

RECORDING REQUESTED
BY AND WHEN
RECORDED RETURN TO:

David A. Barksdale, Esq.
Loeb & Loeb LLP
10100 Santa Monica Blvd.
Suite 2200
Los Angeles, CA 90067

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3/20/2019 10:12:00 AM \$52.00
Book - 10761 Pg - 9033-9054
RASHELLE HOBBS
Recorder, Salt Lake County, UT
FIRST AMERICAN TITLE INS CO
BY: eCASH, DEPUTY - EF 22 P.

APN: 15-01-108-033-0000

DEED OF TRUST, SECURITY AGREEMENT AND
Fixture Filing

BY

**GATEWAY RESIDENCES, LP,
a Delaware limited partnership,**

as Trustor

TO

**FIRST AMERICAN TITLE INSURANCE COMPANY,
a Nebraska corporation,**

as Trustee

for the benefit of

**BRIGHTHOUSE LIFE INSURANCE COMPANY,
a Delaware corporation,**

as Beneficiary

March 20, 2019

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DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING

DEFINED TERMS

Execution Date: March 20, 2019

Note: The promissory note dated as of the Execution Date made by Trustor to the order of Beneficiary in the principal amount of Forty One Million and No/100 Dollars (\$41,000,000.00).

Beneficiary & Address:

Brighthouse Life Insurance Company, a Delaware corporation
c/o MetLife Investment Advisors, LLC
One MetLife Way
Whippany, New Jersey 07981-1449
Attention: Senior Managing Director, Real Estate Investments
Re: Gateway 505

and:

Brighthouse Life Insurance Company
c/o MetLife Investment Advisors, LLC
425 Market Street, Suite 1050
San Francisco, California 94105
Attention: Associate General Counsel, Real Estate Investments
Re: Gateway 505

and:

Brighthouse Life Insurance Company
c/o MetLife Investment Advisors, LLC
425 Market Street, Suite 1050
San Francisco, California 94105
Attention: Regional Director/Officer in Charge
Re: Gateway 505

Trustor & Address:

Gateway Residences, LP, a Delaware limited partnership
c/o Invesco Real Estate
2001 Ross Avenue, Suite 3400
Dallas, Texas 75201
Attention: Asset Manager – Gateway 505

with a copy to:

Greenberg Traurig, P.A.
333 S.E. 2nd Avenue
Miami, Florida 33131
Attention: Danielle Gonzalez

Trustee & Address:

First American Title Insurance Company, a Nebraska corporation
National Commercial Services
1125 17th Street, Suite 500
Denver, Colorado 80202

County and State in which the Property is located: Salt Lake County, State of Utah

Loan Documents: The Note, this Deed of Trust, the Loan Agreement and, subject to the below, any other documents related to the Note and/or this Deed of Trust and all renewals, amendments, modifications, restatements and extensions of these documents.

Loan Agreement: Loan Agreement dated as of the Execution Date by Trustor and Beneficiary.

Indemnity Agreement: Unsecured Indemnity Agreement dated as of the Execution Date and executed by Trustor in favor of Beneficiary. The Indemnity Agreement is not a Loan Document and shall survive repayment of the Loan or other termination of the Loan Documents, subject to the terms thereof.

NOI Guaranty: Guaranty of Net Operating Income dated as of the Execution Date and executed by Invesco U.S. Income REIT, LLC, a Delaware limited liability company, in favor of Beneficiary. The NOI Guaranty is not a Loan Document and shall survive repayment of the Loan or other termination of the Loan Documents, subject to the terms thereof..

Defined Terms: Capitalized terms not defined below shall have the meanings ascribed to them in the Loan Agreement.

THIS DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING (this “**Deed of Trust**”) is entered into as of the Execution Date by Trustor to Trustee for the benefit of Beneficiary with reference to the following Recitals:

RECITALS

A. This Deed of Trust secures: (1) the payment of the indebtedness evidenced by the Note with interest at the rates set forth in the Loan Agreement, together with all renewals, modifications, consolidations and extensions of the Note, all additional advances or fundings made by Beneficiary, and any other amounts required to be paid by Trustor under any of the Loan Documents, (collectively, the “**Secured Indebtedness**”, and sometimes referred to as the “**Loan**”) and (2) the full performance by Trustor of all of the terms, covenants and obligations set forth in any of the Loan Documents.

B. Trustor makes the following covenants and agreements for the benefit of Beneficiary or any party designated by Beneficiary, including any prospective purchaser of the Loan Documents or participant in the Loan, and their respective officers, employees, agents, attorneys, representatives and contractors (all of which are collectively referred to as, “**Beneficiary**”) and Trustee.

