

When recorded, return to:

Bank of the San Juans,
a division of Glacier Bank
816 Royal Gorge Boulevard
Cañon City, CO 81215
Attn: Michael Till

LEASEHOLD DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING

THIS LEASEHOLD DEED OF TRUST, SECURITY AGREEMENT and FIXTURE FILING (herein sometimes called "Deed of Trust") is made to be effective as of this ___ day of September, 2020, by **ROSE MOUNTAIN TOWNHOMES, LP**, a Colorado limited partnership (herein, together with its successors and assigns, the "Grantor"), and the Public Trustee of the County of Archuleta, State of Colorado, of which the Premises is situated ("Trustee"), for the benefit of **BANK OF THE SAN JUANS**, a division of Glacier Bank, a Montana state bank, whose address is 816 Royal Gorge Boulevard, Cañon City, CO 81215 (herein, together with its successors and assigns, called the "Beneficiary").

R E C I T A L S

A. The Grantor has entered into that certain Construction Loan Agreement, dated as of September __, 2020, with Beneficiary (said Agreement, as it may hereafter be amended, modified, supplemented, extended, renewed or replaced from time to time, being the "Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined).

B. Pursuant to the Agreement and subject to the terms and conditions therein set forth, the Beneficiary has agreed to make a loan to Grantor.

C. To evidence and secure such indebtedness, Grantor has executed and delivered to Beneficiary a promissory note in the original principal amount of \$9,500,000.00, dated the date hereof (the "Note") and certain other documents in connection with the Agreement (collectively, the "Loan Documents"). From the date hereof the principal, interest and other fees and charges shall be repaid as set forth in the Note, and the entire unpaid principal balance, all accrued and unpaid interest and all other amounts payable shall be due and payable on a date which is not later than September __, 2036. The Note bears interest in accordance with the terms and provisions thereof which are by this reference incorporated herein.

D. It has been agreed that as a condition precedent to the making of the loan, Beneficiary will further secure such indebtedness by the execution and delivery of this Deed of Trust.

E. As used in this Deed of Trust, the term "Secured Obligations" means and includes all of the following: (i) all performance and payment obligations of the Grantor under or in connection with the Agreement, the Note or any of the other Loan Documents and (ii) all other obligations of the Grantor to the Beneficiary, in each case howsoever created, arising or evidenced, whether direct or indirect, joint or several, absolute or contingent, or now or hereafter existing, or due or to become due, arising out of or in connection with the Agreement, the Note, the Deed of Trust or any of the other Loan Documents, including, without limitation, any and all reasonable advances, costs or expenses paid or incurred by the Beneficiary to protect any or all of the Collateral (hereinafter defined) and other collateral under the Loan Documents, to perform any obligation of the Grantor hereunder or under any of the other Loan Documents or to collect any amount owing to the Beneficiary which is secured hereby or under the other Loan Documents; interest on all of the foregoing; and all reasonable costs of enforcement and collection of this Deed of Trust, the Loan Documents and the Secured Obligations.

F. For purposes of this Deed of Trust, the term "Collateral" means and includes all right, title and interest of the Grantor in and to all of the following:

(i) All of Grantor's leasehold interest in the land described on Exhibit A attached hereto (the "Land"), together with all and singular the tenements, rights, easements, hereditaments, rights of way,

privileges, liberties, appendages and appurtenances now or hereafter belonging or in anywise appertaining to the Land (including, without limitation, all rights relating to storm and sanitary sewer, water, gas, electric, railway and telephone services); all development rights, air rights, water, water rights, ditches and ditch rights, reservoir and reservoir rights, stock or interest in irrigation or ditch companies, water stock, gas, oil, minerals, coal, royalties and lease or leasehold interests and other substances of any kind or character underlying or relating to the Land; all estate, claim, demand, right, title or interest of the Grantor in and to any street, road, highway, or alley (vacated or otherwise) adjoining the Land or any part thereof; all strips and gores belonging, adjacent or pertaining to the Land; and any after-acquired title to any of the foregoing (all of the foregoing is herein referred to collectively as the “Real Estate”);

(ii) All present and future rights, title and interests of the Grantor, however acquired, in, to, and under the Ground Lease described on Exhibit B hereto (as amended, renewed and extended from time to time together with any new lease of the Real Estate or Improvements entered into by the Grantor in replacement, extension or renewal of or substitution for said lease, collectively, the Ground Lease and the subleases are referred to herein as the “Leases”), all present and future right, title and interest of the Grantor, as lessee or otherwise in and to the Real Estate, improvements and any other real or personal property which is subject to the Leases or which is created under or pursuant to the Leases (collectively the “Leased Property”) and all present and future amendments, renewals and supplements thereto, including all of Grantor’s unexpired estate, title, interest and term of years in the Leased Property by virtue of the Leases and any and all credits, deposits, options to renew or extend, options to purchase, rights of first refusal, and any other rights and privileges of the Grantor thereunder (all of the foregoing are herein referred to collectively as the “Leasehold Estate”);

(iii) All buildings, structures and improvements, building materials, fixtures, equipment, replacements, furnishings, fixtures, fittings and other improvements and property of every kind and character now or hereafter located or erected on the Real Estate and owned or purported to be owned by the Grantor, together with all building or construction materials, equipment, appliances, machinery, fittings, apparatus, fixtures and other articles of any kind or nature whatsoever now or hereafter found on, affixed to or attached to the Real Estate and owned or purported to be owned by the Grantor, including (without limitation) all trees, shrubs and landscaping materials, reels, hoses, pumps, tanks, compressors, hydraulic lifts, generators, motors, boilers, engines and devices for the operation of pumps, and all heating, venting, electrical, lighting, power, plumbing, air conditioning, and ventilation equipment (all of the foregoing is herein referred to collectively as the “Improvements”). All of the Real Estate and the Improvements, and any other property which is real estate under applicable law, are sometimes referred to collectively herein as the “Premises”;

(iv) All goods, materials, supplies, fixtures, furniture and furnishings, machinery, equipment, inventory, accounts, general intangibles, instruments, documents, and chattel paper as those terms are defined in the Uniform Commercial Code), furnishings, and materials now or at any time attached to the Real Estate, including, without limitation, all such items used for (a) generation, storage or transmission of air, water, heat, steam, electricity, light, fuel, refrigeration or sound; (b) ventilation, air-conditioning, heating, refrigeration, fire prevention and protection, sanitation, drainage, cleaning, transportation, communications, maintenance or recreation; (c) removal of dust, refuse, garbage or snow; (d) transmission, storage, processing or retrieval of information; and (e) floor, wall, ceiling and window coverings and decorations, together with all processing, manufacturing and service equipment, and all other tangible property of any kind or character now or hereafter owned or purported to be owned by the Grantor and used or useful in connection with the Real Estate, regardless of whether located on the Real Estate or located elsewhere including, without limitation, all rights of the Grantor under any lease to equipment, furniture, furnishings, fixtures and other items of personal property at any time during the term of such lease below, whether now existing or hereafter created that are now or at any time hereafter (a) in the possession or control of Grantor in any capacity; (b) erected upon, attached to, or appurtenant to the Premises; (c) located or used on the Premises or identified for use on the Premises (whether stored on the Premises or elsewhere); or (d) used in connection with, arising from, related to, or associated with the Premises or any of the personal property described herein, the construction of any improvements on the Premises, the ownership, development, maintenance, leasing, management, or operation of the Premises, the use or enjoyment of the Premises, or the operation of any business conducted on the Premises (all of the foregoing are herein referred to collectively as the “Goods”);

(v) Any licenses, contracts, permits, approvals, consents and agreements required or used in connection with the ownership, operation or maintenance of the Premises, trade names, trademarks and service marks (subject to any franchise or license agreements related thereto) and the right to the use of any tradename, trademark, or service mark now or hereafter associated with the operation of any business conducted on the Premises (all of the foregoing are herein referred to collectively as the “Intangibles”);

(vi) Any and all insurance proceeds, and any and all awards, including interest, hereafter made to Grantor for taking by eminent domain of the whole or any part of the Premises or any easements therein;

(vii) Plans and specifications prepared for the construction of any improvements, including without limitation, all studies, estimates, data, and drawings;

(viii) Documents, instruments and agreements relating to, or in any way connected with, the operation, control or development of the Premises, including without limitation, any declaration of covenants, conditions and restrictions and any articles of incorporation, bylaws and other membership documents of any property owners association or similar group;

(ix) All of Grantor’s rights of every kind under or pursuant to any declaration of covenants, conditions and restrictions or similar documents or instruments, which shall hereafter be filed in order to create an affordable assisted living facility on the Real Estate, and any modifications thereof or supplements thereto (collectively, the “Declaration”), and all of Grantor’s rights under or pursuant to any and all other documents which may hereafter be executed or otherwise made effective with respect to the creation or modification of an affordable assisted living facility on the Premises, and other rights of Grantor as declarant under the Declaration;

