

ATTACHMENT N 2

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

[Orange County Housing Authority]
[County of Orange
OC Community Resources/
Housing & Community Development]
1501 E. St. Andrew Place, 1st Floor,
Santa Ana, CA 92705
Attn: [Executive] Director

DEED OF TRUST, ASSIGNMENT OF RENTS, AND SECURITY AGREEMENT

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, AND SECURITY AGREEMENT (“**Deed of Trust**”) is made as of this ____ day of _____, 2023, by [BORROWER TO CONFIRM PARTY AND ORG IDENTITY]., (“**Trustor**”), to _____, as trustee (“**Trustee**”), for the benefit of the [ORANGE COUNTY HOUSING AUTHORITY, a public corporation created pursuant to California Health and Safety Code section 34200 et. seq., acting solely as the Housing Successor Agency to the Orange County Development Agency] Or [COUNTY OF ORANGE, a political subdivision of the state of California], as beneficiary (“**Beneficiary**”).

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE AND RIGHT OF ENTRY AND POSSESSION, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, Trustor’s fee interest in the property located in Orange County, State of California, that is described in Exhibit A, attached hereto and incorporated herein by this reference (the “**Property**”), on which Trustor intended to construct and operate an apartment complex commonly known as [PROJECT NAME].

TOGETHER WITH all interest, estates or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property and the rents;

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, including without limiting the generality of the foregoing, all tenements, hereditament and appurtenances thereof and thereto;

TOGETHER WITH any and all buildings, improvements and landscaping of every kind and description now or hereafter erected thereon, and all property of the Trustor now or hereafter

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affixed to or placed upon the Property (sometimes collectively referred to as the “Improvements”);

TOGETHER WITH all building materials and equipment now or hereafter delivered to said Property and intended to be installed therein;

TOGETHER WITH all right, title and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Property, and any and all sidewalks, alleys, strips and gores of land adjacent to or used in connection with the Property and/or Improvements;

TOGETHER WITH all estate, interest, right, title, other claim or demand, of every nature, in and to such property, including the Property, both in law and in equity, including, but not limited to, all oil, gas and mineral rights (including royalty and leasehold rights relating thereto), all water and water rights and shares of stock relating thereto, all leases of all or any portion of the Property or Improvements entered into by Trustor as lessor or lessee, all options to purchase or lease all or any portion of the Property and/or Improvements, all deposits made with or other security given by Trustor to third parties including, utility companies, the proceeds from any or all of such property, including the Property, claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire, any and all awards made for the taking by eminent domain or by and proceeding or purchase in lieu thereof of the whole or any part of such property; and

TOGETHER WITH all articles of personal property or fixtures now or hereafter attached to, located on, installed in or used in and about the Property and/or Improvements, including without limitation, all partitions, generators, screens, boilers, furnaces, pipes, plumbing, elevators, cleaning and sprinkler systems, fire extinguishing machinery and equipment, water tanks, heating, ventilating, air conditioning and air cooling machinery and, equipment, gas and electric machinery and equipment and other appliances, machinery and equipment and other fixtures of every nature, all of which shall remain real property, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or shall be attached to the Property in any manner.

TOGETHER WITH all present and future accounts, general intangibles, chattel paper, deposit accounts, investment property, instruments and documents as those terms are defined in the California Commercial Code, now or hereafter relating or arising with respect to the Property and/or Improvements and/or the use thereof or any improvements thereto, including without limitation: (i) all rights to the payment of money, including escrow proceeds arising out of the sale or other disposition of all or any portion of the Property and/or Improvements; (ii) all deposit accounts and other accounts and funds created under or pursuant to the Loan Agreement (as defined below), and the other Loan Documents, all amounts now or hereafter on deposit herein, and all interest and other earnings thereon; (iii) all use permits, occupancy permits, construction and building permits, and all other permits and approvals required by any governmental or quasi-governmental authority in connection with the development, construction, use, occupancy or operation of the Property and/or Improvements; (iv) any and all agreements relating to the occupancy and/or operation of the Property and/or Improvements, including

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without limitation service, property management, landscaping, gardening, consulting and other contracts of every nature (to the extent the same are assignable); (v) all lease or rental agreements; (vi) all names under which the Property and/or Improvements are now or hereafter known and all rights to carry on business under any such names or any variant thereof; (vii) all trademarks relating to the Property and/or Improvements and/or the use, occupancy or operation thereof; (viii) all goodwill relating to the Property and/or Improvements and/or the use, occupancy or operation thereof; (ix) all insurance proceeds and condemnation awards arising out of or incidental to the ownership, use, occupancy or operation of the Property and/or Improvements; (x) all reserves, deferred payments, deposits, refunds, cost savings, bonds, insurance policies and payments of any kind relating to the Property and/or Improvements; (xi) all water stock, if any, relating to any Property and/or Improvements; (xii) all supplements, modifications and amendments to the foregoing and all present and future accessions, additions, attachments, replacements and substitutions of or to any or all of the foregoing; and (xiii) all cash and noncash proceeds and products of any or all of the foregoing, including without limitation all monies, deposit accounts, insurance proceeds and other tangible or intangible property received upon a sale or other disposition of any of the foregoing, whether voluntary or involuntary; and

TOGETHER WITH all present and future goods, equipment and inventory, as those terms are defined in the California Commercial Code, and all other present and future personal property of any kind or nature whatsoever, now or hereafter located at, upon or about the Property and/or Improvements, or used or to be used in connection with or relating or arising with respect to the Property and/or Improvements, the use thereof or any improvements thereto.

All of the foregoing, together with the Property, is herein referred to as the “Security”. To have and to hold the Security together with acquittances to the Trustee, its successors and assigns forever.

FOR THE PURPOSE OF SECURING:

(a) Payment of and performance of all indebtedness of Trustor to Beneficiary as set forth in the Loan Agreement (defined in Section 1.5 below) and the Note (defined in Section 1.6 below) in the original principal amount of [AMOUNT OF LOAN] (\$XXX) until paid or canceled. Said principal and other payments shall be due and payable as provided in the Loan Agreement and the Note. The Loan Agreement and the Note and all their terms are incorporated herein by reference, and this conveyance shall secure any and all extensions thereof, however evidenced;

(b) Payment and performance of any sums advanced by Beneficiary to protect the Security pursuant to the terms and provisions of this Deed of Trust with interest thereon as provided herein;

(c) Payment and performance of every other obligation, covenant or agreement of Trustor contained in this Deed of Trust and in the other “Loan Documents” (as such term is defined in the Loan Agreement);

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(d) Payment and performance of all renewals, extensions, supplements, amendments and other modifications of any of the foregoing, including without limitation modifications that are evidenced by new or additional documents or that change the rate of interest on any obligation.

All of the foregoing obligations are referred to collectively herein as the “Obligations”.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

ARTICLE I

DEFINITIONS

In addition to the terms defined elsewhere in this Deed of Trust, the following terms shall have the following meanings in this Deed of Trust:

Section 1.1. The term “Debt Instrument” means any debt, loan, mortgage, deed of trust, regulatory agreement or security instrument relating to the Property or the Security, including, but not limited to, the Loan Documents. Section 1.2. The term “**Hazardous Substance**” means:

(a) any oil, flammable substance, explosive, radioactive material, hazardous waste or substance, toxic waste or substance or any other waste, material, or pollutant that

(i) poses a hazard to the Property or to persons on the Property or

(ii) causes the Property to be in violation of any Hazardous Substance Law;

(b) asbestos in any form;

(c) urea formaldehyde foam insulation;

(d) transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls;

(e) radon gas;

(f) any chemical, material, or substance defined as or included in the definition of “hazardous substance,” “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous waste,” “restricted hazardous waste,” or “toxic substances” or words of similar import under any applicable local, state, or federal law or under the regulations adopted or publications promulgated pursuant to those laws, including, but not limited to, any Hazardous Substance Law, Code of Civil Procedure § 564, as amended from time to time, Code of Civil Procedure § 726.5, as amended from time to time, Code of Civil Procedure § 736, as amended from time to time, and Civil Code § 2929.5, as amended from time to time;

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(g) any other chemical, material, or substance, exposure to which is prohibited, limited, or regulated by any governmental authority or which may pose a hazard to the health and safety of the occupants of the Property or the owners or occupants of property adjacent to or surrounding the Property, or any other person coming on the Property or any adjacent property; and

(h) any other chemical, material, or substance that may pose a hazard to the environment.

Section 1.3. The term “**Hazardous Substance Claim**” means any enforcement, cleanup, removal, remedial, or other governmental, regulatory, or private actions, agreements, or orders threatened, instituted, or completed pursuant to any Hazardous Substance Law together with all claims made or threatened by any third party against Trustor or the Property relating to damage, contribution, cost-recovery compensation, loss, or injury resulting from the presence, release or discharge of any Hazardous Substance.