NOW, THEREFORE, IN CONSIDERATION of the Recitals and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Trustor agrees as follows:

Article 1 - GRANTS OF SECURITY

Section 1.1 **Real Property Grant.** Trustor irrevocably sells, transfers, grants, conveys, assigns and warrants to Trustee, its successors and assigns, in trust, with power of sale and right of entry and possession, all of Trustor’s present and future estate, right, title and interest in and to the following which are collectively referred to as the “**Real Property**”:

(1) that certain real property located in the County and State which is more particularly described in Exhibit "A" attached to this Deed of Trust or any portion of the real property; all easements, rights-of-way, gaps, strips and gores of land; streets and alleys; sewers and water rights; privileges, licenses, tenements, and appurtenances appertaining to the real property, and the reversion(s), remainder(s), and claims of Trustor with respect to these items, and the benefits of any existing or future conditions, covenants and restrictions affecting the real property (collectively, the “**Land**”);

(2) all things now or hereafter affixed to or placed on the Land, including all buildings, structures and improvements, all fixtures and all machinery, elevators, boilers, building service equipment (including, without limitation, all equipment for the generation or distribution of air, water, heat, electricity, light, fuel or for ventilating or air conditioning purposes or for sanitary or drainage purposes or for the removal of dust, refuse or garbage), partitions, appliances, furniture, furnishings, building materials, supplies, computers and software, window coverings and floor coverings, lobby furnishings, and other property now or in the future attached, or installed in the improvements and all replacements, repairs, additions, or substitutions to these items (collectively, the “**Improvements**”);

(3) all present and future Leases, income, rents(including, without limitation, all Rents as defined in the Utah Uniform Assignment of Rents Act, Utah Code, § 57-26-101 et seq.), revenue,

profits, proceeds, accounts receivables and other benefits from the Land and/or Improvements and all deposits made with respect to the Land and/or Improvements, including, but not limited to, any security given to utility companies by Trustor, any advance payment of real estate taxes or assessments, or insurance premiums made by Trustor and all claims or demands relating to such deposits and other security, including claims for refunds of tax payments or assessments, and all insurance proceeds payable to Trustor in connection with the Land and/or Improvements whether or not such insurance coverage is specifically required under the terms of this Deed of Trust ("**Insurance Proceeds**") (all of the items set forth in this paragraph are referred to collectively as "**Rents and Profits**");

(4) all damages, payments and revenue of every kind that Trustor may be entitled to receive, from any person owning or acquiring a right to the oil, gas or mineral rights and reservations of the Land;

(5) all proceeds and claims arising on account of any damage to, or Condemnation of any part of the Land and/or Improvements, and all causes of action and recoveries for any diminution in the value of the Land and/or Improvements;

(6) to the extent assignable, all licenses, contracts, management agreements, guaranties, warranties, franchise agreements, permits, or certificates relating to the ownership, use, operation or maintenance of the Land and/or Improvements; and

(7) all names by which the Land and/or Improvements may be operated or known, and all rights to carry on business under those names, and all trademarks, trade names (excluding "Invesco" and any derivative of such name), and goodwill relating to the Land and/or Improvements.

TO HAVE AND TO HOLD the Real Property, unto Trustee, its successors and assigns, in trust, for the benefit of Beneficiary, its successors and assigns, forever subject to the terms, covenants and conditions of this Deed of Trust.

Section 1.2 **Personal Property Grant.** Trustor irrevocably sells, transfers, grants, conveys, assigns and warrants to Beneficiary, its successors and assigns, a security interest in Trustor's interest in the following personal property which is collectively referred to as "**Personal Property**":

(1) any portion of the Real Property which may be personal property, and all other personal property, whether now existing or acquired in the future which is attached to, appurtenant to, or used in the construction or operation of, or in connection with, the Real Property;

(2) all rights to the use of water, including water rights appurtenant to the Real Property, pumping plants, ditches for irrigation, all water stock or other evidence of ownership of any part of the Real Property that is owned by Trustor in common with others and all documents of membership in any owner's association or similar group;

(3) to the extent assignable, all plans and specifications prepared for construction of the Improvements; and all contracts and agreements of Trustor relating to the plans and specifications or to the construction of the Improvements;

(4) all inventory, furnishings, fixtures, equipment, machinery, goods, accounts, general

intangibles, letter of credit rights, commercial tort claims, deposit accounts, documents, instruments and chattel paper and all substitutions, replacements of, and additions to, any of the these items;

(5) all sales agreements, deposits, escrow agreements, other documents and agreements entered into with respect to the sale of any part of the Real Property, and all proceeds of the sale;

(6) all other assets of Trustor, whether now owned or existing or hereafter acquired or arising and where ever located; and

(7) all proceeds and products of any of the foregoing, including without limitation all proceeds from any voluntary or involuntary disposition or claim respecting any of Trustor's assets (including judgments, condemnation awards or otherwise).

All of the Real Property and the Personal Property are collectively referred to as the "Property."

Section 1.3 Conditions to Grant. If Trustor shall pay to Beneficiary the Secured Indebtedness, at the times and in the manner stipulated in the Loan Documents, and if Trustor shall perform and observe each of the terms, covenants and agreements set forth in the Loan Documents, then this Deed of Trust and all the rights granted by this Deed of Trust shall be released by Trustee and/or Beneficiary in accordance with the laws of the State. Anything to the contrary notwithstanding, this Deed of Trust does not secure the Indemnity Agreement, the NOI Guaranty, any obligations under Article IX of the Loan Agreement, or any obligations of any Liable Party.

Article 2 - TRUSTOR COVENANTS

Trustor covenants and agrees that:

Section 2.1 Performance by Trustor. Trustor shall pay the Secured Indebtedness to Beneficiary and shall keep and perform each and every other obligation, covenant and agreement of the Loan Documents.