(x) Claims and causes of action, legal and equitable, in any form whether arising in contract or in tort, and awards, payments and proceeds due or to become due, including without limitation those arising on account of any loss of, damage to, taking of, or diminution in value of, all or any part of the Premises or any personal property described herein;

(xi) Sales agreements, escrow agreements, deposit receipts, and other documents and agreements for the sale or other disposition of all or any part of the Premises or any of the personal property described herein, and deposits, proceeds and benefits arising from the sale or other disposition of all or any part of the Premises or any of the personal property described herein;

(xii) Policies or certificates of insurance, contracts, agreements or rights of indemnification, guaranty or surety, and awards, loss payments, proceeds, and premium refunds that may be payable with respect to such policies, certificates, contracts, agreements or rights;

(xiii) Contracts, agreements, permits, licenses, authorizations and certificates, including without limitation all architectural contracts, construction contracts, management contracts, service contracts, maintenance contracts, franchise agreements, license agreements, building permits and operating licenses;

(xiv) Refunds and deposits due or to become due from any utility companies or governmental agencies;

(xv) Replacements and substitutions for, modifications of, and supplements, accessions, addenda and additions to, all of the personal property described herein;

(xvi) Books, records, correspondence, files and electronic media, and all information stored therein;

(xvii) All rights of the Grantor and the Grantor’s bankruptcy trustee to deal with the Leases, which rights may arise as a result of the commencement of a case under the federal bankruptcy laws by or against (i) the Grantor or (ii) the landlord under the Ground Lease (“Lessor”) or subtenants under the other

Leases, including, without limitation, the right to assume or reject, or compel the assumption or rejection of such Leases pursuant to 11 U.S.C. § 365(a) or any successor law (the “Bankruptcy Code”), the right to seek and obtain extensions of time to assume or reject such Leases, and the right to elect whether to treat such Leases as terminated by the Lessor’s rejection of such Leases or to remain in possession of the Collateral and offset damages pursuant to 11 U.S.C. § 365(h)(l) or any successor law; and

(xix) All other property or rights of the Grantor of any kind or character related to the Premises, all substitutions, replacements and additions thereto, whether now existing or hereafter acquired, together with all products and proceeds of all of the foregoing, in any form, including insurance and condemnation proceeds, and all proceeds received, due or to become due from any sale, exchange or other disposition thereof, whether such proceeds are cash or non-cash in nature, and whether represented by checks, drafts, notes or other instruments for the payment of money.

GRANT

NOW THEREFORE, for and in consideration of the Beneficiary’s making any loan, advance or other financial accommodation to or for the benefit of the Grantor, including sums advanced under the Agreement, the Note, this Deed of Trust or the other Loan Documents and in consideration of the various agreements contained herein, in the Agreement, in the Note, and in the other Loan Documents, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Grantor, and in order to secure the full, timely and proper payment and performance of each and every one of the Secured Obligations,

THE GRANTOR HEREBY GRANTS, SELLS, WARRANTS, CONVEYS, TRANSFERS AND ASSIGNS THE PREMISES TO THE TRUSTEE IN TRUST FOR THE BENEFIT OF THE BENEFICIARY AND ITS SUCCESSORS AND ASSIGNS FOREVER, WITH POWER OF SALE TO HAVE AND TO HOLD the Premises unto the Trustee, its successors in trust, forever, with power of sale, hereby expressly waiving and releasing any and all right, benefit, privilege, advantage or exemption under and by virtue of any and all statutes and laws of the state or other jurisdiction in which the Real Estate is located providing for the exemption of homesteads from sale on execution or otherwise.

The Grantor hereby covenants with and warrants to the Trustee and the Beneficiary and with the purchaser at any foreclosure sale that: (i) at the execution and delivery hereof it is well seized of the Premises, and of a valid leasehold estate therein and that it has rights in the other Collateral; (ii) the Collateral is free from all encumbrances whatsoever (and any claim of any other person thereto) other than the interest granted to the Trustee and security interest granted to the Beneficiary herein and pursuant to the other Loan Documents, the encumbrances set forth in the title insurance policy insuring the lien of this Deed of Trust in favor of the Beneficiary (the “Permitted Exceptions”); (iii) the Leases are in full force and effect and have not been modified or terminated; (iv) the Grantor is not in default under the Leases; (v) it has good and lawful right to sell, mortgage and convey the Collateral; and (vi) it and its successors and assigns will forever warrant and defend the Collateral against all claims and demands whatsoever with the exception of those arising by, through or under the Permitted Exceptions.

THE GRANTOR FURTHER GRANTS AND ASSIGNS TO THE BENEFICIARY AND ITS SUCCESSORS AND ASSIGNS FOREVER A CONTINUING SECURITY INTEREST IN AND TO, ALL OF THE COLLATERAL OTHER THAN THE PREMISES TO HAVE AND TO HOLD the same unto Beneficiary, its successors and assigns as additional security for the full, timely and proper payment and performance of each and every one of the Secured Obligations.

ARTICLE I

COVENANTS AND AGREEMENTS OF THE GRANTOR

Further to secure the payment and performance of the Secured Obligations, the Grantor hereby covenants, warrants and agrees with the Trustee and the Beneficiary as follows:

1.1. Payment of Secured Obligations. The Grantor agrees that it will pay, timely and in the manner required in the appropriate documents or instruments, all the Secured Obligations (including fees and charges). All

sums payable by the Grantor hereunder shall be paid without demand, counterclaim, offset, deduction or defense. The Grantor waives all rights now or hereafter conferred by statute or otherwise to any such demand, counterclaim, offset, deduction or defense.

1.2. Payment of Taxes. The Grantor will pay or cause to be paid when due all taxes and assessments, general or special, and any and all levies, claims, charges, expenses and liens, ordinary or extraordinary, governmental or non-governmental, statutory or otherwise, due or to become due, that may be levied, assessed, made, imposed or charged on or against the Collateral or any property used in connection therewith, and will pay when due any tax or other charge on the interest or estate in lands created or represented by this Deed of Trust or by any of the Loan Documents, whether levied against the Grantor or the Beneficiary or otherwise, and will submit to the Beneficiary all receipts showing payment of all of such taxes, assessments and charges. Beneficiary may contest, by appropriate legal proceedings, the validity of any valuation for real or personal property tax purposes or of any levy or assessment of any real or personal property taxes against the Premises either in the name of Beneficiary or the name of Grantor or both. Grantor, upon notice and request by Beneficiary, shall join in any such proceedings. Grantor shall cooperate with Beneficiary in any such proceeding and execute any documents or pleadings required for such purposes. Grantor shall provide Beneficiary with a copy of the Notice of Valuation within ten (10) days after receipt of a written request for same from Beneficiary (five (5) days in the case of personal property). Grantor shall reimburse Beneficiary for all reasonable costs and legal expenses incurred by Beneficiary in connection with any such proceedings, but in no event shall such reimbursement exceed the tax savings achieved for the period covered by the Notice of Valuation. To facilitate the right of Beneficiary to contest any real or personal property tax valuation, levy, or assessment as described above, Grantor does hereby make, constitute and appoint Beneficiary, and its successors and assigns, Grantor's true and lawful attorney-in-fact, in Grantor's name, place and stead, or otherwise, to file any claim or proceeding or to take any action, either in its own name, in that of its nominee, in the name of Grantor, or otherwise, to contest any real or personal property tax valuation, levy, or assessment. The power of attorney given herein is a power coupled with an interest and shall be irrevocable so long as any part of the Secured Obligation remains unpaid or unperformed. Beneficiary shall have no obligation to exercise any of the foregoing rights and powers in any event. In order to insure the payment of taxes and assessments that are now, or hereafter may be, a lien upon the Premises, and to insure the payment of all premiums on policies of insurance required herein, Grantor, if required by Beneficiary after the occurrence of any Event of Default (hereinafter defined) or any failure to pay taxes, assessments or insurance premiums as required herein, shall pay to Beneficiary each month, in addition to any other payments required hereunder, an amount equal to the taxes and special assessments levied or to be levied against the Premises and the premium or premiums that will become due and payable to maintain the insurance on the Premises, all as reasonably estimated by Beneficiary (giving due consideration to the previous year's taxes, assessments and premiums) less all deposits therefore already made, divided by the number of months remaining before one month prior to the date when the taxes, assessments and premiums become delinquent. If amounts paid to Beneficiary under the terms of this paragraph are insufficient to pay all taxes, assessments and premiums as they become due, Grantor shall pay to Beneficiary upon demand all additional sums necessary to fully pay and discharge these items. All moneys paid to Beneficiary under the terms of this paragraph may be either held by Beneficiary to pay the taxes, assessments and premiums before the same become delinquent or applied to the Secured Obligations upon payment by Beneficiary from its own funds of the taxes, assessments and premiums. To the extent provision is not made for payment pursuant to this paragraph, Grantor shall remain obligated to pay all taxes, assessments and premiums as they become due and payable. Deposits made under this paragraph may be commingled with Beneficiary's general funds; Beneficiary shall have no liability to Grantor for interest on any deposits.

