of this Agreement with respect to any Loan, such Loan shall no longer be included within the definition of "Loan" hereunder, and all related definitions shall similarly be excluded from any references herein. This Agreement shall terminate upon (a) payment in full of the aggregate Debt under the Loan Documents (collectively, the "**Debt**") or (b) recording of a valid instrument or instruments evidencing the satisfaction of or releasing of the Security Instruments of record.

5. **Transferability; Prepayment.**

(a) Notwithstanding anything to the contrary contained in any of the Loan Documents, at all times while the Loans are subject to this Agreement, Borrower shall have no right to transfer, assign, prepay (including without limitation, making any Casualty or Condemnation Prepayment (as defined in the Loan Documents)), or fully pay off the Loans, as applicable, pursuant to the provisions of the respective Loan Documents unless all Loans subject to this Agreement are so transferred, assigned, prepaid or paid off in accordance with the terms of all of the respective Loan Documents, subject to Section 21 below.

(b) Notwithstanding anything to the contrary contained herein or in any other Loan Document, if either Loan secured is included in a REMIC Trust and (a) any portion of the Property is sought to be released from the Lien of the applicable Security Instrument, whether in connection with a Casualty or Condemnation or otherwise and (b) immediately after any such release the ratio of the unpaid principal balance of the Loan to the value of the remaining Property

(but, in the case of a Casualty or Condemnation, taking into account any proposed Restoration of the remaining Property) is greater than one hundred twenty-five percent (125%) (based solely on real property and excluding any personal property or going concern value) (such value to be determined, in Lender's sole discretion, by any commercially reasonable method permitted to a REMIC Trust), the outstanding principal balance must first be paid down by a "qualified amount" as such term is defined in Internal Revenue Service Revenue Procedure 2010-30, as the same may be modified, supplemented, superseded or amended from time to time (regardless of whether Borrower or Lender actually receive or are entitled to receive any related Net Proceeds in the case of a Casualty or Condemnation), unless Lender receives an opinion of counsel that, if the foregoing prepayment is not made, the applicable REMIC Trust will neither fail to maintain its status as a "real estate mortgage investment conduit" within the meaning of Section 860D of the Code or be subject to any tax, in either case, as a result of such release. If and to the extent the release is in connection with a Casualty or Condemnation, and if the applicable Borrower shall have otherwise satisfied each of the conditions to release of Net Proceeds as set forth in each Loan Agreement, only such amount of the Net Proceeds then held or controlled by Lender, if any, in excess of the "qualified amount" required to pay down the principal balance of the Loan may be released for purposes of Restoration or released as otherwise expressly provided in each Loan Agreement.

6. **Election of Remedies.**

(a) Upon the occurrence and during the continuance of an Event of Default under any of the Loan Documents, all or any one or more of the rights, powers, privileges and other remedies available to Lender against Borrower under any Security Instrument or Pledge or any of the other Loan Documents relating to any Loan at law or in equity may be exercised by Lender at any time and from time to time as permitted under such Loan Documents, whether or not all or any of the Loans shall be declared due and payable, and whether or not Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Loan Documents with respect to all or any of the Properties secured by the Security Instruments and/or the Collateral secured by the Pledge. Any such actions taken by Lender shall be cumulative and may be pursued independently, singly, successively, together or otherwise, at such time and in such order as Lender may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of Lender permitted by law, equity or contract or as set forth herein or in the other Loan Documents. Without limiting the generality of the foregoing, each Borrower and Pledgor agrees that if an Event of Default is continuing, all liens and other rights, remedies or privileges provided to Lender shall remain in full force and effect until Lender has exhausted all of its remedies against (i) all or any of the Properties secured by the Security Instruments and each Security Instrument has been foreclosed, sold and/or otherwise realized upon in satisfaction of the Loan, (ii) all or any of the Collateral secured by the Pledge and each Pledge has been foreclosed, sold and/or otherwise realized upon in satisfaction of the Loan and/or (iii) the Loan has been paid in full.

(b) Nothing contained herein or in any other Loan Document shall be construed as requiring Lender to resort to any particular Property and/or Collateral for the satisfaction of the Loan in preference or priority to any other Property and/or Collateral secured by any of the Security Instruments and/or Pledge, and Lender may seek satisfaction out of any Property and/or Collateral or any part thereof, in its absolute discretion in respect of the Loan. In addition, Lender shall have the right from time to time to partially foreclose one or more of the Security Instruments and/or

Pledge in any manner and for any amount of the Loan secured by the Security Instruments and/or Pledge then due and payable as determined by Lender in its sole discretion, including the following circumstances: (i) in the event of any Event of Default by Borrower caused by a failure to make one or more scheduled payments of principal and interest, Lender may foreclose one or more of the Security Instruments and/or Pledge to recover such delinquent payments, or (ii) in the event Lender elects to accelerate less than the entire outstanding principal balance of the Loan, Lender may foreclose one or more of the Security Instruments and/or Pledge to recover so much of the principal balance of the Loans as Lender may elect to accelerate, and to recover such other sums secured by one or more of the Security Instruments and/or Pledge as Lender may elect. Notwithstanding one or more foreclosures or partial foreclosures, each and every Property or part thereof, not subjected to said foreclosure shall remain subject to the Security Instruments and Pledge to secure payment of the Loan not previously recovered.