Section 2.2 Incorporation by Reference. All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note and (c) all and any of the other Loan Documents, are hereby made a part of this Deed of Trust to the same extent and with the same force as if fully set forth herein. In the event of any conflict between the provisions of this Deed of Trust and the provisions of the Loan Agreement, the provisions of the Loan Agreement shall control.

Section 2.3 Warranty of Title.

(a) Trustor warrants that it holds marketable and indefeasible fee simple absolute title to the Real Property, and that it has the right and is lawfully authorized to sell, convey or encumber the Property subject only to the Permitted Exceptions. The Property is free from all due and unpaid taxes, assessments and mechanics' and materialmen's liens.

(b) Trustor further covenants to warrant and forever defend Beneficiary and Trustee from and against all persons claiming any interest in the Property.

Section 2.4 **Taxes, Liens and Other Charges.**

(a) Trustor shall pay all Impositions in accordance with the Loan Agreement.

(b) In the event of the passage, after the Execution Date, of any law which deducts from the value of the Property, for the purposes of taxation, any lien or security interest encumbering the Property, or changing in any way the existing laws regarding the taxation of mortgages, deeds of trust and/or security agreements or debts secured by these instruments, or changing the manner for the collection of any such taxes, and the law has the effect of imposing payment of any Impositions upon Beneficiary, at Beneficiary's option, the Secured Indebtedness shall immediately become due and payable, without any Prepayment Fee, sixty (60) days after Trustor's receipt of Beneficiary's written demand for payment, and any Impositions imposed on Beneficiary during such sixty (60) day period shall be paid by Trustor. Notwithstanding the preceding sentence, the Beneficiary's election to accelerate the Loan shall not be effective if (1) Trustor is permitted by law (including, without limitation, applicable interest rate laws) to, and actually does, pay the Imposition or the increased portion of the Imposition and (2) Trustor agrees in writing to pay or reimburse Beneficiary in accordance with Section 7.6 of this Deed of Trust for the payment of any such Imposition which becomes payable at any time when the Loan is outstanding.

(c) Trustor shall pay any lien, claim or charge against the Property which might take precedence over the lien hereof; in accordance with the following:

i. Trustor shall comply with Section 5.2.1 of the Loan Agreement with respect to Liens and Encumbrances.

ii. 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.

iii. 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.

iv. 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.

v. Trustor shall cause, as a condition precedent to the closing of the loan 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 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.

vi. Trustor shall pay and promptly discharge, at Trustor's cost and expense, all liens, encumbrances and charges upon the Property (other than those permitted by Beneficiary in writing), 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 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.

vii. 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 set forth in the Loan Agreement.

Section 2.5 Suits And Other Acts to Protect the Property.

(a) Trustor shall notify Beneficiary within five (5) Business Days of the commencement, or receipt of notice, of any and all actions or proceedings where the amount demanded or in controversy equals or exceeds One Hundred Thousand Dollars (\$100,000.00) or other material matter or claim (i) affecting the Property, and/or (ii) arising under any of the Leases or that is connected with the obligations, duties or liabilities of the landlord, tenant or any guarantor under any Lease, and/or (iii) affecting the interest of Beneficiary under the Loan Documents (collectively, "Actions"). Trustor shall appear in and defend any Actions.

(b) Beneficiary shall have the right, at the cost and expense of Trustor, to institute, maintain and participate in Actions and take such other action, as it may deem appropriate in the good faith exercise of its discretion to preserve or protect the Property and/or the interest of Beneficiary under the Loan Documents. Any money paid by Beneficiary under this Section shall be reimbursed to Beneficiary in accordance with Section 7.6 hereof.

Section 2.6 Collateral Security Instruments. Trustor covenants and agrees that if Beneficiary at any time holds additional security for any obligations secured by this Deed of Trust, it may enforce its rights and remedies with respect to the security, at its option, either before, concurrently or after a sale of the Property is made pursuant to the terms of this Deed of Trust. Beneficiary may apply the proceeds of the additional security to the Secured Indebtedness without affecting or waiving any right to any other security, including the security under this Deed of Trust, and without waiving any breach or default of Trustor under this Deed of Trust or any other Loan Document.

Section 2.7 Performance of Other Agreements. Trustor shall observe and perform each and every term, covenant and provision to be observed or performed by Trustor pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

Article 3- INSURANCE

Section 3.1 Required Insurance and Terms of Insurance Policies. During the term of this Deed of Trust, Trustor shall obtain and maintain, or cause to be obtained and maintained, in full force and effect at all times insurance with respect to Trustor and the Property as required pursuant to the Loan Agreement.

Section 3.2 Assignment to Beneficiary. To the extent the insurance requirements in Section 6.1 of the Loan Agreement are satisfied using a stand-alone policy(ies) covering only the Property, then in the event of the foreclosure of this Deed of Trust or other transfer of the title to the Property in extinguishment of the Secured Indebtedness, all right, title and interest of Trustor in and to such insurance policy(ies), or premiums or payments in satisfaction of claims or any other rights under these insurance policy(ies) shall pass to the transferee of the Property. Notwithstanding the foregoing to the extent the insurance requirements in Section 6.1 of the Loan Agreement are satisfied using a blanket policy then in the event of the foreclosure of this Deed of Trust or other transfer of the title to the Property in extinguishment of the Secured Indebtedness, all right, title and interest of Trustor in and to any premiums or payments in satisfaction of claims or any other rights under such insurance policy(ies)

relating to the Property shall pass to the transferee of the Property, but the policies themselves shall not pass to the transferee of the Property.

