

REQUESTED BY AND
WHEN RECORDED MAIL TO:

Washington Federal Bank, National Association
405 South Main Street, Suite 100
Salt Lake City, Utah 84111
Attention: John Herzog

Tax Parcel No. LVDAM-LV6A-AM-X

01172639 B: 2691 P: 0176

Page 1 of 25

Rhonda Francis Summit County Recorder
09/08/2021 12:00:27 PM Fee \$40.00
By COALITION TITLE AGENCY, INC.
Electronically Recorded

**CONSTRUCTION LEASEHOLD DEED OF TRUST, SECURITY AGREEMENT,
ASSIGNMENT OF RENTS AND FIXTURE FILING**

282232
THIS CONSTRUCTION LEASEHOLD DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND FIXTURE FILING is made as of September 1, 2021, by CP CANYONS WFH, LLC, a Delaware limited liability company ("Trustor"), to OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY ("Trustee"), for the benefit of WASHINGTON FEDERAL BANK, NATIONAL ASSOCIATION, a national banking association, in its capacity as agent for Washington Federal Bank, National Association and Poppy Bank ("Beneficiary").

**ARTICLE I
GRANTS AND OBLIGATIONS SECURED**

1.1. Real Property. Trustor irrevocably grants, transfers and assigns to Trustee, in trust, with power of sale, all of its right, title and interest in and to the following property, which Trustor now owns or may acquire later:

- (a) the real property more particularly described on Exhibit "A" (the "Land");
- (b) all buildings and other improvements located on or appurtenant to the Land and all machinery, equipment, appliances, tooling, furniture, fixtures, goods and other articles of real and personal property, affixed to or placed upon the Land or such buildings or other improvements (the "Improvements");
- (c) all licenses, privileges, tenements, hereditaments and appurtenances of or to the Land or the Improvements, including, without limitation, all rights-of-way, easements, any land lying within the right-of-way of any street, open or proposed, adjoining the Land, all water rights and shares of stock evidencing such rights, all oil and gas and other mineral rights and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Land; and

(d) all claims and demands, including claims or demands with respect to the proceeds of insurance, in effect with respect to the Land or the Improvements, and all awards made for the taking by eminent domain, or by any proceeding of purchase in lieu of any such taking, of all or any part of the "Property" (as defined below).

1.2. **Rents.** Trustor assigns to Beneficiary and grants to Beneficiary a security interest in and to all rents, issues, profits, royalties, income, rights to payment and other benefits (collectively, the "Rents") derived from any lease, sublease, license, franchise or concession or other agreement (collectively, the "Leases") affecting the Land or the Improvements or their use or occupancy, all of Trustor's interest in the Leases, all guarantees of any obligation of any lessee or other party to any Lease (a "Lessee") and the right of Trustor to alter, amend, modify or terminate the Leases or any of their terms.

The property described in Sections 1.1 and 1.2 above is referred to in this Deed of Trust as the "Real Property."

1.3. **Personal Property.** Trustor grants a security interest to Beneficiary in, and assigns to Beneficiary, all of the Trustor's right, title and interest in and to the following property and all proceeds of such property, which Trustor now owns or may acquire later:

(a) all goods and tangible personal property located on the Real Property or wherever located if used or useable in connection with the use, operation or occupancy of the Real Property, including, without limitation, all appliances, furniture and furnishings, fittings, materials, supplies, equipment, fixtures and building materials, whether stored on the Real Property or elsewhere;

(b) all general intangibles relating to design, development, operation, management and use of the Real Property and construction of the Improvements, including, without limitation, (i) all names under which or by which the Real Property may at any time be operated or known, all rights to carry on business under any such names or any variant of such names, and all goodwill in any way relating to the Real Property, (ii) all permits, licenses, authorizations, variances, land use entitlements, approvals and consents issued or obtained in connection with the construction of the Improvements or the use, occupancy or operation of the Real Property, (iii) all rights as a declarant (or its equivalent) under any covenants, conditions and restrictions or other matters of record affecting the Real Property, (iv) all materials prepared for filing or filed with any governmental agency and (v) all rights under any contract entered into with contractors, architects, designers, engineers, consultants, managers, brokers and similar persons in connection with the development, design, use, operation, management and construction of the Real Property;

(c) all architectural drawings, plans, specifications, soil tests and reports, feasibility studies, appraisals, engineering reports, financial analyses and reports and similar materials relating to the Real Property;

(d) all payment and performance bonds or guarantees relating to the Real Property;

(e) all reserves, deferred payments, deposits, refunds (including, without limitation, tax and insurance refunds), costs savings and payments of any kind relating to the construction, design, development, operation, occupancy, use and disposition of the Real Property (including, without limitation, all reimbursements and payments paid or payable to Trustor pursuant to the "Site Work Agreement" (as defined in the Reimbursement Agreement));

(f) all proceeds and claims arising on account of any damage to or taking of the Property, including, without limitation, claims under insurance policies, and all causes of action and recoveries for any loss or diminution in the value of the Property;

(g) all policies of insurance relating to the Property, irrespective of whether Beneficiary requires Trustor to obtain or maintain such policies, all riders, amendments, renewals, supplements or extensions of such policies; the right to assert, prosecute and settle claims under such policies; the right to receive payments of proceeds of such policies; and all judgments, claims, compensation, awards, settlements and proceeds of or with respect to any of the foregoing;

(h) all deposits made with or other security given to utility companies or governmental entities by Trustor with respect to the Real Property, and all advance payments of insurance premiums made by Trustor with respect to the Real Property;

(i) all shares of stock or other evidence of ownership of any part of the Property that is owned by Trustor in common with others, including all water stock relating to the Real Property, if any, and all documents or rights of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Real Property;

(j) all proceeds, whether cash, promissory notes, contract rights or otherwise, of the sale or other disposition of all or any part of the estate of Trustor upon the Property;

(k) all sales contracts, escrow agreements, and broker's agreements concerning the sale of the Property;

(l) all of the rents (including, without limitation "Rents" as defined in the Utah Uniform Assignment of Rents Act, Utah Code Annotated § 57-26-101 et seq. (the "Act"), leases, issues, profits, royalties, income, rights to payment, deposits, receipts and proceeds generated by the use and occupancy of the Property to the extent such are not Rents or otherwise deemed to be real property, and all "accounts" (as defined in the Utah Uniform Commercial Code, *Utah Code Annotated*, Section 70A-9a-101, et seq.) (the "Utah UCC") generated from the use and operation of the Property to which Trustor may be entitled, whether now due, past due or to become due;

(m) all deposit accounts or related rights to receive payment from depositories or institutions into which Trustor deposits (i) the Rents, (ii) any other income derived from the Property described under Section 1.3(l) above, (iii) any security deposits or other monies paid to Trustor or Trustor's property manager whether pursuant to the terms of a Lease or otherwise, (iv) any other amounts described in Sections 1.1, 1.2 or 1.3 and any proceeds

of any such amounts, or (v) amounts required by Beneficiary to be deposited or which Trustor agrees to deposit in connection with the obligations secured by this Deed of Trust;

(n) all rights, including, without limitation, the right to receive payments of money and other property, under the "Financing Documents" (as defined in the "Reimbursement Agreement" (as defined below)); and

(o) all records regarding the ownership, operation, maintenance, improvement and financing of the Property, whether written or maintained on computer or as part of computer software.