7. Contribution.

(a) As a result of the transactions contemplated by this Agreement and the other Loan Documents, each Borrower will benefit, directly and indirectly, from each Borrower's obligation to pay the Debt and perform its obligations hereunder and under the other Loan Documents, and in consideration therefore each Borrower desires to enter into an allocation and contribution agreement among themselves as set forth in this Section 7 to allocate such benefits among themselves and to provide a fair and equitable agreement to make contributions among each of Borrowers in the event any payment is made by any individual Borrower under the Loan Documents to Lender (such payment being referred to herein as a "**Contribution**", which for purposes of this Section, includes any exercise of recourse by Lender against any Property of a Borrower or any Collateral and application of proceeds of such Property and/or Collateral in satisfaction of such Borrower's obligations, to Lender under the Loan Documents).

(b) Each Borrower shall be liable hereunder with respect to the Obligations only for such total maximum amount (if any) that would not render its Obligations hereunder or under any of the Loan Documents subject to avoidance under Section 548 of the Bankruptcy Code or any comparable provisions of any state law.

(c) In order to provide for a fair and equitable contribution among Borrowers in the event that any Contribution is made by an individual Borrower (a "**Funding Borrower**"), such Funding Borrower shall be entitled to a reimbursement Contribution ("**Reimbursement Contribution**") from the other Borrower for all payments, damages and expenses incurred by that Funding Borrower in discharging any of the Obligations, in the manner and to the extent set forth in this Section.

(d) For purposes hereof, the "**Benefit Amount**" of any individual Borrower as of any date of determination shall be the net value of the benefits to such Borrower and its affiliates from extensions of credit made by Lender to (i) such Borrower and (ii) to the other Borrower under the Loan Documents to the extent such other Borrower has guaranteed or mortgaged their property to secure the Obligations of such Borrower to Lender.

(e) Each Borrower shall be liable to a Funding Borrower in an amount equal to the greater of (i) the (A) ratio of the Benefit Amount of such Borrower to the total amount of

Obligations, multiplied by (B) the amount of Obligations paid by such Funding Borrower, or (ii) ninety-five percent (95%) of the excess of the fair saleable value of the property of such Borrower over the total liabilities of such Borrower (including the maximum amount reasonably expected to become due in respect of contingent liabilities) determined as of the date on which the payment made by a Funding Borrower is deemed made for purposes hereof (giving effect to all payments made by the other Funding Borrower as of such date in a manner to maximize the amount of such Contributions).

(f) In the event that at any time there exists more than one Funding Borrower with respect to any Contribution (in any such case, the “**Applicable Contribution**”), then Reimbursement Contributions from the other Borrower pursuant hereto shall be allocated among such Funding Borrowers in proportion to the total amount of the Contribution made for or on account of the other Borrower by each such Funding Borrower pursuant to the Applicable Contribution. In the event that at any time any Borrower pays an amount hereunder in excess of the amount calculated pursuant to this Section above, that Borrower shall be deemed to be a Funding Borrower to the extent of such excess and shall be entitled to a Reimbursement Contribution from the other Borrower in accordance with the provisions of this Section.

(g) Each Borrower acknowledges that the right to Reimbursement Contribution hereunder shall constitute an asset in favor of Borrower to which such Reimbursement Contribution is owing.

(h) No Reimbursement Contribution payments payable by a Borrower pursuant to the terms of this Section 7 shall be paid until all amounts then due and payable by all of Borrowers to Lender, pursuant to the terms of the Loan Documents, are paid in full in cash. Nothing contained in this Section 7 shall limit or affect in any way the Obligations of any Borrower to Lender under the Loan Documents.