Article 4 - LEASES

Pursuant to the Assignment of Leases of even date herewith, Trustor has assigned the Leases and the Rents and Profits to Beneficiary. Trustor acknowledges that it is permitted to collect certain of the Rents and Profits pursuant to a revocable license as set forth in the Assignment of Leases. This Article 4 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 Section 4 and the provisions of the Act applicable to Rents, the provisions of the Act shall control and Lender shall have all rights and remedies available under the Act which rights and remedies shall be cumulative with all rights and remedies hereunder.

Article 5 - TRUSTOR AGREEMENTS AND FURTHER ASSURANCES

Section 5.1 **Further Assurances.** Trustor shall, without expense to Beneficiary and/or Trustee, execute, acknowledge and deliver all further acts, deeds, conveyances, mortgages, deeds of trust, assignments, security agreements, and financing statements as Beneficiary and/or Trustee shall from time to time reasonably require, to assure, convey, assign, transfer and confirm unto Beneficiary and/or Trustee the Property and rights conveyed or assigned by this Deed of Trust or which Trustor may become bound to convey or assign to Beneficiary and/or Trustee, or for carrying out the intention or facilitating the performance of the terms of this Deed of Trust or any of the other Loan Documents, or for filing, refiling, registering, reregistering, recording or rerecording this Deed of Trust. If Trustor fails to comply with the terms of this Section, Beneficiary may, at Trustor's expense, perform Trustor's obligations for and in the name of Trustor, and Trustor hereby irrevocably appoints Beneficiary as its attorney-in-fact to do so. The appointment of Beneficiary as attorney-in-fact is coupled with an interest.

Section 5.2 **Splitting of Deed of Trust.** Beneficiary, without in any way limiting Beneficiary's other rights hereunder, in its sole and absolute discretion, shall have the right to divide the Loan into two or more tranches which may be evidenced by two or more notes, which notes may be pari passu or senior/subordinate, provided that (i) the aggregate principal amount of the notes immediately following such division shall equal the outstanding principal balance of the Loan and (ii) the weighted average interest rate of the Loan immediately following such division shall equal the interest rate which was applicable to the Loan immediately prior to such division. Trustor shall cooperate with reasonable requests of Beneficiary in order to divide the Loan and shall execute and deliver such documents as shall reasonably be required by Beneficiary in connection therewith, including, without limitation, new notes to replace the original Note, all in form and substance reasonably satisfactory to Beneficiary, provided that such documents shall contain terms, provisions and clauses (x) no less favorable to Trustor than those contained herein and in the Note, and (y) which do not increase Trustor's obligations hereunder or decrease Trustor's rights under the Loan Documents. If Beneficiary redefines the interest rate, the amount of interest payable under the modified notes, in the aggregate, shall at all times equal the amount of interest which would have been payable under the Note at the Interest Rate. In the event Trustor fails to execute and deliver such documents to Beneficiary within five (5) Business Days following such request by Beneficiary, Trustor hereby absolutely and irrevocably appoints Beneficiary as its true and

lawful attorney, coupled with an interest, in its name and stead to make and execute all documents necessary or desirable to effect such transactions, Trustor ratifying all that such attorney shall do by virtue thereof.

Section 5.3 **Replacement of Note.** Upon notice to Trustor of the loss, theft, destruction or mutilation of the Note, Trustor will execute and deliver, in lieu of the original Note, a replacement note, identical in form and substance to the Note and dated as of the Execution Date. Upon the execution and delivery of the replacement note, all references in any of the Loan Documents to the Note shall refer to the replacement note.

Section 5.4 **Subrogation.** Beneficiary shall be subrogated to the lien of any and all encumbrances against the Property paid out of the proceeds of the Loan and to all of the rights of the recipient of such payment.

Article 6 - DUE ON SALE/ENCUMBRANCE

Section 6.1 **Beneficiary Reliance.** Trustor acknowledges that Beneficiary has examined and relied on the experience of Trustor and its general partners, members, shareholders, principals and (if Trustor is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Trustor's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Secured Indebtedness and the performance of the Other Obligations. Trustor acknowledges that Beneficiary has a valid interest in maintaining the value of the Property so as to ensure that, should Trustor default in the repayment of the Secured Indebtedness or the performance of the Other Obligations, Beneficiary can recover the Secured Indebtedness by a sale of the Property.

Section 6.2 **No Transfer.** Trustor shall not permit or suffer any Transfer to occur, unless specifically permitted by Article VIII of the Loan Agreement, the provisions of which such Article are hereby incorporated by reference into this Deed of Trust to the same extent and with the same force as if fully set forth herein.

Section 6.3 **Beneficiary's Rights.** Beneficiary shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Secured Indebtedness immediately due and payable upon a Transfer without Beneficiary's consent. This provision shall apply to every Transfer, other than any Transfer permitted pursuant to the Loan Agreement, regardless of whether voluntary or not, or whether or not Beneficiary has consented to any previous Transfer.