The property described in this Section 1.3 is referred to in this Deed of Trust as the "Personal Property." The Real Property and the Personal Property are collectively referred to as the "Property."

1.4. **Fixture Filing.** The personal property in which Beneficiary has a security interest includes goods which are or shall become fixtures on the Land or Improvements. This Deed of Trust is intended to serve as a fixture filing pursuant to the terms of the Utah Uniform Commercial Code, *Utah Code Annotated*, Section 70A-9a-101, et seq. This filing shall remain in effect as a fixture filing until this Deed of Trust is released or satisfied of record or its effectiveness otherwise terminates as to the Property. In that regard, the following information is provided:

Name of Debtor: CP Canyons WFH, LLC

Address of Debtor: See Section 6.4 below.

Name of Secured Party: Washington Federal Bank, National Association

Address of Secured Party: See Section 6.4 below.

1.5. **Obligations Secured.** The grants, transfers, assignments and security interests made and granted in Sections 1.1, 1.2, 1.3 and elsewhere herein are for the purpose of securing, in such order of priority as Beneficiary may determine (the "Secured Obligations"):

(a) the payment of all amounts and the performance of all obligations owing under the Reimbursement Agreement dated as of the date of this Deed of Trust entered into by Trustor, Beneficiary, Washington Federal Bank, National Association and Poppy Bank (Washington Federal Bank, National Association and Poppy Bank being defined as the "Banks"), and any renewals, extensions, substitutions or modifications of such agreement (the "Reimbursement Agreement");

(b) performance of and compliance with all of the terms and conditions of each agreement of Trustor contained in this Deed of Trust and any modifications or substitutions of this Deed of Trust, or in any loan agreement, security agreement or any other instrument executed by Trustor for the purpose of evidencing or securing the obligations required under the Reimbursement Agreement (collectively, together with this Deed of Trust and the Reimbursement Agreement, the "Credit Documents");

(c) payment of all amounts advanced or costs incurred by Beneficiary for its account and for the account of the Banks pursuant to the terms of this Deed of Trust or any other Credit Document, together with interest on all such amounts advanced or incurred from the date advanced or incurred at the "Default Rate" (as defined in the Reimbursement Agreement) as provided in Section 5.13 below; and

(d) the payment of such additional sums and the performance of all other obligations now or later owing from Trustor to Beneficiary and the Banks, whether otherwise secured or not, payable to or otherwise acquired by Beneficiary, when the instrument evidencing such obligation recites that it is intended to be secured by this Deed of Trust.

Trustor acknowledges that neither Trustor's obligations under the Environmental Indemnity of this date executed by Trustor and others in favor of Beneficiary (the "Environmental Indemnity") and Section 6.11 of the Reimbursement Agreement nor the obligations of any guarantor or surety under any guaranty delivered to Beneficiary for the purpose of guaranteeing Trustor's obligations under the Reimbursement Agreement is secured by this Deed of Trust.

ARTICLE II LEASES AND RENTS

2.1. Assignment. Trustor hereby collaterally assigns and grants to Beneficiary a security interest in, as additional security for the Secured Obligations, all of the right, title and interest of Trustor in and to (a) any and all Leases; and (b) all rents, including but not limited to "Rents" as defined in the Act, issues, profits, security or other deposits, revenues, royalties, accounts, rights, benefits and income of every nature of and from the Property (collectively, "Rents"), including minimum rents, additional rents, advance rents, termination payments, bankruptcy claims, forfeited security deposits, common area maintenance charges, parking revenues, entrance fees, service fees, damages following default, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability due to destruction or damage to the Property; together with the immediate and continuing right to collect and receive the same, whether now due or hereafter becoming due; together with any award or other payment that Trustor may hereafter become entitled to receive with respect to any of the Leases as a result of or pursuant to any bankruptcy, insolvency or reorganization or similar proceedings involving any Tenant under the Leases; together with any and all payments made by or on behalf of any Tenant of any part of the Property in lieu of rent; together with all rights and claims of any kind that Trustor may have against any tenant, resident, occupant, lessee, or licensee under the Leases (each a "Tenant") or against any other occupant of the Property or Improvements.

2.2. Right to Collect Rents. Trustor may collect and retain the Rents as they become due and payable, and otherwise exercise all rights of the landlord under the Leases, unless or until the occurrence of an Event of Default (defined below). Upon the occurrence of an Event of Default, such right to collect and retain Rents shall automatically terminate without notice to Trustor, and without prejudice to Beneficiary. Beneficiary may thereafter, without taking possession of the Property, take possession of the Leases and collect the Rents. Beneficiary and Trustor agree that the mere recordation of this Deed of Trust entitles Beneficiary immediately to collect and receive Rents upon the occurrence of an Event of Default without

first taking any enforcement action under applicable Laws, such as, but not limited to, providing notice to Trustor, filing foreclosure proceedings, or seeking and/or obtaining the appointment of a receiver.

2.3. No Encumbrance. Trustor shall not assign, sell, pledge, transfer, mortgage, hypothecate, or otherwise encumber its interests in any of the Leases or Rents.

2.4. Collection and Application of Rents.

(a) Right to Collect; Attorney-in-Fact. Subject to the right to collect and retain Rents granted to Trustor above, Beneficiary has the right, power, and authority to collect any and all Rents upon the occurrence of an Event of Default. Trustor hereby appoints Beneficiary its attorney-in-fact, coupled with an interest, to, at such times as Beneficiary in its sole discretion may so choose upon the occurrence of an Event of Default, (a) demand, receive and enforce payment of any and all Rents, including past due and unpaid Rents; (b) give receipts, releases and satisfactions for any and all Rents; (c) sue either in the name of Trustor or in the name of Beneficiary for any and all Rents; (d) perform any obligation, covenant or agreement of Trustor under any of the Leases, and, in exercising any of such obligations, pay all necessary costs and expenses, employ counsel and incur and pay attorneys' fees; (e) delegate any and all rights and powers given to Beneficiary by this assignment of Leases and Rents; (f) appear in any bankruptcy, insolvency or reorganization proceeding involving any Tenant under the Leases and to collect any award or payment due Trustor pursuant to any such proceeding; and/or (g) use such measures, legal or equitable, in its discretion to carry out and effectuate the terms and intent of this assignment of Leases and Rents. All such actions shall be taken at the expense of Trustor, who agrees to reimburse Beneficiary, upon demand, for all amounts expended, including reasonable attorneys' fees, together with interest thereon from the date of expenditure at the Default Rate (as defined in the Reimbursement Agreement), and the obligation to perform such actions shall be secured by this Deed of Trust. Notwithstanding any other provision of this Deed of Trust, all awards or payments received by Beneficiary shall be applied to the Secured Obligations in such order as Beneficiary may elect in its sole discretion.