(i) To the extent permitted by applicable law, each Borrower waives:

(i) any right to require Lender to proceed against any other Borrower or any other person or to proceed against or exhaust any security held by Lender at any time or to pursue any other remedy in Lender’s power before proceeding against Borrower;

(ii) any defense based upon any legal disability or other defense of any other Borrower, Pledgor, any Guarantor or any other Person or by reason of the cessation or limitation of the liability of any other Borrower, Pledgor, or any Guarantor from any cause other than full payment of all sums payable under the Loan Documents;

(iii) any defense based upon any lack of authority of the officers, directors, partners or agents acting or purporting to act on behalf of any other Borrower, Pledgor or any principal of any other Borrower or any defect in the formation of any other Borrower, Pledgor or any principal of any other Borrower;

(iv) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in any other respects more burdensome than that of a principal;

(v) any defense based upon any failure by Lender to obtain collateral for the indebtedness or failure by Lender to perfect a lien on any collateral;

(vi) presentment, demand, protest and notice of any kind;

(vii) any defense based upon any failure of Lender to give notice of sale or other disposition of any collateral to any other Borrower or to any other person or entity or any defect in any notice that may be given in connection with any sale or disposition of any collateral;

(viii) any defense based upon any failure of Lender to comply with applicable laws in connection with the sale or other disposition of any collateral, including any failure of Lender to conduct a commercially reasonable sale or other disposition of any collateral;

(ix) any defense based upon any use of cash collateral under Section 363 of the Bankruptcy Code;

(x) any defense based upon any agreement or stipulation entered into by Lender with respect to the provision of adequate protection in any bankruptcy proceeding;

(xi) any defense based upon any borrowing or any grant of a security interest under Section 364 of the Bankruptcy Code;

(xii) any defense based upon the avoidance of any security interest in favor of Lender for any reason;

(xiii) any defense based upon any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, liquidation or dissolution proceeding, including any discharge of, or bar or stay against collecting, all or any of the obligations evidenced by the Note or owing under any of the Loan Documents;

(xiv) any defense or benefit based upon Borrower's, Pledgor's or any other party's, resignation of the portion of any obligation secured by the Mortgage or the Pledge to be satisfied by any payment from any other Borrower or any such party;

(xv) all rights and defenses arising out of an election of remedies by Lender even though the election of remedies, such as non-judicial foreclosure with respect to security for the Loan or any other amounts owing under the Loan Documents, has destroyed Borrower's rights of subrogation and reimbursement against any other Borrower; and

(xvi) all rights and defenses that Borrower may have because any of the Debt is secured by real property. This means, among other things (subject to the other terms and conditions of the Loan Documents): (1) Lender may collect from Borrower without first foreclosing on any real or personal property collateral pledged by any other Borrower, and (2) if Lender forecloses on any real property collateral pledged by any other Borrower, (I) the amount of the Debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price and (II) Lender may collect from Borrower even if any other Borrower, by foreclosing on the real

property collateral, has destroyed any right Borrower may have to collect from any other Borrower. This is an unconditional and irrevocable waiver of any rights and defenses Borrower may have because any of the Debt is secured by real property; and except as may be expressly and specifically permitted herein, any claim or other right which Borrower might now have or hereafter acquire against any other Borrower or any other person that arises from the existence or performance of any obligations under the Loan Documents, including any of the following: (1) any right of subrogation, reimbursement, exoneration, contribution, or indemnification; or (2) any right to participate in any claim or remedy of Lender against any other Borrower or any collateral security therefor, whether or not such claim, remedy or right arises in equity or under contract, statute or common law.

(j) Each Borrower and Pledgor hereby restates and makes the waivers made by Guarantor in the Guaranty for the benefit of Lender. Such waivers are hereby incorporated by reference as if fully set forth herein (and as if applicable to each Borrower and Pledgor) and shall be effective for all purposes under the Loan (including, without limitation, in the event that any Borrower is deemed to be a surety or guarantor of the Debt (by virtue of each Borrower being co-obligors and jointly and severally liable hereunder, by virtue of each Borrower encumbering its interest in the Property for the benefit or debts of the other Borrower in connection herewith or otherwise)).

8. **Notices.** All notices or other written communications hereunder shall be delivered in accordance with Section 9.6 of the Loan Agreement.

9. **WAIVER OF JURY TRIAL.** BORROWER AND LENDER EACH HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER AND LENDER, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH PARTY IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER.

10. **Survival.** Subject to Section 4 hereof, this Agreement shall be deemed to be continuing in nature and shall remain in full force and effect and shall survive the exercise of any remedy by Lender under any one or more of the Security Instruments or any of the other Loan Documents, including, without limitation, any foreclosure or deed in lieu thereof, even if, as a part of such remedy, the Loan is paid or satisfied in full.

11. **Entire Agreement; Amendment; Severability.** This Agreement contains the entire agreement between the parties respecting the matters herein set forth and supersedes all prior agreements, whether written or oral, between the parties respecting such matters. Any amendments or modifications hereto, in order to be effective, shall be in writing and executed by the parties hereto. A determination that any provision of this Agreement is unenforceable or

invalid shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of this Agreement to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

12. **Definitions.** Initially capitalized terms used but not defined herein shall have the meaning set forth for such term in the Loan Agreement for each Loan.