Article 7 – DEFAULTS AND REMEDIES

Section 7.1 **Events of Default.** The term "Event of Default" as used in this Deed of Trust shall have the meaning assigned to such term in the Loan Agreement.

Section 7.2 **Remedies.** Upon the happening of an Event of Default, the Secured Indebtedness shall, at the option of Beneficiary, become immediately due and payable, without further notice or

demand, and Beneficiary may suspend any or all performance required of Beneficiary under the Loan Documents and may undertake any one or more of the following remedies:

(a) Judicial Foreclosure. Institute a foreclosure action in accordance with the law of the State, including but not limited to Utah Code Annotated § 57-1-23, or take any other action as may be allowed, at law or in equity, for the enforcement of the Loan Documents and realization on the Property or any other security afforded by the Loan Documents. In the case of a judicial proceeding, Beneficiary may proceed to final judgment and execution for the amount of the Secured Indebtedness owed as of the date of the judgment, together with all costs of suit, reasonable attorneys' fees and interest on the judgment at the maximum rate permitted by law from the date of the judgment until paid. If Beneficiary is the purchaser at the foreclosure sale of the Property, the foreclosure sale price shall be applied against the total amount due Beneficiary; and/or

(b) Power of Sale. Institute a non-judicial foreclosure proceeding in compliance with applicable law, including but not limited to Utah Code Annotated § 57-1-23 *et seq.*, in effect on the date foreclosure is commenced for the Trustee to sell the Property either as a whole or in separate parcels as Beneficiary may determine at public sale or sales to the highest bidder for cash, in order to pay the Secured Indebtedness. If Beneficiary elects to foreclose this Deed of Trust under its power of sale, Beneficiary may deposit with Trustee this Deed of Trust, the Note and evidence of expenditures secured hereby and a written notice of default and election to sell, which notice Trustee shall cause to be recorded as required by Utah Code Annotated § 57-1-24 through § 57-1-26 or other applicable law. If, after lapse of such time as may then be required by Utah Code Annotated § 57-1-24 or other applicable law following the recordation of the notice of default and election to sell, and after notice of default and sale have been given as may then be required by Utah Code Annotated § 57-1-24 through § 57-1-26 or other applicable law, the Property is sold as separate parcels, Beneficiary may direct the order in which the parcels are sold (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). In accordance with Utah Code Annotated § 57-1-28, Trustee shall deliver to the purchaser a Trustee's deed or deeds without covenant or warranty, express or implied. Trustee may postpone the sale of all or any portion of the Property by public announcement at the time and place of sale, and from time to time may further postpone the sale until it shall be completed; provided, 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. Any person, including Trustor, Trustee or Beneficiary, may purchase at such sale; and/or

(c) Entry. Enter into possession of the Property, lease the Improvements, collect all Rents and Profits and, after deducting all costs of collection and administration expenses, apply the remaining Rents and Profits in such order and amounts as Beneficiary, in Beneficiary's sole discretion, may elect to the payment of Impositions, operating costs, costs of maintenance, restoration and repairs, Premiums and other charges, including, but not limited to, costs of leasing the Property and fees and costs of counsel and receivers, and in reduction of the Secured Indebtedness; and/or

(d) Receivership. In accordance with the Utah Uniform Commercial Real Estate Receivership Act, Utah Code Annotated § 78B-21-101 *et seq.*, have a receiver appointed to enter into possession of the Property, lease the Property, collect the Rents and Profits and apply them as the appropriate court may direct. Beneficiary shall be entitled to the appointment of a receiver without the

necessity of proving either the inadequacy of the security or the insolvency of Trustor. Trustor shall be deemed to have consented to the appointment of the receiver. The collection or receipt of any of the Rents and Profits by Beneficiary or any receiver shall not affect or cure any Event of Default.

All remedies herein expressly provided for are cumulative of any and all other remedies existing at law or in equity and are cumulative of any and all other remedies provided for in any other Loan Document and Trustee and Beneficiary shall, in addition to the remedies herein provided, be entitled to avail themselves of all such other remedies as may now or hereafter exist at law or in equity for the collection of the Secured Indebtedness, the enforcement of the covenants herein, and the foreclosure of the liens and security interests evidenced hereby, and the resort to any remedy provided for hereunder or under any such other Loan Document provided for by law shall not prevent the concurrent or subsequent employment of any other appropriate remedy or remedies. In addition, it is the express understanding and intent of the parties that as to any personal property interests subject to Article 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.

Section 7.3 **Application of Proceeds.** In the event of a sale of the Property pursuant to Section 7.2 of this Deed of Trust, to the extent permitted by law, the Trustee shall apply the proceeds of the sale as follows:

FIRST: To the costs and expenses of exercising the power of sale and of the sale, including the payment of the trustee's and attorney's fees actually incurred not to exceed the amount which may be provided for in the trust deed.

SECOND: To payment of the obligations secured by the trust deed.

THIRD: To the balance, if any, to the person or person's legally entitled to the proceeds, or the trustee, in the trustee's discretion, may deposit the balance of the proceeds with the clerk of the district court of the county in which the sale took place, in accordance with Utah Code Annotated § 57-1-29.