Section 1.4. The term “**Hazardous Substance Law**” means any federal, state, or local law, ordinance, regulation, or policy relating to the environment, health, and safety, any Hazardous Substance (including, without limitation, the use, handling, transportation, production, disposal, discharge, or storage of the substance), industrial hygiene, soil, groundwater, and indoor and ambient air conditions or the environmental conditions on the Property, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 USCS §§ 9601 et seq.], as amended from time to time; the Hazardous Substances Transportation Act [49 USCS §§ 1801 et seq.], as amended from time to time; the Resource Conservation and Recovery Act [42 USCS §§ 6901 et seq.], as amended from time to time; the Federal Water Pollution Control Act [33 USCS §§ 1251 et seq.], as amended from time to time; the Hazardous Substance Account Act [Health and Safety Code §§ 25300 et seq.], as amended from time to time; the Hazardous Waste Control Law [Health and Safety Code §§ 25100 et seq.], as amended from time to time; the Medical Waste Management Act [Health and Safety Code §§ 25015 et seq.], as amended from time to time; and the Porter-Cologne Water Quality Control Act [Water Code §§ 13000 et seq.], as amended from time to time.

Section 1.5. The term “**Loan Agreement**” means that certain Loan Agreement, which terms and provision are incorporated into this Deed of Trust by reference, of even date herewith between Trustor and Beneficiary.

Section 1.6. The term “**Note**” means that certain promissory note of even date herewith executed by the Trustor, the payment of which is secured by this deed of Trust.

Section 1.7. The term “**Principal**” means the aggregate of all principal and interest due under the Note.

Section 1.8. The term “**Release**” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing migration, of Hazardous Substances that goes into the soil,

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surface water, or groundwater of the Property, whether or not caused by, contributed to, permitted by, acquiesced to, or known to Trustor.

ARTICLE II

**GENERAL COVENANTS OF TRUSTOR REGARDING
THE PROPERTY, IMPROVEMENTS AND SECURITY**

Section 2.1. Payment of Secured Obligations.

Trustor shall duly and punctually pay and perform all Obligations, including but not limited to all terms, covenants, conditions and agreements set forth in the Debt Instruments, the Loan Agreement, the Note and any other agreement of any nature whatsoever now or hereafter involving or affecting the Security or any part thereof.

Section 2.2. Maintenance, Repair and Modification.

(a) The Trustor agrees that at all times prior to full payment of the sum owed under the Note, the Trustor will, at the Trustor's own expense, maintain, preserve and keep the Security or cause the Security to be maintained and preserved in good condition and repair and in a prudent and businesslike manner. The Trustor will from time to time make or cause to be made all repairs, replacements and renewals to the Security, which are necessary or appropriate. The Beneficiary shall have no responsibility in any of these matters or for the making of improvements or additions to the Security.

(b) Trustor shall not remove, demolish or substantially alter any of the Improvements, other than to make repairs in the ordinary course of business of a non-structural nature which serve to preserve or increase the value of the Security without Beneficiary's prior written consent, which consent shall not be unreasonably withheld so long as Trustor provides reasonable evidence to Beneficiary that, following such demolition and restoration and/or alteration, the Improvements shall have a fair market value at least equal to their fair market value prior to such demolition and restoration and/or alteration; Trustor shall complete promptly and in a good and workmanlike manner any Improvement which may now or hereafter be constructed and promptly restore in like manner any Improvement which may be damaged or destroyed thereon from any cause whatsoever, and pay when due all claims for labor performed and materials furnished therefor; Trustor shall comply with all laws, ordinances, rules, regulations, covenants, conditions, restrictions and orders of any governmental authority now or hereafter affecting the conduct or operation of Trustor's business or the security or any part thereof or requiring any alteration or improvement to be made thereon; Trustor shall not commit, suffer or permit any act to be done in, upon or to the Security or any part thereof in violation of any such laws, ordinances, rules, regulations or orders, or any covenant, condition or restriction now or hereafter affecting the Security; Trustor shall not commit or permit any waste or deterioration of the Security, and shall keep and maintain abutting grounds, sidewalks, roads,

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parking and landscape areas in good and neat order and repair; Trustor will not take (or fail to take) any action, which if taken (or not so taken) would increase in any way the risk of fire or other hazard occurring to or affecting the Security or otherwise would impair the security of Beneficiary in the Security; Trustor shall comply with the provisions of all leases, if any, constituting a portion of the Security; Trustor shall not abandon the Security or any portion thereof or leave the Security unprotected, unguarded, vacant or deserted; Trustor shall not initiate, join in or consent to any change in any zoning ordinance, general plan, specific plan, private restrictive covenant or other public or private restriction limiting the uses which may be made of the Security by Trustor or by the owner thereof; Trustor shall secure and maintain in full force all permits necessary for the use, occupancy and operation of the Security; except as otherwise prohibited or restricted by the Loan Agreement and the other instruments and documents executed in connection with the transaction to which the Loan Agreement pertains or any of them, Trustor shall do any and all other acts which may be reasonably necessary to protect or preserve the value of the Security and the rights of Trustee and Beneficiary with respect thereto.

Section 2.3. Granting of Easements.

Trustor may not grant easements, licenses, rights-of-way or other rights or privileges in the nature of easements with respect to any property or rights included in the Security except those required or desirable for installation and maintenance of public utilities including, without limitation, water, gas, electricity, sewer, telephone and telegraph, or those required by law.

Section 2.4. Agreement to Pay Attorneys' Fees and Expenses.

In the event of any Event of Default (as defined below) hereunder, and if the Beneficiary should employ attorneys or incur other expenses for the collection of amounts due or the enforcement of performance or observance of an obligation or agreement on the part of the Trustor in this Deed of Trust, the Trustor agrees that it will, on demand therefor, pay to the Beneficiary the reasonable fees of such attorneys and such other reasonable expenses so paid by the Beneficiary; and any such amounts paid by the Beneficiary shall be added to the indebtedness secured by the lien of this Deed of Trust, and shall bear interest from the date such expenses are paid at the Agreed Rate (as defined in Section 3.1(d) below).

Section 2.5. Payment of the Principal.

The Trustor shall pay to the Beneficiary the Principal and any other payments as set forth in the Note in the amounts and by the times set out therein.

Section 2.6. Fixture Filing and Security Agreement.

(a) To the maximum extent permitted by law, the personal property subject to this Deed of Trust shall be deemed to be fixtures and part of the real property and this Deed of Trust shall constitute a fixture filing under the California Commercial Code. As to any personal property not deemed or permitted to be fixtures, this Deed of Trust shall constitute a security agreement under the California Commercial Code and Trustor hereby grants to Beneficiary a

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security interest in all of Trustor's right, title and interest, whether now existing or hereafter arising, in and to any portion of the Property which constitutes personal property (the "**Personal Property**").

(b) Trustor hereby represents and warrants to Beneficiary that: (1) Trustor is the owner of the Personal Property and no other person has any right, title, claim or interest (by way of security interest or other lien or charge or otherwise) in, against or to the Personal Property other than any senior lender or lien holder approved in writing by Beneficiary; (2) the Personal Property is free from all liens, security interests, encumbrances and adverse interests, except Permitted Encumbrances (hereinafter defined); (3) no financing statement or similar filing covering any of the Personal Property, and naming any secured party other than Beneficiary and the holders of Permitted Encumbrances, is on file in any public office; (4) each account, general intangible, chattel paper, deposit account, instrument, document, agreement, contract or right to the payment of money constituting Personal Property (collectively, the "Rights to Payment"), if any, is genuine and enforceable in accordance with its terms against the party obligated to pay the same and (5) the Personal Property is not used nor was the Personal Property purchased for personal or family use by Trustor.

(c) Trustor hereby agrees: (1) to pay, prior to delinquency, all taxes, assessments, charges, encumbrances and liens now or hereafter imposed upon or affecting all or any part of the Personal Property; (2) not to amend, modify, supplement, terminate or cancel any of the Personal Property; (3) without the prior written consent of Beneficiary, not to remove all or any part of the tangible Personal Property from the Property; (4) to give Beneficiary thirty (30) days' prior written notice of any change in Trustor's residence, principal place of business, chief executive office or trade names or styles; (5) to appear in and defend any action or proceeding which may affect the Personal Property (including, without limitation, actions, proceedings and claims which may affect Trustor's title to the Personal Property or the validity or priority of Beneficiary's security interest in the Personal Property); (6) to indemnify Beneficiary against all claims, demands and liabilities of every kind caused by the Personal Property; and (7) to permit Beneficiary to enter Trustor's premises to inspect the Personal Property. Trustor further agrees (8) to fully and timely perform all of its obligations under and with respect to all Rights of Payment and to diligently enforce all of the obligations of each obligor thereunder; (9) not to amend, modify, supplement, cancel or terminate any of the Rights to Payment in any material respect without the prior written consent of Beneficiary; (10) to keep the Rights to Payment and all proceeds free and clear of all defaults, defenses, rights of offset and counterclaim; (11) to take or bring, in Beneficiary's name or in the name of Trustor, as Beneficiary may require, all actions, suits or proceedings deemed reasonably necessary or desirable by Beneficiary to effect collection or to realize upon Rights to Payment; and (12) not to commingle Rights to Payment or collections thereunder with other property.

(d) As soon as practicable, and in any event within ten (10) days, Trustor shall notify Beneficiary of: (1) any attachment or other legal process levied against any of the Personal Property; (2) any information received by Trustor which may in any manner materially and adversely affect the value of the Personal Property or the rights and remedies of Beneficiary with respect thereto; and (3) the removal of any of the Personal Property to a new location other than

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in the ordinary course of business and the removal of any records of Trustor relating to the Personal Property to any location other than the Land and Improvements.