13. **No Violation of Special Purpose Entity and Transfer Provisions.** Lender hereby expressly consents to each Borrower guaranteeing and assuming liability for the Debt and other obligations of each other Borrower in accordance with the terms and conditions of this Agreement and to the encumbering of the Property with the applicable Security Instrument as herein provided. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, the execution and delivery by each Borrower of this Agreement and the applicable Security Instrument and the performance of their respective obligations hereunder and thereunder shall not constitute a default or an Event of Default under any of the Loan Documents and shall be permitted exceptions to any restrictions contained in the Loan Documents prohibiting or otherwise relating to such actions. Further, any and all representations, warranties and covenants regarding the solvency of a Borrower or fraudulent conveyance contained in the Loan Documents executed by that Borrower shall be deemed made without regard to such Borrower's obligations under this Agreement as if such Borrower's obligations did not exist, and the obligations and other provisions of this Agreement shall be deemed permitted exceptions to such representations, warranties and covenants. This Agreement and Lender's rights and remedies hereunder are hereby expressly made subject to Section 8.6 (Exculpation) of each Loan Agreement.

14. **Lender's Rights.** Each Borrower agrees that Lender may, to the extent permitted by applicable law and the Loan Documents, without demand and at any time and from time to time and without the consent of, or notice to (except as otherwise required by the Loan Documents), such Borrower, without incurring responsibility to such Borrower, and without impairing or releasing any of the Debt or other obligations of any Borrower:

(a) change the manner, place or terms of payment, or change or extend the time of payment of, or renew, increase, accelerate or alter any of the Debt or other obligations of any Borrower, any security for such Debt and other obligations, or any liability incurred, directly or indirectly, with respect to such Debt and other obligations;

(b) take and hold security for the payment of the Debt of any Borrower and sell, exchange, release, surrender, realize upon or otherwise deal with in any manner and in any order any property pledged or Security Instruments and/or other Loan Documents to secure such Debt or other obligations;

(c) exercise or refrain from exercising any rights against any Borrower or any Property;

(d) release or substitute any one or more endorsers, guarantors or other obligors with respect to the Debt or other obligations of any Borrower;

(e) settle or compromise any of the Debt or other obligations of any Borrower (including, but not limited to, obligations under this Agreement), any security for such Debt or other obligations or any liability incurred, directly or indirectly, with respect to such Debt or other obligations, or subordinate the payment of all or any part of such Debt or other obligations to the payment of any liability (whether due or not) of any Borrower to any creditors other than the Lender;

(f) apply any sums realized to any liability or liabilities of any Borrower to Lender, regardless of what liability or liabilities of such Borrower to Lender remain unpaid; and

(g) consent to or waive any breach by any Borrower of, or any act, omission or default by such Borrower under, this Agreement or any of the other Loan Documents.

15. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and shall be binding upon any party executing the same and all of which together shall constitute one and the same document.

16. **Amendment to Loan Documents.** All of the Loan Documents shall be subject to the terms and conditions set forth in this Agreement. If there shall be a conflict between the terms of this Agreement and the terms of any of the Loan Documents, the terms of this Agreement shall prevail and all of the Loan Documents shall be deemed to be amended hereby.

17. **Benefit to Borrower.** Each Borrower acknowledges that Lender has made the Loans to Borrower upon security of Borrowers' collective interests in the Property and in reliance upon the aggregate value of the Property taken together being of greater value as collateral security than the sum of the individual Properties taken separately. Each Borrower further acknowledges that the cross-collateralization and cross-default provisions in this Agreement will inure to the benefit of each such Borrower, because Lender would not make the Loan but for each Borrower's acceptance of such provisions.

18. **Waiver of Marshaling of Assets.** To the fullest extent permitted by law, each Borrower, for itself and its successors and assigns, waives all rights to a marshaling of the assets of such Borrower, and of the Property, or to a sale in inverse order of alienation in the event of foreclosure of a Security Instrument, and agrees not to assert any right under any laws pertaining to the marshaling of assets, the sale in inverse order of alienation, homestead exemption, the administration of estates of decedents, or any other matters whatsoever to defeat, reduce or affect the right of Lender under the Loan Documents to a sale of any Property for the collection of the Debt and other obligations without any prior or different resort for collection or of the right of Lender to the payment of the Debt and other obligations out of the net proceeds of the Property in preference to every other claimant whatsoever. In addition, each Borrower, for itself and its successors and assigns, waives in the event of foreclosure of a Security Instrument, any equitable right otherwise available to such Borrower which would require the separate sale of less than all of the Property or require Lender to exhaust its remedies against any Property before proceeding against another Property; and further in the event of such foreclosure each Borrower does hereby expressly consent to and authorize, at the option of Lender, the foreclosure and sale either separately or together of the Property.