1.3. Maintenance and Repair. The Grantor will: not abandon the Premises; not do or suffer anything to be done which would depreciate or impair the use, operation or value of the Collateral or the security of this Deed of Trust; not remove or demolish any of the Improvements; pay promptly for all labor and materials for all construction, repairs and improvements to or on the Premises; not make any changes, additions or alterations to the Premises except as required by any applicable governmental requirement or as otherwise approved in writing by the Beneficiary; maintain, preserve and keep the Goods and the Premises in good, safe and insurable condition and repair and promptly make any needful and proper repairs, replacements, renewals, additions or substitutions required by wear, damage, obsolescence or destruction, all as promptly as possible under the circumstances but in all cases in compliance with any time period provided under applicable requirements of governmental authorities and insurers; not commit, suffer, or permit waste of any part of the Premises; and maintain all grounds and sidewalks in good and neat order and repair.

1.4. Sales; Liens. The Grantor will not: sell, contract to sell, assign, transfer or convey, or permit to be transferred or conveyed, the Collateral or any part thereof or any interest or estate in any thereof (including any conveyance into a trust or any conveyance of the beneficial interest in any trust that may be holding title to the Premises) or remove any of the Collateral from the Premises; or create, suffer or permit to be created or to exist any mortgage, lien, claim, security interest, charge, encumbrance or other right or claim of any kind whatsoever upon the Collateral or any part thereof, except those of current taxes not then due and payable, and the Permitted Exceptions; provided, however, Beneficiary shall not unreasonably withhold approval of any mortgage, lien, claim, security interest, charge, encumbrance or other right or claim that is expressly subordinate to that of the Beneficiary.

1.5. Access by Beneficiary. The Grantor will at all times: deliver to the Beneficiary either all of its executed originals (in the case of chattel paper or instruments) or (in all other cases), if requested by Beneficiary, certified copies of all Leases, agreements creating or evidencing Intangibles, permits, all amendments and supplements thereto, and any other document which is, or which evidences, governs, or creates, Collateral; permit access at reasonable times by the Beneficiary to the Grantor's books and records; permit the Beneficiary to inspect construction progress reports, tenant registers, sales records, insurance policies and other papers for examination and the making of copies and extracts; prepare such schedules, summaries, reports and progress schedules as the Beneficiary may reasonably request; and permit the Beneficiary and its agents and designees, to inspect the Premises at reasonable times.

1.6. Stamp and Other Taxes. If the federal, or any state, county, local, municipal or other, government or any subdivision of any thereof having jurisdiction, shall levy, assess or charge any tax (excepting therefrom any income tax on the Beneficiary's receipt of interest payments on the principal portion of the loans), assessment or imposition upon this Deed of Trust, the Note, any of the Secured Obligations, or any of the other Loan Documents, the interest of the Beneficiary in the Collateral, or any of the foregoing, or upon the Beneficiary by reason of or as holder of any of the foregoing, or shall at any time or times require revenue stamps to be affixed to this Deed of Trust, the Note, or any of the other Loan Documents, the Grantor shall pay all such taxes and stamps to or for the Beneficiary as they become due and payable. If any law or regulation is enacted or adopted permitting, authorizing or requiring any tax, assessment or imposition to be levied, assessed or charged, which law or regulation prohibits the Grantor from paying the tax, assessment, stamp, or imposition to or for the Beneficiary, then all sums hereby secured shall become immediately due and payable at the option of the Beneficiary.

1.7. Insurance. The Grantor will at all times maintain or cause to be maintained on the Goods, the Premises and on all other Collateral, all insurance required by the Loan Agreement, all in amounts required by the Loan Agreement. The Grantor agrees that, subject to the terms of the Leases, any loss paid to the Beneficiary under any of such policies shall be applied, at the option of the Beneficiary, toward pre- payment of the loans or any of the Secured Obligations, or to the rebuilding or repairing of the damaged or destroyed Improvements or other Collateral, as the Beneficiary in its sole and unreviewable discretion may elect; provided, however, that any proceeds of insurance made available for the rebuilding or repairing of the damaged or destroyed Improvements or other Collateral shall be subject to the Beneficiary's construction, lending conditions and to such other conditions as the Beneficiary may in its discretion impose; and provided further that no election made by Beneficiary under this section shall relieve Grantor of the duty to repair and restore. The Grantor hereby empowers the Beneficiary, in its discretion, to settle, compromise and adjust any and all claims or rights under any insurance policy maintained by the Grantor relating to the Collateral. In the event of foreclosure of this Deed of Trust transfer of title to the Premises by deed in lieu of foreclosure or other transfer of title to the Premises in extinguishment, in whole or in part, of the Secured Obligations all right, title and interest of the Grantor in and to any insurance policies then in force shall pass to the purchaser or grantee. Nothing contained in this Deed of Trust shall create any responsibility or obligation on the Beneficiary to collect any amounts owing on any insurance policy or resulting from any condemnation, to rebuild or replace any damaged or destroyed Improvements or other Collateral or to perform any other act hereunder. The Beneficiary shall not by the fact of approving, disapproving, accepting, preventing, obtaining or failing to obtain any insurance, incur any liability for or with respect to the amount of insurance carried, the form or legal sufficiency of insurance contracts, solvency of insurance companies, or payment or defense of lawsuits, and the Grantor hereby expressly assumes full responsibility therefor and all liability, if any, with respect thereto.

1.8. Eminent Domain. In case the Collateral, or any part or interest in any thereof, is taken by condemnation, the Grantor shall take all action required by the Beneficiary, in order to protect Grantor's and Beneficiary's rights with respect to any such taking, including the commencement of, appearance in or prosecution of

any appropriate action or proceeding. The Beneficiary is hereby empowered to collect and receive all compensation and awards of any kind whatsoever (referred to collectively herein as “Condemnation Awards”) which may be paid for any property taken or for damages to any property not taken (all of which the Grantor hereby assigns to the Beneficiary), and, subject to the terms of the Leases, all Condemnation Awards so received shall be forthwith applied by the Beneficiary, as it may elect in its sole and unreviewable discretion, to the prepayment of the loans or any of the other Secured Obligations or, at the option of the Beneficiary, may be held by the Beneficiary as additional security for the Secured Obligations, or may be applied to the repair and restoration of any property not so taken or damaged, provided, however, that no election made by the Beneficiary under this section shall relieve the Grantor of the duty to repair and restore. The Grantor hereby empowers the Beneficiary, in the Beneficiary’s reasonable discretion to settle, compromise and adjust any and all claims or rights arising under any condemnation or eminent domain proceeding relating to the Collateral or any portion thereof.

1.9. Governmental Requirements. The Grantor will at all times fully comply in all material respects with, and cause the Collateral and the use and condition thereof fully to comply in all material respects with, all federal, state, county, municipal, local and other governmental statutes, ordinances, requirements, regulations, rules, orders and decrees of any kind whatsoever that apply or relate to the Grantor or the Collateral or the use thereof (including, without limitation, those relating to land use and development, construction, access, water rights and use, noise, environmental pollution and hazardous waste and substances), and will observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, franchises and concessions (including, without limitation, those relating to land use and development, construction, access, water rights and use, noise, environmental pollution and hazardous waste and substances) which are applicable to the Grantor or have been granted for the Collateral or the use thereof. Unless required by applicable law, or unless Beneficiary has otherwise first agreed in writing, the Grantor shall not make or allow any changes to be made in the nature of the occupancy or use of the Premises or any portion thereof for which the Premises or such portion was intended at the time this Deed of Trust was delivered. The Grantor shall not initiate or acquiesce in any change in any zoning or other land use classification now or hereafter in effect and affecting the Premises or any part thereof without in each case obtaining the Beneficiary’s prior written consent thereto.

1.10. No Mechanics’ Liens. The Grantor will not suffer any construction, mechanic’s, laborer’s or materialmen’s lien to be created or remain outstanding upon the Premises or any part thereof and will bond or otherwise discharge all such liens within 10 days from the date of filing. The Grantor agrees to promptly deliver to the Beneficiary a copy of any notices that the Grantor receives with respect to any pending or threatened lien or the foreclosure thereof.