(e) Trustor hereby irrevocably constitutes and appoints Beneficiary as its attorney-in-fact to, after the occurrence and during the occurrence of an Event of Default: (1) perform any obligation of Trustor hereunder in Trustor's name or otherwise; (2) give notice of Beneficiary's rights in the Rights to Payment, to enforce the same, and make extension agreements with respect thereto; (3) release persons liable on the Rights to Payment and to give receipts and acquittances and compromise disputes in connection therewith; (4) release security for the Rights to Payment; (5) resort to security for the Rights to Payment in any order; (5) prepare, execute, file, record or deliver notes, assignments, schedules, designation statements, financing statements, continuation statements, termination statements, and other documents to perfect preserve or release Beneficiary's interest in the Rights to Payment; and (6) do all acts and things and execute all documents in the name of Trustor or otherwise, deemed by Beneficiary as necessary, proper and convenient in connection with the preservation, perfection or enforcement of its rights hereunder. The power of attorney granted hereunder is coupled with an interest and is irrevocable.

Section 2.7. Financing Statement.

The Trustor shall execute and deliver to the Beneficiary such financing statements pursuant to the appropriate statutes, and any other documents or instruments as are required to convey to the Beneficiary a valid perfected security interest in the Security. The Trustor agrees to perform all acts that the Beneficiary may reasonably request so as to enable the Beneficiary to maintain such valid perfected security interest in the Security in order to secure the payment of the Note in accordance with its terms. The Beneficiary is authorized to file a copy of any such financing statement in any jurisdiction(s) as it shall deem appropriate from time to time in order to protect the security interest established pursuant to this instrument.

Section 2.8. Operation of the Security.

The Trustor agrees and covenants to operate the Security in full compliance with the Loan Agreement and the Debt Instruments.

Section 2.9. Inspection of the Security.

The Trustor covenants and agrees that at any and all reasonable times, the Beneficiary and its duly authorized agents, attorney's experts, engineers, accountants and representatives, shall have the right, without payment of charges or fees, to inspect all or any portion of the Security, including, but not limited to, the right to inspect and copy all reports and records pertaining thereto.

Section 2.10. Nondiscrimination.

The Trustor herein covenants by and for itself, its heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination

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against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, age, marital status, national origin, ancestry or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Security, nor shall the Trustor itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Security. The foregoing covenants shall run with the land.

Section 2.11. Subrogation and Waiver of Offset.

(a) Trustor waives any and all right to claim or recover against Beneficiary, its officers, employees, agents and representatives, for loss of or damage to Trustor, the Security, Trustor's property or the property of others under Trustor's control from any cause insured against or required to be insured against by the provisions of this Deed of Trust; provided, however, that this waiver of subrogation shall not be effective with respect to any policy of insurance permitted or required by this Deed of Trust if (i) such policy prohibits, or if coverage thereunder would be reduced as a result of, such waiver of subrogation and (ii) Trustor is unable to obtain from a carrier issuing such insurance a policy that, by special endorsement or otherwise, permits such a waiver of subrogation.

(b) Except as otherwise specifically provided herein, all amounts payable by Trustor pursuant to this Deed of Trust shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Trustor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Security or any part thereof; (ii) any restriction or prevention of or interference by any third party with any use of the Security or any part thereof; (iii) any title defect or encumbrance or any eviction from the Security or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary, or by any court, in any such proceeding; (v) any claim which Trustor has or might have against Beneficiary; (vi) any default or failure on the part of Beneficiary to perform or comply with any of the terms hereof or of any other agreement with Trustor; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing. Except as expressly provided herein, Trustor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Trustor.

Section 2.12. Utilities.

Trustor shall pay or cause to be paid when due all utility charges which are incurred for the benefit of the Security or which may become a charge or lien against the Security for gas, electricity, water, sewer services or other fees and charges for utilities furnished to the Security and all other assessments or charges of a similar nature, whether public or private, affecting or

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related to the Security or any portion thereof, whether or not such taxes, assessments or charges are or may become liens thereon.

Section 2.13. Actions by Beneficiary to Preserve Property.

If Trustor fails to make any payment or to do any act as and in the manner provided in this Deed of Trust, Beneficiary and Trustee, and each of them, each in its own discretion, without obligation to do so, without releasing Trustor from any Obligation, and subject only to the notice and cure provisions of the Loan Agreement, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. In connection therewith (without limiting their general and other powers, whether conferred herein, in another Loan Document or by law), Beneficiary and Trustee shall each and are hereby given the right, but not the obligation: (i) to enter upon and take possession of the Security; (ii) to make additions, alterations, repairs and improvements to the Security which either of them consider necessary or proper to keep the Security in good condition and repair; (iii) to appear and participate in any action or proceeding which may affect the security hereof or the rights or powers of Beneficiary or Trustee; (iv) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of either may affect the security of this Deed of Trust or be prior or superior hereto; and (v) in exercising such powers to pay necessary expenses, including employment of counsel or other necessary or desirable consultants. Trustor shall reimburse Beneficiary on demand for all costs incurred by Beneficiary in connection with actions which Beneficiary deems advisable to protect its interest under the Loan Agreement and all such amounts shall bear interest at the Agreed Rate following demand and be secured hereby.

Section 2.14. Transfer of Property by Trustor.

Prior to repayment of the Note, Trustor agrees that Trustor shall not sell or transfer the Security or any interest therein or sell or transfer all or substantially all of the assets of Trustor or any of them except as may be provided in the Loan Agreement.

Section 2.15. Additional Security.

No other security now existing, or hereafter taken, to secure the Obligations secured hereby or the liability of any maker, surety guarantor or endorser with respect to such Obligations, or any of them, shall be impaired or affected by the execution of this Deed of Trust; and all additional security shall be taken, considered and held as cumulative. The taking of additional security, execution of partial releases of the Security, or any extension of the time of payment of the indebtedness shall not diminish the force, effect or lien of this Deed of Trust and shall not affect or impair the liability of any maker, surety, guarantor or endorser for the payment of said indebtedness. In the event Beneficiary at any time holds additional security for any of the Obligations secured hereby, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before, concurrently, or after a sale is made hereunder.

Section 2.16. Liens.

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Trustor shall not cause, incur suffer or permit to exist or become effective any lien, encumbrance or charge upon all or any part of the Property, the Improvements or any interest therein other than (a) easements, rights of way, covenants, conditions, restrictions, liens and other title limitations approved in writing by Beneficiary prior to the execution of this Deed of Trust, and (b) immaterial easements and rights of way which are required by governmental authorities as a condition to the use and operation of the Improvements which are approved in writing by Beneficiary after the execution of this Deed of Trust (the “**Permitted Encumbrances**”). Trustor shall pay and promptly discharge, at Trustor’s cost and expense, all liens, encumbrances and charges upon the Security, or any part thereof or interest therein other than the Permitted Encumbrances; provided, that the existence of any mechanic’s, laborer’s, materialman’s, supplier’s or vendor’s lien or right thereto shall not constitute a violation of this Section if payment is not yet due under the contract which is the foundation thereof. Trustor shall have the right to contest in good faith the validity of any such lien, encumbrance or charge, provided Trustor shall first deposit with the Beneficiary a bond or other security satisfactory to Beneficiary in such amounts as Beneficiary shall reasonably require, but not more than one hundred fifty percent (150%) of the amount of the claim or shall post a bond authorized by statute in lieu thereof, and provided further that Trustor shall thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged. If Trustor shall fail to remove and discharge any such lien, encumbrance, or charge, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, but shall not be obligated to, discharge the same, without inquiring into the validity of such lien, encumbrance or charge nor into the existence of any defense or offset thereto, either by paying the amount claimed to be due, or by procuring the discharge of such lien, encumbrance or charge by depositing in court a bond or the amount claimed, or otherwise giving security for such claim, in such manner as is or may be prescribed by law. 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, together with interest thereon from the date of such expenditure at the Agreed Rate and, until paid, such sums shall be secured hereby.

Section 2.17. Beneficiary’s Powers.

Without affecting the liability of any other person liable for the payment of any Obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Security not then or theretofore released as security for the full amount of all unpaid Obligations, Beneficiary may, from time to time and without notice: (a) release any person so liable, (b) extend the maturity or alter any of the terms of any such Obligation (to the extent that Beneficiary is so allowed under the Loan Agreement), (c) grant other indulgences, (d) release or reconvey, or cause to be released or reconveyed at any time at Beneficiary’s option any parcel, portion or all of the Security, (e) take or release any other or additional security for any Obligation herein mentioned, or (f) make compositions or other arrangements with debtors in relation thereto. By accepting payment or performance of any Obligation secured by this Deed of Trust after the payment or performance thereof is due or after the filing of notice of default and election to sell (other than satisfaction in full of the Obligations), Beneficiary shall not have thereby waived its right to require prompt payment or performance, when due, of all other

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Obligations secured hereby, or to declare a default for failure so to pay or perform, or to proceed with the sale under any notice of default and election to sell theretofore given by Beneficiary, or with respect to any unpaid balance of the indebtedness secured hereby. The acceptance by Beneficiary of any sum in an amount less than the sum then due shall not constitute a waiver of the obligation of Trustor to pay the entire sum then due. Trustor's failure to pay the entire sum then due shall continue to be a default, notwithstanding the acceptance of partial payment, and, until the entire sum then due shall have been paid, Beneficiary or Trustee shall at all times be entitled to declare a default and to exercise all the remedies herein conferred, and the right to proceed with a sale under any notice of default and election to sell shall in no way be impaired, whether or not such amounts are received prior or subsequent to such notice. No delay or omission of Trustee or Beneficiary in the exercise of any other right or power hereunder shall impair such right or power or any other right or power nor shall the same be construed to be a waiver of any default or any acquiescence therein.