19. **Governing Law.**

(a) THIS AGREEMENT WAS NEGOTIATED IN THE STATE OF NEW YORK, AND DELIVERED TO LENDER BY BORROWER IN THE STATE OF NEW YORK, AND THE PROCEEDS OF THE NOTE DELIVERED PURSUANT TO THE LOAN AGREEMENT WERE DISBURSED FROM THE STATE OF NEW YORK, WHICH STATE BORROWER, PLEDGOR AND LENDER AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS AGREEMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION AND ENFORCEMENT OF THE LIEN AND SECURITY INTEREST CREATED PURSUANT TO THE LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE, COMMONWEALTH OR DISTRICT, AS APPLICABLE, IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, COMMONWEALTH OR DISTRICT, AS APPLICABLE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE CONSTRUCTION, VALIDITY AND ENFORCEABILITY OF ALL LOAN DOCUMENTS AND ALL OF THE OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS AGREEMENT AND THE NOTE, AND THIS AGREEMENT AND THE NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST LENDER, PLEDGOR OR BORROWER ARISING OUT OF OR RELATING TO THIS AGREEMENT MAY AT LENDER'S OPTION BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, COUNTY OF NEW YORK, PURSUANT TO SECTION 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW AND BORROWER WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND BORROWER AND PLEDGOR EACH HEREBY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING. BORROWER AND PLEDGOR DO EACH HEREBY DESIGNATE AND APPOINT:

**CT CORPORATION SYSTEM
28 LIBERTY STREET
NEW YORK, NY 10005**

AS ITS AUTHORIZED AGENT TO ACCEPT AND ACKNOWLEDGE ON ITS BEHALF SERVICE OF ANY AND ALL PROCESS WHICH MAY BE SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY FEDERAL OR STATE COURT IN NEW YORK, NEW YORK, AND BORROWER AND PLEDGOR EACH AGREES THAT SERVICE OF PROCESS UPON SAID AGENT AT SAID ADDRESS AND WRITTEN NOTICE OF SAID SERVICE MAILED OR DELIVERED TO BORROWER OR PLEDGOR IN THE MANNER PROVIDED HEREIN SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON BORROWER AND PLEDGOR, IN ANY SUCH SUIT, ACTION OR PROCEEDING IN THE STATE OF NEW YORK. BORROWER AND PLEDGOR (i) SHALL GIVE PROMPT NOTICE TO LENDER OF ANY CHANGED ADDRESS OF ITS AUTHORIZED AGENT HEREUNDER, (ii) MAY AT ANY TIME AND FROM TIME TO TIME DESIGNATE A SUBSTITUTE AUTHORIZED AGENT WITH AN OFFICE IN NEW YORK, NEW YORK (WHICH SUBSTITUTE AGENT AND OFFICE SHALL BE DESIGNATED AS THE PERSON AND ADDRESS FOR SERVICE OF PROCESS), AND (iii) SHALL PROMPTLY DESIGNATE SUCH A SUBSTITUTE IF ITS AUTHORIZED AGENT CEASES TO HAVE AN OFFICE IN NEW YORK, NEW YORK OR IS DISSOLVED WITHOUT LEAVING A SUCCESSOR.

20. **Joint and Several Liability; Joint Enterprise.** Each Borrower agrees that it is jointly and severally liable for the prompt payment and performance of, all Debt and all agreements under the Loan Documents. Borrower has requested that Lender make the Loan available to Borrower on a combined basis, in order to finance Borrower's business most efficiently and economically. Borrower's business is a mutual and collective enterprise, and the successful operation of Borrower individually is dependent upon the successful performance of the integrated group. Borrower believes that consolidation of the Loan will enhance the borrowing power of Borrower and ease administration of the Loan, all to their mutual advantage. Borrower acknowledges that Lender's willingness to make the Loan on a combined basis hereunder is done solely as an accommodation to Borrower and at Borrower's request.

21. **Uncross of Properties.**

(a) Borrower agrees that at any time Lender, in Lender's sole and absolute discretion, shall have the unilateral right to elect to, from time to time, uncross the Properties in order to separate each Loan from the aggregate Debt, and to terminate this Agreement (an "**Uncrossing Event**"). In furtherance thereof, Lender shall have the right to (i) sever and/or divide the Note and the other Loan Documents so that the Fox Creek Loan Documents evidence and secure only the Fox Creek Loan and the Claradon Loan Documents evidence and secure only the Claradon Loan, (ii) release any cross-default and/or cross-collateralization provisions applicable to each Loan, and (iii) take such additional actions consistent therewith.