Upon any sale made under or by virtue of Section 7.2, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, the Beneficiary may bid for and acquire the Property, whether by payment of cash or by credit bid in accordance with Utah Code Annotated § 57-1-28(1)(b). In the event of a successful credit bid, Beneficiary shall make settlement for the purchase price by crediting upon the obligations of Trustor secured by this Deed of Trust such credit bid amount. Beneficiary, upon so acquiring the Property or any part thereof, shall be entitled to hold, lease, rent, operate, manage, and sell the same in any manner provided by applicable laws.

For purposes of Utah Code Annotated § 57-1-28, Trustor agrees that all default interest, unpaid Late Charges, swap breakage fees, all Prepayment Fees and other fees, expenses and costs required by

the terms of the Loan Documents, if any, owing from time to time under the Note or other Loan Documents shall constitute a part of and be entitled to the benefits of Beneficiary's Deed of Trust lien upon the Secured Indebtedness, and (ii) Trustor may add all default interest, unpaid Late Charges, swap breakage fees, all Prepayment Fees and other fees, expenses and costs required by the terms of the Loan Documents and similar amounts owing from time to time to the principal balance of the Note in its sole discretion, and in either case Beneficiary may include all such amounts in any credit which lender may make against its bid at a foreclosure sale of the Property pursuant to this Deed of Trust.

Trustor agrees to pay any deficiency arising from any cause, to which Beneficiary may be entitled after applications of the proceeds of any trustee's sale, and Beneficiary may commence suit to collect such deficiency in accordance with Utah Code Annotated § 57-1-32 or other applicable law. Trustor agrees for purposes of Utah Code Annotated § 57-1-32 that the value of the Property as determined and set forth in an FIRREA appraisal of the Property as obtained by Beneficiary on or about the date of the sale or the recording of a notice of default and election to sell shall constitute the "fair market value" of the Property for purposes of Utah Code Annotated § 57-1-32.

Trustor knowingly waives, to the fullest extent permitted by applicable law, the rights, protections and benefits afforded to Trustor under Utah Code Annotated §§ 78-37-1 and 57-1-32 and any successor or replacement statute or any similar laws or benefits.

Section 7.4 **Waiver of Jury Trial.** To the fullest extent permitted by law, Trustor and Beneficiary HEREBY WAIVE THEIR RESPECTIVE RIGHT TO TRIAL BY JURY in any action, proceeding and/or hearing on any matter whatsoever arising out of, or in any way connected with, the Note, this Deed of Trust or any of the Loan Documents, or the enforcement of any remedy under any law, statute, or regulation. Neither party will seek to consolidate any such action in which a jury has been waived, with any other action in which a jury trial cannot or has not been waived. Each party has received the advice of counsel with respect to this waiver.

Section 7.5 **Beneficiary's Right to Perform Trustor's Obligations.** Trustor agrees that, if Trustor fails to perform any act or to pay any money during the time period in which Trustor is required to perform or pay under the Loan Documents, Beneficiary may, upon the expiration of any applicable notice and cure period, make the payment or perform the act at the cost and expense of Trustor and in Trustor's name or in its own name. Any money paid by Beneficiary under this Section 7.5 shall be reimbursed to Beneficiary in accordance with Section 7.6 hereof.

Section 7.6 **Beneficiary Reimbursement.** All payments made, or funds expended or advanced by Beneficiary pursuant to the provisions of any Loan Document, shall (1) become a part of the Secured Indebtedness, (2) bear interest at the Interest Rate (as defined in the Note) from the date such payments are made or funds expended or advanced, (3) become due and payable by Trustor upon demand by Beneficiary, and (4) bear interest at the Default Rate (as defined in the Loan Agreement) commencing five (5) days from the date of such demand. Trustor shall reimburse Beneficiary within ten (10) days after receipt of written demand for such amounts.

Section 7.7 **Fees and Expenses.** If Beneficiary becomes a party (by intervention or otherwise) to any action or proceeding affecting, directly or indirectly, Trustor, the Property or the title thereto or Beneficiary's interest under this Deed of Trust, or employs an attorney to collect any of the

Secured Indebtedness or to enforce performance of the obligations, covenants and agreements of the Loan Documents, Trustor shall reimburse Beneficiary in accordance with Section 7.6 hereof for all expenses, costs, charges and legal fees incurred by Beneficiary (including, without limitation, the reasonable out-of-pocket fees and expenses of experts and consultants), whether or not suit is commenced.

Section 7.8 Waiver of Consequential and/or Punitive Damages. Trustor covenants and agrees that in no event shall Beneficiary be liable for consequential and/or punitive damages, and to the fullest extent permitted by law, Trustor expressly waives all existing and future claims that it may have against Beneficiary for consequential damages and/or punitive damages.

Section 7.9 Indemnification of Trustee. Trustee shall not be liable for any error of judgment or act done by trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever (including the negligence or claims of negligence of Trustee or any strict liability), except for Trustee's gross negligence or willful misconduct. Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by law), and Trustee shall be under no liability for interest on any moneys received by Trustee hereunder. Trustor will reimburse Trustee for, and indemnify and save Trustee harmless against, any and all liability and expenses (including reasonable attorneys' fees) which may be incurred by Trustee in the performance of Trustee's duties hereunder, including those which in whole or in part are caused by or arise out of the negligence or claims of negligence of Trustee or any strict liability, except for Trustee's gross negligence or willful misconduct. The foregoing indemnity and other agreements shall not terminate upon release, foreclosure, or other termination of this Deed of Trust.