(b) Trustor as Trustee. From and after the occurrence of an Event of Default, Trustor shall be the agent of Beneficiary in collection of the Rents, and any Rents so collected by Trustor shall be held in trust by Trustor for the sole and exclusive benefit of Beneficiary, and Trustor shall, within one (1) Business Day after receipt of any Rents, pay the same to Beneficiary to be applied by Beneficiary as set forth below for the "Application of Rents and Other Sums.

(c) Possession of Property Not Required. Beneficiary's right to the Rents does not depend on whether or not Beneficiary takes possession of the Property. In Beneficiary's sole discretion, Beneficiary may choose to collect Rents either with or without taking possession of the Property. If an Event of Default occurs while Beneficiary is in possession of all or part of the Property and is collecting and applying Rents as permitted under this Deed of Trust, Beneficiary and any receiver appointed for all or any portion of the Property shall nevertheless be entitled to exercise and invoke every other right and remedy afforded any of them under this Deed of Trust and at law and in equity.

(d) Application of Rents. Beneficiary shall apply all Rents collected by it in the manner provided below for the "Application of Rents and Other Sums."

2.5. Beneficiary Not Responsible. Under no circumstances shall Beneficiary have any duty to produce Rents from the Property. Regardless of whether or not Beneficiary, in person or by agent, takes actual possession of the Property and Improvements, unless Beneficiary agrees in writing to the contrary, Beneficiary is not and shall not be deemed to be:

- (a) responsible for the control, care, management or repair of the Property;
- (b) a "mortgagee in possession" for any purpose;
- (c) responsible for performing any of the obligations of the lessor under any Lease;
- (d) responsible for any waste committed by Tenants or other occupants of the Property or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair, or control of the Property;
- (e) responsible for any loss sustained by Trustor resulting from Beneficiary's failure to lease the Property or Improvements or from any other act or omission of Beneficiary in managing the Property or administering the Leases; or
- (f) liable in any manner for the Property or the use, occupancy, enjoyment, or operation of all or any part of it.

2.6. Consent to Payment of Rents Directly to Beneficiary. Upon the occurrence of an Event of Default, Beneficiary may, at its option, notify any Tenant or other parties of the existence of this assignment of Leases and Rents. Trustor hereby specifically authorizes, instructs, and directs each and every present and future Tenant of all or any part of the Property or Improvements to pay all unpaid and future Rents directly to Beneficiary upon receipt of demand from Beneficiary to so pay the same, and Trustor hereby agrees that each such present and future Tenant may rely upon such written demand from Beneficiary to so pay the Rents without any inquiry into whether there exists an Event of Default hereunder or under the other Loan Documents or whether Beneficiary is otherwise entitled to the Rents. No proof of the occurrence of an Event of Default shall be required. Trustor hereby waives any right, claim or demand that Trustor may now or hereafter have against any present or future Tenant by reason of such payment of Rents to Beneficiary, and any such payment shall discharge such Tenant's obligation to make such payment to Trustor.

2.7. Leasing. Trustor shall not lease the Property or Improvements except in accordance with the provisions of the Reimbursement Agreement.

2.8. Further Actions. Trustor shall punctually observe, perform, and discharge all obligations, terms, covenants, conditions, and warranties to be performed by Trustor pursuant to the Leases. Trustor agrees to execute and deliver, at its sole cost and expense, upon Beneficiary's written request, any documents necessary to cause the specific assignment of any

particular Lease or any other document or instrument, the assignment of which is necessary, proper or desirable in Beneficiary's judgment to carry out the purposes of this assignment of Leases and Rents, including any consents to this assignment of Leases and Rents. In addition, Trustor shall, at its sole cost and expense, appear in and defend any action or proceeding arising under, growing out of, or in any manner connected with the Leases or the obligations, duties or liabilities of the landlord or any tenant thereunder, and shall pay on demand all costs and expenses, including attorneys' fees that Beneficiary may incur in connection with Beneficiary's appearance, voluntary or otherwise, in any such action or proceeding, together with interest thereon at the Default Rate from the date incurred by Beneficiary until repaid by Trustor.

2.9. Application of Rents. All Rents collected following an Event of Default hereunder shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the Rents, including attorneys' fees, receiver's fees, premiums on receiver's bonds, costs of maintenance and repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Trustor under the Leases, and then to the Secured Obligations. Beneficiary or the receiver shall be liable to account only for those Rents actually received.

2.10. Utah Uniform Assignment of Rents Act. This Article II is subject to the Utah Uniform Assignment of Rents Act, Utah Code Annotated § 57-26-101 et seq. and in the event of any conflict or inconsistency between the provisions of this Article II and the provisions of the Act, the provisions of the Act shall control and Beneficiary shall have all rights and remedies available under the Act which rights and remedies shall be cumulative with all rights and remedies hereunder.

2.11. Exculpation of Beneficiary. The acceptance by Beneficiary of the assignment of the Rents provided for above with all of Beneficiary's rights under this Article II shall not, prior to entry upon and taking possession of the Property by Beneficiary, be deemed or construed to constitute Beneficiary a "mortgagee in possession" nor at any time obligate Beneficiary to appear in or defend any action or proceeding relating to the Leases, the Rents or the Property, or to take any action permitted under this Deed of Trust or to expend any money or incur any expenses or perform or discharge any obligation under any Lease or to assume any obligation or responsibility for any security deposits or other deposits delivered to Trustor by any Lessee and not assigned and delivered to Beneficiary, nor shall Beneficiary be liable for any injury or damage to person or property sustained by any person in connection with the Property.

2.12. Waiver. Neither the collection of the Rents or their application by Beneficiary nor the entry upon and taking possession of the Property by Beneficiary shall be deemed to cure or waive any default or waive, modify or affect any notice of default under any of the other Credit Documents or invalidate any act done pursuant to any such notice. The enforcement of any such right or remedy by Beneficiary, once exercised, shall continue for so long as Beneficiary shall elect, notwithstanding that the collection and application of the Rents may have cured the original default. If Beneficiary shall after such enforcement elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy under this Deed of Trust may be reasserted at any time and from time to time following any subsequent default.

2.13. Further Assignments. Trustor agrees to give Beneficiary at any time upon demand any further or additional form of assignment or transfer of the Rents or of the Leases, as may be reasonably requested by Beneficiary, and to deliver to Beneficiary Trustor's executed copies of all Leases.

ARTICLE III SECURITY AGREEMENT AND FINANCING STATEMENT.

3.1. Security Agreement. The parties intend for this Deed of Trust to create a lien on the Property, a collateral assignment of and granting of a security interest in the Leases and Rents, and a security assignment of Contracts, all in favor of Beneficiary. The parties acknowledge that some of the Property and some or all of the Leases, Rents and Contracts may be determined under applicable Laws to be personal property or fixtures. To the extent that any Property (including the Leases, Rents, or Contracts), is or may be determined to be personal property or fixtures, Trustor, as debtor, hereby grants to Beneficiary, as secured party, a security interest in all such Property to secure payment and performance of the Secured Obligations. This Deed of Trust constitutes a security agreement under Article 9 of the Uniform Commercial Code of the state in which the Property are located, as amended or recodified from time to time (the "Project State UCC"), covering all such Property.