(b) Notwithstanding the above, Borrower shall have the right to request an Uncrossing Event subject to satisfaction of each of the following conditions (as determined by Lender in Lender's sole discretion): (i) no Event of Default has occurred and is continuing or is reasonably

likely to occur as a result of such Uncrossing Event, (ii) Borrower shall have submitted to Lender a written request for such uncrossing at least sixty (60) days prior to the date of the proposed Uncrossing Event, which request (A) shall specify the anticipated closing date of the Uncrossing Event, (B) shall include an Officer's Certificate providing a certification that no Event of Default has occurred as of the date of such certification and no Event of Default will be reasonably likely to occur as a result of such Uncrossing Event, and that each of the conditions set forth in this Section 21 have been satisfied, and (C) if applicable, shall include a copy of the fully-executed and final purchase and sale agreement or term sheet with a refinancing lender, in each case pursuant to which Borrower intends to effectuate the prepayment in full of the Fox Creek Loan or the Claradon Loan, as applicable, (iii) an OSHA Litigation Determination has occurred, (iv) no Sentencing Event has occurred, and, if Individual Guarantor has been sentenced to probation or if any settlement agreement was entered into in connection with the OSHA Litigation Determination, then no violation of such probation or settlement agreement has occurred, (v) at the time of request for an Uncrossing Event and immediately following the Uncrossing Event, the Debt Yield for each Property shall be no less than the Debt Yield for each such Property at the time of the closing of the applicable Loan, (vi) the loan to value ratio (as determined by Lender based on the then maximum principal amount of the applicable Loan) for each Property shall be equal to or less than the loan to value ratio for the applicable Property at the time of the closing of the applicable Loan, (vii) Borrower shall have delivered such opinions from counsel, in form and substance, in each case reasonably acceptable to Lender, as Lender may require, including, without limitation, such opinions insuring the priority of the Security Instrument with respect to the Property, the enforceability of the Loan Documents following the Uncrossing Event, and/or that the Uncrossing Event would not cause a "significant modification" of the Loan (as such term is defined in Treasury Regulations Section 1.860G-2(b)), (viii) following the Uncrossing Event, each Borrower, as applicable, shall continue to be a Single Purpose Entity pursuant to, and in accordance with, Section 8.3 and Schedule I of the Loan Agreement, (ix) if applicable, Borrower shall have delivered to Lender a copy of the closing settlement statement for the closing of the Property subject to any prepayment, together with an Officer's Certificate certifying that all documents, certificates, instruments and agreements delivered to Lender in connection with the Uncrossing Event are true, accurate, and complete in all material respects, it being acknowledged and agreed that any prepayment of the Debt shall be deemed a voluntary prepayment pursuant to Section 2.3.1 of the Loan Agreement for all purposes, including, without limitation, the payment of interest which would have accrued on the amount prepaid through and including the last day of the applicable Accrual Period and any applicable Minimum Interest Maintenance Premium and Exit Fee pursuant to the Loan Agreement, (x) Borrower and Guarantor shall have executed and delivered to Lender such other certificates, documents, indemnities, and/or instruments as Lender may reasonably request in connection with the Uncrossing Event, and (xi) Borrower shall have paid all of Lender's costs and expenses (including reasonable attorneys' fees and disbursements) incurred in connection with the Uncrossing Event and the review and approval of the documents and information required to be delivered in connection therewith, and, in addition, Borrower shall have paid all costs, fees, and expenses of third parties relating to the Uncrossing Event (including, without limitation, the cost of title, searches, recording costs, and the costs and expenses incurred by, and all fees and charges of Servicer).

(c) Borrower shall reasonably cooperate with Lender to effectuate the Uncrossing Event. Without limitation of the foregoing, upon receipt of Lender's written request, Borrower shall, among other things, (i) deliver evidence to Lender that the single purpose nature and

bankruptcy remoteness of each Borrower has not been adversely affected and remains in compliance with the terms and provisions of its applicable Loan Documents; (ii) deliver to Lender such legal opinions and updated legal opinions as Lender or the Rating Agencies shall reasonably require (including, without limitation, a REMIC Opinion); (iii) take the actions contemplated in subsection (a) above (including, without limitation, executing any requested amendments to the Loan Documents); and (iv) deliver such title endorsements, title insurance policies, documents and/or instruments relating to the operating agreements and other materials as may be required by Lender or the Rating Agencies.

22. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of Borrower, Pledgor and Lender and their respective successors and permitted assigns forever. Lender may sell, assign, pledge, participate, delegate or transfer, as applicable, to one or more Persons, all or any portion of its rights under this Agreement in connection with any assignment of any Loan and the related Loan Documents. Any assignee or transferee of Lender shall be entitled to all the benefits afforded to Lender under this Agreement. Except in accordance with Section 5(a) above, Borrower shall not have the right to assign, delegate or transfer its rights or obligations under this Agreement without the prior written consent of Lender, and any attempted assignment, delegation or transfer without such consent shall be null and void.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, this Agreement has been executed by Borrower as of the day and year first above written.