Section 2.18. Suits to Protect Property. Trustor agrees to appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or any additional or other security for the obligations secured, the interest of Beneficiary of the rights, powers and duties of Trustee, and to pay all costs and expenses, including without limitation, cost of evidence of title and attorneys' fees, in any action or proceeding in which Beneficiary or Trustee may appear to be made a party, including, but not limited to, foreclosure or other proceeding commenced by those claiming a right to any part of the Property under subordinate liens, in any action to partition or condemn all or part of the Property, whether pursued to final judgment, and in any exercise of the power of sale in this Deed of Trust, whether the sale is actually consummated.

ARTICLE III

TAXES AND INSURANCE; ADVANCES

Section 3.1. Taxes, Other Governmental Charges and Utility Charges.

(a) Trustor shall pay, prior to delinquency, all real property taxes and assessments, general and special, and all other charges of any kind, including without limitation non-governmental levies or assessments such as maintenance charges, levies or other charges resulting from covenants, conditions and restrictions affecting the Security, which are assessed or imposed upon the Security or upon Trustor as owner or operator of the Security, or become due and payable, and which create or may create a lien upon the Security, or any part thereof, or upon any personal property, equipment or other facility used in the operation or maintenance thereof (all the above collectively hereinafter referred to as "Impositions"); provided, however, that if, by law, any Imposition is payable, or may at the option of the taxpayer be paid, in installments, Trustor may pay the same in installments (together with any interest charged) as the same become due and before any fine, penalty or cost may be added thereto for the nonpayment of any such installment. Notwithstanding the foregoing, Trustor shall have the right to diligently contest, in good faith and by appropriate proceedings, the validity of any Imposition, so long as Trustor demonstrates to Beneficiary that Trustor is maintaining sufficient reserves for the

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payment of all contested liabilities and so long as the security and value of Beneficiary's interest under this Deed of Trust are not impaired as a result of such contest.

(b) If at any time after the date hereof there shall be assessed or imposed (1) a tax or assessment on the Security in lieu of or in addition to the Impositions payable by Trustor pursuant to this Section 3.1 hereof, or (2) a license fee, tax or assessment imposed on Beneficiary and measured by or based in whole or in part upon the amount of the outstanding Obligations secured hereby, then all such taxes, assessments or fees shall be deemed to be included within the term "Impositions" as defined in this Section and Trustor shall pay and discharge the same as herein provided with respect to the payment of Impositions. If Trustor fails to pay such Impositions prior to delinquency or if Trustor is prohibited by law from paying such Impositions, Beneficiary may at its option declare all Obligations secured hereby, together with all accrued interest thereon, immediately due and payable. Anything to the contrary herein notwithstanding, Trustor shall have no obligation to pay any franchise, estate, inheritance, income, excess profits or similar tax levied on Beneficiary or on the Obligations secured hereby.

(c) Trustor shall deliver to Beneficiary within thirty (30) days after the date upon which any such Imposition is due and payable by Trustor official receipts of the appropriate taxing authority, or other proof satisfactory to Beneficiary, evidencing the payment thereof. Trustor shall not suffer, permit or initiate the joint assessment of any real and personal property which may constitute all or a portion of the Security and the personal property or suffer, permit or initiate any other procedure whereby the lien of real property taxes and the lien of personal property taxes shall be assessed, levied or charged to the Security as a single Lien. Trustor shall cause to be furnished to Beneficiary a tax reporting service, covering the Property, of a type and duration, and with a company, reasonably satisfactory to Beneficiary.

(d) In the event that Trustor shall fail to pay any of the foregoing items required by this Section to be paid by Trustor, Beneficiary may (but shall be under no obligation to) pay the same, after the Beneficiary has notified the Trustor of such failure to pay and the Trustor fails to fully pay such items within seven (7) business days after receipt of such notice. Any amount so advanced therefor by Beneficiary, together with interest thereon from the date of such advance at the greater of twelve percent (12%) per annum or the maximum rate permitted by law (hereinafter the "Agreed Rate"), shall become an additional Obligation of Trustor to the Beneficiary and shall be secured hereby, and Trustor agrees to pay all such amounts.

Section 3.2. Insurance.

(a) Trustor agrees to provide insurance conforming in all respects to that required under the Loan Agreement at all times until all amounts secured by this Deed of Trust have been paid and all other Obligations secured hereunder fulfilled, and this Deed of Trust reconveyed. All such insurance policies and coverages shall be maintained at Trustor's sole cost and expense.

(b) All said insurance shall have attached thereto a lender's loss payable endorsement for the benefit of Beneficiary in form satisfactory to the Beneficiary and/or shall name Beneficiary as an additional insured, as Beneficiary may require, and shall contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the

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terms of such policies notwithstanding any act or negligence of Trustor or any party holding under Trustor which might otherwise result in forfeiture of said insurance and the further agreement of the insurer waiving all rights of setoff, counterclaim and deduction against Trustor. At Beneficiary's option, Trustor shall furnish Beneficiary with an original of all required policies of insurance and/or a certificate of insurance with all required endorsements for each required policy setting forth the coverage, the limits of liability, the deductible, if any, the name of the carrier, the policy number, and the period of coverage, which certificates and endorsements shall be executed by authorized officials of the companies issuing such insurance, or any agents or attorneys-in-fact authorized to issue said certificates and endorsements (in which event each such certificate and endorsements shall be accompanied by a notarized affidavit, agency agreement or power of attorney evidencing the authority of the signatory to issue such certificate on behalf of the insurer named therein), accompanied by a certificate from Trustor that the insurance satisfies the requirements of the Loan Agreement, and that Beneficiary may conclusively rely on such certificates. If Beneficiary consents, Trustor may provide any of the required insurance through blanket policies carried by Trustor and covering more than one location; provided, however, all such policies shall be in form and substance and issued by companies satisfactory to Beneficiary.

(c) At least thirty (30) days prior to the expiration of each required policy, Trustor shall deliver to Beneficiary evidence satisfactory to Beneficiary of the payment of premium and the renewal or replacement of such policy continuing insurance in form as required by this Deed of Trust or the Loan Agreement. All such policies shall contain a provision that, notwithstanding any contrary agreement between Trustor and the insurance company, such policies will not be canceled, allowed to lapse without renewal, surrendered or materially amended (which term shall include any reduction in the scope, or limits of coverage) without at least thirty (30) days prior written notice to Beneficiary.

(d) In the event of foreclosure of this Deed of Trust or other transfer of title or assignment of the Property in extinguishment, in whole or in part, of the debt secured hereby, all right, title and interest of Trustor in and to all policies of insurance required by Section 3.2 hereof and any unearned premiums paid thereon shall, without further act, be assigned to and shall inure to the benefit of and pass to the successor in interest to Trustor or the purchaser or grantee of the Property, and Trustor hereby appoints Beneficiary its lawful attorney-in-fact to execute an assignment thereof and any other document necessary to effect such transfer.

Section 3.3. Advances.

In the event the Trustor shall fail to maintain the full insurance coverage required by this Deed of Trust or shall fail to keep the Security in accordance with the Loan Agreement, the Beneficiary, after at least twenty (20) days prior written notice to Trustor, may (but shall be under no Obligation to) take out the required policies of insurance and pay the premiums on the same or may make such repairs or replacements as are necessary and provide for payment thereof; and all amounts so advanced therefor by the Beneficiary shall become an additional Obligation of the Trustor to the Beneficiary (together with interest as set forth below) and shall be secured hereby, which amounts the Trustor agrees to pay on the demand of the Beneficiary, and if not so paid, shall bear interest from the date of the advance at the Agreed Rate.

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ARTICLE IV

DAMAGE, DESTRUCTION OR CONDEMNATION

Section 4.1. Casualties.