3.2. Perfection of Security Interest.

(a) Trustor hereby irrevocably authorizes Beneficiary, at any time and from time to time, to prepare and file, in any filing office in any Uniform Commercial Code jurisdiction necessary to perfect the security interests granted herein, any financing statements and amendments thereto that (a) indicate the "collateral" (i) as all assets of Trustor or words of similar effect, regardless of whether any particular asset included in the collateral falls within the scope of Article 9 of the Project State UCC, or (ii) as being of an equal or lesser scope or with greater detail, and (b) provide any other information for the sufficiency of the filing or acceptance of any financing statement or amendment by the filing office, including whether Trustor is an organization, the type of organization and any organization identification number issued to Trustor. Trustor acknowledges that it is not authorized to file any financing statement or amendment or termination statement with respect to any financing statement without the prior written consent of Beneficiary and agrees that it will not do so without the prior written consent of Beneficiary, subject to Trustor's rights under Section 9a-509 of the Utah Uniform Commercial Code. Trustor agrees to furnish any such information to Beneficiary promptly upon Beneficiary's request.

(b) Trustor shall pay all fees and costs that Beneficiary may incur in filing one or more financing statements and such other documents as Beneficiary may from time to time require to perfect or continue the perfection of Beneficiary's security interest in any Property and in obtaining such record searches as Beneficiary may reasonably require to confirm the perfection and priority of the security interests granted herein.

(c) Trustor shall cooperate with Beneficiary in any way necessary to perfect and continue the perfection of Beneficiary's security interest in any part of the Property.

(d) If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall never be construed as in any way derogating from or impairing this Deed of Trust as a lien on the Project or the rights or obligations of the parties under it.

(e) Trustor shall not terminate any financing statement filed to perfect Beneficiary's security interest without Beneficiary's express written consent.

(f) It shall be an immediate Event of Default if Trustor fails to execute such additional documentation or to take such further actions necessary to perfect Beneficiary's security interest at Beneficiary's reasonable request, or if Trustor fails to comply with the terms of any such agreements that may be established pursuant to the terms hereof.

3.3. Fixture Filing. This Deed of Trust constitutes a financing statement filed as a fixture filing under Article 9 of the Project State UCC, covering any Property that now is or later may become fixtures attached to the Property or Improvements.

3.4. Representations, Warranties, and Covenants.

(a) Trustor represents and warrants to Beneficiary that (a) Trustor's exact legal name is as set forth on signature page of this Deed of Trust, which name is stated to be the Trustor's name on the public organic record most recently filed with the Trustor's jurisdiction of organization; (b) Trustor is an organization of the type, and is organized in the jurisdiction, set forth on the signature page of this Deed of Trust; (c) Trustor's organizational identification number, if any, is set forth on the signature page of this Deed of Trust; (d) Trustor's address set forth in the preamble of this Deed of Trust is its principal place of business and the location of its chief executive offices and the address at which it will keep its Books and Records.

(b) Trustor shall not, without prior written notice to Beneficiary, (a) change the location of its principal place of business or chief executive office from that specified in the preamble of this Deed of Trust; (b) change its name, identity or corporate structure in a manner that would affect the perfection or priority of Beneficiary's financing statement(s) against all or any portion of the Property without further action by Beneficiary; or (c) change the jurisdiction of its incorporation or organization. In addition, Trustor shall keep all Property that is personal property, to the extent not delivered to Beneficiary, at the Project or such other locations as have been disclosed in writing to Beneficiary, and Trustor shall not remove the personal property from such locations without providing written notice to Beneficiary of the new location of such personal property.

(c) Trustor will fully and punctually perform any duty required of it under or in connection with any of the Property that is personal property, and will not take any action that would impair, damage or destroy Beneficiary's rights to such Property or the value thereof. Trustor will timely take any and all action reasonably required to maintain the continued performance by every other party to any agreement comprising the Property.

3.5. Construction Mortgage. As this Deed of Trust secures advances to be used either for the acquisition of the Property or the construction of improvements thereon, or

both, this Deed of Trust also constitutes a "construction mortgage" or "construction deed of trust" under the Utah UCC.

ARTICLE IV **EVENTS OF DEFAULT; REMEDIES**

4.1. Actions by Trustee or Beneficiary to Preserve Security. Upon the occurrence and during the continuance of an "Event of Default" (as defined in the Reimbursement Agreement), and irrespective of whether Beneficiary elects any other remedy available to it, Beneficiary and Trustee, each in its own discretion, without obligation to do so and without further notice to or demand upon Trustor and without releasing Trustor from any obligation, may undertake such acts with respect to the Property as either may deem reasonably necessary to protect Beneficiary's security under this Deed of Trust, including, without limitation, any acts required by this Deed of Trust to be undertaken by Trustor. Without limiting their general powers, Beneficiary and Trustee shall have the right, but not the obligation, (a) to enter upon and take possession of the Property; (b) to make additions, alterations, repairs and improvements to the Property which they or either of them may consider necessary or proper to keep the Property in good condition and repair; (c) to appear and participate in any action or proceeding affecting or which may affect the security of this Deed of Trust or the rights or powers of Beneficiary or Trustee; (d) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of either may affect or appear to affect the security of this Deed of Trust or be or appear to be superior to the lien of this Deed of Trust; (e) pay any expenses incurred or which, in Beneficiary's judgment, should be incurred in connection with the ownership, use and operation of the Property, including, without limitation, Impositions, insurance premiums and charges for utilities and maintenance; and (f) in exercising such powers, to pay necessary expenses and employ necessary or desirable consultants.

4.2. Remedies. Upon the occurrence and continuance of any Event of Default, Beneficiary may do any of the following:

- (a) terminate its obligation to disburse any amounts which remain undisbursed under the Reimbursement Agreement;
- (b) declare all sums secured by this Deed of Trust immediately due and payable without any presentment, demand, protest or notice of any kind;
- (c) collect the Rents by any means permitted by the Act and otherwise either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon and take possession of the Property, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Property, make, modify, enforce, cancel or accept the surrender of any Lease, increase the income from any Lease or protect the security of this Deed of Trust and, with or without taking possession of the Property, sue for or otherwise collect the Rents, including those past due and unpaid, and apply them, less costs and expenses of operation and collection, including attorneys' fees, upon any indebtedness secured by this Deed of Trust, all in such order as Beneficiary may determine. The entering upon and taking possession of the Property, the collection of the Rents and the

application of them as provided for above shall not cure or waive any Event of Default or notice of default or invalidate any act done in response to an Event of Default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Property or the collection, receipt and application of Rents, Trustee or Beneficiary shall be entitled to exercise every right provided for in any of the Credit Documents or by law upon occurrence of any Event of Default, including the right to exercise the power of sale provided below;

(d) commence an action to foreclose this Deed of Trust or specifically enforce any of the covenants contained in this Deed of Trust;

(e) exercise any of the remedies available to a secured party under the Utah UCC in such order and in such manner as Beneficiary, in its sole discretion, may determine; provided, however, that the expenses of retaking, holding, preparing for sale or the like as provided in the Utah UCC shall include reasonable attorneys' fees and other expenses of Beneficiary and Trustee and shall be additionally secured by this Deed of Trust;

(f) deliver to Trustee a written declaration of default and cause Trustee to foreclose the lien of this Deed of Trust;

(g) exercise all other rights and remedies provided in this Deed of Trust, in any Credit Document, or provided by law; or

(h) impose the Default Rate on all obligations secured by this Deed of Trust.