BORROWER:

FOX CREEK MANAGEMENT, LLC,
a Delaware limited liability company

By: CHEYENNE MISSION, LLC,
a Wyoming limited liability company
Its: Manager

By: TAYLOR ASSET MANAGEMENT COMPANY, LLC,
a Wyoming limited liability company
Its: Manager

By: [Signature]
Name: Daniel T. Moore
Its: Manager

ACKNOWLEDGMENT

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

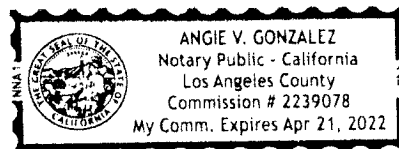
State of California)
County of Los Angeles)

On 12/15/2021 before me, Angie V. Gonzalez, notary public personally appeared Daniel T. Moore, 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] (Seal)



IN WITNESS WHEREOF, this Agreement has been executed by Borrower as of the day and year first above written.

BORROWER:

CLARADON MANAGEMENT, LLC,
a Delaware limited liability company

By: CHEYENNE MISSION, LLC,
a Wyoming limited liability company
Its: Manager

By: TAYLOR ASSET MANAGEMENT COMPANY, LLC,
a Wyoming limited liability company
Its: Manager

By: *[Signature]*
Name: Daniel T. Moore
Its: Manager

ACKNOWLEDGMENT

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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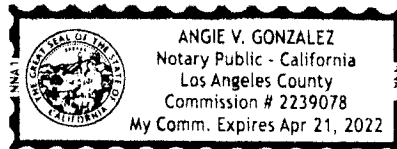
State of California)
County of Los Angeles)

On 12/15/2021 before me, Angie V. Gonzalez, notary public personally appeared Daniel T. Moore, 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]* (Seal)



IN WITNESS WHEREOF, this Agreement has been executed by Pledgor as of the day and year first above written.

PLEDGOR:

CHEYENNE MISSION, LLC,
a Wyoming limited liability company

By: TAYLOR ASSET MANAGEMENT COMPANY, LLC,
a Wyoming limited liability company
Its: Manager

By: [Signature]
Name: Daniel T. Moore
Its: Manager

ACKNOWLEDGMENT

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

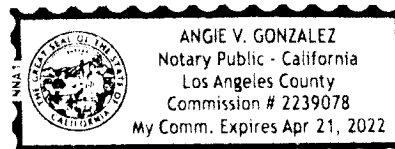
State of California)
County of Los Angeles)

On 12/15/2021 before me, Angie V. Gonzalez, notary public personally appeared Daniel T. Moore, 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] (Seal)



IN WITNESS WHEREOF, this Agreement has been executed by Lender as of the day and year first above written.

LENDER:

RREF IV – D DIRECT LENDING INVESTMENTS, LLC,
a Delaware limited liability company

By: [Signature]
Name: Sorana Georgescu
Title: Secretary

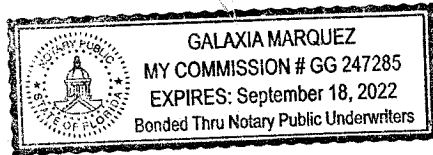
ACKNOWLEDGMENT

STATE OF FLORIDA)
) ss.
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, on this day personally appeared Sorana Georgescu, the Secretary of **RREF IV - D DIRECT LENDING INVESTMENTS, LLC**, a Delaware limited liability company, known to me to be the person who signed the foregoing instrument, and acknowledged to me that he/she executed the instrument in the capacity and for the purposes therein expressed.

Given under my hand and seal of office on this 13th day of December, 2021.

[Signature]
Notary Public



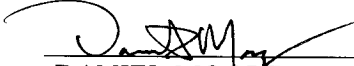
RATIFICATION AND REAFFIRMATION OF GUARANTY

By execution of this Ratification and Reaffirmation of Guaranty, The Oakview Master Living Trust dated October 12, 2016 and Daniel T. Moore (together with their successors and permitted assigns, collectively and/or individually, as the context may require, "**Guarantor**"), hereby acknowledge that each Guarantor has reviewed and received copies of the foregoing Agreement, and that each of (i) the Guaranty of Recourse Obligations, dated as of the date hereof, made by the Guarantor in favor of Lender with respect to the Fox Creek Loan, (ii) the Completion Guaranty, dated as of the date hereof, made by the Guarantor in favor of Lender with respect to the Fox Creek Loan, (iii) the Guaranty of Recourse Obligations, dated as of the date hereof, made by the Guarantor in favor of Lender with respect to the Claradon Loan, and (iv) the Completion Guaranty, dated as of the date hereof, made by Guarantor in favor of Lender with respect to the Claradon Loan, remain unmodified, in full force and effect, and valid, binding and enforceable in accordance with their respective terms, subject to applicable bankruptcy, insolvency and similar laws affecting the rights of creditors generally, and general principles of equity.

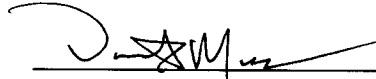
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IN WITNESS WHEREOF, Guarantor has executed this Ratification and Reaffirmation of Guaranty as of the date first set forth above.