Trustor shall give prompt written notice to Beneficiary upon the occurrence of casualty to or in connection with the Security or any part thereof, whether or not covered by insurance. In the event of such casualty Trustor hereby absolutely and unconditionally assigns to Beneficiary all insurance proceeds which it may be entitled to receive and such proceeds shall be delivered to and held by Beneficiary to be applied to Beneficiary's expenses in settling, prosecuting or defending any insurance claim, and then to the restoration of any portion of the Security that has been damaged or destroyed to the same condition, character and value as existed prior to such damage or destruction so long as the following conditions are satisfied: (i) Trustor is not in default hereunder (other than any default resulting from such casualty), (ii) Beneficiary's security is not materially impaired, (iii) all income (from the Security or otherwise) required to pay all debt service and operating expenses of the Security during such restoration and thereafter will be equal to or greater than the income which was required to pay such debt service and operating expenses prior to the casualty, (iv) Trustor evidences to the satisfaction of Beneficiary that the insurance required to be maintained hereunder will be available to the Trustor during restoration and thereafter, (v) Beneficiary shall have approved the plans and specifications for such restoration, which approval shall not be unreasonably withheld or delayed, and (vi) in the event that in Beneficiary's sole judgment the insurance proceeds and any amounts deposited with a senior lender are not sufficient to accomplish restoration, Trustor deposits with the Beneficiary or senior lender, as required by that senior lender pursuant to the terms of the senior Debt Instrument, within five days of demand by Beneficiary, the additional amounts necessary to accomplish restoration. Proceeds disbursed for restoration will be released to Trustor in accordance with Beneficiary's then current customary disbursement procedures. In the event any of the conditions set forth above are not satisfied or if the insurance proceeds shall not be applied to the restoration of the Security within thirty days after receipt of such proceeds by Beneficiary, Beneficiary may release such proceeds to Trustor without such release being deemed a payment of any indebtedness secured hereby, rather than apply such proceeds to the restoration of the Security. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. If the Security is restored at a cost less than the available insurance proceeds, then such excess proceeds shall, if Trustor is not then in default hereunder, be paid over to Trustor. Beneficiary may commence, appear in, defend or prosecute any assigned claim or action, and may adjust, compromise, settle and collect all claims, proceeds and awards assigned to Beneficiary, but shall not be responsible for any failure to collect any claim, proceeds or award, regardless of the cause of the failure.

Section 4.2. Condemnation.

Immediately upon its obtaining knowledge of the institution or the threatened institution of any proceeding for the condemnation or other taking for public or quasi-public use of the Security or any part thereof, or if the same be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner, or should Trustor receive any

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notice or other information regarding such proceedings, action, taking or damage, Trustor shall promptly notify Trustee and Beneficiary of such fact. Trustor shall then, if requested by Beneficiary, file or defend its right thereunder and prosecute the same with due diligence to its final disposition and shall cause any award or settlement to be paid to Beneficiary in accordance with the provisions of the Loan Agreement. At Beneficiary's option, Beneficiary or Trustor may be the nominal party in such proceeding but in any event Beneficiary shall be entitled, without regard to the adequacy of its security, to participate in, appear in, prosecute and settle, jointly with Trustor to control the same and to be represented therein by counsel of its choice, and Trustor will deliver, or cause to be delivered, to Beneficiary such instruments as may be requested by it from time to time to permit such participation. Trustor and Beneficiary agree to act in good faith with respect to any consent, settlement, or award arising out of said prosecution. If the Security or any part thereof is taken or diminished in value, or if a consent settlement is entered, by or under threat of such proceedings, all compensation, awards, damages, rights of action proceeds and settlements payable to Trustor by virtue of its interest in the security shall be and hereby are assigned, transferred and set over into Beneficiary to be held by it, in trust, subject to the lien and security interest of this Deed of Trust. All such proceeds shall be first applied to reimburse Trustee and Beneficiary, for all costs and expenses, including reasonable attorneys' fees, incurred in connection with the collection of such award or settlement, and then to the restoration of any portion of the Security that has been taken to the similar condition, character and value as existed prior to such taking so long as the following conditions are satisfied: (i) Trustor is not in default hereunder, (ii) Beneficiary's security is not materially impaired, (iii) all income (from the Security or otherwise) required to pay all debt service and operating expenses of the Security during such restoration and thereafter will be equal to or greater than the income which was required to pay such debt service and operating expenses prior to the casualty, (iv) Trustor evidences to the satisfaction of Beneficiary that the insurance required to be maintained hereunder will be available to the Trustor during restoration and thereafter, (v) Beneficiary shall have approved the plans and specifications for such restoration, and (vi) in the event that in Beneficiary's sole judgment the insurance proceeds and any amounts deposited with a senior lender are not sufficient to accomplish restoration, Trustor deposits with the Beneficiary or senior lender, as required by that senior lender pursuant to the terms of the senior Debt Instrument, within five days of demand by Beneficiary, the additional amounts necessary to accomplish restoration. Application or release of proceeds as provided herein shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

ARTICLE V

ENVIRONMENTAL COVENANTS OF TRUSTOR

Section 5.1. Disclosures By Trustor. Except as disclosed in writing to, and acknowledged and accepted in writing by Beneficiary, Trustor represents and warrants that:

- (a) during the period of Trustor's ownership of the Property
 - (1) there has been no use, generation, manufacture, storage, treatment, disposal, discharge, Release, or threatened Release of any Hazardous Substance by any person

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on or around the Property except in such small quantities as are customary and usual in the ordinary course of constructing, using and operating a residential housing business on the Property and in strict compliance with all Hazardous Substances Laws, and

(2) there have been no Hazardous Substances transported over or through the Property;

(b) after diligent inquiry, Trustor has no knowledge of, or reason to believe that, there has been:

(1) any use, generation, manufacture, storage, treatment, disposal, Release, or threatened Release of any hazardous waste or substance by any prior owners or prior occupants of the Property or by any third parties onto the Property, or

(2) any actual or threatened litigation or claims of any kind by any person relating to these matters;

(c) no Hazardous Substances in excess of permitted levels or reportable quantities under applicable Hazardous Substance Laws are present in or about the Property or any nearby real property that could migrate to the Property;

(d) no Release or threatened Release exists or has occurred;

(e) no underground storage tanks of any kind are or ever have been located in or about the Property;

(f) the Property and all operations and activities at, and the use and occupancy of, the Property comply with all applicable Hazardous Substance Laws;

(g) Trustor is now in strict compliance with, every permit, license, and approval required by all applicable Hazardous Substance Laws for all activities and operations at, and the use and occupancy of, the Property;

(h) to the best of Trustor's knowledge, after diligent inquiry, there are no Hazardous Substance Claims pending or threatened with regard to Property or against Trustor;

(i) to its knowledge the Property has not been nor is it within 2,000 feet of any other property designated as "hazardous waste property" or "border zone property" pursuant to Health and Safety Code §§ 25220 et seq., and no proceedings for a determination of this designation are pending or threatened;

(j) to the best of its knowledge after diligent inquiry, there exists no occurrence or condition on any real property adjoining or within 2,000 feet of the Property that would cause the Property or any part of it to be designated as "hazardous waste property" or "border zone property" under the provisions of Health and Safety Code §§ 25220 et seq., and any regulation adopted in accordance with that section;

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(k) that the use of the Property shall be residential housing;

(l) any written disclosure submitted by or on behalf of Trustor to Beneficiary concerning any Release or threatened Release, past or present compliance by Trustor or other person of any Hazardous Substance Laws applicable to the Property, the past and present use and occupancy of the Property, and any environmental concerns relating to the Property, was true and complete when submitted and continues to be true and complete as of the date of this Deed of Trust.

Section 5.2 Covenants of Trustor. Trustor agrees, except in the ordinary course of business and in strict compliance with all applicable Hazardous Substance Laws, as follows:

(a) not to cause or permit the property to be used as a site for the use, generation, manufacture, storage, treatment, Release, discharge, disposal, transportation, or presence of any Hazardous Substance;

(b) not to cause, contribute to, permit, or acquiesce in any Release or threatened Release;

(c) not to change or modify the use of the Property without the prior written consent of Beneficiary;

(d) to comply with and to cause the Property and every invitee or occupant of the Property to comply with all Hazardous Substance Laws;

(e) to immediately notify Beneficiary in writing of and to provide Beneficiary with a reasonably detailed description of:

(1) any noncompliance of the Property with any Hazardous Substance Laws;

(2) any Hazardous Substance Claim;

(3) any Release or Threatened Release;

(4) the discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that would cause the Property or any part of it to be designated as “hazardous waste property” or “border zone property” under the provisions of Health and Safety Code §§ 25220 et seq., and any regulation adopted in accordance with that section;

(f) if Trustor discovers a Release or the presence of any Hazardous Substance on or about the Property in violation of any Hazardous Substance Law, to:

(1) notify Beneficiary of that discovery together with a reasonably detailed description;

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(2) engage promptly after a request by Beneficiary, a qualified environmental engineer reasonably satisfactory to Beneficiary to investigate these matters and prepare and submit to Beneficiary a written report containing the findings and conclusions resulting from that investigation, all at the sole expense of Trustor, and

(3) take, at Trustor's sole expense, all necessary actions to remedy, repair, clean up, or detoxify any Release or Hazardous Substance, including, but not limited to, any remedial action required by any Hazardous Substance Laws or any judgment, consent, decree, settlement, or compromise in respect of any Hazardous Substance Claims, these actions to be performed:

- A. in accordance with Hazardous Substance Laws,
- B. in a good and proper manner,
- C. under the supervision of a qualified environmental engineer approved in writing by Beneficiary,
- D. in accordance with plans and specifications for these actions approved in writing by Beneficiary, and
- E. using licensed and insured qualified contractors approved in writing by Beneficiary;

(g) immediately furnish to Beneficiary copies of all written communications received by Trustor from any governmental authority or other person or given by Trustor to any person and any other information Beneficiary may reasonably request concerning any Release, threatened Release, Hazardous Substance Claim, or the discovery of any Hazardous Substance on or about the Property in violation of any Hazardous Substance Law; and

(h) keep Beneficiary generally informed regarding any Release, threatened Release, Hazardous Substance Claim, or the discovery of any Hazardous Substance on or about the Property in violation of any Hazardous Substance Law.