Section 7.10 Actions by Trustee. At any time, upon written request of Beneficiary and presentation of this Deed of Trust and the Note for endorsement, and without affecting the personal liability of the Borrower, the NOI Guarantor or Liable Party, if any, for payment of the Secured Indebtedness or the effect of this Deed of Trust upon the remainder of the Property, Trustee may take such actions as Beneficiary may request which are permitted by this Deed of Trust or by applicable law.

Section 7.11 Substitution of Trustee. Beneficiary has the power and shall be entitled, in accordance with Utah Code Annotated § 57-1-22, at any time and from time to time, to remove Trustee or any successor trustee and to appoint another trustee in the place of Trustee or any successor trustee, by an instrument recorded in the official records of the county or counties where the Property is located. The recorded instrument shall be conclusive proof of the proper substitution and appointment of the successor Trustee without the necessity of any conveyance from the predecessor Trustee.

Article 8 – SECURITY AGREEMENT

Section 8.1 Security Agreement. THIS DEED OF TRUST CREATES A LIEN ON THE PROPERTY. IN ADDITION, TO THE EXTENT THE PROPERTY IS PERSONAL PROPERTY OR FIXTURES UNDER APPLICABLE LAW, THIS DEED OF TRUST CONSTITUTES A SECURITY AGREEMENT UNDER THE UNIFORM COMMERCIAL CODE OF THE STATE IN WHICH THE

PROPERTY IS LOCATED (THE "U.C.C.") AND ANY OTHER APPLICABLE LAW AND IS FILED AS A FIXTURE FILING. UPON THE OCCURRENCE OF AN EVENT OF DEFAULT, BENEFICIARY MAY, AT ITS OPTION, PURSUE ANY AND ALL RIGHTS AND REMEDIES AVAILABLE TO A SECURED PARTY WITH RESPECT TO ANY PORTION OF THE PROPERTY, AND/OR BENEFICIARY MAY, AT ITS OPTION, PROCEED AS TO ALL OR ANY PART OF THE PROPERTY IN ACCORDANCE WITH BENEFICIARY'S RIGHTS AND REMEDIES WITH RESPECT TO THE LIEN CREATED BY THIS DEED OF TRUST. THIS FINANCING STATEMENT SHALL REMAIN IN EFFECT AS A FIXTURE FILING UNTIL THIS DEED OF TRUST IS RELEASED OR SATISFIED OF RECORD. TRUSTOR HEREBY AUTHORIZES BENEFICIARY TO FILE FINANCING STATEMENTS IN SUCH OFFICES AND JURISDICTIONS AS BENEFICIARY SHALL DETERMINE DESIGNATING AS COLLATERAL ALL ASSETS OF TRUSTOR.

Section 8.2 **Characterization of Property.** The grant of a security interest to Beneficiary in this Deed of Trust shall not be construed to limit or impair the lien of this Deed of Trust or the rights of Beneficiary with respect to any property which is real property or which the parties have agreed to treat as real property. To the fullest extent permitted by law, everything used in connection with the production of Rents and Profits is, and at all times and for all purposes and in all proceedings, both legal and equitable, shall be regarded as real property, irrespective of whether or not the same is physically attached to the Land and/or Improvements.

Section 8.3 **Protection Against Purchase Money Security Interests.** It is understood and agreed that in order to protect Beneficiary from the effect of U.C.C. Section 9-334, as amended from time to time and as enacted in the State, in the event that Trustor intends to purchase any goods which may become fixtures attached to the Property, or any part of the Property, and such goods will be subject to a purchase money security interest held by a seller or any other party:

(a) Before executing any security agreement or other document evidencing or perfecting the security interest, Trustor shall obtain the prior written approval of Beneficiary, which shall not be unreasonably withheld, conditioned or delayed. All requests for such written approval shall be in writing and contain the following information: (i) a description of the fixtures; (ii) the address at which the fixtures will be located; and (iii) the name and address of the proposed holder and proposed amount of the security interest.

(b) Trustor shall pay all sums and perform all obligations secured by the security agreement. A default by Trustor under the security agreement shall constitute a default under this Deed of Trust. If Trustor fails to make any payment on an obligation secured by a purchase money security interest in the Personal Property or any fixtures, Beneficiary, at its option, may pay the secured amount and Beneficiary shall be subrogated to the rights of the holder of the purchase money security interest.

(c) Beneficiary shall have the right to acquire by assignment from the holder of the security interest for the Personal Property or fixtures, all contract rights, accounts receivable, negotiable or non-negotiable instruments, or other evidence of indebtedness and to enforce the security interest as assignee.

(d) The provisions of subparagraphs (b) and (c) of this Section 8.3 shall not apply if the goods which may become fixtures are of at least equivalent value and quality as the Personal Property being replaced and if the rights of the party holding the security interest are expressly subordinated to the lien and security interest of this Deed of Trust in a manner satisfactory to Beneficiary.