Upon request of Beneficiary, Trustor shall assemble and make available to Beneficiary at the Land any of the Property which is not located there.

4.3. Foreclosure by Power of Sale. Should Beneficiary elect to foreclose by exercise of the power of sale provided for in this Deed of Trust, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and such receipts and evidence of expenditures made and secured by this Deed of Trust as Trustee may require.

(a) Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Default and Election to Sell as may then be required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Property at the time and place of sale fixed by it in said Notice of Sale, either as a whole, or in separate lots or parcels or items as Trustee shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to the purchaser or purchasers its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness of such matters. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale and Trustor covenants to warrant and defend the title of such purchaser or purchasers.

(b) After deducting all costs, fees and expenses of Trustee and of this Deed of Trust, including costs of evidence of title and attorneys' fees of Trustee or Beneficiary in connection with the sale, Trustee shall apply the proceeds of sale in such order as Beneficiary shall determine in its sole and absolute discretion until satisfaction of all amounts owing under the Credit Documents with the remainder, if any, to be paid to the person or persons legally entitled to any such amounts.

(c) Trustee may postpone the sale of all or any portion of the Property by public announcement at the time and place of such sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement or subsequently noticed sale, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale.

(d) Trustor waives any right which it may have to direct the order in which any of the Property shall be sold in any sale made pursuant to the terms of this Deed of Trust.

4.4. Rescission of Notice of Default. Beneficiary, from time to time before any Trustee's sale as provided above, may rescind any notice of default and election to sell or notice of sale by executing and delivering to Trustee a written notice of such rescission, which such notice, when recorded, shall also constitute a cancellation of any prior declaration of default and demand for sale. The exercise by Beneficiary of such right of rescission shall not constitute a waiver of any breach or default then existing or subsequently occurring, or impair the right of Beneficiary to execute and deliver to Trustee, as provided above, other declarations or notices of default and demand for sale of the Property to satisfy the obligations of this Deed of Trust, nor otherwise affect any provision, covenant or condition of any Credit Document or any of the rights, obligations or remedies of Trustee or Beneficiary under this Deed of Trust or any such Credit Document.

4.5. Appointment of Receiver. If an Event of Default shall have occurred and be continuing, Beneficiary, as a matter of right and without notice to Trustor or to anyone claiming under Trustor, and without regard to the then value of the Property or Trustor's interest in it, shall have the right to apply to any court having jurisdiction to appoint a receiver of the Property, and Trustor irrevocably consents to such appointment and waives notice of any application for any such receiver. Any such receiver shall have all the usual powers and duties of a receiver in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided in Section 3.1 above, and shall continue as such and exercise all such powers until the date of confirmation of the sale of the Property, unless such receivership is sooner terminated.

4.6. Remedies Not Exclusive; Waiver. Trustee and Beneficiary shall be entitled to enforce the payment and performance of any indebtedness or obligations secured by this Deed of Trust and to exercise all rights and powers under this Deed of Trust or under any other Credit Document or other agreement or any laws now or later in force, notwithstanding the fact that some or all of the indebtedness and obligations secured by this Deed of Trust may now or later be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court

action or pursuant to the power of sale or other powers, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security held by Trustee or Beneficiary. Trustee and Beneficiary shall be entitled to enforce this Deed of Trust and any other security held by Beneficiary or Trustee in such order and manner as they may in their absolute discretion determine. No remedy conferred in this Deed of Trust upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other permitted remedy, but each shall be cumulative and shall be in addition to every other remedy permitted by law, contract or otherwise. Every power or remedy given by any of the Credit Documents to Trustee or Beneficiary or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary, and either of them may pursue inconsistent remedies. By exercising or by failing to exercise any right, option or election under this Deed of Trust, Beneficiary shall not be deemed to have waived any provision of this Deed of Trust or to have released Trustor from any of the obligations secured by this Deed of Trust unless such waiver or release is in writing and signed by Beneficiary. The waiver by Beneficiary of Trustor's failure to perform or observe any term, covenant, or condition referred to or contained in this Deed of Trust to be performed or observed by Trustor shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent failure of Trustor to perform or observe the same or any other such term, covenant or condition referred to or contained in this Deed of Trust, and no custom or practice which may develop between Trustor and Beneficiary shall be deemed a waiver of or any way affect the right of Beneficiary to insist upon the performance by Trustor of the obligations secured by this Deed of Trust in strict accordance with the terms of such obligations or of any Credit Document.

ARTICLE V GROUND LEASE

5.1. No Merger if Trustor Acquires Fee. If Trustor acquires the fee interest in the Land (the "Fee Estate") there will be no merger between the Fee Estate and Trustor's leasehold interest in the Land (the "Leasehold Estate") unless all persons, including Beneficiary, having an interest in the "Ground Lease" (as defined in Exhibit "A") consent in writing to the merger.

5.2. Lien. If Trustor acquires the Fee Estate, then simultaneously with Trustor's acquisition of the Fee Estate, the lien of this Deed of Trust will automatically, without the necessity of any further conveyance, be spread to cover the Fee Estate and as so spread will be prior to the lien of any mortgage, deed of trust or other lien placed on the Fee Estate after the date of this Deed of Trust. Promptly after Trustor's acquisition of the Fee Estate, Trustor, at its sole cost and expense, shall execute and deliver all documents and instruments necessary to subject the Fee Estate to the lien of this Deed of Trust, and shall provide to Beneficiary a title insurance policy insuring the lien of this Deed of Trust as a first-priority lien on the Fee Estate and the Leasehold Estate, as applicable.

5.3. No Merger if Beneficiary Acquires Fee. If Beneficiary acquires the Fee Estate and the Leasehold Estate (whether pursuant to the provisions of the Ground Lease, by foreclosure of this Deed of Trust or otherwise), the Fee Estate and the Leasehold Estate will not merge as a result of such acquisition and will remain separate and distinct for all purposes after such acquisition unless and until Beneficiary elects to merge the Fee Estate and the Leasehold

Estate.

ARTICLE VI **MISCELLANEOUS**

6.1. Successors. This Deed of Trust applies to, inures to the benefit of, and binds all parties and their successors and assigns.

6.2. Governing Law. The provisions of this Deed of Trust shall be construed according to the laws of the State of Utah, without regard to its conflicts of laws provisions.