Section 5.3 Rights of Beneficiary. Upon Beneficiary's reasonable belief of the existence of a past or present Release or threatened Release not previously disclosed by Trustor in connection with the making of the Loan or the execution of this Deed of Trust or upon Beneficiary's reasonable belief that Trustor has failed to comply with any environmental provision of this Deed of Trust or any other Loan Document and upon reasonable prior notice (except in the case of an emergency) to Trustor, Beneficiary or its representatives, employees, and agents, may from time to time and at all reasonable times (or at any time in the case of an emergency) enter and inspect the Property and every part of it (including all samples of building materials, soil, and groundwater and all books, records, and files of Trustor relating to the Property) and perform those acts and things that Beneficiary deems necessary or desirable to inspect, investigate, assess, and protect the Security of this Deed of Trust, for the purpose of determining:

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(a) the existence, location, nature, and magnitude of any past or present Release or threatened Release,

(b) the presence of any Hazardous Substances on or about the Property in violation of any Hazardous Substance Law, and

(c) the compliance by Trustor of every environmental provision of this Deed of Trust and every other Loan Document.

In furtherance of the purposes above, without limitation of any of its other rights, Beneficiary may:

(1) obtain a court order to enforce Beneficiary's right to enter and inspect the Property under Civil Code § 2929.5; and

(2) have a receiver appointed under Code of Civil Procedure § 564 to enforce Beneficiary's right to enter and inspect the Property for the purpose set forth above.

All costs and expenses incurred by Beneficiary with respect to the audits, tests, inspections, and examinations that Beneficiary or its agents, representatives, or employees may conduct, including the fees of the engineers, laboratories, contractors, consultants, and attorneys, will be paid by Trustor. All costs or expenses incurred by Trustee and Beneficiary pursuant to this Section (including without limitation court costs, consultant's fees, and attorney fees, whether incurred in litigation and whether before or after judgment) will bear interest at the Agreed Rate from the date they are incurred until those sums have been paid in full. Except as provided by law, any inspections or tests made by Beneficiary or its representatives, employees, and agents will be for Beneficiary's purposes only and will not be construed to create any responsibility or liability on the part of Beneficiary to Trustor or to any other person. Beneficiary will have the right, but not the obligation, to communicate with any governmental authority regarding any fact or reasonable belief of Beneficiary that constitutes or could constitute a breach of any of Trustor's obligations under any environmental provision contained in this Deed of Trust or any Loan Document.

Section 5.4 Waiver and Indemnity. Trustor:

(a) releases and waives any future claims against Beneficiary for indemnity or contribution in the event Trustor becomes liable for cleanup or other costs under any Hazardous Substance Laws or under any Hazardous Substance Claim;

(b) agrees to reimburse Beneficiary, on demand, for all costs and expenses incurred by Beneficiary in connection with any review, approval, consent, or inspection relating to the environmental provisions in this Deed of Trust together with interest, after demand, at the Agreed Rate; and

(c) agrees to indemnify, defend, and hold Beneficiary and Trustee harmless from all losses, costs, claims, damages, penalties, liabilities, causes of action, judgments, court

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costs, attorney fees and other legal expenses, costs of evidence of title, cost of evidence of value, and other expenses (collectively, “**Expenses**”), including, but not limited to, any Expenses incurred or accruing after the foreclosure of the lien of this Deed of Trust, which either may suffer or incur and which directly or indirectly arises out of or is in any way connected with the breach of any environmental provision either in this Deed of Trust or in any Loan Document or as a consequence of any Release or threatened Release on the presence, use, generation, manufacture, storage, disposal, transportation, Release, or threatened Release of any Hazardous Substance on or about the Property, including the soils and groundwater, caused or permitted by Trustor, any prior owner or operator of the Property, any adjoining landowner or any other party, including, without limitation, the cost of any required or necessary repair, cleanup, remedy, or detoxification of any hazardous Substance and the preparation of any closure, remedial action, or other required plans, whether that action is required or necessary by reason of acts or omissions occurring prior to or following the recordation of this Deed of Trust. Trustor’s obligations will survive the satisfaction, release, or cancellation of the indebtedness, the release and reconveyance or partial release and reconveyance of this Deed of Trust, and the foreclosure of the lien of this Deed of Trust or deed in lieu of the Deed of Trust.

Section 5.5 Additional Covenants of Trustor.

(a) Trustor and Beneficiary agree that:

(1) this Section is intended as Beneficiary’s written request for information and Trustor’s written response concerning the environmental condition of the Property as provided by Code of Civil Procedure § 726.5; and

(2) each representation, warranty, covenant, or indemnity made by Trustor in this Article or in any other provision of this Deed of Trust or any Loan Document that relates to the environmental condition of the Property is intended by Trustor and Beneficiary to be an “environmental provision” for purposes of Code of Civil Procedure § 736 and will survive the payment of the indebtedness and the termination or expiration of this Deed of Trust and will not be affected by Lender’s acquisition of any interest in the Property, whether by full credit bid at foreclosure, deed in lieu of that, or otherwise. If there is any transfer of any portion of Trustor’s interest in the Property, any successor-in-interest to Trustor agrees by its succession to that interest that the written request made pursuant to this Article will be deemed remade to the successor-in-interest without any further or additional action on the part of Beneficiary and that by assuming the debt secured by this Deed of Trust or by accepting the interest of Trustor subject to the lien of this Deed of Trust, the successor remakes each of the representations and warranties in this Deed of Trust and agrees to be bound by each covenant in this Deed of Trust, including, but not limited to, any indemnity provision.

(b) Even though Trustor may have provided Beneficiary with an environmental site assessment or other environmental report together with other relevant information regarding the environmental condition of the Property, Trustor acknowledges and agrees that Beneficiary is not accepting the Property as security for the Loan based on that assessment, report, or information. Rather, Beneficiary has relied on the representations and

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warranties of Trustor in this Deed of Trust, and Beneficiary is not waiving any of its rights and remedies in the environmental provisions of this Deed of Trust or any other Loan Document.

(c) Beneficiary or its agents, representatives, and employees may seek a judgment that Trustor has breached its covenants, representations, or warranties in Article II of this Deed of Trust or any other covenants, representations, or warranties that are deemed to be “environmental provisions” pursuant to Code of Civil Procedure § 736 (each an “**Environmental Provision**”), by commencing and maintaining an action or actions in any court of competent jurisdiction pursuant to Code of Civil Procedure § 736, whether commenced prior to or after foreclosure of the lien of this Deed of Trust. Beneficiary or its agents, representatives, and employees may also seek an injunction to cause Trustor to abate any action in violation of any Environmental Provision and may seek the recovery of all costs, damages, expenses, fees, penalties, fines, judgments, indemnification payments to third parties, and other out-of-pocket costs or expenses actually incurred by Beneficiary (collectively, “**Environmental Costs**”) incurred or advanced by Beneficiary relating to the cleanup, remedy, or other response action required by any Hazardous Substances Law or any Hazardous Substance Claim, or which Beneficiary believes necessary to protect the Property. It will be conclusively presumed between Beneficiary and Trustor that all Environmental Costs incurred or advanced by Beneficiary relating to the cleanup, remedy, or other response action of or to the Property were made by Beneficiary in good faith. All Environmental Costs incurred by Beneficiary under this Section (including without limitation court costs, consultant fees, and attorney fees, whether incurred in litigation and whether before or after judgment) will bear interest at the Agreed Rate from the date of expenditure until those sums have been paid in full. Beneficiary will be entitled to bid, at any trustee’s or foreclosure sale of the Property, the amount of the costs, expenses, and interest in addition to the amount of other indebtedness.

(d) Beneficiary or its agents, representatives, and employees may waive its lien against the Property or any portion of it, including but not limited to the Improvements, to the extent that the Property or any portion of the Security is found to be environmentally impaired in accordance with Code of Civil Procedure § 726.5, and to exercise all rights and remedies of an unsecured creditor against Trustor and all of Trustor’s assets and property for the recovery of any deficiency and Environmental Costs, including, but not limited to, seeking an attachment order under Code of Civil Procedure § 483.010. As between Beneficiary and Trustor, for purposes of Code of Civil Procedure § 726.5, Trustor will have the burden of proving that Trustor or any related party (or any affiliate or agent of Trustor or any related party) was not in any way negligent in permitting the Release or threatened Release of the Hazardous Substances.

ARTICLE VI

ASSIGNMENTS OF RENTS, ISSUES AND PROFITS

Section 6.1. Assignment.

Trustor hereby absolutely, irrevocably and unconditionally assigns to Beneficiary, as security for the Obligations, all rents, profits, deposits, royalties, income and other issues and

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similar benefits derived from the Security (collectively, the “**Rents**”), and hereby confers upon Beneficiary the right, power and authority to collect such Rents. Trustor irrevocably appoints Beneficiary its true and lawful attorney-in-fact, at the option of Beneficiary, at any time and from time to time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in its name or in the name of Trustor, for all Rents, and apply the same to the Obligations secured hereby; provided, however, that Trustor shall have the right, as between Trustor and Beneficiary, to collect the Rents but not more than one (1) month in advance of the date due unless the written approval of Beneficiary has first been obtained, with the exception of security deposits and “first and last months’ rent” collected from tenants in connection with Trustor’s ordinary leasing of residential apartments within the Property), and to retain and enjoy the same, so long as an Event of Default shall not have occurred hereunder and be continuing.