1.11. Continuing Priority. The Grantor will: pay such fees, taxes and charges, execute and record or file (at the Grantor’s expense) such deeds, conveyances, mortgages and financing statements, obtain such title opinions, title insurance policy endorsements, acknowledgments or consents, notify such obligors or providers of services and materials and do all such other acts and things as the Beneficiary may from time to time reasonably request to establish and maintain a valid and perfected first and prior lien on and security interest in the Collateral; maintain its office and principal place of business at all times at the address shown below; and keep all of its books and records relating to the Collateral on the Premises or at such address; and keep all tangible Collateral on the Real Estate except as the Beneficiary may otherwise consent in writing.

1.12. Utilities. The Grantor will pay or cause to be paid all utility charges incurred in connection with the Collateral promptly when due and maintain all utility services available for use at the Premises.

1.13. Contract Maintenance; Other Agreements; Leases. The Grantor will, for the benefit of the Beneficiary, fully and promptly keep, observe, perform and satisfy each obligation, condition, covenant, and restriction of the Grantor affecting the Premises or imposed on it under any agreement between Grantor and a third party relating to the Collateral or the Secured Obligations secured hereby, including, without limitation, the Leases, and the Intangibles (collectively, the “Third Party Agreements”), so that there will be no default thereunder and so that the Persons (other than the Grantor) obligated thereon shall be and remain at all times obligated to perform for the benefit of the Beneficiary; and the Grantor will not permit to exist any condition, event or fact which could allow or serve as a basis or justification for any such person to avoid such performance. Without the prior written consent of the Beneficiary, the Grantor shall not (i) make or permit any termination or amendment of the rights of the Grantor under any Third Party Agreement; (ii) collect rents or the proceeds of any Leases or Intangibles more than 30 days

before the same shall be due and payable; (iii) modify or amend any Leases, or, except where the lessee is in default, cancel or terminate the same or accept a surrender of the leased premises; (iv) consent to the assignment or subletting of the whole or any portion of any lessee's interest under any Leases; or (v) in any other manner impair Beneficiary's rights and interest with respect to the rents. The Grantor shall promptly deliver to the Beneficiary copies of any demands or notices of default received by the Grantor in connection with any Third Party Agreement and allow the Beneficiary the right, but not the obligation, to cure any such default. All security or other deposits, if any, received from tenants under the Leases shall be segregated and maintained in an account satisfactory to the Beneficiary and in compliance with the law of the state where the Premises are located and with an institution satisfactory to the Beneficiary.

1.14. Environmental Matters. The Grantor will investigate, clean up, remove or remediate any spill or release of hazardous substances at the Premises in accordance with the requirements of all applicable environmental laws and will otherwise use, handle, store and dispose of all hazardous substances in accordance with the requirements of all applicable environmental laws.

1.15. No Assignments; Future Leases. The Grantor will not cause or permit any rents, Leases, or other contracts relating to the Premises to be assigned, transferred, conveyed, pledged or disposed of to any party other than the Beneficiary without first obtaining the express written consent of the Beneficiary to any such assignment or permit any such assignment to occur by operation of law. In addition, the Grantor shall not cause or permit all or any portion of or interest in the Premises to be leased (that word having the same meaning for purposes hereof as it does in the law of landlord and tenant) directly or indirectly to any Person, except Leases of low-income assisted living units in the ordinary course of Grantor's business under Leases the form of which has been approved in writing by the Beneficiary which Leases are for a term not exceeding one year and are for a rental rate of at least equal to the then current market rate for similar space.

1.16. The Beneficiary's Performance. If the Grantor fails to pay or perform any of its obligations herein contained (including payment of expenses of foreclosure and court costs), the Beneficiary may (but need not), as agent or attorney-in-fact of the Grantor, make any payment or perform (or cause to be performed) any obligation of the Grantor hereunder, in any form and manner deemed expedient by the Beneficiary, and any amount so paid or expended (plus reasonable compensation to the Beneficiary for its out-of-pocket and other expenses for each matter for which it acts under this Deed of Trust), with interest thereon at the default interest rate as calculated under the Note (the "Default Rate"), shall be added to the principal debt hereby secured and shall be repaid to the Beneficiary upon demand. By way of illustration and not in limitation of the foregoing, the Beneficiary may (but need not) do all or any of the following: make rent payments under the Ground Lease, make payments of principal or interest or other amounts on any lien, encumbrance or charge on any of the Collateral; complete construction; make repairs; collect rents; prosecute collection of the Collateral or proceeds thereof; obtain insurance and pay premiums therefor; purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit, proceeding, title or claim thereof; contest any tax or assessment; and redeem from any tax sale or forfeiture affecting the Premises. In making any payment or securing any performance relating to any obligation of the Grantor hereunder, the Beneficiary shall be the sole judge of the legality, validity and amount of any lien or encumbrance and of all other matters necessary to be determined in satisfaction thereof (to be determined in Beneficiary's reasonable discretion). No such action of the Beneficiary shall ever be considered as a waiver of any right accruing to it on account of the occurrence of any matter which constitutes a Default or an Event of Default.

1.17. Subrogation. To the extent that the Beneficiary, on or after the date hereof, pays any sum under any provision of law or any instrument or document creating any lien or other interest prior or superior to the lien of this Deed of Trust, or the Grantor or any other person pays any such sum with the proceeds of the loan secured hereby, the Beneficiary shall have and be entitled to a lien or other interest on the Collateral equal in priority to the lien or other interest discharged and the Beneficiary shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence and benefit the Beneficiary in securing the Secured Obligations.

1.18. Protection and Preservation of the Premises. Grantor shall neither commit nor permit to occur any waste upon the Premises but shall at all times make or cause to be made all repairs, maintenance, renewals and replacements as may be necessary to maintain the Premises in good condition and repair. Grantor shall keep the Premises free of termites, dry rot, fungus, beetles and all other harmful or destructive insects and shall keep all plants,

trees and shrubs included in the Premises neatly pruned and in good condition. Grantor shall keep the Premises free of rubbish and other unsightly or unhealthful conditions. Grantor shall neither use nor permit the use of the Premises in violation of any applicable statute, ordinance or regulation, including, without limitation, the Americans With Disabilities Act of 1990 and corresponding rules and regulations (the "ADA"), or any policy of insurance insuring the Premises. Grantor shall promptly complete any improvements that may be commenced, in good and workmanlike manner and in conformity with the ADA and with plans and specifications approved by Beneficiary. Grantor shall repair and restore, in conformity with the ADA, any portions of the Premises that may be damaged or destroyed. Grantor shall comply with all laws, ordinances and regulations now or hereafter enacted, including, without limitation, the ADA, affecting the Property or requiring any alterations or improvements to be made. Except as required by law, Grantor shall not remove, substantially alter, or demolish any building or improvement included in the Premises without Beneficiary's prior written consent.

1.19. Covenants Regarding Leases.

(a) The Leases are valid and subsisting leases, are in full force and effect in accordance with the terms thereof and have not been modified except as herein set forth. All of the rents and other charges payable under the Leases prior to the execution hereof have been paid, all of the terms, conditions and agreements contained in the Leases have been performed and no default exists under the Leases. This Deed of Trust is lawfully executed and delivered in conformity with the Leases and is, and will be kept, a valid lien on the interests of the Grantor therein.

(b) The Grantor will promptly pay, or cause to be paid, all rents, charges and other sums or amounts required to be paid by the Grantor under the terms of the Leases, will further timely and fully keep and perform all of the covenants, terms, conditions and provisions of the Leases required to be performed and complied with by the tenant thereunder, and will not do or suffer to be done anything the doing of which, or refrain from doing anything the omission of which, will impair the security of this Deed of Trust.

(c) The Grantor also covenants that it will not modify, extend, supplement, or in any way alter the terms of the Leases or cancel or surrender the Leases, or waive, excuse, condone or in any way release or discharge the other parties thereunder of or from any obligations, covenants, conditions and agreements by said parties to be done and performed, without the Beneficiary's prior written consent. The Grantor does by these presents expressly release, relinquish and surrender unto the Beneficiary all its right, power and authority to cancel, surrender, amend, modify, supplement or alter in any way the terms and provisions of the Leases and any attempt on the part of the Grantor to exercise any such right without the prior written consent of the Beneficiary thereto shall constitute a default under the terms hereof. The Grantor also covenants that it will promptly notify the Beneficiary of any breach by the other parties under the Leases and of any inability of such parties to perform their obligations under the Leases and will enforce the obligations of the Lessor under the Leases, to the end that Grantor may enjoy all of the rights granted to it as lessee under the Leases. The Grantor assigns to the Beneficiary the proceeds of any claim the Grantor may have against such parties for such breach or inability. The Beneficiary shall have the sole right to choose either (i) to proceed against such parties as if the Beneficiary were the named party in the Lease thereunder, in the Grantor's name or in the Beneficiary's name as agent for the Grantor, and the Grantor agrees to cooperate with the Beneficiary in such action and to execute all documents required by the Beneficiary in furtherance of such action, or (ii) to have the Grantor proceed on its and the Beneficiary's behalf, in which event the Beneficiary may participate in such proceedings, and the Grantor will deliver to the Beneficiary all documents required by the Beneficiary for such participation. The Grantor shall, at its expense, diligently prosecute such proceedings, shall deliver to the Beneficiary copies of all papers served in connection therewith and shall consult and cooperate with the Beneficiary and its attorneys and agents, provided that no settlement of such proceedings may be made by the Grantor without the Beneficiary's prior written consent.