Section 8.4 Fixture Filing. This Deed of Trust shall be effective as a fixture filing from the date of recordation hereof in accordance with Utah Code Section 70A-9a-502 of the Utah enactment of the Uniform Commercial Code. In connection therewith, the addresses of Grantor, as debtor ("Debtor"), and of Beneficiary, as secured party ("Secured Party"), are set forth below. The following address of Beneficiary, as the Secured Party, is also the address from which information concerning the security interest may be obtained by any interested party:

- (a) Name and address of Debtor:
Gateway Residences, LP, a Delaware limited partnership
c/o Invesco Real Estate
2001 Ross Avenue, Suite 3400
Dallas, Texas 75201
Attention: Asset Manager – Gateway 505
- (b) Name and address of Secured Party:
Brighthouse Life Insurance Company, a Delaware corporation
c/o MetLife Investment Advisors, LLC
One MetLife Way
Whippany, New Jersey 07981-1449
Attention: Senior Managing Director, Real Estate Investments
Re: Gateway 505
- (c) Description of the types (or items) of property covered by this Fixture Filing: See Article I hereof
- (d) Description of real estate subject to this Fixture Filing, to which the collateral is attached or upon which it is located: See Exhibit A, attached hereto
- (e) Debtor's Utah entity registration number: 11015816-0181

Article 9 - EXCULPATION

The provisions of Section 12.20 of the Loan Agreement are hereby incorporated by reference into this Deed of Trust to the same extent and with the same force as if fully set forth herein.

Article 10 - NOTICES

All notices or other written communications hereunder shall be delivered in accordance with Section 12.5 of the Loan Agreement.

Article 11 - APPLICABLE LAW

This Deed of Trust shall be construed and enforced in accordance with the laws of the State without regard to its conflicts of laws provisions.

Article 12 - MISCELLANEOUS PROVISIONS

Section 12.1 **No Waiver.** No single or partial exercise by Beneficiary and/or Trustee, or delay or omission in the exercise by Beneficiary and/or Trustee, of any right or remedy under the Loan Documents shall preclude, waive or limit the exercise of any other right or remedy. During the continuance of an Event of Default, Beneficiary shall have the right to proceed against any portion of, or interest in, the Property without waiving any other rights or remedies with respect to any other portion of the Property. No right or remedy under any of the Loan Documents is intended to be exclusive of any other right or remedy but shall be cumulative and may be exercised concurrently with or independently from any other right and remedy under any of the Loan Documents or under applicable law.

Section 12.2 **Heirs and Assigns; Terminology.**

(a) This Deed of Trust applies to, inures to the benefit of, and binds Beneficiary, Trustee, and Trustor, and their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Trustor" shall include both the original Trustor and any subsequent owner or owners of any of the Property. The term "Trustee" shall include both the original Trustee and any subsequent successor or additional trustee(s) acting under this Deed of Trust.

(b) In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

(c) If more than one person or entity has executed this Deed of Trust, the obligations of such persons and/or entities shall be the joint and several obligations of each of them.

Section 12.3 **Severability.** If any provision of this Deed of Trust should be held unenforceable or void, then that provision shall be separated from the remaining provisions and shall not affect the validity of this Deed of Trust except that if the unenforceable or void provision relates to the payment of any monetary sum, then, Beneficiary may, at its option, declare the Secured Indebtedness immediately due and payable.

Section 12.4 **Captions.** The captions are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope or intent of any provisions of this Deed of Trust.

Section 12.5 **Time of the Essence.** Time shall be of the essence with respect to all of Trustor's obligations under this Deed of Trust and the other Loan Documents.

Section 12.6 **No Merger.** In the event that Beneficiary should become the owner of the Property, there shall be no merger of the estate created by this Deed of Trust with the fee estate in the Property.

Section 12.7 **No Modifications.** This Deed of Trust may not be changed, amended or modified, except in a writing expressly intended for such purpose and executed by Trustor and Beneficiary.

Article 13 - STATE-SPECIFIC PROVISIONS

Section 13.1 **Principles Of Construction.** In the event of any inconsistencies between the terms and conditions of this Article 13 and the other terms and conditions of this Deed of Trust, the terms and conditions of this Article 13 shall control and be binding.

Section 13.2 **Status of 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.

Section 13.3 **Amendment to Code.** 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.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, THIS DEED OF TRUST has been executed by Trustor as of the Execution Date.

TRUSTOR:

GATEWAY RESIDENCES, LP,
a Delaware limited partnership

By: Gateway Residences GP, LLC,
a Delaware limited liability company,
its general partner

By: _____
Name: **Duncan Walker**
Title: **Vice President**

[Acknowledgement on Following Page]

[Signature Page to Deed of Trust – Gateway 505]

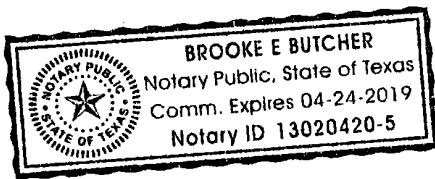
ACKNOWLEDGEMENT

STATE OF Texas)
COUNTY OF Dallas) :ss.

On this 12th day of March, 2019, before me Brooke E. Butcher, a notary public, personally appeared Duncan Walker, proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document as and acknowledged he executed the same.

Brooke E. Butcher.

NOTARY PUBLIC
Residing at Dallas, Texas



[Acknowledgement Page to Deed of Trust – Gateway 505]

EXHIBIT A

LEGAL DESCRIPTION

LOT 1, MCCARTHEY'S SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

Exhibit A

DEED OF TRUST

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