Section 6.2. Collection Upon Default.

While any Event of Default remains uncured, Beneficiary may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the Obligations hereby secured, enter upon and take possession of the Security, or any part thereof, and, with or without taking possession of the Security or any part thereof, in its own name sue for or otherwise collect such Rents (including those past due and unpaid, and all prepaid Rents and all other monies which may have been or may hereafter be deposited with Trustor by any tenant to secure the payment of any Rent or for any services thereafter to be rendered by Trustor for any other obligation of any tenant to Trustor arising under any lease, and Trustor agrees that, upon the occurrence of any Event or Default hereunder, Trustor shall promptly deliver all Rents and other moneys to Beneficiary), and Beneficiary may apply the same, less costs and expenses of operation and collection, including, without limitation, attorneys fees, whether or not suit is brought or prosecuted to judgment, against any indebtedness or Obligation of Trustor secured hereby, and in such order as Beneficiary may determine notwithstanding that said indebtedness or the performance of said Obligation may not then be due. The collection of Rents, or the entering upon and taking possession of the Security, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default or be deemed or construed to make Beneficiary a mortgagee-in-possession of the Security or any portion thereof.

Section 6.3. Further Assignments.

Upon demand of Beneficiary, Trustor shall, from time to time hereafter, execute, and deliver to Beneficiary recordable assignments of Trustor’s interest in any or all leases, subleases, contracts, rights, licenses and permits now or hereafter affecting the Security or any portion thereof. Such assignments shall be made by instruments in form and substance satisfactory to Beneficiary; provided, however, that no such assignment shall be construed as imposing upon Beneficiary any obligation with respect thereto. Beneficiary may, at its option, exercise its rights hereunder or under any such specific assignment and such exercise shall not constitute a waiver of any right hereunder or under any such specific assignment.

Section 7.1. Events of Default.

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Each of the following shall constitute Events of Default: (1) the occurrence of an “Event of Default” as defined in the Loan Agreement or as defined in any Debt Instrument; or (2) the failure to make any payment or perform any of Trustor’s other Obligations now or hereafter secured by this Deed of Trust (subject to any applicable cure period).

Section 7.2. Acceleration of Maturity.

If an Event of Default shall have occurred and be continuing, then at the option of the Beneficiary, the amount of any payment related to the Event of Default, the unpaid Principal of the Note and any other indebtedness and other Obligations secured hereby shall immediately become due and payable without presentment, protest notice or demand, all of which are hereby expressly waived, upon written notice by the Beneficiary to the Trustor and no omission on the part of the Beneficiary to exercise such option when entitled to do so shall be construed as a waiver of such right.

Section 7.3. The Beneficiary’s Right to Enter and Take Possession.

If an Event of Default shall have occurred and be continuing, the Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon the Security and take possession thereof (or any part thereof) and of any of the Security, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value or marketability of the Security, or part thereof or interest therein, increase the income therefrom or protect the security thereof and, with or without taking possession of the Security, sue for or otherwise collect the Rents, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including without limitation attorneys fees, against any indebtedness secured hereby, all in such order as Beneficiary may determine. The entering upon and taking possession of the Security the collection of such Rents and the application thereof as aforesaid shall not cure or waive any Event of Default or notice of default hereunder or invalidate any act done in response to such Event of Default or pursuant to such notice of default, and, notwithstanding the continuance in possession of the Security, Beneficiary shall be entitled to exercise every right provided for in this Deed of Trust, or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(c) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor’s interest in the Security to be sold, which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of Orange County; or

(d) Exercise all other rights and remedies provided herein, in the instruments by which the Trustor acquires title to any Security, or in any other document or

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agreement now or hereafter evidencing, creating or securing all or any portion of the Obligations secured hereby, or provided by law.

Section 7.4. Foreclosure by Power of Sale.

Should the Beneficiary elect to foreclose by exercise of the power of sale herein contained, the Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust, the Loan Agreement and the Note which is secured hereby (and the deposit of which shall be deemed to constitute evidence that the unpaid Principal amount of the Note is immediately due and payable), and such receipts and evidence of any expenditures made that are additionally secured hereby as Trustee may require.

(a) Upon receipt of such notice from the Beneficiary ("**Notice of Default**"), Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Default and election to sell as then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after notice of sale having been given as required by law ("**Notice of Sale**"), sell the Security, at the time and place of sale fixed by it in said Notice of Sale, whether as a whole or in separate lots or parcels or items as Trustee shall deem expedient and in such order as it may determine unless specified otherwise to the Trustor according to California Civil Code Section 2924g(b), at public auction to the highest bidder, for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed or any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale.

(b) After deducting all reasonable costs, fees and expenses of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale to payment of: (1) the unpaid Principal amount of the Note; (2) all other sums then secured hereby; and (3) the remainder, if any, to Trustor.

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

Section 7.5. Receiver

If an Event of Default shall have occurred and be continuing, Beneficiary, as a matter of right and without further notice to Trustor or anyone claiming under the Security, and without regard to the then value of the Security or the interest of Trustor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Security (or a part thereof), and Trustor hereby irrevocably consents to such appointment and waives further notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases, and all the powers and duties of Beneficiary in case of

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entry as provided herein, and shall continue as such and exercise all such powers until the date of confirmation of sale of the Security, unless such receivership is sooner terminated.

Section 7.6. Application of Funds After Default.

Except as otherwise herein provided, upon the occurrence of an Event of Default hereunder, Beneficiary may, at any time without notice, apply any or all sums or amounts received and held by Beneficiary to pay insurance premiums, Impositions, or either of them, or as Rents or income of the Security, or as insurance or condemnation proceeds, and all other sums or amounts received by Beneficiary from or on account of Trustor or the Security, or otherwise, against any indebtedness or Obligation of the Trustor secured hereby, in such manner and order as Beneficiary may elect. The receipt, use or application of any such sum or amount shall not be construed to affect the maturity of any indebtedness secured by this Deed of Trust, or any of the rights or powers of Beneficiary under the terms of the Loan Agreement, this Deed of Trust or the Note, or any of the Obligations of Trustor or any guarantor under any other instruments or documents now or hereafter delivered in connection with the Loan Agreement or to cure or waive any default or notice of default under the Loan Agreement or any such instruments or documents; or to invalidate any act of Trustee or Beneficiary.

Section 7.7. Costs of Enforcement.

If any Event of Default occurs, Beneficiary and Trustee, and each of them, may employ an attorney or attorneys to protect their rights hereunder. Trustor promises to pay to Beneficiary, on demand, the fees and expenses of such attorneys and all other costs of enforcing the Obligations secured hereby, including, without limitation, recording fees, the expense of a trustee, sale guarantee, Trustee's fees and expenses, receivers fees and expenses, and all other expenses, of whatever kind or nature, incurred by Beneficiary and Trustee, and each of them, in connection with the enforcement of the Obligations secured hereby, whether or not such enforcement includes the filing of a lawsuit. Until paid, such sums shall be secured hereby and shall bear interest at the Agreed Rate.

Section 7.8. Remedies Cumulative.

No right, power or remedy conferred upon or reserved to the Beneficiary by this Deed of Trust is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity.

Section 7.9. No Waiver.

(a) No delay or omission of the Beneficiary to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy, or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every right, power and remedy given by this Deed of Trust to the Beneficiary may be exercised from time to time and as often as may be deemed expeditious by the Beneficiary. No consent or waiver, expressed or implied, by the Beneficiary to or any breach by the Trustor in

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the performance of the Obligations hereunder shall be deemed or construed to be a consent to or waiver of Obligations of the Trustor hereunder. Failure on the part of the Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by the Beneficiary of its right hereunder or impair any rights, power or remedies consequent on any Event of Default by the Trustor.

(b) If the Beneficiary (1) grants forbearance or an extension of time for the payment of any sums secured hereby, (2) takes other or additional security or the payment of any sums secured hereby, (3) waives or does not exercise any right granted in the Loan Agreement, (4) releases any part of the Security from the lien of this Deed of Trust, or otherwise changes any of the terms, covenants, conditions or agreements in the Loan Agreement, (5) consents to the granting of any easement or other right affecting the Security, or (6) makes or consents to any agreement subordinating the lien hereof, any such act or omission shall not release, discharge, modify, change or affect the original liability under this Deed of Trust, or any other obligation of the Trustor or any subsequent purchaser of the Security or any part thereof, or any maker, co-signer, endorser, surety or guarantor (unless expressly released); nor shall any such act or omission preclude the Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then made or of any subsequent Event of Default, nor, except as otherwise expressly provided in an instrument or instruments executed by the Beneficiary shall the lien of this Deed of Trust be altered thereby.

Section 7.10. Suits to Protect the Security.

The Beneficiary shall have power to: (1) institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Security and the rights of the Beneficiary as may be unlawful or any violation of this Deed of Trust, (2) preserve or protect its interest (as described in this Deed of Trust) in the Security, and (3) restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement for compliance with such enactment, rule or order would impair the Security thereunder or be prejudicial to the interest of the Beneficiary.