(d) The Grantor shall give the Beneficiary immediate notice of any material default by the Grantor under the Leases or of the receipt by it of any notice of default from the Lessor thereunder or notice of termination of the Leases pursuant to the provisions thereof and shall furnish to the Beneficiary immediately any and all information which the Beneficiary may reasonably request concerning the performance by the Grantor of the covenants of the Leases or of this Deed of Trust. The Grantor shall permit

forthwith the Beneficiary or its representatives at all reasonable times to make investigation or examination concerning the performance by the Grantor of the covenants of the Leases or of this Deed of Trust. The Grantor further covenants and agrees that it will promptly deposit with the Beneficiary a copy of the Leases, certified as true, correct and complete by a duly elected and authorized officer of Grantor, and any and all documentary evidence received by it showing compliance by the Grantor with the provisions of the Leases and will also deposit with the Beneficiary an exact copy of any notice, communication, plan, specification or other instrument or document received or given by it in any way relating to or affecting the Leases which may concern or affect the estate of the Lessor or the lessee in or under the Leases or in the real estate thereby demised.

1.20. **Bankruptcy Rights and Remedies.** The lien of this Deed of Trust attaches to all of Grantor's rights and remedies at any time arising under or pursuant to Section 365 of the Bankruptcy Code, including, without limitation, all of Grantor's rights to remain in possession of the Collateral, and the following rights:

(a) If the Leases are rejected or disaffirmed by the Lessor of the Leases pursuant to Section 365(a) of the Bankruptcy Code, the Grantor covenants that it will not elect to treat the Leases as terminated under Section 365(h) of the Bankruptcy Code, and hereby assigns to the Beneficiary the sole and exclusive right to make or refrain from making such election.

(b) If the Lessor under the Leases rejects or disaffirms such Lease pursuant to the Bankruptcy Code and the Beneficiary elects to have the Grantor remain in possession under any legal right Grantor may have to occupy the premises leased pursuant to the Leases, then (i) Grantor shall remain in such possession and shall perform all acts necessary for Grantor to retain its right to remain in such possession for the unexpired term of the Leases (including all renewals thereof), whether such acts are required under the then existing terms and provisions of the Leases or otherwise and (ii) all of the terms and provisions of this Deed of Trust and the lien created thereby shall remain in full force and effect and shall be extended automatically to such possession, occupancy and interest of the Grantor.

(c) If, pursuant to Subsection 365(h)(1)(B) of the Bankruptcy Code, the Grantor seeks to offset against the rent reserved in the Leases the amount of any damages caused by the non-performance by Lessor of any of the obligations of Lessor under the Leases after the rejection by the Lessor of the Leases under the Bankruptcy Code, the Grantor shall, prior to effecting such offset, notify the Beneficiary of its intent so to do, setting forth the amount proposed to be so offset, and in the event of an objection thereto by the Beneficiary, the Grantor shall not effect any offset of the amount so objected to by the Beneficiary. If the Beneficiary has failed to object as aforesaid within twenty (20) days after notice from the Grantor in accordance with the first sentence of this paragraph, the Grantor may proceed to effect such offset in the amounts set forth in the Grantor's notice. Neither the failure to object as aforesaid nor any objection or other communication between the Beneficiary and the Grantor relating to such offset shall constitute an approval of any such offset by the Beneficiary. The Grantor shall indemnify and save the Beneficiary harmless from and against any and all claims, demands, actions, suits, proceedings, damages, losses, costs and expenses of every nature whatsoever (including, without limitation, attorneys' fees) arising from or relating to any offset by the Grantor against the rent reserved in the Leases.

(d) The Grantor hereby unconditionally assigns, transfers and sets over to the Beneficiary all of the Grantor's claims and rights to the payment of damages arising from any rejection by Lessor of the Leases under the Bankruptcy Code. The Beneficiary shall have the right to proceed in its own name or in the name of the Grantor in respect of any claim, suit, action or proceeding relating to the rejection of the Leases, including, without limitation, the right to file and prosecute, to the exclusion of the Grantor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of Lessor under the Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the Secured Obligations shall have been satisfied and discharged in full. Any amounts received by the Beneficiary as damages arising out of the rejection of the Leases as aforesaid shall be applied first to all costs and expenses of the Beneficiary (including, without limitation, attorneys' fees) incurred in connection with the exercise of any of its rights or remedies under this paragraph.

(e) If any action, proceeding, motion or notice shall be commenced or filed in respect of the Leases or the Collateral in connection with any case under the Bankruptcy Code the subject of which is Lessor, the Beneficiary shall have the option, to the exclusion of the Grantor, to conduct and control any such litigation with counsel of the Beneficiary's choice. The Beneficiary may proceed with any such litigation and the Grantor agrees to execute any and all powers, authorizations, consents or other documents required by the Beneficiary in connection therewith. The Grantor shall, upon demand, pay to the Beneficiary all costs and expenses (including attorneys' fees) paid or incurred by the Beneficiary in connection with the prosecution or conduct of any such proceedings. Any such costs or expenses not paid by the Grantor as aforesaid shall be secured by the lien of this Grantor and shall be added to the principal amount of the Secured Obligations. The Grantor shall not commence any action, suit, proceeding or case, or file any application or make any motion, in respect of the Leases in any such case under the Bankruptcy Code without the prior written consent of the Beneficiary.

(f) The Grantor shall promptly, after obtaining knowledge thereof, notify the Beneficiary orally of any filing by or against Lessor or the Grantor of a petition under the Bankruptcy Code. The Grantor shall thereafter forthwith give written notice of such filing to the Beneficiary, setting forth any information available to the Grantor as to the date of such filing, the court in which such petition was filed and the relief sought therein. The Grantor shall promptly deliver to the Beneficiary, following receipt, any and all notices, summons, pleadings, applications and other documents received by the Grantor in connection with any such petition and any proceedings relating thereto.

(g) If there shall be filed by or against the Grantor a petition under the Bankruptcy Code, and the Grantor, as lessee under the Leases, shall determine to reject the Leases pursuant to Section 365(a) of the Bankruptcy Code, the Grantor shall give the Beneficiary not less than twenty (20) days' prior notice of the date on which the Grantor shall apply to the bankruptcy court for authority to reject the Leases. In the alternative, should the Grantor determine not to assume the Leases pursuant to Section 365(a) of the Bankruptcy Code, the Grantor shall give the Beneficiary written notice thereof not less than twenty (20) days before the Leases will be deemed rejected under Section 365(d)(4) of the Bankruptcy Code. The Beneficiary shall have the right, but not the obligation, to serve upon the Grantor within such twenty (20) day period a notice stating that (i) the Beneficiary demands that the Grantor assume and assign the Leases to the Beneficiary pursuant to Section 365 of the Bankruptcy Code and (ii) the Beneficiary covenants to cure or provide adequate assurance of prompt cure of all defaults and provide adequate assurance of future performance under the Leases. If the Beneficiary serves upon the Grantor the notice described in the preceding sentence, the Grantor shall not seek to reject the Leases and shall assume and assign the Leases to the Beneficiary prior to the date it would be deemed rejected pursuant to Section 365(d)(4) of the Bankruptcy Code, subject to the performance by the Beneficiary of the covenant set forth in clause (ii) of the preceding sentence.

(h) Effective upon the entry of an order for relief in respect of the Grantor under Chapter 7 of the Bankruptcy Code, the Grantor hereby assigns and transfers to the Beneficiary a non-exclusive right to apply to the bankruptcy court under Subsection 365(d)(1) of the Bankruptcy Code for an order extending the period during which the Leases may be rejected or assumed.

(i) All references to particular sections or subsections of the Bankruptcy Code shall be deemed to include any and all successor or replacement sections or subsections thereto.

1.21. Leases. Notwithstanding the foregoing provisions of the foregoing paragraphs regarding termination of the Leases, upon a termination or rejection of the Leases, the Grantor acknowledges that the Beneficiary may enter into (1) an instrument recognizing, confirming and giving legal effect to the continued existence of the Leases in favor of the Beneficiary or its designee, or (2) a new lease in favor of the Beneficiary or its designee (in either event the "Beneficiary's Lease") for the Collateral pursuant to the terms of the Leases, or the provisions of a separate agreement between the Beneficiary and Lessor, under the following terms and conditions:

(a) The Beneficiary's Lease shall be encumbered by the lien and security interest of this Deed of Trust which shall constitute the first and senior lien on the Beneficiary's Lease.