6.3. Severability. The invalidity of any provision of this Deed of Trust shall not affect the remaining portions of this Deed of Trust, and such remainder shall be construed as if the invalid provision had not been a part of this Deed of Trust. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the indebtedness secured by this Deed of Trust, or if the lien is invalid or unenforceable as to any part of the Property, the unsecured or partially secured portion of such indebtedness shall be completely paid prior to the payment of the remaining and secured or partially secured portion of such indebtedness, and all payments made on such indebtedness, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of such indebtedness which is not secured or fully secured by the lien of this Deed of Trust.

6.4. Notices. Any notice, demand or request required under this Deed of Trust shall be given in writing at the addresses set forth below by personal service; overnight courier; or registered or certified, first class mail, return receipt requested.

If to Trustor:

CP Canyons WFH, LLC
c/o Columbus Pacific Development, LLC
6300 North Sagewood Drive, H-534
Park City, Utah 84098
Attention: Brian Shirken

with a copy to:

Bocarsly Emden Cowan Esmail & Arndt LLP
633 West Fifth Street, 64th Floor
Los Angeles, California 90071
Attention: Kyle Arndt

with a copy to:

Kephart Fisher
207 N. Fourth Street

Columbus, Ohio 43215
Attention: David Fisher

If to Beneficiary:

Washington Federal Bank, National Association
405 South Main Street, Suite 100
Salt Lake City, Utah 84111
Attention: John Herzog

with a copy to:

Nevers, Palazzo, Packard, Wildermuth & Wynner, PC
31248 Oak Crest Drive, Suite 200
Westlake Village, California 91361
Attention: Carlisle Packard

Such addresses may be changed by notice to the other parties given in the same manner as required above. Any notice, demand or request shall be deemed received as follows: (a) if sent by personal service, at the time such personal service is effected; (b) if sent by overnight courier, on the business day immediately following deposit with the overnight courier; and (c) if sent by mail, three business days following deposit in the mail.

6.5. Waiver of Remedies. By accepting payment of any amount after its due date, or an amount which is less than the amount then due, or performance of any obligation required after the date required for such performance, Beneficiary does not waive its rights either to require prompt payment or performance when due of all other amounts or obligations, or to declare a default for the failure so to pay or perform.

6.6. Trustee's Powers. At any time, without liability for doing so and without notice, upon written request of Beneficiary and presentation of the original or certified copies of this Deed of Trust for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured by this Deed of Trust or the effect of this Deed of Trust upon the remainder of the Property, Trustee may (a) reconvey any part of the Property, (b) consent in writing to the making of any map or plat of the Property, (c) join in granting any easement on the Property, or (d) join in any extension agreement or any agreement subordinating the lien of this Deed of Trust.

6.7. Substitution of Trustee. Beneficiary may, from time to time, by a written instrument executed and acknowledged by Beneficiary and recorded in the county or counties where the Property is located, and by otherwise complying with the provisions of Utah Code Annotated, Section 57-1-22, or any successor section, substitute a successor or successors for the Trustee.

6.8. Trust Irrevocable; No Offset. The trust created by this Deed of Trust is irrevocable by Trustor. No offset or claim that Trustor now or may in the future have against Beneficiary shall relieve Trustor from paying any amounts due under the Credit Documents.

6.9. Corrections and Further Assurances. Trustor shall, upon request of Trustee, promptly correct any defect, error or omission which may be discovered in the contents of this Deed of Trust or in its execution or acknowledgment, and will execute, acknowledge and deliver such further instruments and do such further acts as may be necessary or as may be reasonably requested by Trustee to carry out more effectively the purposes of this Deed of Trust, to subject to the lien and security interest of this Deed of Trust any of Trustor's properties, rights or interest covered or intended to be covered by this Deed of Trust, and to perfect and maintain such lien and security interest.

6.10. Full Reconveyance. Upon written request of Beneficiary stating that all sums secured by this Deed of Trust have been paid and upon surrender to Trustee of this Deed of Trust and any other instrument requested by the Trustee for cancellation and retention and upon payment of its fees, Trustee shall fully reconvey, without warranty, the entire remaining Property then subject to this Deed of Trust. The recitals in such reconveyance of any matters of facts shall be conclusive proof of their truthfulness. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

6.11. Performance Under Other Documents. Trustor shall faithfully perform each covenant to be performed by Trustor under any lien or encumbrance, lease, sublease, instrument, declaration, covenant, condition, restriction, license, order or other agreement which affects the Property, including, without limitation, each covenant to be performed by Trustor under any mortgages and any and all other instruments pertaining to such mortgages, including the respective obligations secured thereby. A breach of or a default under any such lien, encumbrances or other instrument which Beneficiary reasonably believes may be prior and superior to the lien or charge of this Deed of Trust shall, at Beneficiary's option, constitute an event of default under this Deed of Trust.

6.12. Amendments. Neither this Deed of Trust nor any of its terms can be waived, changed, discharged or terminated orally, except by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

6.13. Beneficiary's Advances and Costs. At Beneficiary's election, all amounts advanced or costs incurred by Beneficiary pursuant to this Deed of Trust or any applicable law shall be due and payable by Trustor upon demand by Beneficiary, shall be additional indebtedness secured by this Deed of Trust and shall accrue interest at the Default Rate from the date advanced or incurred until paid.

6.14. Acceptance by Trustee. Trustee accepts the trust created by this Deed of Trust when it is made a public record as provided by law.

6.15. New Sublessee Project Area. Upon the satisfaction of the conditions set forth in Section 2.9 of the Reimbursement Agreement, the Trustor shall cause this Deed of Trust to be released and reconveyed with respect to the New Sublessor Project Area (as said term is defined in the Reimbursement Agreement).

6.16. State Specific Provisions. With respect to Property that is located in the State of Utah, the following state-specific provisions apply. In the event of any inconsistencies

between the terms and conditions of this Section 6.15 containing Utah state law provisions and the terms and conditions of any other part of this Deed of Trust, the terms and conditions of this Section shall control and be binding. When necessary to avoid any inconsistency or to ensure compliance with Utah law, any procedures provided for in this Deed of Trust that are inconsistent with those required by Utah law shall be modified by and replaced with the procedures or requirements of the laws of the State of Utah.

(a) Utah Construction Registry.

(i) Trustor shall timely comply with all requirements of Title 38 Chapter 1a of Utah Code Annotated with regard to filings and notices. Trustor shall cause Beneficiary to be named as a person interested in receiving electronic notices of all filings with respect to the Property in the State Construction Registry in accordance with Utah Code Annotated § 38-1a-201. Trustor shall also provide to Beneficiary copies of all preliminary notices or other notices filed by any contractor, subcontractor or supplier with respect to the Property that are included in the State Construction Registry and/or received by Trustor.

(ii) Trustor represents and warrants to Beneficiary that it has inspected the records of the State Construction Registry and that such inspection reveals no current filings of a preliminary notice or notice of retention filed by any lien claimant (whether a pre-construction lien or a construction lien) except as disclosed to Beneficiary by Trustor in writing. Trustor further represents and warrants that no mechanic's lien claim, notice of lien, lis pendens or similar filing has been filed in the State Construction Registry in any form prior to the date hereof with respect to the Property or recorded against the Property.