Section 7.11. Trustee May File Proofs of Claim.

In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting the Trustor, its creditors or its property, the Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of the Beneficiary allowed in such proceedings and for any additional amount which may become due and payable by the Trustor hereunder after such date.

**ARTICLE VIII
MISCELLANEOUS**

Section 8.1. Amendments.

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This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by Beneficiary and Trustor.

Section 8.2. Reconveyance by Trustee.

Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust to Trustee for cancellation and retention, and upon payment by Trustor of Trustee's reasonable fees, Trustee shall reconvey, without warranty, the Security to Trustor, or to the person or persons legally entitled thereto.

Section 8.3. Notices.

(a) If at any time after the execution of this Deed of Trust it shall become necessary or convenient for one of the parties hereto to serve any notice, demand or communication upon the other party, such notice, demand or communication shall be in writing and shall be served personally or by depositing the same in the registered United States mail, return receipt requested, postage prepaid and:

(1) if intended for Beneficiary shall be addressed to:

[Orange County Housing Authority]

[County of Orange
OC Community Resources/
Housing & Community Development]
1501 E. St. Andrew Place, 1st Floor,
Santa Ana, CA 92705
Attn: Director

and

(2) if intended for Trustors shall be addressed to:

[TRUSTOR TO PROVIDE]

Any notice, demand or communication shall be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed in the manner herein specified, on the delivery date or date delivery is refused by the addressee, as shown on the return receipt. Either party may change its address at any time by giving written notice of such change to Beneficiary or Trustor as the case may be, in the manner provided herein, at least ten (10) days prior to the date such change is desired to be effective.

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- (b) County shall endeavor to provide a courtesy copy of any notice sent to Borrower to the following addressee, however, failure to do so shall not affect the validity of any otherwise proper, timely delivered notice to Borrower:

[courtesy notices]

Section 8.4. Successors and Joint Trustors.

All Obligations of Trustor secured by this Deed of Trust, shall also apply to and bind any permitted transferee or successors in interest. Where the terms of the Deed of Trust have the effect of creating an Obligation of the Trustor and a transferee, such Obligation shall be deemed to be a joint and several Obligation of the Trustor and such transferee. Where Trustor is more than one entity or person, all Obligations of Trustor shall be deemed to be a joint and several Obligation of each and every entity and person comprising Trustor.

Section 8.5. Captions.

The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

Section 8.6. Invalidity of Certain Provisions.

Every provision of this Deed of Trust is intended to be severable. In the event any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court or other body of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Security, the unsecured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid or applied to the full payment of that portion of the debt which is not secured or partially secured by the lien of this Deed of Trust.

Section 8.7. Governing Law and Venue.

This Deed of Trust shall be governed by and construed in accordance with the laws of the State of California. In the event of any legal action to enforce or interpret this Deed of Trust, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394.

Section 8.8. Gender and Number.

In this Deed of Trust the singular shall include the plural and the masculine shall include the feminine and neuter and vice versa, if the context so requires.

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Section 8.9. Deed of Trust, Mortgage.

Any reference in this Deed of Trust to a mortgage shall also refer to a deed of trust and any reference to a deed of trust shall also refer to a mortgage.

Section 8.10. Actions.

Trustor agrees to appear in and defend any action or proceeding purporting to affect the Security.

Section 8.11. Substitution of Trustee.

Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the Security is situated, shall be conclusive proof of proper appointment of the successor trustee.

Section 8.12. Acceptance by Trustee.

Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action of proceedings in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

Section 8.13. Conflicts.

If any term or provision of this Deed of Trust conflicts with any term of provision of the Loan Agreement, the term or provision of the Loan Agreement shall control to the extent of such conflict.

Section 8.14. Statements by Trustor.

Trustor shall, at its cost, within ten (10) days after notice thereof from Beneficiary, deliver to Beneficiary a written statement setting forth to the best of its knowledge and information, the amounts then unpaid and secured by this Deed of Trust and stating whether Trustor is aware of any offset or defense against such amounts.

Section 8.15. Beneficiary Statements.

For any statement or accounting requested by Trustor or any other entitled person pursuant to Section 2943 or Section 2954 of the California Civil Code or pursuant to any other provision of applicable law, or for any other document or instrument furnished to Trustor by Beneficiary, Beneficiary may charge the maximum amount permitted by law at the time of the

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request therefor, or if there be no such maximum, then in accordance with Beneficiary's customary charges therefor or the actual cost to Beneficiary therefor, whichever is greater.

Section 8.16. Statute of Limitations.

Except insofar as now or hereafter prohibited by law, the right to plead, use or assert any statute of limitations as a plea or defense or bar of any kind, or for any purpose, to any debt, demand or obligation secured or to be secured hereby, or to any complaint or other pleading or proceeding filed, instituted or maintained for the purpose of enforcing this Deed of Trust or any rights hereunder, is hereby waived by Trustor.

Section 8.17. Trust Irrevocable; No Offset.

The Trust created hereby is irrevocable by Trustor. No offset or claim that Trustor now has or may in the future have against Beneficiary shall relieve Trustor from paying the indebtedness or performing any other Obligation contained herein or secured hereby.

Section 8.18. Corrections.

Trustor shall, upon request of Beneficiary, promptly correct any defect, error or omission which may be discovered in the contents hereof or in the execution or acknowledgment hereof, and will execute, acknowledge and deliver such further instruments and do such further acts as may be necessary or as may be reasonably requested by Beneficiary to carry out more effectively the purposes thereof, to subject to, the lien and security interest hereby created any of Trustor's properties, rights or interests covered or intended to be covered hereby, or to perfect and maintain such lien and security interest.

Section 8.19. Further Assurance.

Trustor, Beneficiary and Trustee agree to do or cause to be done such further acts and things and to execute and deliver or to cause to be executed and delivered such additional assignments, agreements, powers and instruments, as any of them may reasonably require or deem advisable to keep valid and effective the charges and liens hereof, to carry into effect the purposes of this Deed of Trust or to better assure and confirm unto any of them their rights, powers and remedies hereunder; and, upon request by Beneficiary, shall supply evidence of fulfillment of each of the covenants herein contained concerning which a request for such evidence has been made.

Section 8.20 Waiver of Jury Trial.

Unless prohibited by Federal, State or local laws, each party acknowledges that it is aware of and has had the advice of counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising

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out of or in any way connected with this Deed of Trust and/or any claim of injury or damage to the fullest extent permitted by applicable law.

**ARTICLE IX
WAIVERS**

Section 9.1. Waivers and Related Matters

(a) To the fullest extent allowed by law, Trustor hereby waives: (i) presentment, demand, protest, notice of dishonor, notice of protest and all other notices and demands of every kind, and all suretyship defenses of every kind that would otherwise be available in connection with this Deed of Trust, and (ii) all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the Obligation and marshaling in the event of foreclosure of the liens hereby created.

(b) Trustor hereby authorizes Beneficiary, at any time and from time to time without notice and without affecting this Deed of Trust in any way, to: (i) accept new or additional instruments, documents, agreements, security or guaranties in connection with all or any part of the Obligations; (ii) accept partial payments on the Obligations; and (iii) waive, release, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, compromise, liquidate and enforce all or any part of the Obligations and any security or guaranties therefor, and apply any such security and direct the order or manner of sale thereof and bid and purchase at any such sale.

(c) Trustor hereby waives any right to require Beneficiary to (i) proceed against any person; (ii) proceed or exhaust any collateral held from any person; or (iii) pursue any other remedy in Beneficiary's power. Upon the occurrence of any Event of Default, Beneficiary is hereby expressly given the right, at its option, to proceed in the enforcement of this Deed of Trust, independently of any other remedy or security Beneficiary may at any time hold in connection with the Obligations, and Beneficiary shall not in any way be obligated or otherwise required to proceed upon or against and/or exhaust any other security or remedy before proceeding to enforce this Deed of Trust.

(d) Trustor hereby waives any defense arising by reason of: (i) any disability or other defense of Trustor or any other person; (ii) the cessation from any cause whatsoever, other than full payment and performance of the Obligations, of the Obligations of Trustor or any other person; or (iii) any act or omission by Beneficiary which directly or indirectly results in or aids in the discharge or release of Trustor, or any other person, any Obligation, or any collateral by operation of law or otherwise.

The waivers set forth in this Article 9 shall also apply, to the fullest extent permitted by law to all other real and/or personal property of Trustor now or hereafter assigned to Beneficiary as security for the Obligations. Trustor warrants and agrees that each, of the waivers set forth above are made with Trustor's full knowledge of their significance and consequences, with the understanding that events giving rise to any defense waived may diminish, destroy or otherwise adversely affect rights which Trustor otherwise may have against Beneficiary or others, or

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against collateral, and that under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any of the waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective to the maximum extent permitted by law.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

Signature to Follow

TRUSTOR:

By: [NEED SIGNATURE BLOCK]

APPROVED AS TO FORM
COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By_____

Deputy

Dated_____

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Exhibit A

LEGAL DESCRIPTION

[LEGAL DESCRIPTION TO BE PROVIDED]