(b) The Beneficiary's execution of the Beneficiary's Lease shall not be deemed to be in satisfaction in whole or in part of the Secured Obligations and all of the other terms, covenants and conditions contained in this Grantor shall remain as a lien on the Collateral.

(c) The Grantor hereby releases, remises, and quitclaims to the Beneficiary any interest Grantor may have in the Beneficiary's Lease and further agrees and acknowledges that the Beneficiary may assign the Beneficiary's Lease without notice, consent or joinder of the Grantor. The Grantor further waives any right the Grantor may have to challenge the adequacy of any consideration received therefore provided that in the event of an assignment of the Beneficiary's Lease, the proceeds thereof, if any, less costs and fees, including, but not limited to, customary closing costs and reasonable attorneys' fees, shall be applied to reduce the Secured Obligations.

(d) The Beneficiary or its designee shall pay or cause to be paid to the Lessor at the time of the execution and delivery of such Beneficiary's Lease, any and all sums which are at the time of execution and delivery of the Beneficiary's Lease due under the Leases and in addition, all reasonable expenses, including reasonable attorneys' fees which the Lessor shall have incurred by reason of the actual or deemed rejection of the Leases and the execution and delivery of the Beneficiary's Lease. Such payments by the Beneficiary to the Lessor shall be deemed to have been made for the protection of the Grantor and shall constitute part of the Secured Obligations.

1.22. Indemnity Clause. Without limiting any other rights hereunder or under applicable law, the Grantor does and shall indemnify the Beneficiary and hold the Beneficiary harmless from and against any and all claims, losses, damages (including natural resources damages), liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all reasonable costs and expenses incurred in connection therewith, including without limitation all reasonable attorneys' fees and expenses, arising directly or indirectly in whole or in part, out of any spill or attributable to the presence, use, generation, disposal, discharge, storage, release or threatened release of hazardous substances on, from, under or affecting the Premises, or transported to or from the Premises, whether prior to or during the term of the indebtedness secured hereby, and whether by the Grantor or any predecessor in title or any employees, agents, contractors, or subcontractors of the Grantor or any predecessors in title, or any third persons at any time occupying or present on the Premises.

1.23. Reasonable Attorneys' Fees. The Grantor and each borrower, endorser, and guarantor jointly and severally agree to pay all reasonable costs, attorneys' fees, paralegal fees, and expenses incurred in the event it becomes necessary for the Beneficiary to protect its security and/or in the event of collection, whether suit be brought or not, and if suit is brought said parties agree to pay the Beneficiary's reasonable costs and attorneys' fees, paralegal fees and expenses incurred therein including reasonable costs and attorneys' fees, paralegal fees and expenses incurred upon appeal, if any.

ARTICLE II

DEFAULT

2.1 The occurrence of any of the following events or conditions shall constitute an "Event of Default" under this Deed of Trust:

- (a) The occurrence of any Event of Default, as that term is defined in the Agreement.
- (b) The abandonment by Grantor of all or any part of the Property.
- (c) The existence of any encroachment upon the Property that has occurred without the approval of Beneficiary that is not removed or corrected or insured over by the Title Company within thirty (30) days after its creation.
- (d) The demolition or destruction of, or any substantial damage to, any portion of the Property that is not adequately covered by insurance, or the loss, theft or destruction of, or any substantial

damage to, any portion of the personal property or any other collateral or security for the Secured Obligations, that is not adequately covered by insurance.

ARTICLE III

BENEFICIARY'S REMEDIES

Immediately upon or any time after the occurrence of any Event of Default hereunder, Beneficiary may exercise any remedy available at law or in equity, including but not limited to those listed below and those listed in the other Loan Documents, in such sequence or combination as Beneficiary may determine in Beneficiary's sole discretion:

3.1 Acceleration. Beneficiary may, without notice or demand, declare all of the Secured Obligations to be immediately due and payable in full.

3.2 Performance of Defaulted Obligations. Beneficiary may make any payment or perform any other obligation under the Loan Documents which Grantor has failed to make or perform, and Grantor hereby irrevocably appoints Beneficiary as the true and lawful attorney-in-fact for Grantor to make any such payment and perform any such obligation in the name of Grantor. All payments made and reasonable expenses (including attorney's fees) incurred by Beneficiary in this connection, together with interest thereon at the Default Rate from the date paid or incurred until repaid, will be part of the Secured Obligations and will be immediately due and payable by Grantor to Beneficiary. In lieu of advancing Beneficiary's own funds for such purposes, Beneficiary may use any funds of Grantor which may be in Beneficiary's possession, including but not limited to insurance or condemnation proceeds and amounts deposited for taxes, insurance premiums, or other purposes.

3.3 Specific Performance and Injunctive Relief. Notwithstanding the availability of legal remedies, Beneficiary will be entitled to obtain specific performance, mandatory or prohibitory injunctive relief, or other equitable relief requiring Grantor to cure or refrain from repeating any default.

3.4 Suit for Monetary Relief. With or without accelerating the maturity of the Secured Obligations, Beneficiary may sue from time to time for any payment due under any of the Loan Documents, or for money damages resulting from Grantor's default under any of the Loan Documents.

3.5 Possession of Premises. Beneficiary may enter and take possession of the Premises without seeking or obtaining the appointment of a receiver, may employ a managing agent for the Premises, and may lease or rent all or any part of the Premises, either in Beneficiary's name or in the name of Grantor, and may collect the rents, issues, and profits of the Premises. Any revenues collected by Beneficiary under this section will be applied first toward payment of all expenses (including attorney's fees) incurred by Beneficiary, together with interest thereon at the Default Rate from the date incurred until repaid, and the balance, if any, will be applied against the Secured Obligations.

3.6 Enforcement of Security Interests. Beneficiary may exercise all rights and remedies set forth in the Loan Documents above, including all rights of a secured party under the Uniform Commercial Code.

3.7 Foreclosure.

(a) Public Trustee. Beneficiary may foreclose this Deed of Trust, insofar as it encumbers the Premises, by way of a trustee's sale pursuant to the provisions of Colorado law, or in any other manner then permitted by law. If this Deed of Trust encumbers more than one parcel of real estate, foreclosure may be by separate parcel or en masse, as Beneficiary may elect in its sole discretion.

(b) Judicial Foreclosure. The right to foreclose this Deed of Trust as a mortgage by appropriate proceedings in any court of competent jurisdiction is also hereby given.

(c) Expenses of Trustee's Sale or Foreclosure. All fees, costs and expenses of any kind incurred by Beneficiary in connection with foreclosure of this Deed of Trust, including, without limitation, the costs of any appraisals of the Premises obtained by Beneficiary, all costs of any receivership for the Premises advanced by Beneficiary, and all attorneys' and consultants' fees incurred by Beneficiary, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimates as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examination, title insurance policies and similar data and assurances with respect to title, as Trustee or Beneficiary may deem necessary, in its reasonable discretion, either to prosecute such suit or to evidence to bidders at the sales that may be had pursuant to such proceedings the true conditions of the title to or the value of the Premises, together with and including a reasonable compensation to Trustee, shall constitute a part of the Secured Obligations and may be included as part of the amount owing from Grantor to Beneficiary at any foreclosure sale.

(d) Proceeds of Trustee's or Foreclosure Sale. The proceeds of foreclosure sale of the Premises shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including without limitation all such items as are mentioned in Article 3.7(c) hereof; second, all other items which, under the terms hereof, constitute Secured Obligations additional to that evidenced by the Note, with interest on such items as herein provided; third, to interest remaining unpaid upon the Note; fourth, to the principal remaining unpaid upon the Note; and lastly, to Grantor and its successors or assigns, as their rights may appear.

(e) Insurance Upon Foreclosure. In case of an insured loss after judicial foreclosure or Trustee's sale proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied to rebuilding or restoring the buildings or improvements, shall be used to pay the amount due upon the Secured Obligations. In the event of judicial foreclosure or Trustee's sale, Beneficiary or Trustee is hereby authorized, without the consent of Grantor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Beneficiary or Trustee may deem advisable to cause the interest of such purchaser to be protected by any of the said insurance policies.

(f) No Conflict. Nothing in this section dealing with foreclosure procedures or specifying particular actions to be taken by Beneficiary or by Trustee or any similar officer shall be deemed to contradict or add to the requirements and procedures now or hereafter specified by Colorado law, and any such inconsistency shall be resolved in favor of Colorado law applicable at the time of foreclosure.