(iii) If Beneficiary or its title insurer determines that a preliminary notice has been filed in the State Construction Registry prior to the time of the recording of this Deed of Trust, Trustor shall provide to Beneficiary written evidence acceptable to Beneficiary and its title insurer that the lien claimant has accepted payment in full for construction services that the claimant furnished pursuant to Utah Code Annotated § 38-1a-503(2)(b) such that the priority for any pre-construction services lien or a construction services lien dates immediately after the recording of this Deed of Trust.

(iv) Trustor shall cause, as a condition precedent to the closing of the credit secured hereby, Beneficiary's title insurer to insure in a manner acceptable to Beneficiary in its sole discretion, that this Deed of Trust shall be a valid and existing first priority lien on Trustor's leasehold interest in the Property free and clear of any and all exceptions for mechanic's and materialman's liens and all other liens and exceptions except as set forth in the mortgagee's policy of title insurance accepted by Beneficiary, and such title insurance policy may not contain an exception for broken lien priority and may not include any pending disbursement endorsement, or any similar limitation or coverage or requiring future endorsements to increase mechanic lien coverage under Covered Risk 11(a) of the 2006 Form of ALTA Mortgagee's Title Insurance Policy.

(v) Trustor shall pay and promptly discharge, at Trustor's cost and expense, all liens, encumbrances and charges upon the Property (other than the Permitted Exceptions), or any part thereof or interest therein whether inferior or superior to this Deed of

Trust and keep and maintain the same free from the claim of all persons supplying labor, services or materials that will be used in connection with or enter into the construction of any and all buildings now being erected, if any, or that hereafter may be erected on the Property regardless of by whom such services, labor or materials may have been contracted, provided, however, that Trustor shall have the right to contest any such claim or lien so long as Trustor previously records a notice of release of lien and substitution of alternate security as contemplated by Utah Code Annotated § 38-1a-804 and otherwise complies with the requirements of Utah Code Annotated § 38-1a-804 to release the Property from such lien or claim. Notwithstanding the foregoing, Trustor may (A) with the prior written consent of Beneficiary, contest the amount of any such lien or claim related to services, labor or materials in accordance with Utah Code Annotated § 38-1a-804(7) without previously recording a notice of release of lien and substitution of alternate security or (B) appropriately bond or reserve (in cash deposited with Beneficiary) for any such lien or claim, as determined in Beneficiary's reasonable discretion.

(vi) If Trustor shall fail to remove and discharge any such lien, encumbrance or charge, or if Trustor shall dispute the amount thereof in contravention of the requirements hereof, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the release of the Property from the effect of such lien, encumbrance or charge by obtaining a bond in the name of and for the account of Trustor and recording a notice of release of lien and substitution of alternate security in the name of Trustor, each as contemplated by Utah Code Annotated § 38-1a-804 or other applicable law, or otherwise by giving security for such claim. Trustor shall, immediately upon demand therefor by Beneficiary, pay to Beneficiary an amount equal to all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing right to discharge any such lien, encumbrance or charge, including costs of any bond or additional security, together with interest thereon from the date of such expenditure at the Default Rate (as defined in the Reimbursement Agreement).

(b) Personal Property. It is the express understanding and intent of the parties that as to any personal property interests subject to Chapter 9a of the Utah Uniform Commercial Code, Beneficiary, upon an Event of Default, may proceed under the Utah Uniform Commercial Code or may proceed as to both real and personal property interests in accordance with the provisions of this Deed of Trust and its rights and remedies in respect of real property, and treat both real and personal property interests as one parcel or package of security as permitted by Utah Code Annotated § 70A-9a-601 or other applicable law, and further may sell any shares of corporate stock evidencing water rights in accordance with Utah Code Annotated § 57-1-30 or other applicable law.

(c) Deficiency. Trustor agrees to pay any deficiency, arising from any cause, to which Beneficiary may be entitled after applications of the proceeds of any sale, and Beneficiary may commence suit to collect such deficiency in accordance with Utah Code Annotated § 57-1-32 or other applicable law. To the extent the Utah Deed of Trust Act, as now existing or hereafter amended, or other statute requires that the "fair market value" or "fair value" of the Property be determined as of the foreclosure date in order to enforce a deficiency against Trustor or any other party liable for repayment of the Secured Obligations, the term "fair market

value" or "fair value" shall include those matters required by law and the additional factors set forth below:

(i) The Property shall be valued "as is" and "with all faults" and there shall be no assumption of restoration or refurbishment of Improvements, if any, after the date of the foreclosure

(ii) An offset to the fair market value or fair value of the Property, as determined hereunder, shall be made by deducting from such value the reasonable estimated closing costs related to the sale of the Property, including, but not limited to, brokerage commissions, title policy expenses, tax pro-rations, escrow fees, and other common charges that are incurred by the seller of real property.

(iii) Trustor shall pay the costs of any appraisals and other expenses incurred in connection with any such determination of fair market value or fair value.

(d) Reinstatement. If Trustor, Trustor's successor in interest or any other person having a subordinate lien or encumbrance of record on the Property, reinstates this Deed of Trust and credit evidenced by the Credit Documents within three (3) months of the recordation of a notice of default in accordance with Utah Code Annotated § 57-1-31(1), such party shall pay to Beneficiary the reasonable cancellation fee contemplated by Utah Code Annotated § 57-1-31(2), as delivered by Beneficiary, in accordance with its then current policies and procedures, whereupon Trustee shall record a notice of cancellation of the pending sale. Furthermore, in addition to any Trustor payment obligations under this Deed of Trust, Trustor shall pay all costs, fees and expenses incurred by Trustee and Trustee's agents and counsel for accountings and reinstatement quotes as may be required by Utah Code Annotated § 57-1-31.5 and all such costs, fees and expenses shall be secured by this Deed of Trust.

(e) Notice. Beneficiary hereby requests, pursuant to Utah Code Annotated § 57-1-26(3), a copy of any notice of default and that any notice of sale under any deed of trust or mortgage affecting the Property be mailed to it at the address set forth in preamble hereto.

(f) Foreclosure; Lawsuits; Receiver. Beneficiary shall have the right, in one or several concurrent or consecutive proceedings, to foreclose the lien hereof upon the Property or any part thereof, for the Secured Obligations, or any part thereof, by any proceedings appropriate under applicable law. Beneficiary or its nominee may bid and become the purchaser of all or any part of the Property at any foreclosure or other sale hereunder, and the amount of Beneficiary's successful bid shall be credited against the Secured Obligations. Without limiting the foregoing, Beneficiary may proceed by a suit or suits in law or equity, whether for specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure under the judgment or decree of any court of competent jurisdiction. In addition to the right to appoint a receiver upon an Event of Default in accordance with the Utah Uniform Commercial Real Estate Receivership Act, Utah Code Annotated § 78B-21-101, Trustee or Beneficiary may also, at any time after the filing of a complaint to foreclose this Deed of Trust, request appointment of a receiver of the Property by the court in which such complaint is filed, and Trustor hereby consents to such appointment.