GUARANTOR:



DANIEL MOORE



DANIEL MOORE AS TRUSTEE OF THE
OAKVIEW MASTER LIVING TRUST, DATED
OCTOBER 12, 2016

EXHIBIT A-1

LEGAL DESCRIPTION OF FOX CREEK PROPERTY

A part of the Northeast quarter of Section 17, Township 4 North, Range 1 West, Salt Lake Base and Meridian; U.S. Survey:

Beginning at the Southwest corner of MEADOWBROOK HOLLOW PLAT "B", Layton City, Davis County, Utah, said point being 709.93 feet South 89°52'30" West and 854.04 feet South 0°07'30" East and 656.56 feet South 0°09'12" West from the Northeast corner of said Section 17; and running thence South 0°09'12" West 70.00 feet; thence South 89°50'48" East 30.00 feet; thence South 0°09'12" West 360.47 feet; thence North 89°50'48" West 592.47 feet to the East line of 400 West Street; thence North 0°08'48" East 588.68 feet along said East line; thence North 89°46'12" East 461.67 feet; thence South 0°09'12" West 161.31 feet; thence South 89°50'48" East 100.88 feet to the point of beginning.

EXHIBIT A-2

LEGAL DESCRIPTION OF CLARADON PROPERTY

PARCEL 1:

PART OF THE WEST HALF OF SECTION 2, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF MIDLAND DRIVE, SAID POINT BEING NORTH 00°51'40" EAST 891.01 FEET AND SOUTH 89°08'20" EAST 2417.79 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION 2; THENCE SOUTH 44°09'52" EAST 344.87 FEET; THENCE SOUTH 00°41'05" WEST 695.65 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF HINCKLEY DRIVE (SR 79); THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE THE FOLLOWING THREE (3) COURSES (1) SOUTH 34°21'17" WEST 6.08 FEET (2) SOUTH 77°38'44" WEST 206.47 FEET AND (3) SOUTH 86°00'00" WEST 204.79 FEET; THENCE NORTH 04°00'00" WEST 82.80 FEET; THENCE SOUTH 86°40'43" WEST 19.63 FEET; THENCE NORTH 03°19'17" WEST 26.64 FEET; THENCE SOUTH 85°22'02" WEST 41.76 FEET; THENCE NORTH 00°31'13" WEST 118.73 FEET; THENCE NORTH 03°19'17" WEST 155.07 FEET; THENCE ALONG A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 130.55 FEET, A RADIUS OF 188.00 FEET, A CHORD BEARING OF NORTH 23°12'55" WEST AND A CHORD LENGTH OF 127.94 FEET; THENCE SOUTH 46°53'29" WEST 28.84 FEET; THENCE NORTH 45°04'30" WEST 152.26 FEET TO THE EASTERLY RIGHT OF WAY LINE OF MIDLAND DRIVE; THENCE NORTH 45°50'00" EAST ALONG SAID EASTERLY RIGHT OF WAY 606.90 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

PART OF THE WEST HALF OF SECTION 2, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF MIDLAND DRIVE, SAID POINT BEING NORTH 00°51'40" EAST 465.10 FEET (461.66 FEET BY RECORD) AND SOUTH 89°08'20" EAST 1985.31 FEET (1988.85 FEET BY RECORD) FROM THE WEST QUARTER CORNER OF SAID SECTION 2; AND RUNNING THENCE SOUTH 45°04'30" EAST 157.20 FEET (152.26 FEET BY RECORD); THENCE NORTH 46°53'29" EAST 28.84 FEET; THENCE ALONG A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 130.55 FEET, A RADIUS OF 188.00 FEET, A CHORD BEARING OF SOUTH 23°12'55" EAST, AND A CHORD LENGTH OF 127.94 FEET; THENCE SOUTH 03°19'17" EAST 155.07 FEET; THENCE SOUTH 00°31'13" EAST 118.73 FEET; THENCE NORTH 85°22'02" EAST 41.67 FEET; THENCE SOUTH 03°19'17" EAST 26.54 FEET; THENCE NORTH 86°40'43" EAST 19.63 FEET; THENCE SOUTH 04°00'00" EAST 82.80 FEET TO THE NORTHERLY RIGHT OF WAY LINE; THENCE SOUTH 86°00'00" WEST, 244.50 FEET; THENCE NORTH 44°10'20" WEST 348.54 FEET; THENCE NORTH 44°55'30" EAST 208.81 FEET; THENCE NORTH 45°04'30" WEST 92.01 FEET (88.77 FEET BY RECORD) TO THE EASTERLY RIGHT OF WAY LINE OF MIDLAND DRIVE; THENCE NORTH 45°20'43" EAST 201.12 FEET ALONG SAID EASTERLY RIGHT OF WAY LINE (NORTH 45°50'00" EAST 201.14 FEET BY RECORD) TO THE POINT BEGINNING