3.8 Appointment of Receiver. Grantor waives any right to any hearing or notice of hearing prior to the appointment of a receiver. Such receiver and his agents shall be empowered (a) to take possession of the Premises and any businesses conducted by Grantor or any other person (excluding the business of tenants of Grantor) thereon and any business assets used in connection therewith and, if the receiver deems it appropriate, to operate the same, (b) to exclude Grantor and Grantor's agents, servants, and employees from the Premises, (c) to collect the rents, issues, profits, and income therefrom, (d) to complete any construction which may be in progress, (e) to do such maintenance and make such repairs and alterations as the receiver deems unnecessary, (f) to use all stores of materials, supplies, and maintenance equipment on the Premises, (g) to pay all taxes and assessments against the Premises and all premiums for insurance thereon, (h) to pay all utility and other operating expenses, and all sums due under any prior or subsequent encumbrance, and (i) generally to do anything which Grantor could legally do if Grantor were in possession of the Premises. All reasonable expenses incurred by the receiver or his agents shall constitute a part of the Secured Obligations. Any revenues collected by the receiver shall be applied first to the expenses of the receivership, including attorneys' fees incurred by the receiver and by Beneficiary, together with interest thereon at the Default Rate from the date incurred until repaid, and the balance shall be applied toward the Secured Obligations or in such other manner as the court may direct. Unless sooner terminated with the express consent of Beneficiary, any such receivership will continue until the Secured Obligations have been discharged in full, or until title to the Premises has passed after foreclosure sale and all applicable periods of redemption have expired.

3.9 Right to Make Repairs, Improvements. Should any part of the Premises come into the possession of Beneficiary, whether before or after an Event of Default, Beneficiary may use, operate, and/or make repairs, alterations, additions and improvements to the Premises for the purpose of preserving it or its value. Grantor covenants to promptly reimburse and pay to Beneficiary, at the place where the Note is payable, or at such other place as may

be designated by Beneficiary in writing, the amount of all reasonable expenses (including the cost of any insurance, taxes, or other charges) incurred by Beneficiary in connection with its custody, preservation, use or operation of the Premises, together with interest thereon from the date incurred by Beneficiary at the Default Rate, and all such expenses, costs, taxes, interest, and other charges shall be a part of the Secured Obligations. It is agreed, however, that the risk of accidental loss or damage to the Premises is undertaken by Grantor and, except for Beneficiary's willful misconduct or gross negligence, Beneficiary shall have no liability whatsoever for decline in value of the Premises, for failure to obtain or maintain insurance, or for failure to determine whether any insurance ever in force is adequate as to amount or as to the risks insured.

3.10 Waivers. To the full extent that the covenants and waivers contained in this Article 3 are permitted by law, but not otherwise, (a) Grantor hereby waives any and all rights under, and covenants and agrees that it will not at any time insist upon or plead or in any manner whatsoever claim or take advantage of, any stay, exemption, moratorium or extension law hereafter in effect or any law now or hereafter in effect providing for the valuation or appraisal of the Premises or any part thereof prior to any sale or sales thereof and Grantor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power or remedy herein or otherwise granted or delegated to Trustee or Beneficiary, but will suffer and permit the execution of every such right, power and remedy as though no such law or laws have been made or enacted; and (b) Grantor hereby waives, and subordinates to the lien of this Deed of Trust, any rights that Grantor may have in or to the Premises as a homestead exemption under existing law or under any similar law that may hereafter be enacted, such waiver and subordination to be effective in connection with either a trustee's or foreclosure sale under this Deed of Trust or Beneficiary's redemption of the Premises in the case of a trustee's or foreclosure sale to enforce an encumbrance prior in right to that of this Deed of Trust.

ARTICLE IV

GENERAL

4.1. Security Agreement; Fixture Filing; Future Advances.

(a) This Deed of Trust, to the extent that it conveys or otherwise deals with personal property or with items of personal property which are or may become fixtures, shall also be construed as a security agreement under the Uniform Commercial Code as in effect in the state in which the Premises are located, and this Deed of Trust constitutes a financing statement filed as a fixture filing in the Official Records of the County Recorder of the County in which the Premises are located with respect to any and all fixtures included within the term "Collateral" as used herein and with respect to any Goods or other personal property that may now be or hereafter become such fixtures. For purposes of the foregoing, the Grantor is the debtor (with its address as set forth below), and the Beneficiary is the secured party (with its address as set forth below). If any item of Collateral hereunder also constitutes collateral granted to the Beneficiary under any other mortgage, agreement, document, or instrument, in the event of any conflict between the provisions of this Deed of Trust and the provisions of such other mortgage, agreement, document, or instrument relating to the Collateral, the provision or provisions selected by the Beneficiary shall control with respect to the Collateral.

(b) This Deed of Trust is granted to secure, among other Secured Obligations, future advances and loans (whether obligatory, made at the option of Beneficiary or otherwise) from the Beneficiary to or for the benefit of the Grantor or its successors or assigns or the Premises, as provided in the Agreement, and costs and expenses of enforcing the Grantor's obligations under this Deed of Trust, the Agreement and the other Loan Documents. All advances, disbursements or other payments required by the Agreement are obligatory advances up to the credit limits established therein and shall, to the fullest extent permitted by law, have priority over any and all construction and mechanics' liens and other liens and encumbrances arising after this Deed of Trust is recorded.

4.2. Defeasance. Upon full payment of all indebtedness secured hereby and satisfaction of all the Secured Obligations in accordance with their respective terms and at the time and in the manner provided, and when the Beneficiary has no further obligation to make any advance, or extend any credit hereunder, under the Note or any Loan Documents, this conveyance shall be null and void, and thereafter, upon demand therefor, the Beneficiary shall

promptly direct the Trustee to make an appropriate instrument of reconveyance or release to the Grantor, at the expense of the Grantor.

4.3. Notices. All notices, demands and other communications provided for hereunder shall be given in accordance with the notice provisions of the Agreement to the parties hereto at the addresses set forth herein.

4.4. Successors; the Grantor; Gender; Severability. All provisions hereof shall bind the Grantor and the Beneficiary and their respective successors, vendees and assigns and shall inure to the benefit of the Beneficiary, its successors and assigns, and the Grantor and its permitted successors and assigns. THE GRANTOR CONSENTS TO THE ASSIGNMENT BY THE BENEFICIARY OF ALL OR ANY PORTION OF ITS RIGHTS UNDER THIS DEED OF TRUST AND THE OTHER LOAN DOCUMENTS. THE GRANTOR ACKNOWLEDGES AND AGREES THAT ANY AND ALL RIGHTS OF THE BENEFICIARY UNDER THIS DEED OF TRUST AND THE OTHER LOAN DOCUMENTS MAY BE EXERCISED FROM TIME TO TIME BY ANY ASSIGNEE OR SUCCESSOR OF THE BENEFICIARY. The Grantor shall not have any right to assign any of its rights hereunder. Except as limited by the preceding sentence, the word "Grantor" shall include all Persons claiming under or through the Grantor and all Persons liable for the payment or performance by the Grantor of any of the Secured Obligations whether or not such Persons shall have executed the Note or this Deed of Trust. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. Whenever possible, each provision of this Deed of Trust shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Deed of Trust shall be prohibited by or invalid under the applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity only, without invalidating the remainder of such provision or the remaining provisions of this Deed of Trust, it being the parties' intention that this Deed of Trust and each provision hereof be effective and enforced to the fullest extent permitted by applicable law.

4.5. Care by the Beneficiary. The Beneficiary shall be deemed to have exercised reasonable care in the custody and preservation of any of the Collateral assigned by the Grantor to the Beneficiary or in the Beneficiary's possession if it takes such action for that purpose as the Grantor requests in writing, but failure of the Beneficiary to comply with any such request shall not be deemed to be (or to be evidence of) a failure to exercise reasonable care, and no failure of the Beneficiary to preserve or protect any rights with respect to such Collateral against prior parties, or to do any act with respect to the preservation of such Collateral not so requested by the Grantor, shall be deemed a failure to exercise reasonable care in the custody or preservation of such Collateral.

4.6. No Waiver; Writing. No delay on the part of the Beneficiary in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the Beneficiary of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy. The granting or withholding of consent by Beneficiary to any transaction as required by the terms hereof shall not be deemed a waiver of the right to require consent to future or successive transactions.

4.7. Applicable Law; Venue. This Deed of Trust and all claims or controversies arising out of or relating to this Deed of Trust shall be governed by and construed according to the laws of the State of Colorado, without giving effect to conflict of laws principles which might otherwise require the application of the laws of another jurisdiction. Venue for all actions arising from this Deed of Trust shall be in the District Court in and for the County of Archuleta, State of Colorado. The parties hereto waive any objection which either may have based on lack of jurisdiction or improper venue or forum non conveniens to any suit or proceeding instituted by either party under this Deed of Trust in any state or federal court with jurisdiction over the County of Archuleta, Colorado, and consent to the granting of such legal or equitable relief as is deemed appropriate by such court.