Without limiting the foregoing, Beneficiary and Trustee, if and as directed by Beneficiary, may commence an action to foreclose the lien of this Deed of Trust as a mortgage in accordance with Beneficiary's rights under Utah Code Annotated § 57-1-23, or other applicable law, appoint a receiver as more particularly described in Subsection 7.3.3, or specifically enforce any of the covenants hereof. Beneficiary may exercise the power of sale herein contained and deliver to Trustee a written statement of default or breach and cause Trustee to execute and record a notice of default and election to cause Trustor's interest in the Property to be sold in accordance with Utah Code Annotated § 57-1-24 or other applicable law. After the lapse of such time as may then be required by Utah Code Annotated § 57-1-24 through § 57-1-26 or other applicable law following the recordation of the notice of default, and notice of default and notice of sale having been given as then required by Utah Code Annotated §§ 57-1-25 and 57-1-26 or other applicable law, Trustee, without demand on Trustor, shall sell the Property on the date and at the time and place designated in the notice of sale, either as a whole or in separate parcels, and in such order as Beneficiary may determine (but subject to Trustor's statutory right under Utah Code Annotated § 57-1-27 to direct the order in which the 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 deemed 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, however, if the sale is postponed for longer than forty-five (45) days beyond the date designated in the notice of sale, notice of the time, date, and place of sale shall be given in the same manner as the original notice of sale as required by Utah Code Annotated § 57-1-27. Trustee shall execute and deliver to the purchaser a Trustee's Deed, in accordance with Utah Code Annotated § 57-1-28, conveying the Property so sold, but without any covenant of warranty, express or implied. The recitals in the Trustee's Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale.

(g) Status of the Property. Trustor acknowledges that the stated purpose for which this Deed of Trust is given is to finance, refinance or construct residential rental property. Accordingly, to permit Beneficiary to comply with Utah Code Annotated § 57-1-25 and other applicable law, Trustor agrees that promptly upon Beneficiary's request, it will provide to a Beneficiary a written summary of the number of dwelling units within the improvements by unit or apartment number and the mailing address for each such unit or apartment. Trustor agrees to promptly update such written summary and provide the same to Beneficiary from time to time upon request from Beneficiary. To further allow Beneficiary to comply with Utah Code Annotated § 57-1-25 and other applicable law, Trustor agrees to provide a written roll, copies of all tenant leases, a summary list of tenants and addresses by unit or apartment number at least every six months and more frequently at any time upon the request of Beneficiary.

(h) Waiver of Certain Rights. With respect to the Property (which Property is located in the State of Utah), notwithstanding anything contained herein to the contrary, Trustor waives any rights or benefits it may have by reason of the defense of the statute of limitations in any action hereunder or for the collection of any indebtedness or the performance of any obligation secured hereby and any defense based on Utah's so called one-action rule, Utah Code Annotated § 78B-6-901. Notwithstanding anything to the contrary,

Trustor knowingly waives, to the fullest extent permitted by applicable law, the rights, protections and benefits afforded to Trustor under Utah Code Annotated § 57-1-32 and any successor or replacement statute or any similar laws or benefits.

(i) Amendments to Utah Code Annotated. In the event of any amendment to the provisions of Utah Code Annotated Title 57 or other provisions of Utah Code Annotated referenced in this Deed of Trust, this Deed of Trust shall, at the sole election of Beneficiary, be deemed amended to be consistent with such amendments or Beneficiary may elect not to give effect to such deemed amendments hereto if permitted by applicable law.

(j) Foreclosure under this Deed of Trust will not terminate the "Senior Ground Lease" or the "Development Agreement" (as defined in the Reimbursement Agreement).

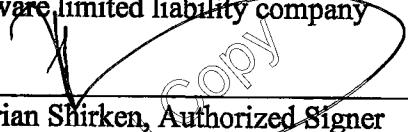
(k) NOTICE RE ORAL AGREEMENTS. PURSUANT TO UTAH CODE ANNOTATED SECTION 25-5-4, TRUSTOR IS HEREBY NOTIFIED THAT THE WRITTEN LOAN DOCUMENTS AND OTHER RELATED DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENT OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

(l) Use. Trustor represents and warrants to Beneficiary that (a) the Property is not used principally for agricultural purposes, and (b) the credit secured by this Deed of Trust was not made primarily for personal, family or household purposes.

(Signatures on next page)

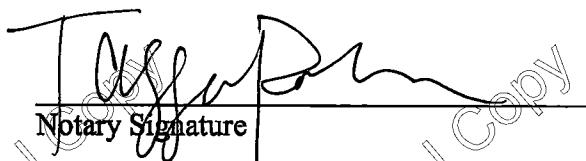
CP CANYONS WFH, LLC,
a Delaware limited liability company

By:

 Brian Shirken, Authorized Signer

STATE OF UTAH
:ss
COUNTY OF SALT LAKE) CVMA Office

On this 3 day of September, in the year 2021, before me
Taissa Folden, a notary public, personally appeared Brian Shirkew, a
Authorized Signer of CP CANYONS WFH, LLC, a Delaware limited liability company,
on behalf of said limited liability company, proved on the basis of satisfactory evidence to be the
person whose name is subscribed in this document and acknowledged he executed the same:


Notary Signature

Notary Seal

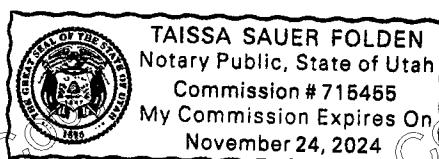


EXHIBIT "A"

Legal Description

The sub-leasehold estate created by, and all of the right, title and interest of the sublessee under the Sub-Ground Lease dated as of September 8, 2021 (the "Sub-Ground Lease") between Canyons Village Housing, LLC, as sublessor ("Sublessor"), and CP Canyons WFH, LLC, as sublessee. A memorandum of the Sub-Ground Lease was recorded in the official records of Summit County, Utah on Sept 8, 2021 as Instrument No. 1172624, in Book 2691, beginning at Page 80. The Sublessor holds its rights in the sub-leasehold estate created by the Ground Lease dated as of May 15, 2018 between Summit County, as landlord, and Sublessor, as tenant. A memorandum of the Ground Lease was recorded in the official records of Summit County, Utah on May 15, 2018 as Instrument No. 01091760, in Book 2462, beginning at Page 1065. The Sub-Ground Lease encumbers the real property described as follows:

All that certain real property situated in the County of Summit, State of Utah, described as follows:

Parcel LV6A according to the Lower Village Development Area Master Plat Amendment to LV6 recorded in the Official Records on May 15, 2018, as Entry No. 01091750, in Book 2462, beginning at Page 959.

(Tax Serial No. LVDAM-LV6A-AM-X)

For information purposes only, the property address is purported to be:

1823 Ozzy Way, Park City, UT 84098