4.8. Waiver. The Grantor, on behalf of itself and all Persons now or hereafter interested in the Premises or the Collateral, to the fullest extent permitted by applicable law hereby waives all rights under all appraisal, homestead, moratorium, valuation, exemption, stay, extension, and redemption statutes, laws or equities now or hereafter existing, and hereby further waives the pleading of any statute of limitations as a defense to any and all Secured Obligations secured by this Deed of Trust, and the Grantor agrees that no defense, claim or right based on any thereof will be asserted, or may be enforced, in any action enforcing or relating to this Deed of Trust or any of this Collateral. Without limiting the generality of the preceding sentence, the Grantor, on its own behalf and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date of this Deed of Trust, hereby irrevocably waives any and all rights of redemption from sale under any order or decree of foreclosure of this

Deed of Trust or under any power contained herein or under any sale pursuant to any statute, order, decree or judgment of any court. The Grantor, for itself and for all Persons hereafter claiming through or under it or who may at any time hereafter become holders of liens junior to the lien of this Deed of Trust, hereby expressly waives and releases all rights to direct the order in which any of the Collateral shall be sold in the event of any sale or sales pursuant hereto and to have any of the Collateral and/or any other property now or hereafter constituting security for any of the indebtedness secured hereby marshalled upon any foreclosure of this Deed of Trust or of any other security for any of said indebtedness.

4.9. JURY TRIAL. THE GRANTOR HEREBY EXPRESSLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS DEED OF TRUST OR ANY LOAN DOCUMENTS TO WHICH IT IS A PARTY, OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR THEREWITH OR ARISING FROM ANY RELATIONSHIP EXISTING IN CONNECTION WITH THIS DEED OF TRUST OR ANY RELATED DOCUMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

4.10. No Merger. It being the desire and intention of the parties hereto that this Deed of Trust and the lien hereof do not merge in fee simple or leasehold title to the Premises, it is hereby understood and agreed that should the Beneficiary acquire an additional or other interests in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by the Beneficiary as evidenced by an express statement to that effect in an appropriate document duly recorded, this Deed of Trust and the lien hereof shall not merge in the fee simple or leasehold title, toward the end that this Deed of Trust may be foreclosed as if owned by a stranger to the fee simple or leasehold title. So long as any of the indebtedness secured by this Deed of Trust shall remain unpaid, unless the Beneficiary shall otherwise in writing consent, the fee or leasehold title and the Leasehold Estate, in the Premises hereinbefore described, shall not merge but shall always be kept separate and distinct, notwithstanding the union of said estates either in the lessor or in the lessee, or in a third party, by purchase or otherwise; and the Grantor further covenants and agrees that, in case it shall acquire the fee title, or any other estate, title or interest in the premises covered by the Leases, this Deed of Trust shall attach to and cover and be a first lien upon such other estate so acquired, and such other estate so acquired by the Grantor shall be considered as mortgaged, assigned or conveyed to the Beneficiary and the lien hereof spread to cover such estate with the same force and effect as though specifically herein mortgaged, assigned or conveyed and spread.

4.11. Time of Essence and Severability. Time is declared to be of the essence in this Deed of Trust, the Agreement, the Note and the Loan Documents and of every part hereof and thereof. If the Beneficiary chooses to waive any covenant, section, or provision of this Deed of Trust, or if any covenant, section, or provision of this Deed of Trust is construed by a court of competent jurisdiction to be invalid or unenforceable, it shall not affect the applicability, validity, or enforceability of the remaining covenants, paragraphs, or provisions.

4.12. Matters to Be in Writing. This Deed of Trust cannot be altered, amended, modified, terminated, waived, released or discharged except in a writing signed by the party against whom enforcement is sought.

4.13. Sole Discretion of Beneficiary. Whenever Beneficiary's judgment, consent or approval is required hereunder for any matter, or Beneficiary shall have an option or election hereunder, such judgment, the decision as to whether or not to consent to or approve the same or the exercise of such option or election shall be in the sole discretion of Beneficiary.

[REST OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed and delivered this Leasehold Deed of Trust on the day and year first above below to be effective as of the date set forth above.

GRANTOR:

ROSE MOUNTAIN TOWNHOMES, LP

a Colorado limited partnership

By: Rose Mountain Townhomes, LLC,
a Colorado limited liability company,
its General Partner

By: _____

Name: _____

Title: _____

STATE OF _____)

) ss.

COUNTY OF _____)

Acknowledged before me this ____ day of September, 2020, by _____, the _____ of
Rose Mountain Townhomes, LLC, a Colorado limited liability company, General Partner of Rose Mountain
Townhomes, LP, a Colorado limited partnership.

Witness my hand and official seal.

My commission expires: _____

Notary Public

**AGREEMENT AND CONSENT OF LANDLORD TO TERMS OF
LEASEHOLD DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING**

The Board of County Commissioners of Archuleta County, Colorado (“Landlord”) is the current landlord under the Ground Lease dated April 2, 2019, between Landlord and the Archuleta County Housing Authority, a Colorado nonprofit corporation, which was recorded in the real property records for Archuleta County, Colorado, on April 3, 2019, at Reception No. 21901774, as amended by that First Amendment to Ground Lease, recorded in the real property records for Archuleta County, Colorado, on June 13, 2019, at Reception No. 21903294, and assigned to Rose Mountain Townhomes, LP, a Colorado limited partnership (“Tenant”) pursuant to that Assignment of Ground Lease dated on even date herewith and recorded prior to the recording of this Leasehold Deed of Trust (collectively, the “Ground Lease”). Landlord hereby agrees for the benefit of Beneficiary as follows:

1. A copy of the Leasehold Deed of Trust, Security Agreement and Fixture Filing (the “Leasehold Deed of Trust”) has been received and reviewed by Landlord.

2. The Ground Lease is in full force and effect as of the date hereof.

3. There are presently no existing events of default under the Ground Lease; and, to the knowledge of Landlord, no event has occurred which, with or without notice or the passage of time, would constitute a default thereunder. Specifically, Landlord acknowledges and agrees that (i) the condition to obtain financing by December 31, 2019, as set forth in Paragraph 3.a of the Ground Lease has been met and/or waived by Landlord; (ii) the current site plan for the improvements to be built on the Property which calls for a total of 34 units is sufficient to satisfy the conditions set forth in Paragraph 4.a of the Ground Lease; and (iii) rent for the entire Term of the Ground Lease (a total of \$99.00) has been paid in full and no other rent payments are required to be made to Landlord under the terms of the Ground Lease.

4. Landlord hereby consents to the terms of the Leasehold Deed of Trust including but not limited to the provisions regarding insurance, casualty losses and condemnation, and agrees that to the extent a conflict arises between the terms of the Ground Lease and the terms of this Leasehold Deed of Trust, the terms of the Leasehold Deed of Trust will control and bind the parties hereto.

5. Landlord hereby further consents to the transfer of the Premises (as defined in the Leasehold Deed of Trust) to Beneficiary, or its designee, upon default by Tenant and the subsequent transfer by Beneficiary, or its designee, to a bona fide purchaser of the Premises, without the necessity of further consent by Landlord.

6. Landlord acknowledges and agrees that Beneficiary is a Permitted Leasehold Mortgagee as that term is defined in the Ground Lease. Any notices required to be provided to Tenant and/or the Permitted Leasehold Mortgagees shall be provided to Beneficiary at the address set forth on the first page of the Leasehold Deed of Trust.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed and delivered this Agreement and Consent on the day and year first above below to be effective as of the date set forth above.

LANDLORD:

**BOARD OF COUNTY COMMISSIONERS OF
ARCHULETA COUNTY, COLORADO**

By: _____
Ronnie Maez, Chairman

ATTEST:

Kristy Archuleta, County Clerk & Recorder

Address of Landlord for Notice purposes

Archuleta County Board of County Commissioners
Attn: County Administrator
P.O. Box 1507
Pagosa Springs, CO 81147

with a copy to:

Archuleta County Attorney's Office
P.O. Box 1507
Pagosa Springs, CO 81147

EXHIBIT A
DESCRIPTION OF PROPERTY

EXHIBIT B

DESCRIPTION OF LEASE

Ground Lease dated April 2, 2019, between the Board of County Commissioners of Archuleta County, Colorado (“Landlord”) and the Archuleta County Housing Authority, a Colorado nonprofit corporation, which was recorded in the real property records for Archuleta County, Colorado, on April 3, 2019, at Reception No. 21901774, as amended by that First Amendment to Ground Lease, recorded in the real property records for Archuleta County, Colorado, on June 13, 2019, at Reception No. 21903294, and assigned to Rose Mountain Townhomes, LP, a Colorado limited partnership (“Tenant”) pursuant to that Assignment of Ground Lease dated on even date herewith and recorded prior to the recording of this Leasehold Deed of Trust.